

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

No. MERC/Legal/111/2004/1091- 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, clause (z) of sub-section (2) of Section 181 read with section 52 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 (Trading 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

- (1) 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 in respect of the Licensed 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 Electricity Trader;
- (v) cost records as may be 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) “**Act**” means the Electricity Act, 2003 (36 of 2003);
- (c) “**Applicant**” means the person who has made an application for grant of licence to undertake trading in electricity under the Act and in accordance with these Regulations;
- (d) “**Board**” means the Maharashtra State Electricity Board constituted under sub-section (1) of Section 5 of the Electricity Supply Act, 1948 (54 of 1948);
- (e) “**Commission**” means the Maharashtra Electricity Regulatory Commission;
- (f) “**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;
- (g) “**Licence**” means licence granted under Section 14 of the Act to undertake trading in electricity;
- (h) “**Licensed Business**” means the business of trading of electricity pursuant to a licence granted under Section 14 of the Act;
- (i) “**Net worth**” means, in the case of an individual or body of individuals, the sum total of cash, bank balances and market value of investments in listed securities as reduced by the amount of any loans and liabilities owing to any person and, in case of any other person, the sum total of paid up share capital, share premium and such of the reserves as are eligible for distribution as dividend;

- (j) “**Officer**” means an officer of the Commission;
- (k) “**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. Eligibility

5.1 An applicant shall fulfil the eligibility criteria specified hereunder at the time of making the application for grant of licence.

Provided that the eligibility criteria shall not apply to licensees referred to in the first, second, third, fourth and fifth provisos to Section 14 of the Act.

5.2 The applicant shall have not less than one full-time professional having experience in each of the following disciplines, namely:-

- (a) power system operations and commercial aspects of power transfer;
- (b) finance, commerce and accounts.

Provided that the technical requirement of staff shall be complied with before undertaking the Licensed Business, notwithstanding the fact that the Commission has granted the licence.

5.3 The applicant shall furnish to the Commission the details of the professional and supporting staff engaged by him on a full time basis before undertaking the Licensed Business.

5.4 The net worth of the applicant shall not be less than the amounts specified hereunder:

Sr No	Category of Licence	Annual volume of electricity proposed to be traded (in kWh)	Net worth (Rs crores)
1	A	Up to 100 million	1.50
2	B	100 to 200 million	3.0
3	C	200 to 500 million	7.5
4	D	500 to 700 million	10.0
5	E	700 to 1,000 million	15.0
6	F	Above 1,000 million	20.0

6. Scrutiny of application

6.1 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.

6.2 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.

7. Notice of application for grant of licence

7.1 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 trading.

7.2 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 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 trading;
- (e) The proposed volume of trading;
- (f) 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 other documents, and the website of the applicant from where the application alongwith necessary documents can be downloaded free of cost ; 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 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.

8. Notice for amendment of licence

8.1 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 trading.

8.2 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 Electricity Trader and address of the main office in the area of trading;
- (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 Electricity Trader 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 Electricity Trader 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 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.

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

- (a) Name of the Electricity Trader and address of the main office in the area of trading;
- (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.

9. Processing of application

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

10. Format of licence

A licence issued by the Commission under the provisions of 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.

11. Deposit of printed copies

11.1 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 for public inspection during working hours at his principal office located within the area of trading.

11.2 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, at a reasonable price, not exceeding photocopying charges.

12. Deemed licensees

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

13. General

13.1 Every Electricity Trader shall be subject to the general and specific conditions of licence specified in Schedule 2 of these Regulations.

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

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

14. Area of trading

The area of trading of the Electricity Trader shall be the area as specified in the licence.

15. 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.

16. Duties

16.1 An Electricity Trader shall be subject to the following obligations, namely:

- (a) The Electricity Trader shall not undertake the business of transmission of electricity;
- (b) The Electricity Trader shall comply with the requirements of the applicable laws in force and, in particular, the Act, the rules and regulations made thereunder, the State Grid Code, orders and directions issued by the Commission from time to time;
- (c) The Electricity Trader shall increase his net worth if the volume of trade moves from a lower category to a higher category and the change of category shall be decided based on the volume of electricity traded for the year ending as at the 31st of March of each year and the Electricity Trader shall keep the Commission informed of his moving from one category to the other and subsequent changes in the net worth;
- (d) The Electricity Trader shall be subject to the trading margins where fixed by the Commission;
- (e) The Electricity Trader shall be governed by the technical requirements, capital adequacy requirements and creditworthiness as may be specified by the Commission and shall upgrade these technical and capital adequacy requirements, including staff, when the volume of trading increases;
- (f) The Electricity Trader shall establish adequate communication facilities like telephone, fax, computer, internet facilities, before undertaking trading;
- (g) The Electricity Trader shall coordinate with Regional Electricity Boards or Regional Power Committees, as the case may be, the State Load Despatch Centre and the State Transmission Utility with regard to the Licensed Business;
- (h) The Electricity Trader shall render all assistance to any person authorized by the Commission for carrying out his duties relating to the licence;
- (i) All trading arrangements shall be done through letters of credit or other commercially acceptable instrument;
- (j) The Electricity Trader shall not omit or neglect to undertake the Licensed Business for four consecutive quarters; and

- (k) The Electricity Trader shall maintain an up-to-date record of his customers and the transactions entered into by him with other parties.

16.2 The Electricity Trader shall as soon as practicable report to the Commission,-

- (a) any significant change in his circumstances which may affect the Electricity Trader'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 Electricity Trader.

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 Electricity Trader, 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 Electricity Trader as would entail a disclosure under sub-regulation (1) of that Regulation.

16.3 The Electricity Trader 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.

16.4 The Electricity Trader may engage any of its subsidiaries or holding company or a subsidiary of such holding company to provide any goods or services to the Electricity Trader 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 Electricity Trader and a third party unrelated to and unconnected with the Electricity Trader;

- (b) that the Electricity Trader 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 Electricity Trader 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.

17. Accounts

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

17.2 The Electricity Trader shall in respect of the Licensed Business:

- (e) keep such accounting records 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 Electricity Trader; and
- (f) prepare on a consistent basis, from such accounting records, 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.

17.3 The Electricity Trader shall upon written request by any person make available a copy of its Accounting Statements at a price not to exceed the photocopying charges.

18. Provision of information to the Commission

18.1 The Electricity Trader shall furnish to the Commission such information, documents and details related to the Licensed Business as the Commission may require.

18.2 Without prejudice to Regulation 18.1 above, the Electricity Trader shall furnish the information as may be required from time to time, to monitor the Electricity Trader's performance and compliance of the terms and conditions of the licence and any other legislative or regulatory requirement in accordance with Schedule 3 appended to these Regulations:

Provided that the information in the prescribed form shall be furnished to the State Load Despatch Centre with a copy to the Commission, on a quarterly basis on 10th day of April, July, October and January for the quarters January to March, April to June, July to September and October to December respectively and the format for submission of information shall be duly filled up and completed in all respects and no column shall be left blank:

Provided further that the report sent to the State Load Despatch Centre shall be posted on the internet website of the Electricity Trader in downloadable spreadsheet format or any other website authorized by the Commission:

Provided also that the State Load Despatch Centre shall verify the quantum of energy traded, as indicated in the reports, and submit a report to the Commission.

19. Standards of performance

19.1 The Commission may, after consultation with the Electricity Trader specify the standards of performance of a licensee or a class of licensees.

19.2 Notwithstanding anything contained in Regulation 19.1 above, the Electricity Trader shall furnish the performance details for each year to the Commission on quarterly basis for the quarters ending 31st March, 30th June, 30th September and 31st December in the format prescribed in Schedule 4 appended to these Regulations by 15th day of the first month of the following quarter.

20. Licence Fees

During the period that the Licence is in force, the Electricity Trader 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.

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, 10th June, 2004

SCHEDULE 1

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 Trading Licence in accordance with the “Maharashtra Electricity Regulatory Commission (Trading Licence Conditions) Regulations, 2004”. We set out hereunder the relevant particulars in connection with our application and shall further 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

ENCLOSURES

The following information/documents are duly attached:

Incorporation

7. 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.
8. Names of promoters along with their respective ownership percentages.

Technical Information

9. Volume of power intended to be traded for the first year after grant of licence and trading plans for the subsequent five years.
10. Management information (provided in respect of trading, commercial, finance, regulatory, HR and IT functions):
 - a. Name of person
 - b. Position in the applicant organisation
 - c. Qualification
 - d. Area of expertise
 - e. Experience
11. Whether the applicant proposes to finance the Licensed Business fully on its own balance sheet:
 - a. If yes, then the amount and percentage of equity from the applicant
 - b. If not, then particulars specified in Sr No 3 – 8 above as regards the person from whom equity contribution is being obtained, along with the amount and percentage of such equity contribution
 - c. Details of debt proposed for the Licensed Business

Financial Information

12. Most recent three years of Accounting Statements together with Auditors' Reports, if any.
13. Certificate from Chartered Accountant regarding net worth of the applicant.

Other Enclosures Required

14. Copy of receipt for the licence application processing fee.

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:

SCHEDULE 2

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 trade electricity within the area of trading (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 Trading Licence (Licence No of

2. Definitions

In this Licence unless the context otherwise requires:

- (a) “**Accounting Statement**” means for each financial year, accounting statements in respect of the Licensed 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 Electricity Trader;
 - (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) “**Act**” means the Electricity Act, 2003 (36 of 2003);
- (c) “**Commission**” means the Maharashtra Electricity Regulatory Commission;
- (d) “**Licence**” means this licence under which the Electricity Trader is authorised to conduct the Licensed Business;
- (e) “**Licensed Business**” means the business of trading of electricity pursuant to this licence.
- (f) “**Regulations**” means the Maharashtra Electricity Regulatory Commission (Trading Licence Conditions) Regulations, 2004
- (g) “**Electricity Trader**” means in its capacity as operator of the Licensed Business.

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 Trading

The area of trading shall be the State of Maharashtra.

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 Electricity Trader shall undertake the Licensed Business in accordance with the provisions of the Act and the rules and regulations made thereunder.

Provided that it shall be the duty of the Electricity Trader to comply with the following:

- (a) The Electricity Trader shall not undertake the business of transmission of electricity;

- (b) The Electricity Trader shall comply with the requirements of the applicable laws in force and, in particular, the Act, the rules and regulations made thereunder, the State Grid Code, orders and directions issued by the Commission from time to time;
- (c) The Electricity Trader shall increase his net worth if the volume of trade moves from a lower category to a higher category and the change of category shall be decided based on the volume of electricity traded for the year ending as at the 31st of March of each year and the Electricity Trader shall keep the Commission informed of his moving from one category to the other and subsequent changes in the net worth;
- (d) The Electricity Trader shall be subject to the trading margins where fixed by the Commission;
- (e) The Electricity Trader shall be governed by the technical requirements, capital adequacy requirements and creditworthiness as may be specified by the Commission and shall upgrade these technical and capital adequacy requirements, including staff, when the volume of trading increases;
- (f) The Electricity Trader shall establish adequate communication facilities like telephone, fax, computer, internet facilities, before undertaking trading;
- (g) The Electricity Trader shall coordinate with Regional Electricity Boards or Regional Power Committees, as the case may be, the State Load Despatch Centre and the State Transmission Utility with regard to the Licensed Business;
- (h) The Electricity Trader shall render all assistance to any person authorized by the Commission for carrying out his duties relating to the licence;
- (i) All trading arrangements shall be done through letters of credit or other commercially acceptable instrument;
- (j) The Electricity Trader shall not omit or neglect to undertake the Licensed Business for four consecutive quarters;
- (k) The Electricity Trader shall maintain an up-to-date record of his customers and the transactions entered into by him with other parties.

5.2 The Electricity Trader shall as soon as practicable report to the Commission,-

- (a) any significant change in his circumstances which may affect the Electricity Trader'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 Electricity Trader.

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 Electricity Trader, 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 Electricity Trader as would entail a disclosure under sub-regulation (1) of that Regulation.

5.3 The Electricity Trader 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 Electricity Trader may engage any of its subsidiaries or holding company or a subsidiary of such holding company to provide any goods or services to the Electricity Trader 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 Electricity Trader and a third party unrelated to and unconnected with the Electricity Trader;

- (b) that the Electricity Trader 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 Electricity Trader 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.

6. Accounts

6.1 The financial year of the Electricity Trader shall run from the first of April to the following thirty-first of March.

6.2 The Electricity Trader shall in respect of the Licensed Business:

- (a) keep such accounting records 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 Electricity Trader; and
- (b) prepare on a consistent basis from such accounting records, the Accounting Statements prepared in accordance with the provisions of the Companies Act, 1956 and/or the standards or guidelines of the Institute of Chartered Accountants of India.

6.3 The Electricity Trader shall upon written request by any person make available a copy of its Accounting Statements at a reasonable price not exceeding photocopying charges.

7. Provision of Information to the Commission

The Electricity Trader shall furnish to the Commission such information, documents and details related to the Licensed Business as the Commission may require.

8. Standards of performance

The Electricity Trader shall furnish performance details to the Commission for such periods and in such form as may be specified.

9. Licence Fees

During the period that the Licence is in force, the Electricity Trader 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.

10. 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

PROFORMA FOR SUBMISSION OF INFORMATION FOR THE QUARTER

(SAY JULY 2004 TO SEPTEMBER 2004)

Name of Electricity Trader:

Licence details:

Sr No	Volume of trading in million kWh	Purchased from*	Sold to*	Point of purchase	Purchase price	Point of sale	Sale price	Transmission/ wheeling charge borne by buyer/ seller/ trader	Transmission loss borne by buyer/ seller/ trader	UI charge borne by buyer/ seller	Trading margin	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)

Note: All transactions should be reported transaction-wise and should not be aggregated

* Besides the name of the buyer/ seller, indicate the category of the buyer/ seller, namely generator, captive power plant, distribution licensee, Government, consumer (when applicable) etc

** Strike out whichever is not applicable

PROFORMA FOR SUBMISSION OF STANDARDS OF PERFORMANCE OF ELECTRICITY TRADER

(to be submitted to the Commission and the SLDC)

Name of Electricity Trader:

Licence details:

Sr No	Volume of trading during the quarter	Cumulative trading upto the present quarter	Whether there is any change in the category of trader	Whether net worth is increased, due to change in category	Whether licence fee, as applicable has been deposited with the Commission	Whether any violation to the licence conditions pointed out by any agency or observed by the Electricity Trader	Payment track record for energy purchased for trading	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Notes: (i) A separate copy of duly filled Schedule 4 shall also be submitted to the Commission directly.

- (ii) SLDC shall verify the volume of trading and forward a copy of the verified Schedule 4 to the Commission.