

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
(PROCEDURE, TERMS AND CONDITIONS FOR GRANT OF  
TRANSMISSION LICENSE AND OTHER RELATED MATTERS)  
REGULATIONS, 2001**

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**SCHEDULE 1 :- SCHEDULE**

**(PROCEDURE, TERMS AND CONDITIONS FOR GRANT OF  
TRANSMISSION LICENSE AND OTHER RELATED MATTERS)  
REGULATIONS, 2001**

Central Electricity Regulatory Commission, Noti. No. L-7/25(1)/2001-CERC, dated August 24, 2001, published in the Gazette of India, Extra., Part III, Section 4, dated 24th August, 2001, pp. 30-60, No. 221 In exercise of the powers conferred under Section 27-C of the Indian Electricity Act, 1910 and all other powers enabling in this behalf, the Commission hereby makes the following regulations, namely:

CHAPTER 1  
PRELIMINARY

**1. Short title and commencement :-**

(i) These regulations shall be called the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission License and other related matters) Regulations, 2001.

(ii) These regulations shall come into force from the date of publication in the Official Gazette.

**2. Definitions and Interpretation :-**

(i) In these regulations unless the context otherwise requires: "Act" means "The Indian Electricity Act, 1910". "Agreement" means the Implementation Agreement or as, the case may be, the Transmission Service Agreement. "Central Transmission means the Central Transmission Utility notified by the Utility" Central Government under sub-section (1) of Section 27-A of the Act. "Commission" means the Central Electricity Regulatory Commission. "Electricity Laws" means "The Indian Electricity Act, 1910", "The Electricity (Supply) Act, 1948", "The Electricity Regulatory Commissions Act, 1998", and "The Indian Electricity Rules, 1956" as amended from time to time and includes any statutory re-enactments thereof. "Financial Year" means a period of twelve (12 ) months from 1st April of a year to 31st March of the following year. Provided that where the license has been granted on a date after 1st April, the first financial year of the licensee shall commence from the date of grant of license and terminate on 31st March following such date. "Indian Electricity means the Indian Electricity Grid Code, in force for the Grid Code" time being. "Implementation

means a contractual document with provisions related to Agreement" construction phase of the elements of the Inter-State Transmission System. "License" means a transmission license granted by the Commission to construct, maintain and operate the elements of the Inter-State Transmission System under clause (1) of Section 27-C of the Act. "Licensee" means a person who has been granted a license by the Commission. "Project" means the elements of the Inter-State Transmission System described in the Schedule attached to the license granted by the Commission. "Powergrid" means Powergrid Corporation of India Ltd. and includes its successor entity. "Transmission Service means a contractual document with provisions Agreement" related to operation phase of the elements of the Inter-state Transmission System. "Transmission Service means charges approved by the Commission and payable Charges" to the licensee for the transmission of electricity.

(ii) Unless repugnant to the context, words and expressions used herein and not defined in these regulations, but defined in the Electricity Laws and the Indian Electricity Grid Code have the meaning assigned to them in the Electricity Laws and the Indian Electricity Grid Code.

(iii) References in the license to Conditions, Parts and Schedules shall, unless the context otherwise requires, be construed as references to Conditions, Pans, and Schedules of the license.

## CHAPTER 2

### PROCEDURE FOR GRANT OF LICENSE

#### **3. Selection of elements of inter-State transmission system.**

:-

(i) The Central Transmission Utility shall publish the procedure and criteria for identification of elements of Inter-State Transmission System to be undertaken by the agencies other than the Powergrid: Provided that the Commission may, at any time, give such directions for modification of the procedure and criteria published by the Central Transmission Utility or any part thereof as it deems appropriate and the Central Transmission Utility shall publish the procedure and criteria with such modification as directed by the Commission.

(ii) The elements of Inter-State Transmission System to be undertaken by the agencies other than the Powergrid shall be

identified by the Central Transmission Utility in accordance with the procedure published under clause (i).

#### **4. Routes for implementation of elements of inter-State transmission system. :-**

(i) The Competitive route or the Joint Venture route may be adopted for implementation of the elements of Inter-State Transmission System by the agencies other than Powergrid.

(ii) The selection of the implementing agency through the competitive route shall be through a competitive process by inviting global participation on open tender basis.

(iii) The Central Transmission Utility may take a final decision in adoption of JV route in appropriate cases. The guiding factors for adopting JV route shall be the conditions where open competition is not anticipated or where the project is of critical nature : Provided that in case of Joint Venture route, the Powergrid shall be one of the partners of the Joint Venture Company.

#### **5. Competitive route :-**

(i) For selection of an agency for implementation of the elements of Inter-State Transmission System through competitive route. Request for Qualifications (RfQ) and Request for Proposals (RfP) stages shall be followed.

(ii) The Central Transmission Utility, shall prepare the model Request for Qualifications (RfQ) and model Request for Proposals (RfP) documents for use for the competitive route and get these documents approved by the Commission.

(iii) The model RfQ and RfP documents as approved by the Commission shall be adopted for the bidding process : Provided that where any deviations from the approved model RfQ and RfP documents are considered necessary, prior approval of the Commission shall be obtained.

#### **6. RfQ Document. :-**

(i) The model RfQ document to be prepared by the Central Transmission Utility shall contain the comprehensive project details and the scope of services to be rendered and shall state that

(a) the implementing agency shall be responsible to finance, construct, own, operate and maintain the elements of Inter-State

Transmission System,

(b) the entire transmission capacity shall be made available to the Central Transmission Utility,

(c) on expiry of the period of agreement, the implementing agency shall transfer the transmission system to the Central Transmission Utility in accordance with the terms of the agreement entered into by the implementing agency with the Central Transmission Utility.

(ii) The RfQ document shall be a priced document.

(iii) At least two months time shall be allowed to the bidders for submitting the bids for qualifications.

**7. Selection of qualified parties at RfQ stage. :-**

The past experience in construction and maintenance of transmission system (lines and sub-stations) and mobilisation of necessary resources, including long-term finances through tie-ups by the bidders, shall be the principal criteria for selection of the qualified parties at RfQ stage.

**8. RfP Document. :-**

(i) The model RfP document shall define the scope of service to be rendered, the responsibilities of the bidder and allocation of risks and obligations between the bidder and the Central Transmission Utility and shall

(a) include the technical specifications of the project based on DPR, interface issues, draft Implementation Agreement and Transmission Service Agreement, general terms and conditions of the license, the application form for grant of the license as notified by the Commission and procedure for bid evaluation, including the discount rate, foreign exchange rate and foreign exchange variation rate;

{b) stipulate an amount payable towards 'Project Implementation Guarantee Deposit' required to be deposited immediately by the successful bidder on selection, which amount shall be forfeited in case the selected bidder fails to reach financial closure or complete the project within stipulated time;

(c) specify the manner in which the Transmission Service charges shall be recovered from the beneficiaries; and

(d) prescribe the manner for computation of tariff for different

phases, when the project is executed in phases.

(ii) The RfP document shall be issued to the parties qualifying in RfQ stage only and the bidders shall be given at least three (3) months time to submit their detailed proposals.

(iii') The RfP document shall be issued only if a minimum of three parties have qualified:

Provided that the Commission may in its discretion relax the condition specified in this clause on an application to this effect by the Central Transmission Utility.

**9. Transmission service charges. :-**

The bidders shall quote the annual Transmission Service Charges payable at a normative level of performance indicated in the RfP document.

**10. Evaluation and selection of implementing agency. :-**

(i) The Central Transmission Utility shall proceed with evaluation and comparison of proposals where a minimum of three valid bids are available : Provided that where the minimum number of three valid bids are not available, the final selection of the implementing agency may be made only after obtaining permission of the Commission.

(ii) The final selection of the implementing agency shall be made on evaluation and comparison of Net Present Value of the annual Transmission Service Charges quoted by the bidders. The annual Transmission Service Charges estimated by the Central Transmission Utility at the DPR stage shall form the basis for checking reasonability of the bids during evaluation.

(iii)) A detailed evaluation report shall be furnished by the Central Transmission Utility to the Commission.

**11. JV Route :-**

The annual Transmission Service Charges for JV route shall be on cost plus basis in accordance with the tariff notification issued by the Commission from time to time.

**12. Approval by the Central Transmission Utility. :-**

The Central Transmission Utility before according its approval for grant of license shall satisfy that:

(i) the planning policy laid down under the Indian Electricity Grid

Code has been followed.

(ii) the elements proposed for execution by the applicant forms part of the elements of Inter-State Transmission System identified for execution by agencies other than Powergrid.

(iii) the procedure published by the Central Transmission Utility for selection of elements of the Inter-State Transmission System to be taken up by the agencies other than Powergrid has been followed.

(iv) the elements of the Inter-State Transmission System proposed to be executed by the applicant are reasonably sized (cost-wise) as distinct project to ensure competition.

(v) in principle clearance from Central Electricity Authority, where necessary, has been obtained.

(vi) the beneficiaries of the elements of the Project, have been consulted at the appropriate forum.

### **13. Grant of transmission license by the Commission. :-**

(i) The application for grant of license duly approved by the Central Transmission Utility in the manner prescribed under these regulations and in the form attached at Annexure-A, shall be submitted to the Commission.

(ii) Every such application shall be accompanied by a fee of Rs 1,00,000 (Rs One lakh only), payable through Bank Draft/pay order drawn in favour of Assistant Secretary, Central Electricity Regulatory Commission, New Delhi.

(iii) The Commission on being satisfied that the procedure prescribed under these regulations has been complied with, may issue Letter of Intent to the applicant for grant of license : Provided that before issuing the Letter of Intent the Commission may call for such information from the applicant or the Central Transmission Utility as it deems necessary.

(iv) The Commission shall as far as possible grant the license in the form attached at Annexure-B, within 15 days of receipt of the initial license fee prescribed under sub-clause (i) of clause (1) of Regulation 18.

### **14. Reports to the Commission. :-**

The Central Transmission Utility may report to the Commission, such of the developments, as it considers appropriate in regard to

performance of the licensee during construction and operation of the project: Provided that the Commission may at any time call for such information in regard to performance of the licensee, as it deems necessary.

### CHAPTER 3

#### TERMS AND CONDITIONS OF LICENSE

#### **15. Obligations of licensee. :-**

The license shall be subject to the following obligations:

(a) The licensee shall commission the Project within the specified time in an efficient manner in accordance with the Agreement(s).

(b) The licensee shall strictly comply with the requirements of all laws in force and, in particular, the Electricity Laws, Indian Electricity Grid Code, orders and directions issued by the Commission from time to time, and he shall act in accordance with the agreement(s) during construction as well as operation and maintenance of the Project.

(c) Any person lawfully authorised by the licensee to carry out the purposes of the license, shall comply with Sections 12 to 19 of the Act as if he is a licensee under the Act.

(d) The licensee shall render all assistance to any person authorised by Commission, the Central Transmission Utility and Electrical Inspector for carrying out his duties relating to the Project.

#### **16. Prohibited activities :-**

The licensee shall not undertake the following activities during the period of the license :

(a) The licensee shall not at any time, without the prior approval in writing of the Commission acquire by purchase or otherwise, or acquire any beneficial interest in, a license or an Undertaking belonging to, or associate himself so far as business of generating, transmitting, distributing or supply of energy is concerned, with another licensee or a person generating, transmitting, distributing, supplying or intending to generate, transmit, distribute or supply electricity.

(b) The licensee shall not make use of the assets of the Project for a purpose other than transmission of electricity. Provided that where the assets of the Project are used for a purpose other than transmission of electricity after obtaining the approval of the



Commission, the additional benefits to the licensee accruing from such use, shall be shared by the beneficiaries and the licensee in such manner as may be directed by the Commission.

(c) The licensee shall not enter into arrangement with a third party for purchase/sale of electricity for conveyance through the Project without prior permission of the Commission.

(d) Any agreement relating to any transaction of the nature described in clauses (u), (b) or (c) hereinabove, unless made with the prior permission of the Commission, shall be void and shall constitute violation of terms and conditions of the license.

(e) The licensee shall not, at any time, assign his license or transfer his Undertaking, or any part thereof, by sale, mortgage, lease, exchange or otherwise to any person : Provided that in case of default by the licensee in debt repayment, the Commission may, in consultation with the Central Transmission Utility, assign the license to the nominee of the lenders.

(f) The licensee shall not augment/modify any part of the Project except

(i) pursuant to an agreement with the Central Transmission Utility and with the prior permission of the Commission

(ii) in accordance with the guidelines issued by the Commission.

(g) The licensee shall not dispose of or relinquish operational control of the Project j without the prior permission of the Commission.

### **17. Term of license :-**

(1) The license shall commence on the date of its issue and unless revoked earlier, shall continue to be in force for a period of 30 (thirty) years.

(2) On expiry of the term of the license, the assets shall be transferred to the Central Transmission Utility, the transfer value of which shall be assessed in the manner provided in the Transmission Service Agreement.

### **18. Payment of license fee. :-**

(1) The licensee shall pay to the Commission the license fee of the amount specified hereunder payable by means of a Bank Draft

drawn in favour of Assistant Secretary, Central Electricity Regulatory Commission, New Delhi.

(i) Initial license fee of Rs 1,00,000 (Rupees One lakh) within thirty days of receipt. of Letter of Intent.

(ii) After the assets are declared under commercial operation the licensee shall be required to pay a sum equal to 0.05% (one twentieth of one per cent) of Annual Transmission Service Charges approved by the Commission, subject to a minimum of Rs 50,000 (Rs Fifty thousand only) and a maximum of Rs 2,00,000 (Rs Two lakhs only) as annual license fee for each financial year within thirty (30) days of the commencement of the financial year

(iii) For the period between the date of commercial operation and end of the financial year, pro rata of yearly license fee as provided in clause (i) above shall be paid within 30 (thirty) days of commencement of the commercial operation

(iv) For the period between start of the financial year and end of the term of the license, pro rata of yearly license fee as provided in clause (i) above shall be paid within 30 (thirty) days of commencement of financial year.

(2) In case the licensee fails to pay to the Commission the license fee or a part thereof, the licensee shall be liable to pay penal interest on the outstanding amount at a simple interest at the rate of 2% per month or a part thereof, for the period the license fee remains unpaid.

(3) Notwithstanding the provisions of clause (2) above, the delay in payment or non- payment of the license fee shall be construed as breach of the terms and conditions of the license.

**19. Accounts of the licensee. :-**

(1) The licensee shall

(a) maintain separate information and statements of accounts for the Project and any other business utilising the assets of the Project allowed by the Commission. The statement of accounts shall be in such form and contain such particulars as may be laid down by the Commission;

(b) keep the accounts of the Project separate from any other business operated by the licensee, including activities related to

similar such transmission projects, if any;

(c) prepare on a consistent basis from such records accounting statements for each Financial Year comprising a profit and loss account, a balance sheet and a statement of source and application of funds together with notes thereto and showing separately the amounts of any revenue, cost, asset, liability, reserve or provision which has been either:

(i) charged from or to any business activity other than the one associated with this Project together with a description of the basis of that charge; or

(ii) determined by apportionment or allocation between the various business activities together with a description on the basis of the apportionment or allocation; and

(d) provide in respect of the accounting statements prepared in accordance with foregoing clauses, a report by the Auditors in respect of each Financial Year, stating whether in their opinion the statements have been properly prepared and give a true and fair view of the revenues, costs, assets, liabilities, reserves reasonably attributable to the Project to which the statements relate; and

(e) submit to the Central Transmission Utility copies of the accounting statements and Auditor's report not later than six months after the close of the financial year to which they relate.

(2) Any person authorised by the Commission or the Central Transmission Utility shall be entitled to inspect and verify the accounts of the licensee at any point of time during the validity of the license and the licensee shall render all necessary assistance to the person so authorised.

## **20. Submission of information :-**

(1) The licensee shall supply such information, as may be called for by the Commission from time to time.

(2) The licensee shall provide, in the manner and form determined by the Central Transmission Utility, such information as the Central Transmission Utility may require from time to time to monitor the licensee's performance and compliance of the terms and conditions of the license and any other legislative or regulatory requirement.

## **21. Prudential reporting. :-**

The licensee, as soon as practicable, shall report to the Central Transmission Utility:

(a) Any significant changes in its circumstances which may affect the licensee's ability to meet its obligations under the Electricity Laws, directions/orders issued by the Commission, Indian Electricity Grid Code, agreement or the license.

(b) Any material breach of the provisions of Electricity Laws, directives/guidelines issued by the Commission, Indian Electricity Grid Code, agreement, or the license.

(c) There is a change in major shareholding, ownership or management of the licensee.

## **22. Operation and compliance audits :-**

The licensee shall submit the necessary documents/information to the Central Transmission Utility regarding independent annual operational and compliance audit in respect of:

(a) the level of performance achieved with regard to availability of transmission system, transmission losses, OandM practices, quantum of incentive/disincentive, fines and penalties, if any, levied under Electricity Laws;

(b) compliance by the licensee with obligations under the license, IEGC, agreement;

(c) compliance by the licensee with the provisions of the Electricity Laws in force and the directions/orders etc. issued by the Commission from time to time; and

(d) financial, technical and other capability of the licensee to continue its operation under the license.

## **23. Terms of revocation :-**

(1) The Commission may at any time revoke the license, if

(a) the licensee requests in writing to the Commission that the license may be revoked; or

(b) any amount payable under Regulation 18 remains unpaid for a period of ninety (90) days after it has become due; or

(c) the licensee, in the opinion of the Commission has committed a material breach of any of the terms and conditions of the license and has failed to comply with any order or direction issued by the

Commission to rectify such breach; or

(d) the licensee in the opinion of the Commission, is not in a position to fully and efficiently discharge the duties and obligations imposed under the license; or

(e) in the opinion of the Commission the licensee has committed a wilful or unreasonable default in doing anything required of him by or under the Electricity Laws or Indian Electricity Grid Code : : Provided that the license shall not be revoked without a notice of not less than 90 days in writing to the licensee stating the reasons for which the license is proposed to be revoked and after consideration of the cause shown by the licensee: Provided further that on consideration of the cause shown by the licensee, the Commission may, instead of revoking the license, permit it to remain in force, subject to such further terms and conditions as the Commission may impose and such further terms and conditions so imposed by the Commission shall be observed by the licensee, and be of like force and effect as if these were contained in the license.

(2) A notice to the licensee shall not be necessary in case of revocation of the license by the Commission in pursuance of termination of agreement between the Central Transmission Utility and the license is terminated with the approval of the Commission or where the licensee requests in writing to the Commission for revocation of its license.

(3) The revocation of license for reason of termination of agreement shall become effective from the date of termination. In all other cases the license shall stand revoked from such date as may be directed by the Commission.

(4) Consequent to revocation of the license or abandoning of the project by the licensee, the Project shall be handed over to the Central Transmission Utility in accordance with the provisions of the Transmission Service Agreement or to such person as may be directed by the Commission.

#### **24. Dispute resolution :-**

(1) All disputes or differences arising out of or connected with the interpretation of the agreement shall as far as possible be resolved by mutual consultation/reconciliation, pursuant to the agreement. In the event of failure of the parties to resolve the disputes or differences in the manner stated above, these shall be referred to

the Commission for arbitration or adjudication in accordance with clause (h) of S.13 of Electricity Regulatory Commissions Act, 1998.

(2) All disputes or differences arising out of or connected with the interpretation of the license or the terms and conditions thereof, shall be referred to the Commission for decision.

**25. Communication :-**

(1) All communications relating to the license shall be in writing and shall be delivered either in person, or by registered/speed post.

(2) All communications shall be regarded to have been given by the sender and received by the addressee

(a) when delivered in person to the addressee or to his authorised agent;

(b) on expiry of 15 days from the date of sending by registered/speed post at the address of the addressee.

**26. Power to relax. :-**

The Commission may, when it considers necessary or expedient and for reasons to be recorded in writing amend, vary, relax or depart from any of the provisions of these regulations, with or without public hearing as deemed fit.

SCHEDULE 1

SCHEDULE

1.0 Project Related Details: The Project comprises of following elements of the Inter-State Transmission System. Place: New Delhi Date: .....
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