

**HIMACHAL PRADESH ELECTRICITY
REGULATORY COMMISSION SHIMLA**

NOTIFICATION

Shimla, the 21st July 2008

No.HPERC/382: - WHEREAS the trading in Electricity has been recognized as a licensed activity under Section 12 of the Electricity Act, 2003, (hereinafter referred to as 'ACT') the Appropriate Commission has to grant trading license to a person on an application made pursuant to section 15 of the Act.

AND WHEREAS the Act also provides that under section 52, the Appropriate Commission has to specify the eligibility conditions such as technical requirement, capital adequacy requirement and creditworthiness, for being a trader;

NOW, THEREFORE, in exercise of powers conferred under section 52, read with section 181 of the Act, and all other powers enabling in this behalf and after previous publication, the Himachal Pradesh Electricity Regulatory Commission hereby makes following regulations:-

REGULATIONS

1. Short Title, Commencement and Interpretation.- (1) These Regulations may be called the Himachal Pradesh Electricity Regulatory Commission (Eligibility Conditions for being a Electricity Trader) Regulations, 2008.

(2) These regulations shall come into force from the date of their publication in the Rajpatra, Himachal Pradesh.

2. Definitions.- (1) In these Regulations, unless context otherwise requires,-

- (a) **“Act”** means the Electricity Act, 2003 (36 of 2003);
- (b) **“applicant”** means a person who has made an application to the Commission for grant of licence for intra-State trading;
- (c) **“electricity trader”** means a person who has been granted a licence under the Act for undertaking intra-State trading, and distribution licensees, including the persons mentioned in 3rd and 5th provisos to section 14 of the Act when they undertake intra-State trading;
- (d) **“Intra-state trading”** means buying and selling of electricity by an electricity trader within the State of Himachal Pradesh.
- (e) **“net-worth”** means net worth as defined in the Companies Act, 1956 (1 of 1956).

- (2) Words and expressions which are not defined in these Regulations shall have the same meaning as are assigned to them in the Act and the Himachal Pradesh Electricity Regulatory Commission (General Conditions of Trading Licence) Regulations, 2004.

3. *Technical Requirements.-*

- (1) An applicant shall have at least one full-time professional (with minimum 10 years of experience) from each of the following disciplines, holding a decision making position within its organization, namely:

- (i) Power system operations, technical and commercial aspects of power transfer; and
- (ii) Finance, Commerce and Accounts.-

- (2) Before the commencement of the business of trading, the electricity trader shall-

- (a) furnish to the Commission, the following details of the professionals and supporting staff employed by it:-

(i) number of experts, summary of their educational qualifications and experience in, and knowledge of, electricity industry/market as well as understanding of the operation of the system and commercial transactions, and number of years of experience of each personnel;

(ii) details of key staff, their educational qualifications and business skills.

- (b) establish adequate communication facilities like telephone, fax, computer, Internet facilities etc. to carryout the business of trading efficiently.

- (3) The Electricity Trader shall have a website of his own and shall post the necessary information for carrying out the trade.

4. *Capital Adequacy Requirements.-*(1) At the time of submission of application, the applicant shall submit to the Commission the applicant's earnings history, balance sheet, cash flow, funding arrangement and risk management strategy which will demonstrate that the applicant has met the net-worth requirement as per sub-regulation (2) of this Regulations.

- (2) The net worth requirement of the electricity trader/applicant at any time shall not be less than the following amounts.

S.No.	Category of the Trading License	Volume of Electricity proposed to be traded per financial year	Net worth (Rs. in crores)
1.	A	Upto and including 50 MU	1.0
2.	B	51 MU to 100 MU	2.0
3.	C	101 MU to 200 MU	4.0
4.	D	201 MU to 300 MU	6.0
5.	E	301 MU to 400 MU	8.0
6.	F	401 MU to 500 MU	10.0
7.	G	Above 500 MU	10.0 plus Rs. 2 lacs for each additional MU above 500 MU

Provided that the licensee shall increase his net worth, if the volume of the trade moves from a lower category to a higher category and the change of category shall be decided based on the volume of electricity traded as on 31st March of each year, and of which the licensee shall keep the Commission informed of his moving from one category to the other and subsequent changes in the net worth.

- (3) The applicant shall demonstrate his net-worth duly certified by an auditor to the satisfaction of the Commission at the time of application.
5. *Creditworthiness.*-(1) The Trading Licensee shall, from the second year of his operation, demonstrate his creditworthiness duly certified by an auditor to the satisfaction of the Commission.
- (2) The applicant shall not be a defaulter as notified by RBI or other relevant authority.
- (3) Where an applicant has one or more borrowal accounts with Bank(s) all such, accounts shall be classified as 'Standard' by each of its bankers.

- (4) The electricity trader, whose annual trading is above 500 MU, shall make endeavor to maintain investment grade credit rating from an independent Credit Rating Agency throughout the period of Licence.
- (5) All trading transactions shall be done through proper payment security mechanism.
6. *Disqualifications.*- The applicant shall not be qualified for grant of licence for intra-State trading if:-
- (a) the applicant, or any of his partners, or promoters, or Directors or Associates is declared insolvent and has not been discharged; or
 - (b) the applicant, or any of his partners, or promoters, or Directors or Associates is involved in any legal proceedings, and in the opinion of the Commission grant of licence in the circumstances, may adversely affect the interest of the electricity sector and/or the consumers; or
 - (c) the applicant, or any of his partners, or promoters, or Directors or Associates has at any time in the past been convicted of an offence involving moral turpitude or any economic offence; or
 - (d) an order canceling the licence of the applicant, or any of his partners, or promoters, or Directors or Associates, has been passed by the Commission on the grounds of his indulging in fraudulent and unfair trade practices or market manipulation or activities involving moral turpitude; or
 - (e) the applicant, has in the past been-
 - (i) refused a licence on the grounds which continue to remain valid; or
 - (ii) subjected to any proceedings for contravention of any of the provisions of the Act or the rules or the regulations made thereunder; or
 - (f) the applicant is not considered a fit and proper person for the grant of licence for any other reason to be recorded in writing.

Explanation: For the purpose of determining as to whether the applicant is a ‘fit and proper person’, the Commission may take account of any consideration, as it deems fit, including but not limited to the following, namely:-

- (i) financial integrity of the applicant;
- (ii) his competence;

- (iii) his reputation and character; and
- (iv) his efficiency and honesty.

Miscellaneous

7. *Power to remove difficulties.-*

- (1) 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 electricity trader to do or take suitable action, not being inconsistent with the provisions of the Act, which appears to the Commission to be necessary or expedient for the purpose of removing the difficulty.
- (2) The electricity trader may make an application to the Commission and seek suitable orders to remove any difficulties that may arise in implementation of these regulations.

8. *Issue of orders and practice directions.-* Subject to the provisions of the Act, and these regulations, the Commission may, from time to time, issue orders and practice directions with regard to the implementation of the regulations and procedures to be followed.

9. *Power to amend.-* The Commission may from time to time add, vary, alter, modify or amend any provisions of these regulations after following the necessary procedures.

By the order of the Commission

Sd/-
Secretary