

grant of licence. The volume of trading during the next five years is proposed to be determined by the applicant based on the trading opportunities available in the market. According to the applicant, the trading activity will be carried out within the territory of India. The authorised share capital of the applicant is stated to be Rs.10 crore, against which the present paid up share capital is Rs.3 crore, as stated by the applicant.

3. In accordance with Clause 6 of the regulations, considering the volume of inter-state trading proposed to be undertaken by an applicant for grant of licence, the net worth of the electricity trader at the time of application shall not be less than Rs.3 Crore in case the applicant proposed to undertake trading of 100 to 200 MUs in a year. The applicant has submitted its net worth values for the year 1998-1999 to 2002-2003 as under:

(Rs. in lakh)		
S.No.	Years	Net worth
1.	1998-1999	10.75
2.	1999-2000	67.15
3.	2000-2001	212.22
4.	2001-2002	400.22
5.	2002-2003	332.65

4. On perusal of the copies of the annual reports submitted by the applicant along with its application, it is observed that major part of the gross block as also the increases in gross block comprise of temporary structures. The worth of temporary structures during 2002-2003 has been shown as Rs.604 lakh against the total gross block of Rs.799 lakh. The representative of the applicant explained that the temporary structures are made of wood since, as per the instructions of

the Forest Department, Government of Sikkim, the concrete structures are not allowed to be raised at the dam site. He further explained that in accordance with the provisions of the income-tax law, the wooden structures are to be treated as temporary structures. Accordingly, the construction raised at the dam site are categorised as temporary structures in the books of accounts. We direct that an affidavit be filed on behalf of the applicant to explain the position. The applicant shall also explain the reasons for indicating the wooden structures under the category of temporary structures under income-tax law, though the accounts have been prepared in compliance with the Companies Act.

5. As per the auditor's report submitted by the applicant, the annual accounts for the year 2002-2003 were revised and certain changes were made in the original audited accounts for that year which were duly approved at the Annual General Meeting. The auditors have particularly observed that as per the opinion of the Institute of Chartered Accountants of India and that of the Company Law Board, a company cannot reopen and revise the accounts once adopted by the shareholders at an Annual General Meeting and contrary to these opinions, the applicant has reopened and revised the accounts for the year 2002-2003. The representative of the applicant explained that revision of the accounts for the year 2002-2003 became necessary since in the original accounts for that year, certain assets belonging to the Sikkim Power Development Corporation Limited were included in the assets of the applicant for that year under a wrong perception. However, this error was sought to be rectified subsequently by revision of annual

accounts. We direct that a supporting affidavit be filed by the applicant. We further direct that a notice may also issue to Sikkim Power Development Corporation to file an appropriate affidavit explaining the position. The Sikkim Power Development Corporation shall detail its representative for hearing of the application on the next date.

6. In addition, the applicant is directed to file the following additional details:

- (a) The details of inter-state trading transactions undertaken from 1.10.2003 to 31.5.2004 on the format prescribed as Form III to the regulations;
- (b) Copies of the power purchase and sale agreements entered by the applicant with the utilities;
- (c) Annual accounts for the year 2003-2004.

7. The information required from the applicant in accordance with the directions in the preceding paras shall be submitted, duly supported by an affidavit and necessary documentary evidence latest by 25.6.2004.

8. List this petition on 29.6.2004.

(BHANU BHUSHAN)
MEMBER

(K.N. SINHA)
MEMBER

(ASHOK BASU)
CHAIRMAN

New Delhi dated the 14th June 2004