

DELHI ELECTRICITY REGULATORY COMMISSION

Viniyamak Bhavan, C-Block, Shivalik, Malviya Nagar, New Delhi-110017.

NOTIFICATION

Delhi, the 23rd January, 2006

No. F 8 (19)/ DERC/2005-06/3634. __In exercise of the powers conferred by section 52 read with Section 181 of the Electricity Act 2003 (36 of 2003), the Delhi Electricity Regulatory Commission hereby makes the following Regulations providing for the eligibility criteria for grant of trading licence and the duties of the electricity trader, namely:-

1. Short title, extent and commencement:-

- (1) These Regulations may be called the Delhi Electricity Regulatory Commission (Intra-state Electricity Trader) Regulations, 2005.
- (2) These Regulations shall apply to any person undertaking intra-state trading of electricity in the National Capital Territory of Delhi.
- (3) These Regulations shall come into force from the date of their publication in the official gazette.

2. Definitions:-

- (1) In these Regulations, unless the context otherwise requires:
 - (a) "Act" means the Electricity Act, 2003 (36 of 2003);
 - (b) "applicant" means a person who has made an application to the Commission for grant of licence for intra-state trading of electricity;
 - (c) "Commission" means the Delhi Electricity Regulatory Commission;
 - (d) "customer" means any buyer purchasing electricity from the trader;

- (e) "intra-state trading" means trading in electricity within the territory of the National Capital Territory of Delhi by an electricity trader;
- (f) "trading licence" means a licence granted under Section 14 of the Act to undertake intra-state trading in electricity as an electricity trader;
- (g) "licensee" means a person who has been granted a Trading Licence;
- (h) "net worth" means the sum total of paid up capital and free reserves, but shall not include reserves created out of revaluation of assets, write back of depreciation provisions and amalgamation.
- (i) "other business" means any business of the trading licensee other than the licensed business of intra-state trading;

(2) The words and expressions used and not defined in these Regulations but defined in the Act shall have the same meanings as assigned to them in the Act.

3. Technical Requirements to Qualify as an Electricity Trader:-

- (1) The applicant for trading licence shall have the technical capability and resources and capabilities adequate to manage the intended volume of intra-state trade.
- (2) The Commission may from time to time by general or special order decide on the technical capabilities to be maintained by the Electricity Trader.
- (3) The Applicant shall have at least one person with qualification in engineering and a minimum of 10 years experience in electricity industry to comply with the technical requirements for discharging the functions of the Electricity Trader.
- (4) The Electricity Trader shall maintain the technical capability and resources as directed by the Commission and provide the Commission with the details of any changes thereon and justify that the capability is adequately maintained to cater to the volume of trade undertaken by him.

4. Financial requirements to qualify as an electricity trader: -

(1) The applicant shall declare to the Commission the maximum trading volume the applicant proposes to handle in a year and its future plans of trading during the initial three years.

(2) **Capital adequacy requirement and creditworthiness:-** Considering the volume of intra-state trading proposed to be undertaken, the net worth of the electricity trader at the time of application shall not be less than the amounts specified hereunder:-

S. NO	Category of the Trading Licence	Volume of Electricity proposed to be traded (in Kilo-Watt Hours) per year.	Networth (Rupees In lakh)
1.	A	Up to ten million	Fifteen
2.	B	Ten to twenty million	Thirty
3.	C	Twenty to fifty million	Seventy five
4.	D	Fifty to seventy million	One hundred
5.	E	Seventy to one hundred million	One hundred fifty.
6	F	One hundred to two hundred million	Two hundred

Provided that in case where the Trading volume reaches beyond two hundred million Kilo-Watt Hours per year, the capital adequacy and the credit worthiness for such trader shall be decided by the Commission, by general or special Order, as and when required.

(3) The trader shall make reasonable endeavours to maintain investment grade credit rating from an independent Credit Rating Agency throughout the period of the Licence.

(4) In case the volume of trade moves, at any stage, from lower category to higher category, the Licensee shall increase his net worth within a period of thirty days of such transition and shall pay the differential licensee fee to the Commission and the licensee shall inform the Commission of such transition and subsequent change in the net worth within thirty days.

5. Exemption to deemed licensee:-

Notwithstanding anything contained in regulation 4, the Deemed Distribution Licensees, under section 14 of the Act, would be entitled to undertake intra-state trading in electricity and shall not be required to have the technical or financial requirements including the capital adequacy norms and the credit worthiness as determined in the said Regulations.

Provided that the Commission may under the proviso to section 16 of the Act, lay down general or special conditions, which such, deemed licensee, shall be required to comply, to continue the activities of an electricity trader.

6. Procedure for grant of licence for intra-state trading

(1) Procedure for grant of license as laid down by the Act, shall be applicable for grant of intra-state trading licenses and all proceedings under these regulations, to be conducted by the Commission, shall be governed by its Delhi Electricity Regulatory Commission (Conduct of Business) Regulations 2001.

(2) The application for grant of licence for intra-state trading shall be made to the Commission in the manner specified under these regulations, in the Form-I appended to these regulations, (verified by an affidavit), and shall be accompanied by such fee as may be prescribed by the State Government:

Provided that till such time the fee is prescribed by the State Government the application for grant of licence for intra-state trading shall be accompanied by a fee of Rupees one Lakh only payable through Bank Draft/Pay Order drawn in favour of Secretary, Delhi Electricity Regulatory Commission, New Delhi, and the fee so paid shall be subject to adjustment as and when the fee is prescribed by the State Government.

(3) The applicant, who has made the application for grant of license shall, within 7 days after making such application, publish a notice of his application, with such particulars and in such manner, as may be decided by the Commission.

7. Payment of licence fee

(1) The Licensee shall pay to the Commission the annual licence fee of the amount specified hereunder, payable by means of a demand draft or pay order drawn in favour of Secretary, Delhi Electricity Regulatory Commission, New Delhi

Sl. No.	Category	Volume of Electricity proposed to be traded per annum (in Kilo – Watt Hours)	Licence fee (In Rupees)
1	A	Upto ten million	Fifteen thousand
2	B	Ten to twenty million	Thirty thousand
3	C	Twenty to fifty million	Seventy thousand
4	D	Fifty to seventy million	One lakh
5	E	Seventy to one hundred million	One lakh fifty thousand
6	F	One hundred to two hundred million	Two lakh

Provided that for a part of the year, the licence fee shall be payable pro rata on the basis of number of days:

Provided further that the licence fee calculated on pro rata basis for a part of the year, shall be rounded off to nearest hundred Rupees:

Provided also that in case where the trading volume reaches beyond two hundred million Kilo-Watt Hours per year, the license fee shall be decided by the Commission, by general or special order, as and when required.

(2) The licence fee shall be paid by the 15th April of each year, and in case the trader has moved from a lower category to a higher category, the balance of licence fee shall be paid within thirty days of such transition.

- (3) In case licensee moves from a higher category to lower category, license fee shall not be refunded to the licensee.
- (4) The licence fee shall be paid within thirty days of issue of licence.
- (5) In case the licensee fails to pay the licence fee or a part thereof, for a period of three months, the licensee shall be liable to pay late payment surcharge on the outstanding amount at the rate of one percent of the licence fee payable per month or a part of the month, for the period the licence fee or any part thereof remains unpaid.
- (6) Notwithstanding the liability of the licensee to pay the late payment surcharge as aforesaid, the delay in payment of licence fee or a part thereof, beyond aforesaid period shall be construed as breach of the terms and conditions of the licence and the licence shall be liable to be revoked.

8. Standards of performance

- (1) The Commission may, after consultation with the licensee(s), determine the standards of performance of the licensee or class of licensees.
- (2) Notwithstanding the above, the licensee shall furnish the performance details on a quarterly basis to the Commission in the format prescribed in Form-II and Form III appended to these regulations, by 15th day of end of each quarter.

9. Obligation of an Electricity Trader:- The Licensee shall,

- (1) comply with the requirements of laws in force and, in particular, the Act, the rules and the regulations, Grid Code and the orders and directions issued by the Commission, from time to time;
- (2) be subject to the trading margins for the intra-state trading as fixed by the Commission, from time to time;
- (3) be governed by the technical requirements, capital adequacy requirements and creditworthiness determined by the Commission in these regulations for being an electricity trader and shall upgrade these technical and capital

adequacy requirements, including staff, when the volume of trading increases;

- (4) establish adequate communication facilities like telephone, fax, computer, Internet facilities, before undertaking trading;
- (5) coordinate with State Load Dispatch Centre and State Transmission Utility with regard to all trading-related activities;
- (6) render all assistance to any person authorised by the Commission for carrying out his duties relating to the license;
- (7) carry out the trading bilaterally between the parties by entering into appropriate contracts. Necessary safeguards with regard to supply of electricity through trading, or payment for the electricity traded shall be included in the agreements between the parties. All trading arrangements shall be done through Letters of credit or with any other superior instrument;
- (8) pay the licence fee in accordance with the time schedule as laid down in these Regulations;
- (9) not omit or neglect to undertake trading activity for four consecutive quarters;
- (10) not enter into any agreement leading to abuse of his dominant position or enter into a combination which is likely to cause an adverse effect on competition in electricity industry;
- (11) maintain up-to-date record of his customers and the transactions undertaken by him with other parties.

10. Compliances and Information Submission:-

- (1) The Electricity Trader shall duly comply with the provisions of the Act, rules, regulations, Codes and the orders and directives of the Commission, payment of cross subsidy surcharge and Supply Code and furnish the information which the Commission may require from time to time;
- (2) The Electricity Trader shall maintain accounts for its intra-state trading business separate and independent of Other Business. The Electricity Trader shall prepare the accounts in accordance with the guidelines issued by the Commission; and till such time these guidelines are issued by the

Commission, the accounts shall be maintained in accordance with the provisions of the Companies Act, 1956.

11. Prohibitions: -

- (1) The Electricity Trader shall not engage in the business of transmission of electricity.
- (2) The Electricity Trader shall not, without prior approval of the Commission:
 - (a) acquire by purchase or takeover or otherwise, the utility of any other Licensee, or
 - (b) merge his utility with the utility of any other Licensee, or
 - (c) assign or transfer his licence to any person, by sale, lease, exchange or otherwise, or
 - (d) engage in any other business including distribution or generation of electricity.

Provided that the clause (d), shall not be applicable to Distribution Licensees and Generating Companies already engaged in the business of trading.

- (3) Wherever prior approval of the Commission is required, the Electricity trader shall file an appropriate application before the Commission, in accordance with the Delhi Electricity Regulatory Commission (Conduct of Business) Regulations 2001.

12. Prudential reporting:-

- (1) The Licensee shall, as soon as practicable, report to the Commission:-
 - (a) any significant change in the circumstance which may affect the licensee's ability to meet his obligations under the Act, the rules and the regulations and the directions and order issued by the Commission, the State Grid Code, the Agreements or the License;

- (b) any material breach of the provision of the Act, the rules and the regulations and the directive and orders issued by the Commission, the State Grid Code, the Agreements or the License; and
- (c) any major change in shareholding pattern, ownership or management of the licensee.

13. Amendment of license: -

- (1) The terms and conditions of the license may be modified by the Commission in public interest or on an application made by the licensee.
- (2) The procedure as laid down in section 18 of the Act, shall be applicable for any alteration or modification to the terms and conditions of the license.

14. Revocation of licence: -

- (1) The Commission after making an enquiry, is satisfied that the public interest so require, it may revoke the license of the Electricity trader for the grounds and as per the procedure stipulated in section 19 of the Act, and also;
 - a) where Licensee has failed or neglected to undertake trading in electricity for four consequent quarters.
 - b)when the Licensee makes an application for revocation of the license and the Commission is satisfied that public interest so requires, the Commission may revoke his license, on such terms and conditions as it thinks fit.

Provided further that the Commission may, instead of revoking a license under this Regulation, permit the license to remain in force subject to such further terms and conditions as it thinks fit to impose, and any further terms and conditions so imposed shall be binding upon and be observed by the Licensee and shall be of like force and effect as if they were contained in the license.

15. Penalties and orders for compliance: - In accordance with section 142 of the Act, the Commission may impose penalty on the Licensees and may issue orders for compliance for contravention of any provisions of the Act, Rules, and Regulations.

16 Issue of orders and practice directions: - Subject to the provisions of the Electricity Act, 2003 and these regulations, the Commission may, from time to time, issue orders and practice directions in regard to the implementation of these Regulations and procedure to be followed and various matters, which the Commission has been empowered by these regulations to direct, and matters incidental or ancillary thereto.

17 Power to remove difficulties: - If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by general or special order, do or undertake or direct the Licensees to do or undertake things, which in the opinion of the Commission is necessary or expedient for the purpose of removing the difficulties.

18. Power to Amend: -

The Commission may, at any time add, vary, alter or modify any provisions of these regulations by amendment.

a. 19. Proceedings for inquiries, investigations, etc.

All inquiries, investigations, adjudication under these regulations shall be done by the Commission through proceeding(s) as per the provisions of DERC (Conduct of Business) Regulations 2001.

**(Somit Dasgupta)
Secretary**

(See regulation 6(2))

**Delhi Electricity Regulatory Commission (Intra-state Electricity Trader)
Regulations, 2005**

Application form for grant of Trading Licence

Particulars of the Applicant

1. Name of the applicant :
2. Address of the Registered office :
3. Name, designation & address of the contact person :
4. Contact Tel. Nos. :
5. Fax No.
6. E-mail ID :
7. Place of incorporation/registration :
8. Year of incorporation/registration :
9. Category for which the license is being applied:
10. Following documents are to be enclosed :
 - (a) Certificate of registration :
 - (b) Certificate of commencement of business :
 - (c) Original power of attorney of the signatory to commit the applicant or its promoter :
 - (d) Details of Income Tax Registration :

Details of Financial Data of Applicant

11. Net worth (in equivalent Indian Rupees-conversion to be done at the rate of exchange prevailing at the end of each year) for immediate past five financial years. (Specify financial year as applicable)

(DD/MM/YY)	to	(DD/MM/YY)	In Home Currency	Exchange rate used	In equivalent Indian Rs.
a) Year1 ()	to	()	-----	-----	-----
b) Year2()	to	()	-----	-----	-----
c) Year3 ()	to	()	-----	-----	-----
d) Year4 ()	to	()	-----	-----	-----
e) Year5 ()	to	()	-----	-----	-----

f) Copies of Annual Reports or certified audited results to be enclosed in support of above

12. Annual Turnover (in equivalent Indian Rupees – conversion to be done at the rate of exchange prevailing at the end of each year) for immediate past five financial years (Specify financial year as applicable)

(DD/MM/YY)	to	(DD/MM/YY)	In Home Currency	Exchange rate used	In equivalent Indian Rs.
a) Year1 ()	to	()	-----	-----	-----
b) Year2 ()	to	()	-----	-----	-----
c) Year3 ()	to	()	-----	-----	-----
d) Year4 ()	to	()	-----	-----	-----
e) Year5 ()	to	()	-----	-----	-----

f) Copies of Annual Reports or certified audited results to be enclosed in support of above

13. List of documents enclosed in support of Sl. Nos. (11) and (12) above:

Name of the document

- (a) _____
- (b) _____
- (c) _____
- (d) _____

14. a) Whether applicant himself shall be financing the proposed trading fully on its own balance sheet? Yes/No
- b) If yes, proposed equity from the applicant
- i) Amount :
- ii) Percentage :

15. In case the applicant proposes to tie up with some other Agency for equity, then name & address of such agency :

- a) Name, designation & address of reference person of the other agency :
- b) Contact Tel. No. :
- c) Fax No. :
- d) E-mail ID :
- e) Proposed equity from the other agency :
- i) Amount :
- ii) Percentage of total equity :
- iii) Currency in which the equity is proposed :
- f) Consent letter of the other agency to associate with the applicant for equity participation to be enclosed :
- g) Nature of proposed tie-up between applicant and the other agency :

16. Details of debt proposed for the Trader activity :

- a) Details of Lenders :
- b) Amount to be sourced from various lenders :
- c) Letters from the lenders in support of the above to be enclosed :

17. Organisational & Managerial Capability of Applicant:

(Applicant is required to enclosed proof of their Organisational & Managerial Capability, in terms of these Regulations, in form of proposed organisational structure and curricula vitae of various Executives, proposed office and communication facilities etc.)

18. Approach & Methodology :

(Applicant is required to describe Approach & Methodology for establishment of the Trading arrangements as proposed by the applicant)

Dated:

(Signature of Applicant)

(See Regulation 8(2))

Delhi Electricity Regulatory Commission (Intra-state Electricity Trader) Regulations, 2005

Proforma for submission of information for the Quarter _____.

Name of the Trader:

License details (No & date)

S. No.	Volume of Trading I million Kwhs	Purchased from*	Sold to	Point of Purchase	Purchase price	Point of sale	Sale price	Transmission/wheeling charges borne by Seller/Trader/Buyer*	Transmission losses borne by Seller/Trader/Buyer**	UI Charges borne by seller Buyer**	Trading margin charged	Remarks

Note : All the transactions shall be reported transaction-wise on real time basis and should not be aggregated.

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

** Strike out whichever is not applicable.