

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 219/TD/2018

**Coram:
Shri P.K. Pujari, Chairperson
Dr. M.K. Iyer, Member
Shri I.S.Jha, Member**

Date of Order: 27th of May, 2019

In the matter of

Application for grant of inter-State trading licence in electricity.

And

In the matter of

NTPC Limited
NTPC Bhawan, Core-7, Scope Complex,
7 Institutional Area, Lodhi Road,
New Delhi-110 003

..... **Petitioner**

The following were present:

Ms. Poorva Saigal, Advocate, NTPC
Ms. Ranjitha Ramachandran, Advocate, NTPC
Shri A.S.Pandey, NTPC
Shri I.Uppal, NTPC

ORDER

The Petitioner, NTPC 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 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. The petitioner has submitted that Ministry of New and Renewable Energy (MNRE) vide its letters dated 5.3.2015 conveyed the sanction of the President of India for implementation of a scheme for setting up of 15000 MW grid connected solar PV Power plants through NTPC under National Solar Mission in a span of 5 years from 2014-15 to 2018-19 in three tranches as mentioned below:

a) Tranche I	3000 MW	2014-15 to 2016-17
b) Tranche II	5000 MW	2016-17 to 2017-18
c) Tranche III	7000 MW	2016-17 to 2018-19

2. The Petitioner has submitted that it had participated in MNRE Scheme under National Solar Mission Phase-II, Batch-II, Tranche-I based on Guidelines for selection of 3000 MW grid connected Solar PV Power Projects under “State Specific Building Scheme” as an intermediary procurer. The Petitioner filed Petition No. 2/TDL/2016 for grant of trading licence. The Commission vide order dated 14.10.2016 rejected the prayer of NTPC and observed that NTPC can utilize the trading licence already granted to NTPC Vidyut Vypar Nigam Limited which is wholly owned subsidiary of NTPC. Relevant extract of the Order dated 14.10.2016 is as under:

“9. The Commission had directed NTPC to suggest alternative mechanisms under which the existing licence of NVVN can be utilized to serve the purpose for which NTPC is seeking trading licence. NTPC has submitted three alternatives which have been quoted in para 6 of this order. The third alternative lacks clarity and accordingly, has not been considered. The first alternative is to direct NVVN to be added as a party to the agreements which have been or are required to be entered into with the Solar Power Developers and also with the distribution companies on back to back basis. This alternative requires the Commission to issue directions to the existing contracting parties to modify the contract in order to make NVVN party to the PPA or PSA as the case may be. It is a cardinal principle of Contract Law that the parties should enter into agreement through their free consent. The Solar Power Developers and the distribution companies are not parties to the petition and therefore, no direction can be issued with regard to inclusion of NVVN as a party to the PPA/PSA without hearing these parties. The second alternative suggested by NTPC is that NVVN be directed to undertake the transaction for purchase of electricity from the Solar Power Developers and sale thereof to the

distribution companies, notwithstanding the fact that NTPC is a party to the transaction and does not hold any licence. NTPC has further suggested that the licence for inter-State trading issued to NVVN when NVVN is a wholly owned subsidiary, may be permitted to be utilized for purchase and re-sale of electricity involving NTPC. We are of the view that the second alternative suggested by NTPC requires serious consideration. As already held, NVVN is a wholly owned subsidiary of NTPC which exercises persuasive control over the management and operation of NVVN. Moreover, NTPC in fulfillment of its obligations under the National Solar Mission is required to purchase power from the Solar Power Developers and sell it to the distribution companies after bundling the same with thermal power. Since, the process involves purchase and sale of solar power which has been recognized as trading activity under the Act, NTPC requires a licence to undertake such activity. Since NVVN which is wholly owned subsidiary of NTPC has been issued a Category I inter-State trading licence, we are of the view that NTPC can utilize trading licence issued to NVVN in order to fulfill its obligations under the National Solar Mission. Therefore, the Commission permits NTPC to utilize the licence issued to NVVN, its wholly owned subsidiary, to purchase solar power from Solar Power Developers and sell it to the distribution companies. The billing for purchase and sale of solar power shall be made in the name of NVVN but settlement of the tariff and other dues shall be made by NTPC in terms of the provisions of the PPA or PSA as the case may be. This will obviate the need for any change in the PPA or PSA that NTPC has entered with the Solar Power Developers or the distribution companies respectively. NTPC shall work out the procedure for effecting this arrangement. It is clarified that this special dispensation has been given by the Commission keeping in the furtherance of the objective of procurement and sale of solar power in a viable manner under National Solar Mission being Ministry of MNRE and Government of India Programme to provide comfort to the development for the bankability of the Solar Project and shall not be quoted as precedent.”

3. The Petitioner has submitted that MNRE has decided that NTPC should go for the plan for aggressive bidding for 20000 MW for installation of Solar Power Projects. In this regard, MNRE has issued “Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects” under Section 63 of the Electricity Act, 2003 for long term procurement of electricity by the Procurers from grid connected Solar PV Power Projects, having size of 5 MW and above, through competitive bidding. As per the Guidelines, an intermediary, between the distribution licensees and the generator (solar power generator) has been envisaged as a necessity with the objective to aggregate the solar power purchased from different solar power generators and to sell it to the distribution licensees, as well to enhance the credit profile. In such cases, the Procurer from solar power project would

be a trader, buying power from the solar power generators and selling the same to one or more distribution licensees, such distribution licensees shall be the end procurer and the trader shall be intermediary Procurer for the purpose of these Guidelines. Accordingly, the Petitioner has filed the present application for grant of inter-State trading licence to enable the execution of MNRE`s plan for aggressive bidding for 2000 MW for installation of solar power projects under the guidelines issued by Ministry of Power.

4. The Petitioner has submitted that pursuant to Policy decision of the Central Government, trading licence has become necessary for NTPC. Ministry of Power, Government of India has brought the flexibility in generation and scheduling of thermal power stations to reduce emissions to optimally utilize generation from RE sources and also help in reducing emissions and it shall also facilitate further RE capacity addition. As per the order, the generating company have the flexibility of using either its coal-based power or its renewable power to meet its scheduled generation. Accordingly, once the generator receives schedule, it can supply power either from its coal-based capacity or from its renewable capacity. Therefore, the renewable power either installed by power generating company or procured from some other renewable power generator shall replace the coal-based power, wherever found feasible by the generating company. This would involve purchase of electricity by NTPC as a generating company and resell them to the distribution licensees and other end-users.

5. The Commission in its order dated 14.10.2016 had allowed NTPC to utilize the trading licence granted to NVVNL for NSM Projects. Initially it was envisaged to involve NVVN in the said activity of trading. However, the trading activity was again switched over back to NTPC owing to the financial implication resulting due to service tax as use of NVVN for the said activity could have resulted in payment of erstwhile service tax (presently GST) on transaction between NTPC and NVVN.

6. The Petitioner has submitted that as on date, its authorized, issued, subscribed and paid up share capital are Rs. 10,000 crore, Rs. 8245.46 crore, Rs 8245.46 crore and Rs. 8245.46 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.

7. NTPC has stated that it 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, NTPC as a generating company is eligible for applying for grant of trading licence under Section 14 of the Act.

8. 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 debar 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 conditions stated above shall apply in case of other generating companies who are granted licence.

9. The matter was heard on 6.3.2019. During the course of hearing, the Commission observed that as per the audited balance sheet dated 30.6.2018, the Petitioner is not fulfilling current and liquidity ratio in terms of Regulation 3 (3) (b) of Trading Licence Regulations. In response, learned counsel for the Petitioner sought time to clarify the position. Accordingly, the Petitioner was directed to file the status of current and liquidity ratio.

10. The Petitioner vide its affidavit dated 1.4.2019 has submitted as under:

"(a) NTPC is a leading power company of India with a commissioned capacity of 53,651 MW. The Company, while having 15.56% of the total national capacity, contributes 22.74% of total power generation due to its focus on high efficiency. Commensurate with the country's growth challenges, NTPC has embarked upon an ambitious plan to attain a total installed capacity of 130 GW by 2032. Towards this goal, NTPC is implementing various measures, which include Greenfield Projects, Brownfield Projects, joint ventures and acquisition of existing plants route.

(b) As per the Ministry of Power, Government of India Guidelines dated 3.8.2017, namely "Guidelines for Tariff Based Competitive Bidding process for procurement power from Grid connected Solar PV Power Projects" while defining Intermediary Procurer & End Procurer, in some cases, an intermediary, between the distribution licenses and the generator ("Solar Power Generator") may be required either to aggregate the

solar power purchased from different Solar Power Generators and sell it to be distribution licensee, or to enhance the credit profile. In such cases, the "Procurer" would be a trader, namely buying power from the Solar Power Generators and selling the same to one or more distribution licenses. Such distribution licensees shall be the "End Procurer" and the trader shall be "Intermediary Procurer" for the purpose of these Guidelines.

(c) In line with the policy of the Government of India of aggressive promotion of renewable energy, NTPC has made a target of achieving 32 GW of Renewable Energy (RE) based capacity by 2032 out of which 30 GW is solar RE. Several measures taken such as guidelines for tariff based competitive bidding process for procurement of power from Grid connected Solar PV and Wind power projects, draft solar-wind hybrid policy are attracting in this sector. Apart from establishing its own generating unit, NTPC is also expanding its renewable energy capacity through the developer mode (similar to National Solar Mission from Government of India).

(d) Under the initiative of procurement of 20000 MW under the guidelines issued by Gol on competitive tariff based bidding process, NTPC had selected the Wind/Solar Power Developers for implementation of wind/solar PV projects and procurement of wind/solar power for cumulative capacity of 1150 MW wind and 2000 MW Solar. The scheme for such procurement is under "Built-Own-Operate" (BOO) basis with the minimum project size of 50 MW, wherein most competitive tariff(s) of the order of Rs. 2.67/ kWh for solar power and 2.87/kWh for wind power including a trading margin of 7 paise/kWh had been discovered through tariff based competitive bidding followed by reverse auction. In this respect, consents have been obtained from various beneficiaries of the order of 7150 MW of solar and wind, based on which Power Sale Agreements (hereinafter referred to as 'PSAs') have been signed with beneficiaries and consequent signing of PPAs is in progress.

(e) In order to expand through developer mode, NTPC requires a licence in its name to trade electricity.

(f) While deciding about eligibility criteria for power trading licence, the Commission in its discussion paper for grant of licence for inter-State trading dated 10.9.2003 states as under:

"It is necessary that the Commission be fully satisfied with financial soundness of an applicant for carrying out electricity trade, before the license is finally granted. While setting up eligibility criteria for potential traders, it is required to create an enabling and conducive environment to promote efficiency and competition in the power market. To this end, while deciding the eligibility criteria, the following points have been considered:

(a) The trader should have sufficient capital employed to cover the credit and default risk.

(b) The trader should demonstrate seriousness in Business.

(c) The trader should trade within a trading limit as proposed by him; beyond this limit, equivalent equity should be raised."

The objective of the above Regulation is that the trading licensee should have sufficient capital employed, necessary to cover the credit and default risk criteria, as also stated in the Regulation for trading license.”

11. 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

(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.”*

12. 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.

13. 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 11.8.2018 in 'Business Standard (Lucknow edition), DNA (Delhi edition), Aaj Samaj (Delhi edition), The Assam Post (Guwahati edition), Batori Kakot (Guwahati edition), The New Indian Express (Chennai edition), Dinamani (Chennai edition), Morning India (Patna edition), Sanmarg (Patna edition), the Free Press Journal (Mumbai edition), Punya Nagari (Mumbai Edition) and on 13.8.2018 in Financial Chronicle (Delhi edition). No objection has been received in response to the public notices.

14. 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) To carry on the business of purchasing, selling, importing, exporting, producing, trading, manufacturing or otherwise dealing in all aspects of planning, investigation, research, design and preparation of preliminary feasibility and project reports, construction, generation, Operation and Maintenance, Renovation and Modernisation of Power Stations and Projects, Transmission, distribution, sale of Thermal, Hydro, Nuclear power and power generated through Non-conventional Renewable Energy sources, Power development and also to undertake the business of other allied/ancillary industries including those for utilization of stream generated at power stations, and other by-products and install operate and manage all necessary plants, establishment and works.”

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

15. Transmission of electricity is covered under the Main Objects of the Memorandum of Association of the Petitioner. The Petitioner has submitted that it shall not hold transmission licence and will not also apply for transmission licence during subsistence of trading licence, if granted by the Commission and will act consistent with the terms of Regulation 4 of the Trading Licence Regulations. The Petitioner has submitted that NTPC maintains a dedicated transmission line related to Dadri transmission line which is within the scope of sub Section (16) of Section 2 of the Electricity Act, 2003 and the same can be owned and operated without the requirement to take any transmission licence and the maintenance of such line will be as per Section

9 of the Electricity Act, 2003 and not as a line of the transmission licensee. The Commission in its order dated 20.4.2016 has considered the same as part of the generation project.

16. 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.

17. In accordance with Regulation 3(3) of the Trading Licence Regulations, a person applying for Category-I trading licence should have net worth of Rs. 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 on 23.7.2018 and submitted special balance sheet as on 30.6.2018 and audited balance sheet as on 31.3.2017.

18. Based on the special audited balance sheet as on 30.6.2018, net worth and liquidity ratios have been worked out as under:

(Rs.in lakh)	
Net Worth Computation	As per audited special balance sheet as on 30.6.2018

Particulars	
A) Paid up equity capital (1)	824546.00
B) Reserves & Surplus.	
B.1. Capital Reserves	5008.00
B.2. Capital Redemption Reserve	0.00
B.3. Debenture Redemption Reserve	717781.00
B.4. Revaluation Reserve	0.00
B.5. Share Options Outstanding Account & Reserves other than free reserves (i.e., Fly ash utilisation reserve fund)	66435.00
B.6. Securities Premium Reserve	222846.00
B.7. Surplus (P & L Account)	519600.00
B.8. Other Free Reserves (i.e., General Reserve and Reserve for equity instruments through OCI)	8082545.00
Free Reserves & Surplus Considered for Net worth (2) (B6+B7+B8)	8824991.00
C) Loans & Advances given to associates (3)	291806.00
D) Deferred Expenditure (including deferred Payroll Expenditure not written off (4))	16211.00
Net Worth (1+2-3-4)	9341520.00

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

(Rs in Lakh)

Net worth (Asset approach), Current Ratio & Liquidity Ratio Computation	306.2018
A) Non-current Assets	
A.1. Net block of Tangible Asset	11,978,601.00
A.2 Net Block of Intangible Asset	32623
A.3 Capital work in progress	8186291.00
A.4 Intangible Assets under development	47761.00
A.5 Non-Current Investments (Investment in Eq. Shares of subsidiary co. and Joint Venture co.)	1258140.00
A.6 Deferred Tax Assets	0.00
A.7 Long-term loans and advances	60120.00
A.7.1 Less: Loans & Advances given to Associates included in above	17118.00
A.7.2 Net Long Term Loans and Advances (A.7 - A.7.1)	43002.00

A.8 Other Non-Current Asset (Claims recoverable, Finance lease receivables, Mine closure deposit and Regulatory Deferral Account debit balances). Regulatory Deferral Account debit balances is a separate line item which is neither Current Asset nor Non-Current Asset. However, the same is considered under non-current assets for grouping purpose.	1375034.00
A.9 Deferred Expenditure (including Deferred Payroll Expenditure) not written off (Not considered for net worth computation)	13459.00
Total Non-Current Assets	22952029.00
Total Non-Current Assets considered for net worth (1)	22921452.00
B. Non-Current Liabilities, Pref. Share & Share Application money and Reserves other than free reserves	
B.1 Share application money pending allotment	0.00
B.2 Preference Share Capital	0.00
B.3 Long term Borrowings (i.e. Debentures/Bonds, Foreign Currency Assets, Term Loans)	11241820.00
B.4 Deferred tax Liabilities	240645.00
B.5 Other Long Term Liabilities (i.e. Trade Payables, Other financial liabilities and Deferred revenue) Deferred revenue is a separate line item which is neither Current Liability nor Non-Current Liability. However, the same is considered under non-current liability for grouping purpose.	446955.00
B.6 Long Term provisions (i.e. prov. For employee Benefit)	48128.00
B.7 Reserves other than free reserves	789224.00
Total Non-Current Liabilities, Reserves other than free reserves considered for Net worth (2)	12766772.00
C. Current Assets	
C.1. Current Investments	0.00
C.2. Inventories	605839.00
C.3. Trade Receivables	1246653.00
C.4. Cash and cash equivalents	165242.00
C.5 Short Term Loans & Advances	631360.00
C.5.1 Less: Loans & Advances given to associates	274688.00
C.5.2 Net Short Term Loan & Advances (C.5 - C.5.1)	356672.00

C.6 Other current assets (TDS, Advance given, Tax payable, accrued interest and other receivable from group companies)	1168629.00
C.7 Deferred Expenditure (including Payroll Expenses) not written off (not considered for net worth & Liquidity purpose)	2752.00
Total Current Assets	3820475.00
Total Current Asset considered for Net worth (3)	3543035.00
D. Current Liabilities	
D.1. Short-term Borrowings	608718.00
D.2. Trade payables	555183.00
D.3. Other Current liabilities (Expenses payable, due to directors, share application money due for refund, other payables.)	2515232.00
D.4. Short-term provisions	677062.00
Total Current Liabilities considered for Net worth (4)	4356195.00

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

S. No.	Particulars	30.6.2018
1.	Net worth (in Rs. lakh)	4356195.00
2.	Current ratio	0.88
3.	Liquidity ratio	0.74

21. As per the above special audited balance sheet dated 30.6.2018, the Petitioner fulfills the requirement of networth for grant of Category-I trading licensee. However, the Petitioner does not meet the requirement of current ratio and liquidity ratio specified in Regulation 3(3)(b) of the Trading Licence Regulations. Since the Petitioner was not fulfilling these requirements, the Commission vide Record of Proceedings of the hearing dated 6.3.2019, directed the Petitioner to file status of current ratio and liquidity ratio.

The Petitioner vide its affidavit dated 1.4.2019 has submitted that commensurate with the country's growth challenges, it has embarked upon an ambitious plan to attain a total installed capacity of 130 GW by 2032 and to achieve this target, NTPC is implementing various measures, which include Greenfield Projects, Brownfield Projects, joint ventures and acquisition of existing plants. The Petitioner has submitted that as per the Guidelines of Ministry of Power dated 3.8.2017, an Intermediary Procurer such as NTPC may be required to aggregate the solar power purchased from different Solar Power Generators and sell it to the distribution licensee. In such cases, the Intermediary Procurer would be playing the role of a trader, namely buying power from the Solar Power Generators and selling the same to one or more distribution licensees.

22. We have considered the submissions of the Petitioner. According to the Petitioner, in line with the Policy of the Government of India for promoting renewable energy, NTPC has set a target of achieving 32 GW of Renewable Energy (RE) based capacity by 2032 out of which 30 GW is solar RE. Under the initiative of Ministry of New and Renewable Energy for procurement of 20000 MW, for which guidelines has been issued by the Ministry of Power dated 3.8.2017, NTPC has been identified as the Nodal Agency. As part of this, NTPC has stated that it selected the Wind/ Solar Power Developers for implementation of wind/ solar PV projects and procurement of cumulative capacity of 1150 MW wind power and 2000 MW solar power under "Build-Own-Operate" (B-O-O) basis with minimum project size of 50 MW, wherein competitive tariff(s) of the order of Rs 2.67/kWh for solar power and Rs. 2.87/kWh for wind power including a trading margin of 7 paise/kWh had been discovered. The Petitioner has

submitted that in this regard, consents have been obtained from various beneficiaries of the order of 7150 MW, based on which PSAs have been signed with beneficiaries for the 2000 MW solar capacity and 1150 MW wind capacity and consequent PPAs have been signed with SPDs. The Petitioner has submitted that NTPC's presence as an intermediary agency has led to assurance of timely payment to RE developers and this has resulted in such low tariffs for wind and solar projects.

23. We observe that several initiatives have been taken by Government of India for giving impetus to renewable energy capacity addition. The Petitioner is a designated nodal agency for developing renewable capacity. It is noted that the Guidelines dated 3.8.2017 of the Ministry of Power requires that the Intermediary Procurer such as NTPC may be required to aggregate the solar power purchased from different Solar Power Generators. In such cases the NTPC would have to play the role of a "trader".

24. In order to fulfill its obligations as the "Intermediary Procurer", NTPC has approached the Commission for grant of trading licence. We have noted earlier that NTPC has a very high networth (Rs. 93415.20 crore) as against requirement of Rs. 50 crore for grant of category-I trading licence. We have also noted that it fulfils the requirement of other provisions of the Trading Licence Regulations. The criteria that it does not meet are the Current Ratio (0.88) and Liquidity Ratio (0.74) as against requirement of ratio of 1.00 in terms of Regulation 3(3) (b) of the Trading Licence Regulations. It has been observed that out of total current liability considered for networth of Rs.4356195 lakhs, liabilities worth of Rs. 1220359 lakhs are on account of

current liabilities payable for capital expenditure and Rs.706852 lakhs are on account of current maturity of long term loans. It is noted that the company undertakes project of Capital nature which are regulated by this Commission. Thus, the current liabilities includes large component of expenditure on account of capital nature as well. In case the aforesaid liabilities of capital nature are taken out, the current ratio works out to 1.45.

25. NTPC is a Maharatna CPSE (Central Public Sector Enterprise) as notified by the Department of Public Enterprises, Government of India. The criteria for grant of such status are that the company should already have Navratna status; it should be listed on the Indian stock exchange with minimum prescribed public shareholding under SEBI regulations; it should have an average annual turnover of more than Rs. 25,000 crore during the last 3 years; its average annual net worth should be more than Rs. 15,000 crore during the last 3 years; it should have an average annual net profit after tax of more than Rs. 5,000 crore during the last 3 years; and the entity should have significant global presence/ international operations. Thus we note that by virtue of being granted the Maharatna status, it is implicit that NTPC has a very strong balance sheet and has trust of shareholders. The creditworthiness of NTPC has also been recognized by various credit rating agencies.

26. In order to achieve the required target of addition on RE over next few years, the “Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects” issued by MNRE has assigned a very

crucial role to the Intermediary Procure. Achievement of targets would be possible when the Intermediary Procurer is creditworthy and has trust of developer as well as procurer. NTPC has been designated as the Nodal Agency for this purpose and has applied for grant to trading licence to carry out its responsibilities.

27. In light of the above, we are of the view that in case of NTPC, despite the fact that it does not meet the current ratio and liquidity ratio criteria of the Regulations, is financially sound with respect to liquidity for carrying out electricity trade. NTPC meets other criteria for grant of trading license as required under the Trading License Regulations. Keeping in view the facts and circumstances of the case, we, in exercise of power conferred under Regulation 17 of the Trading License Regulations, relax the current ratio and liquidity ratio requirement in public interest in view of the policy of the Government of India for promoting renewable energy as detailed in para 22 above. Accordingly, the Commission proposes to grant Category-I trading license to the Petitioner. We direct that a notice under clause (a) of sub-section (5) of Section 15 of the Act be issued for inviting further suggestions or objections to the proposal of the Commission.

28. List this Petition for further directions in due course.

Sd/-
(I.S.Jha)
Member

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

sd/-
(P.K. Pujari)
Chairperson