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## **Odisha Electricity Regulatory Commission**

2<sup>nd</sup> Floor, Bidyut Niyamak Bhawan, Unit-8, Bhubaneswar – 751 012.

### **Invitation for Expressions of Interest (EOI)**

**Notice Inviting Expression of Interest from interested investors for purchase of the Distribution Licensee covering the distribution circles of Bhubaneswar, Cuttack, Paradeep, and Dhenkanal in the state of Odisha u/s 20 of the Electricity Act, 2003.**

Pursuant to Section 20 of the Electricity Act, 2003, Odisha Electricity Regulatory Commission (OERC) invites 'Expression of Interest' (EOI) from interested investors, meeting the eligibility criteria set out in this EOI, to purchase the prospective Distribution Licensee covering the Distribution Circles of Bhubaneswar, Cuttack, Paradeep, and Dhenkanal.

The Notice for EOI, along with the Preliminary Information Memorandum (PIM) for this investment opportunity, providing detailed context, background, historical, technical and commercial information, can be downloaded from OERC Website: [www.orierc.org](http://www.orierc.org) as well as CESU's Website: [www.cesoodisha.com](http://www.cesoodisha.com).

Investors interested in evaluating this opportunity may respond to this notice by submitting their Response to the EOI, detailing their technical and financial capabilities. The last date and time for submission of the EOI is 2<sup>nd</sup> June 2016 at 16:00 hrs.

OERC reserves the right to reject all or any Responses, if it considers necessary to do so, and/ or to withdraw from the sale process or to vary any of its terms at any time, without giving any reasons thereof.

(This announcement is neither a prospectus nor an offer for sale to the public of shares, securities or debentures. The issue of this advertisement does not constitute a commitment by OERC, CESU or GOO or any other related entity/person to enter into any agreement with any entity / person.)

**SECRETARY**

Invitation title: Expression of Interest from interested investors for purchasing the prospective Distribution Licensee covering the distribution circles of Bhubaneswar, Cuttack, Paradeep, and Dhenkanal in the state of Odisha.

Reference number: OERC/CP/290416-01

Date of issue: 29<sup>th</sup> April 2016

Contact details: Secretary,  
Odisha Electricity Regulatory Commission (OERC),  
Bidyut Niyamak Bhavan, Unit- VIII,  
Bhubaneswar- 751 012  
Phone- 91 (674) 654 0476/ 239 5886  
Fax- (0674) 2395781, 2393306  
E-mail- orierc2016@gmail.com

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## Disclaimer

This Notice inviting Responses to the Expression of Interest (EOI) is intended to provide interested parties and prospective investors (“**Applicants**”) with further information on purchasing the prospective Distribution Licensee, covering the distribution circles of Bhubaneswar, Cuttack, Paradeep, and Dhenkanal in the state of Odisha u/s 20 of the Electricity Act, 2003.

The information contained in this EOI or subsequently provided to Applicant(s), whether verbally or in writing or in any other form, by or on behalf of the OERC or any of its employees or advisors, is provided to the Applicants on the terms and conditions set out in this EOI and such other terms and conditions subject to which such information is provided.

This EOI is not an agreement and is neither an offer nor invitation by the OERC to the prospective investors or any other person. The purpose of this EOI is to provide Applicants with information that may be useful to them in the formulation of their responses pursuant to this EOI (“**Response**”). This EOI includes statements, which reflect various information, assumptions and assessments arrived at by the OERC in relation to the investment opportunity. Such assumptions, assessments and statements do not purport to contain all the information that each Applicant may require. This EOI may not be appropriate for all persons, and it is not possible for the OERC, its employees or advisors to consider the investment objectives, financial situation and particular needs of each Applicant who reads or uses this EOI. The assumptions, assessments, statements and information contained in this EOI may not be complete, accurate, adequate or correct. Each Applicant should therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this EOI and obtain independent advice from appropriate sources.

Information provided in this EOI to Applicants is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The OERC or its employees or advisors accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The OERC, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Applicant, under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this EOI or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the EOI and any assessment, assumption, statement or information contained therein or deemed to form part of this EOI or arising in any way with assessment of Applicants for participation in the EOI process.

The OERC also accepts no liability of any nature whether resulting from negligence or otherwise, howsoever caused arising from reliance of any Applicant upon the statements contained in this EOI.

## Definitions and Interpretations

The following capitalized terms used in this EOI, shall have the meaning given hereunder:

**“Applicant”** shall mean the Applicant Company or Applicant Consortium as the context may require;

**“Applicant Company”** shall mean the reference to the single Company, if the Response to this EOI has been made by a single Company;

**“Applicant Consortium”** or **“Consortium”** shall mean the reference to the group of Companies, each being a Member in a Consortium, if the Response has been made jointly by more than one company;

**“Associate”** shall mean, in relation to the Applicant/ Consortium Member, a person who controls, is controlled by, or is under the common control with such Applicant/ Consortium Member (the “Associate”). As used in this definition, the expression **“control”** means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law;

**“Authorised Signatory”** shall have the same meaning as in Part-B of Clause 3.2(f) of this EOI;

**“CESCO”** shall mean the Central Electricity Supply Company Limited, incorporated under the erstwhile Companies Act 1956, as a successor entity as a result of the unbundling of the Orissa State Electricity Board in 1999, and was the distribution licensee for distributing electricity in the central region of Odisha;

**“CESU”** shall refer to the Central Electricity Supply Utility, incorporated by the OERC in exercise of its power under Section 22 of the Electricity Act 2003, pursuant to the Central Electricity Supply Utility of Orissa (Operation and Management) Scheme, 2006, vested with the utility of former licensee CESCO to carry out its licensed activity;

**“Company”** shall mean, in case of an Indian company, a company incorporated under the erstwhile Companies Act, 1956 or the Companies Act 2013, or in case of the entity being registered abroad, a company duly organised and validly existing under the laws of the jurisdiction of its incorporation;

**“Deadline”** shall mean the date and time by which Responses to this EOI by interested Applicants need to be submitted, viz., by **1600 Hrs. on 2<sup>nd</sup> June 2016**;

**“Distribution Licensee”** or **“Licensee”** in the context of this EOI, shall mean the Company to be incorporated as a one hundred percent (100%) subsidiary of GRIDCO and on to which the CESU shall be vested, to carry out the function of distribution of electricity covering the distribution regions of Bhubaneswar, Cuttack, Paradeep, and Dhenkanal in the state of Odisha;

**“GOO”** shall mean the State Government of Odisha;

**“GRIDCO”** means GRIDCO Limited;

**“Lead Member of the Applicant Consortium”** or **“Lead Member”** shall mean a Company and who commits to invest at least fifty one percent (51%) equity stake in the prospective Licensee, meets the qualification requirement and so designated by other Member(s) in the Applicant Consortium;

**“Member”** shall refer to each Company in the Applicant Consortium;

**“OERC”** shall mean the Odisha Electricity Regulatory Commission, formed pursuant to Section 3(i) of The Orissa Electricity Reform Act, 1995 (Orissa Act 2 of 1996);

**“Selected Bidder”** shall mean the Applicant selected pursuant to subsequent bid process as may be followed by the OERC to purchase the prospective Distribution Licensee.

# Part A – Notice for Expression of Interest

## Part A.1 – About this invitation

### Establishment details

Organisation name:	Odisha Electricity Regulatory Commission (“OERC”)
EOI title:	Expression of Interest from interested investors for purchasing the prospective Distribution Licensee covering the distribution circles of Bhubaneswar, Cuttack, Paradeep, and Dhenkanal in the state of Odisha.
EOI reference number	OERC/CP/290416-01

### Document details

The Notice for EOI detailing the procedure to be followed for selection of investor and the Preliminary Information Memorandum regarding the opportunity to purchase the prospective Distribution Licensee covering the Distribution Circles of Bhubaneswar, Cuttack, Paradeep, and Dhenkanal, in accordance with the provisions of the Electricity Act, 2003, can be downloaded from OERC Website : [www.orierc.org](http://www.orierc.org) as well as CESU’s Website : [www.cesoodisha.com](http://www.cesoodisha.com).

### Organisational Contact:

Secretary,  
Odisha Electricity Regulatory Commission (OERC),  
Bidyut Niyamak Bhavan, Unit- VIII.  
Bhubaneswar- 751 012  
Phone: 91 (674) 654 0476/ 239 5886  
Facsimile: 91 (674) 2395781 / 2393306  
**E-mail- [orierc2016@gmail.com](mailto:orierc2016@gmail.com)**

### Deadline for Submission of Responses by Applicants:

#### Closing time

Indian Standard Time 2<sup>nd</sup> June 2016, 16:00 hrs

### Investor Conference:

#### Investor’s Conference

Time and date:	Time: 11:00 hrs Date: 12 <sup>th</sup> May 2016
Venue:	Odisha Electricity Regulatory Commission, Plot No. 4, Chunokoli, Shailashree Vihar, Chandrasekharapur, Bhubaneswar - 751023
Attendance:	Not Mandatory

### Indicative timetable:

Please note: this timetable provides Applicants with an indication of the timing of the EOI process. The timetable is indicative only and may be changed by OERC.

#### Activity

#### Date

Activity	Date
Invitation issued	29 <sup>th</sup> April 2016
Investors' Conference	12 <sup>th</sup> May 2016, 11:00 hrs
Closing time for Applicants' Response	2 <sup>nd</sup> June 2016, 16:00 hrs

## Part A.2 – Eligibility criteria

### 1. General

- a) The Expression of Interest (EOI) may be submitted by any domestic or international Company (“**Applicant**”) or a consortium (“**Applicant Consortium**” / “**Consortium**”), to participate in the process leading to the purchasing of the prospective Distribution Licensee, subject to terms and conditions specified in this document and any other subsequent additions and modifications. A Company can be a Member/or Lead Member of any one Consortium only.
- b) In case of the Applicant being a Company, the Applicant would require to purchase the entire equity stake in the prospective Distribution Licensee.
- c) In case of the Applicant being a Consortium, the equity stake proposed to be divested in the ordinary share capital of the prospective Distribution Licensee (“**Licensee**”) will need to be acquired through direct holding in the Licensee by the Members of the Consortium in line with the proportion of shareholding indicated in their bid.
- d) In case of the Applicant being a Consortium, the Applicant will designate a Lead Member, fulfilling the following criteria:
  - The Lead Member shall be required to directly hold at least fifty one percent (51%) of the equity in the Licensee at all times, with the balance being held by the other Members.
  - No Member in the Consortium, in case of being selected through this process, can hold less than twenty percent (20%) in the prospective Licensee.
- e) Equity divested under this transaction process to the Selected Bidder can under no circumstance, be allowed to be further divested, any part of this equity stake to any third party, without the prior approval of the OERC u/s 17(3) of the Electricity Act, 2003.
- f) The interested parties should satisfy the eligibility criteria, as outlined under Financial and Technical Eligibility Criteria (to be satisfied by the Applicant on its own strength or the strength of the Members in case of a consortium) as on 31<sup>st</sup> March 2015, to submit the Response.
- g) Where audited accounts are expressed in US\$, or in any other currency other than INR, the eligible financial criteria, as described in the eligibility criteria, shall be computed by taking the equivalent amount at the exchange rates prevailing as on 31<sup>st</sup> March 2015 for the respective currency as published by the Reserve Bank of India. In the event that the date(s) of the financial statements and date of exchange rate are not co-terminus, the latest available audited statements for a minimum period of 12 months and the exchange rates prevailing on the immediate preceding reference date shall be reckoned for the purpose.
- h) The Applicant shall bear all costs associated with the preparation and submission of the Response to this EOI. OERC or CESU and their advisors / consultants shall not, under any circumstances, be responsible or liable for any such costs.

## 2. Financial Eligibility

- a) **Net worth** of not less than INR 1,200 Crores (or equivalent US\$ at an exchange rate on 31<sup>st</sup> March 2015 as per the provisions laid out in Clause A.2 (1) (g)).

**Where:** Net worth shall mean (Subscribed and Paid-up Equity Share Capital + Reserves) less (Revaluation reserves + Intangible Assets + miscellaneous expenditure not written off & carry forward losses + reserves not available for distribution to equity shareholders). The Net worth should be as per the latest audited financial accounts not earlier than 31<sup>st</sup> March 2015 of the Applicant.

Applicant shall provide an Auditor's Certificate specifying the Net worth of the Applicant and also specifying the methodology adopted for calculating such Net worth and confirms to the provisions mentioned above.

The Net worth computed should be based on unconsolidated audited annual accounts.

- b) The **Average Net Cash Accruals** of the Applicant should be INR 500 Crores per year as per the Audited Annual Accounts for the FY 2012-13, FY 2013-14 and FY 2014-15.

**Where:** Net Cash Accruals shall mean Profit after Tax + Depreciation & Amortisation.

- c) The above criterion would apply to the Consortium as a whole and the Net worth and Average Net Cash Accruals of the Lead Member must be at least fifty one percent (51%) of the stipulated Net worth and Average Net Cash Accruals criteria. Further, in the case of a Consortium, the Net worth of only those Members of the Consortium shall be counted towards meeting the eligibility criteria who propose to hold at least twenty percent (20%) equity in the prospective Licensee in case of a Consortium.

## 3. Technical Eligibility

- a) Applicant should have experience of operating as a distribution licensee either singly or jointly with other Members of the Consortium, in case the Applicant is a Consortium.
- b) The Applicants should be able to commit adequate senior level management competence. For the purpose of this EOI, the Applicant has to commit the following key managerial resources - CEO and Director level resources with adequate experience as heads of finance, network operations, commercial, projects/technical, human resources, legal, material management and information technology.
- c) In the case of a Consortium, the Technical Eligibility parameters of only those Members of the Consortium shall be counted towards meeting the eligibility criteria who propose to own at least twenty percent (20%) of the equity in the prospective Distribution Licensee.

## 4. Disqualification of Response to EOI

- a) Notwithstanding anything to the contrary contained herein and without prejudice to any of the rights or remedies of OERC/CESU, a sole Applicant or Consortium may be disqualified and its Response excluded from further evaluation for any of the reasons listed below:
- (i) Misrepresentation by any Applicant or Member of an Applicant Consortium in their Response;
  - (ii) If any Applicant or Member of a Consortium has been blacklisted or has failed to perform under license from any statutory authority or have had their license cancelled/revoked for any reason whatsoever;
  - (iii) A winding up/insolvency or other proceedings of a similar nature is pending against the Applicant or Member of a Consortium or a receiver has been appointed for the assets of such Applicant or a Member of the Applicant Consortium;
  - (iv) If any Member of a Consortium is also a Member in another Consortium.

- b) If information about the Applicant becomes known after the Applicant has been qualified, at any stage, to proceed with the bid process, which would have entitled OERC/CESU to reject or disqualify the relevant Applicant/Consortium, OERC reserves the right to reject or disqualify the relevant Applicant /Consortium at the time, or at any time, such information becomes known to OERC/CESU. Where such Applicant is a Consortium, OERC may disqualify the entire Consortium, even if it applied to only one Member of the Consortium. OERC's determination that one or more of the events specified under this section has occurred shall be final and conclusive.
- c) Change in the composition of a Consortium will not be permitted during the EOI process.

## Part B – Requirements pertaining to the Notice

### 1. Invitation

#### 1.1 Invitation

This notice is not an offer. It is a formal request for interested Applicants to submit a response with respect to this notice. Nothing in this document is to be construed as creating any binding contract (express or implied) between OERC/CESU and any Applicant.

#### 1.2 Accuracy of invitation

OERC, CESU and OERC's advisors / consultants do not warrant the accuracy of the content of this invitation and will not be liable for any omission from the documents.

#### 1.3 Additions and amendments

OERC, CESU and OERC's advisors / consultants undertake no obligation to provide the recipient with any additional information or update this document and reserve the right, at any time and without notice, to change or modify the procedure or process of the sale or terminate the due diligence or negotiations or any part of or the entire sale process.

#### 1.4 Governing laws

The process shall be governed by Indian Law. All disputes arising out of this EOI process shall be subject to the exclusive jurisdiction of the competent Courts in Bhubaneswar and High Court of Orissa, Cuttack.

### 2. Communication

#### 2.1 Communication protocol

All communications relating to this Notice and the EOI process must be directed to the organisation contact, whose details have been provided under Part A.1.

#### 2.2 Requests for clarification

- (a) Any questions or requests for clarification or further information regarding this Notice or the EOI process must be submitted to the organisation contact in writing at least ten (10) working days prior to the deadline for submission of Responses to this EOI.
- (b) OERC, CESU and OERC's consultants / advisors are not obliged to respond to any question or request for clarification or further information.
- (c) Where OERC, CESU and OERC's consultants / advisors makes available any other information or clarification to any applicant, the same shall be made available on the OERC Website: [www.orierc.org](http://www.orierc.org) as well as CESU's Website: [www.cesoodisha.com](http://www.cesoodisha.com), and also to all other prospective Applicants. The details of such a request together, with any response, in which event those details shall form Part of this Invitation.

#### 2.3 Briefing conference

OERC will hold briefing conference at the location(s) and time(s) specified in this document. Participation of Applicants in this briefing is not mandatory.

#### 2.4 Corrupt practices

- (a) Interested parties are required to observe the highest standard of ethics during the EOI process.

- (b) OERC, in the absolute discretion, will reject the Response of any Applicant if it determines that the Applicant recommended for selection has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract.
- (c) Any communication (including promotional or lobbying activities) with the staff of OERC/CESU or CESU's consultants / advisors, assisting in the EOI process, other than the designated Organisational Contact, is not permitted during this process.
- (d) In addition to any other remedies available to it under law, OERC may, in its absolute discretion, disqualify an Applicant that it believes has engaged in such collusive or anti-competitive conduct, and debar it from further participation in the process leading up to the acquisition of majority stake in the Licensee.

## 2.5 Stages of Bid

- (a) In the first stage, all interested parties shall be required to submit their Response to this EOI as per the formats and procedures prescribed in this document. The Response will be used to assess the interest of Applicants and their suggestions / concerns on the proposed transaction.
- (b) In the subsequent stage, a formal Request for Qualification / Proposal would be published, along with a Confidential Information Memorandum ("CIM") and draft Transaction Document(s). The process thereafter would be as specified in the CIM.
- (c) OERC reserves the right to terminate or alter the bidding process at any stage, without assigning any reasons thereof.

## 3. Submission of Responses to this EOI

### 3.1. Submission

- (a) Response must be submitted by the deadline for submission of Responses.
- (b) All Responses lodged after the EOI deadline will be recorded and kept separately by the organisation. The determination of OERC as to the actual time that the Applicant's Response is lodged is final.
- (c) The Response to this EOI will be as per the formats specified in these documents and must be submitted in line with the directions specified and laid out in this EOI.

### 3.2 Documents comprising the EOI

- (a) The Response is required to be submitted in one (1) original + two (2) copies (placed in one envelope). The Response must be in English and the original and each copy of the Response shall be bound in separate volumes. Submission of the aforesaid documents by electronic means and/or facsimile will not be accepted. Each copy of the Response, duly completed as per the provisions of this EOI, shall be submitted not later than 16:00 hours (Indian Standard Time) on 2<sup>nd</sup> June 2016 enclosed in a sealed envelope superscribed "**Private and Confidential – Expression of Interest for Participating in the Sale of the prospective Distribution Licensee covering the distribution circles of Bhubaneswar, Cuttack, Paradeep and Dhenkanal**" at the following address:

**Secretary**  
**Odisha Electricity Regulatory Commission (OERC)**  
**Bidyut Niyamak Bhavan, Unit- VIII**  
**Bhubaneswar- 751 012**

- (b) No amendments or changes to the Response shall be permitted.
- (c) The Response to the EOI shall comprise the following:
  - (i) EOI submission letter prescribed in Part-C;

- (ii) EOI formats prescribed in Part-C;
  - (iii) Statement of Legal Capacity in the format set out in Part-C;
  - (iv) Where applicable, Letter of Association executed between Members of the Consortium. The Letter of Association needs to be signed by the Managing Director of the Companies;
  - (v) Written confirmation, authorizing the Authorised Signatory for executing and signing the Response;
  - (vi) Documentary evidence establishing the Applicant's eligibility to submit Response to this EOI ;
  - (vii) Any other document required under this EOI notice.
- (d) The Applicants shall submit their Responses using the appropriate Submission Sheets provided. These forms must be completed without any alterations to their format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.
- (e) The Applicants shall prepare one (1) original Response to the EOI, and clearly mark it as **“RESPONSE TO OERC’S EXPRESSION OF INTEREST - ORIGINAL”**. In addition, the Applicant shall submit two (2) copies of the Response, and clearly mark it as **“RESPONSE TO OERC’S EXPRESSION OF INTEREST - COPY”**. These documents are required to be placed in a sealed envelope superscribed **“RESPONSE TO OERC’S EXPRESSION OF INTEREST FOR PURCHASING THE PROSPECTIVE DISTRIBUTION LICENSEE IN ODISHA”**.
- (f) The original and all copies of the Response shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Applicant (**“Authorised Signatory”**). This authorization shall consist of a written confirmation and which shall be enclosed as part of the Response. The name and position held by the Authorised Signatory must be typed or printed below the signature. All pages of the Response, printed literature, shall be signed or initialled by the Authorised Signatory.
- (g) Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialled by the Authorised Signatory.
- (h) All the envelopes shall:
- (i) bear the name and address of the Applicant;
  - (ii) be addressed to the Organisational Contact; and
  - (iii) bear the specific identification and reference of this EOI
- (i) The sealed Responses should be superscribed with **“DO NOT OPEN BEFORE 1600 Hrs on 2<sup>nd</sup> June 2016”**- the time and date for the opening of the Responses to this EOI.
- (j) If the envelopes submitted by the Applicant are not sealed and marked as required, OERC will assume no responsibility for the misplacement of the documents or the Response to the EOI.
- (k) It shall be the responsibility of the Applicants alone to ensure that their Response, along with the required documents, are delivered at the above mentioned address by the Deadline. OERC shall not be responsible for non-receipt of the Response to the EOI by the Deadline.

### **3.3 Applicant’s responsibility**

It is the Applicant’s responsibility to:

- (a) understand the requirements of this Invitation, the EOI process and any reference documentation;
- (b) ensure that all the information fields are completed and contain the information requested;
- (c) ensure that their Response is in the correct format, complies with all requirements of this EOI and is accurate and complete;

- (d) make their own enquiries and assess all risks regarding this invitation and the EOI process;
- (e) ensure that it did not rely on any express or implied statement, warranty or representation, whether oral, written or otherwise made by or on behalf of OERC/CESU or its representatives or advisors / consultants, other than any statement, warranty or representation expressly contained in this Invitation;
- (f) ensure that they comply with all applicable laws in regard to the EOI process; and,
- (g) be responsible for all costs and expenses related to the preparation and submission of its response, any subsequent amendment, and any future process connected with or relating to the EOI process.

### **3.4 Confidentiality**

Information relating to the examination and evaluation of Responses, shall not be disclosed to Applicants or any other person(s) not officially concerned with such process.

### **3.5 Clarification on Responses**

To assist in the examination and evaluation, of the Responses, OERC may, at its discretion, ask any Applicant for a clarification of its Response. Any clarification submitted by an Applicant that is not in Response to a request by OERC shall not be considered. OERC's request for clarification and the response shall be in writing.

### **3.6 Withdrawal of an Applicant's Response**

An Applicant, who wishes to withdraw a previously submitted Response, must immediately notify OERC of the fact. Upon receipt of such notification, OERC will cease to consider the Applicant's Response for further evaluation.

## **4. Evaluation**

### **4.1. Evaluation process**

Applicants' Responses will be evaluated in accordance with the evaluation criteria stipulated in this Notice. OERC may in its absolute discretion:

- (a) reject any Applicant's Response that does not include complete information as requested or is not in the format specified in this notice; or
- (b) after concluding a preliminary evaluation, reject any Applicant's Response that, in its opinion, is not in compliance to the stipulated requirements.; or
- (c) disregard any content in an Applicant's Response that is illegible and will be under no obligation whatsoever to seek clarification from the Applicant; or
- (d) disqualify an incomplete Applicant's response or evaluate it solely on the information contained within it.

### **4.2. Evaluation options**

- (a) The Response will be used to evaluate the interest of Applicants on the proposed transaction.
- (b) After receiving the Responses, OERC may without limiting other options available to it, do any of the following:
  - (i) decide not to proceed further with the EOI process or any other subsequent process; or
  - (ii) commence a new process for calling for responses on a similar or different basis to that outlined in the original invitation.

## Part C – Annexures: Formats for Responding to the EOI

- C-1: Expression of Interest
- C-2: Details of the Applicant
- C-3: Format for confirming to the Technical Qualification requirements
- C-4: Format for confirming to the Financial Qualification requirements
- C-5: Authorisation from the Members in favour of the Lead Member in case of the Applicant being a Consortium
- C-6: Authorisation in favour of the Authorised Signatory
- C-7: Statement of Legal Capacity

## **C-1: Expression of Interest**

(To be on the letterhead of the Applicant / Lead Member / Member of the Consortium submitting its Response to the EOI)

Reference No. \_\_\_\_\_

Date \_\_\_\_\_

Secretary,  
Odisha Electricity Regulatory Commission (OERC),  
Bidyut Niyamak Bhavan, Unit- VIII.  
Bhubaneswar- 751 012

**Sub: Expressions of Interest from interested Applicants for participating in the process for the purchase of the prospective Distribution Licensee covering the distribution circles of Bhubaneswar, Cuttack, Paradeep, and Dhenkanal in the state of Odisha**

Sir,

This is with reference to the advertisement dated \_\_\_\_\_ inviting Responses to the EOI for participating in the EOI process for purchasing the prospective Distribution Licensee covering the distribution circles of Bhubaneswar, Cuttack, Paradeep, and Dhenkanal in the state of Odisha.

1. I/We have read and understood the contents of the Preliminary Information Memorandum (PIM) and Expression of Interest (EOI) notice and are desirous of participating in the above sale process. We believe that we/our consortium/proposed consortium satisfies the eligibility criteria set out in the EOI.
2. I/We acknowledge that OERC will be relying on the information provided in the Response and the documents accompanying such Response of the Applicants for the aforesaid opportunity, and we certify that all the information provided in the Application is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Application are true copies of their respective originals.
3. I/ We shall make available to OERC any additional information it may find necessary or require to supplement or authenticate the Qualification statement.
4. I/ We acknowledge the right of OERC to reject our Application without assigning any reason or otherwise and hereby waive, to the fullest extent applicable by permitted law, our right to challenge the same on any account whatsoever.
5. I/ We understand that OERC may cancel the EOI process at any time and that you are neither bound to accept any Application that you may receive nor to invite the Applicants to bid for the opportunity, without incurring any liability to the Applicants.
6. I/ We believe that we/ our Consortium satisfy(ies) the eligibility criteria and meet(s) all the requirements as specified in the EOI document and are/ is qualified to submit a Bid at a subsequent stage.
7. I/ We declare that we/ any Member of the Consortium, or our/ its Associates are not a Member of a/ any other Consortium responding to this EOI notice.
8. I/ We undertake that in case, due to any change in facts or circumstances during the pendency of the EOI process, we are attracted by the provisions of disqualification in terms of the EOI notice and/or such other communication as may be addressed to us by OERC, we would intimate OERC of the same immediately.

We shall be glad to receive further communication on the subject.

Yours faithfully,

.....

Signature of the Authorised Signatory

Name of the Authorised Signatory: .....

Date: .....

Place: .....

For and on behalf of the Applicant / Lead Member in case of a Consortium

## C-2: Details of the Applicant

(To be on the letterhead of the Applicant / Lead Member in case of the Applicant being a Consortium)

1. (a) Name of the Applicant: .....
- (b) Country of incorporation: .....
- (c) Address of the corporate headquarters and its branch office(s), if any, in India:  
.....
- (d) Date of incorporation and/ or commencement of business: ..... [dd/mm/yyyy]
2. Brief description of the Company including details of its main lines of business and proposed role and responsibilities: .....
3. Particulars of the Authorised Signatory of the Applicant:
  - (a) Name: .....
  - (b) Designation: .....
  - (c) Company: .....
  - (d) Address: .....
  - (e) Telephone Number: .....
  - (f) E-Mail Address: .....
  - (g) Fax Number: .....

In case of a Consortium the information above (1-3) should be provided for all the Members of the Consortium separately on their respective letter heads.

4. Information regarding the role of each Member should be provided as per table below:

Sl. No.	Name of Member	Percentage of equity to be owned in the Licensee (if selected)
1.	..... (Lead Member)	
2.	..... (Member-1)	
3.	..... (Member-2)	

**Note:**

1. The Lead Member should directly own at least fifty one percent (51%) in the equity of the Licensee post sale.
2. No Member, can own less than twenty percent (20%) in the equity of the Licensee post sale. This ownership should be held directly by all Members including Lead Member.

.....

Signature of the Authorised Signatory

Name of the Authorised Signatory: .....

Date: .....

Place: .....

For and on behalf of the Applicant Company /Lead Member in case of a Applicant Consortium

### C-3: Format for confirming to the Technical Qualification requirements

(To be on the letterhead of the Applicant / Lead Member of the Consortium submitting the Responses to the EOI)

1. *Experience of handing consumers in electricity distribution sector as a distribution licensee*

- a. Name of the distribution licensee: .....
- b. Equity holding in the distribution licensee with name of the entities owning at least 10% of the equity as on 31<sup>st</sup> March 2016:

Name of the distribution licensee  (1)	Name of the entity owning equity stake in the distribution licensee mentioned in column (1)  (2)	Percentage equity holding of the entity (mentioned in column 2) in the distribution licensee (mentioned in column 1)  (3)

- .....
- c. Geographical area of coverage (with details of field units i.e. circles, divisions, sub-divisions etc.):  
.....
- d. Number of consumers served (with category wise details): [Whether residential, industrial, commercial, agriculture, bulk supply consumers, government, etc.] .....
- e. Date of commencement of licensee / business operations and validity period of existing license  
.....
- f. Any other information [please use additional pages if required]:
- g. Please enclose a copy of the distribution license / permission to operate business issued by concerned statutory / regulatory authority

2. *Senior level management competence*

Applicant has to commit the following key managerial resources - CEO and Director level resources with adequate experience as heads of finance, network operations, commercial, projects/technical, human resources, legal material management and information technology. Please provide brief profiles of the personnel proposed with specific focus on their experience in power distribution sector. Applicant to give at least one name for each area of work.

Name	Qualification	Years of Experience	Area of expertise	Brief profile of the personnel

.....

Signature of the Authorised Signatory

Name of the Authorised Signatory: .....

Date: .....

Place: .....

For and on behalf of the Applicant / Lead Member in case of a Consortium

### C-4: Format for confirming to the Financial Qualification requirements

(To be on the letterhead of the interested party/lead member / of the consortium submitting the EOI)

Applicant Type	Member Name	Member Role	Net worth Rs. Crores (FY' 2015)	Net Cash Accruals Rs. Crores		
				FY' 2013	FY' 2014	FY' 2015
Single entity Applicant		Not Applicable				
Consortium Member 1						
Consortium Member 2						
Consortium Member 3						
Total Rs. Crores						

**Instructions:**

- The Applicant/ its constituent Consortium Members shall attach copies of the audited balance sheets, financial statements and Annual Reports for the three (3) financial years preceding the EOI Due Date. The financial statements shall:
  - reflect the financial position of the Applicant or Consortium Members and its/ their Associates where the Applicant is relying on its Associate’s financials;
  - be audited by a statutory auditor;
  - be complete, including all notes to the financial statements; and
  - correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted);
- The Applicant shall also provide the name and address of the Bankers to the Applicant.
- The Applicant shall provide an Auditor’s Certificate specifying the Net worth of the Applicant and also specifying the methodology adopted for calculating such net worth in accordance with provision of this EOI.

.....

Signature of the Authorised Signatory

Name of the Authorised Signatory: .....

Date: .....

Place: .....

For and on behalf of the Applicant / Lead Member of the Consortium

**C-5: Authorisation from the Members in favour of the Lead Member in case of the Applicant being a Consortium**

(To be provided on a stamp paper of appropriate value)

Whereas the Odisha Electricity Regulatory Commission (the “OERC”) has invited applications from interested parties for purchasing the prospective Distribution Licensee, covering the distribution circles of Bhubaneswar, Cuttack, Paradeep, and Dhenkanal in the state of Odisha(the “Opportunity”).

Whereas, ....., and ..... (collectively the “Consortium” or “Applicant Consortium”) being Members of the Consortium are interested in submitting its Response for the Opportunity, in accordance with the terms and conditions of the Expression of Interest (“EOI”) and other connected documents in respect of the Opportunity, and

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the submission of Consortium’s Response for the Opportunityand its execution.

**NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS**

We, .....having our registered office at ....., M/s. ...., having our registered office at ....., (hereinafter collectively referred to as the “Principals”) do hereby irrevocably designate, nominate, constitute, appoint and authorise M/s. .... having its registered office at ....., being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the “Attorney”). We hereby irrevocably authorise the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the EOI process and, in the event the Consortium is selected as the Bidder ,to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of our Response against the EOI for the Opportunity, including but not limited to signing and submission of all applications and other documents and writings, participate in briefing conferences, respond to queries, submit information/ documents, and generally to represent the Consortium in all its dealings with the OERC, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium’s Response for the Opportunity.

**AND** we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Consortium.

**IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS ..... DAY OF ....., 20.....**

**For ..... [Name of the Lead Member]**

.....  
(Signature, Name & Title)

Name: .....

Title: .....

**For ..... [Name of Consortium Member-1]**

.....  
(Signature, Name & Title)

Name: .....

Title: .....

**For .....** [Name of Consortium Member-2]

.....  
(Signature, Name & Title)

Name: .....

Title: .....

(Executants)

(To be executed by all the Members of the Consortium)

**Witnesses** [Note: Two (2) witnesses each for each of the Members of the Consortium]:

1.

2.

.....

**Notes:**

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s).*
- *Wherever required, the Applicant should submit for verification the extract of the charter documents and documents such as a resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Applicants from countries that have signed The Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.*

## **C-6: Authorisation in favour of the Authorised Signatory**

(To be provided on a stamp paper of appropriate value. In case of a Consortium, to be provided by each Member, including the Lead Member for appointment of their respective authorised signatory)

**KNOW ALL MEN BY THESE PRESENTS**, We..... (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr/ Ms (name), ..... son/daughter/wife of ..... and presently residing at ....., who is presently employed with us and holding the position of ....., as our true and lawful attorney (hereinafter referred to as the “Attorney”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Responseto the EOI for purchasing the prospectiveDistribution Licensee covering the distribution circles of Bhubaneswar, Cuttack, Paradeep, and Dhenkanal in the state of Odisha but not limited to signing and submission of all applications, for the aforesaid EOI and other documents and writings, participate in briefing conferences and providing information/ responses to the OERC, representing us in all matters before the OERC, signing and execution of all documentsand undertakings consequent to acceptance of our Response ,and generally dealing with the OERC in all matters in connection with or relating to or arising out of our Application for the said EOI.

**AND**, we hereby ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

**IN WITNESS WHEREOF WE, ....., THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS ..... DAY OF ....., 2.....**

For .....

(Signature, name, designation and address of the Executant)

Witnesses:

1.

2.

Accepted

.....

(Signature of the Attorney)

(Name, Title and Address of the Attorney)Notarised

*Notes:*

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s).*
- *Wherever required, the Applicant should submit for verification the extract of the charter documents and documents such as a board or shareholders’ resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant.*

- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Applicants from countries that have signed The Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.*

## C-7: Statement of Legal Capacity

**(To be on the letterhead of the Applicant. In case of a Consortium, to be on the letter head of each Member, including the Lead Member)**

Reference No. \_\_\_\_\_

Date \_\_\_\_\_

To,  
**The Secretary,**  
**Odisha Electricity Regulatory Commission (OERC),**  
Bidyut Niyamak Bhavan, Unit- VIII.  
Bhubaneswar- 751 012

**Sub: Expressions of Interest from interested investors for purchasing the prospective Distribution Licensee covering the distribution circles of Bhubaneswar, Cuttack, Paradeep, and Dhenkanal in the state of Odisha**

Sir,

This is with reference to the advertisement dated \_\_\_\_\_ inviting EOI for participating in purchasing the prospective Distribution Licensee covering the distribution circles of Bhubaneswar, Cuttack, Paradeep, and Dhenkanal in the state of Odisha.

We have read and understood the contents of the PIM and the advertisement and pursuant to this hereby confirm that

1. We satisfy the eligibility criteria laid out in the EOI notice as applicable to us. .
2. We are a Member of the Consortium (constitution of which has been described in the EOI), which jointly satisfies the eligibility criteria as detailed in the EOI notice.\*
3. We have agreed that \_\_\_\_\_ (insert Member's name) will act as the Lead Member of our Consortium.\*
4. We have agreed that \_\_\_\_\_ (insert individual's name) of ..... (insert Member's name) will act as our representative on our behalf and has been duly authorized to submit all documents, information for submission of the Response to the EOI. Further, the authorized signatory is vested with requisite powers to furnish this letter and EOI and authenticate the same wherever required.\*
5. We have agreed that \_\_\_\_\_ (insert the name of the individual) will be the representative of Lead Member and is duly authorized to submit the EOI on our behalf. Further, the authorized signatory is vested with requisite powers to furnish this letter and EOI and authenticate the same.\*
6. We confirm that the Applicant is the .....[*Company or a consortium of Companies – insert as applicable* ] validly incorporated under their respective jurisdictions as per the laws applicable and existing and legally authorised of undertaking the business of distribution of electricity covered under the EOI in terms of its incorporation documents.

Yours faithfully,

.....  
Authorised Signatory

For and on behalf of (Applicant /each Member)

*\*Strike off whichever clause is not applicable*