

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 266/TD/2021**

**Coram:**

**Shri I.S.Jha, Member  
Shri Arun Goyal, Member  
Shri P.K.Singh, Member**

**Date of Order: 15<sup>th</sup> February, 2022**

**In the matter of**

Application for down-gradation of trading licence under Regulations 9(4) and 15(3)(a) of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2020.

**And**

**In the matter of**

National Energy Trading and Services Limited (NETSL),  
Plot No. 397, Udyog Vihar Phase-III,  
Gurgaon – 122 016, Haryana.

**.... Applicant**

**Parties present:**

Shri Deepak Khurana, Advocate, NETSL  
Shri Ashwini Kumar Tak, Advocate, NETSL  
Shri Vidya Bhushan, NETSL

**ORDER**

The Applicant, National Energy Trading and Services Limited, had filed Petition No. 42/TD/2021 under Regulation 9(4) and Regulation 15(3)(a) of 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”) for down-gradation of its inter-State trading licence in electricity from Category ‘I’ to Category ‘III’.

2. The Commission after considering the documents placed on record, in its order dated 23.6.2021, observed that as per the audited special balance sheet as on 28.2.2021, the Applicant company had a net worth of Rs.(-)18.69 crore. Also, as per audited annual accounts for the year 2019-20, the Applicant company had a net worth of Rs.(-)18.13 crore as on 31.3.2020. Therefore, the Applicant did not meet requirements of net worth for any category of inter-State trading licence as prescribed under Regulation 3(3)(a) of the Trading Licence Regulations. Accordingly, the Commission, in Petition No. 42/TD/2021 vide order dated 23.6.2021, while rejecting the prayer of the Applicant for down-gradation of its trading licence from Category 'I' to Category 'III', directed to initiate appropriate proceedings against the Applicant as per the provisions of the Trading Licence Regulations.

3. Subsequently, in terms of above order dated 23.6.2021, suo-motu proceedings bearing No. 8/SM/2021 were initiated against the Applicant for non-fulfillment of requirement of the net worth. Vide order dated 8.7.2021, the Applicant was directed to file its response as to why penal provision ought not be invoked in terms of Regulation 19 of the Trading Licence Regulations for failure to maintain required net worth, current ratio and liquidity ratio for holding any category of inter-State trading licence. The Applicant vide its response dated 6.8.2021 submitted that in the financial statement and audited special balance sheet, Lanco Solar Energy Private Limited ('LSEPL'), in which the Applicant has an investment of Rs.99.61 crore, was inadvertently shown as a fellow subsidiary of NETSL whereas LSEPL has ceased to be a fellow subsidiary of NETSL after transfer of its shares to Dikon Infratech Private Limited on 17.2.2019. The Applicant further explained that on account of the said inadvertent mistake, the Commission had rightly excluded the

investment made in LSEPL while calculating the net worth. The Applicant had expressed apology for the said inadvertent mistake. The Applicant had also submitted the corrected special audited balance sheet as on 28.2.2021.

4. Considering the submissions of the Applicant and after examining the corrected special audited balance sheet as on 28.2.2021, the Commission in its order dated 3.11.2021 in Petition No. 8/SM/2021 observed that the investment made by the Applicant in LSEPL cannot be called as investment in fellow subsidiary and cannot be excluded while calculating the net worth. The Commission further observed that since the Applicant has a net worth of Rs.80.92 crore, it may be meeting the requirement of Regulation 9(2) for holding Category 'III' trading licence. Accordingly, the Commission dropped the suo-motu proceedings for invoking penal provisions and the Applicant was granted liberty to file fresh Petition for downgrading of its trading licence. Further, the Applicant was also directed to submit the status of its investment of Rs.99.61 crore in LSEPL, which was under Corporate Insolvency Resolution Process (in short 'CIRP') as per the order dated 14.6.2019 of the National Law Company Tribunal (NLCT) along with clear net worth free from all disputes and encumbrances. Relevant portion of the order dated 3.11.2021 is extracted as under:

*“12. As per the proviso to Regulation 9(2) of the Trading Licence Regulations, the Respondent is required to maintain a net worth of Rs. 100 crore for holding Category 'I' trading licence, being 100% additional net worth. Since the Respondent has a net worth of Rs.80.92 crore, it does not fulfill the requirement of the proviso to Regulation 9(2) of the Trading Licence Regulations for holding Category 'I' trading licence. However, the Respondent may be meeting the requirement of Regulation 9(2) for holding Category 'III' trading licence.*

*13. In the light of above, we observe that the Respondent may be eligible to hold a Category 'III' trading licence, for which the Respondent had filed the Petition No. 42/TD/2021. The Respondent, in its submissions, has prayed for closure of the present proceedings and downgrading its trading licence from Category 'I' to Category 'III'. Considering the submissions of the Respondent and in view of the corrected net worth of the Respondent as on 28.02.2021, the Commission closes the present proceedings for invoking the penal provision.*

14. Further, considering the submissions of the Respondent to downgrade its trading licence from Category 'I' to Category 'III' and in view of the fact that the earlier Petition No. 42/TD/2021 of the Respondent was rejected by the Commission due to incorrect submissions of the Respondent, which now has been corrected, it is at liberty to file a fresh Petition within 15 days of this order for downgrading its trading licence from Category 'I' to Category 'III'.

15. The Commission has noted the qualified opinion of Chartered Accountant in its Independent Auditor's Report and Note No. 32 to the Ind AS Special Purpose Standalone Financial Statement's mentioned therein. While filing the Petition, the Petitioner will submit the status of investment of Rs.9,961 lakh in Lanco Solar Energy Private Limited which is under Corporate Insolvency Resolution Process as per order of National Company Law Tribunal dated 14.6.2019 along with 'clear net worth' free from all disputes and encumbrances."

5. Pursuant to direction quoted above in order dated 3.11.2021, the Applicant has filed the present Petition for down-gradation of its trading licence from Category 'I' to Category 'III'.

6. Case was called out for virtual hearing on 21.1.2022. During the course of hearing, learned counsel for the Applicant reiterated the submissions made in the Petition and prayed to downgrade the trading licence from Category 'I' to Category 'III'. As regards the status of investment of Rs.99.61 crore made in LSEPL, learned counsel for the Applicant submitted that it has not undergone any change on account of CIRP of LSEPL, which is currently pending before NCLT (National Company Law Tribunal) and that the Applicant has a clear net worth free from all encumbrance and disputes. Mere pendency of CIRP of LSEPL does not alter the legal status of the Applicant's investment in LSEPL or create encumbrance/ dispute on its net worth. It was further submitted that as per Regulation 9(20) of the Trading Licence Regulations, the licensee is under obligation to report to the Commission any change in the net worth which makes it ineligible to continue with the category for which the trading licence has been granted. Hence, while down-grading the category of its

trading licence, the Commission may put an obligation on the Applicant to report any change in the status of its investment in LSEPL after the outcome of CIRP.

7. We have considered the submissions of the Applicant. Regulation 9(4) of the Trading Licence Regulations provides as under:

*“(4) The Trading Licensee shall make an appropriate application accompanied by prescribed fees for up-gradation of its licence to a higher category or down-gradation of its licence to a lower category in order to fulfill the conditions of these regulations in accordance with the procedure specified in Regulation 15 of these regulations.”*

8. Further, Regulation 15(3) of the Trading Licence Regulations provides as under:

*“(3) Down-gradation of licence:*

*(a) The Trading Licensee may file an application to the Commission for down-gradation of its licence to a lower category at any time: Provided that the Trading Licensee shall not be allowed to apply for up-gradation of licence within the same Year.*

*(b) The Trading Licensee shall be required to upload the audited special balance sheet to support the compliance of Net Worth requirement for lower category licence.*

*(c) While applying for down-gradation of licence, the Trading Licensee shall be required to pay the licence fee applicable for the category of licence for which the application is being submitted.”*

9. On examination of the application, we find that the Applicant being a Category 'I' licensee fulfils all requirements for Category 'III' inter-State trading licence specified in Regulation 3(2) of the Trading Licence Regulations. As regards the net worth requirements for Category 'III' trading licence, Regulation 3(3) of the Trading Licence Regulations provides that a person applying for Category 'III' trading licence should have net worth of Rs.20 crore and should have minimum current ratio and liquidity ratio of 1:1 on the date of Special Audited Balance Sheet accompanying

the application. The Applicant has submitted the special audited balance sheet as on 31.3.2021.

10. Based on the special audited balance sheet as on 31.3.2021 submitted by the Applicant, its net worth has been worked out as under:

<b>(Rs. in lakh)</b>	
<b>Net Worth Computation</b>	<b>As per Special Audited Balance Sheet as on 31.3.2021</b>
<b>Particulars</b>	
<b>A) Paid up equity capital (1)</b>	<b>3652.94</b>
<b>B) Reserves and Surplus</b>	
B.1. Capital Reserves	0.00
B.2. Capital Redemption Reserve	0.00
B.3. Debenture Redemption Reserve	0.00
B.4. Revaluation Reserve	0.00
B.5. Share Options Outstanding Account & Reserves other than free reserves	0.00
B.6. Securities Premium Reserve	0.00
B.7. Surplus (P and L Account)	4384.72
B.8. Other Free Reserves (i.e. general reserve and cash flow reserve)	0.00
<b>Free Reserves &amp; Surplus considered for net worth (2) (B6+B7+B8)</b>	<b>4384.72</b>
<b>C) Loans and Advances given to associates (3)</b>	<b>0.00</b>
<b>D) Deferred expenditure (including Misc. Expenses) not written off (4)</b>	<b>0.00</b>
<b>Net Worth (1+2-3-4)</b>	<b>8037.66</b>

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

<b>(Rs. in lakh)</b>	
<b>Net worth (Asset approach), Current Ratio &amp; Liquidity Ratio computation</b>	<b>As per Special Audited Balance Sheet as on 31.3.2021</b>
<b>(A) Non-current Assets</b>	

A.1 Net block of Tangible Asset	8.87
A.2 Net Block of Intangible Asset	0.00
A.3 Capital work in progress	0.00
A.4 Intangible Assets under development	0.00
A.5 Non-Current investments	9961.76
A.6 Deferred Tax Assets	30.15
A.7 Long-term loans and advances	65.00
A.7.1 Less: Loans & Advances given to Associates included in above	0.00
A.7.2 Net Long Term Loans and Advances (A.7 - A.7.1)	65.00
A.8 Other non-current asset (Right of use assets, capital advances and prepaid expenses, etc.)	0.00
A.9 Deferred expenditure (including Misc. Expenses) not written off (Not considered for net worth computation)	0.00
<b>Total Non-Current Assets</b>	<b>10065.78</b>
<b>Total Non-Current Assets considered for net worth (1)</b>	<b>10065.78</b>
<b>(B) Non-Current Liabilities, Preferential Share &amp; Share Application money and Reserves other than free reserves</b>	
B.1 Share application money pending allotment	0.00
B.2 Preference Share Capital	0.00
B.3 Trade Payables	2188.42
B.4 Deferred tax Liabilities	0.00
B.5 Other Long Term Liabilities	0.00
B.6 Long Term provisions	50.71
B.7 Reserves other than free reserves	0.00
<b>Total Non-Current Liabilities, Reserves other than free reserves considered for Net worth (2)</b>	<b>2239.13</b>
<b>(C) Current Assets</b>	
C.1. Current Investments	0.00
C.2. Inventories	0.00
C.3. Trade Receivables	48.01
C.4. Cash and cash equivalents	632.65
C.5 Short Term Loans & Advances	3000.00
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)	3000.00
C.6 Other current assets	171.09
C.7 Deferred Expenditure	0.00
Total Current Assets	3851.75
<b>Total Current Asset considered for Net worth (3)</b>	<b>3851.75</b>
<b>(D) Current Liabilities</b>	
D.1. Short-term Borrowings	0.00
D.2. Trade payables	150.19
D.3. Other Current liabilities	3485.18

D.4. Short-term provisions	5.37
<b>Total Current Liabilities considered for Net worth (4)</b>	<b>3640.74</b>
<b>Net worth [(1-2)+(3-4)]</b>	<b>8037.66</b>

12. Based on the above, net worth, current ratio and liquidity ratio of the Applicant are as under:

<b>Particulars</b>	<b>As per Special Audited Balance Sheet as on 31.3.2021</b>
Net worth (Rs. in lakh)	8037.66
Current ratio	1.06
Liquidity ratio	1.06

13. In terms of the above, the Applicant meets the net worth, current ratio and liquidity ratio requirements specified in the Trading Licence Regulations for Category 'III' trading licence.

14. However, as already noted in the foregoing paragraphs as well as in the special audited balance sheet furnished by the Applicant, it has an investment of Rs.9961.76 lakh in LSEPL which is a company under CIRP in terms of the order dated 14.6.2019 of National Company Law Tribunal, Hyderabad and CIRP is yet to be concluded. The Applicant has submitted that the status of its investment has not undergone any change on account of CIRP of LSEPL. As per the Applicant, mere pendency of CIRP does not alter the legal status of its investment in LSEPL or create any encumbrance/ dispute on its net worth and therefore it has a clear net worth free from all encumbrance and disputes. However, we are of the view that it cannot be denied that status of investment of the Applicant in LSEPL remains uncertain and this is reflected in the qualified observations of the Auditor in the Independent Auditor's Report furnished by the Applicant as follows:



### **“Qualified Opinion**

*We have audited the accompanying Special Purpose Standalone Financial Statements of P4fs National Energy Trading And Services Limited (“the Company”), which comprise the Balance Sheet as at March 31, 2021, the Statement of Profit and Loss (including the statement of other comprehensive Income), Statement of Cash Flows, Statement of Changes In Equity for the period ended and Notes to the Special Purpose Standalone Financial Statements including a summary of the significant accounting policies and other explanatory information (hereinafter referred to as the ‘Special Purpose Standalone Financial Statements’).*

*The Special Purpose Standalone Financial Statements have been prepared by the Management of the Company for the purpose of down-gradation of trading license under Regulation 9(4) and 15(3)(a) of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2020,*

*In our opinion and to the best of our information and according to the explanations given to us, except for the effects of the matter described in the Basis for Qualified Opinion section of our report, the aforesaid Special Purpose Standalone Financial Statements give the information required by the Companies Act, 2013 (“the Act”) in the manner so required and give a true and fair view in conformity accounting principles generally accepted in India,*

- a) In case Balance Sheet, of the state of affairs of the Company as at March 31, 2021;*
- b) In case of Statement of the profit & Loss, of the loss for the period ended on that date;*
- c) In case of Statement of cash flows for the period ended on that date.*

### **Basis for Qualified Opinion**

*1. Attention is invited to Note No. 33 to the Intl AS Special Purpose Standalone Financial Statements’, which explains the uncertainties relating to recoverability of carrying value of investment of Rs,9,961.76 Lakhs in Lanco Solar Energy Private Limited (LSEPL). LSEPL is under Corporate-Insolvency Resolution process (CIRP) since 14.06.2019 under Section 7 of the Ins Bankruptcy Code 2016 The CIIP Is not yet concluded.*

*Pending outcome of resolution process, we are unable to comment on the adjustments if any that may be required towards the carrying value of Company’s Investment In LSEPL amounting Rs,9,961.76 Lakhs as at March 31, 2021 In the accompanying financial statements.”*

15. The investment in question, namely an investment of Rs.9961.76 lakh in LSEPL has a material impact on the net worth of the Applicant inasmuch as it would render the Applicant ineligible to hold any category of trading licence if such investment amount is taken away from its net worth. However, though the status of

investment remains uncertain, as the carrying value of the said investment has remained as it is in the audited balance sheet of the Applicant as on 31.3.2021, it may not be fair to take away the investment completely from the Applicant's net worth. In this background, the Commission is of the view that it would be appropriate to consider the down-gradation application of the Applicant which entails lower net worth requirement.

16. In this regard, Regulation 9(20) of the Trading Licence Regulations provides as under:

***"9. Obligations of the Trading Licensee***

*The Trading Licensee shall be subject to the following obligations,*

*(20) The Trading Licensee shall immediately but not later than one month report to the Commission any change in the Net Worth which makes it ineligible to continue in the category for which the licence has been granted."*

17. Further, the proviso of Regulation 20(2) of the Trading Licence Regulations provides as under:

*"Provided further that the Commission may, instead of revoking the licence, permit the licence to remain in force subject to such further terms and conditions as the Commission may consider appropriate to impose, and any further terms and conditions so imposed shall be deemed to be terms and conditions of the licence and shall be binding on the Trading Licensee."*

18. In view of the facts and circumstances of the case and submissions of the Applicant, we are inclined to down-grade the licence of the Applicant from Category 'I' to Category 'III' with effect from the date of issuance of the order subject to the outcome of the proceedings under CIRP in terms of the order dated 14.6.2019 of National Company Law Tribunal, Hyderabad and subject to the condition that the

Applicant shall report the status of its investment in LSEPL, to the Commission every three months till CIRP in respect of LSEPL gets completed.

19. The licensee shall further remain bound by the terms and conditions contained in the order dated 23.7.2004 whereby it was issued with Category 'I' trading licence.

20. Let an extract copy of this order be sent to the Central Government in Ministry of Power and Central Electricity Authority in terms of sub-section (7) of Section 15 of the Electricity Act, 2003 for their information and record.

21. The Petition No. 266/TD/2021 is disposed of in terms of the above discussions and findings.

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

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

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