

**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
(GENERAL CONDITIONS OF DISTRIBUTION LICENCE) REGULATIONS,
2006**

ELECTRICITY ACT, 2003

INTRODUCTION

The Commission being vested with the powers to grant licences under the Electricity Act 2003 (Act 36 2003) in the State of Maharashtra, is required to make regulations, in particular, providing for the following matters, namely: (a) period to be specified under the first proviso to section 14; (b) the form and the manner of application under sub-section (1) of section 15; (c) the manner and particulars of application for license to be published under sub-section (2) of section 15; (d) the conditions of licence under section 16; (e) the manner and particulars of notice under clause (a) of subsection (2) of section 18; and (f) publication of the alterations or amendments to be made in the licence under clause (c) of sub-section (2) of section 18.

The Act having come into force on 10th June, 2003, the Commission, in exercise of powers under Section 181, notified the Maharashtra Electricity Regulatory Commission (Distribution License Conditions) Regulations, 2004 in the *Official Gazette* dated 10th June, 2004 after following the procedure of previous publication.

Under Section 16 of the Act, the Commission has the statutory mandate to specify general and/or specific conditions for licensees or class of licensees and licensees referred to in the first, second, third and fifth provisos to section 14 of the Act. After following the procedure of previous publication, conducting hearings, and having received comments from existing Distribution Licensees in the State and Consumer Representatives and other stakeholders, on the draft General Conditions that would apply to both the existing and future Licensees, the Commission makes the following Regulations in supercession of the Maharashtra Electricity Regulatory Commission (Distribution License Conditions) Regulations, 2004:

No. MERC/ADM/168/2006/2333 - In exercise of the powers conferred by clause (b) of sub-section (2) of Section 181 read with sub-section (1) of Section 15, clause (c) of sub-section (2) of Section 181 read with sub-section (2) of Section 15, clause (d) of sub-section (2) of Section 181 read with Section 16, clause (e) of sub-section (2) of Section 181 read with clause (a) of sub-section (2) of Section 18, clause (f) of sub-section (2) of Section 181 read with clause (c) of sub-section (2) of Section 18, clause (zm) of sub-section (2) of Section 181 read with sub-section (8) of Section 128 and clause (zp) of sub-section (2) of Section 181 of the Electricity Act, 2003 (36 of 2003), the Maharashtra Electricity Regulatory Commission hereby makes the following regulations, namely:-

1. SHORT TITLE, EXTENT AND COMMENCEMENT

(1) These Regulations may be called the Maharashtra Electricity Regulatory Commission (General Conditions of Distribution Licence) Regulations, 2006.

(2) These Regulations shall extend to the whole of the State of Maharashtra.

(3) These Regulations shall come into force from the date of their publication in the Official Gazette.

2. (1) **DEFINITIONS:** In these Regulations, unless the context otherwise requires: -

“Accounting Statement” means for each financial year, accounting statements for the Licensed Business comprising of : (i) balance sheet, prepared in accordance with the form contained in Part I of Schedule VI to the Companies Act, 1956; (ii) profit and loss account, complying with the requirements contained in Part II of Schedule VI to the Companies Act, 1956; (iii) cash flow statement, prepared in accordance with the Accounting Standard on Cash Flow Statement (AS-3) of the Institute of Chartered Accountants of India; (iv) report of the statutory auditors’ of the Distribution Licensee; (v) cost records prescribed by the Central Government under Section 209(1)(d) of the Companies Act, 1956, together with notes thereto and a statement of sources and application of funds, and such other supporting statements and information as the Commission may direct from time to time.

Provided that in case of any local authority engaged in the business of electricity, the Accounting Statement shall mean the items, as mentioned above, prepared and maintained in accordance with the relevant Acts or Statutes as applicable to such local authority.

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

“Annual Accounts” means the accounts of the Distribution 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 from time to time;

“Area of Distribution” or “Area of Supply” means the area stated in the Distribution Licence within which the Distribution Licensee is authorized to operate and maintain a Distribution System for supplying electricity to the consumers in his area of supply;

“Auditors” means the Distribution Licensee’s auditors holding office in accordance with the requirements of Sections 224 to 234A or Section 619, as the case may be, of the Companies Act 1956 (1 of 1956) or if the Distribution Licensee is not a limited company the auditor as may be directed by the Commission;

“Authorised” in relation to any Person, business or activity, means authorised by licence granted under Section 14 of the Act or deemed to be granted under the first, second, third and fifth provisos to Section 14 of the Act or exemption granted under Section 13 of the Act and the regulations of the Commission;

“Commission” means the Maharashtra Electricity Regulatory Commission;

“Deemed Licensee” means a person authorised under the first, second, third, and fifth provisos to section 14 of the Act to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply;

“Distribution” means the conveyance or wheeling of electricity by means of a Distribution System;

“Distribution Business” means Authorised business of a Distribution Licensee to operate and maintain a Distribution System for supplying electricity to the consumers in the Area of Supply;

“Distribution Licensee” means the person authorised by the Distribution Licence to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply and shall include the deemed licensee who is so authorised under section 14 of the Electricity Act;

“General Conditions” mean General Conditions of Distribution Licence as specified in these Regulations;

“Licensed Business” means the business of Distribution and Supply of electricity as authorised under the Distribution Licence;

“Major Incident” means an incident associated with the Distribution 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 specified by the Commission and shall also include any other incident which the Commission declares to be a major incident;

“Operational Control” means possessing the authority to make operational decisions such as commissioning and utilisation of service lines and equipment;

“Other Business” means that business of the Distribution Licensee other than the Licensed Business, which is undertaken for optimum utilisation of its assets, with prior intimation to the Commission;

“Performance Standards” means the standards of performance of a Distribution licensee specified by the Commission in accordance with the Act or regulations made thereunder;

“Regulations” means the regulations made by the Commission under the provisions of the Act;

“Specific Conditions” means the conditions, which are in addition to the General Conditions and not in derogation thereof, which the Commission may lay down specifically for a Distribution Licensee or class of licensees;

“State” means the State of Maharashtra;

“State Government” means the Government of the State of Maharashtra;

“State Grid Code” means the grid code specified by the Commission, covering all material technical aspects relating to connections to and the operation of the Grid, and use of a Distribution System, or (in so far as relevant to the operation and use of a Distribution System) the operation of electric lines and electrical plant connected to the Distribution System, the Distribution Systems, or the system of any Supplier;

“Transfer” means the imposition or creation of any lien, charge or encumbrance on, or security interest in, any part thereof pursuant to the provisions of any contract, undertaking or agreement or grant of any encumbrance or otherwise permitting of any encumbrance to subsist or parting with physical possession or any other disposition or dealing;

“User” means any person who uses the Distribution System.

(2) **INTERPRETATIONS**

(a) Words and expressions used in these Regulations and not defined shall have the meanings assigned to them in the Act.

(b) Reference to any statute, rule or regulation shall mean as in force from time to time.

3. **APPLICABILITY**

These Regulations shall apply to all distribution Licensees in the State and in respect of all applications for distribution licence, including applications pending before the Commission at the date of publication of these Regulations.

4. **ELIGIBILITY CONDITIONS/DISQUALIFICATIONS:**

The Commission may specify eligibility conditions and disqualifications for being entitled to grant of licence under these regulations. Notwithstanding the generality of the foregoing, no applicant shall be qualified for grant of license under these regulations, if, the Commission is of the opinion that conditions or circumstances exist that cast a doubt on the ability of the Applicant to perform its duties and obligations under the Act.

Explanation – For the purposes of these regulations, “conditions or circumstances” shall mean and include cases of conviction of the applicant or any of its partners, directors or promoters by a Court of Law or indictment / adverse order by a regulatory authority or which relates to a grave offence of such a nature that it outrages the moral sense of the community; insolvency and bankruptcy of the applicant or any of its partners, directors or promoters; pending legal proceedings; conviction of an offence involving moral turpitude, or any economic offence; fraudulent and unfair trade practices or market manipulation; financial

integrity; competence; reputation and character, and any other sufficient reasons.

Provided that the Commission may direct the applicant to furnish with its application, an undertaking in such form and accompanied by documents and information, as may be stipulated by the Commission from time to time, which shall be available from the office of the Commission and/or its internet website.

Provided further that no application for grant of licence shall be rejected unless such applicant has been given an opportunity of being heard.”

5 PROCEDURE FOR GRANT OF LICENCE

5.1 APPLICATION FOR GRANT OF LICENCE

5.1.1 An application for grant of licence shall be made in the form and shall be accompanied by documents and information as may be stipulated by the Commission from time to time and which shall be available from the office of the Commission and / or on its internet website.

5.1.2 While making an application under Regulation 5.1.1, the applicant shall pay such fee alongwith the application as may be prescribed under sub-section (1) of Section 15 of the Act.

5.1.3 The application under Regulation 5.1.1 shall be signed by the applicant and addressed to the Secretary and shall be submitted in the same manner for filing of petitions and as set out in the Conduct of Business Regulations of the Commission as in force from time to time.

5.2 SCRUTINY OF APPLICATION

5.2.1 The Commission or the Secretary or any Officer designated for the purpose by the Commission may, upon scrutiny of the application, and, as far as practicable, within a period of thirty (30) working days from the date of receipt of application, require the applicant to furnish such additional information or particulars or documents as considered necessary for the purpose of considering the application.

5.2.2 On being satisfied that the application is complete and accompanied with all requisite information, particulars and documents and is in compliance with all requirements, the Commission or the Secretary or the Officer designated for the purpose by the Commission, shall intimate the applicant, to initiate the process of publishing a notice of the application for grant of licence in accordance with the procedure under the Act and these Regulations.

5.3 NOTICE OF APPLICATION FOR GRANT OF LICENCE

5.3.1 An applicant shall publish a notice of his application for grant of licence within seven (7) days from the date of intimation as provided in Regulation 5.2.2 in

not less than two (2) daily English language newspapers and two (2) daily Marathi language newspapers which are widely circulated in the proposed area of supply.

5.3.2 A notice of application referred to in Regulation 5.3.1 shall contain the following particulars:

(a) The applicant's name, and address of registered office and/or principal place of business;

(b) Nature of licence applied for and other salient features of the application;

(c) Legal status of the applicant, shareholding pattern (in case of a company), management profile, summary of activities and past experience in similar activities;

(d) The proposed area of supply and the number of consumers proposed to be served;

(e) Contact details of the person(s) from whom a photocopy of the application for license and documents mentioned therein may be obtained for inspection or purchased (in person or by post) at charges not exceeding photocopying charges. Where the applicant has an internet website, particulars thereof from where the application for license and other documents mentioned therein may be downloaded free of cost, is also to be provided;

(f) In respect of a licence for cases falling under the sixth proviso to section 14 of the Act, the applicant shall submit a statement alongwith necessary particulars which corroborate that the applicant has complied with the requirements as may be prescribed by the Central Government under the said provision of the Act; and

(g) A notice of application referred to in Regulation 5.3.1 shall contain a statement that any person having any objection with reference to the application for license may submit such objections to the Commission by a written intimation (six copies) addressed to the Secretary within thirty (30) days from the date of publication as aforesaid.

Provided that the Commission may, as far as practicable, within a period of ten (10) working days from the receipt of application for license, require such additional particulars to be included in the notice, as it may deem appropriate.

Provided that nothing in Regulations 5.1 to 5.3 shall apply to deemed licensees.

5.4 INSPECTION OF LICENSE AND SUPPLY OF COPIES THEREOF

5.4.1 A person who has been granted a distribution licence shall, within thirty (30) days of the grant of such licence, make available copies of such licence, together with a map or maps delineating the area of supply for public inspection, subject to payment of a cost, which shall not be more than the cost of photocopying and sale (printed copies), at reasonable prices, during working hours at his principal office located within the area of supply.

Provided that an applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.

6. AMENDMENT OF LICENCE

6.1 Where a distribution licensee has made an application under sub-section (1) of Section 18 of the Act proposing any alteration or modifications in his licence, the distribution licensee shall publish a notice of such application in not less than two (2) daily English language newspapers and two (2) daily Marathi language newspapers which are widely circulated in the area of supply.

6.2 The notice as aforesaid shall be published within a period of seven (7) days from the date of submission of application for alteration or modifications and shall contain the following particulars: -

(a) Name of the Distribution Licensee, and address of registered office and/or principal place of business;

(b) Description of alteration or modifications for which application has been made to the Commission alongwith rationale and justifications for the same for such alteration or modifications of license;

(c) Summary details of persons likely to be affected thereby;

(d) Contact details of the person(s) from whom the application for alteration or modifications and other documents mentioned therein may be obtained for inspection or purchased (in person or by post) at charges not exceeding photocopying charges. Where the applicant has an internet website, particulars thereof from where the application for alteration or modifications and other documents mentioned therein may be downloaded free of cost;

(e) A notice of application for alteration or modifications shall contain a statement that any person having any objection with reference to the application as aforesaid may submit such objections to the Commission by a written intimation (six copies) addressed to the Secretary within thirty (30) days from the date of publication as aforesaid.

Provided that the Commission may require such additional particulars to be included in the notice, as it may deem appropriate.

6.3 Where any alterations or modifications in a licence are proposed to be made otherwise than on the application of the licensee, the Commission shall publish the proposed alterations or modifications with the following particulars: -

(a) Name of the Distribution Licensee and address of registered office and / or principal place of business;

(b) Description of alteration or modifications alongwith rationale and justifications for the same for such alteration or modifications of license;

(c) Summary details of persons likely to be affected thereby;

6.4 Any person having any objection with reference to such alteration or modifications referred to in Regulation 6.3 may submit such objections to the Commission by a written intimation (six copies) addressed to the Secretary within thirty (30) days from the date of publication as aforesaid.

7. PROCESSING OF APPLICATIONS

The Regulations establishing procedures for conduct of business of the Commission shall govern such proceedings with respect to processing of applications under Regulations 5 and 6.

8. GENERAL CONDITIONS OF DISTRIBUTION LICENCE

8.1 TERM:

Unless specified otherwise in the Specific Conditions, the Term of the Distribution Licence shall be as stipulated in Section 15(8) of the Act.

8.2. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

8.2.1 The Distribution Licensee shall comply with the provisions of the Act, Rules, Regulations, Orders and Directions issued by the Commission from time to time and the provisions of all other applicable laws.

8.2.2 The Distribution Licensee shall duly comply with the regulations, orders and directions of the Central and State Transmission Utilities, National Load Despatch Centre, Regional Load Despatch Centre and the State Load Despatch Centre, Central Electricity Authority and other statutory authorities under the Act.

8.2.3 The Distribution Licensee shall adhere to the network rollout plan as approved by the Commission.

8.3. FUNCTIONS / ACTIVITIES OF THE DISTRIBUTION LICENSEE

8.3.1 The Distribution Licensee shall develop and maintain an efficient, safe, coordinated and economical distribution system in the Area of Supply and effect safe supply of electricity to consumers in such area in accordance with the provisions of the Act, Rules, Regulations, Orders and directions of the Commission.

8.3.2 The Distribution Licensee shall take all reasonable steps to ensure that all consumers connected to the Distribution Licensee's Distribution System receive supply of electricity as provided in the Standards of Performance Regulations, and other guidelines issued by the Commission in accordance with the provisions of the Act, Rules and Regulations issued there under and shall on the application of the owner or occupier of any premises within the Area of Supply, give connection to the

Distribution Licensee's Distribution System for the purposes of providing Supply of electricity to such premises.

Provided that the Distribution Licensee shall duly comply with the Standards as the Commission may specify from time to time, for the performance of duties of the Distribution Licensees under the Act.

8.3.3 After seeking prior approval of the Commission, the Distribution Licensee shall purchase electricity from generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the area of supply and for meeting the obligations under the Licence and under the provisions of the Act, provided that such procurement shall be made in an economical manner and under a transparent power purchase and procurement process which shall be required to be in accordance with the regulations, guidelines, directions made by the Commission from time to time.

8.3.4 The Distribution Licensee shall sell or supply electricity in accordance with the terms of his Licence and shall be entitled to recover tariffs, charges, and fees and require security deposit to be made for supply of electricity or for provision of services, in accordance with the provisions of the Act, the Rules and Regulations made thereunder and orders passed by the Commission from time to time.

8.3.5 The Distribution Licensee shall provide "Non discriminatory Open Access" to the Distribution System (for wheeling of electricity) for use by any Licensee, Generating Companies including Captive Generating Plants or Consumers in accordance with the Regulations made by the Commission for the purpose.

8.3.6 The Distribution Licensee shall provide to other licensees the intervening distribution facilities to the extent of surplus capacity available, in his Distribution System in accordance with the Regulations made by the Commission for the purpose or as directed by the Commission and in the event of any dispute as to the availability of the surplus capacity the same shall be determined by the Commission. The charges, terms and conditions for the use of the intervening facilities may be mutually agreed between the Licensees subject to any order made by the Commission for the purpose.

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

8.3.7 The Distribution Licensee shall be entitled to:

(a) Appoint Franchisees to distribute and/or supply electricity in a particular area within his area of supply in accordance with the provisions of the Act and rules and regulations made thereunder or order issued thereunder.

Provided that it shall be the duty of the Distribution Licensee to furnish, in such form and manner as the Commission considers appropriate, information with respect to the Franchisee so appointed.

(b) Undertake Trading in electricity within the Area of Supply without obtaining a Licence to undertake trading in electricity.

Provided that the Distribution Licensee shall, on seeking prior approval of the Commission, sell, to others outside the Area of Supply but within the State, electricity or energy capacity contracted for such period and to the extent that such electricity or capacity is not required by the Distribution Licensee for the discharge of his obligations to supply electricity in the area of supply.

Provided further that trading of electricity shall be undertaken within the trading margin as may be fixed by the Commission for the intra-State trading of electricity.

Provided also that the revenues derived from trading of electricity shall be treated as the revenue of the Distribution Licensee while calculating its expected revenue from charges and determination of tariff under Section 62 of the Act.

8.3.8 The Distribution Licensee shall seek prior 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.

Provided that the requirement to seek prior approval shall not apply to loans to employees pursuant to their terms of service and normal trade advances in the ordinary course of business.

8.3.9 The Distribution Licensee may, with prior intimation to the Commission, engage any of its affiliates to provide any goods or services to the Licensee in connection with the Licensed Business, subject to the following conditions:

(a) that the transaction shall be on an arms-length basis and at a value that is fair and reasonable in the circumstances, which for the purposes of this Regulation, shall mean with respect to any specific transaction, substantially on terms that would be obtained between the Distribution Licensee and a third party unrelated to and unconnected with the Distribution Licensee;

(b) that the transaction shall be consistent with the law relating to the provision of goods and services, as may be applicable with respect to Licensed Business;

(c) that the Licensee shall provide full details of such arrangement, to the Commission, as part of his application to the Commission for calculation of the aggregate revenue requirement and expected revenue from tariffs and charges in accordance with the Regulations of the Commission specifying the terms and conditions for the determination of tariff;

(d) that the Distribution Licensee shall submit to the Commission, for each financial year, a certificate from a Chartered Accountant as regards compliance with the requirement of clause (a) above.

Explanation – for the purpose of this Regulation, an entity shall qualify as an "Affiliate" if it, directly or indirectly, controls, is controlled by or is under common control of the Licensee; the term "control" meaning ownership of more than fifty percent (50%) of the

equity share capital or voting rights or the power to appoint a majority of the board of directors.

Provided that the Distribution Licensee shall furnish to the Commission any information, which the Commission may direct to be furnished with respect to the above.

8.3.10 The Distribution Licensee shall not transfer or assign the Licence to any other person without the prior approval of the Commission.

8.3.11 Where the Distribution Licensee has appointed a Franchisee, to distribute and/or supply electricity in a specified area within his area of supply, the Commission may require such Distribution Licensee to provide full details of such Franchisee(s) so appointed, to the Commission.

8.3.12 The Distribution Licensee shall not, without the prior approval of the Commission:

- (a) undertake any transaction to acquire by purchase or takeover or otherwise, the utility of any other Licensee; and
- (b) save as provided in Regulation 8.3.7 (b), supply electricity to any Person outside the area of distribution;

8.3.13 If a Distribution Licensee proposes to engage in any Other Business for optimum utilisation of the assets of the Licensed Business, he shall give prior intimation in writing to the Commission of such Other Business with the following details:

- (a) the nature of the Other Business;
- (b) the proposed capital investment in the Other Business;
- (c) the nature and extent of the use of assets and facilities of the Licensed Business for such Other Business;
- (d) the impact of the use of assets and facilities for the Other Business on the Licensed Business and on the ability of the Licensee to duly carry out the duties and obligations of the Licensed Business; and
- (e) the manner in which the assets and facilities of the Licensed Business shall be used and justification that it will be used in an optimum manner without adversely affecting the maintenance of the activities of the Licensed Business.

8.3.14 In the event the Distribution Licensee engages in any Other Business, the same shall be subject to the following conditions:

- (a) the Distribution Licensee shall not in any manner utilize the assets and facilities of the Licensed Business for any other Business or otherwise directly or

indirectly allow the activities of any Other Business to be undertaken in a manner that results in the Licensed Business subsidising the Other Business in any manner;

(b) the Distribution Licensee shall not in any manner, directly or indirectly encumber the assets and facilities of the Licensed Business for any Other Business or for any activities other than the Licensed Business and wherever the Distribution Licensee proposes to utilize the assets and facilities of the Licensed Business for any Other Business or for any activities other than the Licensed Business prior intimation of the same shall be given to the Commission whereupon the Commission shall be entitled to (i) assess the impact of the utilization of the assets and facilities on the Licensed Business; (ii) assess the revenue derived or proposed to be derived or having the potential of being derived, and issue directions or pass orders for the reduction of charges from distribution and supply of electricity as provided in clause (c) below;

(c) a proportion of the revenue, as may be specified by the Commission, derived from such Other Business shall be utilised for reducing the charges for the distribution and supply of electricity;

(d) the Distribution Licensee shall prepare and keep, in respect of the Other Business activities, separate accounting records as would be required to be kept in respect of such activities as if they were carried on by a separate company, so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to such Other Business activities are separately identifiable from those of the Licensed Business;

(e) the Licensed Business does not subsidise in any way such Other Business nor creates encumbrance on its distribution assets in any way to support such Other Business; and

(f) the Distribution Licensee shall not transfer any assets utilised in the distribution system for the purposes of Other Business activities without the prior approval of the Commission.

8.4 ACCOUNTS

8.4.1 Unless otherwise permitted by the Commission, the financial year of the Distribution Licensee, for the purposes of these General Conditions and matters relating to the Licensed Business, shall run from the first of April in a year to thirty-first of March in the succeeding year.

8.4.2 The Distribution Licensee shall, in respect of the Licensed Business and in respect of any Other Business engaged in by the Distribution Licensee:

(a) keep such accounting records as would be required to be kept in respect of each such business so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to the Licensed Business are separately identifiable in the books of the Distribution Licensee, from that of Other Business in which the Distribution Licensee may be engaged;

(b) prepare on a consistent basis from such accounting records and deliver to the Commission periodic Accounting Statements supported by Auditor's certificates, which shall, unless otherwise directed by the Commission, show separately the amounts of any revenue, cost, asset, liability, reserve or provision, which has been either charged from the Licensed Business to any Other Business or from any Other Business to the Licensed Business, as the case may be, together with a description of the basis of that charge; or determined by apportionment or allocation between the Licensed Business and any Other Business of the Distribution Licensee together with a description of the basis of the apportionment or allocation.

8.4.3 The Distribution 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 intimation to the Commission. Any change, if proposed, in the basis of charge or apportionment of revenues or expenses shall be consistent with the provisions of the Companies Act, 1956, rules and regulations there under, the Accounting Standards or Rules and any guidelines issued by the Commission in this regard.

8.4.4 Where, in relation to the Accounting Statements in respect of a financial year, the Distribution Licensee has changed the basis of charge or apportionment or allocation from those adopted for the immediately preceding financial year, the Distribution Licensee shall if directed by the Commission, (in addition to preparing Accounting Statements on those basis which it has adopted), prepare and deliver to the Commission such additional Accounting Statements as the Commission may direct for correlating the same to the accounts of the immediately preceding financial year.

8.4.5 The Accounting Statements and the Auditor's report, unless otherwise approved or directed by the Commission:

(a) be prepared and published with the Annual Accounts of the Distribution Licensee, in the manner provided in these General Conditions or in the Specific Conditions;

Provided that any Person requesting such Accounting Statements and Auditor's report shall be provided with a copy at a price not exceeding the cost of photocopying the same.

(b) state the accounting policies adopted;

(c) be prepared in accordance with the generally accepted Indian accounting standards; and

(d) be prepared in the form as the Commission may stipulate from time to time.

8.5 PROHIBITION OF UNDUE PREFERENCE

8.5.1 The Distribution Licensee shall not show undue preference to any Person in the Distribution or Supply of Electricity or rendering of services in the area of supply.

8.5.2 The Distribution Licensee shall not be held to have shown any such undue preference if any differentiation of the consumer occurs as a result of the implementation of any order of the Commission or of the order of the State Government in regard to subsidy payment under Section 65 of the Act.

8.6 PROVISION OF INFORMATION TO THE COMMISSION

8.6.1 The Distribution Licensee shall forthwith furnish to the Commission such information, documents and details related to the Licensed Business or any Other Business of the Distribution Licensee, as the Commission may require from time to time for its own purposes or for the purposes of providing to the Government of India, State Government, the Central Electricity Regulatory Commission, the Central Electricity Authority, the Central and the State Transmission Utilities and National, Regional and State Load Dispatch Centres.

8.6.2 It shall be the duty of the Distribution Licensee to maintain the information as the Commission may direct it to maintain which will include *inter alia* the minimum information to be maintained by the licensee in its books, the manner in which such information shall be maintained, the checks to be adopted by the licensee in that connection and all other matters incidental thereto.

8.6.3 The Distribution Licensee shall periodically provide to the Commission information regarding level of performance as the Commission may direct from time to time.

8.6.4 The Distribution Licensee shall forthwith notify the Commission the occurrence of any Major Incident affecting any part of its Distribution System and

(a) report the incident to the police and intimate the Commission of the occurrence of the incident, at the earliest and in any event not later than 48 hours;

(b) by not later than one month from the date of such occurrence submit a report to the Commission giving full details of the facts within the knowledge of the Distribution Licensee regarding the incident and its cause;

(c) in the event the report under sub-clause (b) is likely to take more than one month from the date of such incident, the Distribution Licensee shall within one month from such date of the incident submit a preliminary report with such details regarding the incident and its cause which the Distribution Licensee can reasonably furnish and state reasons as to why the Distribution Licensee requires more than one month for submitting a full report of such incident; and

(d) give copies of the report to the State Government, Central and State Transmission Utilities, Central Electricity Authority and to such other Persons as the Commission may direct.

8.6.5 The decision of the Commission as to what constitutes a Major Incident shall be final.

8.6.6 The Commission at its own discretion may require the submission of a report on the major incident to be prepared by an independent person.

Provided that the expenses for preparation of such report shall be borne by the Distribution Licensee.

8.6.7 The Distribution Licensee shall also undertake such studies as the Commission may direct from time to time for the improvement of its Distribution System and any other matter concerning the Distribution Business that the Commission considers necessary in the public interest to avoid the occurrence of any major incident.

8.6.8 The Distribution Licensee shall duly inform the Commission about any incident restricting it from meeting its obligations under the Distribution Licence granted including any act of omission or commission by others and steps taken by the Distribution Licensee to mitigate the effect of such incident.

8.6.9 The Commission may at any time require the Distribution Licensee to comply with the provisions of Regulations 8.6.4 to 8.6.8 as to incidents which the Commission may specifically direct and the Distribution Licensee shall be obliged to comply with the same notwithstanding that such incidents are not otherwise Major Incidents as mentioned above.

Provided that the time limits specified in Regulation 8.6.4 shall commence from the date that the Commission notifies the Distribution Licensee of such requirement.

8.6.10 Subject to other regulations notified by the Commission, the Distribution Licensee shall submit a Business Plan within three (3) months of Distribution Licence coming in force for such period as the Commission may direct and shall update such plan annually. The Business Plan shall *inter alia* contain (i) year wise load growth, (ii) year wise Distribution loss reduction proposal along with specific action plan, (iii) metering plan for metering interface points, (iv) treatment of previous losses, (v) cost reduction plan, and (vii) other important financial analysis or parameters.

Provided that the existing licensees shall submit such Business Plan within three (3) months from date of notification of these Regulations.

8.6.11 The Distribution Licensee shall submit full details to the Commission, by the end of first quarter of each financial year, regarding the progress made in implementing the Business Plan of the previous financial year with the comparison of actual implementation vis-à-vis the Plan as approved by the Commission.

8.7. CAPITAL INVESTMENTS

8.7.1 The Distribution Licensee shall not make any capital investment, except in an economical and prudent manner to build, maintain and operate an efficient, safe, co-ordinated and economical Distribution System and to fulfill its universal service obligation to service every consumer in the area of supply.

8.7.2 The Distribution Licensee shall duly comply with Regulations, guidelines, directions and orders of the Commission issued from time to time before making capital investments in the Distribution Business.

8.7.3 The Commission may require the Distribution Licensee, by issuing directions in this behalf, to submit a long-term plan(s) and short-term plan(s) with details of capital investment schemes to be undertaken during the concerned period for the prior approval of the Commission.

8.7.4 The Distribution Licensee shall make an application to the Commission for obtaining prior approval of the Commission for schemes involving capital investments as per the procedure, which the Commission may direct from time to time.

8.8 TRANSFER OF ASSETS

8.8.1 Save as provided in this Regulation, the Distribution Licensee shall not, in a single transaction or a set of related transactions, transfer or relinquish Operational Control over any asset whose book value at the time of the proposed Transfer exceeds the amount decided by Commission by directions or by a general or special order.

8.8.2 The Distribution Licensee shall give to the Commission prior written notice of its intention to transfer or relinquish Operational Control over any asset whose value exceeds the amount decided by the Commission above and the Distribution Licensee shall disclose to the Commission full details of the assets, the reasons for disposal and all other relevant facts to the Commission.

Provided that the Commission may, within thirty (30) working days of the receipt of the notice, seek further information in support of the transaction and shall, generally within thirty (30) working days of such further information being submitted by the Distribution Licensee, and where no such further information is sought by the Commission as above, within sixty (60) days of the filing of the application, approve the Transfer arrangement subject to such terms and conditions or modifications as is considered appropriate or reject the same, for reasons recorded in writing .

8.8.3 The Distribution Licensee may Transfer or relinquish Operational Control over any asset referred to above, where:

(a) the Commission confirms in writing that it consents to such Transfer or relinquishment of Operational Control subject to such conditions or restrictions as the Commission may impose; or

(b) the Commission does not inform the Distribution Licensee in writing of any objection to such Transfer or relinquishment of Operational Control within the period referred to in Regulation 8.8.2 and the transfer is effected by adopting the transparent process specified by the Commission in other applicable Regulations.

Provided that the Distribution Licensee shall provide full details of such transactions to the Commission as part of his application to the Commission, for calculation of the aggregate revenue requirement and expected revenue from tariffs and charges in accordance with the Regulations of the Commission specifying the terms and conditions for the determination of tariff.

8.8.4 The Distribution Licensee may also Transfer or relinquish Operational Control over any asset where:

(a) the Commission has issued directions for the purposes of this Regulation containing a general consent to:

(i) the transactions of a specified description, and/or

(ii) the Transfer or relinquishment of Operational Control over assets of a specified description, and/or

(iii) the Transfer or relinquishment of Operational Control is in accordance with any conditions to which the consent is subject, or

(b) the Transfer or relinquishment of Operational Control in question is required by or as mandated under any other law for the time being in force; or

(c) the asset in question was acquired and used by the Distribution Licensee exclusively in connection with any Other Business and does not constitute a legal or beneficial interest in land, or otherwise form part of the Distribution System or is not otherwise an asset related to or required for the Licensed Business.

8.8.5 The Distribution Licensee shall be entitled to utilise the assets for facilitating financing its investment requirement subject to the conditions:

(a) that the Distribution Licensee will inform the Commission about such arrangements at least fifteen (15) working days prior to the effective date of the relevant agreements.

(b) that the financing arrangement is for a period not exceeding seven (7) years or such other period as the Commission may specifically direct;

(c) the Distribution Licensee acts in a prudent and reasonable manner in such utilisation of assets; and

(d) the Distribution Licensee retains the Operational Control over assets in the Distribution System.

8.9 PAYMENT OF LICENCE FEES

8.9.1 During the period that the Licence is in force, the Distribution Licensee shall, by the 10th of April of every year, or such further period as the Commission may allow, pay to the Commission such licence fees as may be specified, and in such manner as the Commission may direct or specify.

8.9.2 Where the Distribution Licensee fails to pay fees or other charges required by his licence, to the Commission, within the period fixed in this behalf by his licence, or any longer period which the Commission may have granted there for:

(a) without prejudice to other obligations, the Distribution Licensee shall be liable to pay interest on the outstanding amount for the overdue period at such rate as the Commission may direct from time to time and unless so directed at a simple interest rate of 1.5 per cent per month; and

(b) the Commission may revoke the Distribution Licence in accordance with the provisions of the Act.

8.9.3 The Distribution Licensee shall be entitled to take into account any fee paid by it under this Regulation 8.9 excluding however the interest for delayed payment as an expense in the determination of aggregate revenues to be charged to the Tariffs.

8.10 REVOCATION OF LICENCE

8.10.1 Subject to the provisions of section 19 of the Act, where in its opinion the public interest so requires, the Commission may, for reasons to be recorded in writing, revoke the Licence of a Distribution Licensee as to the whole or any part of his area of Distribution upon such terms and conditions, as it thinks fit.

8.10.2 Before revoking a Distribution Licence the Commission shall, if in its opinion considers necessary, refer the matter to the State Government and decide on the arrangement to be made for discharging the duties of the Distribution Licensee.

8.10.3 The Regulations establishing procedures for conduct of business of the Commission shall govern such proceedings with respect to revocation of licence.

8.11 AMENDMENT OF LICENCE CONDITIONS

Where in its opinion the public interest so permits, the Commission, may, on the application of the licensee or otherwise, make such alterations and amendments in these General Conditions and Specific Conditions of distribution licence, as it thinks fit, in accordance with Section 18 of the Act.

8.12 DISPUTE RESOLUTION

The Commission shall be entitled to adjudicate the disputes or in its discretion nominate person(s) as arbitrator(s) to adjudicate and settle disputes between the Distribution Licensee and any other Licensee or between the Distribution Licensee

and a Generating Company in pursuance of clause (f) of sub-section (1) of section 86 read with Section 158 of the Act and the regulations made thereunder.

8.13 COMPLIANCE WITH THE STATE GRID CODE

8.13.1 The Distribution Licensee shall comply with the provisions of the State Grid Code in so far as it is applicable to the operation of the Distribution System or otherwise to any of the activities of the Distribution Licensee.

8.13.2 The Commission may in consultation with any affected Generating Companies, the Transmission Licensees, the Distribution Licensees in the State, the State Transmission Utility, the State Load Despatch Centre and Electricity Traders, issue directions relieving the Distribution Licensee of its obligations under Regulation 8.13.1 in respect of such parts of the State Grid Code and to such extent as may be directed by the Commission.

8.14 ELECTRICITY SUPPLY CODE AND OTHER CODES

8.14.1 The Distribution Licensee shall abide by the Regulations of the Commission and the Electricity Supply Code as specified by the Commission, as in force from time to time.

8.14.2 The Commission may, at the instance of the Licensee, issue directions relieving the Licensee of its obligations under the Electricity Supply Code in respect of such parts of the Licensee's Distribution System and to such extent as may be directed by the Commission.

8.14.3 In addition to the Electricity Supply Code, the Commission may from time to time approve at the request of the Distribution Licensee other conditions applicable for supply of electricity by the Distribution Licensee in the area of Distribution.

8.14.4 The Distribution Licensee shall make available to any Person requesting for it, copies of the Electricity Supply Code in force at the cost of photocopying the same.

8.14.5 The Licensee shall conduct its Licensed Business in accordance with prudent utility practices and directions by the Commission in respect of :

(i) all material technical aspects relating to connections to, and the operation and use of, the Distribution System including the operation of the electrical lines and electrical plant and apparatus connected to the Distribution System in so far as relevant to the operation and use of the Distribution System so as to permit the development, maintenance and operation of an efficient, safe, co-ordinated and economical Distribution System;

(ii) technical and design criteria and procedures to be applied by the Licensee in the planning and development of the Licensee's Distribution System;

(iii) conditions for connection specifying the technical, design and operational criteria to be complied with by any Person connected or seeking connection with the Licensee's Distribution System;

(iv) operation of the Licensee's Distribution System and under which Persons shall operate their plant and / or Distribution System in relation to the Licensee's Distribution System, in so far as may be necessary to protect the security and quality of supply and safe operation of the Licensee's Distribution System under both normal and abnormal operating conditions.

8.14.6 If the Licensee fails to meet any prudent utility practices or directions issued by the Commission from time to time, the Licensee shall be liable to pay penalty that may be imposed, after allowing the Licensee a reasonable opportunity of being heard.

8.15 CONSUMER RELATED MATTERS:

8.15.1 The Distribution Licensee shall duly comply with the Regulations specified by the Commission from time to time in regard to consumer services including the terms and conditions relating to consumer services contained in the Electricity Supply Code and other conditions of supply and standards of performance.

8.15.2 The Distribution Licensee shall establish a forum for redressal of grievances of the consumers in accordance with the guidelines specified by the Commission under section 42 of the Act.

8.15.3 The Distribution Licensee shall, within the time as directed by the Commission prepare and submit to the Commission for prior approval, a consumer rights statement, explaining to Consumers their rights as Consumers serviced by the Distribution Licensee.

Provided that the Commission may, by general or special order provide for adoption by Licensees, format and content of such Consumer Rights Statement.

8.15.4 The Distribution Licensee shall:

(a) inform Consumers of the existence of its consumer rights statement and each substantive revision made thereto and the manner of inspection of the same or obtaining a copy thereof .

(b) make copies of such consumer rights statement available for inspection by members of the public at its offices during normal working hours; and

(c) make copies of such consumer rights statement available to all new Consumers to be served by it, and to any other Person who requests for it at a price not exceeding the cost of photocopying the same.

Provided that it shall be a constant endeavour of the Distribution Licensee to take steps in accordance with the requirements herein to provide as much information *suo motu* to the public at regular intervals through various means of communications,

including internet, so that information is disseminated widely and in such form and manner which is easily accessible to the public.

Explanation.—For the purposes of this Condition, "disseminated" means making known or communicating the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means.

(d) submit to the Commission its rules and procedures which it is required to publish in accordance with the provisions of the regulations made by the Commission under Section 42 (5), (6) and (7) of the Act with regard to redressal of Grievances by the Internal Grievance Redressal Cell established by the Distribution Licensee.

8.16 MISCELLANEOUS

8.16.1 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.

8.16.2 The Commission may in addition to these General Conditions specify Specific Conditions applicable to a specific Distribution Licensee or class of licensees and such conditions shall be deemed to be conditions of licence.

8.16.3 These General conditions shall apply to Distribution Licensees and to all deemed Distribution Licensees under first, second, third and fifth provisos to section 14 of the Electricity Act.

9. POWER TO AMEND

The Commission may, at any time, vary, alter, modify or amend any provisions of these Regulations. Any alteration made to these Regulations shall come into force on the date of the notification and the alteration shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such alteration or annulment shall be without prejudice to the validity of anything previously done in pursuance of that alteration.

10. POWER TO REMOVE DIFFICULTIES

If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by general or specific order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty.

11. SAVINGS AND REPEAL

(1) Save as provided in clause (2) below, the Maharashtra Electricity Regulatory Commission (Distribution Licence Conditions) Regulations, 2004 notified by the Commission on June 10, 2004 is hereby repealed;

(2) Notwithstanding the repeal any thing done or any action taken or purported to have been done or taken under the repealed regulations, in so far as it is not inconsistent with the provisions of the Act or rules and regulations made thereunder, be deemed to have been taken under these Regulations.

12. EXTENSION OR ABRIDGEMENT OF TIME SPECIFIED

Subject to the provisions of the Act, the time specified by these Regulations for doing any act may be extended (where it has already expired or not) or abridged for sufficient reason by an order of the Commission.

Sd/-
(Smt Malini Shankar)
Secretary
Maharashtra Electricity Regulatory Commission,
Mumbai.

Mumbai,
Dated 27th November, 2006

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