

DRAFT LETTER OF APPOINTMENT FOR INDEPENDENT DIRECTOR

Date: [o]

To,

**[Name of the Independent Director
& his Address]**

Dear Sir,

Sub: Appointment as an Independent Director

We are pleased to inform you that the Shareholders of BSES Yamuna Power Limited ('BYPL' or 'the Company') in its ___th Annual General Meeting held on _____, 20__ have appointed you as an Independent Director of the Company for a period of five consecutive years **w.e.f.**_____. This letter has been issued to formalize your appointment as an Independent Director under paragraph IV (4) of Schedule IV of the Companies Act, 2013. The Nomination and Remuneration Committee (NRC) of the Board and the Board of Directors had reviewed and recommended to the shareholders for your appointment as an Independent Director of the Company. It may please be noted that this is a contract for services and is not a contract of employment.

1. Independence

We would inform you that your appointment as an Independent Director is in due consideration of your declaration of being qualified as INDEPENDENT and this appointment is subject to your continued status as being "Independent" as per the requirements of the Companies Act, 2013, as may be amended from time to time. Should there be any change in the circumstances due to which it may be difficult for you to retain your Independence, we would request you to immediately bring this to the attention of the Chairperson of the Nomination and Remuneration Committee (henceforth referred as Chairperson).

2. Appointment

Your appointment will be for a period of five years commencing on _____, unless otherwise terminated earlier by and at the discretion of either party. In the event that you are not re-elected by the shareholders of the Company, your appointment shall terminate with effect from such date.

2.1 You, while being a Chairman/member of Board of Directors, may be invited/ nominated for appointment on various committees of the Board of Directors, as set up from time to time. Currently, following are the Committees of Board of Directors:

- Audit Committee

- Nomination and Remuneration Committee
- Corporate Social Responsibility Committee
- Investment Committee

2.2 Currently you are the Chairman / member of the following Committees:

Your appointment may also be terminated in accordance with the provisions of the Articles of Association of the Company from time to time in force.

3. Time Commitment

As an Independent director, under the Companies Act, 2013, an onerous responsibility has been cast on you to perform certain duties. You are requested to devote such time as is necessary for the proper performance of your duties as an Independent Director. It is intended that the Company will hold minimum four regular Board meetings in a year, but you may be expected to attend additional meetings, if circumstances require. You will also be required to attend the Annual General Meeting and to meet occasionally with major Shareholders, Management, Staff and Professional Advisers.

By accepting this appointment, you have confirmed that you have agreed to devote sufficient time to meet the expectations of your role.

4. Roles and Responsibilities

Independent Directors have the same general legal responsibilities to the Company as any other Director. The Board as a whole is collectively responsible for the success of the Company. The Board:

- Sets the Company's values and standards and ensures that its obligations to its Shareholders and others are understood and met.
- Provides entrepreneurial leadership to the Company within a framework of prudent and effective controls which enable risk to be assessed and managed.
- Sets the Company's strategic aims, ensures that the necessary financial and human resources are in place for the Company to meet its objectives, and reviews management performance.

As an Independent Director of the Company, you are required:

- to act in accordance with the Company's Articles of Association.
- to act in good faith in order to promote the objects of the Company for the benefit of its members as a whole and in the best interest of the Company, its employees, the shareholders, the community and for the protection of the environment.

- to discharge your duties with due and reasonable care, skill and diligence and shall exercise independent judgment.
- not to involve yourself in a situation conflicting with the interest of the Company and to put the interests of Company above others.
- not to achieve or attempt to achieve any undue gain or advantage either to yourself or to any person / party related to you.
- shall not assign your office and any assignment so made shall be void.

In addition to the above requirements applicable to all Directors, your role as one of the Independent Directors shall also include duties as prescribed in Schedule IV of Companies Act, 2013 as enclosed.

5. Fees

As consideration for the services rendered by you as an Independent Director, you will be entitled to a sitting fee as may be decided by the Board for attending each meeting of the Board and Committee thereof. The Company will reimburse you all reasonable and properly documented expenses that you incur in performing the duties for the Company.

6. Outside interests

We acknowledge that you may have interests other than those of the Company and have declared the same to the Company. In the event that you become aware of any potential conflicts of interest, these should be disclosed to the Chairperson and Company Secretary of the Company as soon as apparent.

During your appointment as an Independent Director you should not become involved (whether directly or indirectly) in any enterprise which might reasonably be considered to compete or have a significant relationship with the Company or any member of this Group.

7. Confidentiality

During your tenure as Independent Director of the Company, you will be privy to information that is confidential to the Company. All such information acquired during your appointment should not be released, either during your tenure as Director to third parties without prior clearance from the Chairperson.

We would draw your attention to the requirements under both legislation and regulation as to the disclosure of price sensitive information. Consequently you are requested to avoid making any statements that might risk a breach of these requirements without prior clearance from the Chairperson or Company Secretary of the Company.

8. Induction and Continuing Education

The Company will provide a comprehensive, formal and tailored induction. We will also arrange meetings for you with senior management and the Company's auditors.

The Company shall, as may be required, support Directors to continually update their skills and knowledge and improve their familiarity with the Company and its business.

9. Evaluation Process

As a member of the Board, your performance as well as the performance of the entire Board and its Committees shall be evaluated annually. Evaluation of each Director shall be done by all the other Directors. The criteria for evaluation shall be determined by the Nomination and Remuneration Committee of the Board and disclosed in the Company's Annual Report. However, the actual evaluation process shall remain confidential and shall be a constructive mechanism to improve the effectiveness of the Board / Committee. If, in the interim, there are any matters which cause you concern about your role we urge you to discuss them with the Chairperson as soon as is appropriate.

10. Insurance

Directors and Officers Liability Insurance is provided by the Company, subject to the terms of the policy from time to time in force (which may be subject to change). A copy of the current policy is available with the Company Secretary.

11. Independent Professional Advice

In the course of your duties as a Director, it may be appropriate for you to take independent advice.

12. Regulations and Corporate Governance Practices

Your duties include responsibility for ensuring that reasonable steps are taken in order that the Company, its Directors, you and your concerned persons (wherever appropriate) comply with:

- Articles of Association
- Companies Act, 2013
- The Company's code of business ethics for Directors, with which you are required to confirm compliance annually

You shall not enter/undertake any activity restricted to be undertaken under your capacity as an Independent Director.

13. Co-operation

In the event of any claim or litigation against the Company, based upon any alleged conduct, act or omission on your part during your term, you agree to render all reasonable assistance and co-operation to the Company and to provide such information and documents as are necessary and reasonably requested by the Company or its counsel.

14. Governing Law

This agreement is governed by and will be interpreted in accordance with Indian law and your engagement shall be subject to the jurisdiction of the Indian courts at Delhi.

15. Acceptance of Appointment

We are confident that the Board and the Company will benefit immensely from your rich experience. If these terms of appointment are acceptable to you, please confirm your acceptance by signing and returning the enclosed copy of this letter.

Thanking you

**By order of the Board of Directors
For BSES Yamuna Power Limited**

**Suresh Agarwal
Company Secretary**

I hereby acknowledge receipt of and accept the terms set out in this letter.

Signed : _____

Name : **(Name of the Independent Director)**

Dated : _____

Encl:
Schedule IV of Companies Act, 2013 (Code for Independent Directors)

Schedule IV of the Companies Act, 2013

CODE FOR INDEPENDENT DIRECTORS

The Code is a guide to professional conduct for independent directors. Adherence to these standards by independent directors and fulfilment of their responsibilities in a professional and faithful manner will promote confidence of the investment community, particularly minority shareholders, regulators and companies in the institution of independent directors.

I. Guidelines of professional conduct:

An independent director shall:

- (1) uphold ethical standards of integrity and probity;
- (2) act objectively and constructively while exercising his duties;
- (3) exercise his responsibilities in a *bona fide* manner in the interest of the company;
- (4) devote sufficient time and attention to his professional obligations for informed and balanced decision making;
- (5) not allow any extraneous considerations that will vitiate his exercise of objective independent judgment in the paramount interest of the company as a whole, while concurring in or dissenting from the collective judgment of the Board in its decision making;
- (6) not abuse his position to the detriment of the company or its shareholders or for the purpose of gaining direct or indirect personal advantage or advantage for any associated person;
- (7) refrain from any action that would lead to loss of his independence;
- (8) where circumstances arise which make an independent director lose his independence, the independent director must immediately inform the Board accordingly;
- (9) assist the company in implementing the best corporate governance practices.

II. Role and functions:

The independent directors shall:

- (1) help in bringing an independent judgment to bear on the Board's deliberations especially on issues of strategy, performance, risk management, resources, key appointments and standards of conduct;
- (2) bring an objective view in the evaluation of the performance of board and management;
- (3) scrutinise the performance of management in meeting agreed goals and objectives and monitor the reporting of performance;
- (4) satisfy themselves on the integrity of financial information and that financial controls and the systems of risk management are robust and defensible;
- (5) safeguard the interests of all stakeholders, particularly the minority shareholders;
- (6) balance the conflicting interest of the stakeholders;
- (7) determine appropriate levels of remuneration of executive directors, key managerial personnel and senior management and have a prime role in appointing and where necessary recommend removal of executive directors, key managerial personnel and senior management;
- (8) moderate and arbitrate in the interest of the company as a whole, in situations of conflict between management and shareholder's interest.

III. Duties :

The independent directors shall—

- (1) undertake appropriate induction and regularly update and refresh their skills, knowledge and familiarity with the company;
- (2) seek appropriate clarification or amplification of information and, where necessary, take and follow appropriate professional advice and opinion of outside experts at the expense of the company;
- (3) strive to attend all meetings of the Board of Directors and of the Board committees of which he is a member;
- (4) participate constructively and actively in the committees of the Board in which they are chairpersons or members;
- (5) strive to attend the general meetings of the company;
- (6) where they have concerns about the running of the company or a proposed action, ensure that these are addressed by the Board and, to the extent that they are not resolved, insist that their concerns are recorded in the minutes of the Board meeting;
- (7) keep themselves well informed about the company and the external environment in which it operates;
- (8) not to unfairly obstruct the functioning of an otherwise proper Board or committee of the Board;
- (9) pay sufficient attention and ensure that adequate deliberations are held before approving related party transactions and assure themselves that the same are in the interest of the company;
- (10) ascertain and ensure that the company has an adequate and functional vigil mechanism and to ensure that the interests of a person who uses such mechanism are not prejudicially affected on account of such use;
- (11) report concerns about unethical behaviour, actual or suspected fraud or violation of the company's code of conduct or ethics policy;
- (12) acting within his authority, assist in protecting the legitimate interests of the company, shareholders and its employees;
- (13) not disclose confidential information, including commercial secrets, technologies, advertising and sales promotion plans, unpublished price sensitive information, unless such disclosure is expressly approved by the Board or required by law.

IV. Manner of appointment:

- (1) Appointment process of independent directors shall be independent of the company management; while selecting independent directors the Board shall ensure that there is appropriate balance of skills, experience and knowledge in the Board so as to enable the Board to discharge its functions and duties effectively.
- (2) The appointment of independent director(s) of the company shall be approved at the meeting of the shareholders.
- (3) The explanatory statement attached to the notice of the meeting for approving the appointment of independent director shall include a statement that in the opinion of the Board, the independent director proposed to be appointed fulfils the conditions specified in the Act and the rules made thereunder and that the proposed director is independent of the management.

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- (4) The appointment of independent directors shall be formalised through a letter of appointment, which shall set out :
 - (a) the term of appointment;
 - (b) the expectation of the Board from the appointed director; the Board-level committee(s) in which the director is expected to serve and its tasks;
 - (c) the fiduciary duties that come with such an appointment along with accompanying liabilities;
 - (d) provision for Directors and Officers (D and O) insurance, if any;
 - (e) the Code of Business Ethics that the company expects its directors and employees to follow;
 - (f) the list of actions that a director should not do while functioning as such in the company; and
 - (g) the remuneration, mentioning periodic fees, reimbursement of expenses for participation in the Boards and other meetings and profit related commission, if any.
 - (5) The terms and conditions of appointment of independent directors shall be open for inspection at the registered office of the company by any member during normal business hours.
 - (6) The terms and conditions of appointment of independent directors shall also be posted on the company's website.

V. Re-appointment:

The re-appointment of independent director shall be on the basis of report of performance evaluation.

VI. Resignation or removal:

- (1) The resignation or removal of an independent director shall be in the same manner as is provided in sections 168 and 169 of the Act.
- (2) An independent director who resigns or is removed from the Board of the company shall be replaced by a new independent director within a period of not more than one hundred and eighty days from the date of such resignation or removal, as the case may be.
- (3) Where the company fulfils the requirement of independent directors in its Board even without filling the vacancy created by such resignation or removal, as the case may be, the requirement of replacement by a new independent director shall not apply.

VII. Separate meetings:

- (1) The independent directors of the company shall hold at least one meeting in a year, without the attendance of non-independent directors and members of management;
- (2) All the independent directors of the company shall strive to be present at such meeting;
- (3) The meeting shall:
 - (a) review the performance of non-independent directors and the Board as a whole;

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- (b) review the performance of the Chairperson of the company, taking into account the views of executive directors and non-executive directors;
 - (c) assess the quality, quantity and timeliness of flow of information between the company management and the Board that is necessary for the Board to effectively and reasonably perform their duties.

VIII. Evaluation mechanism:

- (1) The performance evaluation of independent directors shall be done by the entire Board of Directors, excluding the director being evaluated.
- (2) On the basis of the report of performance evaluation, it shall be determined whether to extend or continue the term of appointment of the independent director.