

**MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION  
SHILLONG**

**NOTIFICATION**

**( 27<sup>th</sup> August 2012)**

**NO. MSERC/TRAD-LIC/07/2011/05.** In exercise of powers conferred under section 181 read with under section 52 of the Electricity Act, 2003 (36 of 2003) and all powers enabling it in that behalf and after previous publication in the Gazette of Meghalaya the Meghalaya State Electricity Regulatory Commission hereby makes the following regulations, namely;

**THE MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION**

**(GRANT OF LICENSES FOR TRADING IN ELECTRICITY)**

**REGULATIONS, 2012.**

(5 of 2012)

**Chapter – 1**

**Preliminary**

**1. Short title and commencement**

- (1) These regulations shall be called the Meghalaya State Electricity Regulatory Commission (Grant of Licenses for Trading in Electricity) Regulations, 2012.
- (2) These regulations shall be applicable throughout the State of Meghalaya
- (3) These regulations shall come into force from the date of publication in the Official Gazette of the State.

**2. Definitions**

In these regulations, unless the context otherwise requires,

- (i) **“Act”** means the Electricity Act, 2003 (36 of 2003).
- (ii) **“Appellate Tribunal”** means the Appellate Tribunal constituted under section 110 of the Act to hear appeals against the orders of the adjudicating officer or the Commission.
- (iii) **‘Area of activity’** means trading in electricity in the State of Meghalaya.
- (iv) **“Agreement”** means a contract entered into by the trader with seller of electricity, buyer of electricity or any other licensee which enables trading in electricity to take place.

- (v) **“Annual Accounts”** means annual accounts of the licensee prepared in accordance with the provisions of the Companies Act 1956 (1 of 1956) from time to time as amended or in such manner as the Commission may direct from time to time.
- (vi) **“Applicant”** means a person who has made an application to the Commission for grant of license for trading in electricity under section 15 of the Act.
- (vii) **“Commission”** means the Meghalaya State Electricity Regulatory Commission (MSERC).
- (viii) **“Customer”** means any person purchasing electricity from a trading licensee.
- (ix) **“Deemed licensee”** means a person as defined under first, third and fifth proviso under section 14 of the Act.
- (x) **“Distribution”** means the conveyance or wheeling of electricity by means of a distribution system.
- (xi) **“Force Majeure”** means any event beyond the reasonable control of the licensee, including but not limited to earthquakes, cyclones, floods, storms, adverse weather conditions, war, terrorist attacks, civil commotion etc, the occurrence of which leads to or involves breach of law or regulations or rules by the licensee.
- (xii) **“Grid Code”** the State Grid Code, specified by the Commission under sub-section (1) (h) of section 86 of the Act covering all technical aspects relating to connections to the operation of the grid.
- (xiii) **“Intra State Trading”** means trading in electricity within the state of Meghalaya.
- (xiv) **“Licence”** means a license granted under section 14 of the Act, by the Commission to a person for trading in electricity.
- (xv) **“Other business”** means any business of the trader other than the licensed business.
- (xvi) **“State”** means State of Meghalaya
- (xvii) **“Trading”** means purchase of electricity for resale thereof and the word ‘trade’ shall be construed accordingly.
- (xviii) **“Trading Licensee”** means a person to whom a licence has been granted for trading in electricity under section 14 of the Act by the Commission and includes a deemed licensee.
- (xix) **“Licensee”** means a person who has been granted licence.

The words and expressions used in these regulations but not defined herein shall have same meaning as assigned to them under the Act.

## Chapter – 2

### General

#### 3. Grant of license

The Commission shall grant a license to any person who undertakes trading in electricity on an application filed by him under section 15 of the Act for such a period as the Commission deems fit based on merits of each case.

#### 4. Procedure for grant of a license

- (1) Every person who desires to trade in electricity shall make an application as in Annexure I or in such a manner as may be specified by the Commission along with the fee specified by the Commission.
- (2) Any person who makes an application under sub regulation (1) for grant of a trading license shall publish a notice of such application within seven days after making such application with such particulars and in such manner as may be specified by the Commission.
  - (a) publish a notice in two daily news papers one in English and another in local language, indicating the name and address of the person to whom it proposes to issue a trading license to enable interested persons to file objections or suggestions within 30 days from the date of publication.
  - (b) No license shall be granted until the objections, if any, received in response to the notice are considered or disposed of by the Commission.

The Commission may also obtain the comments of the applicant, if considered necessary, on the objections or suggestions received.
- (3) The Commission may, on scrutiny of the application, require the applicant to furnish within a specified date, any additional information or documents as it may consider necessary for processing the applicant's case.
- (4) The Commission shall, as far as possible, within 90 (ninety) days, after receipt of the application:
  - (i) issue of a license, as in Annexure II, subject to the provisions of the Act, as amended from time to time; or
  - (ii) reject the application for the reasons to be recorded in writing, if such application is not in accordance with the procedure stipulated by it and after giving the applicant an opportunity of hearing him.
- (5) The Commission shall also, immediately, after issue of the license, forward a copy of the license to the State Government, local authority and to such other authority or person as it may consider appropriate.

- (6) The period of the license shall be twenty-five years unless it is revoked by the Commission earlier.

## **5. Conditions for grant of license**

The Commission may specify any general or specific conditions, as it may be deemed necessary, which shall be the conditions of such license, which are to be complied-with by the trader.

## **6. Qualifications of an Electricity Trader**

### **(a) Technical**

The applicant shall fulfill the following:

- (1) shall have experts and skilled staff with requisite qualification and experience in
  - (i) power system
  - (ii) finance and commerce.
- (2) adequate space for office, communication facilities like telephone, fax, computer, internet etc.
- (3) own website to post all required information relating to his business.
- (4) shall submit along with his application the following information to assess his capabilities in respect of his resources deployed in the trading business to the Commission.
  - (i) the number of experts, summary of their qualifications, experience and knowledge in electricity industry, marketing, their understanding of the operation of the system and commercial functions, number of years of experience etc.
  - (ii) number of key staff working, their qualifications (academic and technical), experience and skills.
  - (iii) details of office accommodation, communication facilities available including website; and
  - (iv) copies of relevant documents in respect of above.
- (5) The applicant shall satisfy the Commission that the technical capacities and resources are sufficient to manage the trading activities entrusted.
- (6) Before granting intra-state trading license, the Commission shall satisfy itself that the applicant is competent to discharge the duties and functions stipulated in the Act, rules and regulations made thereunder.

### **(b) Financial requirements to be fulfilled by the trader:**

- (1) Every applicant shall submit to the Commission the following along with his application in respect of his financial status:
  - (i) details of his earnings and history
  - (ii) balance sheet

- (iii) profit and loss account
- (iv) cash flow statement
- (v) funding arrangements
- (vi) risk management strategy to establish that he is capable of meeting the net worth requirement as indicated in item (2) below:

Before granting the license, the Commission shall satisfy itself that the applicant has fulfilled all the above requirements.

- (2) The net worth requirement of the electricity trader / applicant shall be similar to those specified in the CERC relevant regulations at any time and licensee shall have the following financial limits:

Category of the trading license	Annual volume of the trader	Annual licence fee
A	Upto 50MU	Rs. 50,000
B	Above 50MU and upto 100 MU	Rs. 75,000
C	Above 100MU and upto 200 MU	Rs. 1.00 lakh
D	Above 200MU and upto 300 MU	Rs. 1.50 lakhs
E	Above 300MU and upto 400 MU	Rs. 2.00 lakhs
F	Above 400MU and upto 500 MU	Rs. 2.50 lakhs
G	Above 500MU	Rs. 3.00 lakhs

Note: The above limits are subject to the following conditions:

- (i) The licensee shall increase his net-worth corresponding to the increase in the volume of trade from a lower limit to the next higher limit.
  - (ii) The change in the category shall be based on the volume of trade as on 31<sup>st</sup> March each year.
  - (iii) The licensee shall keep the Commission informed of his moving from one category to another and the consequential changes in the net worth.
- (3) The applicant shall declare to the Commission:
- (i) maximum trade volume which he can handle in a month and his future plans of trading during the initial period of three years.
  - (ii) the capital adequacy and net-worth maintained which is sufficient to cover the maximum trade volume together, with documentary evidence, over an average settlement period of one month (30 days) worth credit as an electricity trader subject to the limits specified in sub-regulation (2) above.
  - (iii) Shall endeavor to maintain investment grade credit rating duly certified by an independent credit testing agency to the effect.
  - (iv) the capital adequacy shall be based on:
    - (1) the quantum of trade specified in the license
    - (2) pool rate of the power handled by the trader including company expenses

- (3) cover trade risks on account of default in payment and change in price adjustability on a six monthly basis with corresponding adjustments in the equity of the trader over and above the initial limit of capital adequacy approved by the Commission
- (c) The credit worthiness of the licensee shall correspond to the percentage of trade default in relation to the capital adequacy for three settlement periods. The Commission shall review and revise the credit worthiness every six months along with the revision in capital adequacy as deemed fit.

#### **7. Date of commencement of the license**

The Commission shall specify the date of commencement of the license in the license itself.

#### **8. Compliance with Acts, Rules, Regulations etc**

- (1) The trading licensee shall comply with the provisions of the Act, rules and regulations made thereunder, orders and directions of the Commission issued from time to time and the provisions of any law applicable to the electricity industry.
- (2) The trading licensee shall comply with regulations on phasing of open access in electricity distribution, standards of performance, grid code, supply code etc specified by the Commission.
- (3) The trading licensee shall also comply with all the directions issued by the State Load Despatch Centre from time to time.

#### **9. Furnishing of information by the trading licensee**

The licensee (including a deemed licensee) shall furnish to the Commission:

- (i) such information as may be specified to monitor the trader's performance, compliance with terms and conditions of the license, legislative or regulatory requirements etc and
- (ii) The trading licensee shall furnish to the Commission, as and when required or directed any information, documents and details relating to his business or any other business for the purpose of the Commission, Government of India, State Government, State Transmission Utility, the State Load Despatch Centre, the Central Commission and / or the Central Electricity authority.
- (iii) Shall furnish information as directed by the Commission under section 128 of the Act.

- (iv) on any incident which will restrict it in meeting its obligation under the license granted to it, including any act of omission or commission by others and the steps taken by the licensee to reduce the effect of such incident.
- (v) report on the occurrence of any other incident which materially affects any part of trading activities, within one month from the date of occurrence of such incident along with:
  - (a) giving full details of the facts within the knowledge of the licensee regarding the incident and its causes;
  - (b) in case of any delay, the reasons for such delay
  - (c) furnishing of copies of all documents etc when major incident occurs and also as the Commission may direct
- (vi) submit a business plan, after the license coming into force or within such period as the Commission may direct, and thereafter update the plan annually, covering the following, among others:
  - year wise turnover
  - projected profit and loss account
  - projected balance sheets
  - projected cash flow statements
  - any other important financial parameters
- (vii) shall furnish to the Commission, State Transmission Utility, SLDC or any other authority all data, trading business plan etc as may be required in respect of his trading business.

## **10. License fee**

- (1) Every trading licensee shall pay an initial / annual license fee, as may be fixed by the Commission, from time to time in the manner specified on due date.
- (2) If the licensee fails to pay the license fee within the specified date, the licensee shall be liable to pay the Commission, an interest, as specified, on the outstanding amount at the rate of on the amount due or part thereof for the period from the day on which amount falls due and ending on the day the payment is made.
- (3) The licensee shall be entitled to take into account any fee paid by him in accordance with sub-regulation (1) above for determination of aggregate revenue excluding the interest, if any, paid as per sub-regulation (2) above.

## **11. Trading margin**

The Commission shall fix the trading margin for the trading licensee under section 86 (1) (i) of the Act.

## **12. Amendment, modification, alteration etc., to the license**

- (1) The Commission may, *suo moto* or otherwise, amend, modify or alter the conditions laid down in the licence of the trader.
- (2) If the licensee proposes an amendment, modification or alteration, it shall be made through an application to the Commission, in the form specified by the Commission, duly accompanied by a statement of the proposed amendment, modification etc, together with any fee specified by the Commission.
- (3) The licensee shall, within seven days from the date of filing the application with the Commission, (i) publish a notice giving brief statement of the amendment, modification(s) etc proposed, the reasons therefore, this effect in the discharge of the functions of the licensee and such other information as may be directed by the Commission. (ii) the licensee shall make available copies of the application together with all relevant details to the public in the manner specified by the Commission.
- (4) In case the Commission proposes to amend, modify or alter, *suo moto*, it shall also follow the procedure in clause (3) above

## **13. Duties and obligation of electricity trading licensee**

- (1) The licensee shall perform all such duties and obligations, purchase and sale of electricity as may be specified by the Commission.
- (2) The licensee shall enter into agreements for purchase and sale of electricity and make all arrangements required for the proper discharge of his obligations under the license, including all safeguards in regards to supply, payment for electricity traded etc.
- (3) The licensee shall enter into agreements with the transmission / distribution licensee, as the case may be, for conveyance of electricity unless his customer or supplier made such an arrangement. Any such arrangement shall comply with the directions of the Commission issued from time to time.
- (4) The licensee shall be responsible to the Commission, customers and other concerned in the matter of supply electricity notwithstanding any default by the distribution licensee
- (5) (i) The trading licensee shall not, without prior permission of the Commission;
  - (a) undertake transmission of electricity to any person,



- (b) undertake any transaction to acquire by purchase or takeover or otherwise the utility of another licensee,
  - (c) acquire any beneficial interest in any generating company or generating station, or,
  - (d) engage in the business of electricity distribution,
  - (e) take loans or issue any guarantee for any obligation to any person, except in connection with the licensed business,
  - (f) transfer or assign his utility or license or part thereof through sale, lease, exchange or other wise,
  - (g) merge his utility with utility of any other licensee
- (6) (i) Before obtaining approval of the Commission under items (a) and (g), the licensee applying for such approval shall give a notice of not less than one month to every other licensee, who distributes electricity in the area of such licensee,
- (ii) Where such permission is required, the licensee shall file an application with Commission, duly furnishing all required information for its consideration.
- (iii) The Commission, within 30 days of receipt of the application from the licensee, shall either accord permission or reject the application, as it deem necessary. The applicant shall be informed of the reasons for such rejection to the applicant before issue of orders.

#### **14. Trading margin and expected revenue calculation**

- (1) The licensee shall calculate the expected revenues from the charges, which it is permitted to recover as a trading margin in accordance the provisions of the Act, the terms and conditions of the license and other guidelines, orders and directions issued by the Commission from time to time.
- (2) The licensee shall file the expected revenue calculations in the manner specified, by the Commission from time to time.
- (3) The licensee shall, not later than 30<sup>th</sup> November every year, submit to the Commission a statement containing full details of its expected aggregate revenues and cost of service for the ensuing financial year in respect of the licensed business based on the trading margin approved by the Commission.

#### **15. Contravention of terms and conditions of licence**

The Commission may pass such orders, as it may deem necessary, if there is any contravention or likelihood of contravention of the terms and conditions of the licensee.

## **16. Issue of orders, directions etc.**

Subject to the provisions of the Act, rules / regulations made thereunder, the Commission may, from time to time, issue orders or directions in regard to implementation of these regulations and procedures to be followed by the licensee on any matter, as it deems fit.

## **17. Investigation on failure to comply with terms and conditions by the licensee**

- (1) Where the Commission is satisfied that a licensee has failed to comply with any or all the terms and conditions of the license or the provisions of the act, rules, codes or regulations, it may order investigation into the affairs of the licensee under section 128 of the Act.
- (2) On receipt of the investigation report, the Commission shall give an opportunity to the licensee to make a representation on the findings contained in the report. After examining the representation, the Commission may direct the licensee to take such action as may be necessary or revoke the license.
- (3) The Commission, while giving direction under sub-section (2) above, the Commission shall adhere to the procedure laid down under section 130 of the Act.

## **18. Interpretation**

All matters requiring interpretation of these regulations shall be decided by the Commission only and the decision of the Commission shall be final. In case any person is aggrieved by the decision of the Commission, he may go in appeal to the Appellate Tribunal under section 111 of the Act.

## **19. Removal of difficulties**

If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by general or special order, direct the licensee to take action as it may consider appropriate or necessary.

## **20. Safety in electricity supply**

The licensee shall take precautionary measures to:

- (1) protect the customers or public from damage or use of electricity supplied including installations, maintenance of plant etc.
- (2) eliminate or reduce risks of personal injury to any person or damage to property of any person or interference with use of such property.

- (3) prohibit supply by means of a system which does not conform to the specifications as may be specified.
- (4) give intimation in the specified form to the Commission and the Electrical Inspectorate or any concerned authority on accidents and failures of supply.
- (5) maintain maps, plans and sections relating to supply of electricity etc.
- (6) ensure conducting of inspection of maps, plans and section of the licensee by any authorized person or Electrical Inspector or by any person on payment of specified fee.
- (7) suggest action to be taken in regard to any electric line or plant or appliance under the control of the consumer for the purpose of eliminating or reducing risk or personal injury or damage to property or interference with its use.

## **21. Revocation of license**

- (1) The Commission may, after making an independent enquiry, revoke the license of an electricity trader, in public interest, in the following cases under section 19 of the Act:
  - (a) where the licensee makes, willful or prolonged default in doing anything which is required to be done under the Act and the rules or regulations made thereunder or the licence.
  - (b) where the trading licensee has failed to comply with all the regulations, codes, standards, orders or directions issued by the Commission or otherwise committed any act which renders the license revocable on grounds provided in the Act or the rules and regulations made thereunder.
  - (c) fails to show to the satisfaction of the Commission:
    - (i) that he is in a position to fully and effectively perform duties and obligations imposed on him under the license.
    - (ii) to make deposit or furnish the required security or pay the fee or other charges required to be paid under the license.
  - (d) Where, in the opinion of the Commission, the financial position of the licensee is such that he is unable to fully and efficiently discharge the duties and obligations imposed on him; and
- (2) Where the public interest so requires, the Commission may on an application or with the consent of the licensee, revoke his license, either in whole or part thereof, as it may deem necessary.
- (3) Before revoking a trading license, the Commission may make alternate arrangement for the discharge of the duties and responsibilities under the license, as it may

consider necessary in public interest. All such arrangements shall be at the cost of the trading licensee only.

- (4) The Commission may, instead of revoking the licensee under sub-section (1) above, permit the license to remain in force and impose further restrictions / conditions as it may deem fit, which shall be binding and implemented by the licensee.
- (5) The Commission shall specify the date of effect of revocation in its order revoking the license.
- (6) Where the Commission has given notice of revocation of license under sub-regulation (1) above, and without prejudice to any penalty that maybe imposed or initiation of proceedings for prosecution, the licensee may, with prior approval of Commission, sell his utility or business to any other person, who is eligible for grant of license by the Commission.
- (7) No license shall be revoked by the Commission unless a notice of three months, in writing, is given to the licensee intimating the ground on which it proposes to revoke the license and the Commission considered the representation submitted by the licensee within the notice period against the revocation of license.

### **Chapter – 3** **Miscellaneous**

#### **22. Savings**

Nothing contained under these regulations shall affect the rights and privileges of a consumer under any other law for time being in force, including the Consumer Protection Act, 1986 (68 of 1986)

#### **23. Grievances of consumers**

- (1) In case of any dispute or complaint in respect of supply, the consumer shall be entitled to approach the concerned Forum for redressal of grievances of consumers under sub-section (5) of section 42 of the Act.
- (2) An appeal on the decision of the Forum shall lie to the Ombudsman in accordance with the provisions of sub-section (6) of section 42 of the Act.

#### **24. Settlement of disputes and arbitration**

- (1) The Commission shall adjudicate the disputes between the licensees or refer any dispute for arbitration on application by any licensee.

- (2) The Commission shall issue notices to all concerned licensees indicating the details of the dispute (s) and after hearing of the parties concerned, the Commission shall pass such orders / directions as it may deem necessary.
- (3) If any licensee is not satisfied with the order / directions passed by the Commission, the licensee shall make a request to the Commission for appointment of any Arbitrator.
- (4) On receipt of an application from the licensee for appointment of an Arbitrator, the Commission shall appoint an Arbitrator under section 86 (f) of the Act duly indicating the terms and conditions for such appointment for settlement of dispute.
- (5) The Arbitrator, nominated by the Commission, on hearing of the concerned parties shall pass a speaking order giving reasons for the conclusions arrived at on all the issues raised.
- (6) The Commission, on receipt of the award, given by the Arbitrator, shall consider the award and pass final orders, as it deems fit.
- (7) The cost of the Arbitration shall be borne by the concerned licensee (s), as may be decided by the Commission.

## **25. Studies relating to trading activity**

The Commission may *suomoto* initiate or direct the trading licensee to undertake study on the trading activities or any matter relating to the trading business in public interest. The cost of such studies and other expenses shall be allowed as a pass through by the trading licensee in its expected revenue requirement.

## **Chapter – 4 Accounts**

### **26. Accounts of trading licensee**

- (1) The trading licensee shall maintain separate accounts for his intra-state trading business in accordance with the guidelines issued by the Commission from time to time. Till such time the Commission issues these guidelines, the trading licensee shall maintain the accounts in accordance with the provisions of the Companies Act, 1956 as amended from time to time.
- (2) The trading licensee shall prepare on a consistent basis such records, accounting statements for each financial year comprising a profit and loss account, a balance sheet, a statement of sources, application of funds etc. along with required notes thereto.

- (3) The licensee shall show separately the amounts for revenue, costs, assets, liabilities, reserves or provisions made which have been
  - (a) charged from or to any other business along with a description of the basis for that charge; and / or
  - (b) determined by apportionment or allocation between the various business activities together with a description of the basis of such apportionment or allocation.
- (4) The trading licensee shall not normally change the basis of charge or apportionment or allocation of revenues or expenditure while preparing the accounting statements for a financial year, except with the prior approval of the Commission. Any change made by the licensee in the basis of charge or apportionment or allocation of revenues or expenditure shall be in accordance with the provisions of the Companies Act, 1956 (1 of 1956), the accounting standards or regulations and the guidelines issued by the Commission from time to time.
- (5) Where a trading licensee has changed the basis of charge, apportionment or allocation adopted in financial year immediately preceding, he shall, if directed by the Commission, also prepare and submit to the Commission such accounting statements on the basis of charge, apportionment or allocation which it has applied for the immediately preceding financial year.
- (6) The trading licensee shall also submit a report from the authorized auditors in respect of each financial year to the Commission stating that in their opinion the accounting statement, prepared as per sub-regulation (4) above, give a fair and true position of the revenues, costs, assets, liabilities, reserves and provisions attributable to the licensed trading business.
- (7) The trading licensee shall submit to the Commission the specified number of copies of the accounting statements and auditors' report by not later than six months after the closing of the financial year.
- (8) Any authorized officer of the Commission shall be entitled to inspect the books of the licensee and the licensee shall render all assistance to such authorized person.
- (9) Furnish required data or information to the Commission relating to the accounts maintained as and when directed.

## **27. Power to Relax**

The Commission retains the power to relax any of the provisions of these regulations in individual cases based on merits of each case duly recording the reasons for the same.

**Application form for Intra State Trading Licence**  
**[See Regulation 4 (1)]**

**Part – A: GENERAL INFORMATION OF APPLICANT**

1. Details of Applicant

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

2. Details of Ownership

- a. Company / Firm / Co-op Society / Individual / Others :
- b. Details of Incorporation / Registration  
Place of Incorporation / Registration :  
Year of Incorporation :  
Registration Number :
- c. Names and Addresses of Directors / Partners / governing body members / Others
- d. Permanent Account Number allotted by Income Tax Department

3. Principal Share holders / Partners / Members :

4. Details of the area of operation

- a. Nature of other trading licensee or authorisation, if any, of the applicant for electricity trading already granted:

5. Details of Operation

Maximum trading volume proposed to be undertaken by the applicant on a monthly basis for the first three years; (In Million units and capacity)

6. Funding arrangements (source of funding) to meet the obligations :
7. Arrangement for purchase of energy
8. Arrangement, if any, proposed with other existing trading, transmission and distribution licensees
9. Resume of the Organization giving details of
  - a. Management capability
  - b. Financial strength
  - c. Ability to attend to the activities in a sustainable manner
10. Date from which licence is sought

**Date**

**Signature of the Applicant**

















































