

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 165/TD/2021

Coram:

Shri I.S. Jha, Member

Shri Arun Goyal, Member

Shri P.K. Singh, Member

Date of Order: 6th December, 2021

In the matter of

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

And

In the matter of

SJVNL Limited,
Shakti Sadan, Corporate Head Quarter,
Shanan, Shimla-171 006,
Himachal Pradesh.

..... Applicant

The following was present:

Shri Ashok Kumar, SJVNL

Shri Raj kumar, SJVNL

ORDER

The Applicant, SJVNL Limited (in short, "SJVNL"), a company registered under the Companies Act, 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, 2020 (hereinafter referred to as "the Trading Licence Regulations") amended from time to time, for grant of Category 'I' Licence for inter-State trading in electricity in whole of India.

2. Case was called out for virtual hearing on 12.10.2021. The Applicant was directed to submit audited special balance sheet along with schedules and notes to the accounts as on any date falling within 30 days immediately preceding the date of making the application within two weeks. The Applicant vide its affidavit dated 22.11.2021 has submitted the Special Audited Balance Sheet as on 30.6.2021.

3. We have examined the documents on record. The Applicant has submitted that it is a Government company and was incorporated on 24.5.1988. SJVNL, a mini ratna category-I and Schedule 'A' CPSE, is under administrative control of Ministry of Power, Government of India. SJVNL is a joint venture of Government of India and Government of Himachal Pradesh.

4. The Applicant has submitted that SJVNL is presently engaged in the business of generation and sale of electricity. SJVNL is planning to trade more than 7000 MU in a year and accordingly, has prayed for grant of a Category 'I' trading licence. The Applicant has submitted that as on date, its authorized, issued, subscribed and paid up share capital are Rs.7000 crore, Rs.3929.80 crore, Rs.3929.80 crore and Rs.3929.80 crore, respectively and, therefore, the Applicant meets the required net worth for grant of Category 'I' Licence. The Applicant has submitted that its Memorandum of Association authorizes undertaking inter-State trading in electricity and transmission of electricity.

5. Section 2(28) of the Act defines that "*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 of the Act, 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, SJNVL as a generating company is eligible for applying for grant of trading licence under Section 14 of the Act.

6. 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.”

7. 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 SJVNL also, if the licence is granted.

8. 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.”

9. The Applicant has submitted the application as per Form-I along with the requisite fees.

10. The Applicant has uploaded the application for grant of trading licence on its website in terms of Clause (3) of Regulation 6 of the Trading Licence Regulations and further 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 Applicant on 31.7.2021 in 'The Indian Express (Vadodara, Nagpur, Pune, Mumbai, Lucknow, Kolkata, New Delhi, Jaipur, Chandigarh and Ahmedabad, editions), 'Financial Express' (Chennai/Kochi, Hyderabad, New Delhi, Chandigarh, Bengaluru, Ahmedabad, Pune, Mumbai, Lucknow and Kolkata editions), 'The Assam Tribune' (Guwahati edition), 'The New Indian Express' (Chennai edition) and 'Dainik Bhaskar' (Jalandhar, New Delhi, Bathinda, Hisar, Amritsar, Kangra and Patiala editions). It has been submitted by the Applicant that no objection has been received in response to the public notices.

11. 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 Applicant. Para A 4 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 definite project reports, (development), construction, generation, operation and maintenance, renovation and modernisation, transmission, distribution and sale of power, both from renewable as well as non-renewable sources, ancillary and other allied industries and for that purpose of install, operate and manage all necessary plants, establishment and works.”

12. In view of the above, it has been submitted by the Applicant that it fulfills the requirements specified in Clause (1) of Regulation 3 of the Trading Licence Regulations.

13. Transmission of electricity is covered under the Main Objects of the Memorandum of Association of the Applicant Company. The Applicant vide its affidavit dated 12.10.2021 has submitted that during the subsistence of the trading licence, if granted by the Commission, it shall not apply for any transmission licence before any authority without surrendering the trading licence granted to it.

14. 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.50 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 Applicant has submitted audited special balance sheet as on 30.6.2021.

15. Based on the special audited balance sheet as on 30.6.2021, net worth and liquidity ratios have been worked out as under:

Net Worth Computation	(Rs. in lakh)
	As per Special Audited Balance Sheet as on 30.6.2021
Particulars	
A) Paid-up equity capital (1)	392980.00
B) Reserves and Surplus	
B.1. Capital Reserves	0.00
B.2. Capital Redemption Reserve	20683.00
B.3. Debenture Redemption Reserve	0.00
B.4. Revaluation Reserve	0.00

B.5. Share Options Outstanding Account and Reserves other than free reserves	0.00
B.6. Securities Premium Reserve	0.00
B.7. Surplus (P and L Account)	896434.00
B.8. Other Free Reserves (i.e. general reserve and cash flow reserve)	0.00
Free Reserves and Surplus considered for net worth (2) (B6+B7+B8)	917117.00
C) Loans and Advances given to associates (3)	
D) Deferred expenditure (including Miscellaneous Expenses) not written off (4)	88103.00
Net Worth (1+2-3-4)	1221994.00

16. The net worth of the Applicant is further represented by the following:

(Rs. in lakh)	
Net worth (Asset approach), Current Ratio & Liquidity Ratio computation	As per Special Audited Balance Sheet as on 30.6.2021
A) Non-current Assets	
A.1 Net block of Tangible Asset	740106.00
A.2 Net Block of Intangible Asset	2746.00
A.3 Capital work in progress	128552.00
A.4 Intangible Assets under development	607.00
A.5 Non-Current investments	381214.00
A.6 Deferred Tax Assets	59355.00
A.7 Long-term loans and advances	8309.00
A.7.1 Less: Loans and Advances given to Associates included in above	0.00
A.7.2 Net Long Term Loans and Advances (A.7 - A.7.1)	8309.00
A.8 Other non-current asset (Right of use assets, capital advances and prepaid expenses, etc.)	58556.00
A.9 Deferred expenditure (including Miscellaneous Expenses) not written off (Not considered for net worth computation)	0.00
Total Non-Current Assets	1379445.00
Total Non-Current Assets considered for net worth (1)	1379445.00
B. Non-Current Liabilities, Preferential Share and 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	180677.00
B.4 Deferred tax Liabilities	0.00
B.5 Other Long Term Liabilities	75250.00
B.6 Long Term provisions	9902.00
B.7 Reserves other than free reserves	0.00
Total Non-Current Liabilities, Reserves other than free reserves considered for Net worth (2)	265829.00
C. Current Assets	0.00
C.1. Current Investments	0.00
C.2. Inventories	5684.00
C.3. Trade Receivables	70879.00
C.4. Cash and cash equivalents	87601.00
C.5 Short Term Loans and Advances	1911.00
C.5.1 Less: Loans and Advances given to associates	0.00
C.5.2 Net Short Term Loan and Advances (C.5 - C.5.1)	1911.00
C.6 Other current assets *	97121.00
C.7 Deferred Expenditure	0.00
Total Current Assets	263196.00
Total Current Asset considered for Net worth (3)	263196.00
D. Current Liabilities	
D.1. Short-term Borrowings	49077.00
D.2. Trade payables	3345.00
D.3. Other Current liabilities	54294.00
D.4. Short-term provisions	48102.00
Total Current Liabilities considered for Net worth (4)	154818.00
Net worth ((1-2)+(3-4))	1221994.00

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

S. No.	Particulars	As per Special Audited Balance Sheet as on 30.6.2021
1	Net worth (Rs. in lakh)	1221994.00
2	Current ratio	1.70
3	Liquidity ratio	1.66

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

19. As per the analysis made in paragraph 3 to paragraph 18 above and after a preliminary examination, we find that the Applicant meets the requirements of Trading Licence Regulations for grant of Category 'I' trading licence. In view thereof, the Commission proposes to grant Category 'I' trading licence to the Applicant. 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.

20. The Petition shall be listed for final hearing in due course for which notice will be issued separately.

**Sd/-
(P.K.Singh)
Member**

**sd/-
(Arun Goyal)
Member**

**sd/-
(I.S.Jha)
Member**