UPERC – General Conditions of Distribution Licence

UP Electricity Regulatory Commission

No. UPERC / Secy / 2004-4361

Lucknow, December, 31, 2004

Notification

In exercise of the powers conferred by section 16 read with Section 181 of the Electricity Act 2003 (36 of 2003) and all powers enabling it in that behalf, the UP Electricity Regulatory Commission hereby makes the following Regulation, namely:-

1. Short Title, Commencement and Interpretation: -

(1) This Regulation may be called the UP Electricity Regulatory Commission (General Conditions of Distribution Licence) Regulation No. 4361 / 2004.

(2) This Regulation shall be applicable to all distribution Licensees in their respective licensed areas, in the State.

(3) This Regulation shall come into force from the date the Commission may, by notification, appoint for the purpose.

(4) This Regulation shall be made in English and shall be translated into Hindi. In the event of any dispute, the English version shall prevail.

2 Definitions

2.1 Words, terms and expressions used herein to which meanings are assigned by the Applicable Legal Framework, shall have the same meanings in this Regulation.

2.2 In this Regulations, unless the context otherwise requires:

a) **"Accounting Statement"** means for each financial year, accounting statements comprising a profit and loss account, a balance sheet and a statement of sources and application of funds, together with notes thereto and such other particulars and details and in the manner as the Commission may prescribe from time to time and showing the amounts of any revenue, cost, asset, liability, reserve or provision, which has been either:

(i) Charged from the Licensed Business to any Other Business or vice versa together with a description of the basis of that charge; or

UPERC – General Conditions of Distribution Licence

(ii) Determined by apportionment or allocation between the Licensed Business and any Other Business of the Licensee together with a description of the basis of the apportionment or allocation.

The Accounting Statement shall show separately the requirements mentioned above for the Licensed Business and Other Business (es) in which the Licensee may engage in.

b) **"Act" means Electricity Act, 2003** notified and brought into force on June 10, 2003 by the Central Government;

c) **"Applicable Legal Framework"** means the provisions of the Uttar Pradesh Electricity Reform Act, 1999, to the extent consistent with the Electricity Act, 2003 read with other applicable provisions of the Electricity Act, 2003;

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

e) **"Area of Distribution" or "Area of Supply"** means the area of Distribution stated in the Distribution Licence within which the Distribution Licensee is authorized to establish, operate and maintain the Distribution System and supply electricity;

f) **"Auditors"** means the Licensee's auditors holding office in accordance with the requirements of Sections 224 to 234 A or Section 619 as appropriate, of the Companies Act 1956 (1 of 1956), as amended from time to time;

g) **"Authorized",** in relation to any Person, business or activity, means authorized by license granted under Section 14 of the Act or deemed to be granted under the first 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) "**Authority** "means the Central Electricity Authority.

i) **"Central Commission"** means the Central Electricity Regulatory Commission constituted under Section 3 of the Electricity Regulatory Commissions Act, 1998,

and functioning under the Electricity Act, 2003.

j) **"Commission"** means the Uttar Pradesh Electricity Regulatory Commission;

k) **"Consumer"** means any person who is supplied with electricity for his own use by a Licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Applicable Legal Framework or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a Licensee, the Government or such other person, as the case may be;

l) "Distribution Licence" means a Licence authorized to operate and maintain a Distribution System for supplying electricity to the Consumers in his area of supply;

m) "Distribution System" means the system of wires and associated facilities between the delivery points on the transmission lines or generating station connections, as the case may be, and the point of connection to the installation of the consumers;

n) "Distribution System Operating Standards" means the standards related to the Licensee's operation of its Distribution System as prevalent on the date of grant of the Licence, with amendments, revisions as approved by the Commission from time to time;

o) "Distribution System Planning and Security Standards" means the standards related to the adequacy of the Licensee's system planning and security of its Distribution System as applicable on the date of grant of the Licence with amendments/revisions, as approved by the Commission from time to time;

p) "Electricity Supply Code" means the code specified by the Commission in terms of the provisions of the Applicable Legal Framework;

q) "Force Majeure" means events beyond the control of the Licensee, including cyclones, floods, storms or other occurrences;

r) "Generator" means any Person who owns or operates or maintains a generating station;

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) "Generating Station" or "station" means any station for generating electricity, including any building and plant with step-up transformer, switch yard, switch-gear, cables or other appurtenant equipment, if any used for that purpose and the site thereof, a site intended to be used for a generating station, and any building used for housing the operating staff of a generating station, and where electricity is generated by water-power, includes penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not in any case include any sub-station;

u) "Grid Code" means the code approved by the Commission under Applicable Legal Framework;

v) "Holding Company" For the purpose of this Regulations, one Company shall be deemed to be a holding company of another if and only if that other Company is a subsidiary of the first;

w) "Licence" means Licence issued under the Applicable Legal Framework;

x) "Licensed Business" means the business of distribution of electrical energy in the Area of Supply as Authorized under the Distribution Licence;

y) "Major Incident" means an incident associated with the Licensed Business which results in a significant interruption of service, substantial damage to equipment, or loss of life or significant injury to human beings, with the technical characteristics of "significant interruption", "substantial damage", "significant injury" specified in the Grid Code, Supply Code or Standards of Performance specified by the Commission, and any other incident which the Commission expressly declares to be a major incident;

z) "Open Access" means the non-discriminatory provision for the use of transmission lines or distribution system or associated facilities with such lines or system by any Licensee or consumer or a person engaged in generation

accordance with the Regulations specified by the Commission;

aa) "Operational Control" means possessing the authority to make operational decisions such as commissioning and utilization of units, service lines and equipment;

bb) "Other Business" means business or activities which the Distribution Licensee engages in for optimum utilization of its assets other than the Licensed Business;

cc) "Overall Performance Standards" means the standards as may be determined by the Commission pursuant to the provisions of the Applicable Legal Framework including service standards for Consumers;

dd) "Person" shall include any company or body corporate or association or body of individuals whether incorporated or not or artificial juridical person;

ee) "Regulations" means the Regulations made by the Commission under the Applicable Legal Framework;

ff) "Specific Conditions" means the conditions in addition or in variation to the General Conditions which the Commission may lay down specifically for a Distribution Licensee

gg) "State Government" means the government of the state of Uttar Pradesh;

hh) "State Transmission Utility"(STU) means the Government company notified by the State Government, presently Uttar Pradesh Power Corporation Limited;

ii) "Subsidiary" For the purposes of this Regulations, a company shall be deemed to be a subsidiary of another if and only if that other holds more than half in nominal value of the equity share capital of the first mentioned company;

jj) "Supplier" means any Person who holds an appropriate Licence or an exemption which enables its to undertake supply of electricity or is an appropriate person generating and distributing electricity in a rural area as notified by the State Government;

kk) "Supply" in relation to electricity, means the sale of electricity to a Licensee or consumer;

ll) "Trader" means any Person who is Authorized to undertake Trading;

mm) " Trading" means purchase of electricity to any Person for resale thereof;

mm)"Transfer" shall include the sale, exchange, gift, lease, Licence, loan, securitization, 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;

nn) "Transmission Lines" means all high pressure cables and overhead lines (not being an essential part of the distribution system of a Licensee) transmitting electricity from a generating station to another generating station or a sub-station, together with any step-up and step-down transformers, switch-gear and other works necessary to and used for the control of such cables or overhead lines, and such buildings or part thereof as may be required to accommodate such transformers, switchgear and other works;

oo) "**Utility"** means the electric lines or electrical plant, and includes all lands, buildings, works and materials attached thereto belonging to any person acting as a generating company or Licensee under the provisions of the Applicable Legal Framework;

pp) "**Wheeling**" means the operation whereby the distribution system and associated facilities of a transmission Licensee or distribution Licensee, as the case may be, are used by another person for the conveyance of electricity on payment of charges to be determined under the Applicable Legal Framework ;

2.3 References in this Regulation to various documents and instruments shall be construed as the current version of the document or instrument in question, unless the context requires otherwise.

3. Term

3.1 The Distribution Licence shall come into force on the date to be mentioned by the Commission in the order granting the Licence and subject to the terms and conditions of the grant of Licence, shall remain in force for the period mentioned in the Order

4. Compliance with Laws, Rules and Regulations

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

4.2 The Distribution Licensee shall act in accordance with these General Conditions except where the Distribution 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.

4.3 The Distribution 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 Applicable Legal Framework.

4.4 The Licensee shall comply with the Orders or Directions issued by the Forum and Electricity Ombudsman.

4.5 Licensee shall give consultancies / assignment to its group companies /sister concerns/ subsidiary companies only after prior approval of Commission

5. Activities of the Licensee

5.1. The Licensee shall not, without the prior general or special approval of the Commission:

(a) Sell, purchase or import or otherwise acquire electricity from any Person other than in accordance with the provisions of the Applicable Legal Framework, this Licence, the Regulations and Guidelines issued by the Commission or the power purchase agreement approved by the Commission for such sale, purchases/import of electricity;

(b) Undertake any transaction to acquire by purchase or takeover or otherwise, the Utility of any other Licensee; or merge his Utility with the Utility of any other Licensee. Provided that this restriction shall not apply if the Utility of the Licensee is situated outside Uttar Pradesh. The Licensee shall, before obtaining the approval from the Commission, give at least not less than one month's notice

to every other Licensee who transmits or distributes electricity in the Area of Supply of the Licensee.

(c) Assign the Licence or transfer his Utility (or any part thereof) by sale, lease, exchange or otherwise.

(d) Acquire any ownership or beneficial interest in any Transmission Licensee or Trading Licensee.

5.2 Any agreement relating to any transaction specified in sub-clause (b) or (c) of clause 5.1, unless made with the prior approval of the Commission shall be void.

5.3 Undertake Trading in electricity and shall not require any Licence for the same. However the volume of trading shall be. Subject to the provisions of UPERC (Procedure, terms and condition for grant of trading license or intrastate Electricity trader and other related provisions-Regulations 2004) Further, the Licensee shall be bound by the Conditions of Licence specified by the Commission for Trading Licensees under the Electricity Act, 2003

5.4 (a) The Distribution Licensee shall provide open access to the Distribution System for use of the Licensees, and Generating Company including the Captive Generating Plant and the Consumer subject to absence of operational constraints in the Distribution System and subject to payment by the user ofall applicable tariffs and charges as determined or directed to be charged by any general or special order of the Commission including open access regulations.

Provided that the Distribution licensee shall allow open access to those consumers who have no arrears of electricity dues, and sufficiently fulfill the technical and other requirements as prescribed in open access regulations of Commission.

(b) The Distribution licensee having access to intra state transmission system and the distribution system in the state, on the date of coming into force of regulations of open access, under an existing agreement or arrangement shall be entitled to continue to avail open access to such transmission and distribution system, on the same terms and conditions for the existing arrangement or arrangements, on payment of transmission charges and wheeling charges, as may be determined by

Commission.

Provided that Distribution licensee shall within 60 days of coming into force of open access regulations, furnish to the STU and SLDC, details of their agreements for use of the transmission system and/or distribution system, and the terms and conditions for such use.

Provided also that the Distribution licensee shall submit to Commission an account of fixed cost which the licensee is incurring towards his obligation to supply, for determining the additional surcharge by Commission payable by consumer to the licensee**.**

5.5 The Licensee shall purchase the energy required by it to meet its supply obligation –

(a) In an economical manner,

(b) Under a transparent power purchase or procurement process, and

(c) In accordance with the Regulations, guidelines, directions specified by the Commission from time to time.

5.6 The Licensee may, with prior intimation to the Commission, engage in any Other Businesses for optimum utilization of its assets in accordance with the Regulation of the Commission issued under section 51 of the Act subject to the conditions that:

(a) The Licensed Business is not prejudiced and / or adversely affected in any manner by such Other Businesses, including that it neither subsidizes the Other Business nor encumbers the Licensee's distribution assets in any way to support such business;

(b) Separate accounting records are maintained in respect of the Other Businesses as if they were carried on by a separate company, so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to the Licensed Business are separately identifiable;

(c) the Licensee shall comply with such guidelines, terms and conditions that the

Commission may specify in regard to (i) the Licensee engaging in Other Business activities and (ii) payment of fair compensation to the Licensed Business for the assets of the Licensed Business utilized for such Other Business activities; and

(d) None of the assets utilized in the Distribution System for the purposes of Other Business activities are transferred without the prior approval of the Commission.

5.7 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. Loans to employees pursuant to their terms of service and advances to suppliers in the ordinary course of business are excluded from the requirement to seek such approval.

5.8 The Licensee may undertake distribution of electricity for a specified area (franchise) within his Area of Supply through another Person. Such Person shall not be required to obtain any separate Licence from the Commission. The Licensee shall continue to be responsible for distribution of electricity in its Area of Supply and -

(a) Such Person shall operate under the overall supervision and control of the Licensee and upon the terms and conditions of the Licence and comply with all Regulations, guidelines or orders of the Commission;

(b) Establishment of such arrangements shall not alter the Licensee's duties and obligations pursuant to general or specific conditions of Licence;

(c) The cost of providing service shall not be higher than if the Licensee performed such tasks itself; and

(d) For any act or omission of such Person, the Licensee shall be responsible.

5.9 The Distribution Licensee may engage any of the Subsidiaries or Holding Company or a Subsidiary of such Holding Company of the Distribution 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.

5.10 The Distribution 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 Distribution Licensee is authorised to conduct or carry under the Licence Provided that the Licensee shall be responsible for all actions of the Subsidiaries or associated companies or Franchisees or agents or contractors.

5.11 Except as provided in clause 5.8 above the Distribution Licensee shall not transfer or assign the Licence or any of the functions under the Licence to any other Person without the prior approval of the Commission.

5.12 The Commission may grant a Licence to another person for distribution of electricity through its own distribution system within the Area of Supply provided that the person applying for grant of subsequent Licence -

(a) Complies with the additional requirements (including the capital adequacy, credit-worthiness, or code of conduct) prescribed by the Central Government;

(b) Satisfies the Commission of its ability (technical and financial) to undertake the Licensed Business; and

(c) Complies with all Regulations, performance standards, guidelines, and norms specified.

6. Accounts

6.1 The financial year of the Licensee shall run from the first of April to the following thirty- first of March.

6.2 Accounting Principles. The Licensee shall in respect of the Licensed Business and any Other Business -

UPERC – General Conditions of Distribution Licence

(a) Keep separate accounting records as specified in respect of each such business in terms of Clause 5.6 above;

(b) Prepare on a consistent basis, based on such accounting records, and submit to the Commission:

(i) The Accounting Statements including the records emanating from Other Businesses, as also of subsidiary or holding company of the Licensee;

(ii) In respect of the first six months of each financial year, an interim profit and loss account, cash flow statement and balance sheet;

(iii) In respect of the Accounting Statements prepared in accordance with this Clause 6, an Auditor's report for each financial year, stating whether in their opinion, these statements have been properly prepared in accordance with this Clause 6 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

(iv) a copy of each interim 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.

6.3 The Licensee shall not change the basis of charge or apportionment or allocation of revenues or expenses in relation to the preparation of the Accounting Statements in respect of a financial year from those applied in respect of the previous financial year, without prior approval from the Commission.

6.4 During the financial year that a Licensee changes the basis of charge or apportionment or allocation in its Accounting Standards from those adopted for the immediately preceding financial year, the Commission may direct the Licensee to prepare such Accounting Statements on the past basis in addition to preparing Accounting Statements on the basis which it has adopted.

6.5 Accounting Statements under Clause 6.2 shall, unless otherwise approved or directed by the Commission:

UPERC – General Conditions of Distribution Licence

(a) Be prepared and published with the Annual Accounts of the Licensee, in the manner prescribed in the Regulations;

(b) State the accounting policies adopted;

6.6 The Accounting Statements under Clause 6.2 shall be prepared in accordance with applicable Indian accounting standards and commercial accounting principles and in accordance with forms stipulated by the Commission from time to time

6.7 References in this Clause 6 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.

6.8 The Licensee shall ensure that the Accounting Statements in respect of each financial year prepared under Clause 6.2 and the Auditor's report in respect of each financial year referred to in Clause 6.2 are publicized 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.

7. **Provision Of Information To The Commission**

7.1 The Distribution Licensee shall furnish to the Commission without delay such information, documents and details related to the Licensed Business or any Other Business of the Distribution Licensee, as the Commission may require from time to time for its own purposes or for the purposes of the Government of India, State Government, the Central Commission, the Central Electricity Authority, the State Transmission Utility and State Load Dispatch Centre.

7.2 The Distribution Licensee shall duly maintain the information as the Commission may directed under Section 128 of the Act.

7.3 The Distribution 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 than two months from the date of such occurrence:

(a) Submit a report to the Commission giving full details of the facts within the knowledge of the Distribution Licensee regarding the incident and its cause;

(b) In the event the report under sub-clause (a) is likely to take more than two months from the date of such incident, the Distribution Licensee shall within one month from such date of the incident submit a preliminary report with such details which the Distribution Licensee can reasonably furnish and state reasons as to why the Distribution 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.

7.4 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 Distribution 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 Distribution Licensee.

7.5 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 Distribution Licensee.

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

UPERC – General Conditions of Distribution Licence

7.7 The Distribution Licensee shall duly inform the Commission about any incident restricting it from meeting obligations under the licence granted including any act

of omission or commission by others and steps taken by the Distribution Licensee to mitigate the effect of such incident.

7.8 The Commission may at any time require the Distribution Licensee to comply with the provisions of clauses 7.3 to 7.7 as to incidents which the Commission may specifically direct and the Distribution Licensee shall be obliged to comply with the same notwithstanding that such incidents are not Major Incidents; provided that the time limits specified in clause 7.3 shall commence from the date that the Commission notifies Distribution Licensee of such requirement.

7.9 The Distribution Licensee shall submit a Business Plan within three months of Distribution Licence coming in force for such period as the Commission may direct and shall update such plan annually. The Business Plan shall 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 Clause 9 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.

7.10 The Commission may require the Distribution 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

8. Payment of Licence Fees

8.1 At the time of grant of Licence, the Licensee shall pay to the Commission fee as per "Fees & Fine Regulations" of the Commission.

8.2 For as long as the Licence remains in force, the Licensee shall, by the 10th of April of every year, or such further period as the Commission may allow, pay to

the Commission an annual Licence fee as mentioned in "Fee & Fine Regulations" of the Commission

8.3 Where the Licensee fails to pay to the Commission any of the fees due under Paragraphs 12.1 or 12.2 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 two 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 in cleared funds; and

(b) the Licensee shall be subject to the proceedings for the recovery of such fees as specified in the Applicable Legal Framework; and

(c) the Commission may revoke the Licence pursuant to Section 19 of the Act and clause 11 of this Regulation.

8.4 The Licensee shall be entitled to take into account any fee paid by it under this clause 8 as an expense in the determination of aggregate revenues made in accordance with Clause 21, but shall not take into account any interest paid pursuant to Clause 8.3.

9. **Investments**

9.1 The Distribution 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.

9.2 The Distribution 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 the State.

UPERC – General Conditions of Distribution Licence

9.3 The Distribution Licensee shall submit to the Commission a five year rolling Investment Plans as a part of the business plan under clause 7.9 above giving details of investment schemes to be undertaken during the concerned period for the approval of the Commission. The distribution Licensee shall demonstrate to the satisfaction of the Commission that:

a) there is a need for such Investments in the Distribution System contained in the Investment Plan;

b) the Distribution Licensee has examined the economic, technical, system and environmental aspects of all viable alternatives to the proposal for investing in or acquiring new Distribution System assets to meet such need;

9.4 The Distribution 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 stating the justification including the cost – benefit analysis, to be carried out during the financial year

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.

9.5 The Distribution Licensee shall not undertake schemes involving Major Investments, not covered under the Investment Plan approved by the Commission under clause 9.3 above without the prior approval of the Commission, and for such approval the Distribution Licensee shall demonstrate to the satisfaction of the Commission the factors mentioned in clause 9.3 above.

9.6 The Distribution 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.

UPERC – General Conditions of Distribution Licence

9.7 For the purposes of this clause 9, 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 special conditions applicable to the Distribution Licensee or otherwise decided by the Commission from time to time by a general or special order.

9.8 The Distribution Licensee shall be entitled to make Investment in the Distribution Business other than those covered under clauses 9.3 and 9.5 above but for the purposes of considering such Investment while determining the tariff, the Distribution 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.

9.9 The Distribution 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.

Provided that if any unforeseen contingencies required reallocation of funds within the schemes listed in the annual investment plan, the Distribution Licensee may do so to the extent such reallocation in respect of individual projects does not exceed an amount decided by Commission in the Special conditions applicable to the Distribution Licensee or otherwise by a general or special order. The Distribution 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 unforeseen 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 clause 9.8 above.

10 Transfer of Assets

10.1 The Licensee shall not, in a single transaction or a set of related transactions, transfer its Utility or any part thereof [exceeding the amount decided by the Commission in the special conditions applicable to the distribution Licensee] by sale, lease, exchange or otherwise, without complying with the conditions stipulated in this Clause 10.

Provided that upon acquiring information that any person has acquired or intends to acquire a Controlling Interest in the Licensee business, the Licensee shall inform the Commission forthwith of the acquisition or proposed acquisition and shall furnish the Commission with all relevant details in its possession.

10.2 The Licensee shall give to the Commission prior written notice of its intention to transfer its Utility whose value exceeds the amount decided by the Commission as per clause 10.1 and disclose all relevant facts. 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, allow the transfer arrangement subject to such terms and conditions or modifications as is

considered appropriate or reject the same, for reasons recorded in writing in the order to be issued by the Commission.

10.3 The Licensee may transfer its Utility as is specified in any notice given under Clause 10.2 if:

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

UPERC – General Conditions of Distribution Licence

(b) the Commission does not, within the time specified under Clause 10.2 for the decision of the Commission give any response to the notice of the Licensee that it intends to deal with the application of the Licensee.

10.4 The Licensee may transfer its Utility where:

(a) the Commission has issued directions for the purposes of this Clause 10 containing a general consent (whether or not subject to conditions) to:

(i) Transactions of a specified description, and/or

(ii) the Transfer of a specified description, and/or

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

(b) the transfer in question is required by or under the mandate of any other Act; or

(c) the asset in question was acquired and used by the Licensee exclusively or primarily in connection with any Other Business that it has been authorized to carry on pursuant to Clause 5 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.

10.5 Notwithstanding what is stated above, the Licensee will be entitled to utilize the assets as a means of facilitating funding or financing the Licensed Business in the ordinary course of business including loans and credit facilities from banks and institutions, 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 utilization of assets; and

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

11. Terms of Revocation

UPERC – General Conditions of Distribution Licence

11.1 Subject to the provisions of the Applicable Legal Framework and the Regulations, the Commission may at any time initiate proceedings against the Licensee for revocation of the Licence and if satisfied in such proceedings on the grounds for revocation, revoke the Licence if the Licensee has:

(a) in the opinion of the Commission, committed a willful and persistent default in doing anything required of him by or under the Applicable Legal Framework, or Rules made thereunder to the extent applicable in the State, ; or

(b) in the opinion of the Commission, committed a material breach of the terms and conditions contained general or specific condition of Licence or of any

Regulations, codes and standards specified which breach is expressly declared in general or specific condition of Licence to render it liable to revocation

(c) where the Distribution Licensee fails, within the period fixed in this behalf by his Licence, or any longer period, which the Commission may have granted therefore-

I. to show, to the satisfaction of the Commission, that he is in a position to fully and efficiently discharge the duties and obligations imposed on him by his Licence; or

II. to make deposits or furnish the security, or pay the fees or other charges required by his Licence;

(d) where in the opinion of the Commission the financial position of the Distribution Licensee is such that he is unable to fully and efficiently discharge the duties and obligations imposed on him; and,

(e) where the Distribution Licensee has failed to comply with all the Regulations, codes, and standards and also orders and directions of the Commission or otherwise has committed an act which renders Distribution Licence revocable on any other grounds specified in the Applicable Legal Framework or the Rules or Regulations framed there under.

11.2 Where in the Commission's opinion public interest so requires, the Commission may, on application by the Licensee or with the consent of the Licensee, revoke the Licence as to the whole or any part of his Area of Supply upon such terms and conditions as it thinks fit.

11.3 The Licence shall not be revoked unless –

(a) the Commission has given to the Licensee at least three months' notice, in writing, stating the grounds on which it is proposed to revoke the Licence, and

(b) the Commission has considered any cause shown by the Licensee within the period of that notice, against the proposed revocation.

11.4 The Commission may, instead of revoking the Licence permit the Licence to remain in force subject to such further terms and conditions as it thinks fit to impose, and any further terms or conditions so imposed shall be binding upon and be observed by the Licensee and shall be of like force and effect as if they were contained in the Licence.

12. **Suspension**

12.1 If at any time the Commission is of the opinion that the Licensee–

(a) has persistently failed to maintain uninterrupted supply of electricity conforming to standards regarding quality of electricity to the consumers,

(b) is unable to discharge the functions or perform the duties imposed on it by or under the provisions of the Applicable Legal Framework.

(c) has persistently defaulted in complying with any direction given by the Commission, or

(d) has broken general or specific conditions of Licence,

the Commission may, for reasons to be recorded in writing suspend the Licence for a period not exceeding one year and appoint an Administrator to discharge the

functions of the Licensee after giving the Licensee a reasonable opportunity to make representations against the proposed suspension.

UPERC – General Conditions of Distribution Licence

13. Dispute Resolution

13.1 The Commission shall be entitled to act as arbitrator or nominate person(s) as arbitrator(s) to adjudicate and settle disputes between the Distribution Licensee and any other Licensee or between the Distribution Licensee and a generating company in pursuance of clause (f) of sub-section (1) of section 86 read with Section 158 of the Act and Regulation of the Commission.

13.2 The arbitration proceedings for disputes under clause 13.1 above may be commenced and conducted by the Commission or the disputes may be referred to the arbitration of others, as the case may be, in accordance with the Conduct of Business Regulations specified by the Commission.

14 Compliance with the Grid Code

14.1 The Licensee shall comply with the provisions of the Grid Code, in so far as applicable to it.

14..2 The Commission may, on reasonable grounds and after consultation with any affected Generating Companies, STU, and other Licensees, issue directions relieving the Licensee of its obligation under Clause 14.1 in respect of such parts of the Grid Code and to such extent as may be specified by the Commission

15 Electricity Supply Code, Customer charter, and consumer right to information

15.1 The Licensee shall comply with the Electricity Supply Code specified by the Commission.

15.2 The Licensee shall make available to any Person requesting for it, copies of the Electricity Supply Code in force at the relevant time, at a price not exceeding the reasonable cost of duplicating it.

15.3 **Customer Charter**

The Licensee shall prepare, publicize, and adhere to a Customer Charter detailing all the rights, entitlements, and responsibilities of the consumers and obligations

UPERC – General Conditions of Distribution Licence

of the Licensee relating to supply of electricity including the Licensee's guaranteed service levels and other aspects of their relationship under the Act and other applicable laws and regulations. The Customer Charter shall include among other things approved consumer complaint handling procedure, consumer right statement and consumer right to information.

15.4 **Consumer's Right to Information**

A licensee on request of the consumer, to the extent that is reasonably available to the Licensee provide:

(a) information on all services provided by the Licensee including information on the charges or alternative tariff schemes which may be available to the consumers

(b) information on meter readings for the electricity services provided to the consumer premises by the Licensee; and

(c) information on the status of the consumer's account with the Licensee; 16. **Technical Codes**

16.1 The Licensee shall, within 180 days after grant of Licence, prepare and submit to the Commission, for its approval following codes along with their implementation plan:-

a) Distribution System Planning and Security Standards
b) Distribution System Operating Standards
c) Energy audit and metering,
d) Good Governance,
e) Maintenance Planning Standards

In granting the approval, the Commission may make such modifications, as it considers necessary to the code of practice.

UPERC – General Conditions of Distribution Licence

16.2 The Commission may, upon receiving a representation or otherwise, require the Distribution 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.

16.3 The Distribution 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 Distribution Licensee and not accepted by it. The Commission may modify the code of practice concerning payment of bills, as it considers necessary.

16.4 The Distribution Licensee shall:

a) draw to the attention of Consumers, in such manner as the Commission may direct, the existence of the codes and each substantive revision of it and how they may inspect or obtain a copy of the codes in its latest form;

b) make a copy of the codes, revised from time to time, available for inspection by members of the public during normal working hours; and

c) provide an updated copy of the codes revised from time to time to any other Person who requests for it at a price not exceeding the reasonable cost of duplicating it.

16.5 The Distribution Licensee shall comply with the existing practice and procedures with respect to the codes mentioned in clause 16.1 with such modifications as the Commission may direct, until the codes are adopted with the approval of the Commission.

17. **Standards of Performance.**

17.1 The Licensee shall comply with the standards specified by the Commission with respect to quality, continuity, and reliability of the service provided by the Licensees.

UPERC – General Conditions of Distribution Licence

17.2 The Commission may, after consultation with the Licensees and other persons likely to be affected, specify and/or revise standards of performance of a Licensee or a class of Licensees. In case the Licensee fails to meet the standards specified by the Commission, without prejudice to any penalty which may be imposed or prosecution be initiated, it shall be liable to pay such compensation to the person affected as may be determined by the Commission. Provided that before determination of the compensation, the concerned Licensee shall be given a

reasonable opportunity of being heard. The compensation determined shall be payable by the Licensee within ninety (90) days of such determination.

17.3 The Licensee shall plan and operate its Distribution System to ensure that, subject to the availability of adequate power of appropriate quality, the system is capable of providing Consumers with a safe, reliable and efficient Supply of electricity. In particular, the Licensee shall plan and develop its Distribution System in accordance with the Distribution System Planning and Security Standards approved by the Commission; and operate the Licensee's Distribution System in accordance with the Distribution System Operating Standards together with the Electricity Supply Code, approved/specified by the Commission.

17.4 The Licensee shall, within 3 months of the end of each financial year, submit to the Commission information indicating the level of performance achieved by the Licensee's during the previous financial year including setting out the number of cases in which compensation was paid to persons in cases where the Licensee failed to meet specified standards.

17.5 The Licensee shall conduct its Licensed Business in the manner which it reasonably considers to be best suited to achieve the Standards of Performance and the Electricity Supply Code in connection with provision of Supply services and the promotion of the efficient use of electricity by Consumers, as may specified by the Commission.

17.6 The Commission may evaluate the Licensee's compliance with the standards of performance and adherence to the codes, practices set fort

18. Load Forecast, Power Supply Planning Standards and Purchase of Electrical

Energy

18.1 The Licensee shall, on an annual basis:

(a) forecast the demand for power within the Area of Supply in each of the next succeeding 10 years;

(b) prepare and submit such forecasts to the Commission in accordance with the guidelines issued by the Commission from time to time; and

(c) co-operate with the STU, Transmission Licensees in the preparation of power demand forecasts for the state of Uttar Pradesh.

18.2 Subject to the foregoing clauses, the Distribution Licensee shall purchase electricity from the Generating Companies, Electricity Traders and others as consented to by the Commission in quantities which the Distribution Licensee considers sufficient to meet the expected demand of the Licensee's Consumers or where appropriate, such lesser quantities as the Generators and others are able to provide on account of shortage of available sources of electricity production, imports or supply.

18.3 In case of purchases of allocated share of electrical capacity and /or energy from the Central Sector generation and inter-utility exchanges of electrical capacity and/or energy from the other Regional Electricity Boards, such processes as are stipulated by the Central Commission shall also be complied with in addition to directions and orders of the Commission.

18.4 An authorization required under clause 18.2 & 18.3 shall be granted when the Licensee has demonstrated to the Commission's satisfaction that:

(a) the additional electrical capacity and/or energy is necessary to meet the Licensee's service obligation; and

(b) the Licensee has examined the economic, technical, system and environmental aspects of commercially viable alternatives to the proposals for purchasing additional electrical capacity and/or energy (including arrangements for reducing the level of demand following the demand side

UPERC – General Conditions of Distribution Licence

management measures) and such examination has been carried out in a manner approved by the Commission.

18.5 The Licensee shall not purchase electrical capacity and / or energy without an authorization granted by the Commission except for short duration purchases for less than 6 months. The Licensee shall in all circumstances purchase electrical capacity and / or energy in an economical and efficient manner under a transparent procurement process as approved by the Commission and following the guidelines issued by the Commission from time to time relating to preparation of load forecasts, power procurement plan and power procurement procedure.

18.6 The Distribution Licensee shall, within three months after the Licence has 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 Distribution Licence. For purposes of this clause, 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.

19 **Consumer Grievance Redressal Procedure**

19.1 The Licensee shall institute and operationalise suitable Consumer Grievance Redressal Forum(s)sin accordance with Uttar Pradesh Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2003.

20. Open Access

UPERC – General Conditions of Distribution Licence

20.1 The Licensee shall enter into or make such arrangements for the use of the Distribution System including but not limited to electric lines, electrical plant or plants and associated equipment operated by the Licensee, for wheeling of energy, in such phases and subject to such conditions as provided in sub-sections (2) and (3) of Section 42 of the Electricity Act, 2003,and open access regulations framed by Commission. On application made by any such Person, the Licensee shall offer to enter into an agreement with that Person for the use of the Distribution System:

(a) Based on wheeling charges to be paid by the user, which shall be determined by the Commission in accordance with the provisions of Section 62 of the Electricity Act, 2003;

(b) to accept into the Distribution System electricity provided by that Person; and

(c) to deliver such electricity, adjusted for losses of electricity, to a designated exit point.

20.2 The aforesaid condition shall not apply where the Licensee is exempt from undertaking the duties of a common carrier providing non-discriminatory open access under sub-section (3) of Section 42 of the Electricity Act, 2003 or any Regulations specified by the Commission.

21. **Expected Revenue Calculation and Tariffs**

21.1 The Licensee shall establish tariff and calculate the charges in accordance with the applicable provisions of the Applicable Legal Framework read with the Regulations issued by the Commission and these Licence conditions. The Licensee shall follow the methodology, Procedures and other directions included in the Tariff Regulations and in other orders of the Commission as may be issued from time to time, while filing the Statement of Expected Revenue from charges and for proposing or amending any or all of its tariffs.

21.2 Expected Revenue Calculation. Subject to the provisions of the Applicable Legal Framework and the Regulations made thereunder, the Licensee shall file a

(i) Tariff application not more frequently than once in a financial year, 120 days

before the proposed date of implementation of the tariffs, or earlier as may be specified by the Commission. The application shall be in accordance with the Tariff Regulations, Guidelines & Procedures issued by the Commission for this purpose.

(ii) The details of the scheme of investment which the Licensee proposes to make in the ensuing year on the lines set out in Clause 9.

(iii) The application shall be accompanied by a calculation of the cost of providing the service during the same period by the Licensee for each consumer category, and further sub-divided into various voltage levels, and in such other detail as required by the guidelines and procedures notified by the Commission.

21.3 Tariffs. The amount that the Licensee is permitted to recover from its tariffs during a period shall be the amount that the Commission determines in accordance with the applicable provisions of the Applicable Legal Framework ct. The Licensee shall establish a tariff as approved by the Commission for the Licensee's Licensed Business and shall calculate its charges under that approved tariff in accordance with the general or specific conditions of the Licence, the Regulations, the orders of the Commission and the other requirements prescribed by the Commission from time to time. Save as otherwise directed by the Commission, the Licensee shall publish a tariff for its Licensed Business reflecting the tariff charges and the other terms and conditions contained in the approved tariffs referred to hereinabove.

21.4 The Licensee may apply to the Commission to amend its tariffs in accordance with the Applicable Legal Framework, the Regulations, and directions of the Commission.

21.5 The Licensee shall apply to the Commission to amend its tariffs in accordance with the Applicable Legal Framework if the Commission so requires, in order to remove any undue discrimination identified by the Commission or to cause the Licensee's expected revenue to correspond to the amount that it is permitted to recover under the Licence or under the Applicable Legal Framework.

21.6 Notwithstanding anything contained in this clause, the Commission shall adopt the tariff of the Licensee if it has been determined in terms of Section 63 of the

Electricity Act, 2003 through a transparent process of bidding in accordance with the guidelines issued by the Central Government. The Commission may however call for such information from these Licensees as it may require from time to time

22. **Prohibition of Subsidies**

22.1 In respect of the Licensed Business, the Licensee shall not, without prior permission of the Commission, give any subsidy or subvention to, or receive any subsidy or subvention from, any Person or any Other Business of the Licensee (whether or not authorized by the Commission), except where

(a) the subsidy or subvention given is covered by an equivalent subsidy paid in advance by the State Government in the manner specified by the Commission under Section 65 of the Electricity Act, 2003 and the Regulations issued by the Commission .

(b) the subsidy given or received is a cross-subsidy surcharge received or paid by the Licensee in accordance with the Regulations of the Commission under Section 42 of the Electricity Act, 2003 ; and

(c) the subsidy given or received is by way of payments and receipts on account of universal service obligations of Licensee, as may specified by the Commission, from time to time.

23. **Cross-subsidy surcharge**

23.1 The Licensee shall pay cross-subsidy surcharge in the manner specified by the Commission in accordance with the Regulations made under sub-section (2) of Section 42 of the Electricity Act, 2003.

23.2 The Licensee shall maintain appropriate records and undertake such studies as the Commission may specify or direct to enable the Commission to reasonably determine or estimate, as the case may be, the Licensee's consumer base, cost of service and cross-subsidy surcharge payable by the Licensee.

24. **Prohibition of Undue Preference**

24.1 In conduct of the Licensed Business the Licensee shall not show undue preference to any Person. Provided that the Licensee shall not be in breach of its obligations under this the Licence if

(a) any classification is made between the consumers in accordance with the provisions of the Applicable Legal Framework, or

(b) any preference results from compliance with –

  (i) any directions of the State Government as regards grant of subsidy in the tariff for any consumer or class of consumers, or

  (ii) in the implementation of any order passed by the Commission.

25. **Obligation to Connect Consumers**

25.1 Subject to the other provisions of the Licence, the Licensee shall have the obligation to provide connection to Licensees' Distribution System to the owner or occupier of any premises within its Area of Supply within one month of receipt of the application requiring such supply of electricity. Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the Licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Commission in the Electricity Supply Code. Provided further that in case of a

village or hamlet or area where there is no provision for supply of electricity, the Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

25.2 Where the owner or occupier of any premises requires connection under the terms of this Clause 25.1, the form of application to be made, and the procedure for responding to that application shall be in accordance with the procedure specified in the Electricity Supply Code.

25.3 Nothing in this Clause 25 shall require the Licensee to provide connection during the impact of a Force Majeure event.

25.4 Before commencing to lay down or place a service-line in any area in which a distribution main has not already been laid, the Licensee shall serve a notice upon the local authority (if any) and upon the owners/occupier of all premises abetting so much of the area as lies between the points of origin and termination of the proposed service line –

(a) stating that the Licensee intends to lay down or place a service line, and

(b) confirming that if within 21 days from the date of the notice, the local authority or any one or more of such owners or occupiers require that a Supply shall be given for any public lamps or to their premises (as the case may be), the necessary distribution main will be laid down or placed by the Licensee at the same time as the service line.

25.5 The Licensee may levy any reasonable charge/s for carrying out works/release of supply pursuant to Paragraphs 19.4 in accordance with any procedures that may be stipulated by the Commission as well as the provisions of the Applicable Legal Framework and/or Regulations.

25.6 The Licensee shall enter into or make such arrangements for grant of non-discriminatory open access or the use of the Distribution System including but not limited to electric lines, electrical plant or plants and associated equipment operated by the Licensee, by any Person –

(a) consistent with the phasing of introduction of open access as specified by the Commission;

(b) in accordance with terms and conditions specified by the Commission in its approval.

26 Obligation to Supply

26.1 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 Performance Standards and other guidelines issued by the Commission in accordance with the provisions of the applicable legal framework, Rules and Regulations issued there under except

where:

(a) the Licensee discontinues Supply to certain Consumers in accordance with the Electricity Supply Code; or

(b) the Licensee is obliged to regulate the Supply, distribution, consumption or use of electricity as is directed by the Commission from time to time

26.2 The Distribution Licensees shall be entitled to utilize 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 Electricity Act 2003.

27 Powers To Recover Expenditure, Recover Security

27.1 The Distribution 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 Applicable Legal Framework and the Rules and Regulations for the purpose framed under the Applicable Legal Framework.

28. POWERS OF THE LICENSEE TO DISCONNECT SUPPLY

28.1Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to the Licensee in respect of supply, or distribution or wheeling of electricity to him, the Licensee may, after giving not less than fifteen clear days notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of the Licensee through which electricity may have been supplied, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:

Provided that the supply of electricity shall not be cut off if such person deposits, under protest, -

(a) an amount equal to the sum claimed from him, or

(b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months, whichever is less, pending disposal of any dispute between him and the Licensee.

Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the Licensee shall not cut off the supply of the electricity.

28.2 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 Retail Supply.

29. **Power to Enter Premises and to Remove Fittings or other Apparatus of**

Licensee

29.1 In accordance to section 163 of the Act, the Licensee or any person duly authorized 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 sub-clause 29.1 above.

29.3 The Licensee may, on refusal of entry by the occupier of the premises and after the expiry of twenty-four from the service of a notice in writing on the consumer, cut off power supply till such time the refusal continues but for no longer than that.

30 Amendment of Licence Conditions

30.1 These General Conditions of Licence may be altered or amended by the Commission under Section 18 of the Act at any time if it is in public interest. For any such alteration or amendment, the following provisions shall have effect:

a) where the Distribution Licensee has made an application under sub-section (1) of Section 18 of the Act proposing any alteration or amendment in the Conditions of Licence, the Distribution 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 Distribution 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 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.

31. Competition Conditions

31.1 Subject to the introduction of open access to the Distribution System and its phasing as specified by the Commission, any person, whose premises are situated within the area of supply of the Licensee, may require a supply of electricity from a generating company or any Licensee other than the distribution Licensee. Such person may, by notice, require the distribution Licensee to wheel such electricity in accordance with Regulations made by the State Commission and the duties of the distribution Licensee with respect to such supply shall be of a common carrier providing non-discriminatory open access at such charges as may be specified by the Commission.

31.2The Commission may, grants a Licence to two or more persons for distribution of electricity through their own distribution system within the same area in accordance with the Electricity Act, 2003, including the additional requirements imposed by Government of India for such subsequent Licensee in terms of the 6th Proviso to Section 14 of the Act.

32. Penalty for Contravention of Conditions of the Licence

32.1 The Licensee shall be liable for action for the contravention of the terms and conditions of the Licence in accordance with the relevant provisions of the Applicable Legal Framework and the procedure set out in the Conduct of Business Regulations

33. Miscellaneous

33.1 Pursuant to the Applicable Legal Framework, the Licensee shall have all the powers for placing of electric supply lines, appliances and apparatus for the Distribution of electricity, which a telegraph authority possesses under the Indian

Telegraph Act, 1885 (13 of 1885).

33.2 The Licensee shall comply with the directions of the Electrical Inspector issued pursuant to the powers vested in him under the Applicable Legal Framework or any rules framed thereunder, provided that any order passed by the Electrical Inspector shall be subject to appeal, which may be preferred to the State Government or if the State Government so directs, to the Commission.

33.3 Before revoking or suspending a Distribution Licence the Commission shall, if in its opinion consider necessary, refer the matter to the State Government and agree on an alternate arrangement to be made for discharging the duties of the Distribution Licensee.

33.4. All issues arising in relation to interpretation of these General Conditions and as to the terms and conditions thereof shall be a matter for the determination of the Commission and the decision of the Commission on such issues shall be final, subject only to the right of appeal under section 111 of the Act.

33.5. The Commission may at the time of grant of Distribution Licence waive or modify the application of any of the provisions of these General Conditions either in the order granting the Licence or by Special Conditions made applicable to a specific Distribution Licensee

33.6.The General conditions contained herein shall apply to all applicants for grant of Distribution Licence after the coming into force of the Act and also to all deemed Distribution Licensees under section 14 proviso first, second, third and fifth of the Act.

By Order of the Commission

Secretary to the Commission

Dated: 31.12.2004
Place: Lucknow

UPERC – General Conditions of Distribution Licence

UPERC – General Conditions of Distribution Licence

Schedule 1

(Description of the area of Supply for the Licence under consideration)

…….. However, for cantonment, aerodrome, fortress, arsenal, dockyard or camp or any building or place in occupation of the Central Government for defence purpose, the license will be effective only upon production of a no objection certificate from the Central Government.

UPERC – General Conditions of Distribution Licence

FORM - I

APPLICATION FORM FOR GRANT OF DISTRIBUTION LICENCE

Particulars of the Applicant

1. Name of the applicant:
2. Address:
3. Name, Designation & Address :of the contact person
4. Contact Tel. Nos.:
5. Fax No.:
6. E-mail ID:
7. Place of Incorporation/Registration:
8. Year of Incorporation/Registration:
9. Following documents are to be enclosed

a) Certificate of registration:

b) Certificate for commencement of business:

c) Original power of attorney of the signatory to _____ the Applicant or its promoter:

d) Details of Income tax Registration:

Details of Financial Data of Applicant

10. Net worth (in equivalent Indian Rupees-conversion to be done at the rate of exchange prevailing at the end of each year) for immediate past 5 (five) financial years.

(Specify financial year as applicable): (DD/MM/YY) to (DD/MM/YY)

In Home Exchange In equivalent

Currency rate used Indian Rs.

a) Year 1( ) to ( ) ---------- ---------- ----------

b) Year 2( ) to ( ) ---------- ---------- ----------

c) Year 3() to ( ) ---------- ---------- ----------

d) Year 4( ) to ( ) ---------- ---------- ----------

e) Year 5( ) to ( ) ---------- ---------- ----------

f) Copies of Annual Reports or certified audited results to be enclosed in support of above.

11. Annual Turnover (in equivalent Indian Rupees - conversion to be done at the rate of exchange prevailing at the end of each year) for immediate past 5 (five) financial years.

(Specify financial year as applicable): (DD/MM/YY) to (DD/MM/YY)

In Home Exchange In equivalent

Currency rate used Indian Rs.

a) Year 1( ) to ( ) ---------- ---------- ----------

b) Year 2( ) to ( ) ---------- ---------- ----------

c) Year 3( ) to ( ) ---------- ---------- ----------

d) Year 4( ) to ( ) ---------- ---------- ----------

e) Year 5( ) to ( ) ---------- ---------- ----------

f) Copies of Annual Reports or certified audited results to be enclosed in support of

above.

12. List of documents enclosed in support of Sl. Nos. (10) and (11) above:

Name of the document

a) _____

b) _____

c) _____

d) _____

13. a) Whether applicant himself shall be financing the proposed distribution fully on its own balance sheet: Yes/No

b) If, Yes, proposed equity from the applicant

i) Amount:

ii) Percentage:

14. In case the applicant proposes to tie up with some other Agency for equity, then name & address of such agency:

a) Name, designation & Address of reference person of the other Agency:

b) Contact Tel. No.:

c) Fax No.:

d) E-mail ID:

e) Proposed equity from the other Agency

i) Amount :

ii) Percentage of total equity:

iii) Currency in which the equity is proposed:

f) Consent letter of the other Agency to associate with the Applicant for equity participation to be enclosed.

g) Nature of proposed tie-up between Applicant and the other agency.

15. Details of debt proposed for the distribution business activity:

a) Details of Lenders:

b) Amount to be sourced from:

Various lenders

c) Letters from the lenders in support of the above to be enclosed.:

16. Organizational & Managerial Capability of Applicant:

(Applicant is required to enclose proof of their Organizational & Managerial Capability, in terms of these Regulations)

17. Approach & Methodology:

(Applicant is required to describe Approach & Methodology for establishment of the distribution business arrangements as proposed by the applicant.)

(Signature of Applicant)

Dated:

Place:

Note: Annex declarations, in form of proposed organizational structure & curricula vitae of various Executives, proposed office and communication facilities etc