



बिहार गजट

असाधारण अंक

बिहार सरकार द्वारा प्रकाशित

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PATNA, THURSDAY, 20TH SEPTEMBER, 2007

BIHAR ELECTRICITY REGULATORY COMMISSION REGULATIONS FOR GRANT OF LICENCE FOR DISTRIBUTION OF ELECTRICITY IN THE STATE OF BIHAR

NOTIFICATION

The 19th September 2007

No. BERC/Regl.11/2006-414/2007 – In exercise of powers conferred under section 181 of the Electricity Act, 2003 (Act 36 of 2003) and all powers enabling it in that behalf, the Bihar Electricity Regulatory Commission hereby makes the following Regulations for grant of licence for distribution of electricity in the State of Bihar, namely:

CHAPTER – 1

GENERAL

1. Short title, extent and commencement

- (i) These Regulations shall be called the Bihar Electricity Regulatory Commission (Grant of licence for Distribution of electricity) Regulations, 2007.
- (ii) These Regulations shall apply to the whole State of Bihar
- (iii) These Regulations shall come into force from the date of notification in the official gazette.

2. Definitions

- (1) In these Regulations, unless the context otherwise requires:

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- (a) **‘Act’** means the Electricity Act, 2003 (Act 36 of 2003);
 - (b) **‘Applicant’** means any person, including any company or body corporate or association or body of individuals, whether incorporated or not, who makes an application under Section 15 of the Act for grant of licence for distribution of electricity; as a distribution licensee;
 - (c) **‘Area of Distribution’** or **‘Area of Supply’** means the area within which a Distribution Licensee is authorised to establish , operate and maintain a distribution system for supply of electricity under the terms and conditions stipulated by the Commission in the licence;
 - (d) **‘Auditors’** means the Distribution Licensee’s auditor, and if the distribution licensee is a Company auditors holding office in accordance with the requirement of the companies Act 1956 as amended from time to time.
 - (e) **‘Authority’** means the Central Electricity Authority;
 - (f) **‘Bulk Supply’** means the sale of electricity to any person for resale.
 - (g) **‘Commission’** or **‘BERC’** means the Bihar Electricity Regulatory Commission constituted under section 82 of the Act;
 - (h) **‘Deemed Licensee’** means a person as defined under first, third and fifth provisos under section 14 of the Act;
 - (i) **‘Distribution’** means the conveyance or wheeling of electricity by means of a distribution system;
 - (j) **‘Distribution Supply Code’** means the code governing all material technical aspects relating to service connections and operative use of the distribution system as approved by the Commission;
 - (k) **‘Distribution Licensee’** or **‘Licensee’** means a licensee who has been authorised to operate and maintain a distribution system for supplying electricity to the consumers in a specific area of supply by the Commission and includes a deemed licensee as defined in the first, third and fifth provisions under section 14 of the Act;
 - (l) **‘Force Majeure’** means events beyond the reasonable control of a Distribution licensee but not limited to earthquake, cyclone, lightning, riot, flood, storm, war, mutiny, terrorist attack, civil commotion, lock out, fire affecting the Licensee’s installations or other similar occurrence that leads to any act which would involve a breach of relevant laws or regulations concerned with supply of electricity;

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- (m) **‘Licence’** means Distribution licence granted under Section 14 of the Act.
 - (n) **‘Licenced Business’** means the business relating to supply of electricity as authorised under a Distribution licence.
 - (o) **‘Major incident’** means an incident associated with the supply of electricity, which results in a significant interruption of service / causing substantial damage to equipment or loss of life or significant injury to human beings or animals, as the case may be, and includes any other incident which the Commission expressly declares to be a major incident;
 - (p) **‘Other Business’** means business carried out by a Distribution licensee other than the Licenced Business;
 - (q) **‘Performance Standards’** means standards of performance as may be specified by the Commission under section 57 (1) of the Act.
 - (r) **‘Specific Conditions’** means the conditions, which the Commission may lay down, in addition to or in variance to those general conditions applicable to a Distribution licensee;
 - (s) **‘State’** means State of Bihar;
 - (t) **‘State Government’** means the Government of Bihar.
 - (u) **‘Supply’** means the procurement, distribution and providing of electricity by a licensee directly to a consumer.
 - (v) **‘Tariff Regulations’** means the Bihar Electricity Regulatory Commission (Terms and conditions for determination of Tariff) Regulations, 2007.

(2) **Words and phrases not defined in these Regulations :-**

The words and expressions used and not defined in these Regulations but defined in the Act or any other law or Regulation applicable to electricity industry shall have the meaning assigned to them in the Act or any other such law or Regulations, as the case may be.

3. Interpretation

In these Regulations, the following shall be interpreted as:

- (a) Words in the singular include the plural and vice versa
- (b) Words in the masculine gender include the feminine gender and vice versa.
- (c) the terms “include” or “including” shall be considered as followed by “without limitation” or “but not limited to” whether they are actually followed by similar expressions or not in these Regulations.

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- (d) References to these Regulations shall be construed as references to the Regulations as amended or modified from time to time.
 - (e) The headings are inserted for convenience.
 - (f) References to various Acts, Laws, Rules, Regulations and guidelines shall be construed as including all amendments notified thereto.

CHAPTER – 2

PROCEDURE FOR GRANT OF DISTRIBUTION LICENCE

4. Application for grant of Distribution Licence:

- (1) Any person intending to engage in the business of distribution of electricity in the State of Bihar, shall make an application to the Commission for grant of licence in the form specified in Appendix – 1 of these Regulations and in the manner directed by the Commission and accompanied by such fee as may be prescribed under section 15(1) of the Act by the Government of Bihar from time to time.

The fee shall be payable by Bank draft / Pay order drawn in favour of Secretary / Bihar Electricity Regulatory Commission.

- (2) Any person intending to apply for licence shall duly comply with the conditions and requirements laid down by the Commission.
- (3) The Commission may, if it considers necessary, invite applications from the public fulfilling such eligibility requirements, as may be specified by the Commission from time to time for grant of licence for distribution of electricity by a public notice through issue of advertisements in newspapers always guaranteeing the principle of transparency.
- (4) The application for grant of licence shall be signed by the applicant or by an authorised signatory on behalf of the applicant and shall be addressed to the Secretary of the Commission. The application shall be filed in six (6) sets accompanied by documents and particulars required to be provided as per the application form specified in Appendix – 1 to the Regulations.
- (5) The application for licence shall be supported by an affidavit duly notarised.

5. Acknowledgment of Application

Upon receipt of the application for grant of licence along with prescribed fee, the designated officer of the Commission shall note thereon the date of its receipt and enter the particulars in a register to be maintained for the purpose and allot a reference number on the application. The designated officer shall send to the applicant an acknowledgment stating the date of receipt and the reference number.

6. Calling for additional information

The Commission may, upon scrutiny of the application, require the applicant to furnish within a period to be specified, such additional information or particulars or documents as the Commission may consider it to be necessary for the purpose of considering the application.

7. Intimation regarding due filing of the application

If the Commission finds that the application is complete and accompanied by all requisite information, particulars and documents and is in compliance with all the requirements, the Secretary shall intimate applicant if application is ready for being considered for grant of licence, in accordance with the procedures provided in the Act and these Regulations.

8. Publication of notice of application

(1) The applicant shall within seven (7) days from the date of submission of application, publish public notice in such manner as may be specified in at least two daily newspapers, one in English language and other in Hindi language having wide circulation in the area of distribution of electricity for which the licence is sought, with the following particulars,

- (i) Name of the Applicant in bold at the top clearly bringing out whether the Applicant is an individual, or a partnership firm registered under the Indian Partnership Act 1932 (9 of 1932), or a private limited company or a public limited company, incorporated under the Companies Act, 1956 (1 of 1956) or any other incorporated or unincorporated body giving full particulars of its office address and also the registered office address if any;
- (ii) A statement that the Applicant has submitted an application to the Bihar Electricity Regulatory Commission (BERC) for grant of Licence for distribution of electricity in the area (to be specified) in the State of Bihar under sub section (1) of Section 15 of the Act.
- (iii) Financial and technical strength of the applicant, management profile shareholding pattern, summary of activities and past experience in similar activities.
- (iv) Proposed geographical areas within which the Applicant will undertake distribution of electricity as stated in the application submitted to the Commission;
- (v) A statement to the effect that the application and other documents filed before the Commission from time to time, are available with the Applicant for inspection by any person;

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- (vi) The names, addresses and other necessary details of person(s) nominated by the applicant in major cities or towns of area of proposed Distribution licence, who can make available for inspection the application and other documents or from whom they can be purchased in person or by post at reasonable charges, not exceeding photocopying charges;
 - (vii) A statement to the effect that complete application is available on the website of the Applicant, or any other authorised website and can be downloaded free of cost;
 - (viii) A statement that objections and suggestions if any, may be filed before the Secretary, BERC within 30 days from the publication of the notice giving full address of office of the Commission.

Provided that the applicant may request the Commission to permit it to refrain from publishing any of the above information in order to protect its business interests or rights in intellectual property with sufficient and reasonable grounds and the Commission may grant such request after due consideration.

Provided further that the Applicant may be required to publish, in the manner specified, a non – confidential summary of the above information.

- (2) The applicant shall within seven (7) days from the date of publication of the aforesaid notice submit to the Commission an affidavit with the details of the notice published alongwith copies of the relevant newspapers in which the notices have been published.

9. Service of notice of the application

- (1) The Commission may direct that notice of the application be served on any designated representative of the Central Government, the State Government, any local authority or any other authority or person or body as the Commission may deem appropriate.

A licence shall not be granted –

- (a) until the objections, if any, received by the Commission in response to publication of the application have been considered by it:

Provided that no objection shall be so considered unless it is received before the expiration of thirty days from the date of the publication of such notice as aforesaid;

- (b) until, in the case of an application for a licence for an area including the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the

Government for defence purposes, the applicant has obtained no objection to the grant of the licence on the part of the Central Government.

10. Public Inspection of Application and Documents

- (1) The applicant shall make available for public inspection copies of the application
(with all enclosures), for grant of licence in his own office and also in the offices of the local authorities located in the proposed area of the distribution licence.
- (2) The applicant shall also supply a copy of the application to any person who requisitions for it on payment of the cost which shall not exceed the cost of photocopying.

11. Objections

- (1) Any person intending to object to the grant of distribution licence shall file objections by way of affidavit within thirty (30) days from the date of issue of publication of the notice referred to in Regulation 8(1) above annexing thereto proof of having served copy of such objection upon the applicant. The objections shall be addressed to the Secretary of the Commission.
- (2) The Secretary shall serve copies of all objections received by him to the applicant within one week from the last date for filing of objections specified in sub clause (viii) of Regulation 8(1) above.
- (3) The applicant shall submit comments on the objections received in response to the notice within fifteen (15) days of receipt of the copies of the objections from the Secretary of the Commission.

12. Hearing and local inquiry

- (1) Upon compliance by the applicant of all the conditions pertaining to the submission of documents, obtaining of permissions and publication of the notice and upon the expiry of the time for filing of the objections, the Commission may consider the application through a public hearing or without hearing as it considers appropriate.
- (2) (a) If any person objects to the grant of licence applied for under the Act, the Commission may, if it considers necessary, cause a local inquiry to be held for which the notice in writing shall be given to the applicant and the objector and concerned parties, if any
(b) Where a local enquiry is ordered and held under sub clause (a) above, the Commission shall in its order requiring the local enquiry or by

further order in writing, specify the time within which the local enquiry is to be completed.

Provided that the Commission may, for reasons to be recorded in writing, extend the time fixed by it for the local enquiry.

- (c) In case a local inquiry is ordered and conducted under Regulation 12(2)(a) above, a memorandum of the result of the enquiry made shall be prepared and signed by the applicant, objector, the Officer or person designated for the purpose and such other person as the Commission may direct.
- (d) The result of the local enquiry shall be considered by the Commission while hearing the application for grant of Licence.
- (3) The Commission on deciding to follow a public hearing shall give notice of hearing intimating the name of person filing objection, place, date and time of hearing to the applicant, the Central Government, the State Government, the local authority and such other authority, person or body as the Commission considers appropriate.

13. Grant of Distribution Licence

- (1) Before granting a licence under section 14 of the Act, the Commission shall publish a notice in two daily newspapers one in English and other in Hindi language having wide circulation in the area for which licence is sought, stating the name and address of the person to whom it proposes to issue the licence;
- (2) After hearing, under Regulation 12 above, the Commission may decide to grant or refuse to grant licence and if it decides to grant licence, it may do so on general terms and conditions and with such modifications to the general conditions and on such specific conditions as the Commission may decide.

Provided that the Commission in no event shall reject an application without giving applicant an opportunity of being heard, either by requiring the applicant to file response in writing or by conducting an oral hearing.

- (3) When Commission has approved grant of distribution licence, the applicant shall be informed of such approval and also the conditions to be satisfied by the applicant including the initial and annual licence fees to be paid by the applicant for grant of the licence. The distribution licence and the conditions of distribution licence shall be in the form specified in Appendix -2 of these Regulations.

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

- (4) On receiving an intimation in writing from the applicant that he is willing to accept a licence on the terms approved by the Commission and after the applicant satisfies the conditions imposed for grant of the licence, the Commission may direct the applicant to publish licence or such part thereof in abridged form as the Commission considers to be appropriate.
- (5) The Commission may issue a licence for adjoining area which falls under the area of another distribution licensee for supply of electricity on being satisfied that the granting Licence is in the public interest and the Applicant qualifies for issue of such licence under the provisions of the Act, rules and regulations for the time being in force.
- (6) The Commission shall immediately after issue of a licence, forward a copy of the licence to the Government of Bihar, State Transmission Utility, Central Electricity Authority, local authority, and to such other person/body as the Commission considers necessary.

14. Date of commencement and duration of Distribution licence

- (1) The licence shall commence from the date which the Commission may direct for its enforcement,
- (2) The licence shall be in force for a period of twenty five (25) years, from the date of commencement unless it is revoked by the Commission.

15. Deposit of maps and proforma:

- (1) When a licence has been granted, four (4) sets of maps and proforma containing the particulars specified in sub clause (2) below shall be signed and dated to correspond with the date of the notification of the grant of the licence, shall be submitted to the Commission.
- (2) The particulars to be given in the proforma under sub clause (1) above shall be as under:
 - (a) A short title descriptive of the proposed utility together with the address and description of the applicant, and if the applicant is a company, the names of all the Directors of the company;
 - (b) Type of licence granted;
 - (c) Location of the proposed area of operation;
 - (d) A description of the proposed area of operation; and
 - (e) The general conditions, the deviation therefrom and also the specific conditions, if any, which the Commission has laid down in the licence with justification for any deviation granted from general conditions;

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- (3) While Two sets of such maps and proforma shall be kept with the Commission, one set each shall be deposited with STU and Distribution licensee and State Govt. after due attestation by the Secretary of the Commission or an officer authorised by the Commission in this behalf.
 - (4) The licensee, whenever required by the Commission shall furnish additional copy of maps and proforma and also the maps and proforma in an electronic form.

16. Deposit of printed copies of Distribution licence :

- (1) Every person who is granted a licence shall within thirty (30) days of the grant thereof arrange to keep the following as specified by Central Electricity Authority.
 - (a) adequate number of copies of the licence printed;
 - (b) adequate number of maps prepared showing the area of activity or area of supply as specified in the licence;
 - (c) a copy of such licence and maps for public inspection at all reasonable times at his head office, at his local offices (if any) and at the office of every local authority within the area of activity or area of supply as the case may be.
- (2) Every such licensee shall, within the aforesaid period of thirty days (30), supply free of charge one copy of the licence and the relevant maps to every local authority within the area of activity or area of supply as the case may be, and shall also make necessary arrangements for the sale of printed copies of the licence to all persons applying for the same, at a price not exceeding normal photocopying charges thereof.

17. Amendment of the Distribution Licence:

- (1) The Commission may initiate proceedings for amendment of a distribution licence suo motu or on an application of the distribution licensee or on receiving complaint or information from any person.
- (2) The application for amendment of the licence made by the licensee, shall be in such form as may be directed by the Commission. Such application shall be accompanied with a statement of the proposed amendment and shall be supported by an affidavit.
- (3) The applicant shall within seven (7) days from the date of admission of the application for amendment, publish a notice in two daily news papers, one in English language and other in local language, having wide circulation in area of operation of the distribution licence sought to be amended, giving the following particulars:

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- i) Brief Details of existing Distribution Licence;
 - ii) Proposed amendments to the existing Distribution Licence; and
 - iii) Brief reasons for seeking the amendment.
 - iv) The names, addresses and other necessary details of the person(s) nominated by the applicant in major cities or towns of area of proposed distribution licence, who can make available for inspection application and other documents or from whom they can be purchased in person or by post at reasonable charges, not exceeding photocopying charges;
 - v) A statement that any person, desirous of making any suggestion or objection to the proposed amendment, may do so by filing written petition in six (6) copies addressed to the Secretary of the Commission within thirty (30) days from the date of the first publication of the notice.
- (4) Where an amendment to a Distribution Licence is proposed by the Commission suo motu, the Commission shall publish a notice in two daily newspapers one in English language and the other in Hindi language having wide circulation in the area of operation of the Distribution Licence sought to be amended, giving the following particulars:
- (i) Name of the Distribution Licensee and address of main office in the area of supply;
 - (ii) Description of alteration or amendment proposed to be made by the Commission;
 - (iii) Brief reasons for proposed alteration or amendment;
 - (iv) A statement that any person, desirous of making any suggestion or objection to the proposed amendment, may do so by filing written petition in six (6) copies addressed to the Secretary within thirty (30) days from the date of the first publication of the notice.
- All objections to the proposed amendment, received within one month from the date of first publication of notice, shall be considered by the Commission before effecting or rejecting the proposed amendment.
- (5) Unless otherwise specified in writing by the Commission, the procedure specified in these Regulations for grant of licence, in so far it can be applied, shall be followed while dealing with an application for amendment of the licence.
- (6) In case of an application proposing alterations or modifications in respect of area of supply, comprising the whole or any part of any contonment, aerodrome, forests, dockyard or camp or of any building or place in the

occupation of the Government for defence purpose, the Commission shall not make any alterations or modifications except with the consent of the Central Government.

18. Deemed grant of the Distribution Licence:

- (1) Until otherwise directed by the Commission, any person engaged in the business of distribution of electricity under the provisions of the repealed laws or any Act shall be deemed to have applied for and granted the Distribution Licence under the first proviso to Section 14 of the Act, and subject to the fulfillment of the conditions contained in Regulation 18(2)
- (2) The licensee under Regulation 18(1) shall:
 - (i) not directly or indirectly undertake distribution of electricity, trading in electricity or distribution or supply of electricity outside its area of operation and distribution and supply of electricity shall be strictly restricted to the relevant approved area;
 - (ii) establish electric line or works only within the area of operation;
 - (iii) furnish such information required by the Commission for the purposes of discharge of the functions of the Commission as the Commission, may direct from time to time;
 - (iv) comply with the provisions of the Act, the Regulations of the Commission, technical codes such as Grid Code, Electricity Supply Code, Standards of Performance or any other guidelines issued by the Commission;
 - (v) comply with all applicable rules and regulations concerning the safety and security of the operation; and
 - (vi) comply with any directions which the Commission may issue from time to time in regard to the charges which licensee may levy on the consumers taking into account the charges prevailing in the nearby area of supply of electricity supplied by a licensee.
- (3) The Commission shall be entitled to issue appropriate directions from time to time as it may consider it to be necessary and take appropriate action against a licensee under this Regulation in accordance with the provisions of the Act for any breach of conditions of license.
- (4) The Commission may, by an interim or final order, direct the Licensee under this Regulation to cease distribution of electricity in the area of operation or any part thereof.

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- (5) If any difference or dispute arises as to whether the person is entitled to undertake distribution of electricity as a Licensee under these Regulations, the decision thereon of the Commission shall be final.

19. Contravention by Distribution Licensee:

The Commission may pass such orders as it thinks fit in accordance with the provisions of the Act and these Regulations if there is a contravention of the terms and conditions of licence by the Licensee.

20. Suspension of Distribution Licence:

- (1) The Commission may, at its descretion, suspend a licence granted to a distribution licensee, if

- (a) he has continuously failed to maintain uninterrupted power supply to the consumers in accordance with the standards; or
- (b) he has not discharged the functions or duties imposed on the Licensee either by the Act or the Regulations framed by the Commission; or
- (c) he has defaulted in complying with any direction of the Commission; or
- (d) he has deviated from the terms and conditions of the Licence;

If it is considered that circumstances exist under which it is necessary to suspend licence of a distribution licensee in public interest, the Commission may suspend the licence for a period not exceeding one (1) year.

- (2) Before suspending the licence, the Commission shall give a reasonable opportunity to the distribution licensee to represent his case against such suspension and shall consider such representation and pass such orders as it may deem necessary.

- (3) When the licence of a distribution licensee is to be suspended, the Commission shall appoint an Administrator to look after the functions and duties of the distribution licensee, during the period of suspension of the licence, in accordance with the terms and conditions specified in the licence.

The Commission shall also vest the utility or utilities of the distribution licensee in the Administrator during the period of suspension of the licence.

- (4) Based on the merits of the case, the Commission shall decide whether the licence is to be restored or revoked and if so, on what date.

- (5) In case the suspension is revoked, the Commission shall direct the Administrator to retransfer the utility or utilities to the distribution licensee from the date of revocation or suspension.

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- (6) In case of revocation of the licence of the distribution licensee, the Commission shall initiate action as provided in Regulation (21) hereunder.

21. Revocation of the Distribution Licence:

- (1) The Commission may revoke a distribution licence on its own or on application of the Licensee or on receiving any complaint from any person in accordance with the provisions of the Act, and, these Regulations in any of the following circumstances;
- (i) Where the conditions and circumstances under which the licence was granted no longer exist.
 - (ii) Where the Commission concludes, after enquiry, that the licensee willfully defaulted in carrying out his duties under the Act or the rules or regulations made thereunder or under the terms and conditions of the licence or has failed to comply with the directives of the Commission.
 - (iii) Where the circumstances of the licensee as perceived by the Commission indicate that the licensee's financial, managerial and technical capabilities are no longer adequate for fulfilling his duties and discharging obligations under the Act and conditions of the licence.
 - (iv) Where the licensee persistently fails to fulfill his part in maintaining the Standards as specified in Bihar Electricity Regulatory Commission (Standards of Performance of Distribution Licensee) Regulations, 2006 applicable from time to time and, fails to fulfil the responsibility as per the Bihar Electricity Supply code, Act and other rules and regulations as a result, the distribution systems and the generating units transmission systems are jeopardized and quality of supply to consumers suffers frequently and the licensee does not take corrective action.
- (2) The licence shall not be revoked unless a thorough enquiry is conducted by the adjudicating officer appointed by the Commission under section 143 of the Act.
- (3) The Licensee shall be given not less than three months' notice stating clearly the grounds on which the Commission proposes to revoke the licence.
- (4) If the Commission decides to revoke the licence, the Commission shall serve a notice of revocation upon the licensee stating the effective date from which

such revocation shall take effect. The Commission shall also forward a copy of the order of Revocation to the State Government, STU, CEA, Local Authority and to such other person/body as the Commission considers it necessary.

- (5) The Commission may instead of revoking the licence pass any other order enforce such terms and conditions subject to which the licensee shall be permitted to operate his business.
- (6) When Commission has given notice of revocation of licence and the licensee is willing to relinquish his licence (and does not plan to take remedial and improvement measures and does not request the Commission to drop revocation proposal), the licensee may, after prior approval of the Commission, sell the undertaking of the Licensee to any person / company which is found eligible by the Commission for grant of distribution licence, without prejudice to any proceedings which may be or has been initiated or any penalty which may be imposed by the Commission.

22. Sale of Utilities of Licensee

- (1) While revoking the licence of a licensee, the Commission shall follow the following procedure for sale of utility (ies) of the licensee.
 - (a) the Commission shall invite applications for take over of the utility of the licensee and take decision on these applications mainly on the basis of the highest and best price offered for the utility.
 - (b) the Commission shall issue notice to the licensee, whose licence is revoked, to sell his utility to the selected purchaser whose application for purchase has been accepted by the Commission.
 - (c) From the date of completion of the sale, the licence shall stand transferred in the name of the purchaser and the purchaser shall exercise all rights and perform all duties, obligations and liabilities of a licensee from the date on which the sale transaction of the utility has been concluded.
 - (d) Pending selection of the purchaser, the Commission shall make interim arrangements by appointing an Administrator for functioning of the utility from the date of revocation of the licence to the date of conclusion of the sale of the utility to the purchaser, in public interest.
 - (e) The Administrator shall discharge the functions of a licensee as entrusted by the Commission to him, from time to time.

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- (2) Where the utility is sold to a purchaser under Regulation 22(1), the purchaser shall pay to the owner, the purchase price of the utility in such manner as may be agreed upon. On such payment, the Commission shall arrange for handing over of the utility to the purchaser on a specified date.

23. Vesting of the utility in purchaser:

Where the utility or utilities are sold under Regulation 22, the Commission shall arrange for delivery of the utility or utilities to the purchaser or intending purchaser on the date of completion of the sale, as the case may be, subject to:

- (a) the vesting of the utility or utilities in the purchaser or intending purchaser shall be free from any debt, mortgage or any other obligation of the licensee or attachment of the utility.
- (b) any such debt, mortgage, any other obligation or attachment shall be covered by the purchase price of the utility.
- (c) The rights, powers, authority, duties and obligations of the licensee under the licence shall stand transferred to the purchaser and such purchaser shall be deemed to be the licensee from the date of completion of sale.

24. Licence fee

- (a) Every licensee including deemed licensee shall pay an annual licence fee on or before a specified date as may be fixed by the Commission.

The fee shall be payable by Bank draft / Pay order drawn in favour of Secretary / Bihar Electricity Regulatory Commission.

- (b) If the licensee fails to pay the prescribed fee to the Commission on the due date, the licensee shall be liable:
 - (i) to pay to the Commission interest on the outstanding amount at simple interest at the rate of 1 ½ % per month. The interest shall be payable for the period from the day on which the amount became due and ending on the day on which the Commission receives the payment;
 - (ii) to the proceedings for the recovery of such fees as stipulated in the Act in case of non-payment of fees and/or interest, as the case may be; or
 - (iii) to revocation of his licence by the Commission under section 21 of the Act; as the Commission deems fit.
- (c) The licensee shall be entitled to take into account any fee paid by him for determination of aggregate revenue made in accordance with sub-clause

(a) above but shall not take into account any interest paid in accordance with sub – clause (b) (i) above.

25. Furnishing of information to the Commission etc.

- (a) Every licensee shall furnish information in respect of the business (es) carried out in the form, as may be specified, to the Commission, the State Government, the Central Electricity Authority or any other authority, as the case may be.
- (b) The licensee shall also undertake such studies, as may be specified by the Commission and / or Central Electricity Authority, for improvement of the distribution business.

26. Acts which a Licensee (s) shall not undertake:

- (1) No licensee, except with prior approval of the Commission, shall undertake:
 - (a) any transaction to acquire, through purchase or takeover or otherwise, any utility of any other licensee; or
 - (b) merge his utility with another utility of any other licensee.
- (2) No licensee shall, without prior approval of the Commission, assign or transfer his utility or Licence or part thereof through sale, lease, exchange or otherwise.
- (3) Before obtaining approval under Regulations 26(1) and 26(2) above, a Licensee shall give a notice of not less than one (1) month to every other Licensee, who distributes electricity in the area of such licensee, who applies for such approval to the Commission.
- (4) Any agreement entered into by the licensee in respect of Regulations 26(1) to 26(3) above shall become void unless prior approval of the Commission is obtained thereto.
- (5) Where such permission is required, the licensee shall file an application with the Commission duly furnishing all relevant information. The Commission may, within thirty (30) days of the receipt of such application, accord required permission subject to the terms and conditions as it deems necessary or reject the application for the reasons to be recorded in writing in support of such rejection.

27. Bulk Supply

A licensee may engage or affiliate to provide any goods or services to another licensee in connection with the bulk supply business subject to the following conditions:

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- (a) such transaction shall be in accordance with regulations framed by the Commission relating to provision of goods or services or both with respect to bulk supply business
 - (b) The bulk supply business shall not in any way affect the business of the licensee.
 - (c) the licensee shall give fifteen (15) days notice to the Commission before commencement of the proposed arrangement.
 - (d) The licensee shall maintain and keep separate accounts for bulk supply business.

28. Establishment of subsidiaries or associated companies

- (a) A licensee may establish subsidiaries or associated companies or engage any other agencies to conduct or carry any of its functions specified under the Act subject to the condition that any such subsidiary or associated company or agency shall operate under the overall supervision and control of the licensee and the terms and conditions stipulated in the licence.
- (b) The licensee shall, before entrusting any function to such subsidiary or associated company or agency, obtain permission of the Commission in writing;
- (c) The licensee shall file an application with the Commission for obtaining prior permission under Regulation 28(b) above, duly furnishing all relevant information as may be necessary. The Commission shall, within forty five (45) days from the date of receipt of application by it, accord permission for such arrangement, subject to such terms and conditions or modifications, as it may consider appropriate or reject the proposal for the reasons to be recorded by it in writing.

29. Prohibition for receiving subsidies

A licensee shall not, without prior approval of the Commission, receive any subsidy / subvention from any person or any other business of the licensee except a subsidy granted by the State Government under section 65 of the Act.

30. Incidents Reporting

(a) Incidents

The licensee shall intimate to the Commission as soon as possible the occurrence of any major incident in his area of supply affecting supply of electricity, within a week, and also submit following reports relating to such incident(s) within a fortnight from the date of occurrence of the incident(s) :

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- (i) Full details / facts which are within the knowledge of the licensee relating to such incident(s) and the reasons for the same.
 - (ii) Copies of the detailed reports shall be sent by the licensee to all the concerned parties / authorities who are connected with the incident.
 - (iii) The Commission may, at its discretion, order an enquiry by an independent authority, if it considers necessary, with a direction to submit its report on the incident in a specified time. All the expenses connected with such enquiry shall be borne by the licensee.
 - (iv) The decision of the Commission whether an incident is major or minor shall be final.

(b) Electrocution Accidents

- (i) Departmental / Non-Departmental fatal electrocution accidents to human or animal life shall be reported by the Area Distribution Engineer of the Licensee to Chief Electrical Inspector (CEI) and to all concerned officials of the State Government / Licensee within 24 hours and confirmed by a post copy within 48 hours.
- (ii) The records of all the fatal electrocution accidents shall be maintained along with the investigation report of the CEI. A copy of the action taken on report of CEI along with safety measures taken for avoiding recurrence of such accidents shall be submitted to the Commission every six months, i.e. by 31st October and 30th April of each financial year.

31. Settlement of Disputes and Arbitration:

- (i) The Commission shall adjudicate disputes between the licensees or refer any dispute for arbitration on application by any licensee(s).
- (ii) The Commission shall issue notices to all the concerned licensees indicating the details of the dispute(s) and after hearing the parties concerned, the Commission shall pass such order / direction as it may deem necessary.
- (iii) If any licensee is not satisfied with order passed by the Commission, the licensee may make a request to the Commission for appointment of an Arbitrator.
- (iv) On receipt of an application for appointment of an Arbitrator, the Commission shall appoint an Arbitrator under section 86(f) of the Act duly indicating the terms and conditions of such appointment for settlement of the dispute(s).

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- (v) The Arbitrator(s) nominated by the Commission, after hearing both the parties shall pass a speaking order giving reasons on all the issues raised in the dispute(s).
 - (vi) The Commission, on receipt of the arbitration award shall communicate the award to the concerned parties for filing their views. After considering the views of the concerned parties, the Commission shall pass final orders, as it deems fit.
 - (vii) The costs of arbitration shall be borne by the concerned licensees, as may be decided by the Commission.

32. Powers of Distribution Licensee:

The Commission may publish an order authorizing the licensee to exercise any power or authority that could be given to the licensee under the Act if it considers necessary.

33. Enforcement of order passed by the Commission

- (1) When the Commission is satisfied that a licensee has failed to comply with any of the conditions of the licence or provisions of the Act or codes or regulations, it may direct an investigation into the affairs of the licensee by an independent authority in accordance with the provisions of section 128 of the Act.
- (2) On receipt of investigation report from the investigating authority, the Commission may give an opportunity to the licensee to make representation on findings contained in the report. After examining the representation of the licensee, the Commission may
 - (i) direct the licensee to take such action in respect of any matter arising out of the report as the Commission may think fit; under section 129 of the Act;
 - (ii) revoke or suspend the business of the distribution licensee
- (3) The Commission may also, after giving reasonable notice to the licensee, publish the report submitted by the investigating authority or relevant portion of the report, as it may deem necessary.
- (4) The Secretary of the Commission shall ensure enforcement and compliance of the orders passed by the Commission, as directed to under its Conduct of Business Regulations and in accordance with the provisions of section 129 of the Act.

34. Service and Publication of Notice to Distribution Licensee

- 1. When the Commission is satisfied, based on the materials in its possession, that the licensee is contravening or likely to contravene any

of the conditions for grant of licence or any of the provisions of the Act, it shall by an order give necessary directions to secure compliance with the relevant conditions or provisions duly taking into account the loss or damage to any person consequent to such contravention and after giving notice to the licensee.

2. The notice shall be served at the address of the licensee under Registered Post with Acknowledgment due or through Special Messenger and signed acknowledgment receipt obtained.
3. In case the premises is found locked it shall be served by affixing the notice on the conspicuous part of the premises.
4. The notice shall be published in one English and one Hindi newspaper having wide circulation in the licensee's area of activities.

CHAPTER – 3

DUTIES OF DISTRIBUTION LICENCEE

35. General

The duties of a distribution licensee shall be :

- (i) to develop and maintain an effective, coordinated and an economical distribution system in his area of supply;
- (ii) to supply electricity in accordance with the provisions contained in the Act and code, rules and regulations made thereunder.

36. Electricity Supply code:

The distribution licensee shall ensure that the officers and staff under his control observe strictly the provisions contained in the Bihar electricity supply code, issued by the Commission, and amended from time to time.

37. Standards of Performance of Distribution Licensee

Every licensee shall adhere to the standards prescribed by the Commission in standards of performance of Distribution Licensee, Regulations as amended from time to time.

38. Duty to Supply Electricity on Request

- (a) Every distribution licensee shall, on an application by the owner or occupier of any premises, give supply of electricity to the premises of the applicant within one (1) month from the date of receipt of the application, subject to
 - (i) where such supply requires extension of distribution mains or commissioning of new sub – stations, the distribution licensee shall arrange supply of electricity to such premises after such extension or commissioning or within such period as specified by

the Commission in Standards of Performance Regulation of the Licensee.

- (ii) In case of a village or hamlet or area where no provision for supply exists, the Commission may extend the period specified by it, if any, as it may consider necessary, for electrification of such village or hamlet or area.
- (b) The distribution licensee shall provide, if required, electrical plant or electric line or a meter for giving supply to the premises specified in regulation 38.
- (c) The distribution licensee shall provide supply to a premises, having already a separate supply, provided the applicant / person pays such price as may be determined by the Commission

In case a distribution licensee fails to supply within the period specified in Standards of Performance for Distribution Licensee Regulation the licensee shall be liable to pay compensation to the affected consumer as specified therein.

39. Imposing of restrictions on terms for supply of electricity

A distribution licensee may impose restrictions on the persons requiring supply as in regulation 38 in the following cases in order to:

- (i) comply with regulations made in accordance with the section 53 of the Act relating to safety and supply of electricity.
- (ii) restrict the liability of the licensee for economic loss resulting due to negligence of the person to whom electricity is supplied.

40. Installation of meters etc

- (a) Every distribution licensee shall supply electricity only after installation of proper meter etc in the premise of the consumer in accordance with the "Installation and Operation of Meter" regulations notified by the Central Electricity Authority (CEA) under section 55 of the Act.
- (b) The licensee shall insist on consumer to give security for the price of the meter etc. and enter into agreement for hire thereof unless the consumer is willing to make payment of the price intimated.
- (c) The distribution licensee shall ensure installation of meters at such locations as may be deemed necessary as per the regulations framed by the CEA for the purpose of ensuing proper use of electricity and for accounting and audit. For any default in compliance of the provision contained in sub – regulation 40(a) above, the Commission

shall make an order, as it deems fit, to make good the default by the licensee or by any of officer and staff of the licensee who will be responsible for the default.

41. Recovery of charges

- (a) A distribution licensee shall charge for supply of electricity to a consumer in accordance with the prevailing tariff order of the Commission and no charges other than that included in the tariff order would be charged from the consumer.
- (b) The distribution licensee shall charge a person requiring supply of electricity any expenditure in providing meter or electrical line or plant used for the purpose of giving supply, as specified by the Licensee and approved by the Commission.

42. Security deposit

- (a) Any person, who requires supply of electricity under Regulation 38, shall deposit security to the distribution license, as may be determined by the Commission from time to time.
 - (i) in respect of electricity supply to such person, or
 - (ii) for providing any electrical line or plant or meter for supplying electricity to such person
- (b) If the person fails to pay such security, the distribution Licensee, if it thinks fit, may refuse to give supply of electricity or to provide the line or plant or meter during the period, the failure continues
- (c) If the security furnished has become invalid or is insufficient, the licensee shall give notice to the person, for payment of all charges which became due, within thirty days after receipt of such notice, in respect of supply of electricity or provision of such line or plant or meter.
- (d) If the person, referred to in sub – regulation 42(c) above, fails to pay such security, as in sub – regulation 42(a)(i) above, the distribution licensee shall discontinue supply of electricity, for the period during which such failure continues.
- (e) The distribution licensee shall pay interest on the security deposits, referred to in sub-regulation 42(a)(i) above, and refund such security deposit at the request of the consumer as specified by the Commission in the Electricity Supply Code.
- (f) The distribution Licensee shall not insist on payment of security in accordance with sub – regulation 42(a) (ii) above if the person requiring supply is prepared to take the supply through a prepaid meter.

43. Open access

(1) Subject to the various phases of introduction of open access under Section 42(2) of the Act, the Distribution Licensee shall arrange for the provision of non-discriminatory open access to its distribution system to any person in accordance with the Open Access regulations issued by the Commission.

(2) When the Commission accords permission to a consumer / person within the area of a distribution licensee to avail supply through open access from a person other than the licensee, such licensee shall collect an additional surcharge on the charges of wheeling, as may be determined by the Commission, to meet his fixed costs, on account of his obligation for such supply.

44. Other business of a Distribution Licensee

A distribution licensee may, with prior permission of the Commission engage or carry out any other business in addition to the licenced business for optimum utilisation of its assets subject to the following conditions:

- (a) the licenced business shall not in any way be adversely affected
- (b) a portion of the revenue derived from other business, as may be specified by the Commission, be utilised for reducing its charges for wheeling.
- (c) the licensee shall maintain separate account for each such business undertaken to ensure that the distribution business neither subsidizes in any way to such business nor encumbers assets in any way to support to such other business;

45. Establishment of Consumer Grievance Redressal Forum

- (a) A distribution licensee, including deemed licensee within six months from the date of grant of licence or from the date specified by the Commission, whichever is earlier, shall establish a Forum for redressal of grievances of consumers in his area in accordance with the guidelines specified by the Commission in its regulations for Consumer Grievance Redressal Forum and Electricity Ombudsman.
- (b) Any consumer who is aggrieved due to non – redressal of his grievance by the Forum shall make a representation for redressal of his grievance to Electricity Ombudsman, appointed or designated by the Commission from time to time.

46. Disconnection of supply

- (a) Where any consumer neglects to pay any electricity charges or any sum other than a charge for electricity due from him or wheeling of electricity

to him, the licensee shall after giving a notice, in writing of not less than fifteen (15) days to such consumer, cut off the supply of electricity, without prejudice to his right to recover the dues, and for that purpose cut off other works owned to be of Licencee, through which electricity is supplied or wheeled, until the charges or dues are paid by the consumer together with any expenses incurred including disconnecting and reconnecting the supply.

- (b) No disconnection of supply shall be resorted to if the consumer deposits, under protest–
- (i) the amount equal to the amount claimed from him; or
 - (ii) the electricity charges due from him for each month on the basis of average charge for the electricity paid by him during the preceeding six (6) months.

whichever is less, pending disposal of any dispute between the consumer and the licensee.

- (c) No sum due from any consumer shall be recoverable after a period of two (2) years from the date on which such sum (s) became first due unless such sum(s) has / have been shown continuously as recoverable as 'arrear (s)' of charges in electricity bills served on him for electricity supplied and the licensee shall not cut off the supply of electricity on this account.

47. Conduct of business having adverse effect on competition

Every licensee shall not enter into agreement or abuse its dominant position or enter into any combination which is likely to cause or causes an adverse impact on the competition in the distribution of electricity.

CHAPTER – 4

TECHNICAL

48. Procurement of power

- (1) The licensee shall not purchase power without an authorization granted by the Commission.
- (2) The licensee shall purchase power in an economical and efficient manner under a transparent procurement process as approved by the Commission after following the guidelines issued by the Commission from time to time relating to preparation of load forecasts, power procurement plan and power procurement procedure.
- (3) The Commission shall, before issue of authorization under Regulation 48(1) above, to the licensee, satisfy itself that:

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- (a) the power to be procured is necessary to meet the demand for supply to be made by the licensee;
 - (b) the licensee has examined the economic, technical, system and environmental aspects of commercially viable alternatives and such examination has been carried out in a manner approved by the Commission.
- (4) The restriction imposed in condition Regulation 48(1) above shall not be applicable:
- (a) to short term purchases [less than six (6) months in duration], provided that the details of such purchases shall be submitted to the Commission; and
 - (b) to contracts or agreements approved by the Commission, or deemed to have been approved, before the commencement of this licence.

49. Compliance with the State Grid Code

The licensee shall comply with the provisions of the State Grid Code issued by the Commission, in so far as they are applicable to it, in extending supply to the consumers.

50. Supply Planning

The licensee shall, on an annual basis:

- (a) forecast the demand for power within the Area of Supply year-wise for next succeeding 5 years;
- (b) prepare and submit such forecasts to the Commission in accordance with the guidelines issued by the Commission from time to time;

CHAPTER – 5

INVESTMENTS

- 51.** Every licensee shall obtain prior permission or approval of the Commission for making investment in the licenced business, if such investment is beyond the limits specified by the Commission.
- 52.** The licensee shall comply with the guidelines, directions and orders of the Commission, issued from time to time in regard to investments to be made in the licenced business in a prudent manner in order to build, maintain and operate an efficient, coordinated and economical distribution system.
- 53.** The licensee shall submit investment plans as a part of the business plan giving details of the investment schemes to be undertaken during the period for approval of the Commission, duly explaining
 - (i) the need for such investment

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- (ii) the techno economic analysis and environmental aspects of all available alternatives to the proposal of investment.
 - (iii) furnish information, documents and other details as required by the Commission
- 54.** The licensee shall not undertake schemes involving major investment not covered under the investment plan approved by the Commission, without its prior approval.
- 55.** The licensee shall, at the end of each quarter of the financial year, furnish to the Commission
- (i) annual investment plan with details of investment schemes to be carried out; during the financial year and
 - (ii) the progress made in implementing annual investment plan of the previous financial year including comparison of actual implementation vis – a – vis the plan as approved by the Commission for the period.
- 56.** The licensee shall be entitled to make investment in the licenced business and for the purpose of considering such investment in determination of tariff, the licensee shall satisfy the Commission that the investment was required for the licenced business and that the investment was made in an efficient, coordinated and economical manner.
- 57.** (1) The licensee shall submit to the Commission the following information along with the expected revenue calculations for determination of tariff under section 62 of the Act;
- (a) the highlights of the annual investment plan consisting of schemes approved by the Commission;
 - (b) schemes submitted to the Commission for approval;
 - (c) schemes not requiring prior approval of the Commission planned for ensuing financial year
 - (d) investments made in the financial year in accordance with said investment plan
- (2) The Commission shall take into consideration the approval granted by it to the licensee for investments and the action taken by the licensee
- (3) If any unforeseen contingencies require reallocation of funds within the scheme listed in the annual investment plan, the licensee can do so to the extent of such reallocation upto 10% of the overall investment plan or 20% of the approved amount in respect of each item of work of the investment plan. The licensee shall give an intimation of such

reallocation to the Commission within seven (7) days of making such investment.

CHAPTER – 6

REVENUE CALCULATION AND TARIFFS

58. Revenue calculation and Tariffs

- (1) The licensee shall follow the methodology, procedures and other directions included in the Terms and Conditions for determination of Tariff Regulations issued by the Commission applicable from time to time while filing Aggregate Revenue Requirement and Tariff Petition in respect of supply of electricity to the consumers for any financial year.
- (2) The amount that the licensee is permitted to recover from its Bulk Supply tariffs in any financial year is the amount that the Commission determines in accordance with the financial principles and their applications

59. Power of the licensee for Revenue Realisation, Meter Tampering etc

The licensee shall be entitled to exercise any power or authority to take appropriate action within the provisions of Act, rules and regulations made thereunder in respect of:

- (a) revenue realisation;
- (b) prosecution for theft;
- (c) determining tampering with meters; and
- (d) preventing diversion of electricity

Any failure / negligence to exercise such authority in a situation where it is necessary to do so will be construed to be a breach of the conditions of licence.

CHAPTER – 7

ACCOUNTS

- 60.** Every licensee shall maintain its accounts financial year – wise commencing from 1st April of a calendar year and ending on 31st March of the next calendar year.
- 61.** The licensee shall maintain separate accounts for each business carried out as follows:
 - (a) keep such accounting records in respect of each company, showing the revenues, costs, assets, liabilities, reserves etc separately for the license business and each of the other business(es).
 - (b) prepare and furnish, as per directions of the Commission

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- (i) Accounting statements / Annual Accounts, Balance Sheet, Profit & Loss Account, Revenue and Expenditure Statements etc. duly audited by Comptroller & Auditor General (CAG)
 - (ii) Quarterly interim profit and loss account, cash flow statement and balance sheet together with supporting documents and information, as prescribed by the Commission;
 - (iii) Auditor's report stating whether in their opinion the Accounts statements have been prepared in accordance with the directions of the Commission and give a true and fair picture of the revenues, costs, assets, liabilities, reserves etc.
- 62.** The licensee shall not change the basis of charge or apportionment or allocation in relation to the preparation of the Accounting statements for a financial year from those applied for the previous financial year without the permission of the Commission.
- 63.** In case a licensee changes the basis of charge or apportionment or allocation from those adopted for the previous financial year, the licensee shall, if the Commission so desires, in addition to Accounting statements prepared on the changed basis, shall also prepare Accounting statements on the basis which has been applied for the immediate previous financial year.
- 64.** Accounting statements, unless otherwise directed by the Commission, shall
- (a) be prepared and published with the Annual Accounts of the licensee in the manner specified by the Commission,
 - (b) till the Commission stipulates new formats, the Accounting statements may be prepared in the formats prescribed in I.E. Rules, 1956
 - (c) prepare the Accounting statements in accordance with generally accepted Indian accounting standards; and
 - (d) furnish details of accounting principles adopted.
- 65.** The licensee shall ensure that the accounting statements in respect of each financial year prepared together with audit report for that financial year are made available to any person requiring them at a price not exceeding reasonable cost of duplicating them.

CHAPTER – 8

INFORMATION / DATA TO BE MAINTAINED

- 66.** (1) The licensee shall maintain the following information / data:
- (a) Maintenance of registers relating to
 - (i) assets of the licensee and their transfer

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- (ii) acquisition of utility, if any, of other licensee
 - (b) revenue from other business (es) allocated to licenced business;
 - (c) quantum of compensation paid for failure to achieve standards of performance prescribed in format prescribed in Standard of Performance of Distribution Licensee Regulations notified by the Committee.
 - (d) details of incidents (major / minor) occurred in the area of activity;
 - (e) books of accounts with subsidiary ledgers to verify the billing and collection of various charges as per tariff approved by the Commission;
 - (f) registers for complaints / grievances received, disposed of and the awards passed by Electricity Ombudsman Regulation as per Standards of Performance of Distribution Licensee of the Commission.
 - (g) Any other information which the Commission may direct the licensee to maintain from time to time.
- (2) The above information / records shall be verified, validated and updated periodically.
- 67.** Every licensee shall maintain as may be required under electricity supply code and distribution code:
- (a) Details of sub-stations (incoming source, outgoing feeders, distribution transformer capacity, current transformers, potential transformers etc).
 - (b) single line diagrams showing lines (including line length, conductor size) transformers, feeders etc, metering systems and their status
 - (c) details of interface points, metering points and status of meters.
 - (d) Peak demand (un-restricted and restricted), peak availability, availability of system capacity to allow open access etc.
 - (e) Records/Register and Performance details as required under Standards of Performance Regulations of Distribution Licensee specified by the Commission from time to time with reference to quality of supply (voltage, frequency, interruptions (duration and numbers), system outage (planned and unplanned), energy received and transmitted system losses and others.
 - (f) Record of applications for supply (status and connection details)
 - (g) (i) billing : Records of meter reading, copies of bills generated, evidence of issuance of bills, billing details – category – wise.
 - (ii) collection: details of collections made, copies of receipts issued etc.

(iii) details of disconnection: Evidence of issuance of notices, effecting of disconnections / reconnections etc.

(h) any other details which the Commission may direct to be maintained from time to time.

CHAPTER - 9

MISCELLANEOUS

68. Reporting to the Commission

The Licensee shall submit such report, information, data as called by the Commission from time to time.

69. Repeal

All orders and directions pertaining to the Distribution Licence issued so far will stand repealed from the date of publication of these Regulation.

70. Savings

Nothing contained in these Regulations shall affect the rights and privileges of the Licensee under the Act and of the Consumers under or any other law including the Consumer Protection Act, 1986.

71. Power to Remove Difficulties

If any difficulty arises in giving effect to any of the provision of these Regulations, the Commission may, by general or special order do or undertake or direct the Licensee to do things not inconsistent with the provisions of the Act as may appear to be necessary or expedient for the purpose of removing the difficulties.

72. Power to Amend

The Commission may at any time add, vary, alter, modify or amend any provisions of these Regulations, as it may deem fit.

By order of the Bihar Electricity Regulatory Commission

Sd/-
Secretary

Appendix - 1**APPLICATION FORM FOR GRANT OF DISTRIBUTION LICENCE**

[See Regulation 4(1)]

PART A : GENERAL INFORMATION OF APPLICANT**1. Details of Applicant**

- (a) Full Name of the Applicant :
- (b) Full Address of the Applicant :
- (c) Name, Designation and
Address of the Person to be contacted on behalf of the Licensee :
- (d) Contact Telephone Numbers :
Fax Number :
Email ID :

2. Details of Ownership

- (a) Company/ Firm/ Association of persons/ Co-operative Society/ Others
(specify)
- (b) Company Incorporation/ Registration
Place of Incorporation/ Registration :
Year of Incorporation :
Registration Number :
- (c) Name and Address of Directors/ Principal Shareholders/ Partners/
Members
- (d) Copies of Company By-laws, Partnership Deeds, Registration Certificate,
Income Tax Clearance Certificate etc. details.

3. Details of the area and distribution networks for which distribution licence has been sought:

- (a) Boundaries of the proposed area of distribution with map
- (b) Coverage of distribution network
- (c) Source of Power
 - (i) Voltage Level
 - (ii) Point(s) of Source
 - (iii) Quantum of electricity
 - 1. Demand (MW)
 - 2. Energy (MU)
- (d) Distribution of Power
 - (i) Voltage Level
 - (ii) Point(s) of Delivery
 - (iii) Categories of End Consumers
- (e) Length of HT Line (Ckt. Kms)
- (f) Length of LT Line (Ckt. Kms)
- (g) Transformer (Nos. and Capacity in MVA)

4. Organisational Capabilities

- (a) Management capability with full details of technical and administrative officers and staff
- (b) Financial strength with full details
- (c) Ability to discharge distribution activities in a sustainable manner
- (d) Previous experience.

5. Whether the area of activity falls under cantonment/ aerodrome/ fortress/ arsenal/dockyard/ camp or place for occupation of the Government for defence purpose.**6. Date from which licence is sought**

PART B : LIST OF DOCUMENTS TO BE SUBMITTED WITH DISTRIBUTION LICENCE APPLICATION

- 1.** Documents (attested copies) to be submitted along with the licence application
 - (a) Information relating to pre-existing licence (if any), with copy of licence/ sanction
 - (b) Certificate of Incorporation/ Registration.
 - (c) Certificate of commencement of Business.
 - (d) Original Power of Attorney of the Signatory to commit the Applicant or its Promoter.
 - (e) Articles of Association, Memorandum of Association and similar constitutional documents.
 - (f) Details of Income Tax PAN/TAN/Income Tax Clearance Certificate.
 - (g) Details of import licence, if any.
- 2.** Data relating to Management and Financial capability
 - (a) Managerial
 - (i) Senior management's curriculum
 - (ii) Cadre strength for different categories (technical and non-technical)
 - (b) Financial
 - (i) Bank references asserting that the Applicant is financially solvent
 - (ii) Annual Audited Reports for the past 5 years of the Applicant
 - (c) Any other documentary evidence to substantiate the financial capabilities, technical competence etc.
- 3.** Data relating to the Applicant's Proposed Business
 - a. Business Plan (with 5 years projection) for the proposed business for which licence is sought (*this should contain year wise load growth, year wise distribution loss reduction proposal along with specific action plan, metering plan, investment plan, treatment of previous losses, debt restructuring plan, program for rural electrification, cost reduction plan, projected profit and loss account, projected balance sheets, projected cash flow statements and projected important financial parameters*).
 - b. Five year annual forecasts of costs, sales, revenues, project financing and funding arrangements (clearly specifying the assumptions involved)
- 4.** Detailed Map
 - (a) Detailed electrical distribution map (including information on substations and configuration of the system) and geographical map for the proposed area of distribution, drawn to scale (scale not less than 10 Cms to one Km or any other scale as may be approved by the Commission).
 - (b) The map shall clearly distinguish between the existing system and new facilities that will be required for meeting the obligation under the licence.
 - (c) The map shall indicate the streets and roads in the proposed area of distribution in which the electricity is to be distributed.
 - (d) A list of all local authorities connected with the administration of the area or any portion of the area of distribution.
 - (e) Statement describing any lands, which the Applicant proposes to acquire under the provisions of Land Acquisition Act, 1894 (Act 1 of 1894) for the purpose of the licence and the means of such acquisition.

Date

Signature of the Applicant

Part C : FORMAT FOR ASSESSING COMPETENCE OF APPLICANT*(This form to be filled in by an Applicant applying for a distribution licence)***1. Previous Experience (Past 5 years details for Related Business)***[To be filled in by the applicant or by each participant separately in case of JVC/ consortium (As applicable)]*

General Information					
Name and Address of the Distribution project(s) developed					
Brief description of project developed					
Cost of the project developed – Rs. Lakhs.					
Name & Address of the Client Company for whom the project was developed					
Name, Designation and Address of Reference person of Client Company					
Details of Distribution managed in last 5 years – Commercial operations	Year 1	Year 2	Year 3	Year 4	Year 5
Assets					
Transformers (Nos)/Sub-stations					
Lines 220 kV 132 kV 33 kV 11 kV 6.6 kV LT Line (Ckt. Kms) 440 Volts					
Number of Contracts with details					
Distribution					
Domestic / State					
Specific details of Projects (Top 5 Projects)	(Name of the Project)	(Name of the Project)	(Name of the Project)	(Name of the Project)	(Name of the Project)
Commencement of Construction					
–Scheduled Date					
–Actual Date					
Commissioning					
–Scheduled Date					
–Actual Date					
Commercial Operation					
–Scheduled Date					
–Actual Date					

Project Cost					
-Estimated Cost					
-Actual Cost on Completion					
Consumer Base (Nos.)					
-EHT General Purpose					
-EHT Industrial					
-HT General Purpose					
-HT Industrial					
-LT Industrial					
-Commercial					
-Domestic					
-Agricultural					
-Street Light					
-Others					
Quantum of Energy Distributed					
-Total (Million Units)					
-Metered Sales (%)					
Quantum of energy billed					
Total (Million units)					
Revenue Collection					
-Amount (Rs. Lakhs)					
-Collection Efficiency (%)					
Financial Information (Rs. lakhs)	Year 1	Year 2	Year 3	Year 4	Year 5
Fixed Assets					
-Gross Fixed Assets					
-Accumulated Depreciation					
-Net Fixed Assets					
Equity					
-Promoters'					
-Government/ Financial					
-Institutions					
-Public					
-Others					
Liabilities					
-Long Term					
-Short Term					
Income					
-Sale of Power					
-Others					
Expenses					
-Administration and General					
Expenses					
-Repairs and Maintenance Expenses					
-Employee Cost					
-Depreciation					
-Interest and Financial Charges					
-Long Term					
-Short Term					
-Others					
Profits and Returns					
-Net Profits					
-Dividend Paid					

2. Details of Proposed Project (Business for which licence is sought)

[To be filled in by the applicant or by each participant separately in case of JVC/ consortium
(As applicable)]

(i) Is the applicant acquiring Existing Assets or Creating New Assets?

(ii) Acquiring of Existing Assets / creation of New Assets

Funding	
Proposed means of Finance Equity (Rs. Lakhs) –Applicant –Co-promoters –Others (<i>specify</i>) Debt –Domestic (Rs. Lakhs) –Indian Financial Institutions –Commercial Banks –Others (<i>specify</i>) International (FC Million) –Supplier's Credit –Direct Borrowing –Others (<i>specify</i>) Equivalent INR (with Exchange rate used) –Others (<i>specify</i>)	
In case of Asset Procurement/ whether Project is proposed to be jointly funded along with External Agency– –Name and Address of the Agency, and contact details of the reference person of the Agency (name, address, telephone/fax numbers, email etc.,) –Proposed Equity from the Agency (Rs. Lakhs) –Agency's equity as a percentage of total equity (%) –Nature of proposed tie-up between Applicant and the other agency.	
Details of debt proposed for the Asset Procurement/ Project –Details of Lenders (name & address). –Details of Loan packages indicating the loan amount, currency, Term of loan, interest rate, up-front fees, Commitment charges etc. –Whether any guarantee is being sought for the loans from any agency. If Yes, provide details	Yes/ No

(iii) For Applicant creating New Assets

EPC: Whether the Applicant is proposing to employ an EPC Contractor. If Yes, Name, Address and contact details of the same. Proposed Contract Value Foreign Currency	Yes/ No
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Equivalent INR (with Exchange rate used)	
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(iv) For Applicants employing other contractors / Agency

Other contracts	
Whether the Applicant is proposing to employ any Contractor for Operation and Maintenance work. If Yes, Name, Address & contact details of the same. –Period of the Contract –Details of the experience of the O&M contractor in similar Business	Yes/ No

Note :

Consent letters of the other Agency and Contractors to associate with the Applicant for the above project to be enclosed.

Necessary approvals and no objection certificates to be obtained at appropriate time and forwarded to the Commission.

3. Qualifications and Expertise (Personnel)

Name of personnel	Qualification	Specialisation	Years of experience	Status in the firm

Note : Atleast one full time professional, having experience in each of the disciplines like Power Systems Operation, Finance should be part of the Core team.

4. Revenue Potential (Business for which licence is sought)

General Information	
(1) In case of acquired assets –Quantum energy distributed during previous financial year (MU) –Expected life of assets acquired (in years) In case of creation of new Assets –Quantum energy distributed during previous financial year on parallel network already existing (MU)	

(2) Consumer Base (Nos.) EHT General Purpose EHT Industrial HT General Purpose HT Industrial LT Industrial Commercial Domestic Agricultural Street Light Others (specify)	
(3) Sale of Electricity Expected Quantum (MU) Anticipated growth in demand (%)	
Commercial Information	
(1) Average Tariff (Rs./ Unit) EHT General Purpose EHT Industrial HT General Purpose HT Industrial LT Industrial Commercial Domestic Street Light Agricultural Others (specify)	
(2) Revenue –Realization (Rs. Lakhs) –Collection Efficiency (%)	
Financial Information	
Capital Base (Rs. Lakhs) Annual Expected Turnover (Rs. Lakhs)	

5. Financial Soundness (Other Subsidiary Business Units)

[To be filled in by the applicant or by each participant separately in case of JVC/ consortium (As applicable)]

General Information					
Names of Subsidiary Business Units 1. 2. 3. 4. 5.	Products Manufactured/ Services 1. 2. 3. 4. 5.				
Financial Indicators	Year 1	Year 1	Year 1	Year 1	Year 1

-Fixed Assets -Gross Fixed Assets -Accumulated Depreciation -Net Fixed Assets					
Equity -Promoters' -Government/ Financial Institutions -Public -Others					
Liabilities -Long Term -Short Term					
Income -Sale of Power -Others (<i>specify</i>)					
Expenses -Administration and General Expenses -Repairs and Maintenance Expenses -Employee Cost -Depreciation -Interest and Financial Charges -Long Term -Short Term -Others (<i>specify</i>)					
Overall Turnover (Rs. Lakhs)					
Profits and Returns (Rs. Lakhs) -Net Profits -Dividends Paid					
Operating Ratios -Return on Equity -Return on Capital Employed -Return on Net Fixed Assets					
Liquidity Ratio -Debt Service Coverage Ratio -Current Ratio -Quick Ratio					
Capital Adequacy and Credit Worthiness -Debt/ Networth -Debt/ Equity					
Turnover Ratio -Total Asset Turnover -Fixed Asset Turnover					

6. Baseline Information (Business for which licence is sought)

Commercial Information	
Assets Transformers (Nos.) <u>Lines</u> 220 kV 132 kV 66 kV 33 kV 11 kV 6.6 kV LT Line (Ckt. Kms) 440 Volts	
Commercial Information	
Metering Status Metered Consumers (as a percentage of Total Consumers)	
Billing Status Billing (as a percentage of Total Input)	
Revenue Realization –Revenue Realization per Unit Sale (Rs./ Unit) –Collection Efficiency (%)	
Loss –Technical Loss (%) –Commercial Loss (%)	

Note :

1. Certificates/documents in support of all the credentials detailed above, from the Owner/ Client for whom the project were promoted should be submitted along with the application.
2. Wherever conversion factor is used (for currency conversion and others), mention the conversion factor used for this purpose.

Place –
Date –

Signature of the Applicant

Appendix- 2**FORMAT AND CONDITIONS OF DISTRIBUTION LICENCE****Licence granted for Distribution of electricity**

[See Regulations 13 (3)]

Licence granted by the Bihar Electricity Regulatory Commission under section 14 of the Electricity Act, 2003 (36 of 2003) to _____, for carrying on the business of distribution of electrical energy within the area of activity (as specified under 'licensed area of distribution licensee' in the schedule) and shall be subject to the terms and conditions specified herein. The licence shall come into force from

PART - I
DEFINITIONS

1. Words, terms and expressions to which meanings are assigned by the Electricity Act 2003 (36 of 2003) (hereinafter called the 'Act'), shall have the same meaning in these General Conditions.
2. Unless the context otherwise requires, in these General conditions:
 - (1) **"accounting statement"** means accounting statements for the licensed business comprising of a profit and loss account, a balance sheet and a statement of sources and application of funds, together with notes thereto as detailed under the Companies Act, 1956 (Act 1 of 1956) or the respective Acts under which the licensee is governed and such other particulars and details as the Commission may prescribe from time to time. If the licensee engages in any other business or activity in addition to the licenced business, the accounting statements shall comply with the regulations of the Commission dealing with the conduct of other business of distribution licensees and show the amounts of any revenue, cost, asset, liability, reserve or provision, which has been either:
 - (i) charged from any other business to licenced business or vice versa together with a description of the basis of that charge; or
 - (ii) determined by apportionment or allocation between the licensed business and any other business of the licensee together with a description of the basis of such apportionment or allocation. However, The Bihar State Electricity Board, which is a deemed licensee under proviso to section 14 of the Act shall continue to maintain the accounts in accordance with Electricity (Supply) Annual Accounts Rules 1985 till these rules are rescinded or modified or such deemed licensees are reorganised under section 131 of the Act.
 - (2) **"Act"** means the Electricity Act, 2003 (Act 36 of 2003)
 - (3) **"annual accounts"** means the accounts of the licensee for a financial year prepared in accordance with the provisions of the Companies Act, 1956 (Act 1 of 1956) and/or in such other manner as may be directed by the Commission in terms of the provisions of the Act;
 - (4) **"Area of distribution"** or **"area of supply"** means the area stated in the schedule to the licence within which the licensee is authorised to establish, operate and maintain distribution lines and to distribute and supply electricity;
 - (5) **"Auditors"** means the licensee's auditors holding office in accordance with the requirements of sections 224 to 234A or section 619, of the Companies Act 1956 (Act 1 of 1956) as the case may be;
 - (6) **"authorised"**, in relation to any person, means a licensee who has been granted a licence under section 14 of the Act or a deemed licensee under the first, second, third and fifth provisos to section 14 of the Act;
 - (7) **"Commission"** means the Bihar Electricity Regulatory Commission;

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- (8) **“distribution”** means the conveyance of electricity by means of a distribution system;
- (9) **“distribution business”** means authorised business of the licensee to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply;
- (10) **“distribution licensee”** means a licensee who has been granted a licence under section 14 of the Act (including a deemed licensee) operate and maintain a distribution system for supplying electricity to the consumers in his area of supply;
- (11) **“distribution system”** means the system of wires and associated facilities between delivery points on the distribution lines and the point of connection to the installation of the consumers;
- (12) **“distribution system operating standards”** means the standards of performance as specified in the Bihar Electricity Regulatory Commission's Standards of Performance of Distribution Licensee Regulations, 2006 and the Bihar Electricity Supply Code.
- (13) **“franchisee”** means a person authorised by a distribution licensee to distribute electricity on its behalf in a specified area within his area of supply;
- (14) **“Force Majeure”** means events beyond the reasonable control of the licensee, including, but not limited to earthquakes, cyclones, floods, storms, adverse weather conditions, war, terrorist attacks, civil commotion or other similar occurrences that leads to any act that would involve a breach of relevant laws or regulations relating to electrical safety;
- (15) **“licence”** means the distribution licence granted under section 14 of the Act by the Commission under which the licensee is authorised to conduct the licensed business;
- (16) **“licensee”** means any person, who has been granted this licence under section 14 of the Act (including a deemed licensee);
- (17) **“licensed business”** means the business of distribution of electricity in the area of activity as authorised under this licence;
- (18) **“Open Access”** means the non-discriminatory provision for the use of distribution system or associated facilities with such system by any licensee or consumer or a person in accordance with the regulations specified by the Commission;
- (19) **“operational control”** means possessing of authority to make operational decisions such as commissioning and utilisation of sub stations, Transformers, service lines and other equipments;
- (20) **“other business”** means any business of the licensee other than the licensed business for optimum utilisation of its assets;
- (21) **“person”** shall include any company or body corporate or association or body of individuals, whether incorporated or not;
- (22) **“sub-station”** means a station for transforming or converting electricity for distribution thereof and includes transformers, converters, switchgears, capacitors, synchronous condensers, structures, cables and other appurtenant equipments etc. used for that purpose;
- (23) **“supply”** in relation to electricity means the sale of electricity to a consumer;
- (24) **“Bihar Electricity Supply Code”** means the Code approved by the Commission under section 50 of the Act detailing the procedure for supply of electricity, collection of charges etc;
- (25) **“transfer”** shall include the sale, exchange, gift, lease, licence, loan, securitisation, mortgage, charge, pledge or grant of any other encumbrance or otherwise permitting of any encumbrance to subsist or parting with physical possession or any other disposition or dealing;

- (26) **“use of system”** means use of the distribution system for the transportation and wheeling of electricity for any person pursuant to a contract entered into with the distribution licensee.
- (27) **“users”** means anyone who uses the distribution system.
- (28) **“wheeling”** means the operation whereby the distribution system and associated facilities of a distribution licensee, are used by another person for the conveyance of electricity on payment of charges stipulated by the Commission under the Bihar Electricity Regulatory Commission (Terms and Conditions for the Determination of Tariff) Regulations, 2007;

PART – II

GENERAL CONDITIONS

3. TERM OF THE LICENCE

The distribution licence shall come into force on a date specified by the Commission in the order while granting such licence and shall remain in force for Twenty five (25) years from that date unless revoked earlier in accordance with the provisions of Regulation 21 of these regulations or under section 19 of the Act,

4. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

- (1) The distribution licensee shall comply with the provisions of the Act, rules, regulations and orders and directions issued by the Commission from time to time.
- (2) The distribution licensee shall act in accordance with this general conditions specified in the licence except where the licensee is exempted specifically or permitted by the Commission for any deviation from these guidelines through a separate order.
- (3) The distribution licensee shall comply with the orders and directions issued by the State Load Despatch Centre and other statutory authorities in the discharge of their functions.
- (4) The distribution licensee shall adhere to the Standards of Performance Regulations and the Electricity Supply Code, approved by the Commission in regard to supply of electricity in his area.

5. DUTIES OF THE DISTRIBUTION LICENSEE

- (1) The distribution licensee shall duly discharge the duties of the distribution licensee as provided under sections 42 and 43 of the Act and specified in these Regulations.
- (2) The distribution licensee shall develop and maintain an efficient, co-ordinated and economical distribution system in the area of distribution and effect supply of electricity to Consumers in such area of distribution in accordance with the provisions of the Act, rules, regulations, orders and directions of the Commission.
- (3) The distribution licensee shall be entitled to:
 - (a) purchase, import or otherwise avail electricity from a generating company, trader and from such other sources and persons with whom the distribution licensee has agreements or arrangements in accordance with the terms and conditions of such agreement and arrangement as approved by the Commission;
 - (b) purchase from renewable sources connected to its distribution system in such quantum as may be stipulated by the Commission under section 86 (1) (e) of the Act.
 - (c) purchase or otherwise acquire electricity from any person or licensee on the tariffs and terms and conditions as approved by the Commission;
 - (d) supply electricity to such persons situated within its area of supply and requiring supply of electricity either directly or through open access in

accordance with regulations made by the Commission. The licensee, with respect to open access supply, shall be a common carrier providing non-discriminatory open access and collect wheeling and other charges as per these Regulations.

- (4) The distribution licensee **shall not**, without the general or special approval of the Commission:
 - (a) Sell or supply electricity to any person, other than in accordance with this licence, and the terms and conditions as approved by the Commission; or
 - (b) provide wheeling services to third parties for transportation of electricity through the licensee's distribution system permit a consumer or class of consumers to receive electricity supply from a person other than the licensee of his area of supply; or
 - (c) The licensee shall not, except with the prior permission of the Commission
 - (i) undertake any transaction to acquire by purchase or takeover or otherwise, the utility of any other licensee within the State; or
 - (ii) merge his utility with the utility of any other licensee or his own elsewhere within the State; or
 - (iii) assign his licence or transfer his utility or part thereof to any person by sale, lease, exchange or otherwise.
- (5) The licensee shall not extend any new provision of services to any other licensee or person not authorised by the Commission for the conveyance of electricity through its distribution system, without informing the Commission seven days prior to the commencement of such services. In the circumstances requiring immediate remedial action in the interest of continuity of supply to the persons other than the consumers, the licensee may commence the activity referred to in this clause, provided that the licensee informs the Commission of such occurrence or circumstances within seven days thereof.
- (6) The distribution licensee shall purchase the energy required for meeting its obligations under its licence in an economical manner and under a transparent power purchase or procurement process and in accordance with the regulations, guidelines, directions made by the Commission from time to time. In case of a shortage of electricity supply, the Commission shall fix the maximum and minimum ceiling of tariff for sale or purchase of electricity for such period of shortage.
- (7) In the event the distribution licensee engages in any other business the same shall be subject to the following conditions:
 - (a) due intimation to the Commission, about the other business which the licensee intends to takeup;
 - (b) the licensed business and the conduct thereof by the licensee shall not be prejudiced and/or adversely affect in any manner by reason of such other business;
 - (c) at least 50% of its profits earned out of such other business, shall be utilized for reducing the charges for wheeling;
 - (d) the distribution licensee shall prepare and keep, in respect of the other business activities, separate accounting records as would be required to be kept in respect of such activities as if they were carried on by a separate entity, so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to such other business activities are separately identifiable from those of the licensed business;
 - (e) the licensed business shall not utilize its funds in any way for such other business nor creates encumbrance on its distribution assets in any way to support such other business; and

- (e) the distribution licensee shall be entitled to direct its equipments/ materials in its possession on hire or lease provided such arrangement results in optimum utilisation and gainful employment of its assets. The licensee shall be entitled to sell or dispose off scrap/ unserviceable/ obsolete materials/ equipments. The earnings from such activities shall be recognised in the annual revenue requirement petition to be filed by the licensee to the Commission.
- (8) The distribution licensee shall seek approval of the Commission before making any loans to, or issuing any guarantee for any obligation of any person, except for the purposes of the licensed business. The loans to employees pursuant to their terms of services and advances in the ordinary course of business shall be excluded from the requirement to seek such approval.
- (9) The distribution licensee may establish subsidiaries agents or enter into management contracts including agents to conduct or carry out any of the functions, which such licensee is authorised to conduct or carry out under the Act and this licence.

Provided always that:

- (a) any such subsidiary or agents or contractors or agents shall operate under the overall supervision and control of the licensee and upon the terms and conditions of this licence; and
- (b) the licensee shall have, prior to delegating any function to any such subsidiary or agents or contractor, intimate the Commission for transactions, subject to such conditions as the Commission may stipulate.
- (a) The distribution licensee shall be fully responsible for all actions of the subsidiaries or agents or contractors and the Commission may require the licensee to terminate the arrangements in case the performance is not to its satisfaction.
- (10) In case where prior approval of the Commission is required, the distribution licensee shall file an application with the Commission disclosing relevant facts. The Commission may, within thirty days of the filing of the application, seek further information in support of the application. The Commission shall allow the arrangement subject to such terms and conditions or modifications as it considers appropriate or reject the same, for reasons recorded in writing in the order to be issued by the Commission.
- (11) The distribution licensee shall provide open access to the distribution system subject to operational constraints in the distribution system and subject to payment by the user all applicable tariffs and charges as determined or directed to be charged by any general or special order of the Commission.

6. ACCOUNTS

- (1) Unless otherwise permitted by the Commission the financial year of the distribution licensee for the licensed business shall be from the first of April of a calendar year to thirty-first of March of the subsequent calendar year.
- (2) The distribution licensee shall, in respect of the licensed business and any other business:
 - (a) keep such accounting records as would be required to be kept in respect of each such business so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to the licensed business are separately identifiable in the books of the licensee, from those of other business in which the licensee may be engaged;
 - (b) prepare on a consistent basis from such accounting records and submit to the Commission
 - (i) the accounting statements;

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- (ii) in respect of the first six months of each financial year, a half yearly profit and loss account, cash flow statement and balance sheet together with such supporting documents and information as the Commission may prescribe from time to time which require to be published in the manner the Commission may direct from time to time;
 - (iii) in respect of the accounting statements prepared , an auditor's report for each financial year, certifying that, the statements have been properly prepared in accordance with this clause and give a true and fair view of the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to such businesses to which the statements relate;
 - (iv) a copy of each half yearly profit and loss account not later than one month after the end of the period to which it relates, and copies of the accounting statements and auditor's report not later than three months after the end of the financial year to which they relate.
 - (3) Any person authorised by the Commission shall be entitled to inspect and verify the accounts of the distribution licensee and the licensee shall render all necessary assistance to such person.
 - (4) The distribution licensee shall not normally change the basis of charge or apportionment or allocation of revenues or expenses in relation to the preparation of the accounting statements in respect of a financial year from those applied in respect of the previous financial year, without prior intimation to the Commission. In case the licensee is a company, any change, if proposed, in the basis of charge or apportionment of revenues or expenses shall be consistent with the provisions of the Companies Act, 1956 (Act1 of 1956) or the respective Acts under which the licensee will be governed, the accounting standards or rules and also any guidelines issued by the Commission in this regard.
 - (5) Where, in relation to the accounting statements in respect of a financial year, the Licensee has changed the basis of charge or apportionment or allocation from those adopted for the immediately preceding financial year, the licensee shall, if directed by the Commission, prepare such accounting statements on the basis which it applied in respect of the immediately preceding financial year and in addition prepare the accounting statements on the basis actually applied by it.
 - (6) Accounting statements under sub-clause (2) shall, unless or otherwise approved or directed by the Commission:
 - (a) be prepared and published with the annual accounts of the distribution licensee as directed by the Commission;
 - (b) state the accounting policies adopted;
 - (c) prepare in the format as the Commission may stipulate from time to time;
 - (7) The distribution licensee shall ensure that the accounting statements in respect of each financial year prepared under clause (2) and the auditor's report in respect of each financial year are publicised in such manner as the Commission may direct and are made available to any person request them at a price not exceeding the reasonable cost of duplicating them.
 - (8) The Commission may, as it may considers appropriate, require the licensee to comply with the provisions of clause (1) to (7) above and the licensee shall comply with any guidelines issued by the Commission in this regard. In order to meet the requirement of open access, the accounting statements shall be maintained separately for capital expenditure of the distribution activity and supply activity while for the purposes of revenue expenditure, the segregation of

common services may be done by suitably allocating the same as per the formula approved by the Commission.

7. PROVISION OF INFORMATION TO THE COMMISSION

- (1) The distribution licensee shall furnish to the Commission without undue delay such information, documents and details related to the licensed business or any other business of the licensee engaged for optimum utilisation of the assets of the licensed business, as the Commission may require from time to time for its own purposes or for the purposes of the Government of India, State Government, the Central Commission, and/or the Central Electricity Authority, the State Transmission Utility and State Load Dispatch Centre.
- (2) The distribution licensee shall furnish information on the implementation of the standards of performance as specified in the Standards of Performance of Distribution Licensee Regulations 2006, notified by the Commission as amended from time to time.
- (3) The distribution licensee on occurrence of any major incident or accident shall notify the Commission about such occurrence as provided in Electricity Supply Code, and Standards of Performance of Distribution Licensee Regulations notified by the Commission.
- (4) The distribution licensee shall also undertake such studies as the Commission may direct it to undertake from time to time for the improvement of its distribution business and any other matter concerning the distribution business.
- (5) The distribution licensee shall duly inform the Commission about any incident restricting it from meeting its obligations under its licence including any act of omission or commission by others and steps taken by the licensee to mitigate the effect of such incident.
- (6) The Commission may at any time require the licensee to comply with the provisions of clauses (3) to (5) as to incidents which the Commission may specifically direct and the licensee shall be obliged to comply with the same notwithstanding that such incidents are not major incidents; provided that the time limits specified in clause (3) shall commence from a date that the Commission notifies to the licensee of such requirement.
- (7) The distribution licensee shall submit a business plan, as required under the BERC (Terms and Conditions for Determination of Tariff) Regulations - 2006, within three months from the date of this licence and shall update such plan annually.
- (8) The Commission may require the licensee to intimate by the end of first quarter of each financial year the progress made in implementing the business plan of the previous financial year with the comparison of actual implementation vis-à-vis the plan as approved by the Commission

8. CAPITAL INVESTMENT PLAN

The licensee shall comply with the provisions relating to Capital Investment Plan as detailed in BERC (Terms and Conditions for determination of tariff) Regulations – 2006.

9. PAYMENT OF LICENCE FEES

- (1) Within thirty days or such further period as the Commission may allow after the date of commencement of the licence, the licensee shall pay to the Commission a fee as may be determined by the State Government / Commission, on a prorata basis for the balance period of the year and for the subsequent financial year(s), as long as this Licence remains in force, the Licensee shall, pay to the Commission an annual Licence fee as specified by the Commission by 15th April each year.

- (2) The Commission may, from time to time revise the annual licence fee payable by the licensee. The Commission may publish a notice, detailing the annual licence fee payable by such licensee in each financial year or revise the relevant Regulations as the case may be.
- (3) Where the distribution licensee fails to pay to the Commission any of the fees due under sub-clauses (1) or (2) by the due dates:
 - (a) without prejudice to other obligations, the distribution licensee shall be liable to pay interest on the outstanding amount at a simple interest rate of one and half percent, the interest being payable for the period beginning on the day after which the amount became due, and ending on the day on which the payment is made to the Commission in cleared funds; and
 - (b) in the event of continued default by the distribution licensee, the Commission may revoke this licence pursuant to section 19 of the Act and regulation 21 of these regulations.
- (4) The distribution licensee shall be entitled to take into account any fee paid by it under this clause as an expense in the determination of aggregate revenues to be charged to the tariffs, but shall not take into account any interest paid pursuant to sub-clause (3) above.

10. AMENDMENT OF LICENCE CONDITIONS

The Commission may alter or amend any terms and conditions of at any time in public interest in exercise of powers under section 18 of the Act. The following provisions shall have effect for any alterations or amendments:

- (a) where the licensee has made an application under sub-section (1) of section 18, of the Act proposing any alteration or modifications to the terms and conditions of licence, the licensee shall publish a notice of such application with such particulars and in such manner as specified in Regulation 17 of these regulations;
 - (b) in the case of an application proposing alterations or modifications in the area of activity comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the Commission shall make any alterations or modifications only after obtaining prior approval with the consent of the Central Government;
- the Commission shall not make any alterations or modification unless all suggestions or objections received within thirty days from the date of the first publication of the notice have been considered.

11. SETTLEMENT OF DISPUTES

The provisions contained in Regulation 31 of these regulations shall apply to any dispute between the distribution licensee and any generating company and or between a consumer and a distribution licensee shall be settled in accordance with the provisions contained in the said Regulation.

12. SUSPENSION OF DISTRIBUTION LICENCE

The suspension of distribution licence shall be made in accordance with Regulation 20 of these Regulations

13. COMPLIANCE WITH THE GRID CODE BY THE DISTRIBUTION LICENSEE

The distribution licensee shall ensure due compliance with the Bihar Electricity Grid Code approved by the Commission under clause (h) sub section (1) of section 86 of the Act.

14. COMPLIANCE WITH THE ELECTRICITY SUPPLY CODE and DISTRIBUTION CODE BY THE DISTRIBUTION LICENSEE

The distribution licensee shall ensure due compliance with the Bihar Electricity Supply Code in force as amended from time to time.

15. CONSUMER SERVICE

- (1) The distribution licensee shall duly comply with the regulations specified by the Commission from time to time in regard to consumer services in the Bihar Electricity Supply Code and Standards of Performance of Distribution Licensee Regulations.

(2) *Payment of Bills*

The procedures regarding billing and payment of electricity charges outlined in Bihar Electricity Supply code and Standards of Performance of Distribution Licensee Regulations shall be followed both by the licensees and the consumers.

(3) *Complaint Handling Procedure*

The distribution licensee shall establish a forum called Consumer Grievance Redressal Forum for redressal of grievances of the consumers in accordance with the Regulation 45 of these regulations, as required under section 42(5) of the Act

(4) *Consumer Rights Statement*

- (a) The distribution licensee shall, within a reasonable period of time as specified by the Commission after the commencement of the licence or such other time as the Commission may allow, prepare and submit to the Commission for approval, a consumer rights statement, explaining to consumers their rights as Consumers serviced by such licensee. The Commission may, upon holding such consultation with such other persons or bodies of persons who the Commission considers as representing the interests of consumers likely to be affected by it, make such modifications in the statement, as it considers necessary in public interest.
- (b) The distribution licensee shall submit a proposal for any revision to the consumer rights statement to the Commission for its approval, including any representation received by such licensee and not accepted by it. The Commission may modify the existing consumer rights statement, as it considers necessary.
- (c) The distribution licensee shall:
 - (i) draw to the attention of consumers, in such manner as the Commission may direct, the existence of the consumer rights statement and each revision of it and how they may inspect or obtain a copy of such consumer rights statement in its latest form.
 - (ii) make a copy of its consumer rights statement, as revised from time to time, available for inspection by members of the public at its offices during normal working hours; and
 - (iii) provide to all new consumers to be served by it, and to any other person who requests, a copy of the consumer rights statement, as revised from time to time, at a price not exceeding the reasonable cost of duplicating it.
- (5) The distribution licensee shall duly comply with the standards as the Commission may specify from time to time, in performing its duties under the Act.

16. DISTRIBUTION SYSTEM PLANNING AND SECURITY STANDARDS, DISTRIBUTION SYSTEM OPERATING STANDARDS

The Distribution licensee shall comply with the provisions outlined in Bihar Electricity Supply Code.

17. DUTY TO SUPPLY

The Distribution licensee shall comply with the provisions outlined in Regulation 38 of these regulations.

18. POWERS TO RECOVER EXPENDITURE, RECOVER SECURITY

The Distribution licensee shall comply with the provisions outlined in Regulations 41 and 42 of these regulations

19. USE OF METERS

The distribution licensee shall comply with the requirements of the Act and the regulations, directions and orders of the Commission in regard to supply of electricity through meter as provided in Bihar Electricity Supply Code and Regulation 40 of these regulations.

20. PROVISION OF SUBSIDIES TO CERTAIN CONSUMERS

The distribution licensee shall be guided by the provisions as per BERC (Terms and Conditions for Determination of Tariff) Regulations, 2007.

21. POWERS OF THE LICENSEE FOR REVENUE REALISATION, PREVENTION OF METER TAMPERING, Etc.

The distribution licensee shall act as per the provisions Bihar Electricity Supply Code.

22. POWER TO ENTER PREMISES AND TO REMOVE FITTINGS OR OTHER APPARATUS OF LICENSEE

The distribution licensee shall act as per the provisions of the Bihar Electricity Supply Code.

23. THEFT OF ELECTRICITY, LINES, MATERIALS, INTERFERENCE WITH WORKS, etc.

The distribution licensee shall act as per the provisions in Regulation of Bihar Electricity Supply Code.

24. DISCONNECTIONS AND OTHER ACTIONS

The distribution licensee shall act as per the provisions of Regulation 46 of these regulations

25. INTRODUCTION OF COMPETITION IN SUPPLY

- (1) In accordance with section 14 of the Act, the Commission may, grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area of supply subject to the condition that the applicant meets the eligibility norms as specified by the Central Government pursuant to under clause (b) of sub section (2) of section 176 of the Act. And no applicant who complies with all the requirements for grant of licence shall be refused licence on the ground that there already exists a licensee in the same area for the same purpose.
- (2) As and when permitted by the Commission a consumer or a class of consumers can avail electricity from a person other than the licensee of his area of supply. In such a case the duties of the licensee shall be that of a "common carrier" providing non-discriminatory open access and the charges payable will be, determined by the Commission.
- (3) The Commission may fix only the maximum ceiling of tariff for retail sale of electricity in an area of supply having two or more distribution licensees.

25. APPLICATION OF THE GENERAL CONDITIONS TO DEEMED LICENSEES

The conditions as set out herein above are applicable to any person or Agency who is a deemed licensee under section 14 of the Act.

Schedule

Licensed Area of Distribution Licensee

The distribution system detailed below, covering the following circles/districts / geographical area in the state of Bihar, including cantonment, aerodrome, fortresses, arsenal, dockyard or camp or any building or place in occupation of Central Government for defence purposes and without however affecting the rights of any other Licensee or exemption holder, as the case may be, under the provisions of the Electricity Act. 2003

- 1)
- 2)
- 3)
- 4)

By order of the Commission

Place: Patna

Date : 19.09.2007

Sd/-
Secretary
Bihar Electricity Regulatory Commission