

# Licensing of Transmission, Distribution and Supply

## Licensing.-

(1) No person, other than those authorised to do so by license or by virtue of exemption under this Act or authorised to or exempted by any other authority under the Electricity (Supply) Act, 1948 (Central Act No. 54 of 1948), shall engage in the State in the business of,-

- Transmitting electricity; or
- Distributing and supplying electricity.

(2) Where any question arises as to whether any person is engaged or about to engage in the business of transmitting, distributing or supplying electricity as specified in sub-section (1), the matter shall be referred to the Commission and the decision of the Commission shall be final.

(3) The Commission shall order any unlicensed person to discontinue transmission, distribution or supply, as the case may be, of electricity.

(4) Notwithstanding anything contained in any other provisions of this Act and until the establishment of the Commission in terms of section 3, the State Government shall have the power to grant provisional licenses under this section having a duration not exceeding twelve months to any person or persons to engage in the State in the business of transmission, distribution and supply of electricity on such terms and conditions as the State Government may determine consistent with the provisions of this Act, subject to the following conditions, namely:-

- Upon the establishment of the Commission, each of the provisional licenses granted by the State Government shall be placed before the Commission and shall be deemed to constitute an application for grant of a license by the Commission under the provisions of this Act; and
- Each provisional license granted under this section shall cease to be valid from the date notified by the Commission.

(5) The State Government shall be empowered to confer on the provisional licensees to whom licenses have been granted under sub-section (4) such powers, rights and authorization as the Commission is entitled to grant to the licensees under this Act.

(6) The Commission shall exercise all powers and functions under the Act in regard to any provisional license granted under sub-section (4) in the same manner as in the case of a license under Section 18 of this Act.

## Grant of licenses by the Commission.-

(1) The Commission may, on an application made in prescribed form and on payment of the prescribed fee, grant a license to any person to,-

- Transmit electricity in a specified area of transmission; or
- Distribute and supply electricity in a specified area of supply including bulk supply to licensees or any person.

(2) In respect of every such license and the grant thereof the following procedure shall have effect, namely:-

(a) Any person applying for a license under this Part shall publish a notice of his application in prescribed manner, and with prescribed particulars and the license shall not be granted,-

(i) until all objections received by the Commission with reference thereto have been considered by it :

Provided that no objection shall be so considered unless it is received before the expiration of one month from the date of the first publication of such notice as aforesaid; and

(ii) until, in the case of an application for a license for an area including the whole or any part of any cantonment, aerodrome, fortress, arsenal, or camp or of any building or place in the occupation of the Central Government for defense purposes, the Commission has ascertained that there is no objection to the grant of the license on the part of the Central Government;

(B) where an objection is received from any local authority concerned, the Commission shall, if in its opinion the objection is insufficient, record in writing and communicate to such local authority its reason for such opinion;

(C) no application for a license under this Part shall be made by any local authority except in pursuance of a resolution passed at a meeting of such authority held after notice of the same and of the purpose thereof has been given in the manner in which notices of meeting of such local authority are usually given;

(D) a license under this Part,-

(i) may prescribe such terms as to the limits within which, and the conditions under which, the supply of energy is to be compulsorily or permissible, and generally as to such matters as the Commission may think fit; and

(ii) save in cases in which under section 10, clause (b) of the Indian Electricity Act, 1910 (Central Act No. 9 of 1910), the provisions of section 5 and 6, or either of them, have been declared not to apply, every such license shall declare whether any generating station to be used in connection with the undertaking shall or shall not form part of the undertaking for the purpose of purchase under section 5 or 6 of Indian Electricity Act, 1910 (Central Act No. 9 of 1910);

(E) the grant of a license under this part for any purpose shall not in any way hinder or restrict the grant of a license to another person within the same area for like purpose.

(F) the provisions contained in the Schedule to the Indian Electricity Act, 1910 (Central Act No.9 of 1910) shall be deemed to be incorporated with, and to form part of, every license granted under this Part, save in so far as they are expressly added to, varied or excepted by the license, and shall, subject to any such additions, variations or exception which the State Government is hereby empowered to make, apply to the undertaking authorised by the license:

Provided that where a license is granted in accordance with the provisions of Clause IX of the Schedule for the supply of energy to other licensees for distribution by them, then so far as such license relates to such supply, the provisions of Clauses IV, V, VI, VII, VIII and XII of the Schedule shall not be deemed to be incorporated with the license.

#### **Exemptions from the requirement to have a license.-**

(1) The Commission may by order grant exemption from the requirement to have a supply license, but subject to compliance with such conditions if any, as may be specified in the order:

Provided that the Commission shall not, under any such regulation, grant any exemption except with the consent,-

- Of the local authority, if any, constituted in the area where energy is to be supplied;
- In any case where energy is to be supplied in any area forming part of any cantonment, aerodrome, fortress, arsenal, or camp or any building or place in the occupation of the Central Government for defense purposes, of the Central Government;
- In any area falling within the area of supply of a licensee, of that licensee:

Provided further that, except in a case falling under clause(ii) no such consent shall be necessary if the Commission is satisfied that such consent has been unreasonably withheld.

(2) An exemption may be granted,-

- To persons of a particular category; or
- To a particular person; or
- For a particular period;

and an exemption to persons of a particular category or to a particular person shall be published in such manner as the Commission considers appropriate for bringing it to the attention of that person or persons of that category and of the public in general.

(3) The exemption granted may be revoked by the Commission at any time for reasons to be recorded in writing.

(4) An exemption, unless previously revoked, shall continue in force for such period as may be specified in or determined by or under the exemption.

(5) Every exemption granted by the Commission under this Act shall be published in the Official Gazette.

#### **General Duties and Powers of the licensees.-**

(1) It shall be the duty of the holder of a supply license or a transmission license in respect of a particular area to develop, maintain and provide to the consumers or the licensees as the case may be or any other person an efficient, co-ordinated and economical system of electricity supply, distribution or transmission in the area of transmission or area of supply, as the case may be.

(2) Each licensee and Generating Company in discharge of its duties shall comply with the provisions of the regulations framed from time to time governing the terms and conditions for the operation and maintenance of power system and electric supply lines.

(3) Subject to sub-section (4), sections 12 to 19 of the Indian Electricity Act, 1910(Central Act No. 9 of 1910)(which relate to the carrying out of works) shall have effect in relation to a person authorised by a license under this Act to transmit or supply electricity as if he is a licensee under that Act.

(4) Where any of the sections mentioned in sub-section(3) is applied to a license holder by his license, it shall have effect subject to such restrictions, exceptions and conditions as may be included in the license.

#### **Revocation of licenses.-**

(1) The Commission may, if in its opinion the public interest so requires, revoke a license in any of the following cases, namely :-

(a) Where the licensee, in the opinion of the Commission, has committed a willful or unreasonably prolonged default in doing anything required of him by or under this Act, or under any regulation or orders of the Commission;

(b) Where the licensee breaks any of the terms or condition of his license the breach of which is expressly declared by such license to render it liable to revocation;

(c) Where the licensee fails within the period fixed in this behalf by his license or any longer period which the Commission may substitute thereof by order,-

- To show, to the satisfaction of the Commission that he is in a position to fully and efficiently discharge the duties and obligations imposed on him by his license; or
- To make the deposit or furnish the security required by his license;

(d) Where in the opinion of the Commission the financial position of the licensee is such that he is unable to fully and efficiently discharge the duties and obligations imposed on him by his license.

(e) Where a licensee, in the opinion of the Commission, has made default in complying with any direction issued under Section 22-A of Indian Electricity Act, 1910 (Central Act No. 9 of 1910).

(2) Where in its opinion of the Commission the public interest so permits, the Commission may, on the application or with the consent of the licensee and after consulting the State Electricity Board or Corporation as the case may be, and the Central Government where the Government is interested, and if the licensee is not a local authority, after consulting the local authority concerned, if any, revoke a license as to the whole or any part of the area of supply upon such terms and conditions as it thinks fit.

(4) No license shall be revoked under sub-section (1) unless the Commission has given to the licensee not less than three months notice in writing stating the grounds on which it is proposed to revoke the license and has considered any cause shown by the licensee within the period of that notice, against the proposed revocation.

(4) Where the Commission might under sub-section (1) revoke license it may instead of revoking the license, 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 licensee, and be of like force and effect as if they were contained in the license.

#### **Amendment of licenses.-**

(1) Where in its opinion the public interest so permit, the Commission, on the application of the licensee or otherwise, and after consulting the local authority; on the application of the local authority concerned, may make such alterations and amendments to the terms and conditions of a license, including the provisions specified in clause (f) of sub-section (2) of section 18, as it thinks fit:

Provided that no such alterations or amendments, shall be made except with the consent of the licensee unless such consent has, in the opinion of the Commission, been unreasonably withheld.

(2) Where the licensee has made an application under sub-section (1) seeking any alterations or amendments in his license, the following provisions shall have effect, namely:-

(a) the licensee shall publish a notice of the application in the prescribed manner and prescribed particulars;

(b) the Commission shall not make any alterations or amendments until all objections received by it with reference to the application within one month from the date of the first publication of the notice have been considered;

(c) in the case of an application seeking alterations or amendments in an area of supply comprising the whole or any part of the cantonment, aerodrome, fortress, arsenal, or camp or of any building or place in the occupation of the Central Government for defense purposes, the Commission shall not make any alterations or amendments except with the consent of the Central Government.

(3) Before making any alterations or amendments in a license otherwise than on the application of the licensee, the Commission shall publish the proposed alterations or amendments in the prescribed manner and with prescribed particulars and consider all objections received by it with reference to the proposed alterations or amendments within one month from the date of the first publication of the notice; and where alterations or amendments have been proposed in an area of supply or transmission such as is referred to in clause (c) of sub-section (2), the Commission shall not make any alterations or amendments except with the consent of the Central Government.

#### **Provisions where license of a licensee is revoked.-**

(1) Where the Commission revokes, under sub-section (1) of section 21, the license of a licensee, the following provisions shall have effect:-

- The Commission shall serve a notice of revocation upon the licensee and shall fix a date on which the revocation shall take effect; and on and from the earlier date, on which the undertaking of the licensee is sold to a purchaser in pursuance of any of the succeeding clauses or is delivered to a designated purchaser in pursuance of sub-section (3), all the powers and liabilities of the licensee under this Act shall absolutely cease and determine;
- The Commission shall invite applications for acquiring the undertaking of the licensee whose license has been revoked and determine terms and conditions of the sale of the undertaking;
- The Commission may, by notice in writing, require the licensee to sell, and thereupon the licensee shall sell the undertaking to the person whose application has been accepted by the Commission and such person is referred to in this section as the purchaser; and
- The Commission may make such interim arrangement in regard to the undertaking of the licensee for maintaining the electricity transmission, distribution and supply as may be considered appropriate including the appointment of administrators and special directors for the undertaking.

(2) Where an undertaking is sold under sub-section (1), the purchaser shall pay to the licensee the purchase price of the undertaking determined by the Commission in accordance with the provisions of sub-sections (1) and (2) of section 7-A of Indian Electricity Act, 1910 (Central Act No. 9 of 1910) or as the case may be, sub-section (3) of that section.

(3) Where the Commission issues any notice under sub-section (1) requiring the licensee to sell the undertaking, it may by such notice require the licensee to deliver, and thereupon the licensee shall deliver on a date specified in the notice, the undertaking to the designated purchaser pending the determination and payment of the purchase price of the undertaking:

Provided that in any such case, the purchaser shall pay to the licensee interest at the Reserve Bank rate ruling at the time of delivery of the undertaking plus one per centum, on the purchase price of the undertaking for the period from the date of delivery of the undertaking to the date of payment of the purchase price.

(4) Where before the date fixed in the notice issued under clause (a) of sub-section (1) being the date on which the revocation of the license shall take effect, no notice has been issued to the licensee requiring him to sell the undertaking or where for any reason no sale of the undertaking has been effected under that sub-section, the State Government shall acquire the undertaking on the date of revocation of the license and shall pay to the licensee an amount determined in accordance with sub-section (1) and (2) of section 7-A of the Indian Electricity Act, 1910 (Central Act No. 9 of 1910), as applicable in the State and shall perform all the obligations of the licensee until such time as the State Government is able to sell the undertaking to a new licensee which it shall endeavor to do expeditiously without undue delay.

#### **Licensee not to purchase, or associate himself with, other licensed undertakings.-**

(1) The licensee shall not, at any time, without the previous consent in writing of the Commission, acquire, by purchase or otherwise the license or the undertaking of, or associate himself with, so far as the business of generating, transmitting, distributing or supplying energy is concerned with, any person generating, transmitting, distributing, supplying or intending to generate, transmit distribute or supply energy under any other license:

Provided that before granting the consent the Commission shall hear such person or authority as the Commission shall consider appropriate.

Provided further that nothing in this sub-section shall be construed to require the consent of the Commission for the supply of energy by one licensee to another in accordance with the provisions of clause IX of the Schedule to the Indian Electricity Act, 1910 (Central Act No. 9 of 1910).

(2) 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 without the previous consent in writing of the Commission.

(3) Any agreement relating to any transaction of the nature described in sub-section (1) or sub-section (2), unless made with or subject to such consent as aforesaid, shall be void.

#### **Annual accounts of licensee.-**

(1) Every licensee shall, unless expressly exempted from the liability by his license, or by order in writing of the Commission, prepare and render to the Commission or to such authority as the Commission may appoint in this behalf, on or before the prescribed date in each year, an annual statement of accounts of his undertaking made up to such date, in such form and containing such particulars, as may be prescribed in this behalf.

(2) The licensee shall keep copies of such annual statement at his office and sell the same to any applicant.