

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 21/TDL/2011

**Coram: Shri S.Jayaraman, Member
Shri V.S.Verma, Member
Shri M. Deena Dayalan, Member**

DATE OF HEARING: 24.5.2012

DATE OF ORDER: 29.5.2012

In the matter of

Application for grant of inter-State trading licence to Gemac Engineering Services Private Limited, Chennai.

And

In the matter of

Gemac Engineering Services Private Limited, Chennai **Applicant**

The following were present:

Shri Govind Raju, GEMAC
Shri Kishore, GEMAC
Shri Manoj Singh, GEMAC
Shri Saurabh Singh, GEMAC

ORDER

The applicant, Gemac Engineering Services Private Limited, a company registered under the Companies Act, 1956 (1 of 1956) has made the present application under sub-section (1) of Section 15 of the Electricity Act, 2003 (36 of 2003) (hereinafter referred to as "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 `IV` licence for inter-State trading in electricity in whole of India.

2. Regulation 6 of the trading licence regulations provides for the procedure for grant of trading licence as under:

“6. Procedure for grant of licence

(1) Any person desirous of undertaking inter-State trading in electricity shall make an application to the Commission for grant of licence in the manner specified in Form-I appended to these regulations and such application shall be accompanied by , -

(a) Such fee as may be prescribed by the Central Government from time to time payable through Bank Draft or pay order drawn in favour of Assistant Secretary, Central Electricity Regulatory Commission, New Delhi.

(b) Copies of the annual reports in case of the persons incorporated under the Companies Act, 1956 (1 of 1956) and audited accounts along with the Director's Report, Auditors' Report, the Schedules and notices on accounts for three years immediately preceding the year in which the application has been made and the special balance sheet as on any date falling within 30 days immediately preceding the date of making the application:

Provided that where the applicant has not been incorporated, registered or formed during the period of three years immediately preceding the year in which the application is made, the application shall be accompanied by the copies of the annual reports and audited accounts for such lesser period for which the applicant has been in existence.

(2) The application for grant of licence, along with annexures and enclosures shall also be submitted to the Commission on compact disc (CD).

(3) The applicant shall post complete application along with annexures and enclosures on his own website so as to facilitate access to the application by any person through internet and shall keep them on the website till the disposal of his application.

(4) The applicant shall within 7 days after making such application, publish a notice of his application, in two daily newspapers having circulation in each of the five regions in addition to those published from Delhi, including one economic daily newspaper in Form II, with the following particulars, namely:-

xxxxxx



(5) The applicant shall within 7 days from the date of publication of the notice as aforesaid submit to the Commission on affidavit the details of the notice published and shall also file the original complete page of the newspaper in which the notice has been published.

(6) The applicant may file his reply to the objections or suggestions received in response to the notice within 45 days of its publication in the newspapers.

(7) The Commission after consideration of the objections or suggestions received in response to the notice published by the applicant and his reply may propose to grant licence.

(8) When the Commission proposes to grant licence, it shall publish a notice of its proposal in two daily newspapers, as the Commission may consider appropriate, stating the name and address of the person to whom it proposes to issue the licence, with such other details as the Commission considers appropriate, to invite further objections or suggestions to its proposal."

3. The Applicant has made the application as per Form-I along with CD and paid the fee of ₹ one lakh as prescribed by the Government of India.

4. The applicant has posted the application for grant of trading licence on its website in terms of Regulation 6(3) of the trading licence regulations. The Applicant has placed on record the relevant copies of the newspapers in original in which notice of its application has been issued. The notices under sub-section (2) of Section 15 of the Act read with clause (4) of Regulation 6 of the trading licence regulations have been published by the applicant on 14.1.2012 in all editions of 'The Business Standard' and 'Pratahkal', 'Dainik Assam', 'Jansatta', 'Mumbai Tarun Bharat', 'Makkal Kural'. No objection has been received in response to the public notices.



5. The applicant company was incorporated under the Companies Act, 1956 on 1.12.2009. Object C (1) of the Memorandum of Association of the company reads as under:

"1. To carry on business of agency and representatives and to undertake to sell or purchase or keep in deposition under any other terms, goods, articles, merchandise or properties of any kind and to dispose the same according to the usage of the trade and to secure agencies and represent India and Foreign business undertaking, dealing in all trades and description of goods and to buy, sell, import, export all kinds of commodities and materials of every description on the basis of commission, brokerage, and other modes of remuneration"

6. In *Commissioner of Sales Tax, Madhya Pradesh Vs Madhya Pradesh State Electricity Board [(1969) 1SCC 200]*, the Hon`ble Supreme Court has held that *"if there can be sale and purchase of electrical energy like any other movable object, we see no difficulty in holding that electric energy was intended to be covered by the definition of 'goods'."* Since "sell or purchase" in goods is one of the objects of the company, the applicant is duly authorized by its Memorandum of Association to undertake trading in electricity.

7. In accordance with Regulation 3 (3) of the trading licence regulations, a person applying for Category `IV` trading licence should have net worth of ₹ 1 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.



However, the net worth for a lesser period will be considered if the applicant is incorporated, registered or formed within three years.

8. Based on the financial details submitted by the applicant, its net worth has been worked out as given below:

(₹ in lakh)

Particulars	2011-12	2010-11	2009-10
Share Capital			
Paid up equity capital	1.000	1.00	1.00
Share Applications/warrants	0.000	0.000	0.000
Reserves and Surplus			
Reserves and Surplus	207.680	103.69	103.31
Sub-Total 1	208.680	104.690	104.310
Loans and advances to associates	0.000	0.000	0.000
Misc. Expenses to the extent not written off or adjusted	0.000	0.000	0.000
Investment in wholly owned subsidiary whose net worth is eroded	0.000	0.000	0.000
Sub-Total 2	0.000	0.000	0.000
Net Worth (1 -2)	208.680	104.690	104.310

9. The net worth of the applicant is further represented by the following:

(₹ in lakh)

Particulars	2011-12	2010-11	2009-10
Fixed Assets			
Gross Block	4.47	1.46	0.38
Less: Depreciation	0.85	0.15	0.03
Net Block	3.62	1.31	0.35
Capital work in progress	0.00	0.00	0.00
Sub-Total 1	3.62	1.31	0.35
Investments	0.00	0.00	0.00
Cash and Bank Balance	27.22	17.87	16.78
Loans and Advances	44.61	17.20	17.92
Less: Loans and Advances to Associates as per Regulations	0	0	0

2(1)(o) of trading licence regulations			
Net Loans and Advances	44.61	17.20	17.92
Inventories	0	0	0
Sundry Debtors	227.29	165.73	124.07
Other current assets	0	0	0
Sub-Total 3	299.120	200.800	158.770
Current Liabilities and Provisions			
Current Liabilities and Provisions	88.22	83.58	49.80
Sub-Total 4	88.220	83.580	49.800
Loans			
Secured loans	0	0	0
Unsecured loans	5.840	13.84	5.01
Deferred tax Liabilities	0	0	0
Sub-Total 5	5.840	13.840	5.010
Net Worth (1+2+3-4-5)	208.680	104.690	104.310

10. Based on the above, the net worth, current ratio and liquidity ratio work out as under:

S. No.	Particulars	2011-12	2010-11	2009-10
1.	Net worth (₹ in lakh)	208.680	104.690	104.310
2.	Current ratio	3.39	2.40	3.19
3.	Liquidity ratio	3.39	2.40	3.19

11. The Commission observed that the applicant company does not have liquidity as most of the funds are tied up with the debtors. The representative of the petitioner submitted that the efforts are under way to get the debtor's cleared and if required to meet the liquidity criteria, the promoters would infuse more capital. The applicant was directed the file the same on affidavit.

12. The applicant vide its affidavit dated 24.5.2012 has submitted that company is doing continuous efforts to collect the amounts outstanding

from its debtors and is confident that the same would be realized in due course of business. It has been further submitted that in the unforeseen eventuality, promoters can infuse more funds into the company to ease liquidity.

13. On consideration of the above facts, we are *prima facie* satisfied that the applicant meets the net worth requirements specified by the Commission for grant of Category `IV` licence and has fulfilled other conditions for grant of trading licence. The Commission proposes to grant Category `IV` licence to the applicant. We direct that a notice under clause (a) of sub-section (5) of Section 15 of the Act be issued inviting further suggestions or objections to the proposal of the Commission.

14. List this petition for further directions on 19.6.2012.

Sd/-
(M.DEENA DAYALAN)
MEMBER

sd/-
(V.S.VERMA)
MEMBER

sd/-
(S.JAYARAMAN)
MEMBER

