

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 12/SM/2014

Coram:

Shri Gireesh B.Pradhan, Chairperson

Shri M. Deena Dayalan, Member

Shri A.K.Singhal, Member

Shri A.S.Bakshi, Member

Date of Hearing: 30.9.2014

Date of Order: 05.1.2015

In the matter of

Non-compliance of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2009.

And

In the matter of

1. Karam Chand Thapar and Bros Ltd.
Rishymook Building, 85A Panchkuian Road,
New Delhi-110 001.
2. Suryachakar Power (P) Corporation Ltd.
Suryachakara House, Plot No. 304-L-III,
Road No. 78, Jubliee Hills,
Hyderabad-500 096
3. Visa Power Ltd.
VISA House, 8/10 Alipore Road,
Kolkata-700 027
4. Greenko Energies (P) Ltd.
1071, Road No. 44, Jubliee Hills, Hyderabad-500 033
5. Vandana Vidyut Ltd.
Vandana Bhawan, M.G.Road,
Raipur-492 001 (Chhattisgarh)
6. Audhunic Alloys and Power Ltd.
701, 7th Floor, World Trade Tower,
Barkhamba Lane, Connaught Place,
New Delhi-110 001



7. Indiabulls Power Trading Ltd.
Indiabulls House, 448-451,
Udyog Vihar, Phase-V
Gurgaon-122 001
8. Shyam Indus Power Solutions (P) Ltd.
129, Transport Centre, Rohtak Road,
Punjabi Bagh, New Delhi-110 035
9. PCM Power Trading Corporation Ltd.
PCM Tower, 2nd Mile, Sevoke Road,
Siliiguri-734 001 (WB)
10. DLF Energy Private Limited
DLF Gateway Tower, 7th Floor, DLF City,
Phase-III, Gurgaon-122 002
11. Gemac Engineering Services (P) Ltd.
3rd Floor, Wescare Towers, No.16
Cenotaph Road, Teynompeta,
Chennai-600 018
12. Green Fields Power Services (P) Ltd.
101, Shri Guru Krupa, 7-1-54/C,
Anandbagh, D.K.Road, Hyderabad-500 016
13. Newfields Advertising (P) Ltd.
3/4-A, Asaf Ali Road, New Delhi-110 002
14. Vedprakash Power (P) Ltd.
Ground Floor, Ismail Building, D.N.Road,
Flora Fountain, Mumbai-400 001
15. Pan India Network Infravest Pvt. Ltd.
135, Continental Building, Dr Anne Besant Road,
Worli, Mumbai-400 018
16. Solar Energy Corporation of India
D-3, 1st Floor, Wing-A, Religare Building,
District Centre, Saket, New Delhi-110 017.
17. Parshavnath Power Project (P) Ltd.
425, Sun-n-Moon Chambers, Railway Station,
Near Ajmer Bridge, Jaipur, Rajasthan

Respondents

Parties present:

1. Shri Sanjay Sen, Senior Advocate, Indiabulls Power Trading Ltd
2. Shri Anurag Sharma, Advocate, Indiabulls Power Trading Ltd



3. Shri Amit Paul Ekka, Ved Prakash Power (P) Ltd
4. Shri M.N.Ravi Shankar, Audhunic Alloys and Power Ltd
5. Shri Vineet Sarawagi, Audhunic Alloys and Power Ltd
6. Shri Vinay Prakash, New Fields Power Trading
7. Shri Mohit Jain, Pan India Network Infravest Ltd
8. Shri Maneesh Jain, Parshavnath Power Projects Private Limited

ORDER

As per the Regulations 7 (n) and 14 of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2009 as amended from time to time (Trading Licence Regulations), the licensees are required to undertake trading in electricity and failure to undertake trading in electricity will render the licences liable for revocation. Accordingly, the Commission, vide order dated 22.8.2014 in Petition No. 12/SM/2014 directed the respondents to explain, latest by 16.9.2014, the reasons for not undertaking trading in electricity. Relevant portion of the said order dated 22.8.2014 is extracted as under:

"3. As per the above provisions of the Trading Licence Regulations, the licensees are required to undertake trading in electricity and failure to undertake trading in electricity will render the licences liable for revocation. It has been observed that the respondents/ Trading Licensees are not undertaking trading in electricity as per the details given in the appendix. The respondents are directed to explain, latest by 16.9.2014, the reasons for not undertaking trading in electricity enabling this Commission to take a view whether the licenses granted should be revoked or not done to failure to undertake trading in electricity."

2. In response, VISA Power Trading Company Limited (VPTCL), Greenko Energies Private Limited (GEPL), Indiabulls Power Trading Limited (IPTL), Shyam Indus Power Solutions Private Limited (SIPSPL), PCM Power Trading Corporation Limited (PCM), Newfields Advertising Private limited (NAPL), Vedprakash Power Private Limited (VPPL), Pan India Network Infravest Limited (PINIL), Solar Energy

Corporation of India (SECI), Parshavnath Power Projects Private limited (PPPL) have submitted their replies.

3. VISA Power Trading Company Limited (VPTCL) in its reply dated 15.9.2014 has submitted that it had undertaken power trading in 2007-08 and has been looking for appropriate opportunities thereafter. However, the changed market scenario has not provided opportunity. VPTCL has entered into a PPA with WBSEDCL for sale of electricity to the distribution companies of West Bengal. VPTCL has submitted that its own generation is expected to be started by 2017 and accordingly, it would start trading in electricity. Meanwhile, it is exploring opportunities for third party power trading in light of the changed market scenario. VPTCL has requested to condone its failure to undertake trading activity and requested for time to restart and scale up its trading business.

4. Greenko Energies Private Limited (GEPL) in its reply dated 15.9.2014 has submitted that it has entered into agreements with some prospective sellers for sale of power and trading activity is expected to be commenced shortly. GEPL has submitted that owing to unbalanced/lack of power evacuation facilities, restrictions on inter region corridors and certain restrictions unilaterally imposed by some State governments, it could not plan trading activities. GEPL has prayed to drop the proceedings initiated against it.

5. Indiabulls Power Trading Limited (IPTL) in its reply dated 15.9.2014 has prayed not to revoke its licence and submitted as under:

- (a) The term "neglected" specified in Section 19 of the Electricity Act, 2003 does not mean failure to trade, rather it means that an available opportunity

was not utilized. The Regulation 7(n) and 14 (e) of the Trading Licence Regulations does not form a part of Section 19 of the Act. Therefore, these regulations are ultra-vires and the regulations cannot be used to impose a condition of revocation which is against the statute itself.

(b) The following challenges have hampered its efforts to undertake trading in electricity i.e. (i) Generators prefer selling their surplus power in power exchanges rather than through bilateral trading; and (ii) Financial security available on Power Exchanges has led to increased volumes traded on the exchange platform and it is usurping the bilateral market.

(c) Revocation of licence will be a severe abridgement of the right to carry on the business. The Commission instead of revoking the license may impose terms and conditions as they deem proper and fit.

(d) IPTL has not violated any grounds under any of the provisions of Trading Licence Regulations and if the present petition is admitted, it will adversely affect its business operations.

6. Shyam Indus Power Solutions Private Limited (SIPSPL) in its reply dated 17.9.2014 has submitted that it has been awarded LOI from one of the generating companies giving it mandate for trading of power and the transaction for the same would be reported shortly. SIPSPL has submitted that it has been paying the licence fee regularly and prayed that its licence may not be revoked.

7. PCM Power Trading Corporation Limited (PCM) in its reply dated 13.9.2014 has submitted that it had taken the inter-State trading licence to start trading from its

own hydro power project. However, the hydel project has not started operation due to delay beyond its control. PCM has further submitted that it is contacting with small hydel power projects to undertake trading in electricity which will take time. PCM has requested to allow it to retain the inter-State trading licence.

8. Newfields Advertising Private limited (NAPL) in its reply dated 16.9.2014 has submitted that due to heavy market competition, transmission constraints, volatility and uncertainty in State regulations and increase in open access charges, etc., it could not start trading in electricity. NAPL has further submitted that it has also taken membership of Indian Energy Exchange on 6.3.2014 and is working hard to sign PPAs/PSAs with individual clients. NAPL has requested to grant time to comply with Trading Licence Regulations.

9. Vedprakash Power Private Limited (VPPL) in its reply dated 15.9.2014 has submitted that due to stiff market competition, volatility and uncertainty in State Regulations coupled with high transmission constraints, etc., it could not undertake trading in electricity. VPPL has also submitted that it is engaged in discussions with various stakeholders and has submitted purchase/sale offers. VPPL has further submitted that it is focusing on retail day ahead segment and on exchange based trading. VPPL has prayed for time to ensure compliance with the Trading Licence Regulations.

10. Pan India Network Infravest Limited (PINIL) in its reply dated 16.9.2014 has submitted that it has taken various initiatives to undertake trading in electricity as under:

- (i) Adopted a structured approach with long term business vision.
- (ii) It has participated in short term power procurement tender issued by the distribution companies of Rajasthan and qualified the bid requirements. However, it could not match the L1 rates.
- (iii) It is trying to build healthy business relationships with leading generators for purchase of electricity and it has built a database of eligible retail consumers for developing business relationship with them.
- (iv) PINIL has submitted that it intends to continue the trading activity and its initiatives will help to establish a trading business. PINIL has prayed to the Commission not to revoke its licence.

11. Solar Energy Corporation of India (SECI) in its reply dated 9.9.2014 has submitted that SECI, which is under the administrative control of Ministry of Renewable Energy, is implementing various schemes in JNNSM, e.g. 750 MW of grid connected solar PC projects. The solar projects are scheduled to be commissioned by March 2015 and some part of their capacity may be available by January 2015 as well. SECI has submitted that it intends to sell this solar power to bulk consumers and distribution companies by January 2015. SECI has stated that there is no failure on its part to undertake trading in electricity and requested no to revoke the trading licence granted to it.

12. Parshavnath Power Projects Private limited (PPPL) in its reply dated 13.9.2014 has submitted that it has started participating in the short term tender process of the distribution companies of Rajasthan to undertake trading in electricity

which is expected to be finalized shortly. PPPL has further submitted that it is in process of developing business relationship with the consumers and the bilateral agreements with them are under finalization. PPPL has assured that it would start trading in electricity shortly.

13. The matter was heard on 30.9.2014. The respondents, Karam Chand Thapar & Bros. Ltd., Suryachakar Power (P) Corporation Ltd., Vandana Vidyut Ltd., DLF Energy Private Ltd., Gemac Engineering Services (P) Ltd. and Green Fields Power Services (P) Ltd have not filed their replies despite order. During the course of hearing, learned senior counsel for Indiabulls Power Trading Ltd. (IPTL) submitted that Indiabulls Power Trading Ltd has planned to undertake trading of the surplus power of its group company, namely Indiabulls Power Limited (IPL) and Indiabulls Realtech Limited (IRL) and their power projects are being commissioned phase-wise. Learned senior counsel requested four weeks time to submit business plan stating the cut off date for commencement of trading. The representative of Adhunik Alloys and Power Limited (APPL) submitted that AAPL has already executed PPAs to undertake trading in electricity and its trading activity has commenced. He further submitted that APPL is planning to upgrade its category of licence from category IV to Category I. The representative of AAPL requested for time to comply with the Trading Regulations. The representative of Greenko Energies Private Limited (GEPL) submitted that GEPL is currently focussing on its own generation which is expected to commence within 4 to 5 months and thereafter it will trade its own power. The representative of Pan India Network Infravest Limited submitted that licensee is making sincere efforts for undertaking trading in electricity and it has adopted a structured approach with long-term business vision. The representative of

Newfields Advertising Private Limited submitted that it was granted licence on 30.4.2013. He requested for time to comply with Trading Licence Regulations. The representatives of Vedprakash Power (P) Ltd and Parshvnath Power Projects (P) Limited submitted that the reply to the petition has already been filed and requested to consider the same.

14 The respondents, vide Record of Proceedings for the hearing dated 14.10.2014, were directed to submit their business plan within four weeks.

15. In response, Newfields Advertising Private Limited, Vandana Vidhyut Ltd. (VVL), Solar Energy Corporation of India (SECI), Suryachakra Power Corporation Limited, Greenko Energies Private Limited, Adhunik Alloys and Power Ltd. (AAPL) and Pan India Network Infravest Limited (PINIL) have submitted their business plan.

16. Newfields Advertising Private Limited in its business plan has submitted that for collective transactions, it is doing extensive business development for making clients on Indian Energy Exchange in the States of Uttarakhand, Haryana, Chhattisgarh and Gujarat. For bilateral transactions, efforts are being made with some prospective clients in Maharashtra and Gujarat and utilities in Northern India. For banking transactions, it is on verge of executing contracts between States of Jammu and Kashmir, Delhi, Haryana, Rajasthan, Uttarakhand and Himachal Pradesh. Newfields power trading has further submitted that it is very serious on power trading business and is investing time, effort and capital into it and owing to its above business plan, it is hopeful of getting a break shortly.

17. Vandana Vidhyut Ltd. (VVL) in its affidavit dated 29.10.2014 has submitted that due to delay in start up of new power generating plants, transmission constraints, uncertainty and volatility in the State regulation, etc., it could not undertake trading in electricity during last period of years. VVL has submitted that it has made a specific plan to start the power trading activities and it has already taken membership of Power Exchange India Limited (PXIL). It is also deploying additional team/manpower to promote the business of power trading. VVL has assured that its main object and intention behind obtaining the licence is to undertake power trading and its management is very serious and committed for the hard work towards the development of the business in power trading in coming years.

18. Solar Energy Corporation of India (SECI) in its affidavit dated 10.11.2014 has submitted that SECI is under administrative control of MNRE and is implementing various schemes under JNNSM including 750 MW of grid connected solar PV projects and these projects are scheduled to be commissioned in April 2015 with part of capacity likely to be commissioned in January 2015. Accordingly, it will start trading activities.

19. Suryachakra Power Corporation Limited in its affidavit dated 5.11.2014 has submitted that it is operating 20 MW capacity generating station in South Andaman and it has huge arrears amounting to ₹150 crore accumulated with A&N administration. SPCL has submitted that once the arrears are cleared after APTEL judgement, it will be monetarily self-sufficient and will definitely give more attention towards electricity trading.

20. Greenko Energies Private Limited in its business plan dated 5.11.2014 has submitted that recently it has participated in two tenders for renewable energy supply on behalf of its two small hydro power projects in Himachal Pradesh and it is hopeful of succeeding in these tenders and the supplies are likely to be commenced by April 2015. GEPL has further submitted that it has proposed trading portfolio for the financial year 2015-16 i.e. for inter-State trading of about 80 to 90 MUs which is expected from two small hydro projects in Himachal Pradesh and about 75 to 125 MUs is expected from wind and small hydro power projects in Karnataka. GEPL has submitted that in view of the above available capacity for trading, existing relationship with the consumers utilities, recent trading efforts, its manpower competence, and geographical presence across India, it is evident that GEPL not only intends to actively commence power trading but is also well prepared for it.

21. Adhunik Alloys and Power Ltd. (AAPL) has submitted that a number of agreements have been entered with Essel Pallavapugam Tambaram MSW Private Limited, M/s RGE Surat Private Limited, M/s Orissa Manganese and Minerals Limited and M/s Adhunik power and Natural Resources Limited (APNRL) for sale and purchase of power and it is expected to trade more than, 300 MUs in 2014-15, which is projected to raise to reach near 900 MUs in 2015-16 and in the subsequent years i.e. upto 2025. AAPL has further submitted that it has been participating in various short-term power purchase tenders invited by various procurers and if these tenders have taken place, this would have lead to power trading to the tune of 221 MUs in 2014-15. It is also doing client facilitation for Mittal Processors Ltd. (MPPL) and Manikaran Power Ltd. (MPL) for sourcing power for Open Access Industrial

customers for procuring power on Exchange platforms, as AAPL is not a registered participant on the exchanges. This has added to the increase of power trading volume of MPPL and MPL.

22. Pan India Network Infravest Limited (PINIL) has submitted as under:

(a) PINIL is envisaging a long term vision for its power trading business and is making sincere efforts in this regard. Following steps are being taken to grow the trading business;

(b) Short term growth strategies are: (i) Sale of power to State Distribution Companies; (ii) Sale of power to retail OA Consumers; and (iii) Facilitating sale and purchase of power for initiatives of group companies;

(c) Efforts being undertaken for increasing Brand Awareness among OA Consumers are: (i) Cold Calling; (ii) Plans to set up a dedicated website; (iii) Connect through Social Media; (iv) Organising Conferences;

(d) Medium term growth strategies are (i) Expert Services through Liasioning support, Financing, PPA related and Power Portfolio Management; Tie-up with OEMs through Assistance in setting up Infrastructure, ABT Meter and CT/PT; Tie-up with appropriate partners for advising on other pain areas like other Financial Services, Administrative and IT support;

(e) Long term growth strategies are (i) PINIL may, in future, operate as a supply licensee, drawing on synergies from existing trading business and businesses of its group companies which will give huge business opportunities in terms of volumes and revenues;

(f) International Business Opportunities: PINIL may target power trading opportunities at international level within the regulatory ambit. It may enter as a pure play trader, owning an asset and selling its own power and Cross border power sale being a nominated entity. Like other large power traders PINIL may opt for long term opportunities to enhance its business and operational boundaries;

(g) Trade and Revenue Estimates under realistic scenario: Trade through bilateral and Power Exchanges is estimated from 50 MW in 2015-16 to 225 MW in 2019 -20. During the same period revenue is estimated from ₹ 1.5 crore to ₹ 8 crore.

23. It is noted that in response to our direction dated 22.8.2014, VISA Power Trading Company Limited (VPTCL), Greenko Energies Private Limited (GEPL), Indiabulls Power Trading Limited (IPTL), Shyam Indus Power Solutions Private Limited (SIPSPL), PCM Power Trading Corporation Limited (PCM), Audhunic Alloys and Power Ltd., Newfields Advertising Private limited (NAPL), Vedprakash Power Private Limited (VPPL), Pan India Network Infravest Limited (PINIL), Solar Energy Corporation of India (SECI), Parshavnath Power Projects Private limited (PPPL) have submitted their replies. However, Karam Chand Thapar and Bros Ltd., Suryachakar Power (P) Corporation Ltd., Vandana Vidyut Ltd., DLF Energy Private Limited, Gemac Engineering Services (P) Ltd., and Green Fields Power (P) Ltd. have not submitted their replies.

24. The Commission, vide Record of Proceedings for the hearing dated 14.10.2014, directed the respondents to submit their business plan. It is noted that Newfields Advertising Private Ltd., Vandana Vidhyut Ltd. (VVL), Solar Energy Corporation of India (SECI), Suryachakra Power Corporation Limited, Greenko Energies Private Limited, Adhunik Alloys and Power Ltd. (AAPL) and Pan India Network Infravest Limited (PINIL) have submitted their business plan. However, Visa Power Limited, Indiabulls Power Trading Ltd., Shyam Indus Power Solutions (P) Ltd., PCM Power Trading Corporation Ltd., Vedprakash Power (P) Ltd. and Parshavnath Power Projects (P) Ltd. have not submitted their business plan. Accordingly, these respondents are directed to submit on affidavit, by 20.1.2015, their business plan.

25. We have considered the submission of the respondents. The respondents in their replies and business plan have submitted that due to stiff market competition, volatility and uncertainty in State Regulations coupled with high transmission constraints, etc. they could not undertake trading in electricity. The respondents have further submitted that they are making efforts to undertake trading in electricity and they have entered into agreement with various utilities for sale and purchase of electricity. Considering the sincere efforts being made by the respondents to undertake trading in electricity, we allow the respondents one year time from the issue of this order to comply with the provisions of Trading Licence Regulations. If these licensees do not undertake trading within a period of one year, then their case will be processed for revocation of licence.

26. It is noted that Karam Chand Thapar and Bors Ltd., Gemac Engineering Services (P) Ltd., DLF Energy Private Ltd. and Green Fields Power Services (P) Ltd.



have neither filed any reply to the petition nor did they participate in the proceedings before the Commission in any other manner. In accordance with the Regulation 14 of the Trading Licence Regulations, where the licensee in the opinion of the Commission, makes willful and prolonged default in doing anything required of him by or under the Act or the Rules or the Regulations, the Commission may revoke the licence after serving a notice of not less than three months. We are of the view that these four respondents have not only failed to comply with our directions but have also failed to comply with the provisions of Trading Licence Regulations. In our view, the licensees are not entitled to hold the licences when they have failed to comply with the Commission`s directions and failed to undertake trading of electricity in violation of the regulations. Accordingly, we direct the said four respondents to file their responses as to why their licences should not be revoked for non-compliance of the Commission`s direction and for failure to undertake trading in electricity. This order shall also be treated as notice under Regulation 14 (2) of the Trading Licence Regulations and the licence of the licensees shall be revoked after expiry of the period of three months from the date of issue of this order after giving an opportunity of hearing to the licensees.

Sd/-	sd/-	sd/-	sd/-
(A.S.Bakshi)	(A.K.Singhal)	(M. Deena Dayalan)	(Gireesh B.Pradhan)
Member	Member	Member	Chairperson