

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 7/SM/2016

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri A.K. Singhal, Member

Shri A.S. Bakshi, Member

Dr. M.K. Iyer, Member

Date of Order: 13.7.2016

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:

PCM Power Trading Corporation Limited,
PCM Tower, 2nd Mile, Sevoke Road,
Siliguri-734001 (WB)

...Respondent

ORDER

The Commission vide order dated 22.8.2014 in Petition No. 12/SM/2014 directed the respondent to explain the reasons for not undertaking trading in electricity. Based on submission and difficulty projected by the respondent, the Commission vide order dated 23.4.2015 in Petition No. 12/SM/2014 allowed one year time to the respondent to undertake trading in electricity and to comply with the provisions 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). However, the respondent did not comply with our direction in Petition No. 12/SM/2014. Accordingly, the Commission vide order dated 3.5.2016 directed the respondent to explain the reasons within one month from the

issue of the order for not undertaking trading in electricity. Relevant portion of said order dated 3.5.2016 is extracted as under:

“2. It is noted that the respondent is not undertaking trading in electricity as per Regulation 7 (n) of the Trading Licence Regulations. 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 the respondent has not only failed to comply with our directions but has also failed to comply with the provisions of the Trading Licence Regulations. In our view, the licensee is not entitled to hold the licence when it has consistently failed to undertake trading of electricity in violation of Regulation 7 (n) of the Trading Licence Regulations. Accordingly, we direct the respondent to file its response within a period of one month as to why its licence 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 licensee 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 licensee.”

2. In response, no reply was filed by the respondent. Therefore, its case for revocation of licence is being dealt with as per the Trading Licence Regulations.

3. Regulation 14A of the Trading Licence Regulations provides as under:

“14 A. Contravention by Licensee

(1) Contraventions of the provisions of the Act, Rules and Regulations framed thereunder and non-compliance of the orders of the Commission by a licensee shall be grouped under two categories such as serious contraventions and non-serious contraventions.

(2) Serious contraventions shall cover the following:

(a) Violations and non-compliance of the provisions of the Act, Rules and the Regulations specified by the Commission, particularly, Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2009, Central Electricity Regulatory Commission (Fixation of Trading Margin) Regulations, 2010, Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010, Central Electricity Regulatory Commission (Grant of Connectivity, Long term Access and Medium-term Open Access in inter-State Transmission and related matters)

Regulations, 2009, Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008, Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012, Central Electricity Regulatory Commission (Power Market) Regulations, 2010 and as amended from time to time or any subsequent amendment thereof;

(b) Deliberate under-reporting of transaction volume in monthly reporting;

(c) Non-compliance of the orders of the Commission including the orders issued for contravention of any regulation of the Commission;

(d) any willful, repeated and persistent violation of non-serious contraventions committed by the licensee.

(e) Non-payment of the licence fees and surcharge if applicable within the due date as specified in Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012.”

4. The respondent not only contravened the provisions of Regulation 7 (n) and Regulation 14 of the Trading Licence Regulations by not undertaking trading, but also has not complied with the directions of the Commission issued vide order dated 22.8.2014 in Petition No. 12/SM/2014 and order dated 3.5.2016 by not responding to the notice. Therefore, the licensee has committed serious contravention in terms of Regulation 14A (2) (c) of the Trading Licence Regulations.

5. Regulation 14C of the Trading Licence Regulations further provides for the penalty for contravention of the regulations and non-compliance with the directions of the Commission which is extracted as under:

“14 C. Penalties for Contravention and non-compliance

(1) Where the charge of serious contraventions is established against the licensee, the Commission may:

(a) direct that the licensee shall pay, by way of penalty, a sum which shall not exceed rupees one lakh for each contravention;
and /or

- (b) debar the licensee, from trading in short term market or medium term market or through power exchanges for a period not exceeding one year; or
- (c) suspend the licence for trading in electricity for a period not exceeding one year; or
- (d) revoke the licence of the licensee; or
- (e) issue such other directions or impose such other condition as the Commission may deem appropriate.”

6. The Commission is of the view that it will be appropriate to impose the penalty of revocation of licence under Regulation 14C (1) (d) of the Trading Licence Regulations on the respondent in the facts of the case for contravention of the provisions of the regulations and non-compliance with the direction of the Commission. Accordingly, we revoke the licence granted to PCM Power Trading Corporation Limited.

7. The petition is disposed of with the above direction.

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

sd/-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson