

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 12/SM/2015

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri A.K Singhal, Member

Shri A.S Bakshi, Member

Dr. M.K. Iyer, Member

Date of Order: 16.2.2016

In the matter of

Non-compliance of the Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012.

And

In the matter of:

1. Pune Power Development Private Limited
Anmol, 25, Yaswant Ghatge Nagar,
Range Hill Corner, Pune – 411007
2. Indiabulls Power Trading Limited
12th Floor, Tower-A, Building No. 5,
DLF Phase-3, DLF Cyber City,
Gurgaon-122002, Haryana
3. Indrajit Power Technology Private Limited
Trade World, "C" Wing, 16th Floor,
Kamala City, Senapati Bapat Marg,
Lower Parel (West), Mumnai – 400013
4. Rajasthan Renewable Energy Corporation Limited
E-166, Yudhishtir Marg,
C-Scheme, Jaipur-302 005.
5. Jai International Private Limited
75, Mittal Chambers,
Nariman Point, Mumbai – 400021

...Respondents

ORDER

By orders dated 12.7.2004, 12.9.2008, 16.5.2008 3.6.2014 and 18.7.2014, Pune Power Development Private Limited (PPDPL), Indiabulls Power Trading Limited (IPTL), Indrajit Power Technology Private Limited (IPTPL), Rajasthan Renewable Energy Corporation Limited (RRECL) and Jai International Private Limited (JIPL) respectively (hereinafter referred to as "the licensees") were granted trading licences to trade in electricity in whole of India, except the State of Jammu and Kashmir in terms of Regulation 6 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) subject to compliance of terms and conditions specified in said regulations and trading licences.

2. In our order dated 28.10.2015, we had directed as under:

“3. As per Regulation 7 (m) 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 (hereinafter referred to as 'Trading Licence Regulations'), the licensee is required to pay the licence fee by the stipulated date specified by the Commission. The licensees have failed to deposit the licence fee within the stipulated period. The licensees have also not responded to the letters issued by the staff of the Commission for depositing the licence fee for the year 2015-16. The conduct of the respondents amounts to serious contravention under Regulation 14A (2) (a) and (e) of the Trading Licence Regulations. In our view, the licensees are not entitled to hold their licences when they have failed to pay the licence fee in violation of the regulations. Accordingly, in exercise of power conferred under Regulation 14B (1) of the Trading Licence Regulations, we direct the respondents to file their responses on affidavit, by 30.11.2015 as to why their licences should not be revoked for non-compliance of the Trading Licence Regulations and Payment of Fees Regulations and the outstanding licence fees should not be recovered from them as arrears of land revenue in terms of Section 170 of the Electricity Act, 2003. This order shall also be treated as notice under sub-section (3) of Section 19 of the Act and unless otherwise directed by the Commission, the licences of the licensees shall stand revoked after expiry of the period of three months from the date of issue of this order.”

3. Indrajit Power Technology Private Limited (IPTPL) has filed its reply to the notice dated 28.10.2015. The licence of IPTL has already been revoked by the Commission vide order dated 7.12.2015. Rajasthan Renewable Energy Corporation Limited (RRECL) has paid licence fee for the period 2015-16. RRECL vide its letter dated 29.1.2016 has informed that it is not interested to continue with the licence. Pune Power Development Private Limited (PPDPL) and Jai International Private Limited (JIPL) have not filed their replies.

4. Indrajit Power Technology Private Limited vide its affidavit dated 27.11.2015 has submitted that since 31.10.2014, it is not doing the business of trading in electricity, therefore it does not require the trading licence.

5. Section 19 of the Electricity Act, 2003 provides for the revocation of licence as under:

“19. Revocation of licence-(1) If the Appropriate Commission, after making an enquiry, is satisfied that public interest so requires, it may revoke a licence in any of the following cases, namely:

(a) where the licensee, in the opinion of the Appropriate Commission, makes willful and prolonged default in doing anything required of him by or under this Act, or the rules or regulations made thereunder;

(b) where the licensee breaks any of the terms or conditions of his licence the breach of which is expressly declared by such licence to render it liable to revocation;

(c) where the licensee fails, within the period fixed in this behalf by his licence, or any longer period which the Appropriate Commission may have granted therefore-

(i) to show, to the satisfaction of the Appropriate Commission, that he is in a position fully and efficiently to discharge the duties and obligations imposed on him by his licence; or

(ii) to make the deposit or furnish the security, or pay the fees or other charges required by his licence;

(d) where in the opinion of the Appropriate Commission the financial position of the licensee is such that he is unable fully and efficiently to discharge the duties and obligations imposed on him by his licence.

(2) Where in its opinion the public interest so requires, the Appropriate Commission may, on application, or with the consent of the licensee, revoke his licence as to the whole or any part of his area of distribution or transmission or trading upon such terms and conditions as it thinks fit.

(3) No licence shall be revoked under sub-section (1) unless the Appropriate Commission has given to the licensee not less than three months notice in writing, stating the grounds on which it is proposed to revoke the licence, and has considered any cause shown by the licensee within the period of that notice, against the proposed revocation.”

6. In our order dated 28.10.2015, the respondents were directed to explain as to why their trading licenses should not be revoked for non-compliance of the Trading Licence Regulations and Payment of Fees Regulations. The position of the response of these transmission licensees is as under:

(a) With regard to IPTL, the licence of IPTL has been revoked by the Commission vide order dated 7.12.2015 in Petition No. 185/MP/2015. No action is required against IPTL in this order.

(b) RRECL has paid licence fee for the year 2015-16 and has indicated that it is not interested to continue with the licence. Therefore, its licence is liable to be revoked.

(c) IPTPL in its reply has submitted that since it is not undertaking trading in electricity, it does not require the trading licence. Therefore, IPTPL`s licence is liable to be revoked.

(d) PPDPL and JIPL have not filed any reply to the notice. Therefore, their licences are liable to be revoked.

7. A period of three months has already lapsed since the issue of notice to the respondents. Therefore, we are of the view that the trading licences issued to PPDPL, IPTPL, RRECL and JIPL should be revoked in public interest. In exercise of our power under Section 19 of the Electricity Act, 2003, we revoke the licence granted to PPDPL, IPTPL, RRECL and JIPL with immediate effect. We further direct that if it comes to the notice of the Commission that PPDPL, IPTPL and JIPL have undertaken any trading during the period 1.4.2015 (i.e. date of default of payment of licence fee) till the date of issue of this order, the same shall be considered as illegal and unauthorized and appropriate action under the Electricity Act, 2003 shall be taken against PPDPL, IPTPL and JIPL.

8. The Petition No. 12/SM/2015 is disposed of with the above.

Sd/-
(Dr. M.K. Iyer)
Member

sd/-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson