

UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

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GENERAL CONDITIONS OF TRANSMISSION LICENCE

December 14, 2005

Regulation No.UPERC/Secy.-05-931

In exercise of the powers conferred under section 16 read with section 181 of the Electricity Act 2003 (36 of 2003), and all powers enabling it in that behalf, Uttar Pradesh Electricity Regulatory Commission hereby makes the following Regulations for licensing of transmission activities within the State of Uttar Pradesh.

Chapter 1

Preliminary

1.1 Short Title and Commencement

1.1.1 These Regulations may be called the Uttar Pradesh Electricity Regulatory Commission (General Conditions of Transmission Licence) Regulations No. UPERC/Secy.-05-931, dated December 14, 2005.

1.1.2 This regulation shall come into force from the date of their publication in the official Gazette of Uttar Pradesh.

1.2 Scope and extent of application

1.2.1 These regulations specify general conditions of Transmission Licence and shall also apply for the purposes filing an application for grant of transmission licence.

1.2.2 This Regulation shall be applicable to all Transmission Licensees and Deemed Transmission Licensees in their respective licensed areas, within the State of Uttar Pradesh.

1.3 Interpretation

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

- a) the original regulation has been made in English and then translated in Hindi. In case of dispute in interpretation between English and Hindi version, English version shall prevail.
- b) 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;

- c) 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;
- d) 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;
- e) the headings are inserted for convenience and may not be taken into account for the purpose of interpretation of these Regulations;
- f) references to the statutes, regulations or guidelines shall be construed as including all statutory provisions consolidating, amending or replacing such statutes, regulations or guidelines, as the case may be.

Chapter 2

Definitions

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

- a) **“Accounting Statements”** means for each financial year, accounting statements comprising of a profit and loss account, a balance sheet and a statement of sources and application of funds, together with notes thereto and such other particulars and details and in the manner as the Commission may prescribe from time to time and showing the amounts of any revenue, cost, asset, liability, reserve or provision, which have been either:
- i) charged from the Licensed Business to any Other Business or vice versa together with a description of the basis of that charge; or
 - ii) determined by apportionment or allocation between the Licensed Business and any Other Business of the Transmission Licensee together with a description of the basis of the apportionment or allocation.

The Accounting Statement shall show separately the requirements mentioned above for the Licensed Business and Other Business(es) in which the Transmission Licensee may engage.

- b) **“Act”** means Electricity Act, 2003 notified and brought into force on June 10, 2003 by the Central Government;
- c) **“Applicable Legal Framework”** means the provisions of the Uttar Pradesh Electricity Reform Act, 1999, to the extent not inconsistent with the Electricity Act, 2003 read with provisions of the Electricity Act, 2003;
- d) **“Annual Accounts”** means the accounts of the Licensee prepared in accordance with the provisions of the Companies Act, 1956 and/or in such other manner as may be directed by the Commission in terms of the provisions of the Applicable Legal Framework;
- e) **“Applicant”** shall mean a person who has made an application for a grant of licence for intra-state transmission of power;
- f) **“Area of Activity” or “Area of Licence”** means the area of activity stated in the Transmission Licence within which the Transmission Licensee is authorised to operate and maintain transmission lines;
- g) **“Auditors”** means the Transmission Licensee’s auditors, and if the Transmission Licensee is a company, auditors holding office in

accordance with the requirements of the Companies Act 1956 (1 of 1956), as amended from time to time;

- h) **“Authorised”**, in relation to any Person, business or activity, means authorised by licence granted under Section 14 of the Act or deemed to be granted under the first second third and fifth proviso to Section 14 of the Act or exemption granted under Section 13 of the Act and regulations of the Commission in this respect.
- i) **“Authority”** means the Central Electricity Authority.
- j) **“Business Plan”** shall mean a plan in relation to the Licensed Business, containing all the details specified in Regulation 4.16;
- k) **“Central Commission”** means the Central Electricity Regulatory Commission.
- l) **“Commission”** means the Uttar Pradesh Electricity Regulatory Commission;
- m) **“Consumer”** means any person who is supplied with electricity for his own use by a Licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Applicable Legal Framework or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a Licensee, the Government or such other person, as the case may be;
- n) **“Conduct of Business Regulations”** means the Uttar Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2004, as amended from time to time and includes any statutory re-enactment thereof;
- o) **“Deemed Licensee”** means a licensee as defined under second, third and fifth proviso of Sec.14 of Act.
- p) **“Distribution Licence”** shall mean a licence to operate and maintain a distribution system for supplying electricity to the consumers in the area of licence, and “Distribution Licensee” shall be construed accordingly;
- q) **“Draft licence”** shall mean the draft of a Licence to be presented by the Applicant to the Commission with the application together with such modification and variation thereto as the Applicant may seek;
- r) **“Financial Year”** means a period of twelve months from 1st April of a calendar year to 31st March of the following calendar year;

- s) **Force Majeure**” means events beyond the control of the Licensee, including cyclones, floods, storms or other occurrences;
- t) **“Generator”** means any Person who owns or operates or maintains a generating station;
- u) **“Generator Interconnection Facilities”** means electrical lines, transformers, bus -bars, switch-gear, plant or apparatus utilised to enable access to a Transmission Line or Distribution System by the Generating Set(s);
- v) **“Generating Set”** means any plant or apparatus for the production of electricity and shall where appropriate, include a generating station comprising of one or more than one generating unit;
- w) **“Generating Station”** or “station” means any station for generating electricity, including any building and plant with step-up transformer, switch yard, switch-gear, cables or other appurtenant equipment, if any used for that purpose and the site thereof, a site intended to be used for a generating station, and any building used for housing the operating staff of a generating station, and where electricity is generated by water-power, includes penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not in any case include any sub-station;
- x) **“Grid Code or State Grid Code”** means the Grid Code approved/specified by the Commission under clause (h) of sub-section (1) of Section 86 of the Electricity Act and includes the Indian Electricity Grid Code as applicable and in force on the date of commencement of these Regulations; till the Grid Code is specified under Act, Grid Code, as approved under Reforms Act to the extent, not inconsistent with the Act shall continues of operates.
- y) **“Holding Company”** For the purpose of this Regulations, one Company shall be deemed to be a holding company of another if and only if that other Company is a subsidiary of the first;
- z) **“Intervening Transmission facilities”** means the electric lines owned or operated by a licensee where such electric lines can be utilised for transmitting electricity for and on behalf of another licensee at his request and on payment of a tariff or charge.
- aa) **“Licence”** shall mean a licence granted under Section 14 of the Electricity Act, and “Licensee” shall be construed accordingly, and shall include any person who is a licensee/deemed licensee under the Applicable legal frame work;

- bb) **“Licensed Business”** means the business of Transmission of electrical energy in the Area of Licence as authorised under the Transmission Licence;
- cc) **“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;
- dd) **“Officer”** shall mean an officer of the Uttar Pradesh Electricity Regulatory Commission;
- ee) **“Open Access”** means the non-discriminatory provision for the use of transmission lines or transmission system or associated facilities with such lines or system by any Licensee or consumer or a person engaged in generation in accordance with the Electricity Act and the regulations specified by the Commission;
- ff) **“Open Access Regulations”** shall mean the UPERC (Open Access) Regulations, 2005;
- gg) **“Operational Control”** means possessing the authority to make operational decisions such as commissioning and utilisation of units, service lines and equipment;
- hh) **“Other Business”** means any business of a Transmission Licensee other than the Licensed Business of intra-state transmission, which the Transmission Licensee engages in for the optimum utilization of its assets;
- ii) **“Overall Performance Standards”** means the standards as may be determined by the Commission pursuant to the provisions of the Applicable Legal Framework;
- jj) **“Person”** shall include any company or body corporate or association or body of individuals whether incorporated or not or artificial juridical person;
- kk) **“Regulations”** means the regulations made by the Uttar Pradesh Electricity Regulatory Commission.
- ll) **“Secretary”** means the Secretary of the Uttar Pradesh Electricity Regulatory Commission;
- mm) **“Specific Conditions”** means the conditions in addition or in variation to the General Conditions which the Commission may lay down specifically for a Transmission Licensee

- nn) **“State Government”** means the government of the state of Uttar Pradesh;
- oo) **“State Transmission Utility”(STU)** means the Government company notified by the State Government, presently Uttar Pradesh Power Corporation Limited;
- pp) **“Subsidiary”** For the purposes of this Regulations, a company shall be deemed to be a subsidiary of another company if and only if parent company holds more than half in nominal value of the equity share capital of the first mentioned company;
- qq) **“Trader”** means any Person who is Authorised to undertake Trading of electricity under the Act.
- rr) **“Trading”** means purchase of electricity by any Person for resale thereof;
- ss) **“Transfer”** shall include the sale, exchange, gift, lease, Licence, loan, securitization, 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;
- tt) **“Transmission Licence”** shall mean a Licence granted to establish or operate transmission lines in the area specified in the Licence, and “Transmission Licensee” shall be construed accordingly;
- uu) **“Transmission Operating Standards”** means the standards related to the Transmission Licensee’s operation of its transmission system as approved by the Commission;
- vv) **“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;
- ww) **“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
- xx) **“Users”** means anyone who uses the transmission system.

2.2 Words and expressions used and not defined in these Regulations but defined in the Applicable Legal Frameworks shall have the meanings as assigned to them in the Applicable Legal Frameworks. Expressions used herein but not specifically defined in these Regulations or in the Applicable Legal Frameworks 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

Acts or any law passed by a competent legislature shall have the meaning as is generally assigned in the electricity industry.

Chapter 3

General Provisions

3.1 Applicability

3.1.1 The regulations contained herein shall apply to all persons desirous of engaging in the business of transmission of electricity within the State of Uttar Pradesh.

3.1.2 No person shall transmit electricity unless authorized to do so by a licence or by grant of an exemption.

Provided if the person is not required to obtain a licence under the Applicable Legal Framework, the Commission may require such persons to furnish within a period specified by the Commission, such information or particulars as the Commission deems fit.

Provided further that the duties and obligations of “deemed licensees” shall be the same as that of a person awarded a licence under these Regulations, and the applicable legal framework.

3.2 Filing of application for Grant of Licence

3.2.1 The application for grant of Licence under section 14 of the Act for intra-state transmission of electricity shall be as per Form-I appended to these Regulations and shall be accompanied by such fee, as may be prescribed by the State Government;

Provided that till such time the fee is prescribed by the State Government, the application for grant of licence shall be accompanied by a fee as prescribed in the Uttar Pradesh Electricity Regulatory Commission (Fee & Fine) Regulation 2000 and amendments thereof.

3.2.2 Application for Transmission Licence shall be signed by the applicant or his duly authorized representative and shall be addressed to the Secretary or to such other officer designated by the Commission in this behalf. The application shall be filed in six sets or in such number as the Commission may direct with each set containing copies each of:

- a. the ‘Draft Licence’ as proposed by the applicant with the name and address of the applicant and of his agent (if any) printed on the outside of the draft.

- b. Maps of the proposed area of licence showing the route of the transmission line, locations of sub-stations and such other details as the Commission may specify on a scale of
 - i. not less than 10 Centimeters to a Kilometer, or
 - ii. if no such maps are available, of not less than that of the largest scale ordinance maps available, or
 - iii. on such other scales as may be approved by the Commission.
- c. a detailed description of the existing transmission network within the licensee's proposed Area of Activity, including the single line diagram of the transmission network along-with a executive summary of the existing facilities, details of other equipment/apparatus in his area including number and details of sub-stations, details of power transformers, a description of the metering mechanism and other relevant details of the system including details of ownership of the said facilities.
- d. a detailed project report in relation to the construction, operation and maintenance of the transmission system proposed to be undertaken by the Applicant.
- e. a list of all the local authorities vested with the administration of any portion in the proposed Area of Licence;
- f. an approximate statement describing any land which the applicant proposes to acquire for the purpose of the Licensed Business and the means of such acquisition;
- g. an approximate statement of the capital proposed to be expended in the Area of Licence and such other particulars as the Commission may require;
- h. relevant information pertaining to the availability of adequate number of competent personnel to construct, operate and maintain the transmission system effectively and efficiently, the availability of infrastructure facilities and the financial capacity to carry out the project;
- i. a copy of the Memorandum and Articles of Association, if the applicant is a body corporate and similar constitutional documents in all other cases;
- j. The application for grant of licence for intra-state transmission, along with annexures and enclosures thereto, shall also be submitted to the Commission on a compact disc (CD).

3.3 Contents of draft licence

3.3.1 The draft licence shall contain the following particulars:

- a. A short title descriptive of the proposed utility together with the address and description of the applicant and if the applicant is a company, the names of all the directors of the company;
- b. Type of licence applied for;
- c. Locations of the proposed service area;
- d. A description of the proposed area; and
- e. Such other particulars as the Commission may specify.
- f. The general conditions of transmission licence specified in these regulations shall be deemed to be part of the draft licence.

3.4 Receipt and Acknowledgement of Application

Upon receipt of the application for grant of licence, the Secretary or any other officer, specified by the Commission for this purpose 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 then dispatch to the Applicant, at the address stated in the application, an acknowledgement stating the date of receipt and the reference number.

3.5 Additional Information & Acceptance of Application

3.5.1 The Commission or the Secretary or any other officer, specified by the Commission for this purpose, may upon scrutiny of the application, require the applicant to furnish within a period to be specified by the Commission such additional information or particulars or documents as considered necessary for the purpose of dealing with the application.

3.5.2 If the Commission finds the application to be complete, accompanied by the requisite information, particulars and documents, and as per Applicable Legal Framework then the Secretary or any other officer designated for the purpose by the Commission shall certify that the application is ready for being considered for grant of licence and intimate the applicant regarding acceptance of the application by the Commission. The Commission shall as far as practicable issue a licence within ninety days of acceptance of the application otherwise it shall reject the application for reasons to be recorded in writing.

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

3.7 Advertisement of application and contents thereof

- 3.7.1 Unless exempted by the applicable legal framework/ Commission, the applicant shall, within seven (7) days from the date of acceptance of his application for grant of the licence, publish a public notice with such particulars of his application as specified by the Commission in these Regulations, in at least two daily newspapers (one English and one Hindi) widely circulated in the proposed area of licence.
- 3.7.2 The advertisement shall be headed by a short title corresponding to that given at the head of the draft licence and shall give the addresses of the offices at which copies of maps therein referred to may be inspected and the copies of draft licence perused. Further it shall state that every local authority, utility or person, desirous of making any representation/objection with reference to the application to the Commission, may do so by letter addressed to Secretary or such Officer as the Commission may designate in this behalf, within thirty (30) days from the date of publication of the notice.
- 3.7.3 The Commission may direct that notice of the application be served on the Central Government, the State Government, the local authority or any other authority or person or body as the Commission may direct in such other manner, as the Commission may consider appropriate. Further in the case of an application for a licence for an area including the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the Commission shall issue a licence only after ascertaining that the Central Government has no objection to the grant of the licence.
- 3.7.4 A person intending to act as a transmission licensee shall, immediately on making the application, forward a copy of such application and also all other information as required by the Commission for acceptance of the application, to the State Transmission Utility (STU). The STU shall within thirty (30) days of receipt of the completed application send its recommendations, if any to the Commission. The Commission shall consider all suggestion or objections and the recommendations, if any of the STU. Provided that the recommendations shall not be binding on the Commission.
- 3.7.5 The applicant shall deposit at his own office and the office of his agents (if any) and at the office of every local authority entrusted with the administration of any portion of the proposed area of licence:
- a. Copy of maps referred to in clause 3.2.2 (b) of these regulations;

- b. a sufficient number of copies of the draft licence to be furnished to all persons applying for them at a price not exceeding the cost of photocopy.
- 3.7.6 The Applicant and the Commission shall post the completed application, along with annexures and enclosures, on their respective websites or such other website as may be authorised in this regard by the Commission, so as to facilitate access to the application by any person through the internet.

3.8 Objections

- 3.8.1 Any person intending to object to the grant of the licence shall file objection with the Commission within a period of thirty (30) days from the date of publication of notice of application in the newspapers annexing thereto proof of having served a copy of such objections upon the applicant. The objections shall be addressed to the secretary or to such other officer designated by the Commission in this behalf and shall be in the form of reply in accordance with the Provisions of UPERC (Conduct of Business) Regulations 2004 & amendments thereof if, any.
- 3.8.2 The applicant shall file his comments on the objections and suggestions received within 15 days of their receipt.
- 3.8.3 Where applicable, the applicant shall apply for and obtain the no objection required from the Central Government before the application can be placed for hearing by the Commission for grant of the licence.

3.10 Local Inquiries and Hearings

- 3.10.1 If the applicant has duly arranged for the publication of the notice of the intended application and the time for filing of the objection is over and after the applicant has furnished to the Commission the no objection, (if required, from the Central Government), the Commission may proceed to place the application for regular hearing.
- 3.10.2 The Commission shall give the notice of inquiry or hearing to the applicant, the persons who had filed objections, the Central Government, the State Government and such other authority, person or body as the Commission considers appropriate.
- 3.10.3 If any person objects to the grant of a licence applied for under the Applicable Legal Framework the Commission shall, if either the applicant or the objector so desires, cause a local inquiry to be held of which the notice in writing shall be given to both the applicant and the objector:

Provided that, the Commission may refuse such an inquiry if in its opinion the objection is of a trifling or vexatious nature.

- 3.10.4 In case of such local inquiry a memorandum of results of the local inquiry made shall be prepared and shall be signed by the applicant, the Officer or person designated for the purpose and such other person as the Commission may direct.
- 3.10.5 Hearing on the application for grant of licence shall thereafter proceed as far as possible in the manner provided in the UPERC (Conduct of Business Regulations) 2004 and amendments thereof if any.

3.11 Approval of draft licence

- 3.11.1 After inquiry if any and the hearing, the Commission may decide to grant or refuse the licence and if it decides to grant the licence it may do so by approving the draft licence with such modification changes or additions and subject to such other terms and conditions as the Commission may direct. Before granting any licence the Commission shall publish a notice in two such daily newspapers, as the Commission may consider necessary, stating name and address of the person whom it proposes to issue the licence.
- 3.11.2 When the Commission has approved a draft licence either in its original form or in a modified form, Secretary or any other officer specified by the Commission, shall inform the applicant of such approval 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 the licence.

3.12 Notification of grant of licence

- 3.12.1 On receiving an intimation in writing from the applicant that he is willing to accept a licence in the form approved by the Commission and the conditions subject to which the licence is offered, the Commission shall issue the license and authorize the applicant to publish the licence or such part or gist thereof as the Commission considers appropriates. The Commission shall, immediately after issue of licence forward a copy of the licence to the State Government, the Central Electricity Authority, local authority, and to such other person as the Commission considers necessary. After the applicant satisfies the conditions specified for the grant of the licence, the Commission shall publish the licence or such part or gist thereof as the Commission considers appropriate.

3.13 Date of commencement and duration of licence

- 3.13.1 The licence shall commence from the date as specified in the licence, and shall remain valid for a period of twenty-five years, unless such licence is revoked. Licensees issued prior to June 10th, 2003 shall be valid for a period specified in the existing licenses.

3.14 Deposit of maps

Where a licence has been granted, three sets of maps showing the route of the transmission line, locations of sub-stations and such other details as the Commission may specify, as regards such licence, shall be signed and dated to correspond with the date of the notification of the grant of the licence by Secretary or any other officer designated by the Commission. The said Officer shall retain one set of such maps as the deposited maps, and return the other two sets to the licensee after due alteration by the commission. The licensee shall whenever required by Commission furnish the maps in an electronic form.

3.15 Deposit of printed copies

3.15.1 Applicant, who has been granted a licence shall, within thirty days of the grant of such licence:

- i. have adequate number of copies of the licence printed;
- ii. have adequate number of maps prepared showing the area of supply specified in the licence
- iii. arrange to exhibit a copy of such licence and maps for public inspection at all reasonable times at his head office, at his local offices (if any) and at the office of every local authority within the area of supply.
- iv. Every such licensee shall, within the aforesaid period of thirty days supply free of charge one copy of the licence and the relevant maps to every local authority within the area of supply and shall also make necessary arrangements for the sale of printed copies of the licence to all persons applying for the same, at a price not exceeding the cost of photocopy.

Chapter 4

General Conditions of the Transmission Licence

4.1 Compliance

- 4.1.1 The Transmission Licensee shall act in accordance with these General Conditions 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 by an approval of the Commission to any deviation there from.
- 4.1.2 Every transmission licensee shall comply with such technical standards of operation and maintenance of transmission lines, which are in accordance with the Grid Standards specified by the Authority.
- 4.1.3 The Transmission Licensee shall also comply with the requirements of laws in force in particular the Electricity Act 2003, and also with the Indian Electricity Grid Code, State Grid Code, Transmission Operating Standards, Transmission Planning and Safety Standards, rules, regulations, orders and directions issued by the Commission from time to time;

Provided that, the Commission may, on reasonable grounds and after consultation with any affected Generating Companies, the Transmission Licensee, the State Transmission Utility, the State Load Despatch Centre and Electricity Traders, issue directions relieving the Transmission Licensee of its obligation in respect of such portions of the State Grid Code as it may consider appropriate.

- 4.1.4 The Transmission Licensee shall duly comply by the orders and directions issued in the discharge of their functions by the National Load Despatch Centre, Regional Load Despatch Centre and the State Load Despatch Centre and other statutory authorities;
- 4.1.5 The Transmission Licensee shall coordinate with Regional Electricity Boards or Regional Power Committees, the Regional Load Despatch Centres/State Load Despatch Centres and Central Transmission Utility/State Transmission Utility, Licensees and/or the generating companies, as may be required, in relation to all activities relating to the Licensed Business;
- 4.1.6 The Transmission 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;
- 4.1.7 The Transmission 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 as and when it is required to do so;

4.1.8 The Transmission Licensee shall establish adequate communication facilities such as telephone, fax, computer and internet facilities before undertaking transmission of electricity;

4.1.9 The Transmission Licensee shall render all assistance to any person authorized by the Commission to regulate or to assist in the carrying out of the Transmission Licensee's duties.

4.2 Functions and duties of the Transmission Licensee (including deemed Transmission licensee)

4.2.1 It shall be the duty of a transmission licensee:

- (i) to build, maintain and operate an efficient, co-ordinated and economical transmission system for intra-State transmission of electricity;
- (ii) to comply with the directions of the Regional Load Despatch Centre and the State Load Despatch Centre as the case may be;
- (iii) to provide non-discriminatory open access to its transmission system for use by-
 - any licensee or generating company on payment of the transmission charges as determined by the Commission; or
 - any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42 of the Act, on payment of the transmission charges and a surcharge thereon, as determined by the Commission.

Provided that such surcharge shall be utilised for the purpose of meeting the requirement of current level cross-subsidy:

Provided further that such surcharge and cross subsidies shall be progressively reduced and eliminated in the manner as may be specified by the Commission as per the provisions of the Act:

4.2.2 Where the Licensee is notified by the State Government as the State Transmission Utility, the Licensee shall, until the State Government notifies a Government Company or any authority or a corporation to do so, operate the State Load Despatch Centre or any authority or corporation.

4.2.3 The Transmission Licensee shall undertake the above functions as per the specific guidelines mentioned in these licence conditions and in the codes, orders, regulations and guidelines issued/approved by the Commission from time to time.

4.3 Prohibited Activities

4.3.1 The Transmission Licensee shall not, without prior approval of the Commission:

- i) undertake any transaction to acquire by purchase or takeover or otherwise, the utility of any other licensee; or
- ii) merge its utility with the utility of any other Licensee;

Provided that nothing contained in this sub-section shall apply if the utility of the licensee is situated in a State other than the State of Uttar Pradesh in which the utility referred to in clause (i) or clause (ii) is situated.

Provided that licensee shall, before obtaining the approval under sub-section 4.3.1, give not less than one month's notice to every other licensee who transmits or distributes, electricity in the area of such licensee who applies for such approval.

- iii) 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.

Provided that any agreement relating to any transaction specified in sub-section (i) to (iii), unless made with, the prior approval of the Commission, shall be void.

4.3.2 Without prior approval of the Commission, the Licensee shall not transmit electricity to any person in the State of Uttar Pradesh, other than pursuant to these conditions of license, except to the extent required to meet its obligations under the central Act, in relation to inter-State transmission of electricity.

4.3.3 The Transmission Licensee shall not make use of the assets of his system for a purpose other than transmission of electricity, except with the prior approval of the Commission as provided for in Regulation 4.9.

4.3.4 The Transmission Licensee shall not enter into any arrangement for wheeling of electricity with a person who is not authorised to do so under the provisions of the Act.

4.3.5 Transmission licensee shall not engage in the business of trading of electricity.

4.3.6 The Transmission Licensee shall not acquire or retain any ownership or beneficial interest in a Distribution Company, Trading Company, Generating Company or Generating Set engaged in selling of electricity into the Licensed Area

4.3.7 The 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 advances to suppliers in the ordinary course of business are excluded from the requirement to seek such approval.

4.3.8 The Licensee shall not commence any new provision of services to persons other than in the area of supply for the transportation of electricity through the Licensee's Transmission System, except with the general or special approval of the Commission. In circumstances requiring immediate remedial action in the interest of continuity of supply in any other area of supply, the Licensee may commence the activity referred to in this sub clause provided the Licensee informs the Commission of such occurrence and circumstances within 15 days.

4.4 Obligations of the Transmission Licensee with respect of providing connectivity to other persons.

The Transmission Licensee shall make such arrangements for non discriminatory open access to the use of his Transmission System by Users subject however to the availability of the adequate transmission capacity in accordance with open access regulation notified by the Commission and further subject to the User agreeing to pay all applicable charges including the transmission charges and surcharges wherever applicable.

4.4.1 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:

- i. carrying out of works necessary to make the required connection, including the installation of meters;
- ii. the connection charges to be paid as directed by the Commission ; and
- iii. the completion date and such other terms as are relevant to the circumstances.

4.4.2 The Transmission Licensee shall offer terms for agreements in accordance with sub clauses 4.4.1 or 4.4.2 above as soon as practicable to the intended users of the transmission system. The Transmission Licensee shall not be obliged to offer to enter into any agreement if,

- i. adequate transmission capacity is not available in the transmission system, provided that the existence or absence of such available capacity shall be determined by the State Transmission Utility and in case of any dispute pertaining to the determination of the same the decision of the Commission shall be final; or
 - ii. it is likely to result in breach of its duties under the Applicable Legal Framework; or
 - iii. it is likely to result in breach of any rules or regulations or codes or standards applicable to the Transmission Business.
 - iv. the Person making the application does not undertake to comply with the applicable legal framework or regulations or codes or standards related to Transmission Business to the extent applicable to that Person; or
 - v. the person making the application does not agree to pay the applicable charges, surcharges, adjustment for losses of electricity in the Transmission Systems as determined by the Commission.
- 4.4.3 If, after a period which appears to the Commission to be reasonable for the purpose, the Transmission Licensee fails to enter into an agreement with any intending user of the Transmission System, the Commission may at the request of such intending user settle the terms in dispute between the Transmission Licensee and that Person, the Transmission Licensee shall forthwith enter into and implement such agreement in accordance with the terms as settled by the Commission.
- 4.4.4 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:
- i. such further information as shall be reasonably necessary to enable any Person seeking use of System to identify and evaluate the opportunities available when connecting to and making use of such system; and
 - ii. 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.
- 4.4.5 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 and specifically including any facility for which any other Person or a Supplier has requested use of and connection to the Transmission System.

- 4.4.6 The Transmission Licensee may 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.

4.5 Intervening Transmission Facilities

- 4.5.1 The Appropriate Commission may, on an application by any licensee, by order require any other licensee owning or operating intervening transmission facilities to provide the use of such facilities to the extent of surplus capacity available with such licensee at rates, charges and terms and conditions as may be mutually agreed upon.

Provided that any dispute, regarding the extent of surplus capacity available with the licensee, shall be adjudicated upon by the Appropriate Commission.

Provided that the Appropriate Commission may specify rates, charges and terms and conditions if these cannot be mutually agreed upon by the licensees.

4.6 Technical Codes

- 4.6.1 The Licensee shall, within 180 days after grant of Licence, prepare and submit to the Commission, for its approval following codes of practice along with their implementation plan: -

- i. Transmission System Planning and Security Standards;
- ii. Transmission System Operating Standards;
- iii. Energy audit and metering;
- iv. Good Governance;
- v. Maintenance Planning Standards.

In granting approval, the Commission may make such modifications, as it considers necessary to the code of practice.

- 4.6.2 The Commission may, upon receiving a representation or otherwise, require the Transmission Licensee to review, the code of practice and the manner in which it has been implemented with a view to determine whether any modification should be made to it or to the manner of its implementation.

- 4.6.3 The Transmission Licensee shall, in consultation with such other Persons as the Commission may direct review and submit, any revision to the code of practice

that it wishes to make, to the Commission for its approval, including any representation received by the Transmission Licensee and not accepted by it.

4.6.4 Having regard to any written representation received by the Commission or upon its own motion, after giving the Licensee an opportunity to present its perspective on the same, for reasons recorded in writing, the Commission may, require the Licensee to revise the Transmission System Planning and Security Standards and the Transmission System Operating Standards, and Licensee shall comply with the directions of the Commission.

4.6.5 The Transmission Licensee shall:

- i. draw to the attention of Consumers, in such manner as the Commission may direct, to the existence of the codes and each substantive revision of it and also manner in which they may inspect or obtain a copy of the codes in its latest form;
- ii. make a copy of the codes, revised from time to time, available for inspection by members of the public during normal working hours; and
- iii. provide an updated copy of the codes revised from time to time to any other Person who requests for it at a price not exceeding the reasonable cost of duplicating it.
- iv. make available all codes in their latest versions, on its website and make them readily available via internet.

4.6.6 The Transmission Licensee shall comply with the existing practice and procedures with respect to the codes mentioned in clause 4.6.1 with such modifications as the Commission may direct, until the codes are adopted with the approval of the Commission.

4.7 Overall Performance Standards.

4.7.1 The Standards of Performance may be set by the Commission, or may be proposed by the Licensee for the Commission's approval. The Commission may evaluate the Licensee's compliance with the Standards of Performance and adherence to the code of practice set forth and the licensee shall provide to the Commission such information as it may require for assessing compliance with the Standards of Performance.

4.7.2 The Licensee shall conduct its Licensed Business in such a manner so as to achieve the Overall Performance Standards in connection with provisions of non-discriminatory open access.

4.7.3 The Licensee shall, within 3 months after the end of each financial year, submit to the Commission a report indicating the performance of the Licensee's Transmission System during the previous financial year. The Licensee shall, if required by the Commission, publish a summary of the report in a manner approved by the Commission.

4.8 Load scheduling and dispatch

4.8.1 State Transmission Utility shall discharge the duties and obligations of the State Load Despatch Centre as outlined in Section 32 of the Act, as and when required by the State Government in pursuance of Section 31 of the Act.

4.8.2 The State Transmission Utility, till the applicability of clause 4.8.1, shall follow the accounting principles provided in clause 4.14 in respect of the Load Despatch function, as if it is an Other Business of the Licensee. The Licensee shall comply with the directions of the Regional Load Despatch Centre or the State Load Despatch Centre as the case may be.

4.9 Other Business

4.9.1 The Transmission Licensee may, with prior intimation and approval of the Commission, engage in any Other Business for the optimum utilization of its assets. Where the Transmission Licensee engages in such other business, it shall ensure that:

- i. the Licensed Transmission Business and the conduct thereof the Transmission licensee is not prejudiced and/or adversely affected in any manner by the carrying on of the Other Business;
- ii. the transmission assets of the Transmission Licensee are not encumbered to support the Other Business;
- iii. the Licensed Business does not subsidize the Other Business;

Provided that a portion of revenues derived from such business shall, as specified by the Commission, be utilized for reducing its charges for transmission and wheeling. The proportion shall be specified by the Commission when the licensee approaches the Commission for approval to engage in other business.

Provided further that the Transmission licensee shall maintain separate accounts for each such business undertaking as if a separate company carried them, so that the revenues, costs, assets, liabilities, reserves or provisions reasonably attributable to each such Other Business are separately identifiable from those of the Licensed Business.

- 4.9.2 The licensee shall not transfer any assets utilized in the Transmission business for the purposes of any other business without prior approval of the Commission.
- 4.9.3 Other Business shall provide suitable compensation to the licensed Transmission Business for utilizing the assets of the licensed Transmission Business as specified in the UPERC (Treatment of income of Other Businesses of Transmission Licensees and Distribution Licensee) Regulation 2004. The revenues so allocated to the licensed business from other business shall be utilised for reducing the charges of transmission & wheeling of electricity.
- 4.9.4 The Licensee may engage any Person or any of its Subsidiaries or Holding Company or a Subsidiary of such Holding Company to undertake transmission of electricity in the Area of Supply. In such cases of engagement of such Subsidiary or Holding Company or a subsidiary of the Holding Company, prior permission of the Commission will be required. The Licensee will file a suitable application with the Commission disclosing relevant facts and also forward further information sought by the Commission from time to time in support of the application.

Provided that in case transmission function is delegated to any Person or any Subsidiary or Holding company, such Person, Holding Company or Subsidiary shall operate under the overall supervision and control of the Licensee and upon the terms and conditions of this Licence and any other Regulations, guidelines or orders of the Commission;

Provided that establishment of such arrangements shall not alter the Licensee's duties and obligations pursuant of this license;

Provided that the cost of providing service shall not be higher than if the Licensee performed such tasks itself

Provided further that for any act of subsidiary or holding company the transmission licensee shall be responsible and the Commission may require the transmission licensee to terminate the arrangement in case the performance of the subsidiary company is not to the satisfaction of the Commission.

4.10 Major Incident Reporting

- 4.10.1 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:

- i. 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;
- ii. in the event the report under sub-clause (i) above is likely to take more than two 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 two months for giving full report of such incident; and
- iii. give copies of the report to all parties concerned with the Major Incident and to such other Persons as the Commission may direct.
- iv. The decision of the Commission as to what is a Major Incident shall be final. The Commission may by order, after providing an opportunity of hearing direct the Transmission Licensee to provide such amount of compensation as the Commission may direct to persons' who suffer substantial injury or to the heirs of those who have lost their lives as a result of such major incident where the Major Incident has been caused by any act of commission, omission or negligence on the part of any of the employees or agents of the Transmission Licensee.
- v. The Commission at its discretion may require the submission of a report on the major incident to be prepared by an independent person at the expense of the Transmission Licensee.
- vi. The Transmission Licensee shall also undertake such studies as the Commission may direct from time to time for the improvement of its Transmission System and any other matter concerning the Transmission Business that the Commission considers necessary to avoid the occurrence of any such major incident.
- vii. The Commission may at any time require the Transmission Licensee to comply with the provisions of sub clauses i to iv 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 above shall commence from the date the Commission notifies Transmission Licensee of such requirement.

4.11 Provision of Information

- 4.11.1 The Transmission Licensee shall furnish to the Commission, without delay, such information, documents and details related to the Licensed Business or 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, State Government, the Central Commission, the Central Electricity Authority, the State Transmission Utility and State Load Dispatch Centre.

4.11.2 Where information is required by the Commission under clause 4.11.1 above, it shall be furnished in such form as may be specified by the Commission.

4.11.3 The Transmission Licensee shall furnish all such information to the State Load Dispatch Centre as may be required, with a copy to the Commission, on a quarterly basis on the 10th day of April, July, October and January for the quarters January to March, April to June, July to September and October to December respectively and the format for submission of information shall be complete in all respects and no column shall be left blank

Provided that the report sent to the State Load Dispatch Centre shall be posted on the website of the Transmission Licensee or any other authorised website.

4.12 Reporting of Extra-Ordinary Situations.

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

- i. Any significant change in its circumstances which may affect the Transmission Licensee's ability to meet its obligations; and steps taken by the transmission licence to mitigate the effect of such incident.
- ii. Any material breach of the provisions of the Acts, rules and the regulations, directives and orders issued by the Commission, the Grid Code, or the terms of agreements/ arrangements entered into by the Transmission Licensee with other Licensees or generating companies; and/or
- iii. Any change of more than five (5) per cent in the shareholding pattern, ownership, control or management of the Transmission Licensee.

4.13 Transfer of Assets

4.13.1 The Transmission Licensee (including deemed licensee) shall not, in a single transaction or a set of related transactions, transfer or relinquish operational control over any land, building or asset whose estimated book value at the time of the proposed disposal exceeds Rs. 100 lakh by sale, lease, exchange or otherwise, without complying with the conditions stipulated in clause 4.13. The licensee shall not divide, partition or split the assets or the costs thereof in order that the provisions under this clause 4.13 are circumvented.

4.13.2 The Transmission Licensee (including deemed licensee) shall give to the Commission prior written notice of its intention to transfer or relinquish operational control over any asset whose estimated book value at the time of the proposed disposal exceeds Rs. 100 lakh and disclose all relevant facts. The Commission may, within thirty (30) days of the receipt of the notice, seek further information in support of the transaction and shall, generally within thirty (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 sixty (60) days of the filing of the application, allow the transfer arrangement subject to such terms and conditions or modifications as may be considered appropriate or reject the same, by means of a reasoned order. The period of 60 days may be extended by a reasoned order specifying reasons of delay.

4.13.3 The Transmission Licensee may transfer or relinquish operational control over any asset as is specified in any notice given under clause 4.13.2 above if:

- i) 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
- ii) the Commission does not inform the licensee in writing of any objection to such transfer or relinquishment of operational control, or does not in 4.13.2 pass an order for extending the time limit as given.

4.13.4 Notwithstanding what is stated above, the Transmission Licensee will be entitled to utilise the assets 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 that:

- a. the Transmission Licensee will inform the Commission about such arrangements at least fifteen (60) 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 Operational Control over assets in the transmission system.
- d. the transaction is approved by the Commission.

4.14 Accounts and Audit

4.14.1 The Transmission Licensee shall:

- i. Maintain separate information and statement of accounts for the Licensed Business and any Other Business including businesses of subsidiary company or holding company of the licensee;
- 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 such Act is applicable;
- iii. Prepare on a consistent basis, from such accounting records, Accounting Statements for each financial year comprising of a profit and loss account, a balance sheet and a statement of sources and application of funds together with notes thereto and showing separately the amounts of any revenue, cost, asset, liability, reserve etc.

Provided that, 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 revenue, costs, assets, liabilities, and reserves reasonably attributable to the business to which the statements relate.

- iv. Submit to the Commission
 - a. An interim profit and loss account, cash flow statement and balance sheet in respect of the first six months of each financial year;
 - b. Accounting statements and Auditor's report not later than six months from the end of the financial year to which they relate.

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

4.14.3 The Transmission Licensee shall not 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 approval from the Commission.

Provided that during the financial year if a Transmission Licensee changes the basis of charge or apportionment or allocation in its Accounting Statements from those adopted for the immediately preceding financial year, the Commission may direct the Transmission Licensee to prepare such Accounting Statements on the

past basis in addition to preparing Accounting Statements on the basis which it has adopted after change.

4.14.4 The Transmission Licensee shall ensure that the Accounting Statements in respect of each financial year and the Auditor's report in respect of each financial year mentioned hereinabove 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, or such price as the Commission may specify.

4.15 Investments

4.15.1 The Transmission Licensee shall duly comply with any regulations, guidelines, directions and orders that the Commission may issue from time to time in regard to investments to be made in the Transmission Business.

4.15.2 The Transmission Licensee shall make the investments 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.

4.15.3 The Transmission Licensee shall submit to the Commission a five-year rolling investment plan, as a part of the Business Plan under Regulation 4.16, giving details of investment schemes to be undertaken during the concerned period for the approval of the Commission.

4.15.4 For approval of the investment plan the Transmission Licensee shall demonstrate to the satisfaction of the Commission that:

- i. there is a need for such investments in the transmission system as are proposed in the investment plan; and
- ii. 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.

4.15.5 The Transmission Licensee shall intimate, by the end of the first quarter of each financial year,

- i. the annual investment plan with details of investment schemes to be carried out during the financial year; and
- ii. the progress made in implementing the annual investment plan of the previous financial year indicating the differences between actual implementation and the investment plan approved by the Commission.

- 4.15.6 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.
- 4.15.7 The Transmission Licensee shall not make any Major Investment outside of the proposals in the investment plan, without the express permission of the Commission. For the purposes of this Regulation 4.15, 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 a general or special order.
- 4.15.8 The Transmission Licensee shall be entitled to make investments in the Transmission Business other than those covered under clause 4.15.7 above, but for the purposes of considering such investments while determining the tariff, the Transmission Licensee shall satisfy the Commission that the investments were required for the Licensed Business and such investment were made in a prudent manner.
- 4.15.9 The Transmission Licensee shall submit to the Commission along with its annual application for determination of tariff filed under Section 62 of the Electricity Act, the highlights of the annual investment plan consisting of the schemes approved by the Commission, schemes submitted before the Commission for approval and all schemes not requiring prior 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 require 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 relocation to the Commission within 7 days of 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 clause 4.15.9 above.

4.16 Business Plan

- 4.16.1 The Transmission Licensee shall submit a 5 year Business Plan within three months of the Transmission Licence coming into force, and shall update such plan annually. The Business Plan shall contain year-wise load growth, year wise transmission loss reduction proposal and specific action plans, metering plan for metering interface points, and the investment plan as detailed in Regulation 4.15 herein, treatment of previous losses, debt restructuring plan, cost reduction plan, projected profit and loss account, projected balance sheets, projected cash flow statements and projected important financial parameters.
- 4.16.2 The Commission may require the Transmission Licensee to intimate, by the end of the first quarter of each financial year, the progress made in implementing the Business Plan of the previous financial year indicating the differences between actual implementation and the Business Plan approved by the Commission.

4.17 Payment of Licence Fees

- 4.17.1 At the time of grant of Licence, the Licensee shall pay to the Commission fee as per “Fees & Fine Regulations” 2000 and amendments thereof, of the Commission.
- 4.17.2 For as long as the Licence remains in force, the Licensee shall, by the 10th of April of every year, or such further period as the Commission may allow, pay to the Commission an annual Licence fee as mentioned in “Fee & Fine Regulations” 2000 and amendments thereof, of the Commission.

Provided that for a part of the year, the licence fee shall be payable pro rata on number of days basis.

Provided further that the licence fee calculated on pro rata basis for a part of the year shall be rounded off to the nearest multiple of hundred.

- 4.17.3 Where the Licensee fails to pay to the Commission any of the fees due under Clause 4.17.1 & 4.17.2 above by the due dates:
- i. without prejudice to other obligations, the Licensee shall be liable to pay interest on the outstanding amount at a simple interest rate of two 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 in cleared funds; and
 - ii. the Licensee shall be subject to the proceedings for the recovery of such fees as specified in the Applicable Legal Framework; and
 - iii. the Commission may revoke the Licence pursuant to Section 19 of the Act and Regulation 4.19.

4.17.4 The Licensee shall be entitled to take into account any fee paid by it under this clause 4.17 as an expense in the determination of aggregate revenues made in accordance with Regulation 4.23, but shall not take into account any interest paid pursuant to Clause 4.17.3.

4.18 Investigation of certain matters by the Commission

4.18.1 The Commission may, on being satisfied that a Transmission Licensee has failed to comply with any of the conditions of the Transmission Licence or has failed to comply with any of the provisions of the Acts or rules or regulations made there-under, 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 Transmission Licensee and submit a report to the Commission.

4.18.2 The Investigating Authority shall conduct the investigation in accordance with the provisions of the Act.

4.18.3 On receipt of investigation report from the Investigating Authority the Commission may, in accordance with the provisions of the Act, and after giving an opportunity to the Transmission Licensee to submit a representation on the investigation report within such time as the Commission feels reasonable, by an order in writing-

- i. require the Transmission Licensee to take such action in respect of any matter arising out of the report as the Commission may think fit; or
- ii. revoke the Transmission Licence.

4.18.4 The Commission may also take any other action in accordance with the provisions of the applicable legal framework.

4.19 Revocation of the Licence

4.19.1 If the Commission, after making an enquiry, is satisfied that public interest so requires, it may revoke a Transmission Licence in any of the following cases, namely: -

- i. where the Transmission Licensee, in the opinion of the Commission, has made willful and prolonged default in doing anything required of him by or under the Acts or the rules or regulations made there-under;
- ii. where the Transmission Licensee has breached any of the terms or conditions of his Transmission Licence, the breach of which is expressly declared by such Transmission Licence to render it liable to revocation;

- iii. where the Transmission Licensee fails, within a period of one year, 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 Transmission Licence; or to make the deposit or furnish the security, or pay the fees or other charges required by his Transmission Licence;
- iv. where in the opinion of the Commission the financial position of the Transmission Licensee is such that he is unable fully and efficiently to discharge the duties and obligations imposed on him by his Transmission Licence.
- v. Where in its opinion the public interest so requires, the Commission may, on an application, or with the consent of the Transmission Licensee, revoke his Transmission Licence as to the whole or any part of his Area of Activity upon such terms and conditions as it thinks fit.
- vi. No Transmission Licence shall be revoked under the sub-clauses mentioned above unless the Commission has given to the Transmission Licensee not less than three months' notice, in writing, stating the grounds on which it is proposed to revoke the Transmission Licence, and has considered any cause shown by the Transmission Licensee within the period of that notice, against the proposed revocation.
- vii. The Commission may, instead of revoking a Transmission Licence, 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 Transmission Licensee and shall be of like force and effect as if they were contained in the Transmission Licence.
- viii. Where the Commission revokes a Transmission Licence under this Regulation, it shall serve a notice of revocation upon the Transmission Licensee and fix a date on which the revocation shall take effect.
- ix. Where the Commission has given notice for revocation of Licence under clause (viii) above, without prejudice to any penalty which may be imposed or prosecution proceeding which may be initiated under the Acts, the Transmission 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 Transmission Licence.
- x. Before revoking or suspending a Transmission licence the Commission shall, if in its opinion consider necessary, refer the matter to the State Government and agree on alternate arrangement to be made for discharging the duties of the Transmission Licensee.

4.20 Amendment of Licence

4.20.1 These General Conditions of Licence may be altered or amended by the Commission under Section 18 of the Act at any time if it is in public interest. For any such alteration or amendment, the following provisions shall have effect:

- i. 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 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;
- ii. in the case of an application proposing alteration or modification in the area of activity comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the alteration or modification shall be made only with the consent of the Central Government;
- iii. where any alteration or amendment in a Licence is proposed to be made otherwise than on the application of the Transmission Licensee, the Commission shall publish the proposed alteration or amendment with such particulars and in such manner as the Commission may consider to be appropriate;

Provided no such alteration or amendment shall be made except with the consent of the Transmission Licensee unless such consent has, in the opinion of the Commission, been un-reasonably withheld.

Provided further that the Commission shall consider all suggestions or objections, received within thirty days from the date of the first publication of the notice, before making any alteration or amendment.

4.21 Expected Revenue Calculation and Tariffs

4.21.1 Unless otherwise provided in the Special Conditions or in any order or direction made by the Commission the Transmission Licensee shall every year, not later than 30th of November, submit to the Commission:

- i. 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
 - ii. 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.
- 4.21.2 The Transmission Licensee shall along with the Expected Revenue Calculation or at such other time and periodicity as the Commission may specify in the UPERC (Terms and Conditions for determination of Transmission Tariff) Regulations, put up the application containing tariff proposals to match the revenue requirements of the Transmission Licensee.
- 4.21.3 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 Applicable Legal Framework and the Regulations of the Commission
- 4.21.4 In case of Open Access, the transmission licensee shall pay to the concerned distribution licensee the amount of surcharge if any recovered by it on behalf of the distribution licensee.
- 4.21.5 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 once in a year.

4.22 Dispute Resolution

- 4.22.1 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 Sec. 158 of the Act and Regulation of the Commission.
- 4.22.2 The arbitration proceedings for disputes under clause 4.22.1 above 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 UPERC (Conduct of Business) Regulations 2004 and amendments thereof if any.

4.23 Penalty for Contravention of Conditions of the Licence

The Licensee shall be liable for action for the contravention of the terms and conditions of the Licence in accordance with the relevant provisions of the Applicable Legal Framework, and the procedure set out in the UPERC (Conduct of Business) Regulations 2004 and amendments thereof if any.

4.24 Application Of The General Conditions To The State Transmission Utility:

The provisions of these General Conditions shall apply to the State Transmission Utility in addition to the functions of State Load Dispatch 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. Provisions related to revocation of transmission licensee shall not apply on STU.

4.25 Rights of the Transmission Licensee

Pursuant to the Applicable Legal Framework, the Licensee shall have all the powers to lay down and place electric lines, electric plant and other works and do all other acts necessary for the transmission of electricity within his area of licence, which a telegraph authority possesses under the Indian Telegraph Act, 1885 (13 of 1885).

4.26 Miscellaneous

- 4.26.1 The Licensee shall comply with the directions of the Electrical Inspector issued pursuant to the powers vested in him under the Applicable Legal Framework or any rules framed there under, provided that any order passed by the Electrical Inspector shall be subject to appeal, which may be preferred to the State Commission or to the State Government if state Government so directs.
- 4.26.2 All issues arising in relation to interpretation of these General Conditions 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.
- 4.26.3 The Commission may at the time of grant of Transmission Licence waive or modify the application of any of the provisions of these General Conditions either in the order granting the Licence or by Special Conditions made applicable to a specific Transmission Licensee.

4.27 Review

These Regulations may be reviewed by the Commission from time to time to harmonise the same with the regulations for open access and/or to cater to the needs of developing power markets, in accordance with Section 66 of the Act.

4.27 Savings

- 4.27.1 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.
- 4.27.2 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 for dealing with such matter or class of matters.
- 4.27.3 Nothing in these Regulations shall, expressly or impliedly, bar the Commission from dealing with any matter or exercising any power under the applicable legal framework, and the Commission may deal with such matters, and exercise such powers and functions in such manner as it thinks fit.

4.28 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 applicable legal framework, which in its opinion is necessary or expedient for the purpose of removing the difficulty.

By Order of the Commission

(Sangeeta Verma)

Secretary

Uttar Pradesh Electricity Regulatory Commission

FORM - I

Application form for grant of Transmission Licence

Particulars of the Applicant

1. Name of the Applicant:
2. Name of the Company:
3. Registered 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. Date of Incorporation/Registration:
10. Geographical Area within which Applicant proposes to undertake transmission of electricity.
11. Following documents are to be enclosed
 - a) Certificate of registration/incorporation:
 - 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) Draft licence
 - g) All the documents mentioned in the Regulation.

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)

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

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)

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

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

14. Certificate of Credit Rating
15. Certificate of ‘Standard’ borrower 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 documents:

(a)

(b)

(c)

(d)

18. (a) Whether Applicant himself shall be financing the proposed transmission of electricity 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 Transmission 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 the Uttar Pradesh Electricity Regulatory Commission (General Conditions of Transmission Licence) Regulations, 2004, 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 setting up its transmission system and conduct of the business of transmission of electricity as proposed by it. This should contain a statement of the Applicant's plan on conduct of the business of transmission of electricity during the first year after the grant of licence and future plans for the said business during the next five years.)

(Signature of the Applicant)

Date:

Place:

By order of the Commission,
SANGEETA VERMA,
Secretary,

U.P. Electricity Regulatory Commission.