

**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION  
(DISTRIBUTION LICENCE CONDITIONS) REGULATIONS, 2004**

ELECTRICITY ACT, 2003

No. MERC/Legal/111/2004/1089 In exercise of the powers conferred by clause (b) of sub-section (2) of Section 181 read with sub-section (1) of Section 15, clause (c) of sub-section (2) of Section 181 read with sub-section (2) of Section 15, clause (d) of sub-section (2) of Section 181 read with Section 16, clause (e) of sub-section (2) of Section 181 read with clause (a) of sub-section (2) of Section 18 and clause (f) of sub-section (2) of Section 181 read with clause (c) of sub-section (2) of Section 18 and clause (zp) of sub-section (2) of Section 181 of the Electricity Act, 2003 (36 of 2003), the Maharashtra Electricity Regulatory Commission hereby makes the following regulations, namely:-

**Chapter I: General**

**1. Short Title, extent and commencement**

- (1) These Regulations may be called the Maharashtra Electricity Regulatory Commission (Distribution Licence Conditions) Regulations, 2004.
- (2) These Regulations shall extend to the whole of the State of Maharashtra.
- (3) These Regulations shall come into force from the date of their publication in the Official Gazette.

**2. Applicability**

These Regulations shall apply to all licences under the Act and in respect of all applications for licence, including applications pending before the Commission at the date of publication of these Regulations.

**3. Definitions**

In these Regulations unless the context otherwise requires:

- (a) “**Accounting Statement**” means for each financial year, accounting statements separately in respect of the Licensed Business and the Other Business, comprising-

- (i) balance sheet, prepared in accordance with the form contained in Part I of Schedule VI to the Companies Act, 1956;
- (ii) profit and loss account, complying with the requirements contained in Part II of Schedule VI to the Companies Act, 1956;
- (iii) cash flow statement, prepared in accordance with the Accounting Standard on Cash Flow Statement (AS-3) of the Institute of Chartered Accountants of India;
- (iv) report of the statutory auditors' of the Distribution Licensee;
- (v) cost records prescribed by the Central Government under Section 209(1)(d) of the Companies Act, 1956,

together with notes thereto, and such other supporting statements and information as the Commission may direct from time to time;

- (b) “**Allocation Statement**” means for each financial year, a statement in respect of each of the separate businesses of the Distribution Licensee, showing 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 Distribution Business and any Other Business of the Distribution Licensee, together with a description of the basis of the apportionment or allocation;
- (c) “**Act**” means the Electricity Act, 2003 (36 of 2003);
- (d) “**Applicant**” means the person who has made an application for grant of licence to distribute electricity under the Act and in accordance with these Regulations;
- (e) “**Board**” means the Maharashtra State Electricity Board, constituted under sub-section (1) of Section 5 of the Electricity Supply Act, 1948 (54 of 1948);
- (f) “**Commission**” means the Maharashtra Electricity Regulatory Commission;

- (g) “**Conduct of Business Regulations**” means such regulations as may be specified under clause (zl) of sub-section (2) of Section 181 read with sub-section (1) of Section 92 of the Act;
- (h) “**Licence**” means licence granted under Section 14 of the Act to operate and maintain a distribution system for supplying electricity to the consumers in the area of the supply of the Distribution Licensee;
- (i) “**Licensed Business**” means the business of operating and maintaining a distribution system for supplying electricity to the consumers in the area of the supply of the Distribution Licensee;
- (j) “**Network Rollout Plan**” means a plan describing the rollout of the distribution system of the Distribution Licensee or of the proposed distribution system of the applicant, as the case may be, including geographical coverage of such distribution system, phasing of the rollout and such other details as may be required by the Commission;
- (k) “**Officer**” means an officer of the Commission;
- (l) “**Other Business**” means such other business as is referred to in Section 51 of the Act;
- (m) “**Promoter**” means, with regard to an applicant under these Regulations,-
  - (i) in case the applicant is a partnership firm, any partner of the firm;
  - (ii) in case the applicant is a company or a body corporate, any person who holds not less than ten (10) per cent of the paid up equity share capital in such company or body corporate;
  - (iii) in case the applicant is an association or body of individuals, any individual who is a member thereof
- (n) “**Secretary**” means Secretary of the Commission;

Words or expressions used herein and not defined shall have the meanings assigned to them in the Act.

## **Chapter II: Procedural aspects**

### **4. Application for grant of licence**

4.1 An application for grant of licence shall be made in the form and shall be accompanied by documents and information as specified in Schedule 1.

4.2 The application under Regulation 4.1 shall be accompanied by such fee as may be prescribed under sub-section (1) of Section 15 of the Act.

4.3 The application under Regulation 4.1 shall be signed by the applicant and addressed to the Secretary and shall be submitted in the manner set out in the Conduct of Business Regulations for filing of petitions.

### **5. Scrutiny of application**

5.1 The Commission or the Secretary or any Officer designated for the purpose by the Commission may, upon scrutiny of the application, and, as far as practicable, within a period of thirty (30) days from the date of receipt of application, require the applicant to furnish such additional information or particulars or documents as considered necessary for the purpose of considering the application.

5.2 After the application is complete and accompanied by all requisite information, particulars and documents and is in compliance with all the requirements, the Commission or the Secretary or the Officer designated for the purpose by the Commission shall intimate to the applicant that the application is ready for being considered for grant of licence in accordance with the procedure provided in the Act and the applicable Regulations.

### **6. Notice of application for grant of licence**

6.1 An applicant shall publish a notice of his application for grant of licence in not less than two (2) daily English language newspapers and two (2) daily Marathi language newspapers in the proposed area of supply.

6.2 A notice of application under sub-section (2) of Section 15 of the Act shall contain the following particulars:

- (a) The applicant's name and address of registered office;

- (b) Nature of licence applied for and other salient features of the application;
- (c) Legal status of the applicant, shareholding pattern, management profile, summary of activities and past experience in similar activities;
- (d) The proposed area of supply;
- (e) The name, addresses and other necessary details of the person(s) under the control of the applicant at the respective main city/ town with whom the application and other documents can be inspected or from whom they can be purchased in person or by post at reasonable charges, not exceeding photocopying charges, and the website of the applicant from where the application alongwith necessary documents can be downloaded free of cost;
- (f) In respect of a licence for cases falling under the sixth proviso to section 14 of the Act, a statement that the applicant has complied with the requirements as may be prescribed by the Central Government under the said provision of the Act; and
- (g) A statement that any person, desirous of making any objection with reference to application to the Commission, may do so by way of a written intimation (six copies) addressed to the Secretary within the time frame specified in the proviso to clause (i) of sub-section (2) of Section 15 of the Act.

Provided that the Commission may, within a period of four (4) days from the receipt of application, require such additional particulars to be included in the notice, as it may deem appropriate having regard to the specific circumstances of the case.

## **7. Notice for amendment of licence**

7.1 A notice pursuant to clause (a) sub-section (2) of Section 18 of the Act shall be published in not less than two (2) daily English language newspapers and two (2) daily Marathi language newspapers in the area of supply.

7.2 The notice shall be published within a period of seven (7) days from the date of application for alteration or amendment and shall contain the following particulars:-

- (a) Name of the Distribution Licensee and address of main office in the area of supply;
- (b) Description of alteration or amendment for which application has been made to the Commission;
- (c) Rationale for the proposed alteration or amendment and persons likely to be affected thereby;

- (d) The name, addresses and other necessary details of the person(s) under the control of the Distribution Licensee at the respective main city/ town with whom the application can be inspected or from whom it can be purchased in person or by post at reasonable charges, not exceeding photocopying charges, and the website of the Distribution Licensee from where the application alongwith necessary documents can be downloaded free of cost;
- (e) A statement that any person, desirous of making any suggestion or objection with reference to application to the Commission, may do so by way of a written intimation (six copies) addressed to the Secretary within the time frame specified in the proviso to clause (d) of sub-section (2) of Section 18 of the Act.

Provided that the Commission may, within a period of four (4) days from the receipt of application, require such additional particulars to be contained in the notice, as it may deem appropriate having regard to the specific circumstances of the case.

7.3 A notice under clause (c) sub-section (2) of Section 18 of the Act shall contain the following particulars:-

- (a) Name of the Distribution Licensee and address of main office in the area of supply;
- (b) Description of alteration or amendment proposed to be made by the Commission;
- (c) Rationale for proposed alteration or amendment and persons likely to be affected thereby;
- (d) A statement that any person, desirous of making any suggestion or objection with reference to application to the Commission, may do so by way of written intimation (six copies) addressed to the Secretary within the time frame specified in the proviso to clause (d) of sub-section (2) of Section 18 of the Act.

## **8. Processing of application**

The Commission shall follow the procedure set out in the Conduct of Business Regulations while processing applications under these Regulations.

## **9. Format of licence**

A licence issued by the Commission under clause (a) of sub-section (6) of Section 15 of the Act shall be in the form specified in Schedule 2 of these Regulations.

Provided that the Commission may add to, alter or amend the form specified for a licence as it may, in its discretion, deem necessary.

## **10. Deposit of printed copies**

10.1 A person who has been granted a licence shall, within thirty (30) days of the grant of such licence, make available a copy of such licence, together with a map or maps delineating the area of supply for public inspection during working hours at his principal office located within the area of supply.

10.2 Every such licensee shall, within a period of thirty (30) days from the grant of licence, make available for sale, printed copies of the licence, together with relevant map or maps, to any person applying for the same, at a reasonable price, not exceeding photocopying charges.

## **11. Deemed licensees**

11.1 Upon the expiry of one year from the date of commencement of the Act ('the effective date'), the provisions of the Act and the rules and regulations thereunder shall be applicable to a deemed licensee under the first proviso to Section 14 of the Act:

Provided that the conditions of licence specified in Chapter III of these Regulations shall be deemed to be the general conditions of licence for such deemed licensee as at the effective date:

Provided however that the period of licence of such deemed licensee shall be such period as may be stipulated in the licence, clearance or approval granted to such deemed licensee under the repealed laws or such Act specified in the Schedule to the Act and where no period has been so stipulated, the period of licence of such deemed licensee shall be a period of twenty five (25) years from the date of commencement of the Act:

Provided also that the conditions or stipulations contained in the licence, clearance or approval granted to such deemed licensee under the repealed laws or such Act specified in the Schedule to the Act which are not specified in Chapter III of these Regulations and are not inconsistent with the provisions of the Act and the rules and regulations made thereunder shall be deemed to be the specific conditions of licence for such deemed licensee as at the effective date.

11.2 Every deemed licensee under the first proviso to Section 14 of the Act shall, within one (1) month from the date of notification of these Regulations submit his licence for alteration or modification by the Commission in order to bring such licence into conformity with the provisions of the Act and the rules and regulations thereunder:

Provided that so long as the licence of a deemed licensee referred to in the first proviso to section 14 of the Act is sub judice before the Commission or any court of law/ tribunal or arbitrator or any other authority as at the effective date, wherein the deemed licensee is a party, such deemed licensee shall maintain status quo in terms of any order or direction given to such licensee by the Commission or any court of law/ tribunal or arbitrator or any other authority until any final order or direction is passed by the Commission or any court of law/ tribunal or arbitrator or any other authority:

Provided further that any such alteration or modification to the licence shall be made in accordance with the provisions of the Act and rules and regulations made thereunder and any final order or direction passed by the Commission or any court of law/ tribunal or arbitrator or any other authority referred to in the first proviso above:

Provided also that no such alterations or modifications shall be made except with the consent of the licensee unless such consent has, in the opinion of the Commission, been unreasonably withheld.

11.3 Where the State Government has issued a notification under clause (a) of Section 172 of the Act, the Board shall not be required to obtain a licence in accordance with the procedure contained in these Regulations for such period as may be contained in the said notification.

11.4 Where the State Government has published a transfer scheme in accordance with Part XIII of the Act, the Government company or company vested with any property, interest in property, rights and liabilities by virtue of such transfer scheme shall not be required to comply with the procedure contained in these Regulations for grant of licence.

### **Chapter III: Terms and conditions of licence**

#### **12. General**

12.1 Every Distribution Licensee shall be subject to the general and specific conditions of licence specified in Schedule 2 of these Regulations.

12.2 The Commission may specify any other specific conditions to apply either to a licensee or class of licensees and such conditions shall be deemed to be conditions of such licence:

Provided that the Commission may specify such additional conditions of licence, as it may consider appropriate, for the purpose of encouraging competition between two or

more persons for distribution of electricity through their own distribution system within the same area:

Provided further that the Commission shall, before specifying such additional conditions, give reasonable opportunity to make representations with regard to such additional conditions.

### **13. Area of supply**

The area of supply of the Distribution Licensee shall be the area as specified in the licence.

### **14. Commencement and term of licence**

A licence issued under the Act and in accordance with these Regulations shall come into force with effect from the date specified therein and, unless revoked earlier by the Commission in accordance with the provisions of Section 19 of the Act, shall remain in force for the period specified under sub-section (8) of Section 15 of the Act.

### **15. Duties**

15.1 The Distribution Licensee shall comply with all the applicable provisions of the Act, the rules prescribed thereunder and all regulations, orders and directions issued by the Commission from time to time.

15.2 The Distribution Licensee shall as soon as practicable report to the Commission,-

- (a) any significant change in his circumstances which may affect the Distribution Licensee's ability to meet his obligations under the Act, the rules and regulations thereunder, directions and orders issued by the Commission, agreements or the Licence;
- (b) any material breach, or likelihood thereof, of the provisions of the Act, the rules and the regulations thereunder, directions and orders issued by the Commission, agreement or the Licence, which was reasonably within his knowledge, along with the reasons therefor, as soon as practicable; and
- (c) any change in management control or major change in the shareholding pattern of the Distribution Licensee.

Explanation I – for the purpose of this Regulation, “management control” shall include the right to appoint majority of the directors or to control the management or policy decisions of the Distribution Licensee, including by virtue of shareholding or

management rights or shareholders' agreement or partnership agreement or trust deed or voting agreement or in any other manner;

Explanation II – for the purpose of this Regulation, “major change in shareholding pattern” shall mean the acquisition, by such person as specified in Regulation 7 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, as in force from time to time, of such per cent of shares or voting rights in the Distribution Licensee as would entail a disclosure under sub-regulation (1) of that Regulation.

15.3 The Distribution Licensee shall seek the approval of the Commission before creating any encumbrance on the assets of the Licensed Business, except where such encumbrance is created for the purpose of the Licensed Business.

15.4 The Distribution Licensee may engage any of its subsidiaries or holding company or a subsidiary of such holding company to provide any goods or services to the Distribution Licensee in connection with the Licensed Business, subject to the following conditions:

- (a) that the transaction shall be undertaken on an “arms-length basis” and at a value that is fair and reasonable in the circumstances, which for the purposes of this Regulation, shall mean with respect to any specific transaction, substantially on terms that would be obtained between the Distribution Licensee and a third party unrelated to and unconnected with the Distribution Licensee;
- (b) that the Distribution Licensee shall report to the Commission, for each financial year, the details of all transactions of the nature referred to in this Regulation entered into during the financial year;
- (c) that the Distribution Licensee shall submit to the Commission, for each financial year, a certificate from a Chartered Accountant as regards compliance with the requirement of clause (a) above .

Explanation – for the purpose of this Regulation, the terms “subsidiary” and “holding company” shall have the same meaning as under Section 4 of the Companies Act, 1956.

15.5 The Distribution Licensee may undertake the distribution of electricity for a specified area within the area of supply through another person and such person shall not be required to obtain any separate licence from the Commission:

Provided that the Distribution Licensee shall be responsible for all his obligations under the Act, rules and regulations made thereunder notwithstanding the Distribution Licensee authorizing other person to so undertake the distribution of electricity:

Provided further that the Distribution Licensee shall report, for each financial year, the details of any arrangements entered into with any person under this Regulation, in such format as may be provided by the Commission.

15.6 The Distribution Licensee shall, -

- (a) prepare and submit to the Commission a detailed forecast of the demand for electricity in the area of supply in such manner and for such period(s) as may be specified by the Commission; and
- (b) purchase electrical capacity and energy in an efficient and economical manner under a transparent procurement process as approved by the Commission and in accordance with the guidelines issued by the Commission from time to time.

## **16. Network rollout**

The Distribution Licensee shall adhere to the network rollout plan as approved by the Commission.

## **17. Accounts**

17.1 The financial year of the Distribution Licensee shall run from the first of April to the following thirty-first of March.

17.2 The Distribution Licensee shall in respect of the Licensed Business and the Other Business:

- (a) keep such Allocation Statement as would be required, so that the revenues, costs, assets, liabilities, reserves and provisions for, or reasonably attributable to the Licensed Business are separately identifiable in the books of the Distribution Licensee;
- (b) adopt a fair and transparent cost allocation mechanism for the reasonable allocation of joint and common costs between the Licensed Business and the Other Business;

- (c) prepare on a consistent basis the Accounting Statements in accordance with the provisions of the Companies Act, 1956 and/or the standards or guidelines of the Institute of Chartered Accountants of India.

*Explanation* – References in this Regulation 17.2 to costs or liabilities of, or reasonably attributable to Licensed Business or Other Business shall be construed as excluding taxation, and capital liabilities which do not relate principally to such Business, and interest thereon.

17.3 The Distribution Licensee shall maintain appropriate accounting records and undertake such studies as the Commission may direct to enable the Commission to determine or estimate, as the case may be, the Distribution Licensee's cost of supply to various tariff categories and cross-subsidy surcharge under sub-section (2) of Section 42 of the Act.

17.4 The Distribution Licensee shall, upon a request being made by any person, make available a copy of its Accounting Statements at a reasonable price not to exceed the photocopying charges.

## **18. Provision of Information to the Commission**

The Distribution Licensee shall furnish to the Commission such information, documents and details related to the Licensed Business and/or the Other Business of the Distribution Licensee as the Commission may require.

## **19. Licence Fees**

During the period that the Licence is in force, the Distribution Licensee shall by the 10th of April of every year, or such further period as the Commission may allow, pay to the Commission such licence fees as may be specified.

## **20. Consumer Rights Statement**

20.1 The Distribution Licensee shall, within three (3) months from the date of commencement of the licence or within three (3) months from the date of applicability of these Regulations, whichever is later, prepare and submit to the Commission for approval, a consumer rights statement, explaining to consumers their rights as consumers served by the Distribution Licensee.

20.2 The Commission may, upon holding such consultation with such persons or bodies of persons who the Commission considers as representing the interests of consumers likely to be affected by it, make such modification to such consumer rights statement, as it considers necessary in public interest.

20.3 The Distribution Licensee shall provide a copy of the consumer rights statement, as approved by the Commission, free of charge, to all consumers to be served by it.

20.4 The Distribution Licensee shall put up a copy of the consumer rights statement on its internet website.

## **21. Decision on Interpretation of Licence**

The interpretation of the licence and the terms and conditions thereof shall be as determined by the Commission.

## **22. Power to amend**

The Commission may, at anytime, vary, alter, modify or amend any provisions of these Regulations.

## **23. Power to remove difficulties**

If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by general or specific order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty.

A.M. Khan,  
Secretary,  
Maharashtra Electricity Regulatory Commission,  
Mumbai.

Mumbai, 10<sup>th</sup> June, 2004

**FORM OF APPLICATION FOR LICENCE**

An application shall be made in the format given herein, accompanied by the information and documents as listed.

**Application Format**

[To be addressed to the Secretary, Maharashtra Electricity Regulatory Commission]

I/We hereby apply for a Distribution Licence under the “Maharashtra Electricity Regulatory Commission (Distribution Licence Conditions) Regulations, 2004”. We set out hereunder the relevant particulars in connection with our application and shall provide any other information as required by the Commission.

**GENERAL INFORMATION**

1. Name to appear on licence
2. Primary Contact
  - a. Name
  - b. Contact Address
  - c. Phone Number
  - d. Fax Number
  - e. E-mail address

**INFORMATION ABOUT THE APPLICANT**

3. Full legal name of organisation
4. Registration number under applicable statute
5. Date of incorporation and registration
6. Registered office address
7. Names of promoters, along with their respective ownership percentages.

## **ENCLOSURES**

The following information/documents are duly attached:

### **Incorporation**

8. The following incorporation documents, as applicable:
  - a. Where the applicant is a company, the Memorandum and Articles of Association;
  - b. Where the applicant is a partnership, the deed of partnership;
  - c. In any other case, applicable deed or charter of incorporation, if any.

### **Technical Information**

9. Management information (provided in respect of operations, projects, commercial, finance, regulatory, IT and HR functions):
  - a. Name of person
  - b. Position in the applicant organisation
  - c. Qualification
  - d. Area of expertise
  - e. Experience
10. Sufficient description adequately specifying the actual or proposed location of the system of electric lines and electrical plant by means of which the applicant intends to enable distribution of electricity, indicating which plant and lines are to be constructed and which are existing plant and lines, and the area to which the application relates.
11. Detailed map or maps of the proposed area of supply, on a scale of not less than 10 centimetres to a kilometer, or if no such maps are available, of not less than that of the largest scale of ordnance maps available, depicting the proposed distribution system of the applicant.
12. List of the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or any building or place in the occupation of the Government for defence purposes located within the proposed area of supply.
13. List of streets or parts of streets which are repairable by a person other than the Central Government, State Government or local authority and of railways, tramways, canals and waterways for which the applicant has obtained authorization to undertake works.

**Financial Information**

- 14. Most recent three years of Accounting Statements together with Auditors' Reports, if any.
- 15. Indicative investment plan and Network rollout plan for the next five years, detailing year-wise and area-wise rollout of the distribution system.

**Other Enclosures**

- 16. Copy of Receipt for the licence application processing fee.
- 17. Supporting information on compliance with the additional requirements prescribed by the Central Government, as may be applicable.

I/We certify that the particulars submitted herewith are true, complete and correct, to the best of my/our knowledge and belief at the time of submission and does not contain any untrue statement of a material fact or omits to state a material fact necessary to make the statement/particulars contained herein not misleading.

Place:

Sign:

Date:

Name and Designation:

Seal:

**FORM OF LICENCE**

Licence granted by the Maharashtra Electricity Regulatory Commission under Section 14 of the Electricity Act, 2003 (36 of 2003) to ..... having its registered office at ....., to distribute electricity within the area of supply (as defined in this Licence) and with the powers and upon the terms and conditions specified herein.

**Part I: General**

**1. Short title**

This Licence may be called the ..... Distribution Licence (Licence No .... of .....).

**2. Definitions**

In this Licence unless the context otherwise requires:

- (a) **“Accounting Statement”** means for each financial year, accounting statements separately in respect of the Licensed Business and the Other Business, comprising-
  - (i) a balance sheet, prepared in accordance with the form contained in Part I of Schedule VI to the Companies Act, 1956;
  - (ii) a profit and loss account, complying with the requirements contained in Part II of Schedule VI to the Companies Act, 1956;
  - (iii) a cash flow statement, prepared in accordance with the Accounting Standard on Cash Flow Statement (AS-3) of the Institute of Chartered Accountants of India;
  - (iv) a report of the statutory auditors’ of the Distribution Licensee;
  - (v) cost records prescribed by the Central Government under Section 209(1)(d) of the Companies Act, 1956,

together with notes thereto, and such other supporting statements and information as the Commission may direct from time to time;

- (b) “**Allocation Statement**” means for each financial year a statement in respect of each of the separate businesses of the Distribution Licensee showing 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 Distribution Business and any Other Business of the Distribution Licensee, together with a description of the basis of the apportionment or allocation;
- (c) “**Act**” means the Electricity Act, 2003 (36 of 2003);
- (d) “**Commission**” means the Maharashtra Electricity Regulatory Commission;
- (e) “**Distribution Licensee**” means ..... in its capacity as operator of the Licensed Business;
- (f) “**Licence**” means this licence under which the Distribution Licensee is authorised to conduct the Licensed Business;
- (g) “**Licensed Business**” means the business of operating and maintaining a distribution system for supplying electricity to the consumers in the area of the supply of the Distribution Licensee;
- (h) “**Network Rollout Plan**” means a plan describing the rollout of the distribution system of the Distribution Licensee or of the proposed distribution system of the applicant, as the case may be, including geographical coverage of such distribution system, phasing of the rollout and such other details as may be required by the Commission
- (i) “**Other Business**” means such other business as is referred to in Section 51 of the Act;

Words or expressions used herein and not defined shall have the meanings assigned to them in the Act.

## **Part II: General Terms and Conditions**

### **3. Area of supply**

The area of supply shall be the whole of the area bounded as follows:

North – By

East – By

South – By

West – By

### **4. Commencement and term of licence**

The Licence shall come into force from the .... day of ....., ..... and, unless revoked earlier by the Commission in accordance with the provisions of Section 19 of the Act, shall remain in force for the period specified under sub-section (8) of Section 15 of the Act.

### **5. Duties**

5.1 The Distribution Licensee shall comply with all the applicable provisions of the Act, the rules prescribed thereunder and all regulations, orders and directions issued by the Commission from time to time.

5.2 The Distribution Licensee shall as soon as practicable report to the Commission

- (a) any significant change in his circumstances which may affect the Distribution Licensee's ability to meet his obligations under the Act, the rules and the regulations thereunder, directions and orders issued by the Commission, agreements or the Licence;
- (b) any material breach, or likelihood thereof, of the provisions of the Act, the rules and the regulations thereunder, directions and orders issued by the Commission, agreement or the Licence, which was reasonably within his knowledge, along with the reasons therefor, as soon as practicable; and
- (c) any change in management control or major change in the shareholding pattern of the Distribution Licensee.

Explanation I – for the purpose of this clause, “management control” shall include the right to appoint majority of the directors or to control the management or policy

decisions of the Distribution Licensee, including by virtue of shareholding or management rights or shareholders' agreement or partnership agreement or trust deed or voting agreement or in any other manner;

Explanation II – for the purpose of this clause, “major change in shareholding pattern” shall mean the acquisition, by such person as specified in Regulation 7 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, as in force from time to time, of such per cent of shares or voting rights in the Distribution Licensee as would entail a disclosure under sub-regulation (1) of that Regulation.

5.3 The Distribution Licensee shall seek the approval of the Commission before creating any encumbrance on the assets of the Licensed Business, except where such encumbrance is created for the purpose of the Licensed Business.

5.4 The Distribution Licensee may engage any of its subsidiaries or holding company or a subsidiary of such holding company to provide any goods or services to the Distribution Licensee in connection with the Licensed Business, subject to the following conditions:

- (a) that the transaction shall be undertaken on an “arms-length basis” and at a value that is fair and reasonable in the circumstances, which for the purposes of this clause, shall mean with respect to any specific transaction, substantially on terms that would be obtained between the Distribution Licensee and a third party unrelated to and unconnected with the Distribution Licensee;
- (b) that the Distribution Licensee shall report to the Commission, for each financial year, the details of all transactions of the nature referred to in this Regulation entered into during the financial year;
- (c) that the Distribution Licensee shall submit to the Commission, for each financial year, a certificate from a Chartered Accountant as regards compliance with the requirement of clause (a) above .

Explanation – for the purpose of this clause, the terms “subsidiary” and “holding company” shall have the same meaning as under Section 4 of the Companies Act, 1956.

5.5 The Distribution Licensee may undertake the distribution of electricity for a specified area within the area of supply through another person and such person shall not be required to obtain any separate licence from the Commission:

Provided that the Distribution Licensee shall be responsible for all his obligations under the Act, rules and regulations made thereunder notwithstanding the Distribution Licensee authorizing such other person to so undertake the distribution of electricity:

Provided further that the Distribution Licensee shall report, for each financial year, the details of any arrangements entered into with any person under this Regulation, in such format as may be provided by the Commission.

5.6 The Distribution Licensee shall, -

- (a) prepare and submit to the Commission a detailed forecast of the demand for electricity in the area of supply in such manner and for such period(s) as may be specified by the Commission; and
- (b) purchase electrical capacity and energy in an efficient and economical manner under a transparent procurement process as approved by the Commission and in accordance with the guidelines issued by the Commission from time to time.

## **6. Street works**

The Distribution Licensee is authorized to undertake works upon the following streets or parts of streets which are repairable by a person other than the Central Government, State Government or local authority and upon the following railways, tramways, canals and waterways or parts thereof:

- (a) Streets.
- (b) Railways.
- (c) Tramways.
- (d) Canals.
- (e) Waterways.

## **7. Network rollout**

The Distribution Licensee shall adhere to the network rollout plan as approved by the Commission.

## **8. Accounts**

8.1 The financial year of the Distribution Licensee shall run from the first of April to the following thirty-first of March.

8.2 The Distribution Licensee shall in respect of the Licensed Business and the Other Business:

- (a) keep such Allocation Statement as would be required, so that the revenues, costs, assets, liabilities, reserves and provisions for, or reasonably attributable to the Licensed Business are separately identifiable in the books of the Distribution Licensee;
- (b) adopt a fair and transparent cost allocation mechanism for the reasonable allocation of joint and common costs between the Licensed Business and the Other Business;
- (c) prepare on a consistent basis, the Accounting Statements in accordance with the provisions of the Companies Act, 1956 and/or the standards or guidelines of the Institute of Chartered Accountants of India.

*Explanation* – References in this Licence Condition 8.2 to costs or liabilities of, or reasonably attributable to Licensed Business or Other Business shall be construed as excluding taxation, and capital liabilities which do not relate principally to such Business and interest thereon.

8.3 The Distribution Licensee shall maintain appropriate accounting records and undertake such studies as the Commission may direct to enable the Commission to determine or estimate, as the case may be, the Distribution Licensee's cost of supply to various tariff categories and cross-subsidy surcharge under sub-section (2) of Section 42 of the Act.

8.4 The Distribution Licensee shall upon request by any person make available a copy of its Accounting Statements at a reasonable price not to exceed the photocopying charges.

## **9. Provision of Information to the Commission**

The Distribution Licensee shall furnish to the Commission such information, documents and details related to the Licensed Business and/or the Other Business of the Distribution Licensee as the Commission may require.

## **10. Licence Fees**

During the period that the Licence is in force, the Distribution Licensee shall, by the 10th of April of every year, or such further period as the Commission may allow, pay to the Commission such licence fees as may be specified.

## **11. Consumer Rights Statement**

11.1 The Distribution Licensee shall, within three (3) months from the date of commencement of the licence, prepare and submit to the Commission for approval, a consumer rights statement, explaining to consumers their rights as consumers served by the Distribution Licensee.

11.2 The Commission may, upon holding such consultation with such persons or bodies of persons who the Commission considers as representing the interests of consumers likely to be affected by it, make such modification to such consumer rights statement, as it considers necessary in public interest.

11.3 The Distribution Licensee shall provide a copy of the consumer rights statement, as approved by the Commission, free of charge, to all consumers to be served by it.

11.4 The Distribution Licensee shall put up a copy of the consumer rights statement on its internet website .

## **12. Decision on Interpretation of Licence**

The interpretation of the licence and the terms and conditions thereof shall be as determined by the Commission.

## **Part III: Specific Terms and Conditions**