

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 322/2009

Coram:

- 1. Dr. Pramod Deo, Chairperson**
- 2. Shri S.Jayaraman, Member**
- 3. Shri V.S.Verma, Member**
- 4. Shri M.Deena Dayalan, Member**

DATE OF HEARING: 11.8.2011

DATE OF ORDER: 19.8.2011

In the matter of

Application for grant of Inter-State Trading Licence to BS TransComm Ltd., Hyderabad.

And in the matter of

BS TransComm Ltd., Hyderabad

.....Applicant

The following was present:

Shri S.Sateesh, Legal Manager, BSTCL
Shri S.Bhatnagar, BSTCL

ORDER

The applicant, BS TransComm Limited, a company registered under the Companies Act, 1956 has made the present application under sub-section (1) of Section 15 of the Electricity Act, 2003 (36 of 2003) (the Act) read with Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Trading licence and other related matters) Regulations, 2009 (hereinafter referred to as 'the trading licence regulations') for grant of Category- III



licence for inter-State trading in electricity in whole of India. The notices in accordance with sub-section (2) of Section 15 of the Act read with Clause (4) of Regulation 6 of the trading licence regulations were published by the applicant on 1.1.2010. In response to the said public notice, no objections have been received.

2. In accordance with Regulation 3 (3) of the trading licence regulations, a person applying for Category-III trading licence should have net worth of ₹ 5 crore, and should have maintained minimum current ratio and liquidity ratio of 1:1, consistently for three years immediately preceding the year in which the application is made or such lesser period during which the applicant has been incorporated, registered or formed. The applicant was incorporated on 7.2.2008 and had submitted the Special Balance Sheet as on 31.3.2011. Based on the details furnished by the applicant, it was established that the applicant had the required net worth, current ratio and liquidity ratio at the time of making of the application. Accordingly, the Commission came to the conclusion that the applicant *prima-facie* qualified for grant of licence for inter-State trading in electricity as a category-III electricity trader.

3. On the above considerations, the Commission vide its order dated 22.7.2011 had proposed to grant Category-III trading licence to the applicant. A notice under clause (a) sub-section (5) of Section 15



of the Act was published on 28.3.2011 in all editions of Times of India, Hindustan Times and Dainik Jagran inviting suggestions/objections to the above proposal of the Commission.

4. In response to public notice published by the Commission, Shri S. Babu Gowthaman, 17-B/104, Kaveri, Adi Shankaracharya Marg, MHADA Powai, Mumbai- 400 076 has filed objections vide its letter dated 1.8.2011 as under:

- (i) The applicant has not posted its application for grant of inter-State trading licence on its website;
- (ii) The applicant has not posted its plan to venture into trading in electricity in whole of India. Though the company is reported to venture into trading in electricity in the year 2009, even in the Director`s report or Auditor`s report which are available in the website of the company for the year 2009-10;
- (iii) While passing the order dated 22.7.2011, the Commission has not ensured the information as required under Regulation 6 (3) of the 2009 trading regulations;

- (iv) The Trading in electricity is not permitted in the Memorandum of Association of the applicant company;
- (v) No information/notice is available in the website of the company about resolution passed by the Company in general meeting;
- (vi) In the Red Herring prospectus, nothing has been mentioned about the company's business plan to undertake trading in electricity;
- (vii) Whether the applicant fulfilled all the eligibility conditions for grant of trading licence under Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 ; and
- (viii) In which date the application for grant of inter-State was filed by the applicant.

5. We have considered the objections of Shri. Gowthaman. The objections are mainly procedural in nature. The application for grant of inter-State trading was filed by the applicant on 21.12.2009 and accordingly, the applicant had posted its application on its website www.bsgroup.in in terms of Regulation 6 (3) of the 2009 trading regulations. Trading in electricity has been included in the amended

Memorandum of Association of the applicant company. As regard the objections whether the applicant fulfilled all the eligibility conditions for grant of trading licence under Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009, it is clarified that the procedure for grant of inter-State trading licence is not governed by the said regulations. Thus, the Commission has been issuing the trading licenses in discharge of its statutory function under the Act and in conformity with the 2009 trading regulations. As already stated, the objector does not have any specific objection to the grant of the trading licence to the applicant. We have considered the application for grant of inter-State trading licence strictly as per 2009 trading regulations. Therefore, we proceed to consider the case of the applicant for grant of trading licence.

6. Clause (9) of Regulation 6 of the trading licence regulations provide as under:

“(9) On consideration of further objections or suggestions received and the reply of the applicant thereto, if any, the Commission may grant the licence or reject the application, for reasons to be recorded in writing if the application does not confirm to the provisions of the Act, the rules or regulations or provisions of any other law for the time being in force:

Provided that no application shall be rejected, unless the applicant has been given an opportunity of being heard.”

7. On consideration of the materials on record, we are satisfied that the applicant company meets the requirements of the Act and the trading licence regulations for grant of trading licence for Category-III. Accordingly, we direct that BS TransComm Ltd. be issued a Category-III licence for inter-State trading in electricity in whole of India.

8. The grant of trading licence to the applicant is subject to the fulfillment of the following conditions throughout the period of subsistence of the licence:

(a) The applicant shall comply with the provisions of the Act, the Rules and the Regulations, particularly, trading licence regulations, orders and directions issued by the Commission from time to time and any other law in force;

(b) The applicant shall not exceed the volume of trading authorized under the licence, but may, in exceptional circumstances, undertake trading in electricity up to the maximum of 120 per cent of the volume of trade authorized under the licence granted to him. Where the licensee exceeds the volume of trading in a year authorized under the licence, it shall pay licence fee applicable to the higher category for that particular year;

(c) The applicant shall charge the trading margin strictly in accordance with Central Electricity Regulatory Commission (Fixation of Trading Margin) Regulations, 2009 as amended from time to time;

(d) The applicant shall continue to be governed by the qualifications and disqualifications specified in Chapter 2 of the trading licence regulations during the subsistence of licence;

(e) The applicant shall abide by the terms and conditions of licence specified in Chapter 4 of the trading licence regulations;

(f) The applicant shall have the liability to pay the license fee in accordance with the provisions of the Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2008, as amended from time to time or any of other regulations in force; and

(g) Non-compliance of the provisions of the Act, rules, regulations framed by the Commission and the provisions of trading licence regulations shall make the licence of the applicant liable for revocation.

9. Petition No. 322 of 2009 is disposed of in terms of the above.

Sd/-
(M.Deena Dayalan)
Member

Sd/-
(V.S.Verma)
Member

Sd/-
(S.Jayaraman)
Member

Sd/-
(Dr. Pramod Deo)
Chairperson

