

FORM - 8

Licence for Trading in Electricity under the Electricity Act, 2003

Licence granted by the Haryana Electricity Regulatory Commission under Section 14 of the Electricity Act – 2003 (Act 36 of 2003) to -----(Name and Address of the Licensee) for carrying on the business of trading in electricity within the Area of trading (as defined in the Schedule – I of the Licence) and upon the terms & conditions specified below:

PART I

TERMS OF THE LICENCE

1 **Short Title**

This licence may be called “The -----(name of the Licence) Trading in Electricity Licence [Licence No. HERC/TRD / ___ of 20 _ _].”

2 **Definitions**

In this licence unless the context otherwise requires:

- (a) “**Act**” means the Electricity Act 2003 (36 of 2003);
- (b) “**Annual Accounts**” means the accounts of the 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 in terms of the provisions of the Act;
- (c) “**Auditors**” means the Licensee’s statutory Auditors for the time being 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);
- (d) “**Authorised**”, in relation to any person, business or activity, means authorised by licence granted under Section 14 of the Act or exemption granted under Section 13 of the Act and the regulations framed by the Commission;
- (e) “**Commission**” means the Haryana Electricity Regulatory Commission;
- (f) “**Controlling Interest**” means the ownership of ten percent or more of the paid up share capital of a company (including holding company) or the ability to control ten percent or more of the voting rights at a general meeting

of the company or the ability otherwise to influence materially the management of the company by contract or otherwise;

- (g) **“Expected Revenue Requirement Calculation”** means the ensuing year’s calculation of costs and revenue by the Licensee, as described under the Condition 24 of the Licence for trading;
- (h) **“Licence”** means a licence granted under section 14 of the Act;
- (i) **“Licensee”** means ---- (Name of the Licensee) who has been granted a Licence in its capacity as operator of the licensed Business in the specified area of trading;
- (j) **“Licensed Business”** means the business of trading in electricity in the Area of trading as authorised under this Licence;
- (k) **“State Grid Code”** means the state grid code specified under clause (h) of subsection (1) of section 86 of the Act;
- (l) **“State Government”** means the Government of Haryana;
- (m) All other expressions used herein but not specifically defined herein but defined in the Act shall have the meaning assigned to them in the Act. The other expressions used herein but not specifically defined in these regulations or in the Act but defined under the Haryana Electricity Reform Act, 1997 shall have the meaning assigned to them under the said Act, provided that such definitions in the Haryana Electricity Reform Act, 1997 are not inconsistent with the provisions of the Electricity Act, 2003.

3 Terms of the Licence

- 3.1 The Commission, in exercise of powers conferred on it by Section 14 of the Act, hereby grants to the Licensee a licence for trading in electricity in the Area of trading set out in Schedule -I of the licence during the period specified in Condition 3.3, subject to the conditions set out in Parts II, III, IV and V of this licence.
- 3.2 The Conditions are subject to modification or amendment in accordance with their terms, the provisions of Condition 27 or with the provisions of the Act.
- 3.3 The licence shall come into force on the date on which the Commission communicates its decision granting this licence and unless revoked earlier shall remain in force for a period of 25 years from that date.

Part II

General Conditions

4 Compliance with Regulations, Codes, Orders, guidelines and Directions

- 4.1 The Licensee shall comply with the regulations/ codes/ orders/ guidelines/ directions issued by the Commission from time to time and shall act in accordance with the terms of this licence, except where the licensee obtains the approval of the Commission for any deviation of such regulations/ codes/ orders/ guidelines/ directions and terms.
- 4.2 The Licensee shall refer all disputes arising under the purview of the licence for settlement by the Commission.

5 Acts Requiring Prior Consent

- 5.1 The Licensee shall not do the following activities without the prior approval of the Commission: -
- a) purchase or import or otherwise acquire electricity under this Licence from any Person other than from a trader or generator under the terms of the Licence/ consent issued by the Commission to the trader or in terms of the power purchase agreement with the generator approved by the Commission and at the tariff approved by the appropriate Commission for such trader or generator.
 - b) sell or otherwise dispose of electricity to any Person, other than pursuant to this Licence; or
 - c) Undertake any transaction to acquire by way of purchase or takeover or otherwise, the utility of any other licensee, or
 - d) Merge his utility with the utility of any other licensee,

Provided that nothing contained in condition (c) & (d) above shall apply if the utility referred to in condition (c) or condition (d) is situated in a State other than the State of Haryana.

- 5.2 The Licensee shall, before obtaining the approval under condition 5.1(c) & (d), give not less than one month's notice to every other licensee who transmits or distributes or trades electricity in the area of the licensee as per Schedule-I.
- 5.3 The Licensee shall not, at any time, assign his licence or transfer his utility, or any part thereof, by sale, lease, exchange or otherwise without the prior approval of the Commission.

- 5.4 The Licensee shall seek prior approval of the Commission before making any loans to, or issue any guarantee for any obligation of any person, where the same is beyond the permissible limits imposed by the Companies Act, 1956. Loans to employees pursuant to their terms of service and advances to suppliers in the ordinary course of business are excluded from the requirement to seek such approval.
- 5.5 Any agreement relating to any transaction specified in condition(s) above, unless made with the prior approval of the Commission, shall be void.
- 5.6 For cases, which require prior permission of the Commission, the Licensee will file a suitable application with the Commission disclosing relevant facts. The commission may within 90 days of the application being filed complete in all respects, allow the arrangement subject to such terms and conditions or modifications as is considered appropriate or reject the same, for reasons recorded in writing in support of the order passed.

6 Notice for Acquisition of Controlling Interest

Upon acquiring information that any person intends to acquire a Controlling Interest in the Licensee's business, the Licensee shall inform the Commission forthwith of the proposed acquisition and shall furnish the Commission with all relevant details in its possession including the likely change in the share holding pattern.

7 Duties of the Licensee

- 7.1 The licensee shall discharge such duties as may be laid down by the Commission.
- 7.2 Subject to applicable regulations, directions and Force Majeure conditions, the licensee shall always endeavour to trade adequate power of appropriate quality to its customer / licensee.

8 Other Activities of the Licensee

- 8.1 The Licensee, with prior intimation to the Commission, may engage in any other Business for the optimum utilisation of the assets, subject to the following conditions:
- (a) that the Licensed Business and the conduct thereof by the Licensee is not prejudiced and / or adversely affected in any manner;
 - (b) that a proportion of the revenues derived from such business shall, as may be specified by the Commission, be utilised for reducing the trading margin of the Licensee;

- (c) that the Licensee shall maintain separate accounts for each such Business undertaking and ensure that licensed business neither subsidises in any way such business undertaking nor encumbers its assets in any way to support such business.
- (d) that the Licensee shall always comply with the guidelines that the Commission may specify in this regard.

9 Accounts

9.1 The financial year of the licensee shall run from the first of April to the following thirty-first of March.

9.2 The Licensee shall in respect of each separate business for each Financial Year:

(a) keep such accounting records as would be required to be kept in respect of each such Separate Business as if it were carried on by a separate company, so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to, each Separate Business are separately identifiable in the books of the Licensee from those of any other business in which the Licensee is engaged, whether or not authorised by the Commission; and

(b) prepare on a consistent basis from such accounting records:

(i) for each financial year, accounting statements 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 in respect of each Separate Business the amounts of any revenue, cost, asset, liability, reserve or provision, which has been either:

1) charged from or to any other business (whether or not a Separate Business) together with a description of the basis of that charge; or

2) determined by apportionment or allocation between any Separate Business and any other business of the Licensee or its affiliate (whether or not a Separate Business) together with a description of the basis of the apportionment or allocation; and

(ii) in respect of the first six months of the first financial year and of each subsequent financial year, an interim profit and loss account and a Balance Sheet; a statement of source and application of funds and a cash flow statement together with such supporting documents and information and in such form as the Commission may prescribe from time to time; and

- (c) provide, in respect of the accounting statements prepared in accordance with the Condition 9, an Auditor's report in respect of each financial year, stating whether in their opinion these statements have been properly prepared in accordance with Condition 9 and give a true and fair view of the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to, the Separate Business to which the statements relate; and
 - (d) deliver to the Commission a copy of statements referred to in condition 9.2(b)(ii) not later than three months after the end of the period to which it relates, and copies of the statements referred to in condition 9.2(b)(i) and Auditor's report not later than six months after the end of the financial year to which they relate.
- 9.3 The licensee shall not change the basis of charge or apportionment or allocation in relation to the preparation of accounting statements in respect of a financial year from those applied in respect of the previous financial year, without prior approval of the Commission.
- 9.4 Where, in relation to the accounting statements in respect of a financial year, the Licensee has changed such basis of charge or apportionment or allocation from those adopted for the immediately preceding financial year, the Licensee shall in addition to preparing accounting statements on the basis which it has adopted, prepare such accounting statements on the basis which were applied in respect of the immediate preceding financial year.
- 9.5 The licensee shall maintain such cost accounting records as prescribed under the Cost Accounting Records (Electricity Industry) Rules, 2001 and prepare from such cost accounting records such statements as prescribed. The cost audit report along with audited cost records (statements) shall be submitted to the Commission not later than six months from the close of the financial year to which they relate.
- 9.6 Accounting statements prepared under Condition 9.2 shall, unless otherwise approved or directed by the Commission;
 - (a) be prepared in the manner and form prescribed under the Companies Act, 1956 (Act 1 of 1956)
 - (b) be published with the annual accounts of the Licensee;
 - (c) be prepared in accordance with generally accepted accounting practise; and
 - (d) state the accounting policies adopted.
- 9.7 References in Condition 9 to costs or liabilities of, or reasonably attributable to, any Separate Business shall be construed as excluding taxation and capital

liabilities which do not relate principally to that Separate Business and interest thereon.

9.8 The Licensee shall ensure that the accounting statements in respect of each financial year prepared under Condition 9.2 (b) (i) and the Auditor's report in respect of each financial year referred to in Condition 9 are made available to any person requesting them at a price not exceeding the reasonable cost of duplicating them.

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

10 Volume of trading

10.1 The licensee is authorized to trade in electricity not exceeding _____MU of energy in a year or _____ MW maximum capacity at any time.

10.2 The licensee shall be deemed to be authorized to trade in electricity in excess of the volume specified under condition 10.1 above provided that the licensee increases its net worth to the amount specified in the regulation 23 for such increased amount of trading, within three months of exceeding the authorization under condition 10.1 above.

10.3 The licensee shall, within three month of exceeding the volume of trading authorized under condition 10.1 above, inform the Commission and submit to the Commission evidence in support of its increase in the net worth as required under regulation 23.

11 Provision of Information to the Commission

11.1 The Licensee shall furnish to the Commission such information, documents and details related to the business of the Licensee in the manner in which the Commission may require for its purpose.

11.2 The licensee shall undertake such studies as the Commission may direct it to undertake from time to time for the improvement of the Licensed business.

12 Payment of Fees

12.1 During the tenure of the licence, the Licensee shall be liable to pay to the Commission an annual licence fee as specified under the Haryana Electricity Regulatory Commission (Fee) Regulation, 2005 (Regulation No- HERC/10/2005) as amended from time to time.

12.2 Where the Licensee fails to pay any fee under condition 12.1, the Commission may revoke this licence pursuant to Section 19 of the Act.

12.3 The Licensee shall be entitled to take into account any fee paid by it under this Condition 12 in the determination of aggregate revenue requirement made in accordance with Condition 24, but shall not take into account any interest paid on account of delay in payment as provided in the Haryana Electricity Regulatory Commission (Fee) Regulation, 2005 (Regulation No- HERC/10/2005).

13 Dispute Resolution

The Commission shall adjudicate upon the disputes between the Licensees and Generating companies and may refer any dispute for arbitration as per the HERC (Conduct of Business) regulation 2004 (Regulation No. HERC/06/2004).

14 Standards and procedures

The Licensee will participate and assist the Commission in the development, issue and review of any standards, codes, procedures proposed or notified by the Commission.

15 Penalty for Contravention of Conditions of the Licence

The Licensee shall be liable for action under Sections 142 and 146 of the Act in appropriate cases for contravening any one or more of the provisions of these conditions of licence.

16 Terms of Revocation

The Commission may, at any time, after complying with the requirements of Section 19 of the Act, revoke the licence by giving not less than 3 months notice in writing to the Licensee. For the purpose of clause (b) of Subsection (1) of Section 19 of the Act, the breach of any of the Conditions 4 to 8, 10 to 12, 17 to 21, 23.1, 24, 25 and 27.2 of this licence are hereby declared to render the licence liable to revocation.

PART - III

Technical Conditions

17 Demand Forecast

The Licensee shall on an annual basis:

- (a) forecast the demand for electricity within the Area of trading in each of the next succeeding 10 years;
- (b) prepare and submit such forecasts to the Commission in accordance with the guidelines issued by the Commission from time to time; and
- (c) co-operate with the State Transmission Utility in the preparation of electricity demand forecasts for the state of Haryana in such manner as the State Transmission Utility reasonably considers appropriate.

18 Power Procurement Procedure

- 18.1 The Licensee shall in all circumstances purchase electrical capacity and/or energy in an efficient and economical manner under a transparent procurement process as approved by the Commission and following the guidelines issued by the Commission from time to time relating to preparation of demand forecasts, power procurement plan and power procurement procedure.
- 18.2 The Licensee shall not purchase electrical capacity and/or energy without approval of the Commission under the terms of condition 18.1.
- 18.3 An approval required under condition 18.2 shall be granted when the Licensee has demonstrated to the Commission's satisfaction that:
- (a) electrical capacity and/or energy is necessary to meet the Licensee's service obligation in accordance with the Act and is consistent with the approved demand forecast and power purchase plan.
 - (b) the Licensee has examined the economic, technical, system and environmental aspects of commercially viable alternatives to the proposals for purchasing electrical capacity and/or energy (including arrangements for reducing the level of demand) and such examination has been carried out- in a manner approved by the Commission.
- 18.4 The Commission shall dispose of the application within 90 days from the date of receipt of such application.
- 18.5 In all circumstances the Licensee shall purchase electrical capacity and/or energy in a manner
- (a) which is in compliance with the State Grid Code
 - (b) the details of contracts entered into for capacity/energy purchases are furnished to the Commission within one month from the conclusion of such contracts.

19 Compliance with the State Grid Code

- 19.1 The Licensee shall comply with the provisions of the State Grid Code, in so far as applicable to it.
- 19.2 The Commission may, on reasonable grounds and after consultation with any affected Generating Companies, traders and Licensees, issue orders relieving the Licensee of its obligation under condition 19.1 in respect of such parts of the Grid Code and to such extent as may be laid down in those directions.

20 Compliance with the Distribution Code

The Licensee shall implement and comply with the Distribution Code specified by the Commission; provided that the Commission may issue an order either on an application or *suo-motu* relieving the Licensee of its obligations under the Distribution Code in respect of such parts of the Licensee's Distribution System and to such extent as the Commission may lay down.

21 Compliance with Standards

- 21.1 The Licensee shall conduct its trading Business in the manner which it reasonably considers to be the best to achieve the Standards of Performance specified by the Commission pursuant to Section 57 of the Act.
- 21.2 If the Licensee does not comply with all or any of the standards of performance, the Licensee shall pay compensation as may be specified by the Commission.
- 21.3 The Licensee shall not include any compensation /penalty/fine paid due to deficient service in the ARR.
- 21.4 The Licensee shall, within three months of the end of each financial year, furnish to the Commission information on the level of performance achieved against the performance standards specified by the Commission and the number of cases in which compensation was made and the aggregate amount of compensation paid. The Licensee shall, if required by the Commission, publish a summary of the report in a manner approved by the Commission.

22 Co-operation with STU, SLDC and other Licensees

- 22.1 The Licensee shall provide to SLDC, STU and/or to other Licensees such information that may reasonably be required to perform its functions and exercise its powers under the Act.
- 22.2 The Licensee shall comply with the directions of SLDC and STU issued under the Act.
- 22.3 The Licensee shall co-operate with the generating companies, other Licensees and with the SLDC for the efficient and co-ordinated operation of the power system

23 Customer Service

23.1 Customer's Right to Information

A licensee on request of his customer, to the extent that is reasonably available to the Licensee provide:

- (a) information on all services provided by the Licensee including information on the charges or alternative tariff schemes which may be available to the customer

- (b) information on the status of the customer's account with the Licensee;
- 23.2 The Licensee shall make available the latest/updated version of the Conditions of Supply and other rules, circulars and regulations related to trading in electricity and charges recoverable from the customer on its website, if any, at all times.

PART IV

Trading Margin and Expected Revenue Requirement Calculation

24 Trading Margin and Expected Revenue Requirement Calculation

24.1 Trading Margin

- (1) If the Commission considers it necessary to fix a trading margin, the licensee shall furnish such additional information as the Commission may require for this purpose.
- (2) The Commission may after considering all relevant factors determining a trading margin for a trader or a class of traders.
- (3) The licensee shall abide by the directions given by the Commission with regard to trading margin determined by it.

24.2 Expected Revenue Requirement Calculation

- (a) Each year not later than 10th November the Licensee shall prepare and submit to the Commission a report of its expected aggregate revenues and expected revenue requirement for its trading Business for the succeeding financial year in the manner and form prescribed by the Commission from time to time.
- (b) If the report referred to in Paragraph 24.2(a) indicates a significant difference between its expected aggregate revenues and its expected revenue requirement, the Licensee shall submit with its report an explanation of the measures it proposes to take, including any proposed tariff amendments, to eliminate the difference.
- (c) If the licensee fails to submit the ARR within the period specified above or any extension thereof granted by the Commission, the Commission may impose fine up to an extent of 0.05% of the aggregate Revenue Requirement which would be disallowed from the ensuing year aggregate revenue requirement.

25 Redressal mechanism

- 25.1 All disputes and complaints relating to trading in electricity shall be referred to the State Load Dispatch Centre, which may investigate and endeavour to resolve the grievance within a period of 30 days.
- 25.2 If the disputes and complaints are not resolved as above, the grievance shall be placed before the Commission.

26 Submission of Information to monitor licensee's performance

- 26.1 The licensee shall
- (a) furnish the information as may be required from time to time, to monitor the licensee's performance and compliance with the terms and conditions of the licence and any other legislative or regulatory requirement in Schedule II and Schedule III.

Provided that the information in the prescribed form shall be furnished to the State Load Dispatch Centre or other entity as may be specified by the Commission from time to time with a copy to the Commission, on a monthly basis on 10th day of the succeeding month in the financial year,

Provided further that distribution licensee buying electricity for resale to consumers shall not be required to furnish information in Schedule II and Schedule III.

Provided also that the report in Schedule II and Schedule- III shall be sent directly to the Commission and Schedule- III to the State Load Dispatch Centre and the report in Schedule- III shall also be posted on the website of the electricity trader or any other authorized website.

- (b) bring to the notice of the Commission, any modification in the shareholding pattern, resulting in a change in shareholding and voting rights by more than 5%, or change in the constitution of partnership and ownership, within a month of such occurrence.
- 26.2 The State Load Dispatch Centre shall verify the quantum of energy or MW traded, as indicated in the Schedule III and submit a report to the Commission.

PART - V

Other Conditions

27 Introduction of competition

- 27.1 The Commission may grant licence to any person (s) as an electricity trader to trade in electricity in the same area as that of the Licensee or any other area in the state of Haryana. The licensee shall not claim any exclusivity.
- 27.2 The Licensee shall not enter into any agreement or abuse its dominant position or enter into a combination that is likely to cause or causes an adverse effect on competition in the electricity industry. The Commission shall have power to decide whether any agreement or act of the licensee is likely to cause or causes an adverse effect on competition in the electric industry in the state. The decision of the Commission shall be final in this regard.

28 Miscellaneous

- 28.1 The licensee shall before undertaking trading, establish communication facilities adequate for trading in electricity.
- 28.2 Trading shall be carried out between the parties by entering into appropriate agreement between them as well as with the transmission or distribution licensees whose transmission or distribution system is to be used. Necessary safeguards with regard to supply of electricity through trading and payment for the electricity traded shall be included in such agreements between the parties.
- 28.3 The licensee shall not omit or neglect to undertake trading activity for four consecutive quarters.
- 28.4 The licensee shall maintain up-to-date record of customers and the transactions undertaken with other parties and produce such documents if called for to do so by the Commission.
- 28.5 The Licensee shall submit a copy of each of the licences obtained anywhere in the Union of India under the provisions of the Electricity Act, 2003 subsequent to the grant of this licence, within 15 days of obtaining such licence.

Schedule I

(Description of the area of trading in electricity for the Licence under consideration)

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Schedule- II

Proforma for submission of information for last three months on a monthly basis

(Information to be submitted to the Commission only)

Name of the Trader:

Licence Details (No. & date):

S. N.	Purchased from*	Sold to*	Volume of Trading in		Point of purchase		Point of sale	Sale Price/unit	Transmission/wheeling charges borne by seller/Trader/buyer*	Transmission losses borne by Seller/Trader/Buyer*	UI charges borne by Seller/Trader/Buyer*	Open Access charges/ Any other charges (please specify)	Remarks payment track record for energy purchased for trading.
			MU	Contract ed MW		Price /unit							
1	2	3	4	5	6	7	8	9	10		11	12	13

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

* Moreover, 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.

