

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 48/TD/2018

Coram:

Shri P.K. Pujari, Chairperson

Shri A.K. Singhal, Member

Shri A.S. Bakshi, Member

Dr. M.K. Iyer, Member

Date of Order: 6th of June, 2018

In the matter of

Application for grant of inter-State trading licence to NLC India Limited.

And

In the matter of

NLC India Limited
First Floor, No. 8, Mayor Sathyamurthy Road,
FSD, Egmore Complex of Food Corporation of India,
Chetpet, Chennai-600 031
Tamil Nadu

..... **Petitioner**

The following was present:

Shri K. Nambirajan, NLCIL

ORDER

The Petitioner, NLC India Limited, a company registered under the Companies Act, 1956 (1 of 1956) has made the present application under sub-section (1) of Section 15 of the Electricity Act, 2003 (hereinafter referred to as "the Act") read with the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Trading Licence and other related matters) Regulations, 2009 (hereinafter referred to as "Trading Licence Regulations") amended from time to time, for grant of Category 'I' licence for inter-State trading in electricity in all States and Union Territories of India.

2. The Petitioner has submitted that NLC India Limited (hereinafter referred to as 'NLCIL') is a Government company and was incorporated on 1956 under the Companies Act, 1956 and is listed on National Stock Exchange of India Limited and BSE Limited. The Petitioner Company was originally incorporated as Neyveli Lignite Corporation Pvt. Ltd. in the year 1956 and the name of the Petitioner Company was changed from Neyveli Lignite Corporation Pvt. Ltd. to Neyveli Lignite Corporation Ltd. in the year 1959. The name of the Petitioner Company was further changed from Neyveli Lignite Corporation Ltd. to NLC India Limited on 19.7.2016.

3. The Petitioner has submitted that NLCIL is basically an integrated lignite mining and power generation company, owing and operating its open cast lignite mines, which feed the downstream thermal power plants. The Petitioner has submitted that NLCIL has made a start in the renewable arena by setting up 51 MW wind farms and 10 MW solar plant in the State of Tamil Nadu and thermal projects and renewable projects of substantial capacity are under implementation. The Petitioner has submitted that by the year 2015, NLCIL is planned to reach lignite/coal mine capacity of 93.15 MT, 16720 MW of thermal power through lignite/coal and 4251 MW of renewable energy through wind/solar. The Petitioner has submitted that as a leading player in the power sector, NLCIL Board has approved the proposal to enter into power trading considering changing scenario of power sector from a regulated one to competitive. The Petitioner has submitted that NLCIL is planning to trade more than 2000 MUs in a year through selling of URS power of the beneficiaries of NLCIL/JV generating stations and accordingly, has prayed for grant of a Category I trading licence. The Petitioner has

submitted that as on date, its authorized, issued, subscribed and paid up share capital are Rs. 2000 crore, Rs. 1528.57 crore, Rs 1528.57 crore and Rs. 1528.57 crore, respectively, and therefore, the Petitioner meets the required networth for grant of Category I Licence. The Petitioner has submitted that its Memorandum of Association authorizes undertaking inter-State trading in electricity and transmission of electricity.

4. NLCIL is a generating company in terms of Section 2 (28) of the Electricity Act, 2003 (hereinafter referred to as the Act). Generating Company has been defined under Section 2(28) of the Act as “generating company means any company or body corporate or association or body of individuals, whether incorporated or not, or artificial person, which owns or operates or maintains a generating station”. Section 14 of the Act provides that “no person shall undertake trading in electricity unless he is authorized to do so by a licence issued under Section 14”. Section 14 of the Act provides that the Appropriate Commission may, on an application made to it under Section 15, grant a licence to any person to undertake trading in electricity as an electricity trader in any area as may be specified in the licence. The term “person” has been defined in Section 2 (49) of the Act to include “any company or body corporate or association or body of individuals whether corporate or not or artificial juridical person”. Thus, NLCIL as a generating company is eligible for applying for grant of trading licence under Section 14 of the Act.

5. The issue regarding any legal embargo to grant licence to a generating company to undertake trading for sale and purchase of electricity has been dealt with by the

Commission in its order dated 26.3.2018 in Petition No. 20/TD/2018. Relevant Portion of said order is extracted as under:

‘4. The issue for consideration is whether there is any legal embargo to grant licence to a generating company to undertake trading for sale and purchase of electricity. There is no provision in the Act which debars a generating company to undertake the function of trading in electricity. However, Section 10 of the Act provides as under:

“10. Duties of generating companies: (1) Subject to the provisions of this Act, the duties of a generating company shall be to establish, operate and maintain generating stations, tie-lines, sub-stations and dedicated transmission lines connected therewith in accordance with the provisions of this Act or the rules or regulations made thereunder.

(2) A generating company may supply electricity to any licensee in accordance with this Act and the rules and regulations made thereunder and may, subject to the regulations made under sub-section (2) of section 42, supply electricity to any consumer.

(3) Every generating company shall-

(a) submit technical details regarding its generating stations to the Appropriate Commission and the Authority;

(b) co-ordinate with the Central Transmission Utility or the State Transmission Utility, as the case may be, for transmission of the electricity generated by it.”

The generating company is authorized to supply electricity to any licensee or consumer. This provision does not debar a generating company to undertake the activity of trading which involves purchase of electricity for the purpose of sale thereof. As a trading licensee, a generating company can purchase power from a seller and sell the same to the buyer. In case of sale of power from its own generating station, since the generating company cannot purchase electricity from itself, therefore, an element of trading, i.e. “purchase of power” cannot be fulfilled. Therefore, a generating company cannot trade electricity generated by it on the basis of licence granted to it. The generating company can supply the power generated by it only to a licensee or a consumer for which no trading licence is required. Therefore, the trading licence, if granted, to a generating company can be utilized for purchase and sale of power involving other entities. However, the generating company, if granted trading licence, shall be required to maintain separate accounts for trading activity by treating it as a separate cost centre.

In the light of the above order, a generating company is eligible for grant of trading licence. The same conditions as quoted above shall apply in case of NLC also, if the licence is granted.

6. Regulation 6 of the Trading Licence Regulations provides for the procedure for grant of trading licence as under:

“6. Procedure for grant of licence

(1) Any person desirous of undertaking inter-State trading in electricity shall make an application to the Commission for grant of licence in the manner specified in Form-I appended to these regulations and such application shall be accompanied by ,-

(a) Such fee as may be prescribed by the Central Government from time to time payable through Bank Draft or pay order drawn in favour of Assistant Secretary, Central Electricity Regulatory Commission, New Delhi.

(b) Copies of the annual reports in case of the persons incorporated under the Companies Act, 1956 (1 of 1956) and audited accounts along with the Director’s Report, Auditors’ Report, the Schedules and notices on accounts for three years immediately preceding the year in which the application has been made and the special balance sheet as on any date falling within 30 days immediately preceding the date of making the application:

Provided that where the applicant has not been incorporated, registered or formed during the period of three years immediately preceding the year in which the application is made, the application shall be accompanied by the copies of the annual reports and audited accounts for such lesser period for which the applicant has been in existence.

(2) The application for grant of licence, along with annexures and enclosures shall also be submitted to the Commission on compact disc (CD).

(3) The applicant shall post complete application along with annexures and enclosures on his own website so as to facilitate access to the application by any person through internet and shall keep them on the website till the disposal of his application.

(4) The applicant shall within 7 days after making such application, publish a notice of his application, in two daily newspapers having circulation in each of the five regions in addition to those published from Delhi, including one economic daily newspaper in Form II, with the following particulars, name

x x x x x x x

(5) The applicant shall within 7 days from the date of publication of the notice as aforesaid submit to the Commission on affidavit the details of the notice published and shall also file the original complete page of the newspaper in which the notice has been published.

(6) The applicant may file his reply to the objections or suggestions received in response to the notice within 45 days of its publication in the newspapers.

(7) The Commission after consideration of the objections or suggestions received in response to the notice published by the applicant and his reply may propose to grant licence.

(8) When the Commission proposes to grant licence, it shall publish a notice of its proposal in two daily newspapers, as the Commission may consider appropriate, stating the name and address of the person to whom it proposes to issue the licence, with such other details as the Commission considers appropriate, to invite further objections or suggestions to its proposal.”

7. The Petitioner has made the application as per Form-I along with CD and paid the fee of Rupees one lakh as prescribed by the Government of India.

8. The Petitioner has posted the application for grant of trading licence on its website in terms of Regulation 6(3) of the Trading Licence Regulations. The Petitioner has placed on record the relevant copies of the newspapers in original in which notice of its application has been issued. The notices under sub-section (2) of Section 15 of the Act read with clause (4) of Regulation 6 of the Trading Licence Regulations have been published by the Petitioner on 2.2.2018 in ‘The Times of India’ (Kochi, Kanpur, Goa, New Delhi, Gurgaon, Bangaluru, Bhubaneswar, Ahmadabad, Nagpur, Mysore, Mangaluru, Chennai, Coimbatore, Madurai, Hyderabad, Jaipur, Patna, Vijayawada, Vishakhapatnam, Pune, Bhopal, Mumbai and Lucknow editions), ‘The Economics Times’ (Chennai, Kolkata, Bengaluru, ‘Financial Express’ (Delhi, Chandigarh, Lucknow, Mumbai, Bengaluru, Gurgaon, Lucknow, Ahmadabad, Hyderabad, Mumbai and Pune

editions) and 'The Telegraph' (Guwahati, Siliguri, Bhubaneswar, Patna, Ranchi and Calcutta editions). No objection has been received in response to the public notices.

9. Proviso to clause (1) of Regulation 3 of the Trading Licence Regulations provides that the applicant should have been authorized to undertake trading in electricity by its Memorandum of Association. Trading in electricity is covered under Main Objects of the Memorandum of Association of the Petitioner. Para III 2 (b) of the Main Objects of the company reads as under:

“(b) Generation, development and accumulation of electricity from all sources including Thermal, Wind, Solar and other Non-Conventional/Renewable Energy Sources, electromotive force or other similar agency in one or more Power Stations and transmission, distribution and supply and sale of such power in bulk or otherwise for distribution by other parties and in bulk and retail for industries, factories, mines, lighting streets, markets, public places, public or private buildings, railways, tramways and other places or things and to carry on the business of purchasing, procuring, selling, importing, exporting and trading of all forms of electric power both conventional and non-conventional on commercial basis.”

In view of the above, the Petitioner fulfills the requirements specified in Regulation 3 (1) of the Trading Licence Regulations.

10. Transmission of electricity is covered under the Main Objects of the Memorandum of Association of the Petitioner. The Petitioner is directed to submit the affidavit to the effect that during the subsistence of the trading licence if granted by the Commission, it shall not apply for any transmission licence before any concerned authority without surrendering the trading licence granted to it.

11. In accordance with Regulation 3 (3) of the Trading Licence Regulations, a person applying for Category 'I' trading licence should have net worth of ₹ Fifty crore, and

should have maintained minimum current ratio and liquidity ratio of 1:1, as on date of audited balance sheet accompanying the application. As per Regulation 6 (1) (b) of the Trading Licence Regulations, the applicant is required to submit the special balance sheet as on any date falling within 30 days immediately preceding the date of making the application. The Petitioner filed its application under affidavit dated 24.1.2018 and submitted unaudited special balance sheet as on 31.12.2017 and audited balance sheet as on 31.3.2017.

12. Based on the special audited balance sheet as on 31.3.2017, net worth and liquidity ratios has been worked out as under:

(Rs. in crore)

Net Worth Computation	As per audited Balance Sheet as on 31.3.2017
Particulars	
A) Paid up equity capital (1)	1528.57
B) Reserves & Surplus.	
B.1. Capital Reserves	0.00
B.2. Capital Redemption Reserve	149.14
B.3. Debenture/ Bond Redemption Reserve	135.00
B.4. Revaluation Reserve	0.00
B.5. Share Options Outstanding Account & Reserves other than free reserves (i.e. KFW Interest Differential Reserve, PRMA Reserve Fund and Contingency Reserve and re-measurement of defined benefit plan)	451.12
B.6. Securities Premium Reserve	0.00
B.7. Surplus (P & L Account)	8477.79
B.8. Other Free Reserves (i.e. General Reserve)	1457.00
Reserves & Surplus Not considered for Net worth (B1+B2+B3+B4+B5)	735.26
Free Reserves & Surplus Considered for Net worth (2) (B6+B7+B8)	9934.79
C) Loans & Advances given to associates (3)	586.03

D) Deferred Expenditure (including Misc. Expenses) not written off (4)	0.00
Net Worth (1+2-3-4)	10877.33

13. The net worth of the Petitioner is further represented by the following:

(Rs. in crore)

Net worth (Asset approach), Current Ratio & Liquidity Ratio Computation	As per audited Balance Sheet as on 31.3.2017
A) Non-current Assets	
A.1. Net block of Tangible Asset	9622.39
A.2 Net Block of Intangible Asset (software)	2.64
A.3 Capital work in progress	4962.70
A.4 Intangible Assets under development	151.96
A.5 Non-Current Investments	2421.37
A.6 Deferred Tax Assets	0.00
A.7 Long-term loans and advances	99.42
A.7.1 Less: Loans & Advances given to Associates included in above	0.00
A.7.2 Net Long Term Loans & Advances (A.7 - A.7.1)	99.42
A.8 Other Non Current Asset (Capital advance MAT Credit and others)	1289.45
A.9 Deferred Expenditure (including Misc. Expenses) not written off (Not considered for net worth computation)	0.00
Total Non-Current Assets	18549.93
Total Non-Current Assets considered for net worth (1)	18549.93
B. Non-Current Liabilities, Pref. Share & Share Application money	
B.1 Share application money pending allotment	0.00
B.2 Preference Share Capital	0.00
B.3 Long term Borrowings	5040.62
B.4 Deferred tax Liabilities	1538.38
B.5 Other Long Term Liabilities	632.85
B.6 Long Term provisions	0.00
Total Non-Current Liabilities, Reserves (2)	7211.85
C. Current Assets	
C.1. Current Investments	0.00
C.2. Inventories	1813.24
C.3. Trade Receivables	5066.00

C.4. Cash and cash equivalents	473.70
C.5 Short Term Loans & Advances	638.49
C.5.1 Less: Loans & Advances given to associates	586.03
C.5.2 Net Short Term Loan & Advances(C.5 - C.5.1)	52.46
C.6 Other current assets (Spares, prepaid expenses, advance income tax, deposit with central excise and customs authorities. & Regulatory Deferral Account Debit balance)	968.02
C.7 Deferred Expenditure (including Misc. Expenses) not written off (not considered for net worth & Liquidity purpose)	0.00
Total Current Assets	8959.45
Total Current Asset considered for Net worth (3)	8373.42
D. Current Liabilities	
D.1. Short-term Borrowings	130.81
D.2. Trade payables	707.44
D.3. Other Current liabilities (current maturities of long term debt. And income received in advance, advance against deposit works etc. and current tax liabilities.)	7010.99
D.4. Short-term provisions	249.66
Total Current Liabilities considered for Net worth (4)	8098.90
Net worth [(1-2)+(3-4)]	10877.34

14. Based on the above, the net worth, current ratio and liquidity ratio work out as under:

S. No.	Particulars	31.3.2017
1.	Net worth (₹ in crore)	10877.34
2.	Current ratio	1.11
3.	Liquidity ratio	0.88

15. In accordance with Regulation 3 (2) of the Trading Licence Regulations, the Petitioner should have at least one full time professional having, qualifications and experience in power system operation and commercial aspects of power transfer and finance, commerce and accounts. As per information submitted by the Petitioner, it fulfils the requirements of Regulation 3 (2) of the Trading Licence Regulations.

16. As per the analysis made in paras 4 to 14 above, the Petitioner meets the requirements of Trading Licence Regulations for grant of Category-I Trading Licence. On consideration of the above facts, we are ***prima facie*** satisfied that the Petitioner fulfills conditions for grant of Category-I trading licence. The Commission proposes to grant Category `I` trading licence to the Petitioner. We direct that a notice under clause (a) of sub-section (5) of Section 15 of the Act be issued inviting further suggestions or objections to the proposal of the Commission.

17. List this petition for further directions on 5.7.2018.

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

**sd/-
(A.S. Bakshi)
Member**

**sd/-
(A.K. Singhal)
Member**

**sd/-
(P.K. Pujari)
Chairperson**