

**ORISSA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAVAN, UNIT – VIII
BHUBANESWAR – 751012**

**Present : Shri D.C. Sahoo, Chairperson
Shri S.K. Jena, Member**

CASE NO. 21 OF 2006

Date of hearing : 15.09.2006

Date of order :- 27.10.2006

IN THE MATTER OF: Determination of Licence Conditions u/s 16 of the Electricity Act, 2003 in favour of (1) Western Electricity Supply Company of Orissa Limited (WESCO), (2) North Eastern Electricity Supply Company of Orissa Limited (NESCO), (3) Southern Electricity Supply Company of Orissa Limited (SOUTHCO) and (4) Central Electricity Supply Utility of Orissa (CESU), the deemed Distribution Licensees u/s 14 of the aforesaid Act.

ORDER

- 1 The Orissa Electricity Regulatory Commission (the Commission) vide its order dated 31.03.1999 passed in Case Nos.22/98, 23/98, 24/98 and 25/98 under the provisions of the Orissa Electricity Reform Act, 1995, had issued Licences to (1) Central Electricity Supply Company of Orissa Ltd (CECSO), 2nd Floor, IDCO Tower, Janpath, Bhubaneswar-751022, Dist. Khurda, Orissa, (2) Southern Electricity Supply Company of Orissa Limited (SOUTHCO) Courtpeta, Berhampur-760004, Dist. Ganjam, Orissa, (3) North Eastern Electricity Supply Company of Orissa Limited (NESCO), Januganj, Balasore- 756019, Orissa, and (4) Western Electricity Supply Company of Orissa Limited (WESCO), Burla, Sambalpur- 768017, Orissa, respectively to carry out the business of Distribution & Retail Supply in the areas of supply as mentioned in their licence Nos 1/99, 2/99, 3/99 and 4/99. Under the said Licenses, CESCO, SOUTHCO, NESCO and WESCO have been carrying out the Distribution and Retail Supply business as their licensed activities in their respective areas of supply.
- 1.1 The Electricity Act, 2003 (the Act, for short) has come into force since 10th June 2003. Under Section 14 of the Act, any person engaged in the business of supply of electricity under the provisions of repealed laws or any Act specified in the Schedule on or before the appointed date shall be deemed to be a licensee under the Act. By virtue of this provision, CESCO, SOUTHCO, NESCO and WESCO are Deemed Distribution Licensees carrying out their licensed activity in their respective areas of supply.
- 1.2 In the meantime, the Commission revoked the licence of CESCO with effect from 01.04.2005 and on 18.04.2005, the Commission appointed Chief Executive Officer and

- Administrator (CEO&A) to discharge the licenced activity of Central Zone Electricity Distribution and Supply Utility (CZEDSU). Later, vide order dated 8th September, 2006 the Commission, under Section 22 of the Act formulated a Scheme, namely, Central Electricity Supply Utility of Orissa (Operation and Management) Scheme, 2006 for operation and management of the CESCO's utility. Under the provision of the said Scheme, the Commission by order constituted a Management Board consisting of one Chairman, two Chief Executive Officers and six other Members to operate and manage the said utility for a period of two years.
- 1.3 Under Section 16 of the Act, the Commission has legal obligations to lay down the license conditions of SOUTHCO, NESCO, WESCO and CESU as a Deemed Distribution Licensees. The Commission in its Conduct of Business Regulations, 2004 (Appendix 4-A) has specified the General Conditions for all Distribution Licensees operating in the State of Orissa. In exercise of powers conferred under Clause 27(2) of Appendix 4A (General Conditions for Distribution Licensee) of the OERC (Conduct of Business) Regulations, 2004, the Commission has modified some of the clauses of the aforesaid General Conditions. Such General Conditions with modifications have been laid down in Part II of the approved licence conditions attached to this order. Furthermore, the Commission lays down at Part III the Specific Licence Conditions for SOUTHCO, NESCO, WESCO and CESU.
- 2 Having thus prepared the draft licence conditions for the aforesaid deemed licensees, the Commission decided to finalise the same through a consultative public hearing. For this purpose, the Commission initiated a suo motu proceeding and a case was registered as case No. 21/2006. The Commission directed the deemed licensees to offer their views/comments on the draft licence conditions so also they were directed to publish the public notice in the leading widely circulated newspapers in order to invite suggestions/objections/comments from the general public. The text of the aforesaid public notice and the draft license conditions also made available in the Commission's website www.oriarc.org. The said public notice was published in Oriya (Samaj dated 14th and 15th July, 200, Sambad dated 15th July 2006, and Anupam Bharat dated 15th and 17th July 2006), in English (the New Sunday Express dated 16th July 2006 and the New Indian Express dated 15th July 2006) in compliance with the aforesaid order of the Commission,. By the said public notice, interested persons/Institutions/Organisations had liberty to offer their views/suggestions/objections on the aforesaid draft license conditions on or before 31.07.06. The Commission allowed extension of 15 days to the Distribution licensees i.e. SOUTHCO, NESCO and WESCO on their request for submission of their views/opinion.

2.1 In response to the above order of the Commission, the deemed distribution licensees except CESU offered their comments/views on the draft licence conditions. Further as a sequel to the above public notice, the following persons/organizations/institutions submitted their comments/suggestions/views.

- 1) Sri Gobind Narayan Agrawal, Advocate, Convener Cum General Secretary, Sambalpur District Consumers' Federation, Balaji Mandir Bhawan, Khetraipur, Sambalpur-768003.
- 2) General Secretary, Sundergarh District Employers' Association, A/L-1, Basanti Nagar, Rourkela-769012,
- 3) Sri T.K.Mishra, Dy. Electrical Inspector, (Govt. of Orissa), Berhampur.

The suggestions/opinions offered by the deemed licensees and the above organization were taken into record.

2.2 The Commission fixed the hearing on 15.09.2006 at 11.00 AM and served a notice to above parties vide its letter no. 1345 dated 30.08.2006 to appear before the Commission personally or through their authorized representatives or duly constituted attorneys on the date and time fixed above.

3. The matter was heard by the Commission on the scheduled date and time. Sri B.K. Sahoo, Director (Engg.), the authorized officer of the Commission presented the matter in the capacity of petitioner. Sri T.P. Sahoo, G.M. (Com), SOUTHCO, Sri R.K. Pattnaik, Sr. G.M. (Tech.), CESU and Sri Sanjit Mohanty, Legal Counsel for NESCO, WESCO & SOUTHCO, Sri T.K. Mishra, Dy. Electrical Inspector, Berhampur participated in the hearing and presented their views. None was present on behalf of Sundergarh District Employers' Association and Sambalpur District Consumers' Federation. The hearing was concluded and on the request of the Legal Counsel of WESCO, NESCO & SOUTHCO, the Commission allowed 15 days time to file rejoinder to the objections/suggestions filed by various persons. Accordingly, only WESCO had filed its rejoinder which was taken into record.

4. The Commission carefully considered the valuable suggestions/views/comments submitted by all the persons concerned on the draft licence conditions and decisions taken in this respect are as follows:

4.1 The General Secretary, Sundergarh District Employers' Association has suggested modification of the licence period of 25 years in Condition no.4.1. In his view, it should be reviewed every five years. In a rejoinder, WESCO does not agree with this proposal and further submits that the licensee's performance is always under the scrutiny and control of the OERC.

Since this suggestion is contrary to Section 15 (80 of the Act), the Commission does not agree with it.

- 4.2 Against Condition no. 7.1, Mr. G.N. Agrawal, Sambalpur has submitted that-
“In case the licensee be not in a position to supply efficient power it must notify with reasoning to general public and the OERC well in advance and seek assistance of the OERC so that consumers do not face difficulties.”

[Reasoning: In April, May and June, 2005 due and adequate power supply could not be provided because of pre-termination of Special Agreement of INDAL and still rest of the consumers had to face in-adequacy of power supply. Let such difficulties be avoided in future.]

WESCO in its rejoinder has submitted that this has already been addressed in the OERC (Licensees' Standards of Performance) Regulations, 2004. The Commission agrees with WESCO and decides that the above suggestions cannot be built into the licence conditions.

- 4.3 The General Secretary, Sundergarh District Employers' Association suggests to add “with the prior approval of the Commission” at the end of Condition 7.2 (d).

The Commission has examined carefully the legal provisions in this respect and concludes that this is contrary to the provisions of the Act.

- 4.4 WESCO, NESCO and SOUTHCO argue that Condition no. 7.11(d) is in contravention to the provisions of “Open Access” as stipulated in Section 42 of the Electricity Act, 2003 and it should not be included in the licence conditions.

Section 42 empowers the Commission to specify conditions of open access which has already been notified. The licence conditions are in line with the provisions of the Regulations/Act.

Hence, the suggestions of the licensees are rejected.

- 4.5 The General Secretary, Sundergarh District Employers' Association suggests against Condition 8.8 that a stipulation to that effect that the licensee shall supply a copy of the Audited Balance Sheet to the consumer on payment of nominal charge may be incorporated. Further, he is of the opinion that the Commission shall appoint an Administrator once the debt ratio becomes more than 1:1.

In a rejoinder, WESCO submits that there is no concept as debt ratio and requires further elaboration. Besides, the circumstances under which administrator is required to be

appointed have been prescribed by the Act and debt ratio turning into more than 1:1 does not perhaps warrant such an appointment.

The Commission observes that the 1st suggestion has already been incorporated in the referred condition. Appointment of Administrator is governed under appropriate conditions in the Act. Hence, the suggestion to appoint an Administrator under the conditions proposed by the objector is not acceptable to the Commission.

- 4.6 WESCO, NESCO and SOUTHCO have argued that- “48 hours as directed under Condition 10.3 is contrary to two months earlier provided in clause 7.3 of the General Conditions of Distribution Licensee 2004. Natural disasters in Orissa being more frequent, topmost priority is to restore power supply immediately. Hence they have justified making it two months in place of 48 hours.”

The Commission is of the view that First Information Report can be easily submitted within 48 hours and the detail report can be processed subsequently for submission within two months. The Commission decides to incorporate the words “within two months” in between words “Commission” and “giving” in Condition no. 10.3(a).

The General Secretary, Sundergarh District Employers’ Association has asked Major Incident to be defined. It has already been defined at condition 3.3(y). However, the Commission thus decides to delete the 1st sentence of Condition 10.4 to avoid repetition.

- 4.7 Sri T.K. Misra, Dy. El. Inspector, Berhampur / G.M. (Commercial), SOUTHCO has made the following comments on Condition no. 10.4

“The provision regarding compensation clause is in conflict to the existing provisions and law.

- (a) When the question of compensation to the workmen arises the matter shall be decided by the Commissioner for the workmen compensation under section 19 of the W.C. Act, 1908.
- (b) In case of General Public, the jurisdiction for deciding the amount of compensation lies with Civil Courts as per section 9 of Civil Procedure Code, 1908.
- (c) The suits for compensation shall generally be instituted where the subject matter is situated or at the option of plaintiff as per section 16 read with 19 of Civil Procedure Code, 1908.

Hence the trial of compensation claim by Hon'ble Commission needs legal examination in view of the prevailing enactments and Section 175 of the Electricity Act, 2003.

However any compensation for material or other loss except fatal and non-fatal accidents due to commission, omission or negligence on the part of the employees or Agents of licensee may be included in the licence conditions.

Further, in case of negligence of any officers under licensee causing injury/loss to public can be tried for deciding the capability of the accused for recovery of compensation from him after receipt of report of Electrical Inspector or other Agency under Section 161 of the Electricity Act, 2003.”

WESCO in its rejoinder has stated that safety provisions find mention in the Act.

The Commission has carefully examined the above argument and observes that the provisions made under these licence conditions are in addition to and not in derogation of any other law for the time being in force as per Section 175 of the Act. Regarding his apprehension that compensation may be received from orders issued by several authorities is justified. To tide over this vexatious issue, the licensee can always inform about the quantum of compensation paid by them in a particular case so as to limit the compensation amount if the need arises.

The General Secretary, Sundergarh District Employers' Association has asked to define “Major Incident”.

This is very much defined at Clause 3.3 (y) of these licence conditions.

- 4.8 WESCO, NESCO and SOUTHCO have suggested adding the following portions at the end of Condition 10.9.

“provided the license shall not be in breach of the obligation if it fails to implement the business plan for any unforeseen force major conditions which are beyond the control of the licensee.”

The licensee is afforded opportunity to explain their position whenever the question of any kind of breach of obligation arises. In view of the inherent nature of the protection being available, the suggestion is rejected.

- 4.9 Against Condition 11.1, Sri G.N. Agarwal , Sambalpur suggested to include following provision.

“And in case it is not in a position to have proper investment even if approved in ARR the licensee must have to pray before the Hon’ble OERC with intimation to public through press release and on hearing the OERC may fix up individual and corporate responsibility.”

WESCO in its rejoinder has submitted that all proceedings for determination of ARR and proposal of revision of tariffs are through tariff hearings and as per OERC (Terms and Conditions for Determination of Tariff) Regulations, 2004. OERC can regulate the licensees and not individuals and corporate.

Violation of orders of the Commission has to be dealt in accordance with the relevant provisions following the prescribed procedures. Hence, the suggestion is not acceptable.

- 4.10 WESCO, NESCO and SOUTHCO propose addition of the following portion at the end of Condition no.11.9.

“without sacrificing the cost, quality and time for the procurement of materials, equipments, and services with an intention to have a transparent procurement procedure and inform to the Commission for record.”

The word “transparent” utilised in the referred condition takes care of the intentions expressed in the suggestion.

- 4.11 In the proviso to condition no. 11.12, WESCO, NESCO and SOUTHCO argue that in case of unforeseen contingencies requiring reallocation of funds, 100% of reallocation should be allowed and no fresh approval would be necessary if costs and benefits remain the same and the same is under intimation to the Commission. Expenditure on distribution network is generally completed during a short time span or time as compared to EHT or Generation projects.

- 4.12 Against licence Condition 12.5, WESCO, NESCO and SOUTHCO argue that –

“The additional clause specifying that the assets such as land and building being used by the license primarily used for efficient and effective distribution of electricity and which does not constitute to have legal owner as on 1999 shall be treated as deemed owner of the property . Suitable notification should also be given in this regard. Clause 9.6 of General Conditions for Distribution Licensee 2004 which authorises licensee to transfer the assets in case of emergency without prior approval of the Commission has been removed should be included. This prohibits licensee from transfer of assets even in emergency without prior approval of the Commission.

“Notwithstanding anything contained in this Condition 9.6 in case of any emergency condition, the Distribution Licensee may transfer the assets subject to the condition that the Distribution Licensee shall immediately after such a transaction seek post-facto approval of the Commission giving the detailed facts about the emergency and the details of the transaction entered into. It shall be the obligation of the Distribution Licensee to establish to the satisfaction of the Commission of the presence of emergency condition necessitating the transfer of the assets.”

The Commission is of the view that no such emergency condition is foreseen requiring the licensee to transfer the assets without seeking prior approval of the Commission. Hence, this suggestion is rejected.

- 4.13 With reference to Condition no. 13. 3, WESCO, NESCO and SOUTHCO are of the views that penalty / fines / interest on account of delay in payment of licence fees should be treated as an expense in the Annual Revenue Requirements of the licensees, because the delay in payment of such licence fees is not deliberate and is on account of inadequate retail tariffs and consecutive revenue gaps.

This is not acceptable as the very purpose of timely payment of licence fees shall be defeated.

- 4.14 With reference to licence Condition no. 14, WESCO, NESCO and SOUTHCO are of the views that separate mentioning of new conditions for suspension of licence is not necessary in the light of the Act. The Act has laid down the procedures for the suspension and revocation of licence under section 19 and 24 of the Act. This condition is only a reiteration of the provisions of the Act for a harmonious reading of the licence conditions and no way affects the rights and obligations of the licensee.

The Commission although agrees to the above suggestion, it causes no harm in repeating such provisions of the Act in the licence conditions to make it a full independent document to invite the attention of the licensee.

- 4.15 The General Secretary, Sundergarh District Employers' Association suggests the following to make an additional condition numbered as 14.2 (d).

“In case the licensee raises bill / demand any amount from the consumer which is not authorized by the Commission.”

WESCO in its rejoinder has submitted that- the audited balance sheet of the licensee is a public document and is submitted to the OERC / Registrar of Companies / (ROC) on a regular basis. As such, copies may thus be obtained.

The Commission observes that this is a condition to be dealt with under the Supply Code and hence rejects the proposal.

- 4.16 With reference to Condition no. 14.2, WESCO, NESCO and SOUTHCO are of the views that as per Section 19 of the Act, the grounds for initiation of revocation proceedings have already been specified in General Conditions of Distribution Licence 2004 and should be maintained as such.

It is pertinent to note that Section 19(1)(b) of the Act authorizes the Commission to declare expressly such conditions in the Licence by violating which the licence can be revoked. This direction of the Act has compelled the Commission to deviate from the General Condition 11 of Appendix 4A of OERC (Conduct of Business) Regulation, 2004.

- 4.17 In relation to Condition no.19.1(c), Sri. G.N. Agarwal, Sambalpur has suggested to add the following-

“Whenever any abnormal reading reported by meter reader whether for more consumption or for higher MD the licensee shall inspect the premises and have a proper study in presence of the consumer & rectify the defects in the system if any if necessary respective cost may be debited to the consumer like power bank/metal circuit breaker etc.” [in a Note he further states that: In WESCO area of operation most of the consumers are yet to know the problems and solutions.]

In the rejoinder, WESCO replies that prior to the processing of consumer bills, exception reports are generated and all instances of abnormal meter readings are sent to the section offices for cross checking and revalidation. Need based corrective measures are initiated as well. From time to time and as per the directive of the Commission, it has initiated several steps towards increasing consumer awareness in form of consumer camps and advertisements about Grievance Redressal Forums and Ombudsman for faster resolution of consumer complaints. The licensee does not agree with the respondent that the consumers are not aware of their problems.

The Commission observes that this issue has to be dealt with within the scope of the Supply Code. Hence the suggested addition is not considered necessary.

- 4.18 Against Condition 20, WESCO, NESCO and SOUTHCO argue that -

A separate clause needs to be added specifying that “there shall be a monthly review meeting among all licensees including Transmission Licensee, Bulk Supplier, SLDC regarding the strengthening of transmission lines. Additionally, the Transmission licensee shall also consult with the distribution licensees before finalising the plan of addition of lines and transformers to get effective in terms of meeting standard of performance and quality of service.”

There are various provisions in the OGC and Distribution (Planning and Operation) Code which deal with the above issues by way of holding the Review Committee meetings at least quarterly. The objective can be met following the provisions quoted above.

The suggestion is not accepted.

- 4.19 Against Condition 22.3, WESCO, NESCO and SOUTHCO argue that the obligation to supply and power supply planning standards should include the following.

“the licensee shall have mutual co-operation, discussion, consult among the transmission licensee, SLDC regarding preparation of load forecast, up-gradation of lines and transformers and addition of lines and transformers and substations.”

The Commission has the same view as stated at 4.18 above.

- 4.20 Against Condition 29.3, WESCO, NESCO and SOUTHCO argue that Clause 29.2 should incorporate the following :-

Instead of provision of obtaining the permission from the Executive Magistrate by the licensee officers, the licensee’s Executive Officer shall be given such Executive Magistrate power temporarily/periodically to the extent of checking the installations, equipment and apparatus at the consumer’s premises which will help to curb theft of power.

This being contradictory to section 163 of the Act, is not acceptable.

- 4.21 Against Condition 33.7, WESCO, NESCO and SOUTHCO argued that Supplies between vendors are governed by commercial laws of contract and agreements are implicit in any business dealings and are contingent on many factors such as quality of service/product, warranties etc. Hence, the above clause puts the licensee at considerable risk.

The Commission agrees to the above opinion of the licensees and decides to add the following at the end of the Para.

“in accordance with the agreement made”

- 4.22 Against Condition 36, WESCO, NESCO and SOUTHCO argue that-

There should be a parity of treatment vis-a-vis availability of funds for carrying out rural electrification in terms of availability of sovereign guarantee and so on. Besides, for such activities, it should clearly mention that “The State Govt. requires to pay the subsidy in advance and to provide the budgetary support in connection with providing the benefit to class of consumers under the National Plan.”

The licence condition is in accordance with the National Policy on Rural Electrification. Hence, the above proposal is not acceptable.

4.23 Further, WESCO, NESCO and SOUTHCO made the following suggestions in general which are also complied with.

- (1) The appeal provisions as per Section 111 of the Act, which earlier formed a part of the General Conditions of Distribution Licence 2004, (Clause 27), and since done away with, should be included.

The above right of the licensee is mandated by the Act. Hence, the Commission does not find it necessary to insert the said provision in the licence conditions.

- (2) Tariff should be forecasted on long term under Multi Year Tariff by taking into account cost inflation, commodity index, customer satisfaction, outage management, load growth and ability to pay by the consumer.

The Commission decides that above provisions need not be incorporated in licence conditions but may be provided in the Tariff Regulations, if considered necessary.

- (3) Tariff provisions in the license conditions should include a principle of "Truing Up" wherein tariff projections are compared with actual for all entities. At the moment, there is no such provision in the REGULATIONS.

This is immanent from the provisions of the Act and Tariff Regulations.

- (4) Any business plan approved by the OERC should ensure financial viability of the entities in accordance with the objectives of the National Tariff Policy.

Business Plan orders are judicial orders decided in open hearing. Hence, there is no necessity to incorporate this.

- (5) Any directives of the OERC pertaining to investments should be within the ambit of the licensees business including a fair assessment on the ability of the licensee to raise funds from the market.

The Commission is of the opinion that this is implicit from the reading of the provision of the Act. Hence, this proposal is not acceptable.

4.24 Mr. Agrawal without quoting any of the draft licence conditions points out certain issues relating to security deposits prior to disinvestment proceedings. Although WESCO has reacted to it, the Commission decides that since it is not related to licence conditions, it is not considered.

5. In the draft licence conditions at Condition No.4.1, the terms of the licence was mentioned as 25 years from 10th June, 2003. The Commission examined this aspect and observed that it is not compatible to the provisions of the Act. Since the same licence has been continuing and this being determination of licence conditions only as per the Act, the Commission decides that the period of licence shall be 30 years which shall be counted from 1st April, 1999 (the date of issue of licences to the licensees against OERC Case nos. 22/1998, 23/1998, 24/1998 and 25/1998). Hence, the aforesaid licence condition has been modified accordingly.

6. In the light of the above observation, the Commission approves the Licence Conditions for Deemed Distribution Licensees i.e. WESCO, SOUTHCO, NESCO and CESU which are attached to this order and shall be treated as a part of this order. The said licence conditions for all deemed Distribution Licensees shall be effective from 1st November, 2006.
7. The licence conditions determined by the Commission by this order shall override the licence conditions determined by the Commission vide its order dt.31.03.1999 passed in case Nos. 22/98, 23/98, 24/98 and 25/98.
8. The deemed distribution licensees are directed to keep their licence conditions in their respective websites and make available the copy of the said licence conditions to the interested persons on payment of reasonable charge. Further, the deemed distribution licensees are directed to publish a public notice in one English and two Oriya dailies having largest circulation in the State of Orissa for two consecutive days, informing the general public about the licence conditions approved by the Commission which is available in the licensee's website and copy of the same may be obtained from their Corporate offices on payment of reasonable charges.

The copy of this order and the text of the licence conditions of the aforesaid deemed distribution licensees may be communicated to Deptt. of Energy, Govt. of Orissa, Central Electrical Authority, Govt. of India, by the Commission's Secretary.

(S.K.Jena)
Member

(D.C.Sahoo)
Chairperson

LICENCE CONDITIONS

OF

**Western Electricity Supply Company of Orissa
Limited (WESCO)**

Corporate office: Burla, Sambalpur-768017, Orissa

**(A Deemed Distribution Licensee under Section. 14 of
the Electricity Act, 2003)**

INTRODUCTION

The Orissa Electricity Regulatory Commission (the Commission) vide its order dated 31.03.1999 passed in case No.4/99, under the provisions of the Orissa Electricity Reform Act, 1995, had issued Licence to Western Electricity Supply Company of Orissa Limited (WESCO), Burla, Sambalpur- 768017, Orissa, to carry out the business of Distribution & Retail Supply in the area of supply as mentioned in the said licence. Under the said License M/s WESCO has been carrying out the Distribution and Retail Supply as its licensed activity in the said area of supply.

The Electricity Act, 2003 (Act) has come into force since June 10, 2003. Under first Section 14 of the Act, any person engaged in the business of supply of electricity under the provisions of repealed laws or any Act specified in the Schedule on or before the appointed date shall be deemed to be a licensee under the Act. By virtue of this provision, WESCO is a Deemed Distribution Licensee carrying its licensed activity in its area of supply. Under Section 16 of the Act, the Commission has legal obligations to lay down the license conditions of the WESCO as a Deemed Distribution Licensee. The Commission in its Conduct of Business Regulations, 2004 (Appendix 4-A) has specified the General Conditions for all Distribution Licensees operating in the State of Orissa. In exercise of powers conferred under Clause 27(2) of Appendix 4A (General Conditions for Distribution Licensee) of the OERC (Conduct of Business) Regulations, 2004, the Commission has modified some of the Clauses of the aforesaid General Conditions. Such General Conditions with modifications have been laid down in Part II of these licence conditions.

Furthermore, the Commission lays down at Part III the Specific Licence Conditions for WESCO.

PART I: PRELIMINARY

1. Short Title

- 1.1 These License Conditions may be called “The Licence Conditions of Western Electricity Supply Company of Orissa Limited (WESCO) (A Deemed Licensee under Section 14 of the Electricity Act, 2003)”, which are applicable to WESCO with effect from 1st November, 2006.

2. Area of Operation of Licensed Activity (Area of Supply)

The Area of operation of Licensed Activity of the Licensee shall comprise the Electricity Distribution Circles of Burla, Rourkela and Bolangir existing as on date, excluding any cantonment, aerodrome, fortress, arsenal, dockyard or camp or any building or place in occupation of the Central Government for defence purposes.

3. Definitions

- 3.1 Unless the context otherwise requires the words, terms and expressions used in these licence conditions shall have the same meaning as assigned by the Electricity Act, 2003.
- 3.2 Words, terms and expressions used in these licence conditions which are not defined in this Conditions or in the Electricity Act, 2003 have the meaning as usually are understood in electrical industry.
- 3.3 In these licence conditions, unless the context otherwise requires:
- (a) **“Accounting Statement”** means for each financial year, accounting statements for the Licensed Business comprising a profit and loss account, a balance sheet and a statement of sources and application of funds, together with notes thereto as detailed under the Companies Act, 1956 (1 of 1956) and such other particulars and details in the manner as the Commission may direct from time to time. If the Distribution Licensee engages in any business or activity in addition to the Business, the accounting statements shall comply with the regulations of the Commission dealing with the treatment of Other Business of Distribution Licensee and 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 vice versa 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.
 - (b) **“Act”** means the Electricity Act, 2003 (36 of 2003)
 - (c) **“Affiliate”** means, in relation to the Licensee, any Holding Company or Subsidiary of the Licensee or any Subsidiary of a Holding Company of the Licensee;
 - (d) **“Annual Accounts”** means the accounts of the Distribution Licensee prepared in accordance with the Companies Act, 1956 and/or in such other manner as may be directed by the Commission in terms of the provisions of the Act;
 - (e) **“Area of Distribution” or “Area of Supply”** means the area of Distribution stated in Condition No.2 of these licence conditions within which the Distribution Licensee

is authorised to establish, operate and maintain the Distribution System and supply electricity;

- (f) **“Auditors”** means the Distribution Licensee's auditors holding office in accordance with the requirements of Sections 224 to 234A or Section 619 as appropriate, of the Companies Act 1956 (1 of 1956);
- (g) **“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 Section Second, third and fifth proviso to Section 14 of the Act or exemption granted under Section 13 of the Act and the regulations of the Commission;
- (h) **“Commission”** means the Orissa Electricity Regulatory Commission;
- (i) **“Deemed Licensee”** means a person authorised under the first, Second, third, and fifth provisos to Section 14 of the Act;
- (j) **“Distribution”** means the conveyance or wheeling of electricity by means of a Distribution System;
- (k) **“Distribution Business”** means Authorised business of a Distribution Licensee to operate and maintain a Distribution System for supplying of electricity to the consumers in an Area of Supply;
- (l) **“Distribution Code”** means the Distribution (Planning and Operation) Code governing all material technical aspects relating to connections to and the operation and use of the Distribution System as approved by the Commission;
- (m) **“Distribution Licensee”** means the person authorised by the Distribution Licence and shall include the deemed licensee who is so authorised under Section 14 of the Act.
- (n) **“Distribution System Operating Standards”** means the standards related to the Distribution Licensee's operation of the Distribution System as approved by the Commission pursuant to Condition 16 of these General Conditions
- (o) **“Distribution System Planning and Security Standards”** means the standards related to the adequacy of the Distribution Licensee's system planning and Security of the Distribution System, as approved by the Commission pursuant to Condition 16 of these General Conditions.
- (p) **“Existing Distribution System Planning and Security Standards”** means the standards for system planning and Security of the Distribution System existing in the area of distribution as on the date of the grant of Licence;
- (q) **“Existing Distribution System Operating Standards”** means the standards for operating the Distribution System existing in the area of distribution as on the date of the grant of Licence;
- (r) **“Force Majeure”** means events beyond the reasonable control of the Licensee, including, but not limited to earthquakes, cyclones, floods, storms, adverse weather conditions, war, terrorist attacks, civil commotion or other similar occurrences that leads to any act that would involve a breach of relevant laws or regulations concerned with electrical safety;
- (s) **“Generating Set”** means any plant or apparatus for the production of electricity and shall, where appropriate, include a generating station comprising of one or more than one generating unit;

- (t) **“Generator Interconnection Facilities”** means electrical lines, transformers, busbars, switch-gear, plant or apparatus utilised to enable access to a Transmission System or Distribution System by the Generating Set(s);
- (u) **“Holding Company”** shall have the same meaning as in Section 4 of the Companies Act 1956 (1 of 1956);
- (v) **“Licence”** means distribution licence hold by the Licensee under Section 14 of the Act;
- (w) **“Licensee”** refers to Western Electricity Supply Company of Orissa Limited (WESCO)
- (x) **“Licensed Business”** means the business of Distribution and Supply of electricity as authorised under the Distribution Licence;
- (y) **“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 directed by the Commission and shall also include any other incident which the Commission expressly declares to be a major incident;
- (z) **“Non Core Activity”** means any activity of the Licensee or an Affiliate of the Licensee other than that carried out as a part of the Distribution Business.
- (aa) **“Operational Control”** means possessing the authority to make operational decisions such as commissioning and utilisation of units, service lines and equipment;
- (bb) **“Orissa Grid Code (OGC)”** means the Orissa Grid Code specified by the Commission, covering all material technical aspects relating to connections to and the operation and use of a Transmission System, or (in so far as relevant to the operation and use of a Transmission System) the operation of electric lines and electrical plant connected to the Transmission System, the Distribution Systems, or the system of any Supplier, and shall include the Interim Grid Code;
- (cc) **“Other Business”** means business of the Distribution Licensee other than the Licensed Business on its non core activity;
- (dd) **“Performance Standards”** means the standards as may be determined by the Commission pursuant to Section 57 of the Act;
- (ee) **“Person”** shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;
- (ff) **“Regulations”** means the regulations made by the Commission, under the provisions of the Act or the State Act;
- (gg) **“Specific Conditions”** means the conditions stipulated in Part III of these licence Conditions.
- (hh) **“State”** means the State of Orissa.
- (ii) **“Standards of Performance”** refer to such standards of performance as may be specified by the Commission;

- (jj) **“State Act”** means the Orissa Electricity Reform Act, 1995 to the extent the provisions of the said Act is not inconsistent with the Act;
- (kk) **“State Government”** means the Government of the State of Orissa;
- (ll) **“Subsidiary”** shall have the same meaning as in Section 4 of the Companies Act 1956 (1 of 1956);
- (mm) **“Trading Business”** means the Authorised business of an Electricity Trader in the Area of Operation allowed under the Trading Licence granted;
- (nn) **“Trading Licence”** means the Licence granted under Section 14 of the Act to undertake Trading in Electricity;
- (oo) **“Trading Licensee”** means an Electricity Trader and shall include deemed licensee who is so authorised under Section 14 of the Act;
- (pp) **“Transmission Business”** means the Authorised business of transmission of electricity;
- (qq) **“Transmission System** means the system consisting mainly of extra high voltage electric lines, owned or controlled by the Transmission Licensee, and used for the purposes of the conveyance of electricity from one power station to a sub-station or to another power station or between sub-stations, or to or from any external interconnection including 33/11 kv bays/equipment up to the interconnection with the Distribution System, and any plant, apparatus and meters owned or used in connection with the transmission, and such buildings or plants thereof as may be required to accommodate such plant apparatus, other works and operating staff thereof;
- (rr) **“Transmission Licensee”** means any person who is Authorised to carry out Transmission;
- (ss) **“Transfer”** shall include the sale, exchange, gift, lease, licence, loan, Securitisation, mortgage, charge, pledge or grant of any other encumbrance or otherwise permitting of any encumbrance to subsist or parting with physical possession or any other disposition or dealing;
- (tt) **“Use of System”** means use of the Distribution System for the transportation or wheeling of electricity,
- (uu) **“Users”** means anyone who uses the Distribution System.

3.4 References in these licence conditions to Paragraphs, Conditions, Parts and Schedules shall, unless the context otherwise requires, be construed as references to conditions, paragraphs and parts of, and schedules to, these licence conditions.

4. **Terms of Licence**

4.1 Unless the licence of the licensee revoked earlier, the licensee will carry its licenced activity for a period of 30 years from 1st April, 1999.

4.2 These Licence Conditions are subject to modification or amendment in accordance with the provisions of relevant Regulations and in accordance with the provisions of the Act.

- 4.3 The Licensee shall not have the right of exclusivity in his area of supply by virtue of these Licence Conditions (General or Specific). Under 6th proviso of Section 14 of the Act, the Commission may grant Licence to any person(s) for distribution of electricity in the licensee's area of supply.

PART-II: GENERAL CONDITIONS

5. The General Conditions for Distribution Licensees as specified by the Commission *in* Appendix 4A of the OERC (Conduct of Business) Regulations, 2004 after necessary modifications (In exercise of powers conferred under Clause 18(2)) shall be General Conditions as given below.

6. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

- 6.1 The Licensee shall duly comply with the provisions of the Act, Rules, Regulations including Policies, Notifications, Circulars and Orders made there under and the provisions of all applicable laws and orders, directions issued by the Commission from time to time;
- 6.2 The Licensee shall act in accordance with these General Conditions except where the Licensee is exempted from any provisions of these General Conditions at the time of the grant of licence or otherwise specifically by an approval of the Commission to any deviation there from.
- 6.3 The Licensee shall duly comply with the order and directions of the National Load Despatch Centre, Regional Load Despatch Centre and the State Load Despatch Centre and other statutory authorities issued in the discharge of their functions under the Act or the State Act.

7 FUNCTIONS OF THE LICENSEE

- 7.1 The Licensee shall develop and maintain an efficient, co-ordinated and economical distribution system in the Area of Distribution and effect supply of electricity to consumers in such area of supply in accordance with the provisions of the Act, the State Act, Rules, Regulations, Orders and Directions of the Commission.

The Distribution Licensee shall be entitled to:

- (a) Purchase, import or otherwise acquire electricity from generating companies, electricity trader(s) and from other persons with whom the Licensee has agreements or arrangements of power purchase or procurement of energy in accordance with the terms and conditions of such agreement and arrangement consented to or approved by the Commission;
- (b) Purchase or acquire electricity from any Person whose generating unit existing as on date of issue of these Licence conditions, is directly connected to and interfaced with the Distribution System of the Licensee, provided that the Licensee shall intimate the Commission of the existing arrangements for such purchase or acquisition of electrical energy and obtain the general or specific approval of the Commission;
- (c) Purchase or otherwise acquire electricity from any person or licensee on the tariffs and terms and conditions as approved by the Commission;
- (d) Appoint Franchisees to distribute and/or supply of electricity for a specified area within the area of distribution of the Licensee without a separate licence to be taken by such franchisee provided that the Licensee shall be responsible for distribution of electricity in his area of supply.

- (e) Undertake Trading in electricity without the need for a separate Trading Licence;
 - (f) Provide access to the Distribution System to any person for wheeling of electricity in accordance with regulations made by the Commission for the purpose;
 - (g) Sell electricity or energy capacity contracted for such period and to the extent of electricity or capacity is not required by the Licensee for the discharge of his obligations to supply electricity in the area of supply.
- 7.2 The Licensee shall sell, supply or otherwise dispose of electricity to any person, only in accordance with his Licence, on the tariffs and terms and conditions as approved by the Commission;
- 7.3 The Licensee shall purchase the energy required by the Licensee for meeting obligation under his Licence in an economical manner and under a transparent power purchase or procurement process and in accordance with the regulations, guidelines, directions made by the Commission from time to time.
- 7.5 The Licensee shall engage in any Other Business only consistent with the Regulation of the Commission issued under Section 51 of the Act
- 7.6 The Licensee shall seek approval of the Commission before making any loans to, or issuing any guarantee for any obligation of any Person, except when made or issued for the purposes of the Licensed Business. The loans to employees pursuant to their terms of service and trade advances in the ordinary course of business are excluded from the requirement to seek such approval.
- 7.7 The Licensee may engage any of the Subsidiaries or Holding Company or a Subsidiary of such Holding Company of the Licensee to provide any goods or services to the Licensee in connection with the Licensed Business, subject to the following conditions:
- (a) that the transaction will be on an arms-length basis and at a value that is fair and reasonable in the circumstances;
 - (b) that the transaction will be consistent with any Regulation framed by the Commission relating to the provision of goods and services with respect to Licensed Business; and
 - (c) that the Licensee will give 15 days' notice with details of such arrangement, to the Commission prior to commencement of such arrangement.
- 7.8 The Licensee may establish Subsidiaries or associated companies or grant a Franchisee or enter into management contracts including appointment of billing agent to conduct or carry out any of the functions, which the Licensee is authorised to conduct or carry under his Licence Provided that the Licensee shall be responsible for all actions of the Subsidiaries or associated companies or Franchisees or agents or contractors.
- 7.9 Except as provided in Condition 7.8 above the Licensee shall not transfer or assign his Licence or any of the functions under his Licence to any other person without the prior approval of the Commission.

- 7.10 The Licensee shall provide open access to the Distribution System for use of the *other* Licensees, and Generating Companies including the Captive Generating Plant(s) and the Consumer subject to no operational constraints in the Distribution System and subject to payment by the user of all applicable tariffs and charges as determined or directed to be charged by any general or special order of the Commission.
- 7.11 The Licensee shall not, without the prior approval of the Commission in accordance with the provision of Section 17 of the Act:
- (a) undertake any transaction to acquire by purchase or take over or otherwise, the utility of any other Licensee;
 - (b) merge his utility with the utility of any other licensee;
 - (c) acquire any beneficial interest in any Generating Company or Generating Station; or
 - (d) transmit, distribute or supply electricity to any Person in the State, not under the Licensee;
- 7.12 The Licensee shall provide to the other Licensees the intervening Distribution facilities to the extent of surplus capacity available, in his Distribution System 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. In the event of any disagreement the same shall be decided by the Commission.

8. ACCOUNTS

- 8.1 Unless otherwise permitted by the Commission the financial year of the Licensee for the purposes of these General Conditions and matters relating to the Licensed Business shall run from the first of April to the following thirty-first of March.
- 8.2 The Licensee shall maintain separate accounts for each such business undertaking to ensure that distribution business neither subsidises in any way such business undertaking nor encumbers its distribution assets in any way to support such business.
- 8.3 The Licensee shall, in respect of the Licensed Business and any Other Business:
- (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 Licensee, from those 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 the Accounting Statements; namely
 - (i) in respect of the first six months of each financial year, a Half Yearly profit and loss account, cash flow statement and balance sheet together with such supporting documents and information as the Commission may direct from time to time;
 - (ii) in respect of the Accounting Statements prepared, an Auditor's report for 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 and provisions of, or reasonably attributable to such businesses to which the statements relate; and
 - (iii) a copy of each Half Yearly profit and loss account not later than three months after the end of the period to which it relates, and copies of the Accounting Statements and Auditor's report not later than six months after the end of the financial year to which they relate.

- 8.4 The Licensee shall not normally 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, the Accounting Standards or Rules and any guidelines issued by the Commission in this regard.
- 8.5 Where, in relation to the Accounting Statements in respect of a financial year, the Licensee has changed the basis of charge or apportionment or allocation from those adopted for the immediately preceding financial year, the Licensee shall, if directed by the Commission, prepare and deliver to the Commission such Accounting Statements on the basis which it applied in respect of the immediately preceding financial year.
- 8.6 The Accounting Statements under Condition 8.2. above shall, unless otherwise directed by the Commission:
- (a) be prepared and published with the Annual Accounts of the Licensee, in the manner provided herein;
 - (b) be stated the accounting policies adopted;
 - (c) be prepared in accordance with the generally accepted accounting policies; and
 - (d) be prepared in the form as the Commission may stipulate from time to time;
- 8.7 The References to costs or liabilities of, or reasonably attributable to Licensed Business or Other Business shall be construed as excluding taxation, and capital liabilities which do not relate principally to such Business and interest thereon.
- 8.8 The Licensee shall ensure that the Accounting Statements in respect of each financial year prepared under Condition 8.2 and the Auditor's report in respect of each financial year are publicised in such manner as the Commission may direct and are made available to any Person requesting them at a price not exceeding the reasonable cost of duplicating them.

9. **PROHIBITION OF UNDUE PREFERENCE**

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

10 **PROVISION OF INFORMATION TO THE COMMISSION**

- 10.1 The Licensee shall furnish to the Commission without delay such information, documents and details related to the Licensed Business or any Other Business of the Licensee, as the Commission may require from time to time for its own purposes or for the purposes of the Government of India, State Government, the Central Commission, the Central Electricity Authority, the State Transmission Utility and State Load Dispatch Centre.
- 10.2 The Licensee shall duly maintain the information as the Commission may direct under Section 128 of the Act.
- 10.3 The Licensee shall notify the Commission as soon as possible the occurrence of any Major Incident affecting any part of its Distribution System and in any event, by not later 48 hours of such occurrence:

- (a) submit a report to the Commission within two months giving full details of the facts within the knowledge of the Licensee regarding the incident and its cause;
 - (b) in the event the report under sub-Condition (a) is likely to take more than two months from the date of such incident, the Licensee shall within one month from such date of the incident submit a preliminary report with such details which the Licensee can reasonably furnish and state reasons as to why the Licensee requires more than two months for giving full report of such incident; and
 - (c) give copies of the report to all parties concerned with the Major Incident and to such other Persons as the Commission may direct.
- 10.4 The Commission may by order, after providing an opportunity of hearing direct the Licensee to provide such amount of compensation as the Commission may direct to persons, who suffer substantial injury or to the heirs of those who lose their lives as a result of such major incident where the Major Incident has been caused by any act of commission, omission or negligence on the part of any of the employees or agents of the Licensee.
- 10.5 The Commission at its discretion may require the submission of a report on the major incident to be prepared by an independent person at the expense of the Licensee.
- 10.6 The 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 to avoid the occurrence of any such major incident.
- 10.7 The Licensee shall duly inform the Commission about any incident restricting it from meeting obligations under these licence conditions including any act of omission or commission by others and steps taken by the Licensee to mitigate the effect of such incident.
- 10.8 The Commission may at any time require the Licensee to comply with the provisions of Conditions 10.3 to 10.7 as to incidents which the Commission may specifically direct and the Licensee shall be obliged to comply with the same notwithstanding that such incidents are not Major Incidents; provided that the time limits specified shall commence from the date that the Commission notifies Licensee of such requirement.
- 10.9 The Licensee shall submit a Business Plan within three months of Licence conditions coming into force for such period as the Commission may direct and shall update such plan annually. The Business Plan shall contain year wise load growth, year wise Distribution loss reduction proposal along with specific action plan, metering plan for metering interface points, investment plan as detailed in Condition 11 herein, treatment of previous losses, debt restructuring plan, cost reduction plan, projected profit and loss account, projected balance sheets, projected cash flow statements and projected important financial parameters.
- The licensee will duly implement the aforesaid Business Plan.
- 10.10 The Commission may require the Licensee to intimate by the end of first quarter of each financial year 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 and shall post it in its web-site.

11. INVESTMENTS

- 11.1 Unless otherwise directed by the Commission, every licensee shall obtain prior approval of the Commission for making investment in the licensed business if such investment is above the limits laid down in Condition 32.
- 11.2 The Licensee shall duly comply with the Regulations, guidelines, directions and orders the Commission may issue from time to time in regard to the investments to be made in the Distribution Business.
- 11.3 The Licensee shall submit to the Commission Investment Plans as a part of the business plan under Condition 10.9 above giving details of investment schemes to be undertaken during the concerned period for the approval of the Commission. The Licensee shall demonstrate to the satisfaction of the Commission that:
- (a) there is a need for such Investments in the Distribution System;
 - (b) the Licensee has made techno-economic analysis and environmental aspects of all viable alternatives to the proposal for investing in or acquiring new Distribution System assets to meet such need.
- 11.4 In the application for investment approval, the licensee shall furnish the following information or particulars:
- (a) A detailed project report containing techno-economic analysis and environmental aspects of the investment together with the outline of the works to be undertaken, the salient features and particulars demonstrating the need for investment;
 - (b) The project cost together with the cost benefit analysis;
 - (c) Whether the investment is in a new project or for expansion or up-gradation of an existing system;
 - (d) Sanctions and statutory clearances required for execution of the project and status of such sanctions and statutory clearances;
 - (e) Phasing of investment over the financial years and commissioning schedule;
 - (f) The manner in which investments will be capitalised for the purposes of inclusion in the revenue requirements of the Licensee;
 - (g) Constraints which the Licensee may face in making the investments or in implementing the project including constraints on information available;
 - (h) Resource mobilisation and financial plans for meeting the investment;
 - (i) Process for inviting and finalizing tenders for procurement of equipment, material and /or services relating to investment, in accordance with a transparent tendering procedure as may be approved by the Commission; and
 - (j) Such other particulars as the Commission may from time to time direct.
- 11.5 The licensee shall cooperate with the Commission's staff, consultants and experts to enable them to discharge their functions and to submit a report to the Commission on the outcome of their findings.
- 11.6 The Licensee shall intimate, by the end of the first quarter of each financial year
- (a) the annual investment plan with details of investment schemes to be carried out during the financial year; and
 - (b) the progress made in implementing the annual investment plan of the previous financial year with the comparison of actual implementation vis-à-vis the plan as approved by the Commission for the concerned period.

- 11.7 The Licensee shall make the investments in a prudent manner being guided by the duty to build, maintain and operate an efficient, co-ordinated and economical Distribution System in its Area of Business.
- 11.8 The Licensee shall not undertake schemes involving Major Investments, not covered under the Investment Plan approved by the Commission under Condition 11.3 above without the prior approval of the Commission, and for such approval the Licensee shall demonstrate to the satisfaction of the Commission the factors mentioned in Condition 11.3 above.
- 11.9 The Licensee shall invite and finalise tenders for procurement of equipment, material and/or services relating to major investment, in accordance with a transparent tendering procedure as may be directed by the Commission.
- 11.10 For the purposes of this Condition 11, the term "Major Investment" means any planned investment in or acquisition of Distribution facilities, the cost of which, when aggregated with all other investments or acquisitions (if any) forming part of the same overall transaction, equals or exceeds an amount contained in the Specific Conditions applicable to the Licensee or otherwise decided by the Commission from time to time by a general or specific order (Refer Condition no. 32.1).
- 11.11 The Licensee shall be entitled to make Investment in the Distribution Business other than those covered under Conditions 11.3 and 11.8 above but for the purposes of considering such Investment while determining the tariff, the Licensee shall satisfy the Commission that the Investment was required for the Distribution Business and such investment was made in an efficient, co-ordinated and economical manner.
- 11.12 The Licensee shall submit to the Commission along with the "Expected Revenue Calculations" filed under Section 62 of the Act, the highlights of the annual investment plan consisting of the schemes approved by the Commission, schemes submitted before the Commission for approval and all schemes not requiring prior approval of the Commission planned for the ensuing financial year and shall make investment in the said financial year in accordance with the said investment plan. The Commission shall take into consideration while determining the tariffs of the Licensees as per the Tariff Regulations to be framed by the Commission under Section 61 of the Act, the approval granted by the Commission to the Licensees for the investments under this Condition and the actions and inactions on the part of the Licensees in complying with the terms contained in this Condition.

Provided that if any unforeseen contingencies required reallocation of funds within the schemes listed in the annual investment plan, the Licensee may do so to the extent such reallocations up to a limit of 10 % of the overall investment plan and 25 % of the approved amount in respect of each item/work of the investment plan. The Licensee shall give due intimation of such relocation to the Commission within 7 days of making the investment.

Provided also that if on account of such circumstances the Distribution Licensee is required to make investment in a scheme, which does not find a place in the annual investment plan, the Distribution Licensee may do so if the same is not a Major Investment and subject to the conditions contained in Condition 11.12 above.

12. **TRANSFER OF ASSETS**

- 12.1 Save as provided in this Condition 12, the 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 in the Specific Conditions applicable to the Licensee as outlined at Condition 32.2.

- 12.2 The Licensee shall give to the Commission prior notice of its intention to transfer or relinquish Operational Control over any asset whose value exceeds the amount decided by the Commission as per Condition 12.1 above and the Licensee shall disclose all relevant facts in the communication to the Commission. The Commission may, within 30 days of the receipt of the notice, seek further information in support of the transaction and shall, generally within 30 days of such further information being submitted by the Licensee, and where no such further information is sought by the Commission as above, within 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 to be recorded in the order issued by the Commission.
- 12.3 The Licensee may transfer or relinquish Operational Control over any asset as is detailed in any notice given under Condition 12.2 where:
- (a) the Commission confirms in writing that it consents to such transfer or relinquishment of Operational Control subject to such conditions as the Commission may impose; or
 - (b) the Commission does not inform the Distribution Licensee in writing of any objection to such transfer or relinquishment of Operational Control within the notice period referred to in Condition 12.2 and the transfer is effected by transparent and competitive bidding procedures.
- 12.4 The Licensee may also transfer or relinquish Operational Control over any asset where:
- (a) the Commission has issued directions for the purposes of this Condition 12 containing a general consent (whether or not subject to conditions) to:
 - (i) the transactions of a particular description. and/or
 - (ii) the Transfer or relinquishment of Operational Control over assets of a particular description, and/or
 - (iii) the Transfer or relinquishment of Operational Control in accordance with any conditions to which the consent is subject, or
 - (b) the Transfer or relinquishment of Operational Control in question is mandated under any other law; or
 - (c) the asset in question was acquired and used by the Distribution Licensee exclusively or primarily 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 required for the Licensed Business.
- 12.5 The Licensee shall be entitled to utilise the assets as a means of facilitating financing its investment requirement or including collateral for debt financing, Securitisation of receivables etc. for the Licensed Business subject to the conditions:
- (a) that the Licensee will inform the Commission about such arrangements at least 15 days prior to the effective date of the relevant agreements;
 - (b) the Licensee acts in a prudent and reasonable manner in such utilisation of assets; and
 - (c) the Licensee retains the Operational Control over assets in the Distribution System.

13 PAYMENT OF LICENCE FEES

- 13.1 Within such period as the Commission may direct, the Licensee shall pay to the Commission the annual Licence Fees, mentioned in the Specific Condition 31 in such manner as has been directed under the said Specific Condition.
- 13.2 Where the Licensee fails to pay to the Commission any of the fees due under Condition 13.1 by the due dates:
- (a) without prejudice to other obligations, the Licensee shall be liable to pay interest on the outstanding amount at a simple interest rate of 1.5 percent per month, the interest being payable for the period beginning on the day after which the amount became due, and ending on the day on which the payment is made to the Commission; and
 - (b) in the event of continued default by the Licensee, the Commission may revoke the Licence.
- 13.3 The Licensee shall be entitled to take into account any fee paid by it under this Condition 13 excluding the interest for delayed payment as an expense and payment of penalty, fines and charges paid by the licensee in the determination of aggregate revenues to be charged to the tariffs.

14 SUSPENSION / REVOCATION OF LICENCE

14.1 SUSPENSION

(1) During the continuance of the licence period, the Commission at any time by recording the reasons in writing, and for the grounds mentioned in sub-sections (1) (a), (b), (c), (d) of Section 24 of the Act, may suspend the licence of the licensee.

(2) For the purpose of suspension of licence, the Commission will follow the procedure as laid down in Section 24 of the Act.

14.2 REVOCATION

(1) During the continuance of the licence period, the Commission after making an enquiry, and for the public interest may revoke the licence of the licensee for the grounds mentioned in sub-sections (1) (a),(b),(c), (d) and Sub-section (2) of Section 19 of the Act.

(2) The Commission may also revoke the licence of the licensee for the breach of the following licence conditions.

- (a) Where the licensee fails to pay the Commission any of the fees due under condition 13 of these licence conditions.
- (b) Where the licensee fails to implement its Business Plan submitted under condition 10.9 of these conditions.
- (c) Where the licensee fails to comply with the provisions of condition 11.2 of these licence conditions with regard to investment to be made in the Distribution Business.

15 AMENDMENT OF LICENSE CONDITION

These Conditions of License may be altered or amended by the Commission under Section 18 of the Act at any time if it is in public interest on the request of the licensee or otherwise during the period of the licence. For any such alteration or amendment, the following provisions shall have effect:

- (a) where the Licensee has made an application under Sub-Section (1) of Section 18 of the Act proposing any alteration or amendment in the Conditions of License, the Licensee shall publish a notice of such application with such particulars and in such manner as may be directed by the Commission;
- (b) in the case of an application proposing alteration or modification in the Area of Activity comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the alteration or modification shall be made only with the consent of the Central Government.
- (c) where any alteration or amendment in a licence is proposed to be made otherwise than on the application of the Licensee, the Commission shall publish the proposed alteration or amendment with such particulars and in such manner as the Commission may consider to be appropriate;
- (d) the Commission may give reasonable opportunity of hearing to the licensee and other affected persons on such proposed amendments/modifications.
- (e) the Commission shall not make any alteration or amendment unless all suggestions or objections received within thirty days from the date of the first publication of the notice have been considered by the Commission.

16 **DISPUTE RESOLUTION**

- 16.1 The Commission shall be entitled to act as arbitrator or nominate person(s) as arbitrator(s) to adjudicate and settle disputes between the Licensee and any other licensee or between the 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 Regulations of the Commission.
- 16.2 The arbitration proceedings for disputes may be conducted by the Commission or as the case may be, in accordance with Chapter III of the Conduct of Business Regulations specified by the Commission.

17 **COMPLIANCE WITH THE ORISSA GRID CODE**

- 17.1 The Licensee shall comply with the provisions of the Orissa 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 Licensee.
- 17.2 The Commission may, after consultation with any affected Generating Companies, the Transmission Licensee, the State Transmission Utility, the State Load Despatch Centre and Electricity Traders, issue directions relieving the Licensee of obligation under Condition 17.1 in respect of such parts of the Orissa Grid Code and to such extent as may be ordered by the Commission.

18 **DISTRIBUTION (CONDITIONS OF SUPPLY) CODE & DISTRIBUTION (PLANNING & OPERATION) CODE**

- 18.1 The Licensee shall abide by the Distribution (Conditions of Supply) Code and Distribution (Planning and Operation) Code.

- 18.2 (a) The Distribution (Conditions of Supply) Code may amongst others provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply for non payment thereof, restoration of supply of electricity, tampering, distress or damage to electrical plant, electric lines or meter, entry of licensee to any person acting on his behalf for disconnecting supply and removing the meter, entry for replacing, altering or maintaining electric lines or electrical plant or meter.
- (b) The Commission may, at the request of the Licensee, issue directions relieving the Licensee of its obligations under the Distribution (Conditions of Supply) Code in respect of such parts of the Licensee's Distribution System and to such extent as may be directed by the Commission.
- 18.3 In addition to the Distribution (Conditions of Supply) Code, the Commission may from time to time approve at the request of the Licensee other conditions applicable for supply of electricity by the Licensee in the area of Distribution.
- 18.4 The Distribution (Planning & Operation) Code may, amongst others, cover all material technical aspects relating to connections, 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 as relevant to the operation and use of the Distribution System and shall include, but not be limited to, the Distribution Planning and connection code containing:
- (a) planning code describing the plan for laying the Distribution lines and the service lines in the Area of Supply, the technical and design criteria and procedures to be applied by the Licensee in the planning and development of the Licensee's Distribution System; and
- (b) connection conditions describing the technical, design and operational criteria to be complied with by any Person connected or seeking connection with the Licensee's Distribution System; and the Distribution operating code specifying the conditions under which the Licensee shall operate 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 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.
- 18.5 The Distribution (Planning and Operation) Code shall be designed so as to permit the development, maintenance and operation of an efficient, co-ordinated and economical Distribution System.
- 18.6 The Licensee shall from time to time, as appropriate, review the Distribution (Planning & Operation) Code and its implementation in consultation with the Transmission Licensee, Trading Licensee, Generating Companies and such other Persons as the Commission may order. The Licensee shall also undertake such review as and when directed to do by the Commission. Following any such review, the Licensee shall send to the Commission:
- (a) a report on the outcome of such review;
- (b) any proposed revisions to the Distribution (Planning & Operation) Code as the Licensee (having regard to the outcome of such review) reasonably thinks fit for the achievement of the objectives of the Distribution (Planning & Operation) Code and these licence conditions; and
- (c) all written representations or objections received during such review.

- 18.7 All revisions to the Distribution (Planning & Operation) Code shall require approval from the Commission.
- 18.8 The Licensee shall make available to any Person requesting for it, copies of the Distribution Code and Distribution (Conditions of Supply) Code and practices thereto in force at the relevant time, at a price not exceeding the reasonable cost of duplicating it.
- 18.9 A compliance of the existing codes and practices relating to construction of the Licensee's Distribution System and its Distribution facilities shall be filed with the Commission by the Licensee within 90 days of issue of these licence conditions. The Licensee shall follow the existing codes and practices with such modification as the Commission may direct from time to time. The construction practices shall be reviewed and upgraded by the Licensee from time to time, as appropriate, based on relevant technological improvements and changes.

19 CONSUMER SERVICE

The Licensee shall duly comply with the following:

19.1 Code of Practice on Payment of Bills

- (a) The Licensee shall, within reasonable time, as directed by the Commission, after these licence conditions have become effective, prepare and submit to the Commission, for its approval, a code of practice concerning the payment of electricity bills by Consumers including appropriate guide lines for the assistance of such Consumers who may have difficulty in paying such bills, and procedures for disconnection in the event of non payment by the consumer. In granting the approval, the Commission may make such modifications to the Code, as it may consider necessary.
- (b) The Commission may, upon receiving a representation or otherwise, require the Licensee to review, the code of practice and the manner in which it has been implemented with a view to determine whether any modification should be made to it or to the manner of its implementation. Licensee shall, in consultation with such other Persons as the Commission may direct review and submit any revision to the code of practice that it wishes to make, to the Commission for its approval, including any representation received by the Licensee and not accepted by it. The Commission may modify the code of practice concerning payment of bills as it considers necessary.
- (c) The Licensee shall:
- (i) draw to the attention of Consumers, in such manner as the Commission may direct, the existence of the code of practice and each substantive revision of it and how they may inspect or obtain a copy of the code of practice in its latest form;
 - (ii) make a copy of the code of practice, revised from time to time, available for inspection by members of the public during normal working hours; and provide an updated copy of the code of practice revised from time to time to each new Consumer and to any other Person who requests for it at a price not exceeding the reasonable cost of duplicating it.
- (d) The Licensee shall comply with the existing practice and procedures with respect to the payment of electricity bills by Consumers with such modifications as the Commission may direct, until the code of practice on payment of bills by Consumers, as mentioned in this paragraph is adopted with the approval of the Commission.

19.2 **Complaint Handling Procedure:**

- (a) The Licensee shall establish a forum for redressal of grievances of the consumers in accordance with the guidelines issued by the Commission under Section 42 of the Act.
- (b) The Licensee shall within reasonable time, as directed by the Commission, after these Licence conditions have becomes effective and with approval of the Commission, notify a procedure for handling complaints from Consumers of the Licensee in addition to the forum for redressal of grievances. The Commission may on consultation with the State Advisory Committee or a Person or body of Persons, who the Commission considers as representing the interest of the Consumers likely to be affected make such modifications of the procedure, as it deems necessary before granting approval to the consumer complaints.
- (c) The Commission may, upon receiving a representation, or otherwise, require the Licensee to review the complaint handling procedure prepared and the manner in which it has been implemented, with a view to determine whether any modification should be made to it or to the manner of its implementation.
- (d) Any procedure so established, including any revisions to it, shall notify the periods within which it is intended that different kinds of complaint should be processed and resolved.

The Licensee shall submit to the Commission for its approval any revision proposed to be made to the procedure established.

- (e) The Licensee shall:
 - (i) draw to the attention of Consumers, in such manner as the Commission may direct, the existence of the complaint handling procedure and each substantive revision of it and how the Consumers may inspect or obtain copies of such procedure in its latest form.
 - (ii) make a copy of its complaint handling procedure, revised from time to time, available for inspection by members of the public at the relevant offices of the Licensee during normal working hours; and provide a copy of the complaint handling procedure revised from time to time to each new Consumer, and to any other Person who requests for it at a price not exceeding the reasonable cost of duplicating it.

19.3 **Consumer Rights Statement**

- (a) The Licensee shall, within a reasonable period of time as directed by the Commission after these Licence conditions have becomes effective or such other time as the Commission may allow, prepare and submit to the Commission for approval, a consumer rights statement, explaining to Consumers their rights. The Commission may, upon holding such consultation with the State Advisory Committee, and such other Persons or bodies of Persons who the Commission considers as representing the interests of Consumers likely to be affected by it, and may make such modification of the statement, as it considers necessary in public interest.
- (b) The Commission may, upon receiving a representation or otherwise, require the Licensee to review the consumer rights statement prepared and the manner in which it has been implemented with a view to determining whether any modification should be made to it or to the manner of its implementation. The Licensee shall submit any revision to the consumer rights statement that it

wishes to make to the Commission for its approval, including any representation received by the Licensee and not accepted by it. The Commission may modify the existing consumer rights statement, as it considers necessary.

- (c) The Licensee shall:
 - (i) draw to the attention of Consumers, in such manner as the Commission may direct, the existence of its consumer rights statement and each substantive revision of it and how they may inspect or obtain a copy of such consumer rights statement in its latest form.
 - (ii) make a copy of its consumer rights statement, revised from time to time, available for inspection by members of the public at its offices during normal working hours; and provide a copy of the consumer rights statement, revised from time to time, to all new Consumers to be served by it, and to any other Person who requests for it at a price not exceeding the reasonable cost of duplicating it.

19.4 **GRF & OMBUDSMAN**

The Licensee shall abide by the provisions of the OERC (Grievance Redressal Forum & Ombudsman) Regulations, 2004 as amended from time to time.

20 **DISTRIBUTION SYSTEM PLANNING AND SECURITY STANDARDS, DISTRIBUTION SYSTEM OPERATING STANDARDS, OVERALL PERFORMANCE STANDARDS**

20.1 The Licensee shall comply with the Existing Distribution System Planning, Security Standards and the Existing Distribution System Operating Standards, with such modifications as the Commission may direct, until the Distribution System Planning, Security Standards and Distribution System Operating Standards proposed by the Licensee are approved by the Commission.

20.2 The Licensee shall plan, develop and operate its Distribution System in accordance with the Distribution System Planning and Security Standards together with the Distribution Code as approved by the Commission;

20.3 (a) The Licensee shall, within such time as the Commission may direct in the Specific Conditions or otherwise submit to the Commission the existing planning and Security standards and the operating standards for its Distribution System and the existing planning and Security standards and operating standards relating to generation capacity connected to its Distribution System being followed by the Licensee. Such existing standards, with such modification as the Commission may direct, shall continue to remain in effect until the new standards approved by the Commission.

(b) The Licensee shall, within such time as the Commission may direct in the Specific Conditions or otherwise, prepare, in consultation with the Suppliers, Generating Companies, Central Transmission Utility, State Transmission Utility, Regional Power Committee and such other person as the Commission may direct, and submit to the Commission for approval the Licensee's proposal for Distribution Planning and Security Standards and Distribution Operating Standards, and Operating Standards in accordance with these General Conditions

(c) The Distribution Planning and Security Standards and Distribution Operating Standards, and the Operating Standards submitted by the Licensee pursuant to this Condition 16.3, with such modifications as the Commission may require, shall take effect from such dates as the Commission may direct.

- 20.4 The Licensee shall not be in breach of its obligations if the failure to meet the Distribution Planning and Security Standards or the Distribution Operating Standards is due to Force Majeure, provided that, the Licensee has used its reasonable efforts, to comply with the Distribution Planning and Security Standards or the Distribution Operating Standards, as the case may be.
- 20.5 The Licensee shall, in consultation with Suppliers, the Generating Companies, the Central Transmission Utility, the State Transmission Utility, the Regional Power committee and such other persons as the Commission may order, review the standards and their implementation. Following any such review, the Licensee shall send to the Commission:
- (a) a report on the outcome of such review; and
 - (b) any revision which the Licensee proposes to make to such documents from time to time (having regard to the outcome of such review); and
 - (c) any written representations or objections (including those not accepted by the Licensee) from Suppliers, the Generating Companies, the Central Transmission Utility, the State Transmission Utility, the Regional Power committee and such other persons as the Commission may order arising during the consultation process 20.6. The Commission may, having regard to any written representations and objections received and following such further consultation as the Commission may consider appropriate, issue directions requiring the Licensee to revise the standards in such manner as may be given in the directions. The Licensee shall duly carry out the revisions directed by the Commission
- 20.6 The Licensee shall, within 3 months of the end of each financial year, submit to the Commission a report indicating the performance of the Licensee's Distribution System during the previous financial year. The Licensee's compliance with the Standards of Performance may be measured, in part, by the Licensee's adherence to the Distribution Code, Distribution (Conditions of Supply) Code and other codes and Regulations set forth by the Commission. The Licensee shall, if required by the Commission, publish a summary of the report in a manner approved by the Commission.
- 20.7 The Licensee shall conduct its Licensed Business in the manner which it reasonably considers to be the best to achieve the Performance Standards in connection with provision of Supply services and the promotion of the efficient use of electricity by Consumers, as may be directed by the Commission by a general or special order.
- 20.8 The Licensee shall provide annually, information to the Commission as to the means by which it proposes to achieve the Performance Standards and other standards applicable to the Licensee.
- 20.9 The Licensee shall duly comply with the Standards as the Commission may direct from time to time, for the performance of the duties of the Distribution Licensees under the Act or the State Act.

21 OBLIGATION TO CONNECT CONSUMERS AND PUBLIC LAMPS

- 21.1 Subject to the other provisions of these conditions, the Licensee shall on the application of the owner or occupier of any premises within the Area of Supply, give connection to the Licensee's Distribution System for the purposes of providing Supply of electricity to such premises, in accordance with the applicable regulations, directions and orders of the Commission.

- 21.2 The Licensee shall abide by the rules made by the State Government in terms of lying down or placing electric supply lines. The rules framed by the State Government will prescribe the cases and circumstances in which consent in writing is required from the Appropriate Government, local authority, owner or occupier, as the case may be, for carrying out the works, the nature and period of notice to be given by the Licensee before carrying out works, procedures and manner of consideration of objections and suggestions, determination and payment of compensation and all such activities in accordance with Section 67 of the Act.
- 21.3 Where, after Distribution mains have been laid down under the provisions of Condition 20.1 and the supply of energy through those mains or any of them has commenced, a requisition is made by the State Government or by a local authority requiring the Licensee to supply for a period of not less than two years, energy for any public lamps within the Area of Supply, the Licensee shall supply, and save in so far as it is prevented from doing so by Force Majeure and operational/constraints, continue to supply energy for such lamps in such quantities as the State Government or the local authority, as the case may be, may require. The State Government or the relevant local authority, as the case may be, may require the Licensee:
- (a) to provide the mains and other equipment for public lamps; and
 - (b) to use for that purpose supports, if any, previously erected or set up by it for supply of energy.
- 21.4 The Licensee may levy any reasonable charge/s for carrying out works/release of supply, in accordance with any procedures that may be stipulated by the Licensee and approved by the Commission as well as the provisions of the Act and the Regulations of the Commission.

22 OBLIGATION TO SUPPLY AND POWER SUPPLY PLANNING STANDARDS

- 22.1 The Licensee shall take all reasonable steps to ensure that all Consumers connected to the Licensee's Distribution System receive a safe, economical and reliable Supply of electricity as provided in the Distribution Code, and other guidelines issued by the Commission in accordance with the provisions of the Act, the State Act, Rules and Regulations issued there under.
- 22.2 The Licensees shall be entitled to utilise the soil, subsoil and areas pertaining to public rights of way, streets, public squares and other assets in the public domain, as well as to cross rivers, bridges, railways, electrical and communication lines, subject to the provisions of Section 67 of the Act.
- 22.3 The Licensee shall:
- (a) determine annually for each of the next succeeding five years peak load and energy forecasts of its area of supply for each category of loads by 31st December as required under Orissa Grid Code and Distribution (Planning and Operation) Code;
 - (b) prepare and submit such forecasts by projecting for ten consecutive years to the State Transmission Utility in accordance with the guidelines issued by the Commission from time to time; and
 - (c) co-operate with the Transmission licensees, the State Transmission Utility and the State Load Despatch Centre and other Licensees in the preparation of power demand forecasts for the state of Orissa .
- 22.4 Subject to the foregoing Conditions, the Distribution Licensee shall purchase electricity from the Generating Companies, Electricity Traders, GRIDCO (as a bulk supplier) and others as consented to by the Commission in quantities, which the Licensee considers sufficient to meet the expected demand of the Licensee's Consumers.

- 22.5 The Licensee shall, within three months after these Licence conditions have come into force or such other time as the Commission may allow, prepare and submit to the Commission for approval, a disaster management plan, to address emergencies that may arise in connection with the operation of the Licence. For purposes of this Condition, an emergency shall mean any condition and/or situation that materially and adversely.
- (a) affects the ability of the Licensee to maintain safe, adequate and continuous operation of all or any part of the Licensed Business; or
 - (b) endangers the Security of any person, plant, or other life, equipment or property.
23. **POWERS TO RECOVER EXPENDITURE, RECOVER SECURITY**
- The Licensee shall be entitled to recover tariff, charges, fee, etc. and require Security deposit to be made for supply of electricity or for provision of services, in accordance with the provision of the Act and the Rules and Regulations for the purpose framed under the Act.
24. **USE OF METERS**
- 24.1 The Licensee shall comply with the requirements of the Act and the Regulations (made by CEA and the Commission), Directions and Orders of the Commission in regard to supply of electricity through meter.
- 24.2 The Licensee may require the consumer to give Security for the price of a meter and enter into an agreement for hire thereof, unless the consumer elects to purchase a meter.
25. **CONNECTION AND USE OF SYSTEM**
- The Licensee shall make such arrangements for open access to the use of his Distribution System by Users subject however to the availability of the adequate Distribution capacity in the system in accordance with open access regulations notified by the Commission and further subject to the User agreeing to pay all applicable charges including the Distribution charges and surcharges, wherever applicable.
26. **POWER PROCUREMENT**
- 26.1 The Licensee shall satisfy the Commission as to the need for additional power procurement on a long-term basis and in the case of short term power purchase the circumstances where such short term power purchase will become necessary.
- 26.2 The Licensee shall not enter into a binding or enforceable contractual commitment till the Commission by a general or special order approves the procurement of electricity by the Licensee.
- 26.3 The Licensee shall satisfy the Commission that the electricity procured under long term power purchase otherwise than through a competitive bidding process or any short term power purchase is of least cost or economical in the prevalent circumstances and that the Licensee has made prudent and best efforts to minimize the cost of such purchase.
- 26.4 The Commission may not permit any such short term or long term purchase if the manner or method proposed for such procurement of electricity is not conducive to the objective of least cost purchase or for any other reasons the purchase is not economical or efficient.
- 26.5 The short-term power purchase by the Licensee may be undertaken in such a manner as the Commission may from time to time direct by a general or special order.
- 26.6 The Licensee shall forecast the demand for electricity for his business and formulate proposals in coordination with the generating companies, Licensee companies, other licensees, authorities and other concerned persons. The Licensee shall file with the

Commission power procurement plan to meet the demand in such a manner as the Commission may direct.

27. EXPECTED REVENUE CALCULATION AND TARIFFS

- 27.1 The Licensee shall calculate the expected revenue from charges which it is permitted to recover, in accordance with the provisions of the Act, the State Act, the Regulations of the Commission, the tariff terms and conditions and other guidelines, orders and directions issued by the Commission from time to time.
- 27.2 The Licensee shall file the Expected Revenue Calculation and the application containing tariff proposals in the manner provided in the Conduct of Business Regulations and consistent with the Regulations under Section 61 of the Act.
- 27.3 Unless otherwise provided in the Specific Conditions or in any order or direction made by the Commission the Licensee shall every year, not later than 30th November, submit to the Commission (i) a Statement with full details of its expected aggregate revenues and cost of service for the ensuing financial year (including financing costs and its proposed return on equity) for its Licensed Business, in accordance with the provisions of the Act and the regulations, guidelines and orders issued by the Commission from time to time and (ii) the annual investment plan giving specific details of the investment which the Licensee proposes to make in the ensuing financial year and which the Licensee desires to be covered under the revenue requirements in the ensuing financial year with appropriate references to schemes, if any, already approved by the Commission of which such investments form a part. The Licensee shall prepare and submit to the Commission the Statement and the investment details referred to in the above separately for each of its Licensed Businesses and Other Businesses.
- 27.4 The Licensee shall, along with the Expected Revenue Calculation or at such other time and periodicity the Commission may specifically permit file the application containing tariff proposals and the revision to the existing tariffs approved by the Commission to match the revenue requirements of the Licensee.
- 27.5 The amount that the Licensee is permitted to recover from its tariffs shall be the amount that the Commission determines and approves in accordance with the provisions of the Act, State Act and the Regulations of the Commission.
- 27.6 The Licensee may apply to the Commission to amend its tariffs in accordance with the Act and applicable Regulations and directions of the Commission.

28. PROVISION OF SUBSIDIES TO CERTAIN CONSUMERS

- 28.1 If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the Commission, the State Government shall, notwithstanding any direction which may be given under Section 108 of the Act, pay, in advance and in such manner as may be directed by the Commission, the amount to compensate the person affected by the grant of subsidy in the manner the Commission may direct.
- 28.2 Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions of the Act and Regulations of the Commission, and the licensee shall charge to the consumers the tariff fixed by the Commission from the date of issue of order(s) by the Commission in this regard.

29. **POWER TO ENTER PREMISES AND TO REMOVE FITTINGS OR OTHER APPARATUS OF LICENSEE**

29.1 In accordance with Section 163 of the Act, the licensee or any person duly authorised may, at reasonable time, and on informing the occupier of his intent, enter any premises to which supply has been made or over which electric lines and works have been lawfully placed for the purpose of

- (a) Inspecting, testing, repairing or altering electric supply lines, meters, fittings belonging to the licensee; or
- (b) Ascertaining the amount of electricity supplied; or
- (c) Removing such lines, fittings, works where electricity supply is not required.

29.2 The Licensee or its authorised person may on a special order of the Executive Magistrate give a notice not less than twenty four hours in writing to the occupier for entering any premises for purposes mentioned in Condition 29.1 above.

29.3 The licensee may, on refusal of entry by the occupier of the premises, cut off power supply as per Section 163 of the Act till such time the refusal continues but for no longer.

30. **DISCONNECTIONS**

30.1 The Licensee shall give 15 day's clear notice in writing prior to disconnection

30.2 The licensee shall not cut off supply if the person deposits under protest

- (a) The amount equal to the sum claimed from him or
- (b) Electricity charges due from him calculated on the basis of average charge for electricity supplied to him during the preceding 6 months, whichever is less pending disposal of the dispute

30.3 The licensee shall have to show such sum as recoverable continuously for a period of two years for the electricity supplied and act as per Section 56(2) of the Act.

30.4 Pursuant to Sections 126, 127, 135-140 of the Act, the Licensee shall have the powers and authority to take appropriate actions for:

- (a) Metering at the point of supply of electricity;
- (b) Revenue realisation;
- (c) Implementing credit control procedure as approved by the Commission;
- (d) Prosecution for theft;
- (e) Prevention of meter tampering;
- (f) Prevention of diversion of electricity, and
- (g) Prevention of unauthorised use of electricity; and
- (h) All such similar matters affecting Distribution or Supply.

PART-III: SPECIFIC CONDITIONS

31. **Payment of Fees**

31.1 With reference to General Condition 13 and during the period his licence remains in force, the Licensee shall, by 10th April of every year, be liable to pay to the Commission an annual licence fee of Rs.50 lakh for each ensuing financial year.

31.2 All licence fees (including interest if is due under General Condition 13.2) will have to be deposited in "The Orissa Electricity Regulatory Commission Fund" operated by the Commission.

- 31.3 (a) the Licensee shall be subject to the proceedings for the recovery of such fees specified in the Act; and
- (b) Commission may review the amount of licence fee in every three years.

32. Investment and transfer of assets (in continuation to Conditions 11 and 12)

- 32.1 For the purposes of Condition 11.10, the term “major investment” means any planned scheme-wise investment in or acquisition of distribution facilities like Rural Electrification, System Improvement, Major Renovation & Modernization works, the cost of which, when aggregated with all other investments or acquisitions (if any) forming part of the same overall transaction/scheme, equals or exceeds Rs.5 crore.
- 32.2 For the purposes of the Condition 12, without prior written approval of the Commission, the licensee shall not dispose of or relinquish operational control of any asset whose book value at the time of proposed transfer exceed of Rs. 30 lakh.

33. Basis of Charges

- 33.1 The Licensee shall by the time specified in the OERC(Terms & Conditions for Determination of Tariff) Regulation, prepare and lodge with the Commission submissions setting out in full detail.

- (a) a statement of the Licensee’s revenue requirement for the ensuing financial year, prepared in accordance with the aforesaid Regulation read with Sections 45 & 61 of the Act.
- (b) a statement of the Licensee’s expected revenue for the ensuing financial year, at the prevailing tariff.

- 33.2 In accordance with Section 64 of the Act, an application in complete shape for determination of Annual Revenue Requirement (ARR) and calculation of tariff shall be made by the Licensee, setting out in full the following,

- (a) all filings for Annual Revenue Requirement as per annual schedule, by 30th November of every year, indicating the manner in which the gap, if any, between the charges which it is permitted to recover and the expected revenue calculated shall be filled up;
- (b) a new or amended tariff proposed by the Licensee indicating the date of implementation drawing attention to the proposed changes . Such date shall be not less than 120 days from the date of the submission of the Tariff proposal with all information, data, calculations etc. required under Regulation 8 of the OERC(Terms & Conditions for Determination of Tariff) Regulations,2004;
- (c) the aggregate revenue which the Licensee expects to be able to recover from the proposed new or amended tariff, such aggregate revenue figure shall relate to the first full financial year after the proposed specified date, where the specified date coincides with the beginning of the financial year and, in addition where the specified date does not coincide with the beginning of the financial year, the aggregate revenue figure to be calculated at the prevailing tariff up to the date of revision and thereafter at the revised tariff up to the end of the relevant financial year;

Provided that no tariff or part of tariff shall be amended more than once in any financial year except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as prescribed by Regulations.

- 33.3 Any submission to the Commission pursuant to Paragraph 33.2 shall include a schedule(s) of prices and charges for Distribution which:

- (a) shall be in accordance with the provisions of Sections 45, 46, 47, 61& 62 of the Act; and

- (b) shall enable the Licensee to recover the total revenue referred to in the submission by the Licensee pursuant to Condition 33.1(a). The schedule(s) of prices and charges may, subject to the provisions of Condition 9, differentiate according to consumer's load factor, power factor, voltage, total consumption of electricity during any specific period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required and any other relevant factors
- 33.4 The Commission may require comparative data for the first six months of the current and preceding full financial year, for the purposes of comparison, along with such other data, calculation etc. as the Commission considers necessary, and the Licensee shall furnish such data, calculations, comparisons as directed by the Commission.
- 33.5 Subject to the provisions of the Act and the Regulation Commission shall within one hundred and twenty days from receipt of an application for determination of tariff and after considering all suggestions and objections received from the public, notify the Licensee either
- (i) that it accepts the Licensee's calculation on (a) and (b) , and (c) of Condition 33.2; or
 - (ii) that it does not consider the Licensee's calculation to be in accordance with the prescribed methodology or procedure and will propose an alternative calculation which the Licensee shall accept. ; or
 - (iii) reject the application
- 33.6 Following approval by the Commission of any new or amended tariff, the Licensee shall publish details of the same in accordance with the requirements of the Act. The previously notified tariff shall remain in effect till the new or amended tariff takes effect.
- 33.7 The Licensee shall ensure that all amounts due to other Users in respect of the electricity generated or supplied or other goods or services provided by them shall be paid promptly in accordance with the agreement made.
- 34. Contravention of Licence Conditions**
- 34.1 In case of any contravention of any Licence Conditions by the Licensee, the Licensee shall be liable for penal action under Sections 19, 24, 128, 129 & 142 of the Act and under other relevant provisions of the Act, Sate Act, Rules, Regulations, and Notifications.
- 35. Franchisee and Trading**
- 35.1 The licensee shall intimate the Commission about its proposal to undertake its distribution activity through another person for a particular area of its area of supply under proviso 7 of Section 14 of the Act.
- 35.2 In the aforesaid intimation the licensee shall inform the Commission about the name, address, credit worthiness, capability, experience, expertise of the franchisee with detail scheme. The Commission may ask the licensee to furnish any other information about the proposed franchisee.
- 35.3 The licensee shall furnish an undertaking to the Commission that it will be responsible for any action or inaction of the franchisee in the business of distribution in franchisee area.
- 35.4 The licensee shall furnish the required information to the Commission periodically about the functioning of the franchisee.
- 35.5 Commission at any time, in the public interest, may direct the licensee to cancel/modify the scheme of franchisee of the licensee, if such scheme violates the provisions of the Act, or Rules, Regulations, Notifications, orders issued under the Act.

- 35.6 The licensee shall intimate the Commission about its detailed scheme for undertaking business of trading under proviso 9 of Section 14 of the Act.
- 35.7 The licensee shall furnish the required information to the Commission periodically about its trading activity.
- 35.8 Commission at any time, in the public interest, may direct the licensee to cancel/ modify the trading activity of the licensee, if such activity violates the provisions of the Act, or Rules, Regulations, Notifications, orders issued under the Act.

36. RURAL ELECTRIFICATION

The Licensee shall carry out Rural Electrification in accordance with the provisions of the Act.

37. MISCELLANEOUS

- 37.1 All issues arising in relation to interpretation of these licence 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,

LICENCE CONDITIONS
OF
Southern Electricity Supply Company of Orissa
Limited (SOUTHCO)

**Corporate office: Courtpeta, Berhampur-760004,
Dist. Ganjam, Orissa**

**(A Deemed Distribution Licensee under Section. 14 of
the Electricity Act, 2003)**

INTRODUCTION

The Orissa Electricity Regulatory Commission (the Commission) vide its order dated 31.03.1999 passed in case No.2/99, under the provisions of the Orissa Electricity Reform Act, 1995, had issued Licence to Southern Electricity Supply Company of Orissa Limited (SOUTHCO) at: Courtpeta, Berhampur-760004, Dist. Ganjam, Orissa, to carry out the business of Distribution & Retail Supply in the area of supply as mentioned in the said licence. Under the said License M/s SOUTHCO has been carrying out the Distribution and Retail Supply as its licensed activity in the said area of supply.

The Electricity Act, 2003 (Act) has come into force since June 10, 2003. Under Section 14 of the Act, any person engaged in the business of supply of electricity under the provisions of repealed laws or any Act specified in the Schedule on or before the appointed date shall be deemed to be a licensee under the Act. By virtue of this provision, SOUTHCO is a Deemed Distribution Licensee carrying its licensed activity in its area of supply. Under Section 16 of the Act, the Commission has legal obligations to lay down the license conditions of the SOUTHCO as a Deemed Distribution Licensee. The Commission in its Conduct of Business Regulations, 2004 (Appendix 4-A) has specified the General Conditions for all Distribution Licensees operating in the State of Orissa. In exercise of powers conferred under Clause 27(2) of Appendix 4A (General Conditions for Distribution Licensee) of the OERC (Conduct of Business) Regulations, 2004, the Commission has modified some of the Clauses of the aforesaid General Conditions. Such General Conditions with modifications have been laid down in Part II of these licence conditions.

Furthermore, the Commission lays down at Part III the Specific Licence Conditions SOUTHCO .

PART I: PRELIMINARY

1. Short Title

- 1.1 These License Conditions may be called "The Licence Conditions of Southern Electricity Supply Company of Orissa Limited (SOUTHCO) (A Deemed Licensee under Section 14 of the Electricity Act, 2003)", which are applicable to SOUTHCO with effect from 1st November 2006.

2. Area of Operation of Licensed Activity (Area of Supply)

The Area of operation of Licensed Activity of the Licensee shall comprise the Electricity Distribution Circles of Berhampur City, Berhampur, Bhanjanagar, Rayagada and Jeypore existing as on date, excluding any cantonment, aerodrome, fortress, arsenal, dockyard or camp or any building or place in occupation of the Central Government for defence purposes.

3. Definitions

- 3.1 Unless the context otherwise requires the words, terms and expressions used in these licence conditions shall have the same meaning as assigned by the Electricity Act, 2003.

- 3.2 Words, terms and expressions used in these licence conditions which are not defined in this Conditions or in the Electricity Act, 2003 have the meaning as usually are understood in electrical industry.

- 3.3 In these licence conditions, unless the context otherwise requires:

(a) "**Accounting Statement**" means for each financial year, accounting statements for the Licensed Business comprising a profit and loss account, a balance sheet and a statement of sources and application of funds, together with notes thereto as detailed under the Companies Act, 1956 (1 of 1956) and such other particulars and details in the manner as the Commission may direct from time to time. If the Distribution Licensee engages in any business or activity in addition to the Business, the accounting statements shall comply with the regulations of the Commission dealing with the treatment of Other Business of Distribution Licensee and show separately the amounts of any revenue, cost, asset, liability, reserve or provision, which has been either:

- a. charged from the Licensed Business to any Other Business or vice versa together with a description of the basis of that charge; or
- b. 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.

(b) "**Act**" means the Electricity Act, 2003 (36 of 2003)

(c) "**Affiliate**" means, in relation to the Licensee, any Holding Company or Subsidiary of the Licensee or any Subsidiary of a Holding Company of the Licensee;

(d) "**Annual Accounts**" means the accounts of the Distribution Licensee prepared in accordance with the Companies Act, 1956 and/or in such other manner as may be directed by the Commission in terms of the provisions of the Act;

(e) "**Area of Distribution**" or "**Area of Supply**" means the area of Distribution stated in Condition No.2 of these Licence conditions within which the Distribution Licensee is

authorised to establish, operate and maintain the Distribution System and supply electricity;

- (f) **“Auditors”** means the Distribution Licensee’s auditors holding office in accordance with the requirements of Sections 224 to 234A or Section 619 as appropriate, of the Companies Act 1956 (1 of 1956);
- (g) **“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 Section Second, third and fifth proviso to Section 14 of the Act or exemption granted under Section 13 of the Act and the regulations of the Commission;
- (h) **“Commission”** means the Orissa Electricity Regulatory Commission;
- (i) **“Deemed Licensee”** means a person authorised under the first, Second, third, and fifth provisos to Section 14 of the Act;
- (j) **“Distribution”** means the conveyance or wheeling of electricity by means of a Distribution System;
- (k) **“Distribution Business”** means Authorised business of a Distribution Licensee to operate and maintain a Distribution System for supplying of electricity to the consumers in an Area of Supply;
- (l) **“Distribution Code”** means the Distribution (Planning and Operation) Code governing all material technical aspects relating to connections to and the operation and use of the Distribution System as approved by the Commission;
- (m) **“Distribution Licensee”** means the person authorised by the Distribution Licence and shall include the deemed licensee who is so authorised under Section 14 of the Act.
- (n) **“Distribution System Operating Standards”** means the standards related to the Distribution Licensee’s operation of the Distribution System as approved by the Commission pursuant to Condition 16 of these General Conditions
- (o) **“Distribution System Planning and Security Standards”** means the standards related to the adequacy of the Distribution Licensee’s system planning and Security of the Distribution System, as approved by the Commission pursuant to Condition 16 of these General Conditions.
- (p) **“Existing Distribution System Planning and Security Standards”** means the standards for system planning and Security of the Distribution System existing in the area of distribution as on the date of the grant of Licence;
- (q) **“Existing Distribution System Operating Standards”** means the standards for operating the Distribution System existing in the area of distribution as on the date of the grant of Licence;
- (r) **“Force Majeure”** means events beyond the reasonable control of the Licensee, including, but not limited to earthquakes, cyclones, floods, storms, adverse weather conditions, war, terrorist attacks, civil commotion or other similar occurrences that leads to any act that would involve a breach of relevant laws or regulations concerned with electrical safety;
- (s) **“Generating Set”** means any plant or apparatus for the production of electricity and shall, where appropriate, include a generating station comprising of one or more than one generating unit;

- (t) **“Generator Interconnection Facilities”** means electrical lines, transformers, busbars, switch-gear, plant or apparatus utilised to enable access to a Transmission System or Distribution System by the Generating Set(s);
- (u) **“Holding Company”** shall have the same meaning as in Section 4 of the Companies Act 1956 (1 of 1956);
- (v) **“Licence”** means distribution licence hold by the Licensee under Section 14 of the Act;
- (w) **“Licensee”** refers to Southern Electricity Supply Company of Orissa Limited in these licence conditions;
- (x) **“Licensed Business”** means the business of Distribution and Supply of electricity as authorised under the Distribution Licence;
- (y) **“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 directed by the Commission and shall also include any other incident which the Commission expressly declares to be a major incident;
- (z) **“Non Core Activity”** means any activity of the Licensee or an Affiliate of the Licensee other than that carried out as a part of the Distribution Business.
- (aa) **“Operational Control”** means possessing the authority to make operational decisions such as commissioning and utilisation of units, service lines and equipment;
- (bb) **“Orissa Grid Code (OGC)”** means the Orissa Grid Code specified by the Commission, covering all material technical aspects relating to connections to and the operation and use of a Transmission System, or (in so far as relevant to the operation and use of a Transmission System) the operation of electric lines and electrical plant connected to the Transmission System, the Distribution Systems, or the system of any Supplier, and shall include the Interim Grid Code;
- (cc) **“Other Business”** means business of the Distribution Licensee other than the Licensed Business on its non core activity;
- (dd) **“Performance Standards”** means the standards as may be determined by the Commission pursuant to Section 57 of the Act;
- (ee) **“Person”** shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;
- (ff) **“Regulations”** means the regulations made by the Commission, under the provisions of the Act or the State Act;
- (gg) **“Specific Conditions”** means the conditions stipulated in Part III of these licence Conditions.
- (hh) **“State”** means the State of Orissa.
- (ii) **“Standards of Performance”** refer to such standards of performance as may be specified by the Commission;

- (jj) **“State Act”** means the Orissa Electricity Reform Act, 1995 to the extent the provisions of the said Act is not inconsistent with the Act;
- (kk) **“State Government”** means the Government of the State of Orissa;
- (ll) **“Subsidiary”** shall have the same meaning as in Section 4 of the Companies Act 1956 (1 of 1956);
- (mm) **“Trading Business”** means the Authorised business of an Electricity Trader in the Area of Operation allowed under the Trading Licence granted;
- (nn) **“Trading Licence”** means the Licence granted under Section 14 of the Act to undertake Trading in Electricity;
- (oo) **“Trading Licensee”** means an Electricity Trader and shall include deemed licensee who is so authorised under Section 14 of the Act;
- (pp) **“Transmission Business”** means the Authorised business of transmission of electricity;
- (qq) **“Transmission System”** means the system consisting mainly of extra high voltage electric lines, owned or controlled by the Transmission Licensee, and used for the purposes of the conveyance of electricity from one power station to a sub-station or to another power station or between sub-stations, or to or from any external interconnection including 33/11 kv bays/equipment up to the interconnection with the Distribution System, and any plant, apparatus and meters owned or used in connection with the transmission, and such buildings or plants thereof as may be required to accommodate such plant apparatus, other works and operating staff thereof;
- (rr) **“Transmission Licensee”** means any person who is Authorised to carry out Transmission;
- (ss) **“Transfer”** shall include the sale, exchange, gift, lease, licence, loan, securitisation, mortgage, charge, pledge or grant of any other encumbrance or otherwise permitting of any encumbrance to subsist or parting with physical possession or any other disposition or dealing;
- (tt) **“Use of System”** means use of the Distribution System for the transportation or wheeling of electricity,
- (uu) **“Users”** means anyone who uses the Distribution System.

3.4 References in these licence conditions to Paragraphs, Conditions, Parts and Schedules shall, unless the context otherwise requires, be construed as references to conditions, paragraphs and parts of, and schedules to, these licence conditions.

4. **Terms of Licence**

4.1 Unless the licence of the licensee revoked earlier, the licensee will carry its licenced activity for a period of 30 years from 1st April, 1999.

4.2 These Licence Conditions are subject to modification or amendment in accordance with the provisions of relevant Regulations and in accordance with the provisions of the Act.

- 4.4 The Licensee shall not have the right of exclusivity in his area of supply by virtue of these Licence Conditions (General or Specific). Under 6th proviso of Section 14 of the Act, the Commission may grant Licence to any person(s) for distribution of electricity in the licensee's area of supply.

PART-II: GENERAL CONDITIONS

- 5 The General Conditions for Distribution Licensees as specified by the Commission *in* Appendix 4A of the OERC (Conduct of Business) Regulations, 2004 after necessary modifications (In exercise of powers conferred under Clause 18(2)) shall be General Conditions as given below.

6 COMPLIANCE WITH LAWS, RULES AND REGULATIONS

- 6.1 The Licensee shall duly comply with the provisions of the Act, Rules, Regulations including Policies, Notifications, Circulars and Orders made there under and the provisions of all applicable laws and orders, directions issued by the Commission from time to time;.
- 6.2 The Licensee shall act in accordance with these General Conditions except where the Licensee is exempted from any provisions of these General Conditions at the time of the grant of licence or otherwise specifically by an approval of the Commission to any deviation there from.
- 6.3 The Licensee shall duly comply with the order and directions of the National Load Despatch Centre, Regional Load Despatch Centre and the State Load Despatch Centre and other statutory authorities issued in the discharge of their functions under the Act or the State Act.

7 FUNCTIONS OF THE LICENSEE

- 7.1 The Licensee shall develop and maintain an efficient, co-ordinated and economical distribution system in the Area of Distribution and effect supply of electricity to consumers in such area of supply in accordance with the provisions of the Act, the State Act, Rules, Regulations, Orders and Directions of the Commission.
- 7.2 The Distribution Licensee shall be entitled to:
- (a) Purchase, import or otherwise acquire electricity from generating companies, electricity trader(s) and from other persons with whom the Licensee has agreements or arrangements of power purchase or procurement of energy in accordance with the terms and conditions of such agreement and arrangement consented to or approved by the Commission;
 - (b) Purchase or acquire electricity from any Person whose generating unit existing as on date of issue of these Licence conditions, is directly connected to and interfaced with the Distribution System of the Licensee, provided that the Licensee shall intimate the Commission of the existing arrangements for such purchase or acquisition of electrical energy and obtain the general or specific approval of the Commission;
 - (c) Purchase or otherwise acquire electricity from any person or licensee on the tariffs and terms and conditions as approved by the Commission;
 - (d) Appoint Franchisees to distribute and/or supply of electricity for a specified area within the area of distribution of the Licensee without a separate licence to be taken by such franchisee provided that the Licensee shall be responsible for distribution of electricity in his area of supply;

- (e) Undertake Trading in electricity without the need for a separate Trading Licence;
 - (f) Provide access to the Distribution System to any person for wheeling of electricity in accordance with regulations made by the Commission for the purpose;
 - (g) Sell electricity or energy capacity contracted for such period and to the extent of electricity or capacity is not required by the Licensee for the discharge of his obligations to supply electricity in the area of supply.
- 7.3 The Licensee shall sell, supply or otherwise dispose of electricity to any person, only in accordance with his Licence, on the tariffs and terms and conditions as approved by the Commission;
- 7.4 The Licensee shall purchase the energy required by the Licensee for meeting obligation under his Licence in an economical manner and under a transparent power purchase or procurement process and in accordance with the regulations, guidelines, directions made by the Commission from time to time.
- 7.5 The Licensee shall engage in any Other Business only consistent with the Regulation of the Commission issued under Section 51 of the Act
- 7.6 The Licensee shall seek approval of the Commission before making any loans to, or issuing any guarantee for any obligation of any Person, except when made or issued for the purposes of the Licensed Business. The loans to employees pursuant to their terms of service and trade advances in the ordinary course of business are excluded from the requirement to seek such approval.
- 7.7 The Licensee may engage any of the Subsidiaries or Holding Company or a Subsidiary of such Holding Company of the Licensee to provide any goods or services to the Licensee in connection with the Licensed Business, subject to the following conditions:
- (a) that the transaction will be on an arms-length basis and at a value that is fair and reasonable in the circumstances;
 - (b) that the transaction will be consistent with any Regulation framed by the Commission relating to the provision of goods and services with respect to Licensed Business; and
 - (c) that the Licensee will give 15 days' notice with details of such arrangement, to the Commission prior to commencement of such arrangement.
- 7.8 The Licensee may establish Subsidiaries or associated companies or grant a Franchisee or enter into management contracts including appointment of billing agent to conduct or carry out any of the functions, which the Licensee is authorised to conduct or carry under his Licence Provided that the Licensee shall be responsible for all actions of the Subsidiaries or associated companies or Franchisees or agents or contractors.
- 7.9 Except as provided in Condition 7.8 above the Licensee shall not transfer or assign his Licence or any of the functions under his Licence to any other person without the prior approval of the Commission.
- 7.10 The Licensee shall provide open access to the Distribution System for use of the *other* Licensees, and Generating Companies including the Captive Generating Plant(s) and the Consumer subject to no operational constraints in the Distribution System and subject to payment by the user of all applicable tariffs and charges as determined or directed to be charged by any general or special order of the Commission.

- 7.11 The Licensee shall not, without the prior approval of the Commission in accordance with the provision of Section 17 of the Act:
- (a) undertake any transaction to acquire by purchase or take over or otherwise, the utility of any other Licensee;
 - (b) merge his utility with the utility of any other licensee;
 - (c) acquire any beneficial interest in any Generating Company or Generating Station; or
 - (d) transmit, distribute or supply electricity to any Person in the State, not under the Licensee;
- 7.12 The Licensee shall provide to the other Licensees the intervening Distribution facilities to the extent of surplus capacity available, in his Distribution System 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. In the event of any disagreement the same shall be decided by the Commission.

8. ACCOUNTS

- 8.1 Unless otherwise permitted by the Commission the financial year of the Licensee for the purposes of these General Conditions and matters relating to the Licensed Business shall run from the first of April to the following thirty-first of March.
- 8.2 The Licensee shall maintain separate accounts for each such business undertaking to ensure that distribution business neither subsidises in any way such business undertaking nor encumbers its distribution assets in any way to support such business.
- 8.3 The Licensee shall, in respect of the Licensed Business and any Other Business:
- (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 Licensee, from those 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 the Accounting Statements; namely
 - (i) in respect of the first six months of each financial year, a Half Yearly profit and loss account, cash flow statement and balance sheet together with such supporting documents and information as the Commission may direct from time to time;
 - (ii) in respect of the Accounting Statements prepared, an Auditor's report for 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 and provisions of, or reasonably attributable to such businesses to which the statements relate; and
 - (iii) a copy of each Half Yearly profit and loss account not later than three months after the end of the period to which it relates, and copies of the Accounting Statements and Auditor's report not later than six months after the end of the financial year to which they relate.

- 8.4 The Licensee shall not normally 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, the Accounting Standards or Rules and any guidelines issued by the Commission in this regard.
- 8.5 Where, in relation to the Accounting Statements in respect of a financial year, the Licensee has changed the basis of charge or apportionment or allocation from those adopted for the immediately preceding financial year, the Licensee shall, if directed by the Commission, prepare and deliver to the Commission such Accounting Statements on the basis which it applied in respect of the immediately preceding financial year.
- 8.6 The Accounting Statements under Condition 8.2. above shall, unless otherwise directed by the Commission:
- (a) be prepared and published with the Annual Accounts of the Licensee, in the manner provided herein;
 - (b) be stated the accounting policies adopted;
 - (c) be prepared in accordance with the generally accepted accounting policies; and
 - (d) be prepared in the form as the Commission may stipulate from time to time;
- 8.7 The References to costs or liabilities of, or reasonably attributable to Licensed Business or Other Business shall be construed as excluding taxation, and capital liabilities which do not relate principally to such Business and interest thereon.
- 8.8 The Licensee shall ensure that the Accounting Statements in respect of each financial year prepared under Condition 8.2 and the Auditor's report in respect of each financial year are publicised in such manner as the Commission may direct and are made available to any Person requesting them at a price not exceeding the reasonable cost of duplicating them.

9 PROHIBITION OF UNDUE PREFERENCE

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

10 PROVISION OF INFORMATION TO THE COMMISSION

- 10.1 The Licensee shall furnish to the Commission without delay such information, documents and details related to the Licensed Business or any Other Business of the Licensee, as the Commission may require from time to time for its own purposes or for the purposes of the Government of India, State Government, the Central Commission, the Central Electricity Authority, the State Transmission Utility and State Load Dispatch Centre.
- 10.2 The Licensee shall duly maintain the information as the Commission may direct under Section 128 of the Act.
- 10.3 The Licensee shall notify the Commission as soon as possible the occurrence of any Major Incident affecting any part of its Distribution System and in any event, by not later 48 hours of such occurrence:

- (a) submit a report to the Commission within two months giving full details of the facts within the knowledge of the Licensee regarding the incident and its cause;
 - (b) in the event the report under sub-Condition (a) is likely to take more than two months from the date of such incident, the Licensee shall within one month from such date of the incident submit a preliminary report with such details which the Licensee can reasonably furnish and state reasons as to why the Licensee requires more than two months for giving full report of such incident; and
 - (c) give copies of the report to all parties concerned with the Major Incident and to such other Persons as the Commission may direct.
- 10.4 The decision of the Commission as to what is a Major Incident shall be final. The Commission may by order, after providing an opportunity of hearing direct the Licensee to provide such amount of compensation as the Commission may direct to persons, who suffer substantial injury or to the heirs of those who lose their lives as a result of such major incident where the Major Incident has been caused by any act of commission, omission or negligence on the part of any of the employees or agents of the Licensee.
- 10.5 The Commission at its discretion may require the submission of a report on the major incident to be prepared by an independent person at the expense of the Licensee.
- 10.6 The 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 to avoid the occurrence of any such major incident.
- 10.7 The Licensee shall duly inform the Commission about any incident restricting it from meeting obligations under these licence conditions including any act of omission or commission by others and steps taken by the Licensee to mitigate the effect of such incident.
- 10.8 The Commission may at any time require the Licensee to comply with the provisions of Conditions 10.3 to 10.7 as to incidents which the Commission may specifically direct and the Licensee shall be obliged to comply with the same notwithstanding that such incidents are not Major Incidents; provided that the time limits specified shall commence from the date that the Commission notifies Licensee of such requirement.
- 10.9 The Licensee shall submit a Business Plan within three months of Licence conditions coming into force for such period as the Commission may direct and shall update such plan annually. The Business Plan shall contain year wise load growth, year wise Distribution loss reduction proposal along with specific action plan, metering plan for metering interface points, investment plan as detailed in Condition 11 herein, treatment of previous losses, debt restructuring plan, cost reduction plan, projected profit and loss account, projected balance sheets, projected cash flow statements and projected important financial parameters.
- The licensee will duly implement the aforesaid Business Plan.
- 10.10 The Commission may require the Licensee to intimate by the end of first quarter of each financial year 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 and shall post it in its web-site.

11. INVESTMENTS

- 1.1 Unless otherwise directed by the Commission, every licensee shall obtain prior approval of the Commission for making investment in the licensed business if such investment is above the limits laid down in Condition 32.
- 11.2 The Licensee shall duly comply with the Regulations, guidelines, directions and orders the Commission may issue from time to time in regard to the investments to be made in the Distribution Business.
- 11.3 The Licensee shall submit to the Commission Investment Plans as a part of the business plan under Condition 10.9 above giving details of investment schemes to be undertaken during the concerned period for the approval of the Commission. The Licensee shall demonstrate to the satisfaction of the Commission that:
- (a) there is a need for such Investments in the Distribution System;
 - (b) the Licensee has made techno-economic analysis and environmental aspects of all viable alternatives to the proposal for investing in or acquiring new Distribution System assets to meet such need.
- 11.4 In the application for investment approval, the licensee shall furnish the following information or particulars:
- (a) A detailed project report containing techno-economic analysis and environmental aspects of the investment together with the outline of the works to be undertaken, the salient features and particulars demonstrating the need for investment;
 - (b) The project cost together with the cost benefit analysis;
 - (c) Whether the investment is in a new project or for expansion or up-gradation of an existing system;
 - (d) Sanctions and statutory clearances required for execution of the project and status of such sanctions and statutory clearances;
 - (e) Phasing of investment over the financial years and commissioning schedule;
 - (f) The manner in which investments will be capitalised for the purposes of inclusion in the revenue requirements of the Licensee;
 - (g) Constraints which the Licensee may face in making the investments or in implementing the project including constraints on information available;
 - (h) Resource mobilisation and financial plans for meeting the investment;
 - (i) Process for inviting and finalizing tenders for procurement of equipment, material and /or services relating to investment, in accordance with a transparent tendering procedure as may be approved by the Commission; and
 - (j) Such other particulars as the Commission may from time to time direct.
- 11.5 The licensee shall cooperate with the Commission's staff, consultants and experts to enable them to discharge their functions and to submit a report to the Commission on the outcome of their findings.
- 11.6 The Licensee shall intimate, by the end of the first quarter of each financial year
- (a) the annual investment plan with details of investment schemes to be carried out during the financial year; and
 - (b) the progress made in implementing the annual investment plan of the previous financial year with the comparison of actual implementation vis-à-vis the plan as approved by the Commission for the concerned period.
- 11.7 The Licensee shall make the investments in a prudent manner being guided by the duty to build, maintain and operate an efficient, co-ordinated and economical Distribution System in its Area of Business.

- 11.8 The Licensee shall not undertake schemes involving Major Investments, not covered under the Investment Plan approved by the Commission under Condition 11.3 above without the prior approval of the Commission, and for such approval the Licensee shall demonstrate to the satisfaction of the Commission the factors mentioned in Condition 11.3 above.
- 11.9 The Licensee shall invite and finalise tenders for procurement of equipment, material and/or services relating to major investment, in accordance with a transparent tendering procedure as may be directed by the Commission.
- 11.10 For the purposes of this Condition 11, the term "Major Investment" means any planned investment in or acquisition of Distribution facilities, the cost of which, when aggregated with all other investments or acquisitions (if any) forming part of the same overall transaction, equals or exceeds an amount contained in the Specific Conditions applicable to the Licensee or otherwise decided by the Commission from time to time by a general or specific order (Refer Condition no. 32.1).
- 11.11 The Licensee shall be entitled to make Investment in the Distribution Business other than those covered under Conditions 11.3 and 11.8 above but for the purposes of considering such Investment while determining the tariff, the Licensee shall satisfy the Commission that the Investment was required for the Distribution Business and such investment was made in an efficient, co-ordinated and economical manner.
- 11.12 The Licensee shall submit to the Commission along with the "Expected Revenue Calculations" filed under Section 62 of the Act, the highlights of the annual investment plan consisting of the schemes approved by the Commission, schemes submitted before the Commission for approval and all schemes not requiring prior approval of the Commission planned for the ensuing financial year and shall make investment in the said financial year in accordance with the said investment plan. The Commission shall take into consideration while determining the tariffs of the Licensees as per the Tariff Regulations to be framed by the Commission under Section 61 of the Act, the approval granted by the Commission to the Licensees for the investments under this Condition and the actions and inactions on the part of the Licensees in complying with the terms contained in this Condition.

Provided that if any unforeseen contingencies required reallocation of funds within the schemes listed in the annual investment plan, the Licensee may do so to the extent such reallocation up to a limit of 10 % of the overall investment plan and 25 % of the approved amount in respect of each item/work of the investment plan. The Licensee shall give due intimation of such relocation to the Commission within 7 days of making the investment.

Provided also that if on account of such circumstances the Distribution Licensee is required to make investment in a scheme, which does not find a place in the annual investment plan, the Distribution Licensee may do so if the same is not a Major Investment and subject to the conditions contained in Condition 11.12 above.

12 **TRANSFER OF ASSETS**

- 12.1 Save as provided in this Condition 12, the 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 in the Specific Conditions applicable to the Licensee as outlined at Condition 32.2.

- 12.2 The Licensee shall give to the Commission prior notice of its intention to transfer or relinquish Operational Control over any asset whose value exceeds the amount decided by the Commission as per Condition 12.1 above and the Licensee shall disclose all relevant facts in the communication to the Commission. The Commission may, within 30 days of the receipt of the notice, seek further information in support of the transaction and shall, generally within 30 days of such further information being submitted by the Licensee, and where no such further information is sought by the Commission as above, within 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 to be recorded in the order issued by the Commission.
- 12.3 The Licensee may transfer or relinquish Operational Control over any asset as is detailed in any notice given under Condition 12.2 where:
- (a) the Commission confirms in writing that it consents to such transfer or relinquishment of Operational Control subject to such conditions as the Commission may impose; or
 - (b) the Commission does not inform the Distribution Licensee in writing of any objection to such transfer or relinquishment of Operational Control within the notice period referred to in Condition 12.2 and the transfer is effected by transparent and competitive bidding procedures.
- 12.4 The Licensee may also transfer or relinquish Operational Control over any asset where:
- (a) the Commission has issued directions for the purposes of this Condition 12 containing a general consent (whether or not subject to conditions) to:
 - (i) the transactions of a particular description. and/or
 - (ii) the Transfer or relinquishment of Operational Control over assets of a particular description, and/or
 - (iii) the Transfer or relinquishment of Operational Control in accordance with any conditions to which the consent is subject, or
 - (b) the Transfer or relinquishment of Operational Control in question is mandated under any other law; or
 - (i) the asset in question was acquired and used by the Distribution Licensee exclusively or primarily in connection with any Other Business and does not constitute a legal or beneficial interest in land, or
 - (ii) otherwise form part of the Distribution System or is not otherwise an asset required for the Licensed Business.
- 12.5 The Licensee shall be entitled to utilise the assets as a means of facilitating financing its investment requirement or including collateral for debt financing, Securitisation of receivables etc. for the Licensed Business subject to the conditions:
- (a) that the Licensee will inform the Commission about such arrangements at least 15 days prior to the effective date of the relevant agreements;
 - (b) the Licensee acts in a prudent and reasonable manner in such utilisation of assets; and
 - (c) the Licensee retains the Operational Control over assets in the Distribution System.

13 PAYMENT OF LICENCE FEES

- 13.1 Within such period as the Commission may direct, the Licensee shall pay to the Commission the annual Licence Fees, mentioned in the Specific Condition 31 in such manner as has been directed under the said Specific Condition.

- 13.2 Where the Licensee fails to pay to the Commission any of the fees due under Condition 13.1 by the due dates:
- (a) without prejudice to other obligations, the Licensee shall be liable to pay interest on the outstanding amount at a simple interest rate of 1.5 percent per month, the interest being payable for the period beginning on the day after which the amount became due, and ending on the day on which the payment is made to the Commission; and
 - (b) in the event of continued default by the Licensee, the Commission may revoke the Licence.
- 13.3 The Licensee shall be entitled to take into account any fee paid by it under this Condition 13 excluding the interest for delayed payment as an expense and payment of penalty, fines and charges paid by the licensee in the determination of aggregate revenues to be charged to the tariffs.

14 **SUSPENSION / REVOCATION OF LICENCE**

14.1 **SUSPENSION**

- (1) During the continuance of the licence period, the Commission at any time by recording the reasons in writing, and for the grounds mentioned in sub-sections (1) (a),(b),(c), (d)of Section 24 of the Act, may suspend the licence of the licensee.
- (2) For the purpose of suspension of licence, the Commission will follow the procedure as laid down in Section 24 of the Act.

14.2 **REVOCATION**

- (1) During the continuance of the luicence period, the Commission after making an enquiry, and for the public interest may revoke the licence of the licensee for the grounds mentioned in sub-sections (1) (a),(b),(c), (d) and Sub-section (2) of Section 19 of the Act.
- (2) The Commission may also revoke the licence of the licensee for the breach of the following licence conditions.
 - (a) Where the licensee fails to pay the Commission any of the fees due under condition 13 of these licence conditions.
 - (b) Where the licensee fails to implement its Business Plan submitted under condition 10.9 of these conditions.
 - (c) Where the licensee fails to comply with the provisions of condition 11.2 of these licence conditions with regard to investment to be made in the Distribution Business.

15. **AMENDMENT OF LICENSE CONDITION**

These Conditions of License may be altered or amended by the Commission under Section 18 of the Act at any time if it is in public interest on the request of the licensee or otherwise during the period of the licence. For any such alteration or amendment, the following provisions shall have effect:

- (a) where the Licensee has made an application under Sub-Section (1) of Section 18 of the Act proposing any alteration or amendment in the Conditions of License,

the Licensee shall publish a notice of such application with such particulars and in such manner as may be directed by the Commission;

- (b) in the case of an application proposing alteration or modification in the Area of Activity comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the alteration or modification shall be made only with the consent of the Central Government.
- (c) where any alteration or amendment in a licence is proposed to be made otherwise than on the application of the Licensee, the Commission shall publish the proposed alteration or amendment with such particulars and in such manner as the Commission may consider to be appropriate;
- (d) The Commission may give reasonable opportunity of hearing to the licensee and other affected persons on such proposed amendments/modifications.
- (e) the Commission shall not make any alteration or amendment unless all suggestions or objections received within thirty days from the date of the first publication of the notice have been considered by the Commission.

16. DISPUTE RESOLUTION

- 16.1 The Commission shall be entitled to act as arbitrator or nominate person(s) as arbitrator(s) to adjudicate and settle disputes between the Licensee and any other licensee or between the 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 Regulations of the Commission.
- 16.2 The arbitration proceedings for disputes may be conducted by the Commission or as the case may be, in accordance with Chapter III of the Conduct of Business Regulations specified by the Commission.

17. COMPLIANCE WITH THE ORISSA GRID CODE

- 17.1 The Licensee shall comply with the provisions of the Orissa 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 Licensee.
- 17.2 The Commission may, after consultation with any affected Generating Companies, the Transmission Licensee, the State Transmission Utility, the State Load Despatch Centre and Electricity Traders, issue directions relieving the Licensee of obligation under Condition 17.1 in respect of such parts of the Orissa Grid Code and to such extent as may be ordered by the Commission.

18. DISTRIBUTION (CONDITIONS OF SUPPLY) CODE & DISTRIBUTION (PLANNING & OPERATION) CODE

- 18.1 The Licensee shall abide by the Distribution (Conditions of Supply) Code and Distribution (Planning and Operation) Code.
- 18.2 (a) The Distribution (Conditions of Supply) Code may amongst others provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply for non payment thereof, restoration of supply of electricity, tampering, distress or damage to electrical plant, electric lines or meter, entry of licensee to any person acting on his behalf for disconnecting supply and removing the meter, entry for replacing, altering or maintaining electric lines or electrical plant or meter.

- (b) The Commission may, at the request of the Licensee, issue directions relieving the Licensee of its obligations under the Distribution (Conditions of Supply) Code in respect of such parts of the Licensee's Distribution System and to such extent as may be directed by the Commission.
- 18.3 In addition to the Distribution (Conditions of Supply) Code, the Commission may from time to time approve at the request of the Licensee other conditions applicable for supply of electricity by the Licensee in the area of Distribution.
- 18.4 The Distribution (Planning & Operation) Code may, amongst others, cover all material technical aspects relating to connections, 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 as relevant to the operation and use of the Distribution System and shall include, but not be limited to, the Distribution Planning and connection code containing:
 - (a) planning code describing the plan for laying the Distribution lines and the service lines in the Area of Supply, the technical and design criteria and procedures to be applied by the Licensee in the planning and development of the Licensee's Distribution System; and
 - (b) connection conditions describing the technical, design and operational criteria to be complied with by any Person connected or seeking connection with the Licensee's Distribution System; and the Distribution operating code specifying the conditions under which the Licensee shall operate 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 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.
- 18.5 The Distribution (Planning and Operation) Code shall be designed so as to permit the development, maintenance and operation of an efficient, co-ordinated and economical Distribution System.
- 18.6 The Licensee shall from time to time, as appropriate, review the Distribution (Planning & Operation) Code and its implementation in consultation with the Transmission Licensee, Trading Licensee, Generating Companies and such other Persons as the Commission may order. The Licensee shall also undertake such review as and when directed to do by the Commission. Following any such review, the Licensee shall send to the Commission:
 - (a) a report on the outcome of such review;
 - (b) any proposed revisions to the Distribution (Planning & Operation) Code as the Licensee (having regard to the outcome of such review) reasonably thinks fit for the achievement of the objectives of the Distribution (Planning & Operation) Code and these licence conditions; and
 - (c) all written representations or objections received during such review.
- 18.7 All revisions to the Distribution (Planning & Operation) Code shall require approval from the Commission.
- 18.8 The Licensee shall make available to any Person requesting for it, copies of the Distribution Code and Distribution (Conditions of Supply) Code and practices thereto in force at the relevant time, at a price not exceeding the reasonable cost of duplicating it.

- 18.9 A compliance of the existing codes and practices relating to construction of the Licensee's Distribution System and its Distribution facilities shall be filed with the Commission by the Licensee within 90 days of issue of these licence conditions. The Licensee shall follow the existing codes and practices with such modification as the Commission may direct from time to time. The construction practices shall be reviewed and upgraded by the Licensee from time to time, as appropriate, based on relevant technological improvements and changes.

19. CONSUMER SERVICE

The Licensee shall duly comply with the following:

19.1 Code of Practice on Payment of Bills

- (a) The Licensee shall, within reasonable time, as directed by the Commission, after these licence conditions have become effective, prepare and submit to the Commission, for its approval, a code of practice concerning the payment of electricity bills by Consumers including appropriate guide lines for the assistance of such Consumers who may have difficulty in paying such bills, and procedures for disconnection in the event of non payment by the consumer. In granting the approval, the Commission may make such modifications to the Code, as it may consider necessary.
- (b) The Commission may, upon receiving a representation or otherwise, require the Licensee to review, the code of practice and the manner in which it has been implemented with a view to determine whether any modification should be made to it or to the manner of its implementation. Licensee shall, in consultation with such other Persons as the Commission may direct review and submit any revision to the code of practice that it wishes to make, to the Commission for its approval, including any representation received by the Licensee and not accepted by it. The Commission may modify the code of practice concerning payment of bills as it considers necessary.
- (c) The Licensee shall:
 - (i) draw to the attention of Consumers, in such manner as the Commission may direct, the existence of the code of practice and each substantive revision of it and how they may inspect or obtain a copy of the code of practice in its latest form;
 - (ii) make a copy of the code of practice, revised from time to time, available for inspection by members of the public during normal working hours; and provide an updated copy of the code of practice revised from time to time to each new Consumer and to any other Person who requests for it at a price not exceeding the reasonable cost of duplicating it.
- (d) The Licensee shall comply with the existing practice and procedures with respect to the payment of electricity bills by Consumers with such modifications as the Commission may direct, until the code of practice on payment of bills by Consumers, as mentioned in this paragraph is adopted with the approval of the Commission.

19.2 Complaint Handling Procedure:

- (a) The Licensee shall establish a forum for redressal of grievances of the consumers in accordance with the guidelines issued by the Commission under Section 42 of the Act.
- (b) The Licensee shall within reasonable time, as directed by the Commission, after these Licence conditions have becomes effective and with approval of the Commission, notify a procedure for handling complaints from Consumers of the Licensee in addition to the forum for redressal of grievances. The Commission may on consultation with the State Advisory Committee or a Person or body of

Persons, who the Commission considers as representing the interest of the Consumers likely to be affected make such modifications of the procedure, as it deems necessary before granting approval to the consumer complaints.

- (c) The Commission may, upon receiving a representation, or otherwise, require the Licensee to review the complaint handling procedure prepared and the manner in which it has been implemented, with a view to determine whether any modification should be made to it or to the manner of its implementation.
- (d) Any procedure so established, including any revisions to it, shall notify the periods within which it is intended that different kinds of complaint should be processed and resolved.

The Licensee shall submit to the Commission for its approval any revision proposed to be made to the procedure established.

- (e) The Licensee shall:
 - (i) draw to the attention of Consumers, in such manner as the Commission may direct, the existence of the complaint handling procedure and each substantive revision of it and how the Consumers may inspect or obtain copies of such procedure in its latest form.
 - (ii) make a copy of its complaint handling procedure, revised from time to time, available for inspection by members of the public at the relevant offices of the Licensee during normal working hours; and provide a copy of the complaint handling procedure revised from time to time to each new Consumer, and to any other Person who requests for it at a price not exceeding the reasonable cost of duplicating it.

19.3 **Consumer Rights Statement**

- (a) The Licensee shall, within a reasonable period of time as directed by the Commission after these Licence conditions have becomes effective or such other time as the Commission may allow, prepare and submit to the Commission for approval, a consumer rights statement, explaining to Consumers their rights. The Commission may, upon holding such consultation with the State Advisory Committee, and such other Persons or bodies of Persons who the Commission considers as representing the interests of Consumers likely to be affected by it, and may make such modification of the statement, as it considers necessary in public interest.
- (b) The Commission may, upon receiving a representation or otherwise, require the Licensee to review the consumer rights statement prepared and the manner in which it has been implemented with a view to determining whether any modification should be made to it or to the manner of its implementation. The Licensee shall submit any revision to the consumer rights statement that it wishes to make to the Commission for its approval, including any representation received by the Licensee and not accepted by it. The Commission may modify the existing consumer rights statement, as it considers necessary.
- (c) The Licensee shall:
 - (i) draw to the attention of Consumers, in such manner as the Commission may direct, the existence of its consumer rights statement and each substantive revision of it and how they may inspect or obtain a copy of such consumer rights statement in its latest form.

- (ii) make a copy of its consumer rights statement, revised from time to time, available for inspection by members of the public at its offices during normal working hours; and provide a copy of the consumer rights statement, revised from time to time, to all new Consumers to be served by it, and to any other Person who requests for it at a price not exceeding the reasonable cost of duplicating it.

19.4 GRF & OMBUDSMAN

The Licensee shall abide by the provisions of the OERC (Grievance Redressal Forum & Ombudsman) Regulations, 2004 as amended from time to time.

20 DISTRIBUTION SYSTEM PLANNING AND SECURITY STANDARDS, DISTRIBUTION SYSTEM OPERATING STANDARDS, OVERALL PERFORMANCE STANDARDS

- 20.1 The Licensee shall comply with the Existing Distribution System Planning, Security Standards and the Existing Distribution System Operating Standards, with such modifications as the Commission may direct, until the Distribution System Planning, Security Standards and Distribution System Operating Standards proposed by the Licensee are approved by the Commission.
- 20.2 The Licensee shall plan, develop and operate its Distribution System in accordance with the Distribution System Planning and Security Standards together with the Distribution Code as approved by the Commission;
- 20.3 (a) The Licensee shall, within such time as the Commission may direct in the Specific Conditions or otherwise submit to the Commission the existing planning and Security standards and the operating standards for its Distribution System and the existing planning and Security standards and operating standards relating to generation capacity connected to its Distribution System being followed by the Licensee. Such existing standards, with such modification as the Commission may direct, shall continue to remain in effect until the new standards approved by the Commission.
- (b) The Licensee shall, within such time as the Commission may direct in the Specific Conditions or otherwise, prepare, in consultation with the Suppliers, Generating Companies, Central Transmission Utility, State Transmission Utility, Regional Power Committee and such other person as the Commission may direct, and submit to the Commission for approval the Licensee's proposal for Distribution Planning and Security Standards and Distribution Operating Standards, and Operating Standards in accordance with these General Conditions
- (c) The Distribution Planning and Security Standards and Distribution Operating Standards, and the Operating Standards submitted by the Licensee pursuant to this Condition 16.3, with such modifications as the Commission may require, shall take effect from such dates as the Commission may direct.
- 20.4 The Licensee shall not be in breach of its obligations if the failure to meet the Distribution Planning and Security Standards or the Distribution Operating Standards is due to Force Majeure, provided that, the Licensee has used its reasonable efforts, to comply with the Distribution Planning and Security Standards or the Distribution Operating Standards, as the case may be.

- 20.5 The Licensee shall, in consultation with Suppliers, the Generating Companies, the Central Transmission Utility, the State Transmission Utility, the Regional Power committee and such other persons as the Commission may order, review the standards and their implementation. Following any such review, the Licensee shall send to the Commission:
- (a) a report on the outcome of such review; and
 - (b) any revision which the Licensee proposes to make to such documents from time to time (having regard to the outcome of such review); and
 - (c) any written representations or objections (including those not accepted by the Licensee) from Suppliers, the Generating Companies, the Central Transmission Utility, the State Transmission Utility, the Regional Power committee and such other persons as the Commission may order arising during the consultation process 20.6. The Commission may, having regard to any written representations and objections received and following such further consultation as the Commission may consider appropriate, issue directions requiring the Licensee to revise the standards in such manner as may be given in the directions. The Licensee shall duly carry out the revisions directed by the Commission
- 20.6 The Licensee shall, within 3 months of the end of each financial year, submit to the Commission a report indicating the performance of the Licensee's Distribution System during the previous financial year. The Licensee's compliance with the Standards of Performance may be measured, in part, by the Licensee's adherence to the Distribution Code, Distribution (Conditions of Supply) Code and other codes and Regulations set forth by the Commission. The Licensee shall, if required by the Commission, publish a summary of the report in a manner approved by the Commission.
- 20.7 The Licensee shall conduct its Licensed Business in the manner which it reasonably considers to be the best to achieve the Performance Standards in connection with provision of Supply services and the promotion of the efficient use of electricity by Consumers, as may be directed by the Commission by a general or special order.
- 20.8 The Licensee shall provide annually, information to the Commission as to the means by which it proposes to achieve the Performance Standards and other standards applicable to the Licensee.
- 20.9 The Licensee shall duly comply with the Standards as the Commission may direct from time to time, for the performance of the duties of the Distribution Licensees under the Act or the State Act.
- 21 **OBLIGATION TO CONNECT CONSUMERS AND PUBLIC LAMPS**
- 21.1 Subject to the other provisions of these conditions, the Licensee shall on the application of the owner or occupier of any premises within the Area of Supply, give connection to the Licensee's Distribution System for the purposes of providing Supply of electricity to such premises, in accordance with the applicable regulations, directions and orders of the Commission.
- 21.2 The Licensee shall abide by the rules made by the State Government in terms of lying down or placing electric supply lines. The rules framed by the State Government will prescribe the cases and circumstances in which consent in writing is required from the Appropriate Government, local authority, owner or occupier, as the case may be, for carrying out the works, the nature and period of notice to be given by the Licensee before carrying out works, procedures and manner of consideration of objections and suggestions, determination and payment of compensation and all such activities in accordance with Section 67 of the Act.

21.3 Where, after Distribution mains have been laid down under the provisions of Condition 20.1 and the supply of energy through those mains or any of them has commenced, a requisition is made by the State Government or by a local authority requiring the Licensee to supply for a period of not less than two years, energy for any public lamps within the Area of Supply, the Licensee shall supply, and save in so far as it is prevented from doing so by Force Majeure and operational/constraints, continue to supply energy for such lamps in such quantities as the State Government or the local authority, as the case may be, may require. The State Government or the relevant local authority, as the case may be, may require the Licensee:

- (a) to provide the mains and other equipment for public lamps; and
- (b) to use for that purpose supports, if any, previously erected or set up by it for supply of energy.

21.4 The Licensee may levy any reasonable charge/s for carrying out works/release of supply, in accordance with any procedures that may be stipulated by the Licensee and approved by the Commission as well as the provisions of the Act and the Regulations of the Commission.

22 **OBLIGATION TO SUPPLY AND POWER SUPPLY PLANNING STANDARDS**

22.1 The Licensee shall take all reasonable steps to ensure that all Consumers connected to the Licensee's Distribution System receive a safe, economical and reliable Supply of electricity as provided in the Distribution Code, and other guidelines issued by the Commission in accordance with the provisions of the Act, the State Act, Rules and Regulations issued there under.

22.2 The Licensees shall be entitled to utilise the soil, subsoil and areas pertaining to public rights of way, streets, public squares and other assets in the public domain, as well as to cross rivers, bridges, railways, electrical and communication lines, subject to the provisions of Section 67 of the Act.

22.3 The Licensee shall:

- (a) determine annually for each of the next succeeding five years peak load and energy forecasts of its area of supply for each category of loads by 31st December as required under Orissa Grid Code and Distribution (Planning and Operation) Code;
- (b) prepare and submit such forecasts by projecting for ten consecutive years to the State Transmission Utility in accordance with the guidelines issued by the Commission from time to time; and
- (c) co-operate with the Transmission licensees, the State Transmission Utility and the State Load Despatch Centre and other Licensees in the preparation of power demand forecasts for the state of Orissa .

22.4 Subject to the foregoing Conditions, the Distribution Licensee shall purchase electricity from the Generating Companies, Electricity Traders, GRIDCO (as a bulk supplier) and others as consented to by the Commission in quantities, which the Licensee considers sufficient to meet the expected demand of the Licensee's Consumers.

22.5 The Licensee shall, within three months after these Licence conditions have come into force or such other time as the Commission may allow, prepare and submit to the Commission for approval, a disaster management plan, to address emergencies that may arise in connection with the operation of the Licence. For purposes of this Condition, an emergency shall mean any condition and/or situation that materially and adversely.

- (a) affects the ability of the Licensee to maintain safe, adequate and continuous operation of all or any part of the Licensed Business; or
- (b) endangers the Security of any person, plant, or other life, equipment or property.

23. **POWERS TO RECOVER EXPENDITURE, RECOVER SECURITY**

The Licensee shall be entitled to recover tariff, charges, fee, etc. and require Security deposit to be made for supply of electricity or for provision of services, in accordance with the provision of the Act and the Rules and Regulations for the purpose framed under the Act.

24. **USE OF METERS**

24.1 The Licensee shall comply with the requirements of the Act and the Regulations (made by CEA and the Commission), Directions and Orders of the Commission in regard to supply of electricity through meter.

24.2 The Licensee may require the consumer to give Security for the price of a meter and enter into an agreement for hire thereof, unless the consumer elects to purchase a meter.

25. **CONNECTION AND USE OF SYSTEM**

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

26. **POWER PROCUREMENT**

26.1 The Licensee shall satisfy the Commission as to the need for additional power procurement on a long-term basis and in the case of short term power purchase the circumstances where such short term power purchase will become necessary

26.2 The Licensee shall not enter into a binding or enforceable contractual commitment till the Commission by a general or special order approves the procurement of electricity by the Licensee.

26.3 The Licensee shall satisfy the Commission that the electricity procured under long term power purchase otherwise than through a competitive bidding process or any short term power purchase is of least cost or economical in the prevalent circumstances and that the Licensee has made prudent and best efforts to minimize the cost of such purchase.

26.4 The Commission may not permit any such short term or long term purchase if the manner or method proposed for such procurement of electricity is not conducive to the objective of least cost purchase or for any other reasons the purchase is not economical or efficient.

26.5 The short-term power purchase by the Licensee may be undertaken in such a manner as the Commission may from time to time direct by a general or special order.

26.6 The Licensee shall forecast the demand for electricity for his business and formulate proposals in coordination with the generating companies, Licensee companies, other licensees, authorities and other concerned persons. The Licensee shall file with the Commission power procurement plan to meet the demand in such a manner as the Commission may direct.

27. **EXPECTED REVENUE CALCULATION AND TARIFFS**
- 27.1 The Licensee shall calculate the expected revenue from charges which it is permitted to recover, in accordance with the provisions of the Act, the State Act, the Regulations of the Commission, the tariff terms and conditions and other guidelines, orders and directions issued by the Commission from time to time.
- 27.2 The Licensee shall file the Expected Revenue Calculation and the application containing tariff proposals in the manner provided in the Conduct of Business Regulations and consistent with the Regulations under Section 61 of the Act.
- 27.3 Unless otherwise provided in the Specific Conditions or in any order or direction made by the Commission the Licensee shall every year, not later than 30th November, submit to the Commission (i) a Statement with full details of its expected aggregate revenues and cost of service for the ensuing financial year (including financing costs and its proposed return on equity) for its Licensed Business, in accordance with the provisions of the Act and the regulations, guidelines and orders issued by the Commission from time to time and (ii) the annual investment plan giving specific details of the investment which the Licensee proposes to make in the ensuing financial year and which the Licensee desires to be covered under the revenue requirements in the ensuing financial year with appropriate references to schemes, if any, already approved by the Commission of which such investments form a part. The Licensee shall prepare and submit to the Commission the Statement and the investment details referred to in the above separately for each of its Licensed Businesses and Other Businesses.
- 27.4 The Licensee shall, along with the Expected Revenue Calculation or at such other time and periodicity the Commission may specifically permit file the application containing tariff proposals and the revision to the existing tariffs approved by the Commission to match the revenue requirements of the Licensee.
- 27.5 The amount that the Licensee is permitted to recover from its tariffs shall be the amount that the Commission determines and approves in accordance with the provisions of the Act, State Act and the Regulations of the Commission.
- 27.6 The Licensee may apply to the Commission to amend its tariffs in accordance with the Act and applicable Regulations and directions of the Commission.
28. **PROVISION OF SUBSIDIES TO CERTAIN CONSUMERS**
- 28.1 If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the Commission, the State Government shall, notwithstanding any direction which may be given under Section 108 of the Act, pay, in advance and in such manner as may be directed by the Commission, the amount to compensate the person affected by the grant of subsidy in the manner the Commission may direct.
- 28.2 Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions of the Act and Regulations of the Commission, and the licensee shall charge to the consumers the tariff fixed by the Commission from the date of issue of Order(s) by the Commission in this regard.
29. **POWER TO ENTER PREMISES AND TO REMOVE FITTINGS OR OTHER APPARATUS OF LICENSEE**
- 29.1 In accordance with Section 163 of the Act, the licensee or any person duly authorised may, at reasonable time, and on informing the occupier of his intent, enter any premises to which supply has been made or over which electric lines and works have been lawfully placed for the purpose of

- (a) Inspecting, testing, repairing or altering electric supply lines, meters, fittings belonging to the licensee; or
 - (b) Ascertaining the amount of electricity supplied; or
 - (c) Removing such lines, fittings, works where electricity supply is not required.
- 29.2 The Licensee or its authorised person may on a special order of the Executive Magistrate give a notice not less than twenty four hours in writing to the occupier for entering any premises for purposes mentioned in Condition 29.1 above.
- 29.3 The licensee may, on refusal of entry by the occupier of the premises, cut off power supply as per Section 163 of the Act till such time the refusal continues but for no longer.
30. **DISCONNECTIONS**
- 30.1 The Licensee shall give 15 day's clear notice in writing prior to disconnection
- 30.2 The licensee shall not cut off supply if the person deposits under protest
- (a) The amount equal to the sum claimed from him or
 - (b) Electricity charges due from him calculated on the basis of average charge for electricity supplied to him during the preceding 6 months, whichever is less pending disposal of the dispute
- 30.3 The licensee shall have to show such sum as recoverable continuously for a period of two years for the electricity supplied and act as per Section 56(2) of the Act.
- 30.4 Pursuant to Sections 126, 127, 135-140 of the Act, the Licensee shall have the powers and authority to take appropriate actions for:
- (a) Metering at the point of supply of electricity;
 - (b) Revenue realisation;
 - (c) Implementing credit control procedure as approved by the Commission;
 - (d) Prosecution for theft;
 - (e) Prevention of meter tampering;
 - (f) Prevention of diversion of electricity, and
 - (g) Prevention of unauthorised use of electricity; and
 - (h) All such similar matters affecting Distribution or Supply.

PART-III: SPECIFIC CONDITIONS

31. **Payment of Fees**
- 31.1 With reference to General Condition 13 and during the period his licence remains in force, the Licensee shall, by 10th April of every year, be liable to pay to the Commission an annual licence fee of Rs.50 lakh for each ensuing financial year.
- 31.2 All licence fees (including interest if is due under General Condition 13.2) will have to be deposited in "The Orissa Electricity Regulatory Commission Fund" operated by the Commission.
- 31.3 (a) the Licensee shall be subject to the proceedings for the recovery of such fees specified in the Act; and
- (b) Commission may review the amount of licence fee in every three years.

32 **Investment and transfer of assets (in continuation to Conditions 11 and 12)**

- 32.1 For the purposes of Condition 11.10, the term “major investment” means any planned scheme-wise investment in or acquisition of distribution facilities like Rural Electrification, System Improvement, Major Renovation & Modernization works, the cost of which, when aggregated with all other investments or acquisitions (if any) forming part of the same overall transaction/scheme, equals or exceeds Rs.5 crore.
- 32.2 For the purposes of the Condition 12, without prior written approval of the Commission, the licensee shall not dispose of or relinquish operational control of any asset whose book value at the time of proposed transfer exceed of Rs. 30 lakh.

33. **Basis of Charges**

- 33.1 The Licensee shall by the time specified in the OERC(Terms & Conditions for Determination of Tariff) Regulation, prepare and lodge with the Commission submissions setting out in full detail.
- (a) a statement of the Licensee’s revenue requirement for the ensuing financial year, prepared in accordance with the aforesaid Regulation read with Sections 45 & 61 of the Act.
 - (b) a statement of the Licensee’s expected revenue for the ensuing financial year, at the prevailing tariff.
- 33.2 In accordance with Section 64 of the Act, an application in complete shape for determination of Annual Revenue Requirement (ARR) and calculation of tariff shall be made by the Licensee, setting out in full the following,
- (a) all filings for Annual Revenue Requirement as per annual schedule, by 30th November of every year, indicating the manner in which the gap, if any, between the charges which it is permitted to recover and the expected revenue calculated shall be filled up;
 - (b) a new or amended tariff proposed by the Licensee indicating the date of implementation drawing attention to the proposed changes . Such date shall be not less than 120 days from the date of the submission of the Tariff proposal with all information, data, calculations etc. required under Regulation 8 of the OERC(Terms & Conditions for Determination of Tariff) Regulations,2004;
 - (c) the aggregate revenue which the Licensee expects to be able to recover from the proposed new or amended tariff, such aggregate revenue figure shall relate to the first full financial year after the proposed specified date, where the specified date coincides with the beginning of the financial year and, in addition where the specified date does not coincide with the beginning of the financial year, the aggregate revenue figure to be calculated at the prevailing tariff up to the date of revision and thereafter at the revised tariff up to the end of the relevant financial year;

Provided that no tariff or part of tariff shall be amended more than once in any financial year except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as prescribed by Regulations.

- 33.3 Any submission to the Commission pursuant to Paragraph 33.2 shall include a schedule(s) of prices and charges for Distribution which:
- (a) shall be in accordance with the provisions of Sections 45, 46, 47, 61& 62 of the Act; and
 - (b) shall enable the Licensee to recover the total revenue referred to in the submission by the Licensee pursuant to Condition 33.1(a). The schedule(s) of prices and charges may, subject to the provisions of Condition 9, differentiate according to consumer’s load factor, power factor, voltage, total consumption of

electricity during any specific period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required and any other relevant factors.

- 33.4 The Commission may require comparative data for the first six months of the current and preceding full financial year, for the purposes of comparison, along with such other data, calculation etc. as the Commission considers necessary, and the Licensee shall furnish such data, calculations, comparisons as directed by the Commission.
- 33.5 Subject to the provisions of the Act and the Regulation Commission shall within one hundred and twenty days from receipt of an application for determination of tariff and after considering all suggestions and objections received from the public, notify the Licensee either
- (i) that it accepts the Licensee's calculation on (a), (b) and (c) of Condition 3.2; or
 - (ii) that it does not consider the Licensee's calculation to be in accordance with the prescribed methodology or procedure and will propose an alternative calculation which the Licensee shall accept; or
 - (iii) reject the application
- 33.6 Following approval by the Commission of any new or amended tariff, the Licensee shall publish details of the same in accordance with the requirements of the Act. The previously notified tariff shall remain in effect till the new or amended tariff takes effect.
- 33.7 The Licensee shall ensure that all amounts due to other Users in respect of the electricity generated or supplied or other goods or services provided by them shall be paid promptly in accordance with the agreement made.

34. Contravention of Licence Conditions

- 34.1 In case of any contravention of any Licence Conditions by the Licensee, the Licensee shall be liable for penal action under Sections 19, 24, 128, 129 & 142 of the Act and under other relevant provisions of the Act, State Act, Rules, Regulations, and Notifications.

35. Franchisee and Trading

- 35.1 The licensee shall intimate the Commission about its proposal to undertake its distribution activity through another person for a particular area of its area of supply under proviso 7 of Section 14 of the Act.
- 35.2 In the aforesaid intimation the licensee shall inform the Commission about the name, address, credit worthiness, capability, experience, expertise of the franchisee with detail scheme. The Commission may ask the licensee to furnish any other information about the proposed franchisee.
- 35.3 The licensee shall furnish an undertaking to the Commission that it will be responsible for any action or inaction of the franchisee in the business of distribution in franchisee area.
- 35.4 The licensee shall furnish the required information to the Commission periodically about the functioning of the franchisee.
- 35.5 Commission at any time, in the public interest, may direct the licensee to cancel/modify the scheme of franchisee of the licensee, if such scheme violates the provisions of the Act, or Rules, Regulations, Notifications, orders issued under the Act.
- 35.6 The licensee shall intimate the Commission about its detailed scheme for undertaking business of trading under proviso 9 of Section 14 of the Act.

35.7 The licensee shall furnish the required information to the Commission periodically about its trading activity.

35.8 Commission at any time, in the public interest, may direct the licensee to cancel/ modify the trading activity of the licensee, if such activity violates the provisions of the Act, or Rules, Regulations, Notifications, orders issued under the Act.

36. **RURAL ELECTRIFICATION**

The Licensee shall carry out Rural Electrification in accordance with the provisions of the Act.

37. **MISCELLANEOUS**

37.1 All issues arising in relation to interpretation of these licence 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.

LICENCE CONDITIONS
OF
North Eastern Electricity Supply Company of
Orissa Limited (NESCO)

Corporate office: Januganj, Dist. Balasore- 756019

(A Deemed Distribution Licensee under Section. 14 of
the Electricity Act, 2003)

INTRODUCTION

The Orissa Electricity Regulatory Commission (the Commission) vide its order dated 31.03.1999 passed in case No.2/99, under the provisions of the Orissa Electricity Reform Act, 1995, had issued Licence to North Eastern Electricity Supply Company of Orissa Limited (NESCO): Januganj, Balasore- 756019, Orissa to carry out the business of Distribution & Retail Supply in the area of supply as mentioned in the said licence. Under the said License M/s NESCO has been carrying out the Distribution and Retail Supply as its licensed activity in the said area of supply.

The Electricity Act, 2003 (Act) has come into force since June 10, 2003. Under Section 14 of the Act, any person engaged in the business of supply of electricity under the provisions of repealed laws or any Act specified in the Schedule on or before the appointed date shall be deemed to be a licensee under the Act. By virtue of this provision, NESCO is a Deemed Distribution Licensee carrying its licensed activity in its area of supply. Under Section 16 of the Act, the Commission has legal obligations to lay down the license conditions of the NESCO as a Deemed Distribution Licensee. The Commission in its Conduct of Business Regulations, 2004 (Appendix 4-A) has specified the General Conditions for all Distribution Licensees operating in the State of Orissa. In exercise of powers conferred under Clause 27(2) of Appendix 4A (General Conditions for Distribution Licensee) of the OERC (Conduct of Business) Regulations, 2004, the Commission has modified some of the Clauses of the aforesaid General Conditions. Such General Conditions with modifications have been laid down in Part II of these licence conditions.

Furthermore, the Commission lays down at Part III the Specific Licence Conditions for NESCO.

PART I: PRELIMINARY

1. Short Title

- 1.1 These License Conditions may be called “The Licence Conditions of North Eastern Electricity Supply Company of Orissa Limited (NESCO) (A Deemed Licensee under Section 14 of the Electricity Act, 2003)”, which are applicable to SOUTHCO with effect from 1st November 2006.

2. Area of Operation of Licensed Activity (Area of Supply)

The Area of operation of Licensed Activity of the Licensee shall comprise the Electricity Distribution Circles of Balasore, Baripada, Jajpur Road and Bhadrak existing as on date, excluding any cantonment, aerodrome, fortress, arsenal, dockyard or camp or any building or place in occupation of the Central Government for defence purposes.

3. Definitions

- 3.1 Unless the context otherwise requires the words, terms and expressions used in these licence conditions shall have the same meaning as assigned by the Electricity Act, 2003.
- 3.2 Words, terms and expressions used in these licence conditions which are not defined in this Conditions or in the Electricity Act, 2003 have the meaning as usually are understood in electrical industry.
- 3.3 In these licence conditions, unless the context otherwise requires:
- (a) **“Accounting Statement”** means for each financial year, accounting statements for the Licensed Business comprising a profit and loss account, a balance sheet and a statement of sources and application of funds, together with notes thereto as detailed under the Companies Act, 1956 (1 of 1956) and such other particulars and details in the manner as the Commission may direct from time to time. If the Distribution Licensee engages in any business or activity in addition to the Business, the accounting statements shall comply with the regulations of the Commission dealing with the treatment of Other Business of Distribution Licensee and show separately the amounts of any revenue, cost, asset, liability, reserve or provision, which has been either:
 - a. charged from the Licensed Business to any Other Business or vice versa together with a description of the basis of that charge; or
 - b. 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.
 - (b) **“Act”** means the Electricity Act, 2003 (36 of 2003)
 - (c) **“Affiliate”** means, in relation to the Licensee, any Holding Company or Subsidiary of the Licensee or any Subsidiary of a Holding Company of the Licensee;
 - (d) **“Annual Accounts”** means the accounts of the Distribution Licensee prepared in accordance with the Companies Act, 1956 and/or in such other manner as may be directed by the Commission in terms of the provisions of the Act;
 - (e) **“Area of Distribution” or “Area of Supply”** means the area of Distribution stated in Condition No.2 of these licence conditions within which the Distribution Licensee is authorised to establish, operate and maintain the Distribution System and supply electricity;

- (f) **“Auditors”** means the Distribution Licensee’s auditors holding office in accordance with the requirements of Sections 224 to 234A or Section 619 as appropriate, of the Companies Act 1956 (1 of 1956);
- (g) **“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 Section Second, third and fifth proviso to Section 14 of the Act or exemption granted under Section 13 of the Act and the regulations of the Commission;
- (h) **“Commission”** means the Orissa Electricity Regulatory Commission;
- (i) **“Deemed Licensee”** means a person authorised under the first, Second, third, and fifth provisos to Section 14 of the Act;
- (j) **“Distribution”** means the conveyance or wheeling of electricity by means of a Distribution System;
- (k) **“Distribution Business”** means Authorised business of a Distribution Licensee to operate and maintain a Distribution System for supplying of electricity to the consumers in an Area of Supply;
- (l) **“Distribution Code”** means the Distribution (Planning and Operation) Code governing all material technical aspects relating to connections to and the operation and use of the Distribution System as approved by the Commission;
- (m) **“Distribution Licensee”** means the person authorised by the Distribution Licence and shall include the deemed licensee who is so authorised under Section 14 of the Act.
- (n) **“Distribution System Operating Standards”** means the standards related to the Distribution Licensee’s operation of the Distribution System as approved by the Commission pursuant to Condition 16 of these General Conditions
- (o) **“Distribution System Planning and Security Standards”** means the standards related to the adequacy of the Distribution Licensee’s system planning and Security of the Distribution System, as approved by the Commission pursuant to Condition 16 of these General Conditions.
- (p) **“Existing Distribution System Planning and Security Standards”** means the standards for system planning and Security of the Distribution System existing in the area of distribution as on the date of the grant of Licence;
- (q) **“Existing Distribution System Operating Standards”** means the standards for operating the Distribution System existing in the area of distribution as on the date of the grant of Licence;
- (r) **“Force Majeure”** means events beyond the reasonable control of the Licensee, including, but not limited to earthquakes, cyclones, floods, storms, adverse weather conditions, war, terrorist attacks, civil commotion or other similar occurrences that leads to any act that would involve a breach of relevant laws or regulations concerned with electrical safety;
- (s) **“Generating Set”** means any plant or apparatus for the production of electricity and shall, where appropriate, include a generating station comprising of one or more than one generating unit;

- (t) **“Generator Interconnection Facilities”** means electrical lines, transformers, busbars, switch-gear, plant or apparatus utilised to enable access to a Transmission System or Distribution System by the Generating Set(s);
- (u) **“Holding Company”** shall have the same meaning as in Section 4 of the Companies Act 1956 (1 of 1956);
- (v) **“Licence”** means distribution licence hold by the Licensee under Section 14 of the Act;
- (w) **"Licensee"** refers to North Eastern Electricity Supply Company of Orissa Limited (NESCO)
- (x) **“Licensed Business”** means the business of Distribution and Supply of electricity as authorised under the Distribution Licence;
- (y) **“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 directed by the Commission and shall also include any other incident which the Commission expressly declares to be a major incident;
- (z) **“Non Core Activity”** means any activity of the Licensee or an Affiliate of the Licensee other than that carried out as a part of the Distribution Business.
- (aa) **“Operational Control”** means possessing the authority to make operational decisions such as commissioning and utilisation of units, service lines and equipment;
- (bb) **“Orissa Grid Code (OGC)”** means the Orissa Grid Code specified by the Commission, covering all material technical aspects relating to connections to and the operation and use of a Transmission System, or (in so far as relevant to the operation and use of a Transmission System) the operation of electric lines and electrical plant connected to the Transmission System, the Distribution Systems, or the system of any Supplier, and shall include the Interim Grid Code;
- (cc) **“Other Business”** means business of the Distribution Licensee other than the Licensed Business on its non core activity;
- (dd) **“Performance Standards”** means the standards as may be determined by the Commission pursuant to Section 57 of the Act;
- (ee) **“Person”** shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;
- (ff) **“Regulations”** means the regulations made by the Commission, under the provisions of the Act or the State Act;
- (gg) **“Specific Conditions”** means the conditions stipulated in Part III of these licence Conditions.
- (hh) **“State”** means the State of Orissa.
- (ii) **"Standards of Performance"** refer to such standards of performance as may be specified by the Commission;

- (jj) **“State Act”** means the Orissa Electricity Reform Act, 1995 to the extent the provisions of the said Act is not inconsistent with the Act;
 - (kk) **“State Government”** means the Government of the State of Orissa;
 - (ll) **“Subsidiary”** shall have the same meaning as in Section 4 of the Companies Act 1956 (1 of 1956);
 - (mm) **“Trading Business”** means the Authorised business of an Electricity Trader in the Area of Operation allowed under the Trading Licence granted;
 - (nn) **“Trading Licence”** means the Licence granted under Section 14 of the Act to undertake Trading in Electricity;
 - (oo) **“Trading Licensee”** means an Electricity Trader and shall include deemed licensee who is so authorised under Section 14 of the Act;
 - (pp) **“Transmission Business”** means the Authorised business of transmission of electricity;
 - (qq) **“Transmission System”** means the system consisting mainly of extra high voltage electric lines, owned or controlled by the Transmission Licensee, and used for the purposes of the conveyance of electricity from one power station to a sub-station or to another power station or between sub-stations, or to or from any external interconnection including 33/11 kv bays/equipment up to the interconnection with the Distribution System, and any plant, apparatus and meters owned or used in connection with the transmission, and such buildings or plants thereof as may be required to accommodate such plant apparatus, other works and operating staff thereof;
 - (rr) **“Transmission Licensee”** means any person who is Authorised to carry out Transmission;
 - (ss) **“Transfer”** shall include the sale, exchange, gift, lease, licence, loan, Securitisation, mortgage, charge, pledge or grant of any other encumbrance or otherwise permitting of any encumbrance to subsist or parting with physical possession or any other disposition or dealing;
 - (tt) **“Use of System”** means use of the Distribution System for the transportation or wheeling of electricity,
 - (uu) **“Users”** means anyone who uses the Distribution System.
- 3.4 References in these licence conditions to Paragraphs, Conditions, Parts and Schedules shall, unless the context otherwise requires, be construed as references to conditions, paragraphs and parts of, and schedules to, these licence conditions.
4. **Terms of Licence**
- 4.1 Unless the licence of the licensee revoked earlier, the licensee will carry its licenced activity for a period of 30 years from 1st April, 1999.
- 4.2 These Licence Conditions are subject to modification or amendment in accordance with the provisions of relevant Regulations and in accordance with the provisions of the Act.
- 4.3 The Licensee shall not have the right of exclusivity in his area of supply by virtue of these Licence Conditions (General or Specific). Under 6th proviso of Section 14 of the Act, the Commission may grant Licence to any person(s) for distribution of electricity in the licensee’s area of supply.

PART-II: GENERAL CONDITIONS

5 The General Conditions for Distribution Licensees as specified by the Commission in Appendix 4A of the OERC (Conduct of Business) Regulations, 2004 after necessary modifications (In exercise of powers conferred under Clause 18(2)) shall be General Conditions as given below.

6 COMPLIANCE WITH LAWS, RULES AND REGULATIONS

6.1 The Licensee shall duly comply with the provisions of the Act, Rules, Regulations including Policies, Notifications, Circulars and Orders made there under and the provisions of all applicable laws and orders, directions issued by the Commission from time to time;.

6.2 The Licensee shall act in accordance with these General Conditions except where the Licensee is exempted from any provisions of these General Conditions at the time of the grant of licence or otherwise specifically by an approval of the Commission to any deviation there from.

6.3 The Licensee shall duly comply with the order and directions of the National Load Despatch Centre, Regional Load Despatch Centre and the State Load Despatch Centre and other statutory authorities issued in the discharge of their functions under the Act or the State Act.

7 FUNCTIONS OF THE LICENSEE

7.1 The Licensee shall develop and maintain an efficient, co-ordinated and economical distribution system in the Area of Distribution and effect supply of electricity to consumers in such area of supply in accordance with the provisions of the Act, the State Act, Rules, Regulations, Orders and Directions of the Commission.

7.2 The Distribution Licensee shall be entitled to:

(a) Purchase, import or otherwise acquire electricity from generating companies, electricity trader(s) and from other persons with whom the Licensee has agreements or arrangements of power purchase or procurement of energy in accordance with the terms and conditions of such agreement and arrangement consented to or approved by the Commission;

(b) Purchase or acquire electricity from any Person whose generating unit existing as on date of issue of these Licence conditions, is directly connected to and interfaced with the Distribution System of the Licensee, provided that the Licensee shall intimate the Commission of the existing arrangements for such purchase or acquisition of electrical energy and obtain the general or specific approval of the Commission;

(c) Purchase or otherwise acquire electricity from any person or licensee on the tariffs and terms and conditions as approved by the Commission;

(d) Appoint Franchisees to distribute and/or supply of electricity for a specified area within the area of distribution of the Licensee without a separate licence to be taken by such franchisee provided that the Licensee shall be responsible for distribution of electricity in his area of supply;

(e) Undertake Trading in electricity without the need for a separate Trading Licence;

(f) Provide access to the Distribution System to any person for wheeling of electricity in accordance with regulations made by the Commission for the purpose;

- (g) Sell electricity or energy capacity contracted for such period and to the extent of electricity or capacity is not required by the Licensee for the discharge of his obligations to supply electricity in the area of supply.
- 7.3 The Licensee shall sell, supply or otherwise dispose of electricity to any person, only in accordance with his Licence, on the tariffs and terms and conditions as approved by the Commission;
- 7.4 The Licensee shall purchase the energy required by the Licensee for meeting obligation under his Licence in an economical manner and under a transparent power purchase or procurement process and in accordance with the regulations, guidelines, directions made by the Commission from time to time.
- 7.5 The Licensee shall engage in any Other Business only consistent with the Regulation of the Commission issued under Section 51 of the Act
- 7.6 The Licensee shall seek approval of the Commission before making any loans to, or issuing any guarantee for any obligation of any Person, except when made or issued for the purposes of the Licensed Business. The loans to employees pursuant to their terms of service and trade advances in the ordinary course of business are excluded from the requirement to seek such approval.
- 7.7 The Licensee may engage any of the Subsidiaries or Holding Company or a Subsidiary of such Holding Company of the Licensee to provide any goods or services to the Licensee in connection with the Licensed Business, subject to the following conditions:
- (a) that the transaction will be on an arms-length basis and at a value that is fair and reasonable in the circumstances;
 - (b) that the transaction will be consistent with any Regulation framed by the Commission relating to the provision of goods and services with respect to Licensed Business; and
 - (c) that the Licensee will give 15 days' notice with details of such arrangement, to the Commission prior to commencement of such arrangement.
- 7.8 The Licensee may establish Subsidiaries or associated companies or grant a Franchisee or enter into management contracts including appointment of billing agent to conduct or carry out any of the functions, which the Licensee is authorised to conduct or carry under his Licence Provided that the Licensee shall be responsible for all actions of the Subsidiaries or associated companies or Franchisees or agents or contractors.
- 7.9 Except as provided in Condition 7.8 above the Licensee shall not transfer or assign his Licence or any of the functions under his Licence to any other person without the prior approval of the Commission.
- 7.10 The Licensee shall provide open access to the Distribution System for use of the *other* Licensees, and Generating Companies including the Captive Generating Plant(s) and the Consumer subject to no operational constraints in the Distribution System and subject to payment by the user of all applicable tariffs and charges as determined or directed to be charged by any general or special order of the Commission.
- 7.11 The Licensee shall not, without the prior approval of the Commission in accordance with the provision of Section 17 of the Act:

- (a) undertake any transaction to acquire by purchase or take over or otherwise, the utility of any other Licensee;
- (b) merge his utility with the utility of any other licensee;
- (c) acquire any beneficial interest in any Generating Company or Generating Station; or
- (d) transmit, distribute or supply electricity to any Person in the State, not under the Licensee;

7.12 The Licensee shall provide to the other Licensees the intervening Distribution facilities to the extent of surplus capacity available, in his Distribution System 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. In the event of any disagreement the same shall be decided by the Commission.

8. ACCOUNTS

8.1 Unless otherwise permitted by the Commission the financial year of the Licensee for the purposes of these General Conditions and matters relating to the Licensed Business shall run from the first of April to the following thirty-first of March.

8.2 The Licensee shall maintain separate accounts for each such business undertaking to ensure that distribution business neither subsidises in any way such business undertaking nor encumbers its distribution assets in any way to support such business.

8.3 The Licensee shall, in respect of the Licensed Business and any Other Business:

- (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 Licensee, from those 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 the Accounting Statements; namely
 - (i) in respect of the first six months of each financial year, a Half Yearly profit and loss account, cash flow statement and balance sheet together with such supporting documents and information as the Commission may direct from time to time;
 - (ii) in respect of the Accounting Statements prepared, an Auditor's report for 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 and provisions of, or reasonably attributable to such businesses to which the statements relate; and
 - (iii) a copy of each Half Yearly profit and loss account not later than three months after the end of the period to which it relates, and copies of the Accounting Statements and Auditor's report not later than six months after the end of the financial year to which they relate.

8.4 The Licensee shall not normally 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, the Accounting Standards or Rules and any guidelines issued by the Commission in this regard.

- 8.5 Where, in relation to the Accounting Statements in respect of a financial year, the Licensee has changed the basis of charge or apportionment or allocation from those adopted for the immediately preceding financial year, the Licensee shall, if directed by the Commission, prepare and deliver to the Commission such Accounting Statements on the basis which it applied in respect of the immediately preceding financial year.
- 8.6 The Accounting Statements under Condition 8.2. above shall, unless otherwise directed by the Commission:
- (a) be prepared and published with the Annual Accounts of the Licensee, in the manner provided herein;
 - (b) be stated the accounting policies adopted;
 - (c) be prepared in accordance with the generally accepted accounting policies; and
 - (d) be prepared in the form as the Commission may stipulate from time to time;
- 8.7 The References to costs or liabilities of, or reasonably attributable to Licensed Business or Other Business shall be construed as excluding taxation, and capital liabilities which do not relate principally to such Business and interest thereon.
- 8.8 The Licensee shall ensure that the Accounting Statements in respect of each financial year prepared under Condition 8.2 and the Auditor's report in respect of each financial year are publicised in such manner as the Commission may direct and are made available to any Person requesting them at a price not exceeding the reasonable cost of duplicating them.

9. PROHIBITION OF UNDUE PREFERENCE

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

10. PROVISION OF INFORMATION TO THE COMMISSION

- 10.1 The Licensee shall furnish to the Commission without delay such information, documents and details related to the Licensed Business or any Other Business of the Licensee, as the Commission may require from time to time for its own purposes or for the purposes of the Government of India, State Government, the Central Commission, the Central Electricity Authority, the State Transmission Utility and State Load Dispatch Centre.
- 10.2 The Licensee shall duly maintain the information as the Commission may direct under Section 128 of the Act.
- 10.3 The Licensee shall notify the Commission as soon as possible the occurrence of any Major Incident affecting any part of its Distribution System and in any event, by not later 48 hours of such occurrence:
- (a) submit a report to the Commission within two months giving full details of the facts within the knowledge of the Licensee regarding the incident and its cause;
 - (b) in the event the report under sub-Condition (a) is likely to take more than two months from the date of such incident, the Licensee shall within one month from such date of the incident submit a preliminary report with such details which the Licensee can reasonably furnish and state reasons as to why the Licensee requires more than two months for giving full report of such incident; and
 - (c) give copies of the report to all parties concerned with the Major Incident and to such other Persons as the Commission may direct.

- 10.4 The decision of the Commission as to what is a Major Incident shall be final. The Commission may by order, after providing an opportunity of hearing direct the Licensee to provide such amount of compensation as the Commission may direct to persons, who suffer substantial injury or to the heirs of those who lose their lives as a result of such major incident where the Major Incident has been caused by any act of commission, omission or negligence on the part of any of the employees or agents of the Licensee.
- 10.5 The Commission at its discretion may require the submission of a report on the major incident to be prepared by an independent person at the expense of the Licensee.
- 10.6 The 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 to avoid the occurrence of any such major incident.
- 10.7 The Licensee shall duly inform the Commission about any incident restricting it from meeting obligations under these licence conditions including any act of omission or commission by others and steps taken by the Licensee to mitigate the effect of such incident.
- 10.8 The Commission may at any time require the Licensee to comply with the provisions of Conditions 10.3 to 10.7 as to incidents which the Commission may specifically direct and the Licensee shall be obliged to comply with the same notwithstanding that such incidents are not Major Incidents; provided that the time limits specified shall commence from the date that the Commission notifies Licensee of such requirement.
- 10.9 The Licensee shall submit a Business Plan within three months of Licence conditions coming into force for such period as the Commission may direct and shall update such plan annually. The Business Plan shall contain year wise load growth, year wise Distribution loss reduction proposal along with specific action plan, metering plan for metering interface points, investment plan as detailed in Condition 11 herein, treatment of previous losses, debt restructuring plan, cost reduction plan, projected profit and loss account, projected balance sheets, projected cash flow statements and projected important financial parameters.

The licensee will duly implement the aforesaid Business Plan.

- 10.10 The Commission may require the Licensee to intimate by the end of first quarter of each financial year 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 and shall post it in its web-site.

11. **INVESTMENTS**

- 11.1 Unless otherwise directed by the Commission, every licensee shall obtain prior approval of the Commission for making investment in the licensed business if such investment is above the limits laid down in Condition 32.
- 11.2 The Licensee shall duly comply with the Regulations, guidelines, directions and orders the Commission may issue from time to time in regard to the investments to be made in the Distribution Business.
- 11.3 The Licensee shall submit to the Commission Investment Plans as a part of the business plan under Condition 10.9 above giving details of investment schemes to be undertaken during the concerned period for the approval of the Commission. The Licensee shall demonstrate to the satisfaction of the Commission that:

- (a) there is a need for such Investments in the Distribution System;
 - (b) the Licensee has made techno-economic analysis and environmental aspects of all viable alternatives to the proposal for investing in or acquiring new Distribution System assets to meet such need.
- 11.4 In the application for investment approval, the licensee shall furnish the following information or particulars:
- (a) A detailed project report containing techno-economic analysis and environmental aspects of the investment together with the outline of the works to be undertaken, the salient features and particulars demonstrating the need for investment;
 - (b) The project cost together with the cost benefit analysis;
 - (c) Whether the investment is in a new project or for expansion or up-gradation of an existing system;
 - (d) Sanctions and statutory clearances required for execution of the project and status of such sanctions and statutory clearances;
 - (e) Phasing of investment over the financial years and commissioning schedule;
 - (f) The manner in which investments will be capitalised for the purposes of inclusion in the revenue requirements of the Licensee;
 - (g) Constraints which the Licensee may face in making the investments or in implementing the project including constraints on information available;
 - (h) Resource mobilisation and financial plans for meeting the investment;
 - (i) Process for inviting and finalizing tenders for procurement of equipment, material and /or services relating to investment, in accordance with a transparent tendering procedure as may be approved by the Commission; and
 - (j) Such other particulars as the Commission may from time to time direct.
- 11.5 The licensee shall cooperate with the Commission's staff, consultants and experts to enable them to discharge their functions and to submit a report to the Commission on the outcome of their findings.
- 11.6 The Licensee shall intimate, by the end of the first quarter of each financial year
- (a) the annual investment plan with details of investment schemes to be carried out during the financial year; and
 - (b) the progress made in implementing the annual investment plan of the previous financial year with the comparison of actual implementation vis-à-vis the plan as approved by the Commission for the concerned period.
- 11.7 The Licensee shall make the investments in a prudent manner being guided by the duty to build, maintain and operate an efficient, co-ordinated and economical Distribution System in its Area of Business.
- 11.8 The Licensee shall not undertake schemes involving Major Investments, not covered under the Investment Plan approved by the Commission under Condition 11.3 above without the prior approval of the Commission, and for such approval the Licensee shall demonstrate to the satisfaction of the Commission the factors mentioned in Condition 11.3 above.
- 11.9 The Licensee shall invite and finalise tenders for procurement of equipment, material and/or services relating to major investment, in accordance with a transparent tendering procedure as may be directed by the Commission.
- 11.10 For the purposes of this Condition 11, the term "Major Investment" means any planned investment in or acquisition of Distribution facilities, the cost of which, when aggregated with all other investments or acquisitions (if any) forming part of the same overall transaction, equals or exceeds an amount contained in the Specific Conditions applicable to the Licensee or otherwise decided by the Commission from time to time by a general or specific order (Refer Condition no. 32.1).

- 11.11 The Licensee shall be entitled to make Investment in the Distribution Business other than those covered under Conditions 11.3 and 11.8 above but for the purposes of considering such Investment while determining the tariff, the Licensee shall satisfy the Commission that the Investment was required for the Distribution Business and such investment was made in an efficient, co-ordinated and economical manner.
- 11.12 The Licensee shall submit to the Commission along with the "Expected Revenue Calculations" filed under Section 62 of the Act, the highlights of the annual investment plan consisting of the schemes approved by the Commission, schemes submitted before the Commission for approval and all schemes not requiring prior approval of the Commission planned for the ensuing financial year and shall make investment in the said financial year in accordance with the said investment plan. The Commission shall take into consideration while determining the tariffs of the Licensees as per the Tariff Regulations to be framed by the Commission under Section 61 of the Act, the approval granted by the Commission to the Licensees for the investments under this Condition and the actions and inactions on the part of the Licensees in complying with the terms contained in this Condition.

Provided that if any unforeseen contingencies required reallocation of funds within the schemes listed in the annual investment plan, the Licensee may do so to the extent such reallocation up to a limit of 10 % of the overall investment plan and 25 % of the approved amount in respect of each item/work of the investment plan. The Licensee shall give due intimation of such relocation to the Commission within 7 days of making the investment.

Provided also that if on account of such circumstances the Distribution Licensee is required to make investment in a scheme, which does not find a place in the annual investment plan, the Distribution Licensee may do so if the same is not a Major Investment and subject to the conditions contained in Condition 11.12 above.

12. **TRANSFER OF ASSETS**

- 12.1 Save as provided in this Condition 12, the 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 in the Specific Conditions applicable to the Licensee as outlined at Condition 32.2.
- 12.2 The Licensee shall give to the Commission prior notice of its intention to transfer or relinquish Operational Control over any asset whose value exceeds the amount decided by the Commission as per Condition 12.1 above and the Licensee shall disclose all relevant facts in the communication to the Commission. The Commission may, within 30 days of the receipt of the notice, seek further information in support of the transaction and shall, generally within 30 days of such further information being submitted by the Licensee, and where no such further information is sought by the Commission as above, within 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 to be recorded in the order issued by the Commission.
- 12.3 The Licensee may transfer or relinquish Operational Control over any asset as is detailed in any notice given under Condition 12.2 where:
- (a) the Commission confirms in writing that it consents to such transfer or relinquishment of Operational Control subject to such conditions as the Commission may impose; or
 - (b) the Commission does not inform the Distribution Licensee in writing of any objection to such transfer or relinquishment of Operational Control within the notice period referred to in Condition 12.2 and the transfer is effected by transparent and competitive bidding procedures.

- 12.4 The Licensee may also transfer or relinquish Operational Control over any asset where:
- (a) the Commission has issued directions for the purposes of this Condition 12 containing a general consent (whether or not subject to conditions) to:
 - (i) the transactions of a particular description, and/or
 - (ii) the Transfer or relinquishment of Operational Control over assets of a particular description, and/or
 - (iii) the Transfer or relinquishment of Operational Control in accordance with any conditions to which the consent is subject, or
 - (b) the Transfer or relinquishment of Operational Control in question is mandated under any other law; or
 - (c) the asset in question was acquired and used by the Distribution Licensee exclusively or primarily 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 required for the Licensed Business.

12.5 The Licensee shall be entitled to utilise the assets as a means of facilitating financing its investment requirement or including collateral for debt financing, Securitisation of receivables etc. for the Licensed Business subject to the conditions:

- (a) that the Licensee will inform the Commission about such arrangements at least 15 days prior to the effective date of the relevant agreements;
- (b) the Licensee acts in a prudent and reasonable manner in such utilisation of assets; and
- (c) the Licensee retains the Operational Control over assets in the Distribution System.

13. PAYMENT OF LICENCE FEES

13.1 Within such period as the Commission may direct, the Licensee shall pay to the Commission the annual Licence Fees, mentioned in the Specific Condition 31 in such manner as has been directed under the said Specific Condition.

13.2 Where the Licensee fails to pay to the Commission any of the fees due under Condition 13.1 by the due dates:

- (a) without prejudice to other obligations, the Licensee shall be liable to pay interest on the outstanding amount at a simple interest rate of 1.5 percent per month, the interest being payable for the period beginning on the day after which the amount became due, and ending on the day on which the payment is made to the Commission; and
- (b) in the event of continued default by the Licensee, the Commission may revoke the Licence.

13.3 The Licensee shall be entitled to take into account any fee paid by it under this Condition 13 excluding the interest for delayed payment as an expense and payment of penalty, fines and charges paid by the licensee in the determination of aggregate revenues to be charged to the tariffs.

14. SUSPENSION / REVOCATION OF LICENCE

14.1 SUSPENSION

- (1) During the continuance of the licence period, the Commission at any time by recording the reasons in writing, and for the grounds mentioned in sub-sections (1) (a),(b),(c), (d)of Section 24 of the Act, may suspend the licence of the licensee.

- (2) For the purpose of suspension of licence, the Commission will follow the procedure as laid down in Section 24 of the Act.

14.2 REVOCATION

- (1) During the continuance of the licence period, the Commission after making an enquiry, and for the public interest may revoke the licence of the licensee for the grounds mentioned in sub-sections (1) (a),(b),(c), (d) and Sub-section (2) of Section 19 of the Act.
- (2) The Commission may also revoke the licence of the licensee for the breach of the following licence conditions.
 - (a) Where the licensee fails to pay the Commission any of the fees due under condition 13 of these licence conditions.
 - (b) Where the licensee fails to implement its Business Plan submitted under condition 10.9 of these conditions.
 - (c) Where the licensee fails to comply with the provisions of condition 11.2 of these licence conditions with regard to investment to be made in the Distribution Business.

15. **AMENDMENT OF LICENSE CONDITON**

These Conditions of License may be altered or amended by the Commission under Section 18 of the Act at any time if it is in public interest on the request of the licensee or otherwise during the period of the licence. For any such alteration or amendment, the following provisions shall have effect:

- (a) where the Licensee has made an application under Sub-Section (1) of Section 18 of the Act proposing any alteration or amendment in the Conditions of License, the Licensee shall publish a notice of such application with such particulars and in such manner as may be directed by the Commission;
- (b) in the case of an application proposing alteration or modification in the Area of Activity comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the alteration or modification shall be made only with the consent of the Central Government.
- (c) where any alteration or amendment in a licence is proposed to be made otherwise than on the application of the Licensee, the Commission shall publish the proposed alteration or amendment with such particulars and in such manner as the Commission may consider to be appropriate;
- (d) The Commission may give reasonable opportunity of hearing to the licensee and other affected persons on such proposed amendments/modifications.
- (e) the Commission shall not make any alteration or amendment unless all suggestions or objections received within thirty days from the date of the first publication of the notice have been considered by the Commission.

16. **DISPUTE RESOLUTION**

16.1 The Commission shall be entitled to act as arbitrator or nominate person(s) as arbitrator(s) to adjudicate and settle disputes between the Licensee and any other licensee or between the 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 Regulations of the Commission.

16.2 The arbitration proceedings for disputes may be conducted by the Commission or as the case may be, in accordance with Chapter III of the Conduct of Business Regulations specified by the Commission.

17. **COMPLIANCE WITH THE ORISSA GRID CODE**

17.1 The Licensee shall comply with the provisions of the Orissa 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 Licensee.

17.2 The Commission may, after consultation with any affected Generating Companies, the Transmission Licensee, the State Transmission Utility, the State Load Despatch Centre and Electricity Traders, issue directions relieving the Licensee of obligation under Condition 17.1 in respect of such parts of the Orissa Grid Code and to such extent as may be ordered by the Commission.

18. **DISTRIBUTION (CONDITIONS OF SUPPLY) CODE & DISTRIBUTION (PLANNING & OPERATION) CODE**

18.1 The Licensee shall abide by the Distribution (Conditions of Supply) Code and Distribution (Planning and Operation) Code.

18.2 (a) The Distribution (Conditions of Supply) Code may amongst others provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply for non payment thereof, restoration of supply of electricity, tampering, distress or damage to electrical plant, electric lines or meter, entry of licensee to any person acting on his behalf for disconnecting supply and removing the meter, entry for replacing, altering or maintaining electric lines or electrical plant or meter.

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

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

18.4 The Distribution (Planning & Operation) Code may, amongst others, cover all material technical aspects relating to connections, 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 as relevant to the operation and use of the Distribution System and shall include, but not be limited to, the Distribution Planning and connection code containing:

(a) planning code describing the plan for laying the Distribution lines and the service lines in the Area of Supply, the technical and design criteria and procedures to be applied by the Licensee in the planning and development of the Licensee's Distribution System; and

- (b) connection conditions describing the technical, design and operational criteria to be complied with by any Person connected or seeking connection with the Licensee's Distribution System; and the Distribution operating code specifying the conditions under which the Licensee shall operate 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 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.
- 18.5 The Distribution (Planning and Operation) Code shall be designed so as to permit the development, maintenance and operation of an efficient, co-ordinated and economical Distribution System.
- 18.6 The Licensee shall from time to time, as appropriate, review the Distribution (Planning & Operation) Code and its implementation in consultation with the Transmission Licensee, Trading Licensee, Generating Companies and such other Persons as the Commission may order. The Licensee shall also undertake such review as and when directed to do by the Commission. Following any such review, the Licensee shall send to the Commission:
 - (a) a report on the outcome of such review;
 - (b) any proposed revisions to the Distribution (Planning & Operation) Code as the Licensee (having regard to the outcome of such review) reasonably thinks fit for the achievement of the objectives of the Distribution (Planning & Operation) Code and these licence conditions; and
 - (c) all written representations or objections received during such review.
- 18.7 All revisions to the Distribution (Planning & Operation) Code shall require approval from the Commission.
- 18.8 The Licensee shall make available to any Person requesting for it, copies of the Distribution Code and Distribution (Conditions of Supply) Code and practices thereto in force at the relevant time, at a price not exceeding the reasonable cost of duplicating it.
- 18.9 A compliance of the existing codes and practices relating to construction of the Licensee's Distribution System and its Distribution facilities shall be filed with the Commission by the Licensee within 90 days of issue of these licence conditions. The Licensee shall follow the existing codes and practices with such modification as the Commission may direct from time to time. The construction practices shall be reviewed and upgraded by the Licensee from time to time, as appropriate, based on relevant technological improvements and changes.

19 CONSUMER SERVICE

The Licensee shall duly comply with the following:

19.1 Code of Practice on Payment of Bills

- (a) The Licensee shall, within reasonable time, as directed by the Commission, after these licence conditions have become effective, prepare and submit to the Commission, for its approval, a code of practice concerning the payment of electricity bills by Consumers including appropriate guide lines for the assistance of such Consumers who may have difficulty in paying such bills, and procedures for disconnection in the event of non payment by the consumer. In granting the approval, the Commission may make such modifications to the Code, as it may consider necessary.

- (b) The Commission may, upon receiving a representation or otherwise, require the Licensee to review, the code of practice and the manner in which it has been implemented with a view to determine whether any modification should be made to it or to the manner of its implementation. Licensee shall, in consultation with such other Persons as the Commission may direct review and submit any revision to the code of practice that it wishes to make, to the Commission for its approval, including any representation received by the Licensee and not accepted by it. The Commission may modify the code of practice concerning payment of bills as it considers necessary.
- (c) The Licensee shall:
 - (i) draw to the attention of Consumers, in such manner as the Commission may direct, the existence of the code of practice and each substantive revision of it and how they may inspect or obtain a copy of the code of practice in its latest form;
 - (ii) make a copy of the code of practice, revised from time to time, available for inspection by members of the public during normal working hours; and provide an updated copy of the code of practice revised from time to time to each new Consumer and to any other Person who requests for it at a price not exceeding the reasonable cost of duplicating it.
- (d) The Licensee shall comply with the existing practice and procedures with respect to the payment of electricity bills by Consumers with such modifications as the Commission may direct, until the code of practice on payment of bills by Consumers, as mentioned in this paragraph is adopted with the approval of the Commission.

19.2 Complaint Handling Procedure:

- (a) The Licensee shall establish a forum for redressal of grievances of the consumers in accordance with the guidelines issued by the Commission under Section 42 of the Act.
- (b) The Licensee shall within reasonable time, as directed by the Commission, after these Licence conditions have becomes effective and with approval of the Commission, notify a procedure for handling complaints from Consumers of the Licensee in addition to the forum for redressal of grievances. The Commission may on consultation with the State Advisory Committee or a Person or body of Persons, who the Commission considers as representing the interest of the Consumers likely to be affected make such modifications of the procedure, as it deems necessary before granting approval to the consumer complaints.
- (c) The Commission may, upon receiving a representation, or otherwise, require the Licensee to review the complaint handling procedure prepared and the manner in which it has been implemented, with a view to determine whether any modification should be made to it or to the manner of its implementation.
- (d) Any procedure so established, including any revisions to it, shall notify the periods within which it is intended that different kinds of complaint should be processed and resolved.

The Licensee shall submit to the Commission for its approval any revision proposed to be made to the procedure established.

- (e) The Licensee shall:
 - (i) draw to the attention of Consumers, in such manner as the Commission may direct, the existence of the complaint handling procedure and each substantive revision of it and how the Consumers may inspect or obtain copies of such procedure in its latest form.
 - (ii) make a copy of its complaint handling procedure, revised from time to time, available for inspection by members of the public at the relevant offices of the Licensee during normal working hours; and provide a copy of the complaint handling procedure revised from time to time to each new Consumer, and to any other Person who requests for it at a price not exceeding the reasonable cost of duplicating it.

19.3. **Consumer Rights Statement**

- (a) The Licensee shall, within a reasonable period of time as directed by the Commission after these Licence conditions have become effective or such other time as the Commission may allow, prepare and submit to the Commission for approval, a consumer rights statement, explaining to Consumers their rights. The Commission may, upon holding such consultation with the State Advisory Committee, and such other Persons or bodies of Persons who the Commission considers as representing the interests of Consumers likely to be affected by it, and may make such modification of the statement, as it considers necessary in public interest.
- (b) The Commission may, upon receiving a representation or otherwise, require the Licensee to review the consumer rights statement prepared and the manner in which it has been implemented with a view to determining whether any modification should be made to it or to the manner of its implementation. The Licensee shall submit any revision to the consumer rights statement that it wishes to make to the Commission for its approval, including any representation received by the Licensee and not accepted by it. The Commission may modify the existing consumer rights statement, as it considers necessary.
- (c) The Licensee shall:
 - (i) draw to the attention of Consumers, in such manner as the Commission may direct, the existence of its consumer rights statement and each substantive revision of it and how they may inspect or obtain a copy of such consumer rights statement in its latest form.
 - (ii) make a copy of its consumer rights statement, revised from time to time, available for inspection by members of the public at its offices during normal working hours; and provide a copy of the consumer rights statement, revised from time to time, to all new Consumers to be served by it, and to any other Person who requests for it at a price not exceeding the reasonable cost of duplicating it.

19.4 **GRF & Ombudsman**

The Licensee shall abide by the provisions of the OERC (Grievance Redressal Forum & Ombudsman) Regulations, 2004 amended from time to time.

20. **DISTRIBUTION SYSTEM PLANNING AND SECURITY STANDARDS, DISTRIBUTION SYSTEM OPERATING STANDARDS, OVERALL PERFORMANCE STANDARDS**

- 20.1 The Licensee shall comply with the Existing Distribution System Planning, Security Standards and the Existing Distribution System Operating Standards, with such modifications as the Commission may direct, until the Distribution System Planning, Security Standards and Distribution System Operating Standards proposed by the Licensee are approved by the Commission.

- 20.2 The Licensee shall plan, develop and operate its Distribution System in accordance with the Distribution System Planning and Security Standards together with the Distribution Code as approved by the Commission;
- 20.3 (a) The Licensee shall, within such time as the Commission may direct in the Specific Conditions or otherwise submit to the Commission the existing planning and Security standards and the operating standards for its Distribution System and the existing planning and Security standards and operating standards relating to generation capacity connected to its Distribution System being followed by the Licensee. Such existing standards, with such modification as the Commission may direct, shall continue to remain in effect until the new standards approved by the Commission.
- (b) The Licensee shall, within such time as the Commission may direct in the Specific Conditions or otherwise, prepare, in consultation with the Suppliers, Generating Companies, Central Transmission Utility, State Transmission Utility, Regional Power Committee and such other person as the Commission may direct, and submit to the Commission for approval the Licensee's proposal for Distribution Planning and Security Standards and Distribution Operating Standards, and Operating Standards in accordance with these General Conditions
- (c) The Distribution Planning and Security Standards and Distribution Operating Standards, and the Operating Standards submitted by the Licensee pursuant to this Condition 16.3, with such modifications as the Commission may require, shall take effect from such dates as the Commission may direct.
- 20.4 The Licensee shall not be in breach of its obligations if the failure to meet the Distribution Planning and Security Standards or the Distribution Operating Standards is due to Force Majeure, provided that, the Licensee has used its reasonable efforts, to comply with the Distribution Planning and Security Standards or the Distribution Operating Standards, as the case may be.
- 20.5 The Licensee shall, in consultation with Suppliers, the Generating Companies, the Central Transmission Utility, the State Transmission Utility, the Regional Power committee and such other persons as the Commission may order, review the standards and their implementation. Following any such review, the Licensee shall send to the Commission:
- (a) a report on the outcome of such review; and
- (b) any revision which the Licensee proposes to make to such documents from time to time (having regard to the outcome of such review); and
- (c) any written representations or objections (including those not accepted by the Licensee) from Suppliers, the Generating Companies, the Central Transmission Utility, the State Transmission Utility, the Regional Power committee and such other persons as the Commission may order arising during the consultation process 20.6. The Commission may, having regard to any written representations and objections received and following such further consultation as the Commission may consider appropriate, issue directions requiring the Licensee to revise the standards in such manner as may be given in the directions. The Licensee shall duly carry out the revisions directed by the Commission

- 20.6 The Licensee shall, within 3 months of the end of each financial year, submit to the Commission a report indicating the performance of the Licensee's Distribution System during the previous financial year. The Licensee's compliance with the Standards of Performance may be measured, in part, by the Licensee's adherence to the Distribution Code, Distribution (Conditions of Supply) Code and other codes and Regulations set forth by the Commission. The Licensee shall, if required by the Commission, publish a summary of the report in a manner approved by the Commission.
- 20.7 The Licensee shall conduct its Licensed Business in the manner which it reasonably considers to be the best to achieve the Performance Standards in connection with provision of Supply services and the promotion of the efficient use of electricity by Consumers, as may be directed by the Commission by a general or special order.
- 20.8 The Licensee shall provide annually, information to the Commission as to the means by which it proposes to achieve the Performance Standards and other standards applicable to the Licensee.
- 20.9 The Licensee shall duly comply with the Standards as the Commission may direct from time to time, for the performance of the duties of the Distribution Licensees under the Act or the State Act.
21. **OBLIGATION TO CONNECT CONSUMERS AND PUBLIC LAMPS**
- 21.1 Subject to the other provisions of these conditions, the Licensee shall on the application of the owner or occupier of any premises within the Area of Supply, give connection to the Licensee's Distribution System for the purposes of providing Supply of electricity to such premises, in accordance with the applicable regulations, directions and orders of the Commission.
- 21.2 The Licensee shall abide by the rules made by the State Government in terms of lying down or placing electric supply lines. The rules framed by the State Government will prescribe the cases and circumstances in which consent in writing is required from the Appropriate Government, local authority, owner or occupier, as the case may be, for carrying out the works, the nature and period of notice to be given by the Licensee before carrying out works, procedures and manner of consideration of objections and suggestions, determination and payment of compensation and all such activities in accordance ~~to~~ *with* Section 67 of the Act.
- 21.3 Where, after Distribution mains have been laid down under the provisions of Condition 20.1 and the supply of energy through those mains or any of them has commenced, a requisition is made by the State Government or by a local authority requiring the Licensee to supply for a period of not less than two years, energy for any public lamps within the Area of Supply, the Licensee shall supply, and save in so far as it is prevented from doing so by Force Majeure and operational/constraints, continue to supply energy for such lamps in such quantities as the State Government or the local authority, as the case may be, may require. The State Government or the relevant local authority, as the case may be, may require the Licensee:
- (a) to provide the mains and other equipment for public lamps; and
 - (b) to use for that purpose supports, if any, previously erected or set up by it for supply of energy.
- 21.4 The Licensee may levy any reasonable charge/s for carrying out works/release of supply, in accordance with any procedures that may be stipulated by the Licensee and approved by the Commission as well as the provisions of the Act and the Regulations of the Commission.

22 **OBLIGATION TO SUPPLY AND POWER SUPPLY PLANNING STANDARDS**

22.1 The Licensee shall take all reasonable steps to ensure that all Consumers connected to the Licensee's Distribution System receive a safe, economical and reliable Supply of electricity as provided in the Distribution Code, and other guidelines issued by the Commission in accordance with the provisions of the Act, the State Act, Rules and Regulations issued there under.

22.2 The Licensees shall be entitled to utilise the soil, subsoil and areas pertaining to public rights of way, streets, public squares and other assets in the public domain, as well as to cross rivers, bridges, railways, electrical and communication lines, subject to the provisions of Section 67 of the Act.

22.3 The Licensee shall:

- (a) determine annually for each of the next succeeding five years peak load and energy forecasts of its area of supply for each category of loads by 31st December as required under Orissa Grid Code and Distribution (Planning and Operation) Code;
- (b) prepare and submit such forecasts by projecting for ten consecutive years to the State Transmission Utility in accordance with the guidelines issued by the Commission from time to time; and
- (c) co-operate with the Transmission licensees, the State Transmission Utility and the State Load Despatch Centre and other Licensees in the preparation of power demand forecasts for the state of Orissa .

22.4 Subject to the foregoing Conditions, the Distribution Licensee shall purchase electricity from the Generating Companies, Electricity Traders, GRIDCO (as a bulk supplier) and others as consented to by the Commission in quantities, which the Licensee considers sufficient to meet the expected demand of the Licensee's Consumers.

22.5 The Licensee shall, within three months after these Licence conditions have come into force or such other time as the Commission may allow, prepare and submit to the Commission for approval, a disaster management plan, to address emergencies that may arise in connection with the operation of the Licence. For purposes of this Condition, an emergency shall mean any condition and/or situation that materially and adversely.

- (a) affects the ability of the Licensee to maintain safe, adequate and continuous operation of all or any part of the Licensed Business; or
- (b) endangers the Security of any person, plant, or other life, equipment or property.

23. **POWERS TO RECOVER EXPENDITURE, RECOVER SECURITY**

The Licensee shall be entitled to recover tariff, charges, fee, etc. and require Security deposit to be made for supply of electricity or for provision of services, in accordance with the provision of the Act and the Rules and Regulations for the purpose framed under the Act.

24. **USE OF METERS**

24.1 The Licensee shall comply with the requirements of the Act and the Regulations (made by CEA and the Commission), Directions and Orders of the Commission in regard to supply of electricity through meter.

- 24.2 The Licensee may require the consumer to give Security for the price of a meter and enter into an agreement for hire thereof, unless the consumer elects to purchase a meter.

25. **CONNECTION AND USE OF SYSTEM**

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

26. **POWER PROCUREMENT**

- 26.1 The Licensee shall satisfy the Commission as to the need for additional power procurement on a long-term basis and in the case of short term power purchase the circumstances where such short term power purchase will become necessary

- 26.2 The Licensee shall not enter into a binding or enforceable contractual commitment till the Commission by a general or special order approves the procurement of electricity by the Licensee.

- 26.3 The Licensee shall satisfy the Commission that the electricity procured under long term power purchase otherwise than through a competitive bidding process or any short term power purchase is of least cost or economical in the prevalent circumstances and that the Licensee has made prudent and best efforts to minimize the cost of such purchase.

- 26.4 The Commission may not permit any such short term or long term purchase if the manner or method proposed for such procurement of electricity is not conducive to the objective of least cost purchase or for any other reasons the purchase is not economical or efficient.

- 26.5 The short-term power purchase by the Licensee may be undertaken in such a manner as the Commission may from time to time direct by a general or special order.

- 26.6 The Licensee shall forecast the demand for electricity for his business and formulate proposals in coordination with the generating companies, Licensee companies, other licensees, authorities and other concerned persons. The Licensee shall file with the Commission power procurement plan to meet the demand in such a manner as the Commission may direct.

27. **EXPECTED REVENUE CALCULATION AND TARIFFS**

- 27.1 The Licensee shall calculate the expected revenue from charges which it is permitted to recover, in accordance with the provisions of the Act, the State Act, the Regulations of the Commission, the tariff terms and conditions and other guidelines, orders and directions issued by the Commission from time to time.

- 27.2 The Licensee shall file the Expected Revenue Calculation and the application containing tariff proposals in the manner provided in the Conduct of Business Regulations and consistent with the Regulations under Section 61 of the Act.

- 27.3 Unless otherwise provided in the Specific Conditions or in any order or direction made by the Commission the Licensee shall every year, not later than 30th November, submit to the Commission (i) a Statement with full details of its expected aggregate revenues and cost of service for the ensuing financial year (including financing costs and its proposed return on equity) for its Licensed Business, in accordance with the provisions of the Act and the regulations, guidelines and orders issued by the Commission from time to time and (ii) the annual investment plan giving specific details of the investment which the

Licensee proposes to make in the ensuing financial year and which the Licensee desires to be covered under the revenue requirements in the ensuing financial year with appropriate references to schemes, if any, already approved by the Commission of which such investments form a part. The Licensee shall prepare and submit to the Commission the Statement and the investment details referred to in the above separately for each of its Licensed Businesses and Other Businesses.

- 27.4 The Licensee shall, along with the Expected Revenue Calculation or at such other time and periodicity the Commission may specifically permit file the application containing tariff proposals and the revision to the existing tariffs approved by the Commission to match the revenue requirements of the Licensee.
- 27.5 The amount that the Licensee is permitted to recover from its tariffs shall be the amount that the Commission determines and approves in accordance with the provisions of the Act, State Act and the Regulations of the Commission.
- 27.6 The Licensee may apply to the Commission to amend its tariffs in accordance with the Act and applicable Regulations and directions of the Commission.

28. PROVISION OF SUBSIDIES TO CERTAIN CONSUMERS

- 28.1 If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the Commission, the State Government shall, notwithstanding any direction which may be given under Section 108 of the Act, pay, in advance and in such manner as may be directed by the Commission, the amount to compensate the person affected by the grant of subsidy in the manner the Commission may direct.
- 28.2 Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions of the Act and Regulations of the Commission, and the licensee shall charge to the consumers the tariff fixed by the Commission from the date of issue of Order(s) by the Commission in this regard.

29. POWER TO ENTER PREMISES AND TO REMOVE FITTINGS OR OTHER APPARATUS OF LICENSEE

- 29.1 In accordance with Section 163 of the Act, the licensee or any person duly authorised may, at reasonable time, and on informing the occupier of his intent, enter any premises to which supply has been made or over which electric lines and works have been lawfully placed for the purpose of
- (a) Inspecting, testing, repairing or altering electric supply lines, meters, fittings belonging to the licensee; or
 - (b) Ascertaining the amount of electricity supplied; or
 - (c) Removing such lines, fittings, works where electricity supply is not required.
- 29.2 The Licensee or its authorised person may on a special order of the Executive Magistrate give a notice not less than twenty four hours in writing to the occupier for entering any premises for purposes mentioned in Condition 29.1 above.
- 29.3 The licensee may, on refusal of entry by the occupier of the premises, cut off power supply as per Section 163 of the Act till such time the refusal continues but for no longer.

30. **DISCONNECTIONS**

- 30.1 The Licensee shall give 15 day's clear notice in writing prior to disconnection
- 30.2 The licensee shall not cut off supply if the person deposits under protest
- (a) The amount equal to the sum claimed from him or
 - (b) Electricity charges due from him calculated on the basis of average charge for electricity supplied to him during the preceding 6 months, whichever is less pending disposal of the dispute
- 30.3 The licensee shall have to show such sum as recoverable continuously for a period of two years for the electricity supplied and act as per Section 56(2) of the Act.
- 30.4 Pursuant to Sections 126, 127, 135-140 of the Act, the Licensee shall have the powers and authority to take appropriate actions for:
- (a) Metering at the point of supply of electricity;
 - (b) Revenue realisation;
 - (c) Implementing credit control procedure as approved by the Commission;
 - (d) Prosecution for theft;
 - (e) Prevention of meter tampering;
 - (f) Prevention of diversion of electricity, and
 - (g) Prevention of unauthorised use of electricity; and
 - (h) All such similar matters affecting Distribution or Supply.

PART-III: SPECIFIC CONDITIONS

31. **Payment of Fees**

- 31.1 With reference to General Condition 13 and during the period his licence remains in force, the Licensee shall, by 10th April of every year, be liable to pay to the Commission an annual licence fee of Rs.50 lakh for each ensuing financial year.
- 31.2 All licence fees (including interest if is due under General Condition 13.2) will have to be deposited in "The Orissa Electricity Regulatory Commission Fund" operated by the Commission.
- 31.3 (a) the Licensee shall be subject to the proceedings for the recovery of such fees specified in the Act; and
- (b) Commission may review the amount of licence fee in every three years.

32. **Investment and transfer of assets (in continuation to Conditions 11 and 12)**

- 32.1 For the purposes of Condition 11.10, the term "major investment" means any planned scheme-wise investment in or acquisition of distribution facilities like Rural Electrification, System Improvement, Major Renovation & Modernization works, the cost of which, when aggregated with all other investments or acquisitions (if any) forming part of the same overall transaction/scheme, equals or exceeds Rs.5 crore.

32.2 For the purposes of the Condition 12, without prior written approval of the Commission, the licensee shall not dispose of or relinquish operational control of any asset whose book value at the time of proposed transfer exceed of Rs. 30 lakh.

33. Basis of Charges

33.1 The Licensee shall by the time specified in the OERC(Terms & Conditions for Determination of Tariff) Regulation, prepare and lodge with the Commission submissions setting out in full detail.

- (a) a statement of the Licensee's revenue requirement for the ensuing financial year, prepared in accordance with the aforesaid Regulation read with Sections 45 & 61 of the Act.
- (b) a statement of the Licensee's expected revenue for the ensuing financial year, at the prevailing tariff.

33.2 In accordance with Section 64 of the Act, an application in complete shape for determination of Annual Revenue Requirement (ARR) and calculation of tariff shall be made by the Licensee, setting out in full the following,

- (a) all filings for Annual Revenue Requirement as per annual schedule, by 30th November of every year, indicating the manner in which the gap, if any, between the charges which it is permitted to recover and the expected revenue calculated shall be filled up;
- (b) a new or amended tariff proposed by the Licensee indicating the date of implementation drawing attention to the proposed changes . Such date shall be not less than 120 days from the date of the submission of the Tariff proposal with all information, data, calculations etc. required under Regulation 8 of the OERC (Terms & Conditions for Determination of Tariff) Regulations,2004;
- (c) the aggregate revenue which the Licensee expects to be able to recover from the proposed new or amended tariff, such aggregate revenue figure shall relate to the first full financial year after the proposed specified date, where the specified date coincides with the beginning of the financial year and, in addition where the specified date does not coincide with the beginning of the financial year, the aggregate revenue figure to be calculated at the prevailing tariff up to the date of revision and thereafter at the revised tariff up to the end of the relevant financial year;
Provided that no tariff or part of tariff shall be amended more than once in any financial year except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as prescribed by Regulations.

33.3 Any submission to the Commission pursuant to Paragraph 33.2 shall include a schedule(s) of prices and charges for Distribution which:

- (a) shall be in accordance with the provisions of Sections 45, 46, 47, 61 & 62 of the Act; and
- (b) shall enable the Licensee to recover the total revenue referred to in the submission by the Licensee pursuant to Condition 33.1(a). The schedule(s) of prices and charges may, subject to the provisions of Condition 9, differentiate according to consumer's load factor, power factor, voltage, total consumption of electricity during any specific period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required and any other relevant factors.

- 33.4 The Commission may require comparative data for the first six months of the current and preceding full financial year, for the purposes of comparison, along with such other data, calculation etc. as the Commission considers necessary, and the Licensee shall furnish such data, calculations, comparisons as directed by the Commission.
- 33.5 Subject to the provisions of the Act and the Regulation Commission shall within one hundred and twenty days from receipt of an application for determination of tariff and after considering all suggestions and objections received from the public, notify the Licensee either
- (i) that it accepts the Licensee's calculation on (a), (b) and (c) of Condition 33.2; or
 - (ii) that it does not consider the Licensee's calculation to be in accordance with the prescribed methodology or procedure and will propose an alternative calculation which the Licensee shall accept. ; or
 - (iii) reject the application
- 33.6 Following approval by the Commission of any new or amended tariff, the Licensee shall publish details of the same in accordance with the requirements of the Act. The previously notified tariff shall remain in effect till the new or amended tariff takes effect.
- 33.7 The Licensee shall ensure that all amounts due to other Users in respect of the electricity generated or supplied or other goods or services provided by them shall be paid promptly in accordance with the agreement made.

34. Contravention of Licence Conditions

- 34.1 In case of any contravention of any Licence Conditions by the Licensee, the Licensee shall be liable for penal action under Sections 19, 24, 128, 129 & 142 of the Act and under other relevant provisions of the Act, State Act, Rules, Regulations, and Notifications.

35. Franchisee and Trading

- 35.1 The licensee shall intimate the Commission about its proposal to undertake its distribution activity through another person for a particular area of its area of supply under proviso 7 of Section 14 of the Act.
- 35.2 In the aforesaid intimation the licensee shall inform the Commission about the name, address, credit worthiness, capability, experience, expertise of the franchisee with detail scheme. The Commission may ask the licensee to furnish any other information about the proposed franchisee.
- 35.3 The licensee shall furnish an undertaking to the Commission that it will be responsible for any action or inaction of the franchisee in the business of distribution in franchisee area.
- 35.4 The licensee shall furnish the required information to the Commission periodically about the functioning of the franchisee.
- 35.5 Commission at any time, in the public interest, may direct the licensee to cancel/modify the scheme of franchisee of the licensee, if such scheme violates the provisions of the Act, or Rules, Regulations, Notifications, orders issued under the Act.
- 35.6 The licensee shall intimate the Commission about its detailed scheme for undertaking business of trading under proviso 9 of Section 14 of the Act.
- 35.7 The licensee shall furnish the required information to the Commission periodically about its trading activity.

35.8 Commission at any time, in the public interest, may direct the licensee to cancel/ modify the trading activity of the licensee, if such activity violates the provisions of the Act, or Rules, Regulations, Notifications, orders issued under the Act.

36. **RURAL ELECTRIFICATION**

The Licensee shall carry out Rural Electrification in accordance with the provisions of the Act.

37. **MISCELLANEOUS**

37.1 All issues arising in relation to interpretation of these licence 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.

LICENCE CONDITIONS
OF
Central Electricity Supply Utility of Orissa
(CESU)

**Corporate office: 2nd Floor, IDCO Tower, Janpath,
Bhubaneswar-751022, Dist. Khurda, Orissa**

**(A Deemed Distribution Licensee under Section. 14 of
the Electricity Act, 2003)**

INTRODUCTION

The Orissa Electricity Regulatory Commission (the Commission) vide its order dated 31.03.1999 passed in case No.2/99, under the provisions of the Orissa Electricity Reform Act, 1995, had issued Licence to Central Electricity Supply Company of Orissa Ltd. (CESCO) Registered office: 2nd Floor, IDCO Tower, Janpath, Bhubaneswar-751022, Dist. Khurda, Orissa, to carry out the business of Distribution & Retail Supply in the area of supply as mentioned in the said licence. Under the said License, CESCO had been carrying out the Distribution and Retail Supply as its licensed activity in its area of supply as stated in the said licence. The Commission revoked the licence of CESCO with effect from 01.04.2005 and on 18.04.2005 the Commission appointed Chief Executive Officer and Administrator (CEO&A) to discharge the licenced activity of Central Zone Electricity Distribution and Supply Utility (CZEDSU). Later, vide order dt.08.09.2006, the Commission in exercise of power u/s 22 of the Electricity Act, 2003 has formulated a Scheme named "**Central Electricity Supply Utility of Orissa (Operation and Management) Scheme, 2006** for operation and management of the Utility. The said Scheme shall remain in force for a period of 2 years which may be extended by the Commission in public interest. Under the provisions of the said Scheme, all assets, liabilities, rights, proceedings and manpower as well as the licence for distribution and supply of electricity held by CESCO has been devolved and vested on Central Electricity Supply Utility of Orissa (CESU) and it has been authorized to carry out the business of distribution of electricity in accordance with licence conditions in respect of area assigned to CESCO under revoked licence and has to abide by the directions of the Commission issued from time to time. Under the said Scheme, for the general/overall management of CESU, the Commission has also constituted a Management Board consisting one Chairman and eight Members out of which two Members have been designated as Chief Executive Officer (Operation) and Chief Executive Officer (Finance and Commerce). Under the aforesaid Scheme, the CESU has to comply with the provisions of the Electricity Act, 2003 and other relevant statutory provisions and licence conditions with regard to distribution of electricity in its area of supply.

The Electricity Act, 2003 (Act) has come into force since 10th June, 2003. Under Section 14 of the Act, any person engaged in the business of supply of electricity under the provisions of repealed laws or any Act specified in the Schedule on or before the appointed date shall be deemed to be a licensee under the Act. By virtue of the above said provisions and the Scheme formulated by the Commission, the CESU is a Deemed Distribution Licensee carrying out its licensed activity in its area of supply.

Under Section 16 of the Act, the Commission has legal obligations to lay down the license conditions of a Deemed Distribution Licensee. The Commission in its Conduct of Business Regulations, 2004 (Appendix 4-A) has specified the General Conditions for all Distribution Licensees operating in the State of Orissa. In exercise of powers conferred under Clause 27(2) of Appendix 4A (General Conditions for Distribution Licensee) of the OERC (Conduct of Business) Regulations, 2004, the Commission has modified some of the Clauses of the aforesaid General Conditions. Such General Conditions with modifications have been laid down in Part II of these licence conditions.

Furthermore, the Commission lays down at Part III the Specific Licence Conditions for CESU .

PART I: PRELIMINARY

1. Short Title

- 1.1 These Licence Conditions may be called "The Licence Conditions of Central Electricity Supply Utility of Orissa (CESU) (A Deemed Licensee under Section-14 of the Electricity Act, 2003)", which are applicable to CESU with effect from 1st November 2006.

2. Area of Operation of Licensed Activity (Area of Supply)

The Area of operation of Licensed Activity of the Licensee shall comprise the Electricity Distribution Circles of Bhubaneswar-I, Bhubaneswar-II, Cuttack, Dhenkanal and Paradeep existing as on date, excluding any cantonment, aerodrome, fortress, arsenal, dockyard or camp or any building or place in occupation of the Central Government for defence purposes.

3. Definitions

- 3.1 Unless the context otherwise requires the words, terms and expressions used in these licence conditions shall have the same meaning as assigned by the Electricity Act, 2003.

- 3.2 Words, terms and expressions used in these licence conditions which are not defined in this Conditions or in the Electricity Act, 2003 have the meaning as usually are understood in electrical industry.

- 3.3 In these licence conditions, unless the context otherwise requires:

- (a) **"Accounting Statement"** means for each financial year, accounting statements for the Licensed Business comprising a profit and loss account, a balance sheet and a statement of sources and application of funds, together with notes thereto as detailed under the Companies Act, 1956 (1 of 1956) and such other particulars and details in the manner as the Commission may direct from time to time. If the Distribution Licensee engages in any business or activity in addition to the Business, the accounting statements shall comply with the regulations of the Commission dealing with the treatment of Other Business of Distribution Licensee and 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 vice versa 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.
- (b) **"Act"** means the Electricity Act, 2003 (36 of 2003)
- (c) **"Affiliate"** means, in relation to the Licensee, any Holding Company or Subsidiary of the Licensee or any Subsidiary of a Holding Company of the Licensee;
- (d) **"Annual Accounts"** means the accounts of the Distribution Licensee prepared in accordance with the Companies Act, 1956 and/or in such other manner as may be directed by the Commission in terms of the provisions of the Act;
- (e) **"Area of Distribution" or "Area of Supply"** means the area of Distribution stated in Condition No.2 of these Licence conditions within which the Distribution Licensee is authorised to establish, operate and maintain the Distribution System and supply electricity;

- (f) **“Auditors”** means the Distribution Licensee’s auditors holding office in accordance with the requirements of Sections 224 to 234A or Section 619 as appropriate, of the Companies Act 1956 (1 of 1956);
- (g) **“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 Section Second, third and fifth proviso to Section 14 of the Act or exemption granted under Section 13 of the Act and the regulations of the Commission;
- (h) **“Commission”** means the Orissa Electricity Regulatory Commission;
- (i) **“Deemed Licensee”** means a person authorised under the first, Second, third, and fifth provisos to Section 14 of the Act;
- (j) **“Distribution”** means the conveyance or wheeling of electricity by means of a Distribution System;
- (k) **“Distribution Business”** means Authorised business of a Distribution Licensee to operate and maintain a Distribution System for supplying of electricity to the consumers in an Area of Supply;
- (l) **“Distribution Code”** means the Distribution (Planning and Operation) Code governing all material technical aspects relating to connections to and the operation and use of the Distribution System as approved by the Commission;
- (m) **“Distribution Licensee”** means the person authorised by the Distribution Licence and shall include the deemed licensee who is so authorised under Section 14 of the Act.
- (n) **“Distribution System Operating Standards”** means the standards related to the Distribution Licensee’s operation of the Distribution System as approved by the Commission pursuant to Condition 16 of these General Conditions
- (o) **“Distribution System Planning and Security Standards”** means the standards related to the adequacy of the Distribution Licensee’s system planning and Security of the Distribution System, as approved by the Commission pursuant to Condition 16 of these General Conditions.
- (p) **“Existing Distribution System Planning and Security Standards”** means the standards for system planning and Security of the Distribution System existing in the area of distribution as on the date of the grant of Licence;
- (q) **“Existing Distribution System Operating Standards”** means the standards for operating the Distribution System existing in the area of distribution as on the date of the grant of Licence;
- (r) **“Force Majeure”** means events beyond the reasonable control of the Licensee, including, but not limited to earthquakes, cyclones, floods, storms, adverse weather conditions, war, terrorist attacks, civil commotion or other similar occurrences that leads to any act that would involve a breach of relevant laws or regulations concerned with electrical safety;
- (s) **“Generating Set”** means any plant or apparatus for the production of electricity and shall, where appropriate, include a generating station comprising of one or more than one generating unit;

- (t) **“Generator Interconnection Facilities”** means electrical lines, transformers, busbars, switch-gear, plant or apparatus utilised to enable access to a Transmission System or Distribution System by the Generating Set(s);
- (u) **“Holding Company”** shall have the same meaning as in Section 4 of the Companies Act 1956 (1 of 1956);
- (v) **“Licence”** means Distribution Licence hold by the Licensee under Section 14 of the Act;
- (w) **“ Licensee”** refers to Central Electricity Supply Utility of Orissa (CESU)
- (x) **“Licensed Business”** means the business of Distribution and Supply of electricity as authorised under the Distribution Licence;
- (y) **“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 directed by the Commission and shall also include any other incident which the Commission expressly declares to be a major incident;
- (z) **“Non Core Activity”** means any activity of the Licensee or an Affiliate of the Licensee other than that carried out as a part of the Distribution Business.
- (aa) **“Operational Control”** means possessing the authority to make operational decisions such as commissioning and utilisation of units, service lines and equipment;
- (bb) **“Orissa Grid Code (OGC)”** means the Orissa Grid Code specified by the Commission, covering all material technical aspects relating to connections to and the operation and use of a Transmission System, or (in so far as relevant to the operation and use of a Transmission System) the operation of electric lines and electrical plant connected to the Transmission System, the Distribution Systems, or the system of any Supplier, and shall include the Interim Grid Code;
- (cc) **“Other Business”** means business of the Distribution Licensee other than the Licensed Business on its non core activity;
- (dd) **“Performance Standards”** means the standards as may be determined by the Commission pursuant to Section 57 of the Act;
- (ee) **“Person”** shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;
- (ff) **“Regulations”** means the regulations made by the Commission, under the provisions of the Act or the State Act;
- (gg) **“Specific Conditions”** means the conditions stipulated in these licence conditions
- (hh) **“State”** means the State of Orissa.
- (ii) **“Standards of Performance”** refer to such standards of performance as may be specified by the Commission;

- (jj) **“State Act”** means the Orissa Electricity Reform Act, 1995 to the extent the provisions of the said Act is not inconsistent with the Act;
 - (kk) **“State Government”** means the Government of the State of Orissa;
 - (ll) **“Subsidiary”** shall have the same meaning as in Section 4 of the Companies Act 1956 (1 of 1956);
 - (mm) **“Trading Business”** means the Authorised business of an Electricity Trader in the Area of Operation allowed under the Trading Licence granted;
 - (nn) **“Trading Licence”** means the Licence granted under Section 14 of the Act to undertake Trading in Electricity;
 - (oo) **“Trading Licensee”** means an Electricity Trader and shall include deemed licensee who is so authorised under Section 14 of the Act;
 - (pp) **“Transmission Business”** means the Authorised business of transmission of electricity;
 - (qq) **“Transmission System”** means the system consisting mainly of extra high voltage electric lines, owned or controlled by the Transmission Licensee, and used for the purposes of the conveyance of electricity from one power station to a sub-station or to another power station or between sub-stations, or to or from any external interconnection including 33/11 kv bays/equipment up to the interconnection with the Distribution System, and any plant, apparatus and meters owned or used in connection with the transmission, and such buildings or plants thereof as may be required to accommodate such plant apparatus, other works and operating staff thereof;
 - (rr) **“Transmission Licensee”** means any person who is Authorised to carry out Transmission;
 - (ss) **“Transfer”** shall include the sale, exchange, gift, lease, licence, loan, Securitisation, mortgage, charge, pledge or grant of any other encumbrance or otherwise permitting of any encumbrance to subsist or parting with physical possession or any other disposition or dealing;
 - (tt) **“Use of System”** means use of the Distribution System for the transportation or wheeling of electricity,
 - (uu) **“Users”** means anyone who uses the Distribution System.
- 3.4 References in these licence conditions to Paragraphs, Conditions, Parts and Schedules shall, unless the context otherwise requires, be construed as references to conditions, paragraphs and parts of, and schedules to, these licence conditions.
4. **Terms of Licence**
- 4.1 Unless the licence of the licensee revoked earlier, the licensee will carry its licenced activity for a period of 30 years from 1st April, 1999.
- 4.2 These Licence Conditions are subject to modification or amendment in accordance with the provisions of relevant Regulations and in accordance with the provisions of the Act.
- 4.3 The Licensee shall not have the right of exclusivity in his area of supply by virtue of these Licence Conditions (General or Specific). Under 6th proviso of Section 14 of the Act, the Commission may grant Licence to any person(s) for distribution of electricity in the licensee’s area of supply.

PART-II: GENERAL CONDITIONS

5. The General Conditions for Distribution Licensees as specified by the Commission in Appendix 4A of the OERC (Conduct of Business) Regulations, 2004 after necessary modifications (In exercise of powers conferred under Clause 18(2)) shall be General Conditions as given below.

6. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

- 6.1 The Licensee shall duly comply with the provisions of the Act, Rules, Regulations including Policies, Notifications, Circulars and Orders made there under and the provisions of all applicable laws and orders, directions issued by the Commission from time to time;.
- 6.2 The Licensee shall act in accordance with these General Conditions except where the Licensee is exempted from any provisions of these General Conditions at the time of the grant of licence or otherwise specifically by an approval of the Commission to any deviation there from.
- 6.3 The Licensee shall duly comply with the order and directions of the National Load Despatch Centre, Regional Load Despatch Centre and the State Load Despatch Centre and other statutory authorities issued in the discharge of their functions under the Act or the State Act.

7 FUNCTIONS OF THE LICENSEE

- 7.1 The Licensee shall develop and maintain an efficient, co-ordinated and economical distribution system in the Area of Distribution and effect supply of electricity to consumers in such area of supply in accordance with the provisions of the Act, the State Act, Rules, Regulations, Orders and Directions of the Commission.
- 7.2 The Distribution Licensee shall be entitled to:
- (a) Purchase, import or otherwise acquire electricity from generating companies, electricity trader(s) and from other persons with whom the Licensee has agreements or arrangements of power purchase or procurement of energy in accordance with the terms and conditions of such agreement and arrangement consented to or approved by the Commission;
 - (b) Purchase or acquire electricity from any Person whose generating unit existing as on date of issue of these Licence conditions, is directly connected to and interfaced with the Distribution System of the Licensee, provided that the Licensee shall intimate the Commission of the existing arrangements for such purchase or acquisition of electrical energy and obtain the general or specific approval of the Commission;
 - (c) Purchase or otherwise acquire electricity from any person or licensee on the tariffs and terms and conditions as approved by the Commission;
 - (d) Appoint Franchisees to distribute and/or supply of electricity for a specified area within the area of distribution of the Licensee without a separate licence to be taken by such franchisee provided that the Licensee shall be responsible for distribution of electricity in his area of supply;
 - (e) Undertake Trading in electricity without the need for a separate Trading Licence;

- (f) Provide access to the Distribution System to any person for wheeling of electricity in accordance with regulations made by the Commission for the purpose;
 - (g) Sell electricity or energy capacity contracted for such period and to the extent of electricity or capacity is not required by the Licensee for the discharge of his obligations to supply electricity in the area of supply.
- 7.3 The Licensee shall sell, supply or otherwise dispose of electricity to any person, only in accordance with his Licence, on the tariffs and terms and conditions as approved by the Commission;
- 7.4 The Licensee shall purchase the energy required by the Licensee for meeting obligation under his Licence in an economical manner and under a transparent power purchase or procurement process and in accordance with the regulations, guidelines, directions made by the Commission from time to time.
- 7.5 The Licensee shall engage in any Other Business only consistent with the Regulation of the Commission issued under Section 51 of the Act
- 7.6 The Licensee shall seek approval of the Commission before making any loans to, or issuing any guarantee for any obligation of any Person, except when made or issued for the purposes of the Licensed Business. The loans to employees pursuant to their terms of service and trade advances in the ordinary course of business are excluded from the requirement to seek such approval.
- 7.7 The Licensee may engage any of the Subsidiaries or Holding Company or a Subsidiary of such Holding Company of the Licensee to provide any goods or services to the Licensee in connection with the Licensed Business, subject to the following conditions:
- (a) that the transaction will be on an arms-length basis and at a value that is fair and reasonable in the circumstances;
 - (b) that the transaction will be consistent with any Regulation framed by the Commission relating to the provision of goods and services with respect to Licensed Business; and
 - (c) that the Licensee will give 15 days' notice with details of such arrangement, to the Commission prior to commencement of such arrangement.
- 7.8 The Licensee may establish Subsidiaries or associated companies or grant a Franchisee or enter into management contracts including appointment of billing agent to conduct or carry out any of the functions, which the Licensee is authorised to conduct or carry under his Licence Provided that the Licensee shall be responsible for all actions of the Subsidiaries or associated companies or Franchisees or agents or contractors.
- 7.9 Except as provided in Condition 7.8 above the Licensee shall not transfer or assign his Licence or any of the functions under his Licence to any other person without the prior approval of the Commission.
- 7.10 The Licensee shall provide open access to the Distribution System for use of the *other* Licensees, and Generating Companies including the Captive Generating Plant(s) and the Consumer subject to no operational constraints in the Distribution System and subject to payment by the user of all applicable tariffs and charges as determined or directed to be charged by any general or special order of the Commission.
- 7.11 The Licensee shall not, without the prior approval of the Commission in accordance with the provision of Section 17 of the Act:

- (a) undertake any transaction to acquire by purchase or take over or otherwise, the utility of any other Licensee;
- (b) merge his utility with the utility of any other licensee;
- (c) acquire any beneficial interest in any Generating Company or Generating Station; or
- (d) transmit, distribute or supply electricity to any Person in the State, not under the Licensee;

7.12 The Licensee shall provide to the other Licensees the intervening Distribution facilities to the extent of surplus capacity available, in his Distribution System 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. In the event of any disagreement the same shall be decided by the Commission.

8. ACCOUNTS

8.1 Unless otherwise permitted by the Commission the financial year of the Licensee for the purposes of these General Conditions and matters relating to the Licensed Business shall run from the first of April to the following thirty-first of March.

8.2 The Licensee shall maintain separate accounts for each such business undertaking to ensure that distribution business neither subsidises in any way such business undertaking nor encumbers its distribution assets in any way to support such business.

8.3 The Licensee shall, in respect of the Licensed Business and any Other Business:

- (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 Licensee, from those 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 the Accounting Statements; namely
 - (i) in respect of the first six months of each financial year, a Half Yearly profit and loss account, cash flow statement and balance sheet together with such supporting documents and information as the Commission may direct from time to time;
 - (ii) in respect of the Accounting Statements prepared, an Auditor's report for 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 and provisions of, or reasonably attributable to such businesses to which the statements relate; and
 - (iii) a copy of each Half Yearly profit and loss account not later than three months after the end of the period to which it relates, and copies of the Accounting Statements and Auditor's report not later than six months after the end of the financial year to which they relate.

8.4 The Licensee shall not normally 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, the Accounting Standards or Rules and any guidelines issued by the Commission in this regard.

- 8.5 Where, in relation to the Accounting Statements in respect of a financial year, the Licensee has changed the basis of charge or apportionment or allocation from those adopted for the immediately preceding financial year, the Licensee shall, if directed by the Commission, prepare and deliver to the Commission such Accounting Statements on the basis which it applied in respect of the immediately preceding financial year.
- 8.6 The Accounting Statements under Condition 8.2. above shall, unless otherwise directed by the Commission:
- (a) be prepared and published with the Annual Accounts of the Licensee, in the manner provided herein;
 - (b) be stated the accounting policies adopted;
 - (c) be prepared in accordance with the generally accepted accounting policies; and
 - (d) be prepared in the form as the Commission may stipulate from time to time;
- 8.7 The References to costs or liabilities of, or reasonably attributable to Licensed Business or Other Business shall be construed as excluding taxation, and capital liabilities which do not relate principally to such Business and interest thereon.
- 8.8 The Licensee shall ensure that the Accounting Statements in respect of each financial year prepared under Condition 8.2 and the Auditor's report in respect of each financial year are publicised in such manner as the Commission may direct and are made available to any Person requesting them at a price not exceeding the reasonable cost of duplicating them.

9. **PROHIBITION OF UNDUE PREFERENCE**

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

10 **PROVISION OF INFORMATION TO THE COMMISSION**

- 10.1 The Licensee shall furnish to the Commission without delay such information, documents and details related to the Licensed Business or any Other Business of the Licensee, as the Commission may require from time to time for its own purposes or for the purposes of the Government of India, State Government, the Central Commission, the Central Electricity Authority, the State Transmission Utility and State Load Dispatch Centre.
- 10.2 The Licensee shall duly maintain the information as the Commission may direct under Section 128 of the Act.
- 10.3 The Licensee shall notify the Commission as soon as possible the occurrence of any Major Incident affecting any part of its Distribution System and in any event, by not later 48 hours of such occurrence:
- (b) submit a report to the Commission within two months giving full details of the facts within the knowledge of the Licensee regarding the incident and its cause;
 - (b) in the event the report under sub-Condition (a) is likely to take more than two months from the date of such incident, the Licensee shall within one month from such date of the incident submit a preliminary report with such details which the Licensee can reasonably furnish and state reasons as to why the Licensee requires more than two months for giving full report of such incident; and

- (c) give copies of the report to all parties concerned with the Major Incident and to such other Persons as the Commission may direct.
- 10.4 The decision of the Commission as to what is a Major Incident shall be final. The Commission may by order, after providing an opportunity of hearing direct the Licensee to provide such amount of compensation as the Commission may direct to persons, who suffer substantial injury or to the heirs of those who lose their lives as a result of such major incident where the Major Incident has been caused by any act of commission, omission or negligence on the part of any of the employees or agents of the Licensee.
- 10.5 The Commission at its discretion may require the submission of a report on the major incident to be prepared by an independent person at the expense of the Licensee.
- 10.6 The 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 to avoid the occurrence of any such major incident.
- 10.7 The Licensee shall duly inform the Commission about any incident restricting it from meeting obligations under these licence conditions including any act of omission or commission by others and steps taken by the Licensee to mitigate the effect of such incident.
- 10.8 The Commission may at any time require the Licensee to comply with the provisions of Conditions 10.3 to 10.7 as to incidents which the Commission may specifically direct and the Licensee shall be obliged to comply with the same notwithstanding that such incidents are not Major Incidents; provided that the time limits specified shall commence from the date that the Commission notifies Licensee of such requirement.
- 10.9 The Licensee shall submit a Business Plan within three months of Licence conditions coming into force for such period as the Commission may direct and shall update such plan annually. The Business Plan shall contain year wise load growth, year wise Distribution loss reduction proposal along with specific action plan, metering plan for metering interface points, investment plan as detailed in Condition 11 herein, treatment of previous losses, debt restructuring plan, cost reduction plan, projected profit and loss account, projected balance sheets, projected cash flow statements and projected important financial parameters.
- 10.10 The Commission may require the Licensee to intimate by the end of first quarter of each financial year 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 and shall post it in its web-site.

11. **INVESTMENTS**

- 11.1 Unless otherwise directed by the Commission, every licensee shall obtain prior approval of the Commission for making investment in the licensed business if such investment is above the limits laid down in Condition 32.
- 11.2 The Licensee shall duly comply with the Regulations, guidelines, directions and orders the Commission may issue from time to time in regard to the investments to be made in the Distribution Business.

- 11.3 The Licensee shall submit to the Commission Investment Plans as a part of the business plan under Condition 10.9 above giving details of investment schemes to be undertaken during the concerned period for the approval of the Commission. The Licensee shall demonstrate to the satisfaction of the Commission that:
- (a) there is a need for such Investments in the Distribution System;
 - (b) the Licensee has made techno-economic analysis and environmental aspects of all viable alternatives to the proposal for investing in or acquiring new Distribution System assets to meet such need.
- 11.4 In the application for investment approval, the licensee shall furnish the following information or particulars:
- (a) A detailed project report containing techno-economic analysis and environmental aspects of the investment together with the outline of the works to be undertaken, the salient features and particulars demonstrating the need for investment;
 - (b) The project cost together with the cost benefit analysis;
 - (c) Whether the investment is in a new project or for expansion or up-gradation of an existing system;
 - (d) Sanctions and statutory clearances required for execution of the project and status of such sanctions and statutory clearances;
 - (e) Phasing of investment over the financial years and commissioning schedule;
 - (f) The manner in which investments will be capitalised for the purposes of inclusion in the revenue requirements of the Licensee;
 - (g) Constraints which the Licensee may face in making the investments or in implementing the project including constraints on information available;
 - (h) Resource mobilisation and financial plans for meeting the investment;
 - (i) Process for inviting and finalizing tenders for procurement of equipment, material and /or services relating to investment, in accordance with a transparent tendering procedure as may be approved by the Commission; and
 - (j) Such other particulars as the Commission may from time to time direct.
- 11.5 The licensee shall cooperate with the Commission's staff, consultants and experts to enable them to discharge their functions and to submit a report to the Commission on the outcome of their findings.
- 11.6 The Licensee shall intimate, by the end of the first quarter of each financial year
- (a) the annual investment plan with details of investment schemes to be carried out during the financial year; and
 - (b) the progress made in implementing the annual investment plan of the previous financial year with the comparison of actual implementation vis-à-vis the plan as approved by the Commission for the concerned period.
- 11.7 The Licensee shall make the investments in a prudent manner being guided by the duty to build, maintain and operate an efficient, co-ordinated and economical Distribution System in its Area of Business.
- 11.8 The Licensee shall not undertake schemes involving Major Investments, not covered under the Investment Plan approved by the Commission under Condition 11.3 above without the prior approval of the Commission, and for such approval the Licensee shall demonstrate to the satisfaction of the Commission the factors mentioned in Condition 11.3 above.
- 11.9 The Licensee shall invite and finalise tenders for procurement of equipment, material and/or services relating to major investment, in accordance with a transparent tendering procedure as may be directed by the Commission.

- 11.10 For the purposes of this Condition 11, the term "Major Investment" means any planned investment in or acquisition of Distribution facilities, the cost of which, when aggregated with all other investments or acquisitions (if any) forming part of the same overall transaction, equals or exceeds an amount contained in the Specific Conditions applicable

to the Licensee or otherwise decided by the Commission from time to time by a general or specific order (Refer Condition no. 32.1).

- 11.11 The Licensee shall be entitled to make Investment in the Distribution Business other than those covered under Conditions 11.3 and 11.8 above but for the purposes of considering such Investment while determining the tariff, the Licensee shall satisfy the Commission that the Investment was required for the Distribution Business and such investment was made in an efficient, co-ordinated and economical manner.

- 11.12 The Licensee shall submit to the Commission along with the "Expected Revenue Calculations" filed under Section 62 of the Act, the highlights of the annual investment plan consisting of the schemes approved by the Commission, schemes submitted before the Commission for approval and all schemes not requiring prior approval of the Commission planned for the ensuing financial year and shall make investment in the said financial year in accordance with the said investment plan. The Commission shall take into consideration while determining the tariffs of the Licensees as per the Tariff Regulations to be framed by the Commission under Section 61 of the Act, the approval granted by the Commission to the Licensees for the investments under this Condition and the actions and inactions on the part of the Licensees in complying with the terms contained in this Condition.

Provided that if any unforeseen contingencies required reallocation of funds within the schemes listed in the annual investment plan, the Licensee may do so to the extent such reallocation up to a limit of 10 % of the overall investment plan and 25 % of the approved amount in respect of each item/work of the investment plan. The Licensee shall give due intimation of such relocation to the Commission within 7 days of making the investment.

Provided also that if on account of such circumstances the Distribution Licensee is required to make investment in a scheme, which does not find a place in the annual investment plan, the Distribution Licensee may do so if the same is not a Major Investment and subject to the conditions contained in Condition 11.12 above.

12 TRANSFER OF ASSETS

- 12.1 Save as provided in this Condition 12, the 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 in the Specific Conditions applicable to the Licensee as outlined at Condition 32.2.

- 12.2 The Licensee shall give to the Commission prior notice of its intention to transfer or relinquish Operational Control over any asset whose value exceeds the amount decided by the Commission as per Condition 12.1 above and the Licensee shall disclose all relevant facts in the communication to the Commission. The Commission may, within 30 days of the receipt of the notice, seek further information in support of the transaction and shall, generally within 30 days of such further information being submitted by the Licensee, and where no such further information is sought by the Commission as above, within 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 to be recorded in the order issued by the Commission.

- 12.3 The Licensee may transfer or relinquish Operational Control over any asset as is detailed in any notice given under Condition 12.2 where:
- (a) the Commission confirms in writing that it consents to such transfer or relinquishment of Operational Control subject to such conditions as the Commission may impose; or
 - (b) the Commission does not inform the Distribution Licensee in writing of any objection to such transfer or relinquishment of Operational Control within the notice period referred to in Condition 12.2 and the transfer is effected by transparent and competitive bidding procedures.
- 12.4 The Licensee may also transfer or relinquish Operational Control over any asset where:
- (a) the Commission has issued directions for the purposes of this Condition 12 containing a general consent (whether or not subject to conditions) to:
 - (i) the transactions of a particular description, and/or
 - (ii) the Transfer or relinquishment of Operational Control over assets of a particular description, and/or
 - (iii) the Transfer or relinquishment of Operational Control in accordance with any conditions to which the consent is subject, or
 - (b) the Transfer or relinquishment of Operational Control in question is mandated under any other law; or
 - (c) the asset in question was acquired and used by the Distribution Licensee exclusively or primarily 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 required for the Licensed Business.
- 12.5 The Licensee shall be entitled to utilise the assets as a means of facilitating financing its investment requirement or including collateral for debt financing, Securitisation of receivables etc. for the Licensed Business subject to the conditions:
- (a) that the Licensee will inform the Commission about such arrangements at least 15 days prior to the effective date of the relevant agreements;
 - (b) the Licensee acts in a prudent and reasonable manner in such utilisation of assets; and
 - (c) the Licensee retains the Operational Control over assets in the Distribution System.

13 PAYMENT OF LICENCE FEES

- 13.1 Within such period as the Commission may direct, the Licensee shall pay to the Commission the annual Licence Fees, mentioned in the Specific Condition 31 in such manner as has been directed under the said Specific Condition.
- 13.2 Where the Licensee fails to pay to the Commission any of the fees due under Condition 13.1 by the due dates:
- (a) without prejudice to other obligations, the Licensee shall be liable to pay interest on the outstanding amount at a simple interest rate of 1.5 percent per month, the interest being payable for the period beginning on the day after which the amount

- became due, and ending on the day on which the payment is made to the Commission; and
- (b) in the event of continued default by the Licensee, the Commission may revoke the Licence.

13.3 The Licensee shall be entitled to take into account any fee paid by it under this Condition 13 excluding the interest for delayed payment as an expense and payment of penalty, fines and charges paid by the licensee in the determination of aggregate revenues to be charged to the tariffs.

14 **SUSPENSION / REVOCATION OF LICENCE**

14.1 **SUSPENSION**

- (1) During the continuance of the licence period, the Commission at any time by recording the reasons in writing, and for the grounds mentioned in sub-sections (1) (a),(b),(c), (d)of Section 24 of the Act, may suspend the licence of the licensee.
- (2) For the purpose of suspension of licence, the Commission will follow the procedure as laid down in Section 24 of the Act.

14.2 **REVOCATION**

- (1) During the continuance of the licence period, the Commission after making an enquiry, and for the public interest may revoke the licence of the licensee for the grounds mentioned in sub-sections (1) (a),(b),(c), (d) and Sub-section (2) of Section 19 of the Act.
- (2) The Commission may also revoke the licence of the licensee for the breach of the following licence conditions.
- (a) Where the licensee fails to pay the Commission any of the fees due under condition 13 of these licence conditions.
- (b) Where the licensee fails to implement its Business Plan submitted under condition 10.9 of these conditions.
- (c) Where the licensee fails to comply with the provisions of condition 11.2 of these licence conditions with regard to investment to be made in the Distribution Business

15 **AMENDMENT OF LICENSE CONDITION**

These Conditions of License may be altered or amended by the Commission under Section 18 of the Act at any time if it is in public interest on the request of the licensee or otherwise during the period of the licence. For any such alteration or amendment, the following provisions shall have effect:

- (a) where the Licensee has made an application under Sub-Section (1) of Section 18 of the Act proposing any alteration or amendment in the Conditions of License, the Licensee shall publish a notice of such application with such particulars and in such manner as may be directed by the Commission;
- (b) in the case of an application proposing alteration or modification in the Area of Activity comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the alteration or modification shall be made only with the consent of the Central Government.

- (c) where any alteration or amendment in a licence is proposed to be made otherwise than on the application of the Licensee, the Commission shall publish the proposed alteration or amendment with such particulars and in such manner as the Commission may consider to be appropriate;
- (d) The Commission may give reasonable opportunity of hearing to the licensee and other affected persons on such proposed amendments/modifications.
- (e) the Commission shall not make any alteration or amendment unless all suggestions or objections received within thirty days from the date of the first publication of the notice have been considered by the Commission.

16 **DISPUTE RESOLUTION**

- 16.1 The Commission shall be entitled to act as arbitrator or nominate person(s) as arbitrator(s) to adjudicate and settle disputes between the Licensee and any other licensee or between the 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 Regulations of the Commission.
- 16.2 The arbitration proceedings for disputes may be conducted by the Commission or as the case may be, in accordance with Chapter III of the Conduct of Business Regulations specified by the Commission.

17 **COMPLIANCE WITH THE ORISSA GRID CODE**

- 17.1 The Licensee shall comply with the provisions of the Orissa 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 Licensee.
- 17.2 The Commission may, after consultation with any affected Generating Companies, the Transmission Licensee, the State Transmission Utility, the State Load Despatch Centre and Electricity Traders, issue directions relieving the Licensee of obligation under Condition 17.1 in respect of such parts of the Orissa Grid Code and to such extent as may be ordered by the Commission.

18 **DISTRIBUTION (CONDITIONS OF SUPPLY) CODE & DISTRIBUTION (PLANNING & OPERATION) CODE**

- 18.1 The Licensee shall abide by the Distribution (Conditions of Supply) Code and Distribution (Planning and Operation) Code.
- 18.2
 - (a) The Distribution (Conditions of Supply) Code may amongst others provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply for non payment thereof, restoration of supply of electricity, tampering, distress or damage to electrical plant, electric lines or meter, entry of licensee to any person acting on his behalf for disconnecting supply and removing the meter, entry for replacing, altering or maintaining electric lines or electrical plant or meter.
 - (b) The Commission may, at the request of the Licensee, issue directions relieving the Licensee of its obligations under the Distribution (Conditions of Supply) Code in respect of such parts of the Licensee's Distribution System and to such extent as may be directed by the Commission.
- 18.3 In addition to the Distribution (Conditions of Supply) Code, the Commission may from time to time approve at the request of the Licensee other conditions applicable for supply of electricity by the Licensee in the area of Distribution.

- 18.4 The Distribution (Planning & Operation) Code may, amongst others, cover all material technical aspects relating to connections, 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 as relevant to the operation and use of the Distribution System and shall include, but not be limited to, the Distribution Planning and connection code containing:
- (a) planning code describing the plan for laying the Distribution lines and the service lines in the Area of Supply, the technical and design criteria and procedures to be applied by the Licensee in the planning and development of the Licensee's Distribution System; and
 - (b) connection conditions describing the technical, design and operational criteria to be complied with by any Person connected or seeking connection with the Licensee's Distribution System; and the Distribution operating code specifying the conditions under which the Licensee shall operate 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 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.
- 18.5 The Distribution (Planning and Operation) Code shall be designed so as to permit the development, maintenance and operation of an efficient, co-ordinated and economical Distribution System.
- 18.6 The Licensee shall from time to time, as appropriate, review the Distribution (Planning & Operation) Code and its implementation in consultation with the Transmission Licensee, Trading Licensee, Generating Companies and such other Persons as the Commission may order. The Licensee shall also undertake such review as and when directed to do by the Commission. Following any such review, the Licensee shall send to the Commission:
- (a) a report on the outcome of such review;
 - (b) any proposed revisions to the Distribution (Planning & Operation) Code as the Licensee (having regard to the outcome of such review) reasonably thinks fit for the achievement of the objectives of the Distribution (Planning & Operation) Code and these licence conditions; and
 - (c) all written representations or objections received during such review.
- 18.7 All revisions to the Distribution (Planning & Operation) Code shall require approval from the Commission.
- 18.8 The Licensee shall make available to any Person requesting for it, copies of the Distribution Code and Distribution (Conditions of Supply) Code and practices thereto in force at the relevant time, at a price not exceeding the reasonable cost of duplicating it.
- 14.2 A compliance of the existing codes and practices relating to construction of the Licensee's Distribution System and its Distribution facilities shall be filed with the Commission by the Licensee within 90 days of issue of these licence conditions. The Licensee shall follow the existing codes and practices with such modification as the Commission may direct from time to time. The construction practices shall be reviewed and upgraded by the Licensee from time to time, as appropriate, based on relevant technological improvements and changes.

19 **CONSUMER SERVICE**

The Licensee shall duly comply with the following:

19.1 **Code of Practice on Payment of Bills**

- (a) The Licensee shall, within reasonable time, as directed by the Commission, after these licence conditions have become effective, prepare and submit to the Commission, for its approval, a code of practice concerning the payment of electricity bills by Consumers including appropriate guide lines for the assistance of such Consumers who may have difficulty in paying such bills, and procedures for disconnection in the event of non payment by the consumer. In granting the approval, the Commission may make such modifications to the Code, as it may consider necessary.
- (b) The Commission may, upon receiving a representation or otherwise, require the Licensee to review, the code of practice and the manner in which it has been implemented with a view to determine whether any modification should be made to it or to the manner of its implementation. Licensee shall, in consultation with such other Persons as the Commission may direct review and submit any revision to the code of practice that it wishes to make, to the Commission for its approval, including any representation received by the Licensee and not accepted by it. The Commission may modify the code of practice concerning payment of bills as it considers necessary.
- (c) The Licensee shall:
 - (i) draw to the attention of Consumers, in such manner as the Commission may direct, the existence of the code of practice and each substantive revision of it and how they may inspect or obtain a copy of the code of practice in its latest form;
 - (ii) make a copy of the code of practice, revised from time to time, available for inspection by members of the public during normal working hours; and provide an updated copy of the code of practice revised from time to time to each new Consumer and to any other Person who requests for it at a price not exceeding the reasonable cost of duplicating it.
- (d) The Licensee shall comply with the existing practice and procedures with respect to the payment of electricity bills by Consumers with such modifications as the Commission may direct, until the code of practice on payment of bills by Consumers, as mentioned in this paragraph is adopted with the approval of the Commission.

19.2 **Complaint Handling Procedure:**

- (a) The Licensee shall establish a forum for redressal of grievances of the consumers in accordance with the guidelines issued by the Commission under Section 42 of the Act.
- (b) The Licensee shall within reasonable time, as directed by the Commission, after these Licence conditions have becomes effective and with approval of the Commission, notify a procedure for handling complaints from Consumers of the Licensee in addition to the forum for redressal of grievances. The Commission may on consultation with the State Advisory Committee or a Person or body of Persons, who the Commission considers as representing the interest of the Consumers likely to be affected make such modifications of the procedure, as it deems necessary before granting approval to the consumer complaints.

- (c) The Commission may, upon receiving a representation, or otherwise, require the Licensee to review the complaint handling procedure prepared and the manner in which it has been implemented, with a view to determine whether any modification should be made to it or to the manner of its implementation.
- (d) Any procedure so established, including any revisions to it, shall notify the periods within which it is intended that different kinds of complaint should be processed and resolved.

The Licensee shall submit to the Commission for its approval any revision proposed to be made to the procedure established.

- (e) The Licensee shall:
 - (i) draw to the attention of Consumers, in such manner as the Commission may direct, the existence of the complaint handling procedure and each substantive revision of it and how the Consumers may inspect or obtain copies of such procedure in its latest form.
 - (ii) make a copy of its complaint handling procedure, revised from time to time, available for inspection by members of the public at the relevant offices of the Licensee during normal working hours; and provide a copy of the complaint handling procedure revised from time to time to each new Consumer, and to any other Person who requests for it at a price not exceeding the reasonable cost of duplicating it.

19.3 **Consumer Rights Statement**

- (a) The Licensee shall, within a reasonable period of time as directed by the Commission after these Licence conditions have become effective or such other time as the Commission may allow, prepare and submit to the Commission for approval, a consumer rights statement, explaining to Consumers their rights. The Commission may, upon holding such consultation with the State Advisory Committee, and such other Persons or bodies of Persons who the Commission considers as representing the interests of Consumers likely to be affected by it, and may make such modification of the statement, as it considers necessary in public interest.
- (b) The Commission may, upon receiving a representation or otherwise, require the Licensee to review the consumer rights statement prepared and the manner in which it has been implemented with a view to determining whether any modification should be made to it or to the manner of its implementation. The Licensee shall submit any revision to the consumer rights statement that it wishes to make to the Commission for its approval, including any representation received by the Licensee and not accepted by it. The Commission may modify the existing consumer rights statement, as it considers necessary.
- (c) The Licensee shall:
 - a. draw to the attention of Consumers, in such manner as the Commission may direct, the existence of its consumer rights statement and each substantive revision of it and how they may inspect or obtain a copy of such consumer rights statement in its latest form.
 - b. make a copy of its consumer rights statement, revised from time to time, available for inspection by members of the public at its offices during normal working hours; and provide a copy of the consumer rights statement, revised from time to time, to all new Consumers to be served by it, and to any other Person who requests for it at a price not exceeding the reasonable cost of duplicating it.

- 19.4 **GRF & OMBUDSMAN**
The Licensee shall abide by the provisions of the OERC (Grievance Redressal Forum & Ombudsman) Regulations, 2004 as amended from time to time.
20. **DISTRIBUTION SYSTEM PLANNING AND SECURITY STANDARDS, DISTRIBUTION SYSTEM OPERATING STANDARDS, OVERALL PERFORMANCE STANDARDS**
- 20.1 The Licensee shall comply with the Existing Distribution System Planning, Security Standards and the Existing Distribution System Operating Standards, with such modifications as the Commission may direct, until the Distribution System Planning, Security Standards and Distribution System Operating Standards proposed by the Licensee are approved by the Commission.
- 20.2 The Licensee shall plan, develop and operate its Distribution System in accordance with the Distribution System Planning and Security Standards together with the Distribution Code as approved by the Commission;
- 20.3 (a) The Licensee shall, within such time as the Commission may direct in the Specific Conditions or otherwise submit to the Commission the existing planning and Security standards and the operating standards for its Distribution System and the existing planning and Security standards and operating standards relating to generation capacity connected to its Distribution System being followed by the Licensee. Such existing standards, with such modification as the Commission may direct, shall continue to remain in effect until the new standards approved by the Commission.
- (b) The Licensee shall, within such time as the Commission may direct in the Specific Conditions or otherwise, prepare, in consultation with the Suppliers, Generating Companies, Central Transmission Utility, State Transmission Utility, Regional Power Committee and such other person as the Commission may direct, and submit to the Commission for approval the Licensee's proposal for Distribution Planning and Security Standards and Distribution Operating Standards, and Operating Standards in accordance with these General Conditions
- (c) The Distribution Planning and Security Standards and Distribution Operating Standards, and the Operating Standards submitted by the Licensee pursuant to this Condition 16.3, with such modifications as the Commission may require, shall take effect from such dates as the Commission may direct.
- 20.4 The Licensee shall not be in breach of its obligations if the failure to meet the Distribution Planning and Security Standards or the Distribution Operating Standards is due to Force Majeure, provided that, the Licensee has used its reasonable efforts, to comply with the Distribution Planning and Security Standards or the Distribution Operating Standards, as the case may be.
- 20.5 The Licensee shall, in consultation with Suppliers, the Generating Companies, the Central Transmission Utility, the State Transmission Utility, the Regional Power committee and such other persons as the Commission may order, review the standards and their implementation. Following any such review, the Licensee shall send to the Commission:
- (a) a report on the outcome of such review; and
- (b) any revision which the Licensee proposes to make to such documents from time to time (having regard to the outcome of such review); and

- (c) any written representations or objections (including those not accepted by the Licensee) from Suppliers, the Generating Companies, the Central Transmission Utility, the State Transmission Utility, the Regional Power committee and such other persons as the Commission may order arising during the consultation process 20.6. The Commission may, having regard to any written representations and objections received and following such further consultation as the Commission may consider appropriate, issue directions requiring the Licensee to revise the standards in such manner as may be given in the directions. The Licensee shall duly carry out the revisions directed by the Commission
- 20.6 The Licensee shall, within 3 months of the end of each financial year, submit to the Commission a report indicating the performance of the Licensee's Distribution System during the previous financial year. The Licensee's compliance with the Standards of Performance may be measured, in part, by the Licensee's adherence to the Distribution Code, Distribution (Conditions of Supply) Code and other codes and Regulations set forth by the Commission. The Licensee shall, if required by the Commission, publish a summary of the report in a manner approved by the Commission.
- 20.7 The Licensee shall conduct its Licensed Business in the manner which it reasonably considers to be the best to achieve the Performance Standards in connection with provision of Supply services and the promotion of the efficient use of electricity by Consumers, as may be directed by the Commission by a general or special order.
- 20.8 The Licensee shall provide annually, information to the Commission as to the means by which it proposes to achieve the Performance Standards and other standards applicable to the Licensee.
- 20.9 The Licensee shall duly comply with the Standards as the Commission may direct from time to time, for the performance of the duties of the Distribution Licensees under the Act or the State Act.
21. **OBLIGATION TO CONNECT CONSUMERS AND PUBLIC LAMPS**
- 21.1 Subject to the other provisions of these conditions, the Licensee shall on the application of the owner or occupier of any premises within the Area of Supply, give connection to the Licensee's Distribution System for the purposes of providing Supply of electricity to such premises, in accordance with the applicable regulations, directions and orders of the Commission.
- 21.2 The Licensee shall abide by the rules made by the State Government in terms of lying down or placing electric supply lines. The rules framed by the State Government will prescribe the cases and circumstances in which consent in writing is required from the Appropriate Government, local authority, owner or occupier, as the case may be, for carrying out the works, the nature and period of notice to be given by the Licensee before carrying out works, procedures and manner of consideration of objections and suggestions, determination and payment of compensation and all such activities in accordance with Section 67 of the Act.
- 21.3 Where, after Distribution mains have been laid down under the provisions of Condition 20.1 and the supply of energy through those mains or any of them has commenced, a requisition is made by the State Government or by a local authority requiring the Licensee to supply for a period of not less than two years, energy for any public lamps within the Area of Supply, the Licensee shall supply, and save in so far as it is prevented from doing so by Force Majeure and operational/constraints, continue to supply energy for such lamps in such quantities as the State Government or the local authority, as the case may be, may require. The State Government or the relevant local authority, as the case may be, may require the Licensee:

- (a) to provide the mains and other equipment for public lamps; and
 - (b) to use for that purpose supports, if any, previously erected or set up by it for supply of energy.
- 21.4 The Licensee may levy any reasonable charge/s for carrying out works/release of supply, in accordance with any procedures that may be stipulated by the Licensee and approved by the Commission as well as the provisions of the Act and the Regulations of the Commission.

22 OBLIGATION TO SUPPLY AND POWER SUPPLY PLANNING STANDARDS

- 22.1 The Licensee shall take all reasonable steps to ensure that all Consumers connected to the Licensee's Distribution System receive a safe, economical and reliable Supply of electricity as provided in the Distribution Code, and other guidelines issued by the Commission in accordance with the provisions of the Act, the State Act, Rules and Regulations issued there under.
- 22.2 The Licensees shall be entitled to utilise the soil, subsoil and areas pertaining to public rights of way, streets, public squares and other assets in the public domain, as well as to cross rivers, bridges, railways, electrical and communication lines, subject to the provisions of Section 67 of the Act.
- 22.3 The Licensee shall:
- (a) determine annually for each of the next succeeding five years peak load and energy forecasts of its area of supply for each category of loads by 31st December as required under Orissa Grid Code and Distribution (Planning and Operation) Code;
 - (b) prepare and submit such forecasts by projecting for ten consecutive years to the State Transmission Utility in accordance with the guidelines issued by the Commission from time to time; and
 - (c) co-operate with the Transmission licensees, the State Transmission Utility and the State Load Despatch Centre and other Licensees in the preparation of power demand forecasts for the state of Orissa.
- 22.4 Subject to the foregoing Conditions, the Distribution Licensee shall purchase electricity from the Generating Companies, Electricity Traders, GRIDCO (as a bulk supplier) and others as consented to by the Commission in quantities, which the Licensee considers sufficient to meet the expected demand of the Licensee's Consumers.
- 22.5 The Licensee shall, within three months after these Licence conditions have come into force or such other time as the Commission may allow, prepare and submit to the Commission for approval, a disaster management plan, to address emergencies that may arise in connection with the operation of the Licence. For purposes of this Condition, an emergency shall mean any condition and/or situation that materially and adversely.
- (a) affects the ability of the Licensee to maintain safe, adequate and continuous operation of all or any part of the Licensed Business; or
 - (b) endangers the Security of any person, plant, or other life, equipment or property.

23. POWERS TO RECOVER EXPENDITURE, RECOVER SECURITY

The Licensee shall be entitled to recover tariff, charges, fee, etc. and require Security deposit to be made for supply of electricity or for provision of services, in accordance with the provision of the Act and the Rules and Regulations for the purpose framed under the Act.

24. **USE OF METERS**

24.1 The Licensee shall comply with the requirements of the Act and the Regulations (made by CEA and the Commission), Directions and Orders of the Commission in regard to supply of electricity through meter.

24.2 The Licensee may require the consumer to give Security for the price of a meter and enter into an agreement for hire thereof, unless the consumer elects to purchase a meter.

25. **CONNECTION AND USE OF SYSTEM**

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

26. **POWER PROCUREMENT**

26.1 The Licensee shall satisfy the Commission as to the need for additional power procurement on a long-term basis and in the case of short term power purchase the circumstances where such short term power purchase will become necessary

26.2 The Licensee shall not enter into a binding or enforceable contractual commitment till the Commission by a general or special order approves the procurement of electricity by the Licensee.

26.3 The Licensee shall satisfy the Commission that the electricity procured under long term power purchase otherwise than through a competitive bidding process or any short term power purchase is of least cost or economical in the prevalent circumstances and that the Licensee has made prudent and best efforts to minimize the cost of such purchase.

26.4 The Commission may not permit any such short term or long term purchase if the manner or method proposed for such procurement of electricity is not conducive to the objective of least cost purchase or for any other reasons the purchase is not economical or efficient.

26.5 The short-term power purchase by the Licensee may be undertaken in such a manner as the Commission may from time to time direct by a general or special order.

26.7 The Licensee shall forecast the demand for electricity for his business and formulate proposals in coordination with the generating companies, Licensee companies, other licensees, authorities and other concerned persons. The Licensee shall file with the Commission power procurement plan to meet the demand in such a manner as the Commission may direct.

27. **EXPECTED REVENUE CALCULATION AND TARIFFS**

27.1 The Licensee shall calculate the expected revenue from charges which it is permitted to recover, in accordance with the provisions of the Act, the State Act, the Regulations of the Commission, the tariff terms and conditions and other guidelines, orders and directions issued by the Commission from time to time.

27.2 The Licensee shall file the Expected Revenue Calculation and the application containing tariff proposals in the manner provided in the Conduct of Business Regulations and consistent with the Regulations under Section 61 of the Act.

- 27.3 Unless otherwise provided in the Specific Conditions or in any order or direction made by the Commission the Licensee shall every year, not later than 30th November, submit to the Commission (i) a Statement with full details of its expected aggregate revenues and cost of service for the ensuing financial year (including financing costs and its proposed return on equity) for its Licensed Business, in accordance with the provisions of the Act and the regulations, guidelines and orders issued by the Commission from time to time and (ii) the annual investment plan giving specific details of the investment which the Licensee proposes to make in the ensuing financial year and which the Licensee desires to be covered under the revenue requirements in the ensuing financial year with appropriate references to schemes, if any, already approved by the Commission of which such investments form a part. The Licensee shall prepare and submit to the Commission the Statement and the investment details referred to in the above separately for each of its Licensed Businesses and Other Businesses.
- 27.4 The Licensee shall, along with the Expected Revenue Calculation or at such other time and periodicity the Commission may specifically permit file the application containing tariff proposals and the revision to the existing tariffs approved by the Commission to match the revenue requirements of the Licensee.
- 27.5 The amount that the Licensee is permitted to recover from its tariffs shall be the amount that the Commission determines and approves in accordance with the provisions of the Act, State Act and the Regulations of the Commission.
- 27.6 The Licensee may apply to the Commission to amend its tariffs in accordance with the Act and applicable Regulations and directions of the Commission.

28. **PROVISION OF SUBSIDIES TO CERTAIN CONSUMERS**

- 28.1 If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the Commission, the State Government shall, notwithstanding any direction which may be given under Section 108 of the Act, pay, in advance and in such manner as may be directed by the Commission, the amount to compensate the person affected by the grant of subsidy in the manner the Commission may direct.
- 28.2 Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions of the Act and Regulations of the Commission, and the licensee shall charge to the consumers the tariff fixed by the Commission from the date of issue of Order(s) by the Commission in this regard.

29. **POWER TO ENTER PREMISES AND TO REMOVE FITTINGS OR OTHER APPARATUS OF LICENSEE**

- 29.1 In accordance with Section 163 of the Act, the licensee or any person duly authorised may, at reasonable time, and on informing the occupier of his intent, enter any premises to which supply has been made or over which electric lines and works have been lawfully placed for the purpose
of
- (a) Inspecting, testing, repairing or altering electric supply lines, meters, fittings belonging to the licensee; or
 - (b) Ascertaining the amount of electricity supplied; or
 - (c) Removing such lines, fittings, works where electricity supply is not required.
- 29.2 The Licensee or its authorised person may on a special order of the Executive Magistrate give a notice not less than twenty four hours in writing to the occupier for entering any premises for purposes mentioned in Condition 29.1 above.

29.3 The licensee may, on refusal of entry by the occupier of the premises, cut off power supply as per Section 163 of the Act till such time the refusal continues but for no longer.

30. **DISCONNECTIONS**

30.1 The Licensee shall give 15 day's clear notice in writing prior to disconnection.

30.2 The licensee shall not cut off supply if the person deposits under protest

- (a) The amount equal to the sum claimed from him or
- (b) Electricity charges due from him calculated on the basis of average charge for electricity supplied to him during the preceding 6 months, whichever is less pending disposal of the dispute.

30.3 The licensee shall have to show such sum as recoverable continuously for a period of two years for the electricity supplied and act as per Section 56(2) of the Act.

30.4 Pursuant to Sections 126, 127, 135-140 of the Act, the Licensee shall have the powers and authority to take appropriate actions for:

- (a) Metering at the point of supply of electricity;
- (b) Revenue realisation;
- (c) Implementing credit control procedure as approved by the Commission;
- (d) Prosecution for theft;
- (e) Prevention of meter tampering;
- (f) Prevention of diversion of electricity, and
- (g) Prevention of unauthorised use of electricity; and
- (h) All such similar matters affecting Distribution or Supply.

PART-III: SPECIFIC CONDITIONS

31. **Payment of Fees**

31.1 With reference to General Condition 13 and during the period his licence remains in force, the Licensee shall, by 10th April of every year, be liable to pay to the Commission an annual licence fee of Rs.50 lakh for each ensuing financial year.

31.2 All licence fees (including interest if is due under General Condition 13.2) will have to be deposited in "The Otrissa Electricity Regulatory Commission Fund" operated by the Commission.

- 31.3 (a) The Licensee shall be subject to the proceedings for the recovery of such fees specified in the Act; and
- (b) Commission may review the amount of licence fee in every three years.

32 **Investment and transfer of assets (in continuation to Conditions 11 and 12)**

32.1 For the purposes of Condition 11.10, the term "major investment" means any planned scheme-wise investment in or acquisition of distribution facilities like Rural Electrification, System Improvement, Major Renovation & Modernization works, the cost of which, when aggregated with all other investments or acquisitions (if any) forming part of the same overall transaction/scheme, equals or exceeds Rs.5 crore.

32.2 For the purposes of the Condition 12, without prior written approval of the Commission, the licensee shall not dispose of or relinquish operational control of any asset whose book value at the time of proposed transfer exceed of Rs. 30 lakh.

33. **Basis of Charges**

33.1 The Licensee shall by the time specified in the OERC (Terms & Conditions for Determination of Tariff) Regulations, 2004 prepare and lodge with the Commission submissions setting out in full detail.

- (a) a statement of the Licensee's revenue requirement for the ensuing financial year, prepared in accordance with the aforesaid Regulation read with Sections 45 & 61 of the Act.
- (b) a statement of the Licensee's expected revenue for the ensuing financial year, at the prevailing tariff.

33.2 In accordance with Section 64 of the Act, an application in complete shape for determination of Annual Revenue Requirement (ARR) and calculation of tariff shall be made by the Licensee, setting out in full the following,

- (a) all filings for Annual Revenue Requirement as per annual schedule, by 30th November of every year, indicating the manner in which the gap, if any, between the charges which it is permitted to recover and the expected revenue calculated shall be filled up;
- (b) a new or amended tariff proposed by the Licensee indicating the date of implementation drawing attention to the proposed changes. Such date shall be not less than 120 days from the date of the submission of the Tariff proposal with all information, data, calculations etc. required under Regulation 8 of the OERC (Terms & Conditions for Determination of Tariff) Regulations, 2004;
- (c) the aggregate revenue which the Licensee expects to be able to recover from the proposed new or amended tariff, such aggregate revenue figure shall relate to the first full financial year after the proposed specified date, where the specified date coincides with the beginning of the financial year and, in addition where the specified date does not coincide with the beginning of the financial year, the aggregate revenue figure to be calculated at the prevailing tariff up to the date of revision and thereafter at the revised tariff up to the end of the relevant financial year;

Provided that no tariff or part of tariff shall be amended more than once in any financial year except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as prescribed by Regulations.

33.3 Any submission to the Commission pursuant to Paragraph 33.2 shall include a schedule(s) of prices and charges for Distribution which:

- (a) shall be in accordance with the provisions of Sections 45, 46, 47, 61 & 62 of the Act; and
- (b) shall enable the Licensee to recover the total revenue referred to in the submission by the Licensee pursuant to Condition 33.1(a). The schedule(s) of prices and charges may, subject to the provisions of Condition 9, differentiate according to consumer's load factor, power factor, voltage, total consumption of electricity during any specific period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required and any other relevant factors

33.4 The Commission may require comparative data for the first six months of the current and preceding full financial year, for the purposes of comparison, along with such other data, calculation etc. as the Commission considers necessary, and the Licensee shall furnish such data, calculations, comparisons as directed by the Commission.

33.5 Subject to the provisions of the Act and the Regulation Commission shall within one hundred and twenty days from receipt of an application for determination of tariff and after considering all suggestions and objections received from the public, notify the Licensee either

- (i) that it accepts the Licensee's calculation on (a), (b) and (c) of Condition 33.2; or

- (ii) that it does not consider the Licensee's calculation to be in accordance with the prescribed methodology or procedure and will propose an alternative calculation which the Licensee shall accept. ; or
 - (iii) reject the application
- 33.6 Following approval by the Commission of any new or amended tariff, the Licensee shall publish details of the same in accordance with the requirements of the Act. The previously notified tariff shall remain in effect till the new or amended tariff takes effect.
- 33.7 The Licensee shall ensure that all amounts due to other Users in respect of the electricity generated or supplied or other goods or services provided by them shall be paid promptly in accordance with the agreement made.
- 34. **Contravention of Licence Conditions****
- 34.1 In case of any contravention of any Licence Conditions by the Licensee, the Licensee shall be liable for penal action under Sections 19, 24, 128, 129 & 142 of the Act and under other relevant provisions of the Act, State Act, Rules, Regulations, and Notifications.
- 35. **Franchisee and Trading****
- 35.1 The licensee shall intimate the Commission about its proposal to undertake its distribution activity through another person for a particular area of its area of supply under proviso 7 of Section 14 of the Act.
- 35.2 In the aforesaid intimation the licensee shall inform the Commission about the name, address, credit worthiness, capability, experience, expertise of the franchisee with detail scheme. The Commission may ask the licensee to furnish any other information about the proposed franchisee.
- 35.3 The licensee shall furnish an undertaking to the Commission that it will be responsible for any action or inaction of the franchisee in the business of distribution in franchisee area.
- 35.4 The licensee shall furnish the required information to the Commission periodically about the functioning of the franchisee.
- 35.5 Commission at any time, in the public interest, may direct the licensee to cancel/modify the scheme of franchisee of the licensee, if such scheme violates the provisions of the Act, or Rules, Regulations, Notifications, orders issued under the Act.
- 35.6 The licensee shall intimate the Commission about its detailed scheme for undertaking business of trading under proviso 9 of Section 14 of the Act.
- 35.7 The licensee shall furnish the required information to the Commission periodically about its trading activity.
- 35.8 Commission at any time, in the public interest, may direct the licensee to cancel/ modify the trading activity of the licensee, if such activity violates the provisions of the Act, or Rules, Regulations, Notifications, orders issued under the Act.
- 36. **RURAL ELECTRIFICATION****
The Licensee shall carry out Rural Electrification in accordance with the provisions of the Act.
- 37. **MISCELLANEOUS****
- 37.1 All issues arising in relation to interpretation of these licence 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.