

# **GUJARAT ELECTRICITY REGULATORY COMMISSION (GERC)**

## **LICENSING OF ELECTRICITY TRADING**

### **Notification No. 3 of 2005**

In exercise of the powers conferred by Section 181 read with Section 15, 16, 18 and 52 of the Electricity Act, 2003 (36 of 2003) and all powers enabling it in that behalf, Gujarat Electricity Regulatory Commission hereby makes the following regulations, namely:-

#### **CHAPTER-1**

##### **Preliminary**

#### **1. Short Title, Extent and Commencement**

- a. These Regulations shall be called the Gujarat Electricity Regulatory Commission (Licensing of Electricity Trading) Regulations, 2005.
- b. These Regulations extend to the whole of the State of Gujarat.
- c. These Regulations shall come into force on the date of their publication in the Gazette.

#### **CHAPTER-2**

##### **Definitions and Interpretation**

#### **2. Definitions and Interpretation:**

**2.1** In these Regulations, unless the context otherwise requires: -

- a. "Act" means the Electricity Act, 2003 (36 of 2003);
- b. "Agreement" means either

- i.* the agreement entered into between the electricity trader and the seller of electricity for the purchase of electricity by the electricity trader for resale; or
  - ii.* the agreement entered into between the electricity trader and the buyer of electricity for the sale of electricity bought by the electricity trader for resale.
- c.** “Applicant” means a person who applies to the Commission for grant of Licence for intra-state trading of electricity;
- d.** “Commission” means the Gujarat Electricity Regulatory Commission;
- e.** “Conduct of Business Regulations” means the Gujarat Electricity Regulatory Commission (Conduct of Business) Regulations, 2004, as amended from time to time, and includes any statutory re-enactment thereof;
- f.** “Distribution Licence” means a Licence to operate and maintain a distribution system for supplying electricity to the consumers in the area specified in the Licence, and “Distribution Licensee” shall be construed accordingly;
- g.** “Grid Code” means the State Grid Code specified by the Commission under clause (h) of sub-section (1) of Section 86 of the Act, for the time being in force, as amended from time to time, and includes the Indian Electricity Grid Code, as applicable ;
- h.** “Indian Electricity Grid Code” means the Indian Electricity Grid Code for the time being in force, as amended from time to time and includes any statutory re-enactment thereof;
- i.** “Intra-state trading” means a trading transaction undertaken by an electricity trader through Agreements, which does not involve the transfer of electricity from the territory of one State to the territory of another State;
- j.** “Licence ” means a licence granted under Section 14 of the Act read with Section 20 of the Gujarat Electricity Industry (Regulation and

Reorganisation) Act, 2003, where applicable, and “Licensee” shall be construed accordingly;

- k.** “Licensed Business” means the business of trading in electricity as an electricity trader as authorised under the Trading License;
- l.** “Officer” means an officer of the Gujarat Electricity Regulatory Commission;
- m.** “Other Business” means any business of a Trading Licensee other than the licensed business of intra-state trading;
- n.** “Regulations” means the Gujarat Electricity Regulatory Commission (Licensing of Electricity Trading) Regulations, 2005;
- o.** “Secretary” means the Secretary of the Gujarat Electricity Regulatory Commission.
  
- p.** “Trading” means purchase of electricity for resale thereof and the expression “trade” shall be construed accordingly.
- q.** “Trading Licence” means a Licence granted to undertake trading in electricity as an electricity trader, and “Trading Licensee” shall be construed accordingly;
- r.** “Transmission Licence” means a Licence granted to establish or operate transmission lines in the area specified in the Licence, and “Transmission Licensee” shall be construed accordingly;
- s.** “Year” means a period of twelve months from 1<sup>st</sup> April of a calendar year to 31<sup>st</sup> March of the following calendar year;

Words and expressions used and not defined in these Regulations but defined in the Act shall have the meanings assigned to them in the said Act. Expressions used herein but not specifically defined in these Regulations or in the Act but defined under any law passed by a competent legislature and applicable to the electricity industry in the state shall have the meaning assigned to them in such law. Expressions used herein but not specifically defined in the Regulations or in the Act or any law passed by a competent

legislature shall have the meaning as is generally assigned in the electricity industry.

## **2.2. Interpretation:**

In the interpretation of these Regulations, unless the context otherwise requires:

- a) words in the singular or plural term, as the case may be, shall also be deemed to include the plural or the singular term, respectively;
- b) the terms “include” or “including” shall be deemed to be followed by “without limitation” or “but not limited to” regardless of whether such terms are followed by such phrases or words of like import;
- c) references herein to the “Regulations” shall be construed as a reference to these Regulations as amended or modified by the Commission from time to time in accordance with the applicable laws in force;
- d) the headings are inserted for convenience and may not be taken into account for the purpose of interpretation of these Regulations;
- e) references to the statutes, regulations or guidelines shall be construed as including all statutory provisions consolidating, amending or replacing such statutes, regulations or guidelines referred to;

## **2.3 Review:**

These Regulations may be reviewed by the Commission from time to time *inter alia* for securing harmonization with the regulations for open access and/or for providing development of power markets, in accordance with Section 66 of the Act.

## **Chapter-3**

### **Procedure for Grant of Licence for Intra-State Trading**

3. All proceedings under these regulations shall be governed by the Gujarat Electricity Regulatory Commission (Conduct of Business Regulations), 2004 as amended from time to time.

4. **Applications for Grant of Licence**

- a. The application for grant of Licence for intra-state trading shall be submitted to the Commission in the form specified in **Schedule-1** of these Regulations, and shall be accompanied by application fee as may be prescribed by the State Government. Such fee shall be payable by Bank Draft/Pay Order drawn in favour of the Secretary, Gujarat Electricity Regulatory Commission.
- b. Every application for grant of a Licence shall be signed by or on behalf of the Applicant and shall be addressed to the Secretary of the Commission. The application shall be filed in 6 (six) sets and each set shall be accompanied by:
  - i. a statement of the capital proposed to be expended in carrying on the Licensed Business and such other particulars as the Commission may require;
  - ii. a copy of the Memorandum and Articles of Association of the company, where the Applicant is a body corporate, and similar applicable documents of incorporation, registration or agreement in case of other business entities;
  - iii. a receipt for payment of the application fee specified in accordance with clause (a) above;
  - iv. an affidavit by the Applicant verifying the information disclosed in the application;
  - v. where the Applicant is a body corporate, details of any group company(ies) engaged in the business of generation, distribution, transmission or trading of electricity, whether within the State of Gujarat or in any other State;

- vi.* where the Applicant is not a body corporate, details of any business of generation, distribution, transmission or trading of electricity, whether within the State of Gujarat or in any other State, in which the Applicant is directly or indirectly interested;
  - vii.* details of any financial holdings of the Applicant in the power sector;
  - viii.* brief history of the promoters in case the Applicant is a body corporate;
  - ix.* such other documents or information as the Commission may seek.
- c.** The application for grant of Licence for intra-state trading, along with annexures and enclosures thereto, shall also be submitted to the Commission on compact disc (CD) after taking necessary measures for data protection, virus detection etc.
  - d.** The Applicant shall post the complete application along with annexures and enclosures on its own website or where it does not have such website, on any other website, to provide access to the application through the Internet.

**5. Receipt and Acknowledgement of Application**

Upon receipt of the application for grant of Licence, the Secretary shall enter the particulars thereof in a register to be maintained for this purpose and allot a reference number to the application. The Secretary shall send an acknowledgment to the Applicant at the address stated in the application, indicating the date of receipt and the reference number.

**6. Public Notice of Application**

- a.** Within seven days of making application for a licence, the applicant shall publish a public notice in one issue each of a daily news paper in English language and two daily news papers in Gujarati language having wide circulation in the area of trading for which the licence is sought, with the following particulars, namely: -

- i.* Name of the Applicant in bold at the top clearly bringing out whether the Applicant is an individual, or a partnership firm registered under the Indian Partnership Act 1932 (9 of 1932), or a private limited company or a public limited company, incorporated under the Companies Act, 1956, (1 of 1956) or any other incorporated or unincorporated body giving full particulars of its office address and also the registered office address if any;
- ii.* A statement that the Applicant has submitted an application to the Gujarat Electricity Regulatory Commission for grant of Licence for intra-state trading under sub-section (1) of Section 15 of the Act;
- iii.* Financial and technical strength, management profile and share holding pattern, if any, of the Applicant;
- iv.* Volume of electricity intended to be traded during the first year after grant of a Trading Licence and the future plans for trading during the next 5 years;
- v.* Geographical areas within which the Applicant will undertake trading in electricity as stated in the application submitted to the Commission;
- vi.* A statement to the effect that the application and other documents filed before the Commission from time to time, are available with the Applicant for inspection by any person;
- vii.* The names, addresses and other necessary details of the person(s) nominated by the applicant in major cities or towns of area of proposed trading licence, who can make available for inspection the application and other documents or from

whom they can be purchased in person or by post at reasonable charges, not exceeding photocopying charges.

- viii.* A statement to the effect that complete application is available on the website of the Applicant or any other authorised website and can be downloaded free of cost;
- ix.* A statement that objections, if any, may be filed before the Secretary, Gujarat Electricity Regulatory Commission within 30 days from the publication of the notice giving the address of office of the Commission;

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

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

- b.** The Applicant shall within 7 days from the date of publication of the notice as aforesaid submit to the Commission on affidavit with the details of the notice published and shall also submit relevant copies of the newspapers in which the notices are published.

## **7. Public Inspection of Application and Documents**

- a.** From the date of publication of notice in accordance with Regulation 6 above, the applicant shall make available sufficient number of copies of his application for grant of a licence along with its enclosures for inspection by any person in the office of the



Commission and in his own office. The licensee shall also place his application on his website, if any.

- b. The Applicant shall furnish, to all persons applying, printed copies of its application, together with the attachments thereto, at the reasonable cost of photocopying such material.

**8. Scrutiny of Application and Calling for Additional Information**

- a. The Secretary may, upon scrutiny of the application, require the Applicant to furnish, as far as practicable, such additional information or documents as may be considered necessary for the purpose of dealing with the application, within a period of thirty (30) days from the date of receipt of application.
- b. If the Secretary finds that the application and the accompanying documents are complete in all respects and after the Applicant has complied with the procedure prescribed for validly submitting an application, the Secretary shall certify that the application is complete for being considered for grant of a Trading Licence, in accordance with the procedures provided in the Act and these Regulations.

**9. Objections and Suggestions**

- a. Any person intending to object to the grant of the Trading Licence shall file objections within one month from the date of issue of the first advertisement referred to in Regulation 6 above. The objections shall be addressed to the Secretary of the Commission.
- b. Upon receipt of such objections, the Secretary shall imprint the reference number of the concerned licence application on the same and shall place such objections in the file relating to the concerned licence application.

- c. The Secretary shall serve copies of all the objections received by him from the Applicant within one week of the last date for filing of objections specified in sub clause (ix) of clause (a) of Regulation 6 above.
- d. The Applicant may submit comments on the objections or suggestions received in response to the notice within 30 (Thirty) days of receipt of the objections from the Secretary of the Commission.

**10. Hearing of Application and Grant of Trading Licence**

- a. After compliance by the Applicant of all the conditions pertaining to the submission of documents, obtaining of permissions and publication of notices and after the expiry of the time for receiving objections, the Commission may, if it deems fit, proceed to list the application for regular hearing.
- b. After inquiry, if any, and the hearing of the application, if conducted, the Commission may decide to grant or to refuse the Trading Licence.
- c. If the Commission decides to grant the Trading Licence, the licence shall be shall be in the form specified in **Schedule-2** of these Regulations. Provided that the Commission may add to alter or amend the form specified for a licence as it may in its discretion deem necessary.
- d. The Commission may issue a Licence for intra-state trading on being satisfied that the Applicant qualifies for issue of such Licence under the provisions of the Act, Rules and Regulations for the time being in force.

- e. Before granting the Trading Licence, the Commission shall publish a notice of its proposal to grant the licence in two daily newspapers, as the Commission may consider appropriate, stating the name and address of the person to whom it proposes to issue the licence, with such other details as the Commission considers appropriate.
- f. When the Commission has approved a licence, the Secretary shall inform the Applicant of such approval within fourteen days and of the form in which it is proposed to grant the licence and the conditions to be satisfied by the Applicant including the fees to be paid for the grant of licence.

**g. Rejection of application for grant of licence**

The Commission, as far as practicable, within ninety 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 days enclosing a copy of the reasoned order of the Commission.

- h. 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 sub-clause (b) above, the applicant shall acknowledge acceptance to the Commission within 15 days of receipt of the approval from the Commission.

**11. Commencement of the Trading Licence**

The Trading Licence shall commence from such date as the Commission may specify in the licence.

**12. Duration of the Trading Licence**

The Trading Licence shall be valid for a period of twenty-five years or such lesser period as the Commission may direct from the date of its commencement, unless it is suspended or revoked by the Commission in accordance with the provisions of the Act.

**13. Deposit of Copies of Licence**

- a. 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 principal office located within the area of trading.
- b. Every such 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.

**14. Amendment of Licence**

- a. Where a Trading Licensee has made an application for amendment of a Trading Licence under the Act, the Trading Licensee shall, within fifteen days of making such application, publish a notice in one issue each of a daily news paper in English language and two daily news papers in Gujarati language having wide circulation in the area of operations of the Trading Licence sought to be amended, giving the following particulars:
  - i.* Brief details of existing Trading Licence;
  - ii.* Proposed amendments to the existing Trading Licence;

- iii.* Reasons for the amendment;
  - iv.* The names, addresses and other necessary details of the person(s) nominated by the applicant in major cities or towns of area of proposed trading licence, who can make available for inspection the application and other documents or from whom they can be purchased in person or by post at reasonable charges, not exceeding photocopying charges.
  - v.* A statement that any person, desirous of making any suggestion or objection with reference to the application to the Commission, may do so by way of written intimation (six copies) addressed to the Secretary within within thirty days from the date of the first publication of the notice.
- b.** All objections to an application for amendment pursuant to publication of notice under sub-clause (a) above shall be considered by the Commission if received within 30 days from the date of publication of the notice.
- c.** Where an amendment to a Trading Licence is proposed by the Commission *suo motu*, the Commission shall publish a notice in one issue each of a daily news paper in English language and two daily news papers in Gujarati language having wide circulation in the area of operations of the Trading Licence sought to be amended, giving following particulars:
- (a) Name of the Trading Licensee and address of main office in the area of supply;
  - (b) Description of alteration or amendment proposed to be made by the Commission;
  - (c) Brief Reasons for proposed alteration or amendment;

(d) A statement that any person, desirous of making any suggestion or objection with reference to application to the Commission, may do so by way of written intimation (six copies) addressed to the Secretary within within thirty days from the date of the first publication of the notice.

All objections to the proposed amendment shall be considered by the Commission if received within 30 days of the publication of the notice.

d. The provisions of these Regulations relating to grant of Licence shall, as far as may be practicable and necessary apply to the consideration and disposal of an application for amendment of Trading Licence.

#### **15. Payment of Licence Fees**

a. The Licensee shall pay an Initial Licence fee as may be specified within 30 days, or such other period as the Commission may allow after the commencement of the Licence.

b. For each subsequent Year that the Licence remains in force, the Licensee shall, pay to the Commission Annual Licence Fee as may be specified.

c. Where the Licensee fails to pay any of the fees due under sub-clause (a) or (b) above by the dates specified:

i. The Licensee shall be liable to pay interest on the outstanding amount at the prevailing bank rate, the interest being payable for the period beginning on the day after which the amount becomes due, and ending on the day on which the payment is made; and

- ii.* The Licensee shall be subject to proceedings for the recovery of the fees; and
- iii.* The Commission may revoke the Licence pursuant to Section 19 of the Act.

Provided that nothing contained in this clause shall be deemed to discharge any liability that the Trading Licensee may be subject to under the Act or any other law for the time being in force.

**16. Revocation of the Licence**

- a. The Commission may revoke a Trading Licence in accordance with Section 19 of the Act , in any of the following circumstances, namely:-
  - i.* Where the conditions subject to the existence and maintenance of which the trading licence was granted ceased to exist;
  - ii.* where the Trading Licensee, in the opinion of the Commission, has made wilful and prolonged default in doing anything required of him by or under the Act or the rules or regulations made thereunder;
  - iii.* where the Trading Licensee has committed breach of any of the terms or conditions of his Trading Licence, the breach of which is expressly declared by such Trading Licence to render it liable to revocation;
  - iv.* where the Trading Licensee fails, within the period fixed in this behalf by his Trading Licence, or any longer period which the Commission may have granted therefor, to show, to the satisfaction of the Commission, that he is in a position fully and efficiently to discharge the duties and obligations imposed on him by his Trading Licence, or to make the deposit or furnish the

security, or pay the fees or other charges required by his Trading Licence;

- v. where in the opinion of the Commission the financial position of the Trading Licensee is such that he is unable fully and efficiently to discharge the duties and obligations imposed on him by his Trading Licence.

Provided that the licence shall not be revoked except after an enquiry by the adjudicating officer appointed by the Commission under Section 143 of the Act in the manner prescribed by the State Government.

- b. Where in its opinion the public interest so requires, the Commission may, on an application, or with the consent of the Trading Licensee, revoke his Trading Licence as to the whole or any part of his area of trading upon such terms and conditions as it thinks fit.
- c. On receipt of report of inquiry made under sub-section (a), the Commission may pass appropriate orders, including revocation of Trading Licence, after giving opportunity of being heard to the Trading Licensee and after giving opportunity, to make representation in connection with the report.
- d. No Trading Licence shall be revoked under sub-clause (a) unless the Commission has given to the Trading Licensee not less than three months' notice, in writing, stating the grounds on which it is proposed to revoke the Trading Licence, and has considered any cause shown by the Trading Licensee within the period of that notice, against the proposed revocation.
- e. The Commission may, instead of revoking a Trading Licence under sub-clause (a), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose, and any further terms or conditions so imposed shall be binding upon and be observed by the



Trading Licensee and shall be of like force and effect as if they were contained in the Trading Licence.

- f. Where the Commission revokes a Trading Licence under this Regulation, it shall serve a notice of revocation upon the Trading Licensee and fix a date on which the revocation shall take effect.
  - g. Where the Commission has given notice for revocation of Licence under sub-clause (d), without prejudice to any penalty which may be imposed or prosecution or proceeding which may be initiated under this Act, the Trading Licensee may, after prior approval of the Commission, sell his utility/business to any person who is found eligible by the Commission for grant of a Trading Licence.
- 17. Energy accounting, scheduling and dispatch**

Energy accounting, scheduling and dispatch shall be carried out by the State Load Dispatch Centre in accordance with the Open Access Regulations as may be specified.

## **Chapter-4**

### **Qualifications for obtaining a Trading Licence**

**18. Professional Requirements of personals:**

- a. An Applicant shall have at least one full-time professional from each of the following disciplines, holding a decision making position within its organisation, namely:
  - i. Power system operations and Technical & commercial aspects of power transfer; and
  - ii. Finance, commerce and accounts

- b. The Applicant shall furnish to the Commission the details of the professionals and the support staff, engaged by him on full-time basis before undertaking intra-state trading.

**19. Net worth Criteria**

Considering the volume of intra state trading proposed to be undertaken, the net worth of the Applicant at the time of application shall not be less than the amounts specified hereunder:

<b>S. No.</b>	<b>Category</b>	<b>Volume of electricity proposed to be traded (in KWH) per annum</b>	<b>Minimum Net worth (in Rs. Crores)</b>
1	A	Upto 50 million	1.00
2	B	50 – 100 million	1.50
3	C	100 – 200 million	3.00
4	D	200 – 500 million	7.50
5	E	500-700 million	10.00
6	F	700-1000 million	15.00
7	G	Above 1000 million	20.00

The net worth at any point of time during the operation of trading should not drop below 75% of the minimum requirements specified for the respective category of trader and shall be replenished at the end of every quarter ending March, June, September & December 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 30 days from the end of that quarter.

**20. Creditworthiness**

- a.** 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 “wilful defaulter” by the Reserve Bank of India or other relevant authority
- b.** Where an Applicant has one or more borrowal accounts with a bank/s, all such accounts shall be classified as ‘Standard’ by each of its bankers.

## Chapter 5

### General conditions of the Trading Licence

#### 21. Obligations of the Licensee

- a. The Trading Licensee shall comply with the requirements of all laws in force and, in particular, the Act, rules and the regulations made thereunder, Grid Code, and any standards, codes, orders and directions as may be issued by the Commission from time to time;
- b. The Trading Licensee shall be governed by the professional requirement of personals, net worth and creditworthiness requirements of the company specified by the Commission in these Regulations and shall increase its 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 as on 31<sup>st</sup> March of each year, and the Trading Licensee shall keep the Commission informed of its movement from one category to another and subsequent changes in the net worth;
- c. 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;
- d. The Trading Licensee shall establish adequate communication facilities such as telephone, fax, computer and internet facilities before undertaking trading;
- e. The Trading Licensee shall coordinate with Regional Electricity Boards or Regional Power Committees, the Regional Load Despatch Centres/State Load Despatch Centres, Central Transmission Utility/State Transmission Utility, Licensees and/or

the generating companies, as may be required, in relation to all trading- related activities;

- f. The Trading Licensee shall render all assistance to any person authorised by the Commission to regulate or to assist in the carrying out of the Trading Licensee's duties;
- g. Trading shall be carried out bilaterally between the parties by entering into appropriate agreements. Necessary safeguards with regard to supply of electricity through trading, or payment for the electricity traded shall be included in the agreements between the parties. All trading arrangements shall be done through letters of credit or with any other superior instrument;
- h. The Trading Licensee shall pay the licence fee specified under these Regulations in accordance with the time-schedule specified hereunder;
- i. The Trading Licensee shall 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;
- j. The Trading Licensee shall maintain up-to-date records of its customers and the transactions undertaken by it with other parties and shall provide the same to the Commission periodically.

## **22. Prohibited Activities**

- a. The Trading Licensee shall not, without prior approval of the Commission:

- i.* Acquire by purchase or take over or otherwise the utility of any other Licensee; or
- ii.* Merge its utility with the utility of any other Licensee; or
- iii.* Assign or transfer its Licence to any person, by sale, lease, exchange or otherwise.

Provided, however, that the Trading Licensee will be entitled to utilise the Trading Licence as a means of facilitating funding or financing the Licensed Business in the ordinary course of business including loans and credit facilities from banks and financial institutions, subject to the conditions:

(1) that the Trading Licensee shall inform the Commission about such arrangements at least 15 days prior to the effective date of the relevant agreements; and

(2) the Trading Licensee shall act in a prudent and reasonable manner in such utilisation of the Trading Licence.

- b.** The Trading Licensee shall not, either directly or through its subsidiary, engage in the business of transmission of electricity.
- c.** Wherever prior approval of the Commission is required, the Trading Licensee shall submit an appropriate application before the Commission.

**23. Accounts of the Trading Licensee**

- a.** The Trading Licensee shall:
  - i.* Maintain separate information and statement of accounts for the business of intra-state trading covered by the Trading Licence;

- ii.* 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, where applicable, and in accordance with standard accounting practice in all other cases;
- iii.* Keep the accounts of the business of intra-state trading separate from any Other Business carried on by the Trading Licensee, whether licensed or otherwise;
- iv.* Prepare on a consistent basis from such records, accounting statements for each 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:

  - 1. Charged from or to any Other Business together with a description of the basis of that charge; or
  - 2. Determined by apportionment or allocation between the various business activities together with a description of the basis of the apportionment or allocation;
- v.* 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

- vi.* 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.
- b.** 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.

**24. Provision of Information**

- a.** The Trading Licensee shall furnish to the Commission, without delay, such information, documents and details related to the Licensed Business or any Other Business of the Trading Licensee, as the Commission may require from time to time, for its own purposes or for the purposes of the Government of India, State Government, the Central Commission, the Central Electricity Authority, the State Transmission Utility and State Load Dispatch Centre.
- b.** Without prejudice to Regulation (a) above, the Electricity Trader shall furnish the information as may be required from time to time, to monitor the Electricity Trader's performance and compliance of the general conditions of the licence and any other legislative or regulatory requirement in accordance with **Schedule-3** appended to these Regulations:
- c.** The Trading Licensee shall furnish all such information to the State Load Despatch Centre as may be required, with a copy to the Commission, on a quarterly basis on the 10<sup>th</sup> 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 complete in all respects and no column shall be left blank:

Provided that the report sent to the State Load Despatch Centre shall be placed on the website of the Trading Licensee 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 send a report to the Commission.

**25. Prudential Reporting**

The Trading Licensee shall, as soon as practicable, report the following to the Commission:

- a. Any significant change in its circumstances which may affect the Trading Licensee's ability to meet its obligations;
- b. Any material breach of the provisions of the Act, the Rules and the Regulations, directives and orders issued by the Commission, the Grid Code, or the terms of Agreements/ arrangements entered into by the Trading Licensee with other Licensees or generating companies; and/or
- c. Any major change in shareholding pattern, ownership or management control of the Trading Licensee.

*Explanation 1* – for the purpose of this clause, “management control” shall include the right to appoint majority of the directors or to control the management or policy decisions of the Electricity Trader, including by virtue of shareholding or management rights or

shareholders' agreement or partnership agreement or trust deed or voting agreement or in any other manner;

*Explanation II* – for the purpose of this clause, “major change in shareholding pattern” means the acquisition, by such person as specified in Regulation 7 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, as in force from time to time, of such per cent of shares or voting rights in the Electricity Trader as would entail a disclosure under sub-regulation (1) of that Regulation.

**26. Duties of Electricity Trader in relation to Consumers**

- a. The provisions of the various codes relating to supply of electricity to consumers, maintenance of grid discipline and technical and safety standards, which apply to a Distribution Licensee, shall be applicable to a Trading Licensee as and when such licensee undertakes the supply of electricity to a consumer;
- b. The obligations imposed upon Distribution Licensees by the GERC Standards of Performance shall, as far as may be, be applicable to the supply of electricity by a Trading Licensee to one or more consumers as and when such licensee undertakes the supply of electricity to a consumer.

**27. Investigation of certain matters by the Commission**

- a. The Commission may, on being satisfied that a Trading Licensee has failed to comply with any of the conditions of Trading Licence

or has failed to comply with any of the provisions of the Act or rules or regulations made thereunder, at any time, by order in writing, direct any person (referred to as “Investigating Authority”) specified in the order to investigate the affairs of any Trading Licensee and to report to the Commission on any investigation made by such Investigating Authority.

- b.** The Investigating Authority shall conduct the investigation in accordance with the provisions of the Act.
- c.** On receipt of investigation report from the Investigating Authority, the Commission may, in accordance with the provisions of the Act and after giving such opportunity to the Trading Licensee to make a representation in connection with the report as in the opinion of the Commission seems reasonable, by order in writing-
  - i.* require the Trading Licensee to take such action in respect of any matter arising out of the report as the Commission may think fit; or
  - ii.* suspend or cancel the Trading Licence.

The Commission may also take any other action in accordance with the provisions of the Act.

**28. Standards of performance**

- a.** The Commission may, after consultation with the Electricity Trader specify the standards of performance of a licensee or a class of licensees.
- b.** The Electricity Trader shall furnish the performance details for each year to the Commission on quarterly basis for the quarters ending 31st March, 30th June, 30th September and 31st December in the

format prescribed in **Schedule - 4** appended to these Regulations by 15th day of the first month of the following quarter.

- c. Standard of performance of Distribution Licensee and Transmission Licensee, as may be issued by the Commission from time to time, shall be applicable to the relevant the Trading licensees.

**29. Provisions applicable to Deemed Licensees**

The general conditions of Trading Licence specified in these Regulations shall be applicable to a deemed licensee under the fifth proviso to Section 14 of the Act.

**Chapter 6**

**Miscellaneous**

**30 Savings**

- a. Nothing in these Regulations shall be deemed to limit or otherwise affect the power of the Commission to make such orders as may be necessary to meet the ends of justice or to prevent abuse of process of the Commission.
- b. Nothing in these Regulations shall bar the Commission from adopting a procedure at variance with any of the provisions of these Regulations, if the Commission, in view of the special

circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient in order to deal with such a matter or class of matters.

- c. Nothing in these Regulations shall, expressly or impliedly, bar the Commission from dealing with any matter or exercising any power under the Act, and the Commission may deal with such matters, and exercise such powers and functions in such manner as it thinks fit.

**31      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 anything, not inconsistent with the provisions of the Act, rules or regulations in force, which, in its opinion is necessary or expedient for the purpose of removing the difficulty.

AHMEDABAD  
30<sup>th</sup> March, 2005

**P. S. SHAH  
SECRETARY**



## SCHEDULE-1

### Application form for grant of Intra-State Trading Licence

#### Particulars of the Applicant

1. Name of the Applicant:
2. Form of Incorporation, if any:
3. Address:
4. Name, Designation & Address of the contact person:
5. Contact Tel. Nos.:
6. Fax No.:
7. E-mail ID:
8. Place of Incorporation/Registration:
9. Year of Incorporation/Registration:
10. Geographical Area within which Applicant proposes to undertake trading:
11. Following documents are to be enclosed
  - a) Certificate of registration:
  - b) Certificate for commencement of business:
  - c) Memorandum of Association and Articles of Association:
  - d) Original power of attorney of the signatory to commit the Applicant or its promoter
  - e) Details of Income tax Registration:
  - f) Balance Sheet

**Details of Financial Data of Applicant**

12. Net worth (in equivalent Indian Rupees-conversion to be done at the rate of exchange prevailing at the end of each Year) for immediate past 5 (five) financial years. (Specify financial year as applicable)

<b>(DD/MM/YY) to (DD/MM/YY)</b>	<b>In Home Currency</b>	<b>Exchange rate used</b>	<b>In equivalent Indian Rupees</b>

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

13. Annual turnover (in equivalent Indian Rupees - conversion to be done at the rate of exchange prevailing at the end of each year) for immediate past 5 (five) financial years. (Specify financial year as applicable)

<b>(DD/MM/YY) to (DD/MM/YY)</b>	<b>In Home Currency</b>	<b>Exchange rate used</b>	<b>In equivalent Indian Rupees</b>




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

14. Certificate of Credit Rating

15. Certificate of 'Standard' borrowal account

16. Certificate stating that RBI has not classified the Applicant as a 'wilful defaulter'.

17. List of documents enclosed in support of Sl. Nos. (10) and (11) above:

**Name of the document**

(a)

(b)

(c)

(d)

18. (a) Whether Applicant himself shall be financing the proposed trading fully on its own balance sheet

(b) If, yes, proposed equity from the Applicant

(i) Amount:

(ii) Percentage:

19. 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.

20. 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.

21. Organisational & Managerial Capability of the Applicant:

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

22. Approach & Methodology:

(The Applicant is required to describe approach & methodology for establishment of the trading arrangements as proposed by him. This should contain a statement of the volume of power intended to be traded during the first year after the grant of licence and future plans for trading during the next five years.)

**(Signature of the Applicant)**

**Dated:**

## SCHEDULE-2

### GUJARAT ELECTRICITY REGULATORY COMMISSION LICENSE TO TRADE IN ELECTRICITY AS AN ELECTRICITY TRADER

1. The Gujarat 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 an electricity trader in the area \_\_\_\_\_ subject to the provisions made in the Act, (in particular, Sections 17 to 22 thereof, both inclusive), the rules, general conditions of the Trading Licence specified under the Gujarat Electricity Regulatory Commission (Licensing of Electricity Trading) Regulations, 2005 and other Regulations specified by the Commission (herein after referred to as “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. (1) 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;

(2) 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

(3) 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. The licensee shall pay license fee as specified by the Commission.

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  
GUJARAT ELECTRICITY REGULATORY COMMISSION**

### SCHEDULE-3

#### PROFORMA FOR SUBMISSION OF INFORMATION FOR THE QUARTER

(SAY JULY 2004 TO SEPTEMBER 2004)

Name of Electricity Trader:

Licence details:

#### Proforma

1. Sr No
2. Volume of trading in million kWh
3. Purchased from\*
4. Sold to\*
5. Point of purchase
6. Purchase price
7. Point of sale
8. Sale price
9. Transmission/ wheeling charge borne by buyer/ seller/ trader
10. Transmission loss borne by buyer/ seller/ trader
11. UI charge borne by buyer/ seller
12. Trading margin
13. Remarks

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

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

\*\* Strike out whichever is not applicable

## SCHEDULE-4

### PROFORMA FOR SUBMISSION OF PERFORMANCE DETAILS OF ELECTRICITY TRADER

(to be submitted to the Commission and the SLDC)

Name of Electricity Trader:

Licence details:

1. Sr No
2. Volume of trading during the quarter
3. Cumulative trading upto the present quarter
4. Whether there is any change in the category of trader
5. Whether net worth is increased, due to change in category
6. Whether licence fee, as applicable has been deposited with the Commission
7. Whether any violation to the licence conditions pointed out by any agency or observed by the Electricity Trader Payment track record for energy purchased for trading
8. Remarks

Notes: (i) A separate copy of duly filled Schedule 4 shall also be submitted to the Commission directly.

(ii) SLDC shall verify the volume of trading and forward a copy of the verified Schedule 4 to the Commission.