

¹[**The Himachal Pradesh Electricity Regulatory Commission (General Conditions of Transmission Licence) Regulations, 2004]**

Amended, repealed or otherwise affected by:-

1. *Corrigendum issued vide notification No. HPERC/381 dated 23rd June, 2005 published in the R.H.P.(Extra) dated 27th June, 2005 at p.1480.*
2. *(First Amendment) Regulations, 2005 notified vide Not. No. HPERC/381 dated 22nd February, 2005 and published in the R.H.P. (Extra) dated 23rd February, 2005 at p.3933-3934.*

NOTIFICATION

Dated: Shimla, the 10th June, 2004

No: HPERC/381:-The Himachal Pradesh Electricity Regulatory Commission in exercise of the powers conferred by section 16, read with clause (d) of sub-section (2) of section 181, of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in this behalf, after previous publication, hereby makes the following regulations, namely:-

1. Short title and commencement.- (1) These Regulations may be called the Himachal Pradesh Electricity Regulatory Commission (General Conditions of Transmission Licence) Regulations, 2004.

(2) These Regulations shall come into force on the 10th June, 2004.

2. Definitions. - In these regulations unless the context otherwise requires ,-

(1) “**Act**” means the Electricity Act, 2003 (36 of 2003);

(2) “**accounting statement**” means for each financial year, accounting statements for the licensed business comprising a profit and loss account, a balance sheet and a statement of sources and application of funds, together with notes thereto as detailed under the Companies Act, 1956 (1 of 1956) and such other particulars and details in the manner as the Commission may direct from time to time. If the transmission licensee engages in any business or activity in addition to the licensed business , the accounting statements shall comply with the regulations of the Commission dealing with the treatment of other business of the transmission licensees and show separately the amounts of any revenue, cost, asset, liability, reserve or provision, which has been either, -

- (a) charged from the licensed business to any other business or vice-versa together with a description of the basis of that charge; or
- (b) determined by apportionment or allocation between the licensed business and any other business of the transmission licensee together with a description of the basis of the apportionment or allocation.

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Published in the R.H.P. (Extra) dated 11th June, 2004 at p. 789-813.

(3) “**annual accounts**” means the accounts of the transmission licensee prepared in accordance with the provisions of the Companies Act, 1956 (1 of 1956) and/or in such other manner as may be directed by the Commission in terms of the provisions of the Act;

(4) “**area of activity**” means the area of activity stated in the transmission licence within which the transmission licensee is authorised to establish, operate and maintain transmission lines;

(5) “**auditors**” means the transmission licensee’s auditors holding office in accordance with the requirements of sections 224 to 234A or section 619 as appropriate, of the Companies Act 1956 (1 of 1956);

(6) “**authorised**” in relation to any person, business or activity, means authorised by licence granted under section 14 of the Act or deemed to be granted under the first, second, third and fifth provisos to section 14 of the Act or exemption granted under section 13 of the Act and the regulations of the Commission;

(7) “**Commission**” means the Himachal Pradesh Electricity Regulatory Commission;

(8) “**distribution**” means the conveyance of electricity by means of a distribution system;

(9) “**distribution business**” means authorised business of a distribution licensee to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply;

(10) “**distribution code**” means the code governing all material technical aspects relating to connections to and the operation and use of the distribution system as specified by regulations made by the Commission;

(11) “**existing transmission system operating standards**” means the transmission licensee’s standards for operating the transmission system as on the date of the grant of the transmission licence and in the event of a new business such standards applicable to the other or previous transmission licensees in the State;

(12) “**existing transmission system planning and security standards**” means the transmission licensee’s standards for system planning and security of the transmission system as on the date of the grant of transmission licence and in the event of a new business such standards applicable to the other or previous transmission licensees in the State;

(13) “**force majeure**” means events beyond the reasonable control of the licensee, including, but not limited to earthquakes, cyclones, floods, storms, adverse weather conditions, war, terrorist attacks, civil commotion or other similar occurrences that leads to any act that would involve a breach of relevant laws or regulations concerned with electrical safety;

(14) “**generator interconnection facilities**” means electrical lines, transformers, bus-bars, switch-gear, plant or apparatus utilised to enable access to a transmission system or distribution system by the generating set(s);

(15) “**grid code**” means the grid code specified by the Central Government under clause (h) of sub-section (1) of section 79 of the Act and includes the State grid code specified by the Commission under clause (h) of sub-section (1) of section 86 of the Act;

(16) “**holding company**” shall have the same meaning as in section 4 of the Companies Act, 1956 (1 of 1956);

(17) “**interim grid code**” means the existing practices and procedures followed by the State Transmission Utility for operating the transmission system as on the date of issue of the terms and conditions of the transmission licence;

(18) “**intervening transmission facilities**” means the electric lines owned or operated by a transmission licensee where such electric lines can be utilized for transmitting electricity for and on behalf of another licensee at his request and on payment of a tariff or charge

(19) “**licence**” means the licence under section 14 of the Act under which the licensee is authorised to conduct the licensed business;

(20) “**licensed business**” means the business of transmission of electricity as authorised under the licence;

(21) “**major incident**” means an incident associated with the transmission of electricity, which results in a significant interruption of service, substantial damage to equipment, or loss of life or significant injury to human beings, or as otherwise directed by the Commission and shall also include any other incident which the Commission expressly declares to be a major incident;

(22) “**operational control**” means possessing the authority to make operational decisions such as commissioning and utilisation of units, service lines and equipment;

(23) “**other business**” means business of the transmission licensee other than the licensed business;

(24) “**performance standards**” means the standards as may be determined by the Commission pursuant to section 57 of the Act;

(25) “**State Government**” means the Government of the State of Himachal Pradesh;

(26) “**subsidiary**” shall have the same meaning as in section 4 of the Companies Act 1956 (1 of 1956);

(27) “**transfer**” shall include the sale, exchange, gift, lease, licence, loan, securitisation, mortgage, charge, pledge or grant of any other encumbrance or otherwise permitting of any encumbrance to subsist or parting with physical possession or any other disposition or dealing;

(28) “**transmission business**” means the authorised business of a transmission licensee to transmit electricity, whether for its own account or for that of any other person, through any system owned and/ or operated by such licensee;

(29) “**transmission licensee**” means the entity, which has been granted a transmission licence or is a deemed licensee under the first, second, third or fifth provisos to section 14 of the Act authorized to transmit electricity;

(30) “**transmission operating standards**” means the standards related to the transmission licensee’s operation of its transmission system approved by the Commission;

(31) “**transmission planning and security standards**” means the standards related to the adequacy of the transmission licensee’s system planning and security of its transmission system as approved by the Commission;

(32) “**transmission system**” means the system consisting mainly of extra high voltage electric lines having design voltage of 33 kV and higher, owned or controlled by the transmission licensee, and used for the purposes of the conveyance of electricity between the switchyards of two generating sets or from the switchyard of a generating set to a substation, or between substations, or to or from any external interconnection and includes all bays/equipment upto the interconnection with the distribution system, and any plant, apparatus and meters owned or used in connection with the transmission of electricity, but shall not include any part of a distribution system;

(33) “**use of system**” means use of the transmission system for the transportation of electricity for any person pursuant to a contract entered into with the transmission licensee:

(34) “**users**” means anyone who uses the transmission system; and

(35) the other words, terms and expressions used and not defined in these regulations, but defined in the Act, shall have the meanings as are respectively assigned to them in the Act.

3. Term. - The transmission licence shall come into force on the date to be mentioned by the Commission in the order granting the licence and subject to the terms and conditions of the grant of licence, shall remain in force for the period mentioned in the order

4. Compliance with laws, rules and regulations.— (1) The transmission licensee shall comply with the provisions of the Act, rules, regulations, orders and directions issued by the Commission from time to time and the provisions of all other applicable laws.

(2) The transmission licensee shall act in accordance with this general conditions contained in these regulations, except where the transmission licensee is exempted from any provisions of these general conditions at the time of the grant of licence or otherwise specifically obtains the approval of the Commission for any deviation therefrom.

(3) The transmission licensee shall duly comply with the order and directions of the National Load Despatch Centre, the Regional Load Despatch Centre and the State Load Despatch Centre and other statutory authorities issued in the discharge of their functions under the Act.

5. Activities of the transmission licensee. – (1) The transmission licensee shall duly discharge the duties of the transmission licensee as provided under section 40 of the Act.

(2) The transmission licensee shall provide non-discriminatory open access to the transmission system for use of the licensees and the generating company including the captive generating plant and the consumer subject to availability of transmission capacity in the transmission lines and in the case of use of such transmission system for supply of electricity to the consumer subject to payment of surcharge for supply to meet the current level of cross-subsidy as envisaged in section 40 read with sub-section (2) of section 42 of the Act.

(3) The transmission licensee shall not, without the prior approval of the Commission –

- (a) undertake any transaction to acquire by purchase or takeover or otherwise, the utility of any other licensee;
- (b) acquire any beneficial interest in any generating company of generating station; or
- (c) transmit electricity to any person, in the State of Himachal Pradesh, not authorised to do so by the Commission.

(4) The transmission licensee shall not engage in the business of electricity trading or directly or indirectly associate in the business of an electricity trader or the distribution licensee.

(5) The transmission licensee shall provide to the other licensees intervening transmission facilities to the extent of surplus capacity available, in his transmission system and in the event of any dispute as to the availability of the surplus capacity the same shall be determined by the Commission. The charges and terms and conditions for the intervening facilities may be mutually agreed between the licensees and in the event of any disagreement the same shall be decided by the Commission.

(6) In the event the transmission licensee engages in any other business, the same shall be subject to the condition that-

- (a) the licensed business and the conduct thereof by the transmission licensee is not prejudiced and/or adversely affected in any manner by reason of the other business;
- (b) a proportion of the revenue, as may be directed by the Commission, derived from such other business shall be utilized for reducing the charges for transmission and wheeling;
- (c) the transmission licensee shall prepare and keep, in respect of the other business activities, separate accounting records as would be required to be kept in respect of such activities as if they were carried on by a separate company, so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to such other business activities are separately identifiable from those of the licensed business;
- (d) the licensed business does not subsidize in any way such other business nor creates encumbrance on its transmission assets in any way to support such other business; and

(e) the transmission licensee shall not transfer any assets utilised in the transmission system for the purposes of other business activities without the prior approval of the Commission.

(7) The transmission licensee shall seek approval of the Commission before making any loans to, or issuing any guarantee for any obligation of any person, except when made or issued for the purposes of the licensed business. Loans to employees pursuant to their terms of service and trade advances in the ordinary course of business are excluded from the requirement to seek such approval.

(8) The transmission licensee may engage any of its subsidiaries or holding company or a subsidiary of such holding company of the transmission licensee to provide any goods or services to the transmission licensee in connection with the licensed business, subject to the condition that-

- (a) the transaction will be on an arms-length basis and at a value that is fair and reasonable in the circumstances;
- (b) the transaction will be consistent with any regulations framed by the Commission relating to the provision of goods and services with respect to licensed business; and
- (c) the transmission licensee will give 15 days' notice with details of such arrangement, to the Commission prior to commencement of such arrangement.

(9) In all other cases of engagement of such subsidiary or holding company or a subsidiary of the holding company, prior permission of the Commission will be required. Where such prior permission is required, the transmission licensee will file a suitable application with the Commission disclosing relevant facts. The Commission may, within 30 days of the filing of the application, seek further information in support of the application. The Commission shall generally within 30 days of such further information being submitted by the transmission licensee, and where no such further investigation is required, generally within 60 days of the filing of the application, allow the arrangement subject to such terms and conditions or modifications as it considers appropriate or reject the same, for reasons recorded in writing in the order to be issued by the Commission.

(10) The transmission 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. To obtain the approval of the Commission as aforesaid, the transmission licensee will file a suitable application with the Commission disclosing relevant facts in that behalf and the Commission shall dispose such application expeditiously.

6. Accounts. – (1) The transmission licensee shall conduct study on its total financial planning, budgeting and restructuring to determine an optimal capital structure, including key financial parameters, which the transmission licensee shall follow in order to monitor its financial performance.

(2) Unless otherwise permitted by the Commission the financial year of the transmission licensee for the purposes of the general conditions contained in these regulations and matters relating to the licensed business shall run from the first of April to the following thirty-first of March.

(3) The transmission licensee shall, in respect of the licensed business and any other business,-

- (a) keep such accounting records as would be required to be kept in respect of each such business so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to the licensed business are separately identifiable in the books of the transmission licensee, from those of other business in which the transmission licensee may be engaged;
- (b) prepare on a consistent basis from such accounting records and deliver to the Commission the accounting statements, namely: -
 - (1) in respect of the first six months of each financial year, a half yearly profit and loss account, cash flow statement and balance sheet together with such supporting documents and information, as the Commission may prescribe from time to time. Such statements and documents shall be published in the manner directed by the Commission;
 - (2) in respect of the accounting statements prepared, an auditor's report for each financial year, stating whether in their opinion these statements have been properly prepared in accordance with this clause and give a true and fair view of the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to such business to which the statements relate; and
 - (3) a copy of each half yearly profit and loss account not later than three months after the end of the period to which it relates, and copies of the accounting statements and auditor's report not later than six months after the end of the financial year to which they relate.

(4) The transmission licensee shall not normally change the basis of charge or apportionment or allocation of revenues or expenses in relation to the preparation of the accounting statements in respect of a financial year from those applied in respect of the previous financial year, without prior intimation to the Commission. Any change, if proposed, in the basis of charge or apportionment of revenues or expenses shall be consistent with the provisions of the Companies Act, 1956 (1 of 1956), the accounting standards or regulations and any guidelines issued by the Commission in this regard.

(5) Where, in relation to the accounting statements in respect of a financial year, the transmission licensee has changed the basis of charge or apportionment or allocation from those adopted for the immediately preceding financial year, the transmission licensee shall, if directed by the Commission, (in addition to preparing accounting statements on those basis on which it has adopted), prepare and deliver to the Commission such accounting statements on the basis which it applied in respect of the immediately preceding financial year.

(6) The accounting statements under sub regulation (3) shall, unless or otherwise approved or directed by the Commission,-

- (a) be prepared and published with the annual accounts of the transmission licensee;
- (b) state the accounting policies adopted;

- (c) be prepared in accordance with generally accepted Indian accounting standards; and
- (d) be prepared in the form as the Commission may stipulate from time to time.

(7) The references to costs or liabilities of, or reasonably attributable to licensed business or other business shall be construed as excluding taxation, and capital liabilities which do not relate principally to such business and interest thereon.

(8) The transmission licensee shall ensure that the accounting statements in respect of each financial year prepared under sub regulations (3) and the auditor's report in respect of each financial year are publicised in such manner as the Commission may direct and are made available to any person requesting them at a price not exceeding the reasonable cost of duplicating them.

7. Provision of information to the Commission.- (1) The transmission licensee shall furnish to the Commission without undue delay such information, documents and details related to the licensed business or any other business of the transmission licensee, as the Commission may require from time to time for its own purposes or for the purposes of the Government of India, the State Government, the Central Commission and/or the Central Electricity Authority, the State Transmission Utility and the State Load Despatch Centre.

(2) The transmission licensee shall duly maintain the information as the Commission may direct under section 128 of the Act.

(3) The transmission licensee shall notify the Commission as soon as possible the occurrence of any major incident affecting any part of its transmission system and in any event by not later than two months from the date of such occurrence,-

- (a) submit a report to the Commission giving full details of the facts within the knowledge of the transmission licensee regarding the incident and its cause;
- (b) in the event the report under sub-clause (a) is likely to take more than 2 months from the date of such incident, the transmission licensee shall within one month from such date of the incident submit a preliminary report with such details which the transmission licensee can reasonably furnish and state reasons as to why the transmission licensee requires more than 2 months for giving full report of such incident; and
- (c) give copies of the report to all parties concerned with the major incident and to such other persons as the Commission may direct.

(4) The Commission at its own discretion may require the submission of a report to be prepared by an independent person at the expense of the transmission licensee.

(5) The transmission licensee shall also undertake such studies as the Commission may direct it to undertake from time to time for the improvement of its transmission business and any other matter concerning the transmission business that the Commission considers necessary in public interest to avoid occurrence of any such major incident. Alternatively, the Commission may, on its own, initiate and undertake such studies through consultants at the cost and expense of the transmission licensee which shall be allowed as pass through in its Aggregate Revenue Requirement (ARR).

(6) The transmission licensee shall duly inform the Commission about any incident restricting it from meeting its obligation under the licence granted including any act of

omission or commission by others and steps taken by the transmission licensee to mitigate the effect of such incident.

(7) The Commission may at any time require the transmission licensee to comply with the provisions of clauses (3) to (6) as to incidents which the Commission may specifically direct and the transmission licensee shall be obliged to comply with the same notwithstanding that such incidents are not major incidents; provided that the time limits specified in clause (3) shall commence from the date the Commission notifies transmission licensee of such requirement.

(8) The transmission licensee shall submit a business plan within three months of transmission licence coming in force for such period as the Commission may direct and shall update such plan annually. The business plan shall contain year-wise load growth, yearwise transmission loss reduction proposal along with specific action plan, metering plan for metering interface points, investment plan, treatment of previous losses, debt restructuring plan, cost reduction plan, projected profit and loss account, projected balancesheets, projected cash flow statements and projected important financial parameters.

(9) The Commission may require the transmission licensee to intimate by the end of first quarter of each financial year the progress made in implementing the business plan of the previous financial year with the comparison of actual implementation vis-à-vis the plan as approved by the Commission.

8. Investments.- (1) The transmission licensee shall duly comply with the regulations, guidelines, directions and orders the Commission may issue from time to time in regard to the investments to be made in the transmission business.

(2) The transmission licensee shall make the investment in a prudent manner being guided by the duty to build, maintain and operate an efficient, co-ordinated and economical transmission system in the State.

(3) The transmission licensee shall submit to the Commission investment plans as a part of the business plan under sub regulation (8) of the regulation 7 giving details of investment schemes to be undertaken during the concerned period for the approval of the Commission. The transmission licensee shall demonstrate to the satisfaction of the Commission that -

- (a) there is a need for such investments in the transmission system contained in the investment plan;,
- (b) the transmission licensee has examined the economic, technical, system and environmental aspects of all viable alternatives to the proposal for investing in or acquiring new transmission system assets to meet such need.

(4) The transmission licensee shall intimate, by the end of the first quarter of each financial year, -

- (a) the annual investment plan with details of investment schemes to be carried out during the financial year, and
- (b) the progress made in implementing the annual investment plan of the previous financial year with the comparison of actual implementation vis-à-vis the plan as approved by the Commission for the concerned period.

(5) The transmission licensee shall not undertake schemes involving major investments, not covered under the investment plan approved by the Commission under sub regulation (3) without the prior approval of the Commission, and for such approval the transmission licensee shall demonstrate to the satisfaction of the Commission the factors mentioned in sub regulation (3).

(6) The transmission licensee shall invite and finalise tenders for procurement of equipment, material and/or services relating to major investment, in accordance with a transparent tendering procedure as may be directed by the Commission. The transmission licensee shall, in consultation with the Commission,-

- (i) ensure that the material management policy and practices including calendar of various actions, approvals, tendering, purchase order, delivery schedule and payments etc. are streamlined so as to provide necessary inputs of right quality at the right time to facilitate faithful implementation and compliance of the approved standards and benchmarks,
- (ii) lay down bench-mark prices and conclude rate contracts for decentralised purchases so as to bring about financial discipline and inventory control for achieving optimal financial ratios in respect of such decentralised purchases.

(7) For the purposes of this regulation, the term "major investment" means any planned investment in or acquisition of transmission facilities, the cost of which, when aggregated with all other investments or acquisitions (if any) forming part of the same overall transaction, equals or exceeds an amount contained in the special conditions applicable to the transmission licensee or otherwise decided by the Commission from time to time by general or special order.

(8) The transmission licensee shall be entitled to make investment in the transmission business otherwise than those covered under sub-regulations (3) and (4) but for the purposes of considering such investment while determining the tariff, the transmission licensee shall satisfy the Commission that the investment was required for the transmission business and such investment was made in an efficient, co-ordinated and economical manner.

(9) The transmission licensee shall submit to the Commission alongwith the "Expected Revenue Calculations" filed under section 62 of the Act , the highlights of the annual investment plan consisting of those schemes approved by the Commission, schemes submitted before the Commission for approval and all schemes not requiring approval of the Commission planned for the ensuing financial year and shall make investment in the said financial year in accordance with the said investment plan:

Provided that if any unforeseen contingencies required reallocation of funds within the schemes listed in the annual investment plan, the transmission licensee may do so to the extent such reallocation in respect of individual projects does not exceed an amount decided by Commission in the special conditions applicable to the transmission licensee or otherwise by a general or special order. The transmission licensee shall give due intimation of such reallocation to the Commission before making the investment:

Provided also that if on account of unforeseen circumstances the transmission licensee is required to make investment in a scheme, which does not find a place in the annual

investment plan, the transmission licensee may do so if the same is not a major investment and subject to the conditions contained in sub regulation (8).

(10) The transmission licensee shall submit to the Commission the relevant load flow studies and details of investment requirement to achieve the planned reduction both in technical and non technical losses.

9. Transfer of assets. – (1) The transmission licensee shall segregate the utilized assets and unutilised, unproductive and un-remunerative assets and reduce asset inventory of unproductive and un-remunerative assets.

(2) The transmission licensee shall prepare “Fixed Assets Register” and undertake an investigation of amount reflected in the capital works in progress account from time to time to ensure that the completed works are transferred to the “Fixed Assets Register” as soon as may be, after they are completed.

(3) The Commission may either require the transmission licensee to carry out physical verification of assets by an independent agency or initiate such verification itself, at the cost of the transmission licensee which shall be allowed as pass through in the Aggregate Revenue Requirement (ARR).

(4) The transmission licensee shall not, in a single transaction or a set of related transactions, transfer or relinquish operational control over any asset whose book value at the time of the proposed transfer exceeds the amount decided by Commission in the special conditions applicable to the transmission licensee or otherwise by a general or special order, without complying with the conditions stipulated in this regulation.

(5) The transmission licensee shall give to the Commission prior written notice of its intention to transfer or relinquish operational control over any asset whose value exceeds the amount decided by the Commission as per sub-regulation (4) and the transmission licensee shall disclose all relevant facts in the communication to the Commission. The Commission may, within 30 days of the receipt of the notice, seek further information in support of the transaction and shall, generally within 30 days of such further information being submitted by the transmission licensee, and where no such further information is sought by the Commission as above, within 60 days of the filing of the application, approve the transfer arrangement subject to such terms and conditions or modifications as is considered appropriate or reject the same, for reasons recorded in writing in the order to be issued by the Commission.

(6) The transmission licensee may transfer or relinquish operational control over any asset as is detailed in any notice given under sub regulation (5) where-

- (a) the Commission confirms in writing that it consents to such transfer or relinquishment of operational control subject to such conditions as the Commission may impose; or
- (b) the Commission does not inform the transmission licensee in writing of any objection to such transfer or relinquishment of operational control within the notice period referred to in sub-regulation (5) and the transfer is effected by transparent and competitive bidding procedures.

(7) The transmission licensee may also transfer or relinquish operational control over any asset where-

- (a) the Commission has issued directions for the purposes of this regulation containing a general consent (whether or not subject to conditions) to-
 - (1) the transactions of a specified description, and/or
 - (2) the transfer or relinquishment of operational control over assets of a specified description, and/or
 - (3) the transfer or relinquishment of operational control is in accordance with any conditions to which the consent is subject, or
- (b) the transfer or relinquishment of operational control in question is mandated under any other law; or
- (c) the asset in question was acquired and used by the transmission licensee exclusively or primarily in connection with any other business and does not constitute a legal or beneficial interest in land, or otherwise form part of the transmission system or is not otherwise an asset required for the licensed business.

(8) The transmission licensee shall be entitled to utilise the assets as a means of facilitating financing its investment requirement or including collateral for debt financing, securitisation of receivables subject to the conditions:

- (a) that the transmission licensee will inform the Commission about such arrangements at least 15 days prior to the effective date of the relevant agreements;
- (b) the transmission licensee acts in a prudent and reasonable manner in such utilisation of assets; and
- (c) the transmission licensee retains the operational control over assets in the transmission system

(9) Notwithstanding anything contained in this regulation in case of any emergency condition, the transmission licensee may transfer the assets subject to the condition that the transmission licensee shall immediately after such a transaction seek post-facto approval of the Commission giving the detailed facts about the situation and the details of the transaction. It shall be the obligation of the transmission licensee to establish to the satisfaction of the Commission of the presence of emergency condition necessitating the transfer of the assets.

10. Payment of licence fees. – (1) Within such period as the Commission may direct, the transmission licensee shall pay to the Commission the licence fees, initial and also periodic, mentioned ¹[in the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 or] in the specific condition in such manner as the Commission may direct in the said specific condition.

¹ Ins. vide Not. No. HPERC/ 381 dated 22nd February, 2005 and published in the R H.P. (Extra) dated 23rd February, 2005 at p. 3933-3934, and by Corrigendum issued vide Not. No. HPERC/381 dated 23rd June, 2005 published in the R H.P. (Extra) dated 27th June, 2005 at p. 1480.

(2) Where the transmission licensee fails to pay to the Commission any of the fees due under sub-regulation (2) by the due dates,-

- (a) without prejudice to other obligations, the transmission licensee shall be liable to pay interest on the outstanding amount at a simple interest rate of 1.5 percent per month, the interest being payable for the period beginning on the day after which the amount became due, and ending on the day on which the payment is made to the Commission; and
- (b) in the event of continued default by the transmission licensee, the Commission may revoke the transmission licence.

(3) The transmission licensee shall be entitled to take into account any fee paid by it under this regulation as an expense in the determination of aggregate revenues to be charged to the tariffs, but shall not take into account any interest paid pursuant to this regulation.

11. Terms of revocation.- (1) Subject to the provisions of section 19 of the Act and the regulations framed thereunder, the Commission may, at any time initiate proceedings against the transmission licensee for revocation of the transmission licence and if satisfied in such proceedings on the grounds for revocation, duly considering the public interest, revoke the transmission licence.-

- (a) where the transmission licensee in the opinion of the Commission, makes wilful and prolonged default in doing anything required of him by or under this Act or the rules or regulations made thereunder;
- (b) where the transmission licensee violates any of the terms or conditions of his licence the breach of which is expressly declared by such licence to render it liable to revocation;
- (c) the transmission licensee fails, within the period fixed in this behalf by his licence, or any where longer period which the Commission may have granted therefor-
 - (1) to show, to the satisfaction of the Commission, that he is in a position to fully and efficiently discharge the duties and obligations imposed on him by his licence, or
 - (2) to make deposits or furnish the security, or pay the fees or other charges required by his licence;
- (d) where in the opinion of the Commission the financial position of the transmission licensee is such that he is unable to fully and efficiently discharge the duties and obligations imposed on him; and
- (e) where the transmission licensee has failed to comply with all the regulations, codes, and standards and also orders and directions of the Commission or otherwise has committed an act which renders transmission licence revocable on any other grounds stated in the Act or the rules or regulations framed thereunder.

(2) Where in its opinion the public interest so requires, the Commission may, on application, or with the consent of the transmission licensee, revoke his licence as to the whole or any part of his area of transmission upon such terms and conditions as it thinks fit.

(3) Before revoking a transmission licence the Commission shall, if in its opinion it is necessary so to do, refer the matter to the State Government and agree on an alternate arrangement to be made for discharging the duties of the transmission licensee.

12. Amendment of licence conditions.— (1) These general conditions of licence may at any time, if it is in public interest, be altered or amended by the Commission, in exercise of powers under Section 18 of the Act, subject to the condition that –

- (a) where the transmission licensee has made an application under sub-section (1) of section 18 of the Act proposing any alteration or amendment in the general conditions of licence, the transmission licensee shall publish a notice of such application with such particulars and in such manner as may be directed by the Commission;
- (b) in the case of an application proposing alterations or modifications in the area of activity comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, or camp or of any building or place in the occupation of the Government for defence purposes, the alterations or modifications shall be made only with the consent of the Central Government;
- (c) where any alterations or amendments in a licence are proposed to be made otherwise than on the application of the transmission licensee, the Commission shall publish the proposed alterations or amendments with such particulars and in such manner as the Commission may consider to be appropriate;
- (d) the Commission shall not make any alterations or amendments unless all suggestions or objections received within thirty days from the date of the first publication of the notice have been considered by the Commission.

13. Dispute resolution.— (1) The Commission shall be entitled to act as arbitrator or nominate person(s) as arbitrator(s) to adjudicate and settle disputes between the transmission licensee and any other licensee or between the transmission licensee and a generating company in pursuance of clause (f) of sub-section (1) of section 86, read with section 158, of the Act and the regulations of the Commission.

(2) The arbitration proceedings for disputes under sub-regulation (1) may be commenced and conducted by the Commission or the disputes may be referred to the arbitration of others, as the case may be, in accordance with the Conduct of Business Regulations framed by the Commission.

14. Transmission Planning and Security Standards; Transmission Operating Standards.— (1) The transmission licensee shall plan and operate the transmission system, so as to ensure that transmission system built, operated and maintained to provide an efficient, economical and coordinated system of transmission, in accordance with the grid code and the overall performance standards.

(2) The transmission licensee shall make arrangements, within such time as the Commission may direct,–

- (a) to meet the power supply planning and security standards and power supply operating standards;

- (b) to lay down security standards as, will ensure that the transmission licensee conducts its planning security so that transmission of electricity will meet levels of reliability and quality proposed by the transmission licensee and approved by the Commission;
- (c) to ensure that the operating standards are of such levels of operational security as approved by the Commission from time to time.

(3) (a) The transmission licensee shall, within such time as the Commission may direct in the special conditions or otherwise submit to the Commission the existing planning and security standards and the operating standards for its transmission system and the existing planning and security standards and operating standards relating to generation capacity connected to its transmission system being followed by the transmission licensee. Such existing standards, with such modification as the Commission may direct, shall continue to remain in effect until the new standards are approved by the Commission.

(b) The transmission licensee shall, within such time as the Commission may direct in the specific conditions or otherwise, prepare, in consultation with the suppliers, generating companies, the Central Transmission Utility, the State Transmission Utility, the Regional Electricity Board and such other persons as the Commission may direct, and submit to the Commission for approval the transmission licensee's proposal for transmission planning and security standards and transmission operating standards, and operating standards in accordance with the general conditions contained these regulations.

(c) The transmission planning and security standards and transmission operating standards, and the operating standards submitted by the transmission licensee pursuant to this regulation, with such modifications as the Commission may require, shall take effect from such dates as the Commission may direct.

(4) The transmission licensee shall not be in breach of its obligations, if the failure to meet the transmission planning and security standards or the transmission operating standards is due to force majeure, provided that, the transmission licensee has used its reasonable efforts, to comply with the transmission planning and security standards or the transmission operating standards, as the case may be.

(5) The transmission licensee shall, in consultation with suppliers, the generating companies, the Central Transmission Utility, the State Transmission Utility, the Regional Electricity Board and such other persons as the Commission may order, review the standards and their implementation on each occasion when a review of the grid code is undertaken. Following any such review, the transmission licensee shall send to the Commission:-

- (a) a report on the outcome of such review;
- (b) any revision which the transmission licensee proposes to make to such documents from time to time (having regard to the outcome of such review); and
- (c) any written representations or objections (including those not accepted by the transmission licensee) from suppliers, the generating companies, the Central Transmission Utility, the State Transmission Utility, the Regional Electricity Board and such other persons as the Commission may order arising during the consultation process:

Provided that the Commission may, upon application of the transmission licensee, relieve the transmission licensee from the obligation to review the standards and their

implementation, to such extent as shall be stated in the directions issued to the transmission licensee by the Commission for the purposes of this condition.

(6) The Commission may, having regard to any written representations and objections received and following such further consultation as the Commission may consider appropriate, issue directions requiring the transmission licensee to revise the standards in such manner as may be stated in the directions. The transmission licensee shall duly carry out the revisions directed by the Commission.

(7) The transmission licensee shall, within 3 months of the end of each financial year, submit to the Commission a report indicating the performance of the transmission system during the previous financial year. The transmission licensee shall, if required by the Commission, publish the reports in a manner to be determined by the Commission. The copies of this report shall also be furnished by the transmission licensee to all persons applying for the same at the normal cost of photocopying.

(8) The transmission licensee shall, upon request by the Commission, provide to the Commission such information as the Commission may require under or for the purpose of monitoring the duties and responsibilities of the transmission licensee under this regulation.

15. Grid Code.- (1) The transmission licensee shall ensure due compliance with the National Grid Code, the Regional Grid Code and the State Grid Code in operation.

(2) The State Grid Code shall be formulated from time to time by the Commission under clause (h) of sub-section (1) of section 86 of the Act. Until such State Grid Code is formulated the transmission licensee shall follow the Interim Grid Code.

(3) The transmission licensee shall, in consultation with other transmission licensees, generating companies, the Central Transmission Utility, the State Transmission Utility, the Regional Electricity Board and such other persons as the Commission may direct, review the grid code and its implementation from time to time in so far as the operation of the transmission licensee is concerned. Such review should be carried at least once in three years. Following any such review, the transmission licensee shall send to the Commission and the State Transmission Utility:

- (a) a report on the outcome of such review; and
- (b) any proposed revisions to the grid code from time to time as the transmission licensee reasonably thinks fit; and
- (c) all written representations or objections received by the transmission licensee during the consultation process.

16. Connection and use of system.- (1) The transmission licensee shall make such arrangements for non-discriminatory open access to the use of his transmission system by the users subject however to the availability of the adequate transmission capacity in accordance with open access regulations notified by the Commission and further subject to the users agreeing to pay all applicable charges including the transmission charges and surcharges wherever applicable.

(2) On application made for grant of a connection by any person intending to use the transmission system the transmission licensee shall offer to enter into an agreement with such person for connection to the transmission system or for modification of such an existing connection and such offer shall make provision for -

- (a) carrying out of works necessary to make the required connection, including the installation of meters;
- (b) carrying out of any necessary works to reinforce the transmission licensee's transmission system;
- (c) the connection charges to be paid as directed by the Commission ; and
- (d) the completion date and such other terms as are relevant to the circumstances.

(3) The transmission licensee shall offer terms for agreements in accordance with sub-regulations (1) and (2) as soon as practicable to the intended users of the system. The transmission licensee shall not be obliged to offer to enter into any agreement if-

- (a) the adequate transmission capacity is not available in the transmission system, provided that the existence or absence of such available capacity shall be subject to determination by the State Transmission Utility and in case of any dispute pertaining to the same on such determination the same shall be subject to the decision of the Commission;
- (b) it is likely to result in breach of its duties under the Act; or
- (c) it is likely to result in breach of any rules or regulations relating to safety or standards applicable to the transmission business including, the prevailing rules;
- (d) being in breach of any of the grid code;
- (e) the person making the application does not undertake to comply with the grid code from time to time in force to the extent that it is applicable to that person; or
- (f) the person making the application to pay the applicable charges, surcharge, adjustment for losses of electricity in the transmission systems determined by the Commission

(4) If, after a period which appears to the Commission to be reasonable for the purpose, the transmission licensee has failed to enter into an agreement with any intending user of the transmission system, the Commission may at the request of such intending user settle such terms in dispute between the transmission licensee and that person and, the transmission licensee shall forthwith enter into and implement such agreement in accordance with its terms as settled by the Commission.

(5) The transmission licensee shall prepare and submit to the Commission on an annual basis, a statement showing in respect of each of the 5 succeeding financial years forecasts of circuit capacity, power flows and loading on the transmission system under standard planning criteria, together with,-

- (a) such further information as shall be reasonably necessary to enable any person seeking the use of the system to identify and evaluate the opportunities available when connecting to and making use of such system; and
- (b) a statement prepared by the transmission licensee indicating its views as to those parts of its transmission system most suited to new connections and transport of further quantities of electricity.

(6) At the request of a person or a supplier who wishes to use the transmission system, the transmission licensee shall prepare an update to the above statement, incorporating most recent data but specifically including any facility for which any other person or a supplier has requested use of and connection to the transmission system.

(7) The transmission licensee may make a charge for any statement given or sent to persons seeking use of system, of an amount reflecting the transmission licensee's reasonable costs of providing such a statement.

(8) The transmission licensee is entitled to undertake all activities necessary, related or incidental to the conduct of the transmission business, which would include laying and operating appropriate communication network to implement information technology based solutions like remote metering etc. for the licensed transmission business.

17. Expected revenue calculation and tariffs.- (1) The transmission licensee shall, within such time as may be specified by the Commission, -

- (a) build a credible and accurate database of costs and expenditure so that the stakeholders can focus on these costs and expenses to have rational basis for the determination of tariffs with some regulatory certainty; and
- (b) conduct a study on marginal costs of supply, including differentiated marginal costs by voltage levels; and
- (c) with a view to improve the quality of service, increase revenue and reduce transmission losses, the transmission licensee shall carry out compulsory energy audit; plan and manage its transmission system and reationalise the existing manpower, for improvement in efficiency through scientific engineering resource management, improving and updating the organizational strategies, systems and skills.

(2) The transmission licensee shall calculate the expected revenue from charges which it is permitted to recover, in accordance with the provisions of the Act, the regulations of the Commission, the tariff terms and conditions and other guidelines, orders and directions issued by the Commission from time to time.

(3) The transmission licensee shall file the expected revenue calculation and the application containing tariff proposals in the manner provided in and consistent with the regulations under section 61 of the Act.

(4) Unless otherwise provided in the specific conditions or in any order or direction made by the Commission the transmission licensee shall every year, not later than 30th November, submit to the Commission -

- (1) a statement with full details of its expected aggregate revenues and cost of service for the ensuing financial year (including financing costs and its proposed return on equity) for its licensed business, in accordance with the provisions of the Act and the regulations, guidelines and orders issued by the Commission from time to time; and
- (2) the annual investment plan giving specific details of the investment which the transmission licensee proposes to make in the ensuing financial year and which the transmission licensee desires to be covered under the revenue requirements in the ensuing financial year with appropriate references to schemes, if any, already approved by the Commission of which such investments form a part.

The transmission licensee shall prepare and submit to the Commission the statement and the investment details referred to in hereinbefore separately for each of its licensed business and other business.

(5) The transmission licensee shall alongwith the expected revenue calculation or at such other time and periodicity, the Commission may specifically permit to file the application containing tariff proposals and the revision to the existing tariffs approved by the Commission to match the revenue requirements of the transmission licensee.

(6) The amount that the transmission licensee is permitted to recover from its tariffs is the amount that the Commission determines and approves in accordance with the provisions of the Act and the regulations of the Commission.

(7) The transmission licensee shall pay to the distribution licensee concerned, as provided in sections 39 and 40 read with sub-section (2) of section 42, of the Act, the amount of surcharge if any permitted to be recovered by the transmission licensee in the case of transmission of electricity to the consumer as directed by the Commission.

(8) The transmission licensee may apply to the Commission to amend its tariffs in accordance with the Act and applicable regulations and directions of the Commission.

18. Application of the general conditions to the State Transmission Utility.- The provisions of these regulations shall apply to the State Transmission Utility save as the provisions relating to revocation of the transmission licence and the functions of State Load Despatch Centre under section 39 of the Act and activities of the State Transmission Utility under clauses (b) and (c) of sub-section (2) of section 39 of the Act.

19. Miscellaneous.- (1) All issues arising in relation to interpretation of these regulation and as to the terms and conditions thereof shall be a matter for the determination of the Commission and the decision of the Commission on such issues shall be final, subject only to the right of appeal under section 111 of the Act.

(2) The Commission may, at the time of grant of transmission licence, waive or modify the application of any of the provisions of these regulations either in the order granting the licence or by specific conditions made applicable to a specific transmission licence.

20. Provisions to apply to deemed licensees. - The general conditions contained herein shall apply to all applicants for grant of transmission licence after the coming into force of the Act and also to all deemed transmission licensees under provisos first, second, third and fifth to section 14 of the Act.

21. Removal of difficulties. - (1) Subject to the provisions of the Act, the Commission may, from time to time, issue orders and practice directions in regard to the implementation of these regulations and procedures to be followed on various matters, which the Commission has been empowered by these regulations to direct and matters incidental or ancillary thereto.

(2) 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 transmission licensee to do or undertake things, which in the opinion of the Commission is necessary or expedient for removing the difficulties.

(3) No order shall be made under this section after the expiry of the period of one year from the date of the commencement of these regulations and every order made under this regulation shall be subject to the conditions of previous publication and shall be laid, as soon as may, after it is made, before the State Legislative Assembly.

22. Repeal and savings. - (1) Save as otherwise provided in these regulations, the general or specific conditions for the grant of the transmission licence laid down under the Indian Electricity Act, 1910 or the Electricity Regulatory Commissions Act, 1998 or any other law in force immediately before the commencement of these regulations are hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken or purported to have been done or taken under the repealed general or specific conditions for the grant of transmission licence shall, in so far as it is not inconsistent with the provisions of these regulations, be deemed to have been done or taken under the corresponding provisions of these regulations.

(3) The specific conditions for the grant of transmission licence and directions issued before the commencement of these regulations (including those given both at the public hearings and in the Tariff Order as contained in Chapter 7 of the Tariff Order 2001-02 issued under the Electricity Regulatory Commissions Act, 1998), not inconsistent with the provisions of these regulations, shall continue to apply for the period for which such general or specific conditions and directions were issued.

By Order of the Commission

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Secretary