

**CENTRAL ELECTRICITY REGULATORY COMMISSION
[LAW DIVISION]**

Record of Proceedings

Petition No. : 31/2004

Date of Hearing: 23.9.2008

Subject: Grant of licence for inter-state trading in electricity to Global Energy Limited (GEL)

Applicant: Global Energy Limited (GEL), Mumbai

Coram: 1. Dr. Pramod Deo, Chairperson
2. Shri R.Krishnamoorthy, Member
3. Shri S Jayaraman, Member

Parties present: 1. Shri Sanjay Sen, Advocate
2. Shri Rajeev Yadav, Advocate

The applicant, Global Energy Limited (GEL) had applied for grant of Category 'A' licence for inter-State trading in electricity as per the CERC (Procedure, Terms & Conditions for Grant of Trading Licence and other Related Matters) Regulations, 2004 (hereinafter referred to as the Trading Licence Regulations). The Commission, vide its order dated 6.9.2004, had proposed to grant licence to the applicant and directed publication of notice under sub-section (5) of Section 15 of the Electricity Act, 2003 for inviting suggestions/objections. While the application was pending before the Commission, the Trading Licence Regulations were amended. The Commission, after considering all relevant facts on record, rejected the application of the applicant vide its order dated 28.8.2006 holding that in the light of the amended Trading Licence Regulations, the applicant was not a fit and proper person for grant of licence for trading in electricity.

2. The applicant challenged the Commission's order dated 28.8.2006 before the Appellate Tribunal for Electricity raising various legal issues. The Tribunal, in its judgment dated 7.6.2007, remanded the matter to the Commission for fresh consideration with the following directions:

"52. In the circumstances, therefore, we remit the matter to the CERC to consider afresh the question whether the grant of licence to the appellant is likely to adversely affect the interests of the electricity sector or the consumers in view of the involvement of the appellant in the legal proceedings.

53. It will also be open to the CERC to consider the application of the appellant in the light of the other relevant provisions of the Regulations including clause (f) of Regulation 6A. The appellant shall be heard by the Commission on the aforesaid questions before passing the order".

3. Subsequent to the remand, the Commission, vide its order dated 16.7.2006, directed the applicant to issue a public notice afresh in accordance with the Trading Licence Regulations, as amended. The applicant requested for withdrawal of the said direction for publication of fresh notice. Against the above background, the matter has been listed for hearing for decision whether or not the applicant is required to publish a notice afresh under Section 15(2) of the Act.

4. Learned counsel for the applicant submitted during the hearing that the applicant in its affidavit dated 10.8.2007 has provided the information including the details of the cases pending against the applicant, any of its partners, promoters, directors or associates, and the direction to go for publication of the fresh notice was outside the scope of the remand order of the Tribunal. The learned counsel drew the Commission's notice to Para 43 of the judgment of the Tribunal dated 7.6.2007 and submitted that the inquiry by the Commission at the remand stage was confined only to the consideration as to whether the grant of trading licence to the applicant, in the opinion of the Commission, was likely to adversely affect interest of the electricity sector or the consumers in view of the pending legal proceedings against the applicant, any of its partners, promoters, directors or associates or whether the applicant was not fit and proper person for grant of licence. He further submitted that publication of notice afresh would re-open the case for public hearing and the remand matter not being a fresh proceeding, had no scope for *de novo* public hearing. He also said that the Commission had already framed a prima facie view to grant licence and that order dated 17.6.2004 has not been altered. He undertook to submit on affidavit any information as may be required by the Commission for consideration of the question remanded by the Tribunal.

5. After hearing the learned counsel, the Commission reserved its order on the question of fresh publication of notice under Section 15(2) of the Act. The Commission further directed the applicant to submit the following information on affidavit within the period of two weeks:

- (a) Up-to-date status of all legal proceedings pending as on date against the applicant, any of its partners, promoters, directors or associates;
- (b) Financial statements of the applicant for the immediately preceding two financial years; and
- (c) Amended copy of the Memorandum of Association of the applicant showing its authorized capital.

Sd/-
[K S Dhingra]
Chief (Law)
23.9.2008