

# THE DISTRIBUTION OF ELECTRICITY LICENCE (ADDITIONAL REQUIREMENTS OF CAPITAL ADEQUACY, CREDITWORTHINESS AND CODE OF CONDUCT) RULES, 2005<sup>1</sup>

*In exercise of the powers conferred by sub-section (1) of, and clause (b) of sub-section (2) of, section 176 of the Electricity Act, 2003 (36 of 2003), the Central Government hereby makes the following rules, namely:—*

**1. Short title and commencement.**—(1) These rules may be called the Distribution of Electricity Licence (Additional Requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005.

(2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definition.**—In these rules, unless the context otherwise requires,—

(a) 'Act' means the Electricity Act, 2003 (36 of 2003);

(b) Words and expression used and not defined in these rules but defined in the Electricity Act, 2003 (36 of 2003), shall have the meanings respectively assigned to them in that Act.

**3. Requirements of capital adequacy and creditworthiness.**—(1) The Appropriate Commission shall, upon receipt of an application for grant of licence for distribution of electricity under sub-section (1) of section 15 of the Electricity Act, 2003, decide the requirement of capital investment for distribution network after hearing the applicant and keeping in view the size of the area of supply and the service obligation within that area in terms of section 43.

(2) The applicant for grant of licence shall be required to satisfy the Appropriate Commission that on a norm of 30% equity on cost of investment as determined under sub-rule (1), he including the promoters, in case the applicant is a company, would be in a position to make available resources for such equity of the project on the basis of the networth and generation of internal resources of his business including of promoters in the preceding three years after excluding his other committed investments.

*Explanation.*—For the grant of a licence for distribution of electricity within the same area in terms of sixth proviso to section 14 of the Act, the area falling within a Municipal Council or a Municipal Corporation as defined in the article 243(Q) of the Constitution of India or a revenue district shall be the minimum area of supply.

**4. Requirement of code of conduct.**—The applicant for grant of licence shall satisfy the Appropriate Commission that he has not been found guilty or has not been disqualified under any of the following provisions within the last three years from the date of application for the grant of licence:—

(a) section 203, section 274, section 388B or section 397 of the Companies Act, 1956;

(b) section 276, section 276B, section 276BB, section 276C, section 277 or section 278 of the Income-tax Act, 1961;

(c) section 15C, section 15G, section 15H or section 15HA of the Securities and Exchange Board of India Act, 1992;

(d) clause (b), (bb), (bbb), (bbbb), (c) or (d) of sub-section (1) of section 9 of the Excise Act, 1944;

(e) section 132 or section 135 of the Customs Act, 1962,

and that the applicant is not a person in whose case licence was suspended under section 24 or revoked under section 19 of the Act, within the last three years from the date of application:

Provided that where the applicant is a company, it shall satisfy the Appropriate Commission in addition to provisions of this rule that no petition for winding up of the company or any other company of the same promoter has been admitted under section 443(e) of the Companies Act, 1956 on the ground of its being unable to pay its debts.

1. *Vide* G.S.R. 188(E), dated 23rd March, 2005, published in the Gazette of India, Extra., Pt. II, Sec. 3(i), dated 23rd March, 2005.