

**The
Central Electricity Regulatory Commission (Procedure,
Terms and Conditions for grant of trading licence
and other related matters) Regulations, 2020**

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The Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2020¹

In exercise of powers conferred under Section 178 of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in this behalf, and after previous publication, the Central Electricity Regulatory Commission hereby makes the following regulations, namely:—

CHAPTER I PRELIMINARY

1. Short Title and Commencement.—(a) These regulations may be called the **Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2020.**

(b) These regulations shall come into force on and from the date of their publication in the Official Gazette.

2. Definitions and Interpretation.—(1) In these regulations, unless the context or subject-matter, otherwise requires—

- (a) 'Act' means the Electricity Act, 2003, (36 of 2003);
- (b) 'Applicant' means a person who has made an application to the Commission for grant of trading licence in accordance with these Regulations;
- (c) 'Associate' in relation to an Applicant or the Trading Licensee, as the case may be, means associate company or related party as defined in sub-sections (6) and (76) of Section 2 of the Companies Act, 2013 (18 of 2013) respectively;
- (d) 'Back to Back contracts' shall mean the contracts for inter-State transactions in electricity in which a Trading Licensee buys a specific quantity of power for a particular duration from one party and simultaneously sells it to another party on similar terms and conditions, and shall include the contracts, wherein the parties specifically agree that the contracts are back to back contracts;
- (e) 'Banking of electricity' shall mean and include transactions for inter-State exchange of electricity between two grid connected entities either directly or through a Trading Licensee;
- (f) 'Commission' means the Central Electricity Regulatory Commission referred to in Section 76 of the Act;

¹ Vide Notification No. L-1/253/2019/CERC, dated 2-1-2020, published in the Gazette of India, Extra., Part III, Section 4, No. 43, dated 31-1-2020.

- (g) 'Conduct of Business Regulations' means the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, as amended from time to time or any statutory re-enactment thereof;
- (h) 'Cross Border Trade of Electricity' means trading of electricity as defined in Central Electricity Regulatory Commission (Cross Border Trade of Electricity) Regulations, 2019, as amended from time to time or any statutory re-enactment thereof;
- (i) 'Current Ratio' means the ratio between current assets and current liabilities, where
- i. current assets include cash or cash equivalent of money, accounts receivables, inventory, current investments excluding investment made in Associates and prepaid expenses, and
 - ii. current liabilities include sundry creditors, provisions and other liabilities to be discharged within a period of one year;
- (j) 'Economic offence' means an offence under any of the statutes listed in the Schedule to the Economic Offences (Inapplicability of Limitation) Act, 1974 (12 of 1974);
- (k) 'Existing Licensee' means a Trading Licensee who has been granted licence under the provisions of Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2004 and Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2009, as amended from time to time and is holding licence as on the date of commencement of these regulations;
- (l) 'Fraud' has the same meaning as is assigned to it under Section 17 of the Indian Contract Act, 1872 (9 of 1872) or under Section 447 of the Companies Act, 2013 (18 of 2013);
- (m) 'Grid Code' means the Grid Code Regulations specified by the Commission under clause (h) of sub-section (1) of Section 79 of the Act, as amended from time to time or any statutory re-enactment thereof;
- (n) 'Inter-State Trading' means purchase of electricity from one State for re-sale in another State;
- (o) 'Intra-State Trading' means purchase of electricity for re-sale within the territory of the same State;
- (p) 'Liquidity Ratio' means the ratio between liquid assets and current liabilities, where
- i. liquid assets include current assets less inventory less prepaid expenses, and
 - ii. current liabilities include sundry creditors, provisions and other liabilities to be discharged within a period of one year;
- (q) 'Net Worth' means aggregate value of the paid up equity share capital and compulsorily convertible preference shares and free reserves

- (excluding reserves created out of revaluation and write back of depreciation) reduced by the aggregate value of accumulated losses, deferred expenditure (including miscellaneous expenses) not written off and loans and advances to and investments made in Associates;
- (r) 'Other Business' means any business of the Trading Licensee other than the business of inter-State trading in electricity;
 - (s) 'Power Market Regulations' means Central Electricity Regulatory Commission (Power Market) Regulations, 2010 as amended from time to time or any statutory re-enactment thereof;
 - (t) 'Promoter' with reference to a company means a promoter as defined in Section 2(69) of the Companies Act, 2013;
 - (u) 'Trading' shall have the meaning as defined in Section 2(71) of the Electricity Act, 2003;
 - (v) 'Trading Licensee' means a person who has been granted licence for inter-State trading of electricity under Section 14 of the Act:

Provided that if any Trading Licensee undertakes intra-State trading based on the licence for inter-State trading granted by the Commission, the Trading Licensee shall be regulated under these regulations for the purposes as specified which shall be in addition to and not in derogation of any regulations on intra-State trading specified by the concerned State Commission;

- (w) 'Year' means a period of twelve months commencing on 1st April of a calendar year and ending on 31st March of the following calendar year.

(2) Save as aforesaid and unless repugnant to the context or the subject-matter otherwise requires, words and expressions used in these regulations and not defined, but defined in the Act or the Grid Code shall have the meanings assigned to them respectively in the Act or the Grid Code.

(3) The provisions of the General Clauses Act, 1897 (10 of 1897), as amended from time to time shall apply for the interpretation of these regulations as they apply for the interpretation of an Act of Parliament.

CHAPTER II

QUALIFICATIONS FOR GRANT OF LICENCE

3. Qualifications of Applicant.—(1) General Qualifications

The Applicant shall be a citizen of India or a partnership firm registered under the Indian Partnership Act, 1932 (9 of 1932) or a Limited Liability Partnership registered under Limited Liability Partnership Act, 2008 or a company incorporated under the Companies Act, 2013 or an association or body of individuals who are citizens of India whether incorporated or not or an artificial juridical person recognised under the Indian Laws:

Provided that the Applicant should have been authorized to undertake trading in electricity in accordance with its Main Objects in the Memorandum of Association (in case of a company incorporated under the Companies Act, 1956 or 2013) or the Partnership Deed (in case of a partnership firm registered under the Indian Partnership Act, 1932) or the statutory documents of Limited Liability Partnership under Limited Liability Partnership Act, 2008.

(2) Technical Qualifications

The Applicant shall have at least one full-time professional having qualifications and experience in each of the following disciplines namely:—

Sl. No.	Discipline	Qualifications and Experience
(a)	System Operation or Power Trading or Energy Risk Management	Degree in Engineering with at least 5 years of experience in the field
(b)	Finance, commerce and accounts	CA/ICWA/MBA (Finance) with at least 5 years of experience in the field

(3) Financial Qualifications - Capital Adequacy and Liquidity Requirements

(a) Considering the volume of inter-State and intra-State trading proposed to be undertaken by the Applicant on the basis of the inter-State trading licence, the minimum Net Worth of the Applicant on the date of application, as per audited special balance sheet accompanying the application, shall not be less than the amount specified hereunder:

Sl. No.	Category of the trading licence	Minimum Net Worth (Rs. In Crore)	Volume of electricity proposed to be traded in a financial year
1.	Category I	50.00	Above 7,000 MUs
2.	Category II	35.00	Not more than 7,000 MUs
3.	Category III	20.00	Not more than 4,000 MUs
4.	Category IV	10.00	Not more than 2,000 MUs
5.	Category V	2.00	Not more than 500 MUs

Provided that for Category I Trading Licensee, if the annual volume of electricity proposed to be traded exceeds 10,000 MUs, the Trading Licensee shall have a minimum net worth of Rs. 75 Crores:

Provided further that volume of electricity traded shall include inter-State and intra-State transactions under long term and short term contracts, including transactions undertaken through power exchanges, banking and Cross Border Trade.

- (b) The Applicant shall have Net Worth as per clause (a) above and have a minimum Current Ratio of 1:1 and a minimum Liquidity Ratio of 1:1:

Provided that the Net Worth, Current Ratio and Liquidity Ratio specified in this regulation shall be computed on the basis of the audited special balance sheet prepared in accordance with the financial reporting framework prescribed under the Companies Act, 2013.

4. Disqualifications.—The Applicant shall not be qualified for grant of licence

if:

- (1) The Applicant, or any of his Associates, or partners, or promoters, or Directors is an undischarged insolvent; or
- (2) The Applicant holds a licence for transmission of electricity; or
- (3) The Applicant or any of his Associates or partners or promoters or Directors has been convicted of an offence involving moral turpitude, fraud, or any economic offence during any of the three years immediately preceding the year in which application is being made; or
- (4) The licence of the Applicant or any of his Associates or partners or promoters or Directors has been revoked by the Commission for the reasons mentioned in sub-section (1) of Section 19 of the Act during any of the three years immediately preceding the year in which application is being made; or
- (5) The Applicant or any of his Associates or partners or promoters or Directors has in the past been found guilty in any proceedings for non-compliance of any of the provisions of the Act or the Rules or the Regulations made thereunder or an order made by the Commission during any of the three years immediately preceding the year in which application is being made:

Provided that on the date of application or thereafter, if any proceeding for non-compliance of any provision of the Act, or the Rules or the Regulations framed thereunder or for non-compliance of the order of the Commission is initiated against the Applicant, the application shall be considered after the final disposal of the proceedings:

Provided further that where the Applicant is found guilty of non-compliance in the proceeding, its application shall be dealt with in accordance with this clause.

CHAPTER III
PROCEDURE FOR GRANT OF LICENCE

5. Proceedings before the Commission.—All proceedings under these regulations shall be governed by the Conduct of Business Regulations.

6. Procedure for grant of licence.—(1) Any person desirous of undertaking inter-State trading in electricity shall make an application to the Commission for grant of licence in the manner specified in Form-I appended to these regulations and such application shall be accompanied by—

(a) Such application fee as prescribed by the Central Government from time to time and shall be paid as per the procedure specified in Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012, as amended from time to time or any statutory re-enactment thereof.

(b) Copies of the annual reports in case of the persons incorporated under the Companies Act, 1956 or Companies Act, 2013 including audited accounts along with the Directors' Report, Auditors' Report, the Schedules and notes to accounts for one Year immediately preceding the Year in which the application has been made and the audited special balance sheet as on any date falling within 30 days immediately preceding the date of filing the application.

(2) The Applicant shall post complete application along with annexures and enclosures on its website so as to facilitate access to the application by any person through internet and shall keep them on the website till the disposal of the application.

(3) The Applicant shall within 7 days after making such application, publish a notice of its application, in two daily newspapers having circulation in each of the five regions in addition to those published from Delhi, including one economic daily newspaper in Form II, with the following particulars, namely:—

(a) Name of the applicant (in bold) at the top clearly bringing out whether the applicant is an individual/sole proprietor, an association or body of individuals, a partnership firm registered under the Indian Partnership Act, 1932 (9 of 1932), a private limited company or a public limited company, incorporated under the Companies Act, 1956 or Companies Act, 2013, a Limited Liability Partnership under Limited Liability Partnership Act, 2008 giving full particulars of its registered office and address for correspondence;

(b) A statement that the applicant has made an application for grant of licence for Category I or Category II or Category III or Category IV or Category V, as the case may be, under sub-section (1) of Section 15 of the Act, to the Central Electricity Regulatory Commission;

(c) Share Capital in Rs. Lakhs

- i. Authorised;
 - ii. Issued;
 - iii. Subscribed;
 - iv. Paid-up;
- (d) Shareholding pattern (List of shareholders holding 5% or more shares, number of shares held by each of them and percentage of shares of the total paid-up capital) of the Applicant;
- (e) Financial and technical strength of the Applicant;
- (f) Volume of electricity intended to be traded during a Year;
- (g) Management profile of the Applicant including details of past experience of the Applicant or the persons on its management in same or similar activity;
- (h) Geographical areas within which the Applicant intends to undertake trading in electricity;
- (i) Net Worth, Current Ratio and Liquidity Ratio of the Applicant as on the date of the audited special balance sheet accompanying the application;
- (j) A statement as to whether the Applicant or any of his Associates or partners or promoters or Directors has been declared insolvent, and if so, the details thereof and whether or not they have been discharged;
- (k) Details of cases resulting in conviction of an offence involving moral turpitude, fraud or economic offence of the Applicant or any of its Associates or partners or promoters or Directors during the Year of making the application or three Years immediately preceding that Year and the date of release of the above person from imprisonment, if any, consequent to such conviction;
- (l) A statement as to whether the Applicant or any of his Associates or partners or promoters or Directors was ever refused licence, and if so, the particulars of the application, date of making the application, date of order refusing licence and reasons for such refusal;
- (m) A statement whether the Applicant is in possession of a licence for transmission of electricity, and if so, the details thereof;
- (n) A statement whether an order cancelling the licence of the Applicant or any of his Associates or partners or promoters or Directors has been made by the Commission or any State Commission, and if so, the details thereof;
- (o) A statement as to whether the Applicant or any of his Associates or partners or promoters or Directors has been found guilty of non-compliance of any of the provisions of the Act or the Rules or the Regulations made thereunder or an order made by the Appropriate Commission, and if so the details thereof;
- (p) A statement to the effect that the application and other documents filed before the Commission are available with the Applicant for inspection by any person;

- (q) Name and address and other relevant details of the person under the control of the Applicant with whom the application and other documents can be inspected by any person;
- (r) Address of the website where the complete application along with annexures, enclosures has been posted;
- (s) A statement that objections or suggestions, if any, be filed before the Secretary, Central Electricity Regulatory Commission, 3rd Floor, Chanderlok Building, 36 Janpath, New Delhi-110001 with a copy of the objections or suggestions to the Applicant, within 30 days of publication of the notice;
- (t) A statement on affidavit in case the Applicant is in possession of any intra-State trading licence and the details of the volume of trading allowed (in Million Units) under the said licence.

(4) The Applicant shall within 7 days from the date of publication of the notice as aforesaid submit to the Commission on affidavit the details of the notice published and shall also file the original complete page of the newspaper in which the notice has been published.

(5) The Applicant shall allow a period of 30 days to the public to file objections or suggestions to the notice of application published in the newspapers.

(6) The Applicant shall file its reply before the Commission within 30 days from the last date of receipt of objections or suggestions from the public.

(7) The Commission after consideration of the objections or suggestions received in response to the notice published by the Applicant and its reply may reject the application or may propose to grant licence.

(8) When the Commission proposes to grant licence, it shall publish a notice of its proposal in two daily newspapers, as the Commission may consider appropriate, stating the name and address of the person to whom it proposes to issue the licence and with such other details as the Commission considers appropriate, to invite further objections or suggestions to its proposal.

(9) On consideration of further objections or suggestions received and the reply of the Applicant thereto, if any, the Commission may grant the licence or reject the application, for reasons to be recorded in writing if the application does not conform to the provisions of the Act or the Rules or the Regulations or provisions of any other law for the time being in force:

Provided that no application shall be rejected unless the Applicant has been given an opportunity of being heard.

(10) As far as practicable, the licence shall be granted in accordance with Form III appended to these regulations.

CHAPTER IV TRADING MARGIN

7. Applicability of Trading Margin.—Trading margin shall be applicable to the following transactions undertaken by the Trading Licensee:

- (a) Transactions under short term contracts (where period of the contract of the Trading Licensee with both the seller and the buyer, including transactions undertaken through power exchanges, is upto one year);
- (b) Transactions under long term contracts (where period of the contract of the Trading Licensee with either the seller or the buyer or both is more than one year);
- (c) Banking of electricity, irrespective of duration of the contract;
- (d) Transactions under Back to Back contracts, irrespective of duration of the contract;
- (e) Cross Border Trade of Electricity.

8. Trading Margin.—(1) Trading Licensee shall comply with the trading margin as given below:

(a) The trading margin shall be charged on the scheduled quantity of electricity;

(b) The trading margin shall include all charges, except the charges for scheduled energy, open access and transmission losses:

Provided that the charges for open access include the transmission charge, operating charge and the application fee.

(c) For transactions under short term contracts and contracts through power exchanges upto one year, the Trading Licensee shall charge a trading margin of not less than zero (0.0) paise/kWh and not exceeding seven (7.0) paise/kWh:

Provided that in contracts where escrow arrangement or irrevocable, unconditional and revolving letter of credit as specified in clause (10) of Regulation 9 is not provided by the Trading Licensee in favour of the seller, the Trading Licensee shall not charge trading margin exceeding two (2.0) paise/kWh.

(d) For transactions under long term contracts, the trading margin shall be decided mutually between the Trading Licensee and the seller:

Provided that in contracts where escrow arrangement or irrevocable, unconditional and revolving letter of credit as specified in clause (10) of Regulation 9 is not provided by the Trading Licensee in favour of the seller, the Trading Licensee shall not charge trading margin exceeding two (2.0) paise/kWh.

(e) For banking of electricity, the Trading Licensee shall charge a cumulative trading margin of not less than zero (0.0) paise/kWh and not exceeding seven (7.0) paise/kWh.

²[Provided that the trading margin shall not be less than zero (0.0) paise/kWh from either of the parties to the banking transaction.]

- (f) For transactions under Back to Back contracts, where escrow arrangement or irrevocable, unconditional and revolving letter of credit as specified in clause (10) of Regulation 9 is not provided by the Trading Licensee in favour of the seller, the Trading Licensee shall not charge trading margin exceeding two (2.0) paise/kWh.
- (g) For Cross Border Trade of Electricity, the trading margin shall be decided mutually between the Trading Licensee and the seller.

(2) The trading margin specified under these regulations shall be the cumulative value of the trading margin charged by all the traders involved in the chain of transactions between the generator and the ultimate buyer, that is to say, trading margin in case of multiple trader-to-trader transactions and shall not exceed the ceiling of trading margin specified under these regulations.

CHAPTER V

TERMS AND CONDITIONS OF THE LICENCE

9. Obligations of the Trading Licensee.—The Trading Licensee shall be subject to the following obligations, namely:—

(1) The Trading Licensee shall comply with the requirements of laws in force and, in particular, the Act, the Rules and the Regulations, Grid Code, orders and directions issued by the Commission from time to time and any of the State Electricity Regulatory Commissions in accordance with law.

(2) The Trading Licensee shall maintain the Net Worth in accordance with Regulation 3 of these regulations at all times and shall maintain Current Ratio of 1:1 and Liquidity Ratio of 1:1 at the end of every financial year:

Provided that if the current ratio or the liquidity ratio at the end of the financial year is less than 1:1, then the Trading Licensee shall be required to maintain additional Net Worth of 100% of the Net Worth stipulated for the respective category of trading licence.

(3) The Trading Licensee shall not exceed at any point of time 110 percent of the volume of trading authorized during a Year under the licence granted to him.

(4) The Trading Licensee shall make an appropriate application accompanied by prescribed fees for up-gradation of its licence to a higher category or down-gradation of its licence to a lower category in order to fulfil the conditions of these regulations in accordance with the procedure specified in Regulation 15 of these regulations.

(5) The Trading Licensee shall not charge any amount exceeding the trading margin fixed by the Commission from time to time:

Provided that where it is established on the basis of regulatory audit carried out in accordance with clause (3) of Regulation 10 of these regulations or otherwise that the Trading Licensee has charged trading margin above the ceiling specified under these regulations, the Commission may direct disgorgement of excess margin along with interest back to the seller/buyer as the case may be, at the rate as may be specified by the Commission, after giving the Trading Licensee an opportunity of being heard and in case of such violation on more than three occasions, the Commission may also revoke the licence of the Trading Licensee after giving an opportunity of being heard.

(6) The Trading Licensee shall continue to be governed by the qualifications or disqualifications specified in Regulations 3 and 4 of these regulations throughout the period of licence.

(7) The Trading Licensee shall establish adequate communication facilities like telephone, fax, computer, internet facilities, before undertaking trading.

(8) The Trading Licensee may coordinate with Regional Power Committees, the Central Transmission Utility, State Transmission Utilities, the National Load Despatch Centre, the Regional Load Despatch Centres, and the State Load Despatch Centres with regard to his trading-related activities, to the extent authorized by the concerned buyer and seller.

(9) The Trading Licensee shall render all assistance to any person authorised by the Commission to carry out his duties relating to the licence.

(10) The Trading Licensee shall make payment of dues by the agreed due date to the seller for purchase of the agreed quantum of electricity through an escrow arrangement or irrevocable, unconditional and revolving letter of credit in favour of the seller. Such escrow arrangement or irrevocable, unconditional and revolving letter of credit in favour of the seller shall be equivalent to:

(a) one point one (1.1) times the average monthly bill amount (estimated average of monthly billing amounts for three months or actual monthly billing amount for preceding three months as the case may be) with a validity of one year for long term contracts;

(b) one point zero five (1.05) times of contract value for short term contracts.

³[Provided that where the duration of the short term contract is more than one month, the letter of credit in favour of the seller shall be equivalent to one point zero five (1.05) times of the monthly contract value with validity period equal to validity of the contract.]

(11) The Trading Licensee shall enter into an appropriate agreement for purchase and sale of electricity with the sellers and the buyers prior to scheduling a transaction, and that the agreement shall specify the following, namely—

(a) the boundaries, that is to say, upper and lower MW limits of electricity to be purchased or sold;

- (b) modalities for scheduling;
- (c) payment security mechanism as defined in Clause 10 of this regulation;
- (d) persons authorized to specify the schedule, or to modify it after it has been intimated to the Regional Load Despatch Centre or the State Load Despatch Centre;
- (e) whether the buyer or the seller can unilaterally advise modification of the schedule, or whether the modification can only be advised jointly by the buyer and the seller;
- (f) the liabilities of the parties (seller, buyer and Trading Licensee) in case the scheduled quantum (MW) and time of scheduling differs from the agreed terms, or in case of modification in schedule, and in the latter case, the party that will bear non-refundable part of short-term open access charges.

(12) The Trading Licensee shall ensure that there is no discrepancy or scope for dispute in the scheduling advised to the Regional Load Despatch Centre and in case of any discrepancy or ambiguity in the scheduling advice, the decision of the Regional Load Despatch Centre on the acceptance or otherwise of such advice shall be binding.

(13) The Trading Licensee shall ensure that the buyer and the seller are either grid connected entities or represent such entities with special energy meters on their periphery and that the mechanism for Deviation Settlement accounting by the appropriate authority is in place.

(14) The Trading Licensee shall not purchase electricity from the entities and the Associates of such entities, defaulting in payment of Charge for Deviations determined as per the Central Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, transmission charges, reactive energy charges, congestion charge and fee and charges for National Load Despatch Centre or Regional load Despatch Centre or the Unified Load Despatch and Communication Scheme or any other payment levied by the Commission or any of the State Electricity Regulatory Commissions under the provisions of the Act or any regulation made thereunder, when so advised by the Commission.

(15) The Trading Licensee shall pay the licence fee by the stipulated date specified by the Commission from time to time.

(16) The Trading Licensee shall not omit or neglect to undertake trading activity.

(17) The Trading Licensee shall not enter into any agreement related to purchase or sale of electricity that may lead to abuse of his dominant position or enter into combination which causes or is likely to cause a conflict of interest or an adverse effect on competition in electricity industry.

(18) The Trading Licensee shall maintain up to date record of all trading transactions undertaken by him, separately for Over the Counter (OTC) inter-State

transactions, Over the Counter (OTC) intra-State transactions, if any, made on basis of the inter-State trading licence and transactions through the power exchange.

(19) The Trading Licensee shall not subject to settlement of commercial terms in accordance with law, omit sale of electricity to a consumer who has been allowed open access by the concerned State Electricity Regulatory Commission.

(20) The Trading Licensee shall immediately but not later than one month report to the Commission any change in the Net Worth which makes it ineligible to continue in the category for which the licence has been granted.

(21) The Trading Licensee can transfer or assign its licence only to such person who fulfils the conditions of Regulations 3 and 4 of these regulations with prior approval of the Commission:

Provided that the Trading Licensee shall make an appropriate application before the Commission containing the details of the person to whom the licence is proposed to be transferred or assigned, its eligibility to hold the licence under these regulations, and an affidavit from the proposed transferee or assignee that it will abide by all the terms and conditions of licence and comply with the provisions of the Act, Rules and Regulations made thereunder and the orders of the Commission as may be issued from time to time:

Provided further that the Trading Licensee shall be required to publish in brief in two daily newspapers having circulation in each of the five regions in addition to those published from Delhi, including one economic daily newspaper about its application for transfer or assignment of its licence and invite suggestions or objections within 30 days and submit the copies of the publication along with its response to the suggestions or objections, if any, within 45 days from the date of publication.

(22) The Trading Licensee shall designate one of its officers as Compliance Officer who shall be the nodal officer for communication with the Commission and shall be responsible for compliance with the provisions of the Act and Rules and Regulations specified by the Commission, particularly Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence, and other related matters) Regulations, 2020, Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010, Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009, Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008, Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012, Central Electricity Regulatory Commission (Power Market) Regulations, 2010, Central Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2014 and Central Electricity Regulatory Commission (Cross Border Trade of Electricity) Regulations, 2019 as amended from time to time or any subsequent re-enactment thereof;

(23) In the event Trading Licensee has entered into a contract for sale of power with a buying entity for a particular period, then the Trading Licensee shall not enter into any contract for sale of the same power with any other entity for such period except with the prior consent of the buying entity.

(24) Trading Licensee undertaking banking of electricity shall simultaneously enter into contract for supply of power and contract for return of power, with each of the utilities participating in the banking arrangement, as applicable.

10. Accounts of the Trading Licensee and Regulatory Audit.—(1) The Trading Licensee shall—

- (a) keep the accounts of the business covered by the licence separate from any other business, whether licensed or otherwise;
- (b) maintain the statement of accounts in accordance with the Companies Act, 2013, as amended from time to time;
- (c) prepare on a consistent basis from such records, accounting statements for each Year comprising a Profit and Loss Account, a Balance Sheet and a statement of source and application of funds together with notes thereto and showing separately the amounts of any revenue, cost, asset, liability, reserve, or provision which has been either:
 - i. charged from or to any other business together with a description of the basis of that charge; or
 - ii. determined by apportionment or allocation between the various business activities together with a description of the basis of the apportionment or allocation;
- (d) provide in respect of the accounting statements prepared in accordance with foregoing clauses, a report by the Auditors in respect of each Year, stating whether in their opinion the statements have been properly prepared and give a true and fair view of the revenue, costs, assets, and liabilities, reserves reasonably attributable to the business to which the statements relate; and
- (e) submit to the Commission copies of the audited annual financial statement and Auditor's report not later than nine months after the close of the Year to which they relate and shall keep them posted on its website or any other authorized website for a period of at least two Years thereafter.

(2) Any person authorised by the Commission shall be entitled to inspect and verify the accounts of the Trading Licensee and the Trading Licensee shall render all necessary assistance to such person.

(3) The Commission may, on being satisfied that the Trading licensee has failed to comply with the terms and conditions of the Licence, appoint auditors and/or experts to carry out regulatory audit to verify such non-compliance in accordance with Section 128 of the Act and in such cases, the cost of audit shall be paid by the Commission and recovered from the Trading Licensee.

11. Submission of Information.—The Trading Licensee shall:

- (1) supply such information, as may be called for by the Commission from time to time;
- (2) furnish monthly information through Forms IV-A, IV-B, IV-C, IV-D, IV-E, IV-F, IV-G and IV-H in respect of inter-State trading, intra-State trading on the basis of the inter-State trading licence, trading through power exchanges, Banking of electricity, short-term, long-term trading and Cross Border Trade of Electricity, so as to reach the Commission before 15th of the succeeding month:

Provided that the information sent to the Commission, shall be posted on the website of the Trading Licensee by 15th of the succeeding month, and such report shall be available on the website for not less than five Years;

- (3) submit monthly information regarding Over the Counter (OTC) Contracts as per Form IV-I to the Commission before 15th of the succeeding month;
- (4) submit annual return of inter-State transactions detailing:
 - (a) total volume transacted (in MUs and Rupees) and the total trading margin charged thereon,
 - (b) total volume transacted in intra-State transactions on the basis of the inter-State trading licence (in MU and Rupees),
 - (c) total volume transacted on Power Exchange and the total trading margin charged thereon,
 - (d) total volumes of Renewable Energy Certificates transacted,
 - (e) complete list of Buyers and Sellers in the above categories, certified by Chartered Accountant or Cost Accountant by 31st May every Year as per Form IV-J;
- (5) submit to the Commission copies of the Annual Reports including Directors' report, Auditors' report, Balance Sheet and Profit and Loss Account pertaining to inter-State and intra-State trading on the basis of the inter-State trading licence, segment of the business along with all the Schedules and notes to the accounts, not later than nine months after the close of the Year to which they relate and shall keep them posted on its website or in any authorized website for a period of at least five Years;
- (6) The information as required under clauses (2) to (5) of this regulation shall also be furnished by the deemed Trading Licensees as defined in Section 14 of the Act for the purpose of monitoring inter-State trading transactions;
- (7) submit any report or information, as prescribed under Power Market Regulations notified by the Commission from time to time;
- (8) report to the Commission the following events as soon as possible but not later than one month of occurrence of such event:

- (a) when the Trading Licensee or any of his Associates, or partners, or promoters, or Directors has been declared insolvent;
- (b) when the Trading Licensee, or any of his Associates, or partners, or promoters, or Directors has been convicted of an offence involving moral turpitude, fraud, or any economic offence;
- (c) when the licence of any of the Associates or partners or promoters or Directors has been cancelled by the Commission;
- (d) when the Trading Licensee, or any of his Associates or partners or promoters or Directors has been found guilty for non-compliance of any of the provisions of the Act or the Rules or the Regulations made thereunder or any order made by the Appropriate Commission;
- (e) Where any proceeding has been initiated in any court of law against the Trading Licensee for material breach of any law or before the Appropriate Commission for contravention of the Act, the Rules and Regulations made thereunder or non-compliance with the orders and directions of the Commission or of the State Electricity Regulatory Commissions.

12. Standards of performance.—(1) The Commission may, after consultation with the Trading Licensee, wherever required, specify the standards of performance of a Trading Licensee or a class of Trading Licensees.

(2) Till such time the standards of performance are specified under clause (1), the Trading Licensee shall furnish to the Commission the performance details for each Year in the format prescribed by the Commission in Form V, appended to these regulations by 30th April immediately following the Year ending on 31st March.

(3) The Trading Licensee shall display on its website (i) the volume of inter-State and intra-State trading on the basis of the inter-State trading licence, if any, on monthly basis; (ii) trading licences held by it; (iii) petitions filed before the Commission and the orders including interim orders, if any, issued by the Commission to ensure dissemination of information to its clients.

13. Prudential Reporting.—The Trading Licensee shall, as soon as possible but not later than one month, report to the Commission- (1) any significant change in the circumstances which may affect his ability to meet the obligations under the Act, the Rules and the Regulations, directives and orders issued by the Commission, the Grid Code, agreement or the licence;

(2) any material breach of the provisions of the Act, the Rules and the Regulations, directives and orders issued by the Commission, the Grid Code, agreement or the licence; and

(3) any major change in its shareholding pattern, ownership or management, or breach of capital adequacy norms specified in these regulations.

14. Amendment of licence.—(1) The terms and conditions of a licence granted by the Commission may be modified by the Commission in public interest or on an application made by the Trading Licensee or otherwise:

Provided that before ordering any substantive alteration or modification in a licence, proposed to be made otherwise than on the application of the Trading Licensee, the Commission shall publish a notice in two such daily newspapers as it considers necessary with the following particulars, namely:—

- (a) name and address of the Trading Licensee;
- (b) alterations and modifications proposed to be made;
- (c) grounds for such alterations and modifications; and
- (d) inviting suggestions, if any, on the proposal for consideration of the Commission within the time specified in the notice.

(2) The procedure specified in Regulation 6 shall mutatis mutandis be applicable in case the Trading Licensee makes an application for any substantive alteration of or modification to the terms and conditions of the licence:

Provided that where the Trading Licensee has made an application under sub-section (1) of Section 18 of the Act, proposing any substantive alteration and modifications in his licence, he shall publish a notice of such application in two daily newspapers having circulation in all the five regions, in addition to those published from Delhi, including one economic newspaper, in Form VI, with the following particulars, namely:—

- (a) name of the applicant;
- (b) category of the licence granted to him;
- (c) that an application for alteration and modifications has been made before the Commission;
- (d) details of alteration and modifications proposed in the application;
- (e) reasons for seeking such alterations and modifications;
- (f) a statement that the application made before the Commission has been posted on the website and can also be inspected in the office of the applicant;
- (g) a statement that any suggestion to the proposal for alteration and modifications made in the application may be submitted to the Secretary of the Commission within 30 days of publication of the notice:

Provided that the Trading Licensee making application for upgradation of its licence to a higher category or downgradation of its licence to a lower category shall follow the procedure specified in Regulation 15.

15. Procedure for upgradation of licence or downgradation of licence or compliance of Net Worth criteria for Category I Trading Licensee.—(1) Upgradation of licence:

- (a) The Trading Licensee may at any time during a particular year apply for a higher category licence on the basis of the volume proposed to be traded in a particular Year.
- (b) The Trading Licensee shall file an application before the Commission for upgradation of its licence to a higher category as soon as he expects the trading volume to exceed the trading volume limit specified for the Trading Licensee's existing category.
- (c) The Trading Licensee shall be granted an opportunity of being heard by the Commission before taking a decision on the application.
- (d) The Trading Licensee shall be required to submit the audited special balance sheet to support the compliance of Net Worth requirement for higher category licence.
- (e) The Trading Licensee shall pay licence fee applicable to the higher category licence if in a particular Year the licence has been upgraded:
Provided that in case a Trading Licensee has already paid licence fee applicable for its existing lower category licence in a particular year, then the Trading Licensee shall have to make payment equivalent to difference of fee applicable for higher category licence and fee already paid for existing licence category.

(2) Compliance of Net Worth criteria for Category I Trading Licensee:

- (a) In the event that a Category I Trading Licensee expects its trading volume to exceed beyond the trading limits specified in Regulation 3 for a particular Year, then the Category I Trading Licensee shall be required to increase its Net worth commensurate to the expected volume prior to transacting such volumes.
- (b) The Trading Licensee shall be required to submit the audited special balance sheet to support the compliance of Net Worth requirement.

(3) Downgradation of licence:

- (a) The Trading Licensee may file an application to the Commission for downgradation of its licence to a lower category at any time:
Provided that the Trading Licensee shall not be allowed to apply for upgradation of licence within the same Year.
- (b) The Trading Licensee shall be required to upload the audited special balance sheet to support the compliance of Net Worth requirement for lower category licence.
- (c) While applying for downgradation of licence, the Trading Licensee shall be required to pay the licence fee applicable for the category of licence for which the application is being submitted.

16. Procedure for securing compliance of terms and conditions of licence.—(1) Where the Commission on the basis of material in its possession is satisfied that the Trading Licensee is contravening the terms and conditions of

licence, it shall serve a notice to the Trading Licensee narrating the terms and conditions of licence contravened by him to invite his objections or suggestions.

(2) The notice may be served on him by delivering the same at the registered office or at the usual or his last known place of residence or business, either through registered post or speed post or by hand delivery through a messenger or publication in a newspaper or on the website of the Commission where the Commission is satisfied that it is not reasonably practicable to serve the notice on the Trading Licensee through registered post or speed post or by hand delivery or by electronic mail.

(3) The Commission shall publish a notice in two newspapers specifying the terms and conditions contravened or likely to be contravened by the Trading Licensee to bring the matters to the attention of persons affected or likely to be affected by such contraventions, to invite suggestions from such persons.

(4) The Trading Licensee or the persons affected or likely to be affected by the contravention of the terms and conditions of the licence by the Trading Licensee may file their objections or suggestions within 30 days from the date of receipt of notice under clause (1) or on publication of notice in the newspapers under clause (3), as the case may be.

(5) The Commission shall on consideration of the objections and suggestions received as aforesaid pass such order or give such directions as maybe necessary to secure compliance of the terms and conditions of licence.

CHAPTER VI

CONTRAVENTION AND PENALTIES

17. Contravention by Trading Licensee.—Contraventions of the provisions of the Act, Rules and Regulations framed thereunder and non-compliance of the orders of the Commission by a Trading Licensee shall cover the following:

- (1) Violations and non-compliance of the provisions of the Act, Rules and the Regulations specified under Regulation 9(22) of these Regulations;
- (2) Under-reporting of transaction volume in monthly reporting;
- (3) Failure to meet the Net Worth criteria specified in these regulations;
- (4) Charging trading margins beyond the limits defined in these regulations;
- (5) Non-compliance of the orders of the Commission including the orders issued for contravention of any regulation of the Commission;
- (6) Non-payment of the licence fees and surcharge, if applicable within the due date as specified in Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012 or statutory re-enactment thereof;
- (7) Delay or non-submission of monthly transaction information sought under clause (2) of Regulation 11;
- (8) Failure to comply with Regulation 15 of these regulations;
- (9) Failure to comply with clause (23) of Regulation 9 specified in these regulations;

- (10) Non-submission or delay in submission of any report required to be submitted by the Trading Licensee under any of the regulations mentioned in clause (1) of this regulation;
- (11) Delay in submission of any other information sought by the Commission;
- (12) Failure to make mandatory disclosures or reporting in accordance with the provision to clause (2) of Regulation 11 of these regulations on Trading Licensee's website.

18. Procedure for taking cognizance of the contraventions.—(1) The Commission, on being satisfied on the basis of the information in its possession or on the basis of the information submitted by any person that a prima facie case exists against any Trading Licensee with respect to any of the provisions of Regulation 17, may initiate suo-motu proceedings against the Trading Licensee and may direct the Trading Licensee to submit such information and explanation as may be considered necessary for the purpose of the proceeding:

Provided that the proceedings for non-payment of fee shall be initiated if the Trading Licensee fails to deposit the fees and surcharge, if any, within seven days of the expiry of due date of payment as per the Central Electricity Regulatory Commission (Payment of Fee) Regulations, 2012:

Provided further that the licence shall be deemed to be suspended after expiry of fifteen days from the due date of payment and shall remain suspended till the payment of fees and surcharge, if any, is made or suspension is withdrawn.

(2) No penalty shall be imposed on the Trading Licensee without giving it an opportunity of being heard.

(3) The penalties, if any, shall be imposed in accordance with Regulation 19 of these regulations.

19. Penalties for Contravention and non-compliance.—Where the charge of contraventions is established against the Trading Licensee, the Commission may:

- (1) give warning to the Trading Licensee subject to such conditions as may be deemed fit in the facts and circumstances of the case; or
- (2) direct that the Trading Licensee shall pay, by way of penalty, a sum which shall not exceed rupees one lakh for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction; and/or
- (3) debar the Trading Licensee from trading in short term market or long term market or through power exchanges or banking or Cross Border Trade of Electricity for a period as may be specified by the Commission; or
- (4) suspend the licence for a period as may be specified by the Commission; or
- (5) revoke the licence of the Trading Licensee; or

- (6) issue such other directions or impose such other conditions as the Commission may deem appropriate;
Provided that in case of debarment or suspension, National Load Despatch Centre or concerned Regional Load Despatch Centre or State Load Despatch Centre, as the case may be, shall take appropriate action with regard to scheduling and despatch of electricity in respect of the transactions of the Trading Licensee.

CHAPTER VII REVOCATION OF LICENCE

20. Revocation of licence.—(1) The Commission may revoke the licence in exercise of power in accordance with Section 19 of the Act in any of the following circumstances, namely:—

- (a) Where the Trading Licensee in the opinion of the Commission, makes wilful and prolonged default in doing anything required of him by or under the Act, or the Rules or the Regulations;
- (b) Where the Trading Licensee breaches any of the terms and conditions of his licence, the breach of which is expressly declared by such licence to render it liable to revocation;
- (c) Where the Trading Licensee fails, within the period fixed in this behalf by his licence, or any longer period which the Commission may allow therefore, to show to the satisfaction of the Commission, that he is in a position fully and efficiently to discharge the duties and obligations imposed on him by his licence;
- (d) Where in the opinion of the Commission the financial position of the Trading Licensee is such that he is unable to fully and efficiently discharge the duties and obligations imposed on him by his licence;
- (e) Where the Trading Licensee has neglected to undertake trading in electricity;
- (f) Where the Trading Licensee fails to meet the qualifications specified for making an application in accordance with Regulation 3 or incurs any of the disqualifications under these regulations;
- (g) Where the Trading Licensee fails to submit the information as required in accordance with the regulations 11, 12 and 13 or knowingly furnishes false and wrong information;
- (h) Where the Trading Licensee has failed to pay the fees by the due date as per the Central Electricity Regulatory Commission (Payment of Fee) Regulations, 2012 or other charges required by its licence or any penalty imposed by the Commission;
- (i) Where the Trading Licensee breaches the limits defined for charging the Trading Margin for any type of contracts;
- (j) Where the Trading Licensee fails to maintain the Net Worth specified in Regulation 3.

(2) If the Commission, after making an enquiry, is satisfied that any of the grounds for revocation as mentioned in clause (1) exists and public interest so requires, the Commission may revoke the licence subject to such terms and conditions as may be deemed appropriate:

Provided that the Commission has given a notice of not less than three months to the Trading Licensee stating the grounds on which it is proposed to revoke the licence and has considered the cause shown by the Trading Licensee within the period of notice against the proposed revocation:

Provided further that the Commission may, instead of revoking the licence, permit the licence to remain in force subject to such further terms and conditions as the Commission may consider appropriate to impose, and any further terms and conditions so imposed shall be deemed to be terms and conditions of the licence and shall be binding on the Trading Licensee.

(3) Where the Trading Licensee makes an application for revocation of licence, the application shall contain the following information and documents:

- (a) reasons for seeking revocation;
- (b) an affidavit to the effect that the Trading Licensee has deposited the licence fee for the Year in which revocation is sought; that there are no undischarged liabilities against the Trading Licensee; and that there are no operative contracts for trading of electricity to which the applicant is a party at the time of filing the said application;
- (c) an affidavit to the effect that the applicant has posted the complete application on its website and shall keep the application uploaded on its website till its disposal by the Commission;
- (d) documents showing that the Trading Licensee has published the notice about its application for revocation in two daily newspapers having circulation in each of the five regions in addition to those published from Delhi including one economic newspaper;

(4) Where the Commission, after considering the application made in accordance with clause (3), is satisfied that public interest so requires, the Commission shall revoke the licence, as to the whole or any part of the area of trading upon such terms and conditions as the Commission may consider appropriate;

(5) Where the licence is revoked under clauses (2) and (4) of this regulation, the Commission shall serve a notice of revocation on the Trading Licensee and fix a date from which revocation shall take effect.

CHAPTER VIII

MISCELLANEOUS

21. Additional provisions in respect of Existing Licensees.—(1) The Existing Licensees shall meet the Net Worth, Current Ratio and Liquidity Ratio criteria specified in clause (2) of Regulation 9 and submit an audited special balance

sheet within a period of six months from the date of commencement of these regulations to support the compliance of Net Worth requirement:

Provided that in case the Existing Licensee fails to comply with the above, the Existing Licensee shall submit an application for category change within six months from the date of commencement of these regulations.

(2) The Existing Licensees shall charge trading margin in accordance with Regulation 8.

(3) The Existing Licensees shall pay the licence fee as may be specified by the Commission from time to time:

Provided that the licence fee when revised, shall be payable by the Existing Licensees on pro rata basis from the date of such revision till the end of the Year.

22. Communication.—(1) Unless otherwise specified in these regulations, all communications relating to the trading licence shall be in writing and shall be delivered either in person to the addressee or his authorized agent, or sent by registered or speed post at the place of business of the addressee or sent via electronic mail.

(2) All communications shall be regarded to have been given by the sender and received by the addressee—

- (a) when delivered in person to the addressee or to his authorised agent;
- (b) on expiry of 15 days from the date of sending by registered or speed post at the address of the addressee.
- (c) When sent over email when an addressee specifically opts for such mode of communication.

(3) Wherever the Trading Licensees are required under these regulations to post the information on their website, the Trading Licensees shall be required to post such information only in text converted PDF format, and not images of the documents.

23. Power to relax.—The Commission may in appropriate cases and for reasons to be recorded in writing relax any of the provisions of these regulations.

24. Repeal.—Save as otherwise provided in these regulations, the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2009 and Central Electricity Regulatory Commission (Fixation of Trading Margin) Regulations, 2010 and all subsequent amendments thereof shall stand repealed from the date of commencement of these regulations.

[Ed.: For Forms see SCC OnLine]