



**THE
JHARKHAND GAZETTE
EXTRAORDINARY
PUBLISHED BY AUTHORITY**

No. 559

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Ranchi, Wednesday the 11th October, 2006

**JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION
RANCHI**

NOTIFICATION
The 4th October, 2006

**JSERC (PROCEDURE, TERMS AND CONDITIONS FOR GRANT OF INTRA-STATE TRADING
LICENCE) REGULATIONS, 2006**

No. JSERC/Regulations/ 10

Dated: 4th October 2006.

In exercise of powers conferred by Section 181 read with Sections 14 (c) and 86 (1)(d) of the Electricity Act, 2003 and all other powers enabling in this behalf, the Jharkhand State Electricity Regulatory Commission, hereby makes the following regulations, namely: -

Chapter I- General

1. Short title, commencement and interpretation

1.1 These regulations shall be called the **Jharkhand Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Intra-State Trading Licence) Regulations, 2006**.

1.2 These regulations shall apply to any person applying for an Intra-State Trading Licence for trading of electricity within the state of Jharkhand

Provided that in accordance with the provisions of Section 14 of the Electricity Act, 2003, regulations 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 21, 22 of this Regulation shall not be applicable to deemed licensees including the Government of Jharkhand and Distribution Licensees and those granted exemption from the requirement of obtaining a licence under section XIII of the Act in the State of Jharkhand, till the time allowed by the Commission.

1.3 These Regulations extend to the whole State of Jharkhand.

2. Definitions

2.1 In these Regulations, unless the context otherwise require:

- (a) "Act" means The Electricity Act 2003 (36 of 2003);
- (b) "Accounting Statement" means for each financial year, accounting statements for the Licensed Business comprising 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 (1 of 1956) and such other particulars and details in the manner as the Commission may direct from time to time. If the Trading Licensee engages in any business or activity in addition to the Licensed Business, the accounting statements shall comply with the regulations of the Commission dealing with the treatment of Other Business of Trading Licensees and show separately the amounts of any revenue, cost, asset, liability, reserve or provision, which has been either:
 - i) charged from the Licensed Business to any Other 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 Trading Licensee together with a description of the basis of the apportionment or allocation.
- (c) "Applicant" means a person who has made an application to the Commission for grant of licence for the Trading of electricity
- (d) "Annual Accounts" means the accounts of the Trading Licensee prepared in accordance with the provisions of the Companies Act, 1956 and/or in such other manner as may be directed by the Commission from time to time in terms of the provisions of the Act;
- (e) "Auditor" means the Trading Licensee's auditors holding office in accordance with the requirements of Sections 224 to 234A or Section 619 as appropriate, of the Companies Act 1956 (1 of 1956);
- (f) "Authorised", in relation to any Person, business or activity, means authorised by licence granted under Section 14 of the Act or deemed to be granted under the first second third and fifth proviso to Section 14 of the Act or exemption granted under Section 13 of the Act and the regulations of the Commission;
- (g) "Commission" means the Jharkhand State Electricity Regulatory Commission constituted under section 17 of the Electricity Regulatory Commissions Act, 1998 and which continues to be so under section 82 of the Electricity Act, 2003;
- (h) "Conduct of Business Regulations" means the Jharkhand Electricity Regulatory Commission -Conduct of Business Regulations, 2003;

- (i) “Deemed Licensee” means a person authorised under the first, second, third and fifth proviso of section 14 of the Act.
- (j) “Holding Company” shall have the same meaning as in section 4 of the Companies Act 1956 (1 of 1956);
- (k) “Intra-state trading” means trading in electricity within the territory of the State by a Trading Licensee;
- (l) “Intra-State Trading Regulations” mean the Jharkhand Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Intra-State Trading Licence) Regulations, 2005;
- (m) “Licence” means the licence under section 14 of the Act under which the Licensee is authorised to conduct the Licensed Business;
- (n) “Licensed Business” means the business of trading of electricity as authorised under the licence;
- (o) “Local authority” means any Nagar Panchayat, Municipal Council, Municipal Corporation, Panchayat constituted at the village, intermediate and district levels, body of port commissioners or other authority legally entitled to, or entrusted by the Union or any State Government with, the control or management of any area or local fund;
- (p) “Net worth” means the sum total of paid up capital and free reserves, but shall not include reserves credited out of revaluation of assets, write back of depreciation provisions and amalgamation;
- (q) “Open access consumer” means a consumer who is eligible to receive supply of electricity from a person other than the distribution licensee of his area of supply;
- (r) “Other Business” means any business of the Trading Licensee other than the Licensed Business but shall exclude other entities in which the Trading licensee may be a shareholder.;
- (s) “Petition” shall include all petitions, complaints, appeals, replies, rejoinder, supplemental pleadings and other papers and documents filed before the Commission;
- (t) “Person” shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;
- (u) “Receiving Officer” shall mean the officer designated by the Commission for receiving the Petition;

(v) "Specific Conditions" means the conditions in addition to or in variation of the General Conditions which the Commission may lay down specifically for a trading licensee;

(w) "Secretary" means the Secretary of the Commission.

(x) "State Government" means the Government of the State of Jharkhand.

(y) "Subsidiary" shall have the same meaning as in section 4 of the Companies Act 1956 (1 of 1956);

(aa) "Trading Business" means the authorised business of electrical power purchase and sale of a Trading Licensee allowed under the Trading Licence granted;

(bb) "Trading Licence" means a licence granted under Section 14 of the Act to undertake trading in electricity as a trader in the State of Jharkhand;

(cc) "Trading Licensee" means a person who has been granted by the Commission under section 14 of the Act a Trading Licence to undertake electricity trading in the State of Jharkhand and shall include Deemed Licensee for the purpose;

(dd) "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.

2.2 Words or expressions occurring in these Regulations and not defined herein above shall bear the same meaning as in the Act.

3. Term of licence

The Trading Licence shall come into force on the date to be mentioned by the Commission in the order granting the licence and shall continue to be in force for a period of twenty-five (25) years unless such licence is revoked/surrendered.

Chapter II - Licence Procedures

4. Application for licence

4.1 A licence issued by the Central Electricity Regulatory Commission (CERC) under Section 14 read with clause (e) of sub-section (1) of Section 79 of the Act to an electricity trader for Inter-State Operations. Such electricity trader to undertake purchase of electricity from a seller in a State and resell such electricity to a buyer in the same State need a trading license from the SERC as per the Section 86 (1)(d). Therefore, any person who has been granted an Inter-State Trading licence by the CERC will be granted intrastate license on an

application, based on the Inter State Trading License issued by CERC. Such persons will be required to pay annual license fee for volume of power traded as intra state transaction (Regulation 21).

- 4.2 All other persons intending to engage in the business of trading of electricity in the State of Jharkhand shall apply to the Commission for the grant of a Trading Licence in the manner as directed by the Commission.
- 4.3 The General Conditions of Trading Licence are given in **Chapter III** of these regulations and the Trading Licensee shall be bound by such conditions, except to the extent exempted by the Commission
- 4.4 The Commission shall in addition to the General Conditions, decide on the specific conditions subject to which Licence shall be issued to the applicant.
- 4.5 Any person intending to apply for Licence shall duly comply with the conditions and requirements as laid down by the Commission.
- 4.6 The application for Licence shall be made in accordance with the provision of the Act and these Regulations and in the applicable form contained in **Appendix 1** to these Regulations and shall be accompanied by application fee as maybe prescribed by the state government from time to time.
- 4.7 The Application for Licence shall be accompanied by documents and particulars required to be provided as per the application form in **Part B of Appendix 1**.
- 4.8 The application shall be supported by affidavit of the authorized person familiar with the details of the application.
- 4.9 The applicant to be entitled for grant of Licence, shall provide evidence of fulfilling the following technical requirements as required by **Appendix 1** of this Regulation:
 - a The applicant for Trading Licence shall have the technical and other capabilities and resources adequate to manage the intended volume of Intra-State trade.
 - b The Commission may from time to time by general or special order decide on the technical capabilities to be maintained by the Trading Licensee.
 - c The applicant shall have at least one full time person with qualification in engineering and adequate experience in electricity industry to comply with the technical requirements for discharging the functions of the Trading Licensee.
 - d The applicant shall have at least one full time person with qualification in finance or accounting with adequate experience to comply with the technical requirements for discharging the functions of the Trading Licensee.
 - e Any person granted an Inter-State Trading Licence by the Central Electricity Regulatory Commission will be deemed to have complied with the above technical requirements.

- f The technical requirement of staff shall be complied with before undertaking trading activities, notwithstanding the fact that the Commission has granted the Licence for Intra-State Trading.
- g The applicant shall furnish to the Commission the details of the professional and the supporting staff engaged by him on full-time basis before undertaking intra-state trading.
- h The Trading Licensee 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.

4.10 The applicant shall declare to the Commission the plans for the maximum trading volume the applicant proposes to handle on a quarterly basis in the initial three (3) years of being granted the Licence.

4.11 Capital Adequacy Requirement and Credit Worthiness

a) Capital Adequacy

- i. The applicant shall demonstrate its capability to maintain at all times the capital adequacy and net worth as follows

Sl No	Category	Volume of Electricity proposed to be traded annually	Net Worth
1	A	Upto 50 MU	Rs 0.75 Crore
2	B	50-100 MU	Rs 1.50 Crore
3	C	100-200 MU	Rs 3 Crore
4	D	200-500 MU	Rs 7.5 Crore
5	E	Above 500 MU	Rs 0.15 x annual trade (in kWh)

- ii. The net worth at any point of time during the operation of trading should not reduce below 75% of the minimum requirements specified for the respective category of trader and shall be replenished at the end of every quarter ending June, September, December and March every year to the above specified levels. An audited certificate of compliance would need to be submitted to the Commission for every quarter within a period of thirty (30) from the end of that quarter.
- iii. At the time of application, the applicant shall submit to the Commission the applicant's earning history, balance sheet, cash flow, funding arrangements and risk management strategy, which will demonstrate that the applicant has met the net worth requirement.

b) Credit worthiness

- i. the Applicant, and if the Applicant is a company, the promoters of the company, and if the Applicant is a partnership firm, the partners of the firm, shall at no point of time have

been classified as “willful defaulter” by the Reserve Bank of India or other relevant authority.

- ii. The debt instruments issued by the company applying for the licence, if rated, should have a rating above A or equivalent rating symbol by any of the independent credit rating agencies
 - iii. The existing licence holder’s bank account should be classified as ‘Standard’ by all his current bankers. (Banks classify each of their loan account as ‘Standard’ or ‘Sub Standard’ as per the guidelines of RBI, which will have an impact on the resource raising capability of a party from the banking sector.
- 4.12 The application for licence shall specifically state any special terms and condition that the applicant proposes as applicable for the licence.

5. Acknowledgment of the Application

On receipt of the application, the Receiving Officer shall note thereon the date of its receipt and shall issue/send to the applicant an acknowledgment stating the date of receipt.

6. Scrutiny and Acceptance of the Application

6.1 If the Commission finds the application to be complete and accompanied by the requisite information, particulars and documents and that the applicant has complied with all the requirements for making the application and furnishing of information, particulars and documents, the Commission shall accept the application and inform all concerned that the application is ready for being considered for grant of Licence in accordance with applicable laws and communicate the same to the applicant. Upon receipt of such communication the applicant shall collect an authenticated copy of the application filed and related documents from the office of the Commission for making it available for inspection by all interested parties as directed by the Commission.

6.2 The Commission may upon scrutiny of the application, require the applicant to furnish within four (4) weeks, such additional information or particulars or documents as the Commission may consider necessary for the purpose of dealing with the application.

7. Copies of documents for public inspection

7.1 The applicant shall maintain at his own office and at such other place as may be designated by the Commission, copies of the application along with the documents referred to in Appendix 1 for public inspection and furnish to persons applying for them the copies of such documents at a price not exceeding the normal photocopying charges. The Applicant shall also place the application on his website, if any.

Provided where the applicant considers information contained in the application to be sensitive, the applicant should clearly identify such information and the reason they regard it as commercially sensitive, so that the Commission can consider whether the information should be released or not.

8. Notice of application

8.1 The applicant shall, within seven (7) days from the date of admission of the application, publish a notice of the application in the form specified in Appendix 2 with such particulars and in such manner as the Commission may direct.

8.2 The published notice shall be headed by a short title corresponding to that given in the application and shall give the addresses of the offices at which the application documents therein referred to may be inspected and copies of same may be purchased and shall also state that any person, desirous of making a representation with reference to the application to the Commission, may do so by letter addressed to the Commission in this regard, within thirty (30) days from the date of publication.

9. Service of notice of the application

9.1 The Commission may direct that the notice of the application be served on the Central Government, the State Government, the local authority or any other authority or person or body as the Commission may direct in such form, with such particulars and in such manner as the Commission may consider appropriate.

9.2 The applicant shall apply for and obtain the “no objection” certificate if any is required from the Central Government in terms of clause (ii) of sub-section (2) of Section 15 of the Act before hearing by the Commission.

10. Objections

10.1 Any person intending to object to the grant of the Licence shall file objection within thirty (30) days from the date of publication of the notice by the applicant. The objection shall be filed as a reply petition and the provisions of Chapter II of the Conduct of Business Regulations dealing with reply shall apply to the filing of such objections.

10.2 Any person who desires to have any amendment made in the proposed conditions of Licence shall furnish a statement of the amendments to the applicant and to the Commission within the time allowed by the Commission for filing objection.

11. Hearings and local inquires

11.1 After the intended application is duly published and the time for filing of objections is over and after the applicant has furnished to the Commission the “no objection” certificate, if any, required from the Central Government and Local authority, the Commission may proceed with the hearing of the application.

- 11.2 The Commission shall give notice of hearing to the applicant, the persons who had filed objections, the Central Government, the State Government and such other authority, person or body as the Commission may consider appropriate.
- 11.3 If any person objects to the grant of the Licence applied for, the Commission may if either the applicant or the objector so desires, cause a local inquiry to be held for which the notice in writing shall be given to the applicant and the objector;
- 11.4 In case of a local inquiry under Clause 11.3 above a memorandum of the results of the inquiry made shall be prepared and shall be signed by the applicant, the Officer or person designated for the purpose and such other person as the Commission may direct.
- 11.5 The hearing on the application for grant of Licence shall thereafter proceed as far as possible in the same manner as provided in Chapter II of the Conduct of Business Regulations.

12. Grant of Licence:

- 12.1 After the hearing, under Regulation 11 the Commission may decide to grant or refuse the Licence and if it decides to grant the Licence it may do so on such terms and conditions and with such modifications to the general conditions and on such specific conditions as the Commission may decide.
- 12.2 When the Commission has approved the grant of Licence, the Commission shall inform the applicant of such approval and the conditions to be satisfied by the applicant including the initial and annual Licence fees as given in these Regulations.
- 12.3 On receiving 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 the grant of the Licence, the Commission may direct the applicant to publish the Licence or such part or gist thereof as the Commission consider it to be appropriate.
- 12.4 The Commission shall issue a Licence to the applicant in the form provided at **Appendix 3**.
- 12.5 The Commission shall, within fifteen (15) days of passing the order to grant a Licence, forward a copy of the Licence to the State Government, Central Electricity Authority, Local authority and to such other person as the Commission considers necessary.
- 12.6 Any person who has his inter-state trading Licence revoked or suspended or any conditionality applied by the Central Electricity Regulatory Commission shall no longer be permitted to conduct trading of electricity within the State of Jharkhand.

13. Rejection of application for grant of licence

13.1 The Commission, as far as practicable, within ninety (90) days of receipt of an application for grant of a licence may reject an application for reasons to be recorded in writing if such application does not conform to the provisions of the Act or the rules and regulations made thereunder or the provisions of any other law for the time being in force. Where the Commission has decided to refuse the licence, the Secretary shall inform the Applicant of such refusal within fourteen (14) days of rejecting the application along with a copy of the reasoned order of the Commission.

13.2 If the applicant is willing to accept the Licence with the modifications, changes or additions and subject to such other terms and conditions as the Commission directs under Regulation 12.1, the applicant shall acknowledge acceptance to the Commission within 15 days or receipt of the approval from the Commission.

14. Deposit of Copies of Licence

14.1 A person who has been granted a licence shall within thirty (30) days of the grant of such licence make available a copy of such licence for public inspection during working hours at his office.

14.2 Every such trading licensee shall, within a period of thirty (30) days from the grant of licence, make available for sale, printed copies of the licence, at a reasonable price not exceeding photocopying charges.

15. Commencement of the Trading Licence

The Trading Licence shall commence from such date as the Commission will specify in the order granting the Licence.

16. Amendment of Licence:

16.1 The General Conditions of Licence in Chapter III may be altered or amended by the Commission at any time, if it deems fit and proper, it is in the public interest to do so, in exercise of powers under Section 18 of the Act. Provided that no such alterations or amendments shall be made except with the consent of the Trading Licensee unless such consent has, in the opinion of the Commission, been unreasonably withheld.

16.2 In the event, that the Trading Licensee wishes to amend the Licence conditions, the application for amendment of the conditions of the licence shall be made by the Trading Licensee as per the following Regulations

- 16.3 The application shall be accompanied by a statement of the proposed amendment and shall be supported by affidavit as provided in Regulation 4.8 of Chapter II of these Regulations.
- 16.4 The applicant shall, within seven (7) days from the date of admission of the application for amendment for hearing publish a public notice of the application filed giving a brief statement of the amendments proposed, the reason for the proposed amendments, the effect of the amendments proposed on the discharge of the functions of the Trading Licensee under the Licence granted and the consumers, the alternate arrangements proposed for such discharge of the functions and such other particulars as the Commission may direct.
- 16.5 The notice published shall give the addresses of the offices at which the application for amendment may be inspected and copies of the application and the documents can be purchased and shall state that a person, desirous of making any representation with reference to the application to the Commission, may do so by letter addressed to the Commission, within thirty (30) days from the date of publication.
- 16.6 In the event the Commission proposes to amend the terms and conditions of the Licence granted to a Trading Licensee, the Commission shall publish a public notice of the proposed amendments giving a brief statement of the amendments proposed, the reasons for the proposed amendments, the effect of the amendments proposed on the discharge of the functions of the Trading Licensee under the Licence granted and effect on the consumers, the alternative arrangement proposed for such discharge of the functions and such other particulars as the Commission may consider appropriate.
- 16.7 The Commission shall not make any alterations or amendment to Licence conditions whether initiated by the Trading Licensee or by the Commission unless all suggestions or objections received within thirty (30) days from the date of the first publication of the notice in clauses 16.5 and 16.6 have been considered by the Commission.
- 16.8 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.

Chapter III- General Terms and Conditions of Licence

17. Compliance with laws, rules and regulations

- 17.1 The Trading Licensee shall comply with the provisions of the Act, Rules, Regulations, orders and directions issued by the commission from time to time and the provisions of all other applicable laws.

17.2 The Trading Licensee shall act in accordance with these General Terms and Conditions except where the Trading Licensee is exempted from any provisions of these general conditions at the time of the grant of Licence or otherwise specifically obtains the approval of the commission for any deviation there from.

17.3 The Trading Licensee shall duly comply with and undertake all activities consistent with the Jharkhand Electricity Grid Code, Electricity Supply Code and other codes and standards issued from time to time, orders and directions issued by the National Load Despatch Centre, Regional Load Despatch Centre and the State Load Despatch Centre and other statutory authorities in the discharge of their functions under the Act.

17.4 The Trading Licensee will give the details of the state entity with whom transactions are proposed to be carried out.

18. Duties of a Trading Licensee

18.1 The Trading Licensee may engage in the business of trading in electricity in the state and shall not undertake any other activity not permitted by the Electricity Act 2003.

18.2 The Trading Licensee shall:

- a. have in place all agreements or arrangements for the purchase and sale of electricity, and all necessary authorizations as required by the Trading Licence to be able to perform its obligations under such agreements or arrangements;
- b. have in place the requisite Agreements with the Transmission Licensees and Distribution Licensees for the transmission or wheeling of electricity, as the case may be;
- c. have in place Billing and Settlement Agreements, i.e. between the trader and generator, between the trader and other licensees, and between the trader and other licensees, and between the trader and his customers;
- d. have in place a well-structured payment security mechanism, i.e. through letters of credit or through any other superior instrument, to safeguard against default on payments for the electricity traded;
- e. inform the customer as to when the expiry will occur if the contract of the trader with its customer is for a fixed term, prior to its expiry and the tariffs and terms & conditions applicable to the customer beyond the expiry of the term, if the arrangement is to be continued;
- f. The Trading Licensee shall establish adequate communication facilities such as telephone, fax, computer and internet facilities before undertaking trade.

- g. the Trading Licensee shall ensure that the appropriate meters are in place for the purpose of energy accounting and comply with the specifications as specified by the authority.
- h. coordinate with SLDC and STU with regard to all trading related activities and should comply with any direction by the State Load Dispatch Centre (SLDC);
- i. increase his net worth if the volume of trade moves from a lower category to a higher category and the change of category shall be decided based on the volume of electricity traded for the year ending as on the 31st of March of each year and the Trading Licensee shall keep the Commission informed of his moving from one category to the other and subsequent changes in the net worth;
- j. decrease his net worth if the volume of trade moves from a higher category to a lower category and the change of category shall be decided based on the volume of electricity traded for the year ending as on the 31st of March of each year and the Trading Licensee shall keep the Commission informed of his moving from one category to the other and subsequent changes in the net worth;
- k. be governed by the technical requirements, capital adequacy requirements and creditworthiness as may be specified by the Commission and shall upgrade/downgrade these technical and capital adequacy requirements, including staff, when the volume of trading increases/decreases;
- l. maintain an up-to-date register or record of his customers and all the business transactions;
- m. comply with any other requirements as the Commission may direct from time to time; and
- n. not enter into any agreement leading to abuse of its dominant position, if any, or enter into a combination which is likely to cause or causes an adverse effect on competition in the electricity industry.
- o. The Trading Licensee shall be subject to the trading margins for the intra-state trading, as may be fixed by the Commission, from time to time
- p. The Trading Licensee shall pay the licence fee specified under Regulation 21 in accordance with the time schedule specified.
- q. The Trading Licensee shall pay to the Distribution Licensee concerned as provided in sub-section (2) of Section 42 of the Act the amount of surcharge if any permitted to be recovered by the Trading Licensee in the case of trading of electricity to the Open Access Consumer as directed by the Commission

- r. The Trading Licensee shall render all assistance to any person authorized by the Commission for carrying out his duties relating to the Trading Licence:
- s. Wherever prior approval of the Commission is required, the Trading Licensee shall file an appropriate application before the Commission, in accordance with the Conduct of Business Regulation.

18.3 The Trading Licensee shall not, without the prior approval of the Commission:

- a. undertake any transaction to acquire by purchase or takeover or otherwise, the utility of any other Licensee;
- b. merge his utility with the utility of any other licensee
- c. acquire any beneficial interest in any Generating Company or Generating Station; or assign or transfer his Trading Licence to any person, by sale, lease, exchange or otherwise
- d. create any encumbrance on the assets of the Licensed Business, except where such encumbrance is created for the purpose of the Licensed Business; all within the State.

18.4 The Trading Licensee shall seek approval of the Commission before making any loans to, or issuing any guarantee for any obligation of any Person, except when made or issued for the purposes of the Licenced Business. Loans to employees pursuant to their terms of service and trade advances in the ordinary course of business are excluded from the requirement to seek such approval.

18.5 The Trading Licensee shall not engage in the business of transmission of electricity.

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

- a. that the transaction shall be undertaken on an “arms-length basis” and at a value that is fair and reasonable in the circumstances, which for the purposes of this Regulation, shall mean with respect to any specific transaction, substantially on terms that would be obtained between the Trading Licensee and a third party unrelated to and unconnected with the Licensee;
- b. that the Trading Licensee shall report to the Commission, for each financial year, the details of all transactions of the nature referred to in this Regulation entered into during the financial year;

- c. that the Trading Licensee shall submit to the Commission, for each financial year, a certificate from a Chartered Accountant as regards compliance with the requirement of clause 18.6 (a) above.

18.7 The Trading Licensee shall also set up websites to inform the total amount of power made available by it, the amounts already contracted by various persons and power available for sale and such other information as required by the Commission. Such information should be updated at the end of every quarter.

19. Provision of information to the commission

19.1 The Trading Licensee shall duly maintain such information as the Commission may direct under Section 128 of the Act. The Trading Licensee shall furnish to the Commission without undue delay such information, documents and details related to the Licenced Business or any Other Business of the Trading Licensee, as the Commission may require from time to time for its own purpose for the purposes of the Government of India, State Government, the Central Government and/or the Central Electricity Authority, the State Trading Utility and the Regional and State Load Despatch Centres.

19.2 The Trading Licensee shall furnish the information as may be required from time to time to monitor the Trading Licensee's performance and compliance with the terms and conditions of the Licence and any other legislative or regulatory requirement in proforma provided in **Appendix 4 and Appendix 5** of these Regulations for submission of information.

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

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

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

19.3 The Trading Licensee shall notify the Commission as soon as possible of the occurrence of any other incident which materially affects any part of its trading activities and in any event, by not later than seven (7) days from the date of such occurrence. The Trading Licensee shall submit a report to the Commission giving full details of the facts within the knowledge of the Trading Licensee regarding the incident and its cause.

19.4 The Trading Licensee shall immediately inform the Commission about any incident restricting it from meeting its obligation under the Trading Licence granted including any act of omission or commission by others and steps taken by the Trading Licensee to mitigate the effect of such incident.

19.5 The Commission may by order, after providing an opportunity of hearing direct the Trading Licensee to provide such amount of compensation as the Commission may direct to persons' who are affected or prejudiced by any act of commission, omission or negligence on the part of any of the employees or agents of the Trading Licensee.

20. Accounts

20.1 The Trading Licensee shall:

- a Maintain separate information and statement of accounts for the business of Intra-State Trading covered by the Trading Licence;
- b Maintain the statement of accounts in such form and containing such particulars as may be specified by the Commission and till such time as these are specified by the Commission, the accounts shall be maintained in accordance with the Companies Act, 1956 (1 of 1956) as amended from time to time
- c Keep the accounts of the business of Intra-State Trading separate from any Other Business carried on by the Trading Licensee, whether licenced or otherwise;
- d Prepare on a consistent basis from such records, accounting statements for each Financial Year comprising a profit and loss account, a balance sheet and a statement of source and application of funds together with notes thereto and showing separately the amounts of any revenue, cost, asset, liability, reserve, or provision which has been either:
 - (i) Charged from or to any Other Business together with a description of the basis of that charge; or
 - (ii) Determined by apportionment or allocation between the various business activities together with a description of the basis of the apportionment or allocation;
- e Provide in respect of the accounting statements prepared in accordance with foregoing clauses, a report by the auditors in respect of each Year, stating whether in their opinion the statements have been properly prepared and give a true and fair view of the revenues, costs, assets, liabilities and reserves reasonably attributable to the business to which the statements relate, and

- f Submit to the Commission copies of the accounting statements and auditor's report not later than six months after the end of the Year to which they relate.

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

21. Payment of annual license fees

21.1 The Trading Licensee shall pay to the Commission the annual license fee of the amount specified hereunder, before start of trading in the State for a new licensee/before start of the Financial Year for an existing licensee payable by means of a demand draft or pay order drawn in favour of Secretary, Jharkhand Electricity Regulatory Commission, 2nd Floor, Rajendra Jawan Bhawan, Sainik Bazar, Ranchi –834001, Jharkhand

Sl No	Category	Volume of Electricity proposed to be traded per year in the state of Jharkhand	Annual License fee (in Rs)
1	A	Upto 50 MU	50,000
2	B	50-100 MU	100,000
3	C	100-200 MU	200,000
4	D	200-500 MU	500,000
5	E	Above 500 MU	Annual trade (kWh) x Rs1 x 0.1%

21.2 For the period between the date of commencement of commercial operation and end of the financial year, yearly Licence fee as provided in clause 18.1 of this regulation shall be paid on pro rata basis.

21.3 In case the Trading Licensee fails to pay to the Commission the Licence fee specified above or a part thereof, the Trading Licensee shall be liable to pay late payment surcharge on the outstanding amount at a simple interest at the rate of 2% per month or a part thereof, calculated from the due date for the period the Licence fee or a part thereof remains unpaid.

21.4 If any applicant on being informed about the decision to grant Licence is unable to deposit the Licence fee within the period fixed, viz. seven (7) days, and applies to the

Commission within that period for extension of time for payment, the Commission may allow an extension, which shall not be beyond seven (7) days, subject to deposit of late payment surcharge of 2% per month or a part thereof, calculated from the due date for the period the licence fee remains un paid by the applicant from the date of issue of information.

21.5 The Trading Licensee shall be entitled to take into account any fee paid by it under this Regulation 21 as an expense in the determination of aggregate revenues to be charged to the Tariffs, but shall not take into account any late payment charges paid pursuant to this clause.

22. Revocation of Trading Licence:

22.1 Subject to the provisions of section 19 of the Act and the Regulations framed there under, the Commission may, at any time initiate proceedings against the Trading Licensee for revocation of the Trading Licence and if satisfied in such proceedings on the grounds for revocation duly considering the public interest, revoke the Trading Licence:

- a. where the Trading Licensee in the opinion of the Commission, makes willful and prolonged default in doing anything required of him by or under the Act or the rules or regulations made thereafter;
- b. where the Trading Licensee violates any of the terms or conditions of his Licence the breach of which is expressly declared by such Licence to render it liable to revocation;
- c. where the Trading Licensee fails, within the period fixed in this behalf by his Licence, or any longer period which the Commission may have granted therefor:
 - (i) to show to the satisfaction of the Commission, that he is in a position to fully and efficiently discharge the duties and obligations imposed on him by his Licence; or
 - (ii) to make deposits or furnish the security, or pay the fees or other charges required by his Licence;
 - (iii) where the Licensee fails to meet the eligibility criteria in accordance with these regulations
 - (iv) where the Licensee fails to submit the information as required in accordance with the regulation 19'

- d. where in the opinion of the Commission the financial position of the Trading Licensee is such that he is unable to fully and efficiently discharge the duties and obligations imposed on him; and
- e. where the Trading Licensee has failed to comply with all the Regulations, codes, and standards and also orders and directions of the Commission or otherwise has committed an act which renders the Trading Licence revocable on any other grounds specified in the Act or the Rules or Regulations framed there under.

22.2 The Commission shall give notice of the proceedings for the revocation of the Trading Licence to the Trading Licensee and to such other person, authority or body as the Commission may consider necessary.

22.3 Subject to the provisions of Act, and the procedure contained therein, the inquiry by the Commission for revocation of the licence, in so far it is applicable, shall be in the same manner as provided in **Chapter III** of the Conduct of Business Regulations.

22.4 Provided that the Trading Licensee shall be given not less than three months notice in writing to show cause against the proposed revocation and the notice to show -cause issued to the Trading Licensee shall clearly state the grounds on which the Commission proposes to revoke the licence.

22.5 If the Commission decides to revoke the Trading Licence, the Commission shall communicate the order of revocation to the Trading Licensee stating the effective date from which such revocation shall take effect.

22.6 The Commission may instead of revoking the Trading Licence pass any other order imposing such terms or conditions subject to which the Trading Licensee shall be permitted to operate thereafter.

22.7 Where the Commission has given notice for revocation of Licence, the Trading Licensee may, after prior approval of the Commission, sell the undertakings of the Trading Licensee to a person who is found eligible by the Commission for grant of Trading Licence, without prejudice to any proceeding which may be initiated or any penalty which may be imposed against the person whose Trading Licence is revoked.

23. Dispute resolution

23.1 The Commission may nominate person(s) as arbitrator(s) to adjudicate and settle disputes between the Trading Licensee, any other licensee or generating companies in

pursuance of clause (f) of sub-section (1) of section 86 read with section 158 of the Central Act and Regulations of the Commission.

- 23.2 All issues arising in relation to interpretation of these Terms and Conditions of Licence shall be a matter for the determination of the Commission and the decision of the Commission on such issues shall be final, subject only to the right of appeal under Section 111 of the Central Act.
- 23.3 The arbitration proceedings for disputes under clauses 23.1 above may be referred to the arbitration of others as specified by the Commission but shall be subject to the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996).
- 23.4 The Commission may by order, after providing an opportunity of hearing, direct the Trading Licensee to provide such amount of compensation as the Commission may direct to persons' who are affected or prejudiced by any act of commission, omission or negligence on the part of any of the employees or agents of the Trading Licensee.

Chapter IV- Miscellaneous Conditions

24. Miscellaneous Conditions

- 24.1 The Commission may at the time of grant of Trading Licence waive or modify the application of any of the provisions of these General Conditions, if it is in the public interest to do so in the opinion of the Commission, to be recorded in writing, either in the order granting the Licence or by Special Conditions made applicable to a specific Trading Licensee.
- 24.2 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 procedures to be followed and various matters, which the Commission has been empowered by this regulation to direct, and matters incidental or ancillary thereto.

25. Standards of Performance

The Commission may after consultation with the Trading Licensee specify standards of performance of a licensee or a class of licensees and shall also state the reporting requirements and frequency of reporting against the performance standards.

26. 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.

27. Power to amend Regulations

The commission may from time to time add, vary, alter, modify or amend any provisions of these Regulations after following the necessary procedures.

By the order of the Commission

Sd/- A.K. Mehta

Secretary

Jharkhand State Electricity Regulatory Commission

APPENDIX 1

FORM – 1: Application Form for Intra State Trading Licence in the State of Jharkhand

The applicant must submit the completed application in six copies to the Secretary, Jharkhand State Electricity Regulatory Commission, along with application fees as prescribed in Regulation 21.1 in form of a DD drawn in favour of Secretary, Jharkhand State Electricity Regulatory Commission, payable at Ranchi.

PART- A: GENERAL INFORMATION OF APPLICANT

Article I. 1) Details of Applicant

- a. Full Name of the Applicant
- b. Full Address of the Applicant:
- c. Name, Designation & Address of the Authorized Person
- d. Contact Telephone Numbers:
Fax Number(s):
Email ID:

2) Nature and Details of Ownership

- a. Company/ Firm/ Co-op Society/:Individual/ Others
(If not an individual, the name of Chief Executive/MD)
- b. Details of Incorporation/ Registration
Place of Incorporation/ Registration:
Year of Incorporation:
Registration Number:
- c. Names and Addresses of Directors

3) Principal Shareholders/ Partners/ Members:

- i)
- ii)
- iii)

4) Details of Trading Operations:

- a. The maximum trading volume the applicant proposes to handle on a quarterly basis in the initial three years (In Million Units and Capacity)
- b. Funding arrangements (source and application) to meet the obligations:

5) Details of financial data

- a. Net Worth for immediate past five (5) financial years (specify financial year as applicable)

(DD/MM/YY) to (DD/MM/YY)	Net worth (Rs Crore)
i) Year 1 () to ()	_____
ii) Year 2 () to ()	_____
iii) Year 3 () to ()	_____
iv) Year 4 () to ()	_____
v) Year 5 () to ()	_____

- b. Annual Turnover for immediate past five (5) financial years (specify financial year as applicable)

(DD/MM/YY) to (DD/MM/YY)	Annual Turnover (Rs Crore)
i) Year 1 () to ()	_____
ii) Year 2 () to ()	_____
iii) Year 3 () to ()	_____
iv) Year 4 () to ()	_____
v) Year 5 () to ()	_____

- c. Whether applicant himself shall be financing the proposed trading fully on its own balance sheet

Yes/No

If, yes, proposed equity from the applicant

- i) Amount:
- ii) Percentage:

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 the applicant and the other agency :

- Details of debt proposed for the trading 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:

7) Trading Arrangement: Description of trading systems/description of approach & methodology for establishment of the trading arrangement

8) Prior Experience (Past 2 years details for Related Business)

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

Name & Address of the related activities:

Brief description of related activities:

9) Technical Expertise:

Name of Personnel	Qualification	Years of Experience	Area of Work	Status in the firm

PART – B: LIST OF DOCUMENTS TO ACCOMPANY LICENCE APPLICATION

1. Information relating to pre-existing licence (if any) of the applicant with copy of licence/sanction.
2. Copies of Company’s Articles of Association, Memorandum of Association, Partnership deeds and similar constitutional documents.
3. Certification of incorporation/Registration.
4. Certification for commencement of Business.
5. Original Power of Attorney of the Signatory confirming the authorization from the Applicant or its Promoter.

6. Details of Income Tax registration.
7. Data relating to Management and Financial Capability

a. Technical

Curriculum vitae of Technical experts

b. Financial:

- Bank references affirming that the Applicant is financially solvent
 - Most recent Annual Financial Statements (Balance Sheet)
 - List of documents in support of 5 (a) and (b)
 - **Annual Audited Accounts for the past 5 years for the Applicant and any Holding Company, Subsidiary or affiliated company**
 - **Any accompanying notes and certifications on the above statements from reputable chartered accountant**
- c. Any other document evidence to substantiate the financial capabilities, technical competence and others.

8. Data relating to the Applicant's Business proposals

Three year Business Plan (with projection) for the proposed business for which the application relates

Date

Signature of the Applicant

APPENDIX 2

Porforma of Publication of Licence (Under Regulation 8)

NOTICE

Notice is hereby given to all the interested persons that Messrs. (name and address of the applicant) has applied to the Jharkhand State Electricity Regulatory Commission (the Commission) for grant of licence for..... (nature of the licence) in the State of Jharkhand. The application and other documents filed by the applicant can be inspected at the office of the applicant, at and the copies of the same will be available from the applicant for a price not exceeding the normal photocopy charges.

Any person interested in objecting to or otherwise making representation in regard to the grant of licence may forward the objections/representation with the Commission in two..... copies by hand delivery or by registered post and should serve a copy of the objection/representation to Messrs at the address mentioned above.

The person filing the objection/ representation should give the following particulars.

1. Name and full address
2. Grounds/reasons in support of the objection/representation together with documents or evidence, if available
3. Whether he wishes to be heard in person or through authorized representative at the time of hearing.

APPENDIX 3

LICENSE TO TRADE IN ELECTRICITY AS A TRADING LICENSEE

1. The Jharkhand Electricity Regulatory Commission (hereinafter referred to as “the Commission”), in exercise of the powers conferred under Section 14 of the Electricity Act, 2003 (hereinafter referred to as “the Act”), hereby grants this Licence as a Category _____ trader to _____, (hereinafter referred to as “the licensee”) to trade in electricity as a trading licensee in the area _____ subject to the terms and conditions contained in the Act, (in particular, Sections 17 to 22 thereof, both inclusive), the Rules, general conditions of the Trading Licence specified under the Jharkhand Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Intra-State Trading Licence) Regulations, 2005 and other Regulations specified by the Commission (herein after referred to as “the Regulations”), including statutory amendments, alterations, modifications, reenactments thereof, which shall be read as part and parcel of this Licence.

2. This Licence is not transferable, except in accordance with the provisions of the Act, the Rules and the Regulations.

3. (a) The licensee shall not without prior approval of the Commission: (a) Undertake any transaction to acquire by purchase or take over or otherwise, the utility of any other licensee; or (b) merge its utility with utility of any other licensee;

(b) The licensee shall not at any time assign its Licence, or transfer its utility, or any part thereof, by sale, lease, exchange or otherwise without the prior approval of the Commission

(c) Any agreement relating to any transaction referred to in sub-clause (1) and sub-clause (2) unless made with the approval of the Commission, shall be void.

4. The grant of this Licence to the licensee shall not in any way hinder or restrict the right of the Commission to grant a Licence to any other person within the same area for trading in electricity as an electricity trader. The licensee shall not claim any exclusivity.

5. This Licence shall commence on the date of its issue and unless revoked earlier, shall continue to be in force for a period of 25 (twenty five) years.

6. The licensee may with prior intimation to the Commission engage in any business for optimum utilisation of its assets.

Provided that the licensee shall not engage in the business of transmission of electricity.

7. Unless otherwise specified by the Commission, the licensee shall pay annual license fee of Rs. _____ and license fee for a part of the year shall be paid on pro-rata basis rounded off to the nearest hundred rupees.

For the purpose of this clause, the "year" means a period of twelve months from 1st April of a calendar year to 31st March of the following calendar year.

8. The provisions contained in Sections 19 to 22, both inclusive, of the Act shall apply to the licensee with regard to revocation of Licence and sale of his utility.

Sd/-

SECRETARY

APPENDIX 4

Proforma for submission of information for the quarter (January to March/April-June/July-Sept/Oct-Dec))

Name of the Trading Licensee:

License details (No & date):

Sl. No	Volume of Trade (MU)	Purchased from* (Name and category of seller)	Sold to* (Name and category of seller)	Transmission Charges borne by seller/ trader/ buyer**	Transmission Losses borne by seller/trader/ buyer**	UI charges borne by seller/trader/ buyer**	Wheeling charges borne by seller/trader/ buyer**

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.

APPENDIX 5

Proforma for Submission of Standards of Performance of Trading Licensee (to be submitted to the Commission and SLDC)

Name of the Trading Licensee:

1) License details (No & date):

Sl. No	Volume of trading during the quarter (MU)	Cumulative trading upto the present quarter	Whether there is any change in the category of trader	Whether networth is increased, due to change of category (Yes/No)	Whether additional licence fee, due to change in category deposited with the Commission (Yes/No)	Whether any violation to the licence conditions pointed out by any agency or observed by the licensee himself	Payment track record for energy purchased for trading	Remarks

2) Details of Complaints :

- | | |
|---|---|
| i) No. of complaints received | ii) No. of complaints resolved |
| ii) No of complaints pending | iv) Maximum duration for which any complaint has been pending |
| iii) Average duration of resolution of complaints | |

Note:

- 1) A separate copy of duly filled Appendix 5 shall also be submitted to the Commission directly.
- 2) SLDC shall verify the volume of trading & pass on the Appendix 5 to the Commission.