



याचिका संख्या/Petition No. 87/MP/2024

कोरम/Coram

श्री जिशु बरुआ, अध्यक्ष / Shri Jishnu Barua, Chairperson

श्री रमेश बाबू व., सदस्य / Shri Ramesh Babu V., Member

श्री हरीश दुदानी, सदस्य / Shri Harish Dudani, Member

आदेश दिनांक/ Date of Order 5th of June, 2025

In the matter of

Petition under Section 79(1)(b) read with Section 79(1)(f) and Section 19 of Electricity Act, 2003 read with Regulations 9, 19 and 20 of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for Grant of Trading License and other related matters) Regulations, 2020, inter alia, seeking a direction seeking a direction to the Respondent to pay the outstanding amount of Rs. 11,22,05,158 to the Petitioner against the power supplied by the Petitioner to the Respondent.

And in the matter of

D.B. Power Limited,

5th Floor Office Block 1A,
DB City Park, DB City Arera Hills,
Opposite M.P. Nagar Zone-I, Bhopal,
Madhya Pradesh – 462 016

.....Petitioner

Vs

Kreate Energy (I) Pvt Ltd.,

Unit No. 1002, 10th Floor, Antriksh Bhawan,
22, Kasturba Gandhi Marg, New Delhi-110001

.....Respondent

Parties Present:

Shri Deepak Khurana, Advocate, DBPL

Shri Gopal Jain, Sr. Advocate, KEIPL



ORDER

The Petitioner, D.B. Power Limited (DBPL), has filed the present Petition under Sections 79(1) and 19 of the Electricity Act, 2003 (hereinafter referred to as 'the Act') read with Regulations 9, 19 and 20 of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for Grant of Trading License and other related matters) Regulations, 2020 (hereinafter referred to as 'the Trading Licence Regulations 2020'), against the Respondent on account of willful and prolonged failure on its part to clear the dues of the Petitioner for the power supplied by the Petitioner.

2. The Petitioner has made the following prayers:

- a) *Pass an Order directing Respondent No. 1 to pay the outstanding amount of Rs 11,22,05,158 (inclusive of Late Payment Surcharge up till 30.11.2023) to the Petitioner against the power supplied by the Petitioner to the Respondent, along with further Late Payment Surcharge till the date of actual payment.*
- b) *Pass an Order initiating appropriate proceedings under Section 19 of the Electricity Act, 2003 read with Regulation 20 of the Trading License Regulations for revocation of the inter- State trading license granted to the Respondent;*
- c) *Pass an Order revoking the inter-State trading license of the Respondent;*
- d) *Pending final adjudication of the present Petition, pass an ex-parte ad interim order, directing Respondent No. 1 to forthwith secure and make payment of the amount in terms of prayer (a) above; and*
- e) *Pass any such other and further reliefs as this Hon'ble Commission deems just and proper in the nature and circumstances of the present case.*

Background

3. The Petitioner, D.B. Power Limited (DBPL), is a generating company within the meaning of Section 2(28) of the Act, having a Thermal Power Plant with a total capacity of 1200 (2x600) MW in Distt. Janjgir Champa, Chhattisgarh.

4. The Respondent, Kreate Energy (I) Pvt Ltd (KEIPL), is a company registered under the Companies Act, 1956 and granted a trading licence by the Commission under the provisions of the Act for inter-State trading of electricity.

5. The Respondent offered to purchase 105 MW of RTC power for the period from 1.9.2020 to 3.9.2020 from the Petitioner by way of its Offer Letter dated 6.8.2020. The said Offer was accepted by the Petitioner on 6.8.2020. This was for back-to-back supply to Haryana Discoms, i.e., the tender invited by Haryana Discoms to procure power participated in through the Respondent (Power Trading Company). In terms of the said Offer Letter, the Respondent agreed to pay a tariff of Rs 2.75/kWh for the said supply. Further, payment for availing the aforesaid supply was to be made by the Respondent on 1.12.2020. In case of delay in payment, a surcharge of 15% p.a. was payable, which was to be computed on a day-to-day basis.

6. The RTC power was supplied in September 2020, and accordingly, an invoice dated 1.10.2020 for an amount of Rs. 20,87,05,152/- at the tariff of Rs 2.75/kWh, reflecting the due date of payment as being 1.12.2020, was raised by the Petitioner on the Respondent. The Petitioner has stated that while the Petitioner has supplied the said power, the Respondent has an outstanding balance, and in respect of which the Respondent continues to be in default till date.

Submission by Petitioner

7. The Petitioner has made the following submissions:

- a) The Respondent has paid a total amount of Rs 13,78,06,403/- to the Petitioner till 14.12.2021, leaving the outstanding balance of Rs 7,08,98,749/- for

the supply of power made by the Petitioner. Further, the Late Payment Surcharge accrued on the aforesaid outstanding amount at an agreed rate, works out to Rs 4,13,06,409 as on 30.11.2023.

b) The Respondent, to discharge its liability to the Petitioner against the aforesaid outstanding amount for the supply of power along with the Late Payment Surcharge accrued, had issued a Cheque bearing no. 008348 dated 9.7.2021 for an amount of Rs. 10,87,05,152/-. The said Cheque, however, was returned dishonored upon presentation vide return memo dated 5.10.2021.

c) The Respondent has time and again acknowledged in writing to the Petitioner about the outstanding amount towards the tariff for supply of power made to the Respondent, and also restructured the payment plan thereof as under:

- i. The Respondent, vide its email dated 9.3.2021, had confirmed the outstanding payment payable to the Petitioner (as of the date of the said email) along with its commitment to make the payment thereof from 25.3.2021 to 31.3.2021.
- ii. Vide, its email dated 10.6.2021, the Respondent once again confirmed there being an outstanding amount due & payable by it, which, as per the Respondent, was Rs. 11.37 crores as of the date of the said email.
- iii. Subsequently, the Respondent vide its further email dated 21.6.2021 intimated in writing its payment plan of paying the outstanding amount payable as of the date of the said email (being Rs. 11.25 crores), in installments ranging from 24.6.2021 to 16.9.2021.
- iv. Vide emails dated 11.8.2021 and 25.8.2021, the Respondent once again acknowledged its liability to clear the outstanding amount as aforementioned and sought for the Respondent's cooperation and understanding in affording time to the Respondent in payment of the same.

v. The Respondent yet again admitted its liability to pay the outstanding amount to the Petitioner vide its e-mail dated 9.12.2022, however, once again failed to do so.

d) From the above, it is evident that the Respondent, having received the power, had failed to fulfill its obligation to pay the tariff against the supply made and continues to be in default. It is further evident that the default by the Respondent is willful. It has been learnt that the power supplied by the Petitioner was supplied onwards by the Respondent to Haryana Discoms and the Respondent has been paid in full by the Haryana Discoms for such supply & despite this the Respondent is not discharging its liability to the Petitioner, which clearly establishes the *mala fide* conduct of the Respondent.

e) Under the provisions of the Act as well as the Trading Licence Regulations, 2020, the Respondent is obligated to discharge its liability against the supply of power made to it. The Respondent is in clear default of its obligations under the Act and the Regulations. Consequently, the Respondent ought to be directed to forthwith discharge its liability to the Petitioner by paying the outstanding amount along with the Late Payment Surcharge. Further, the acts of omission & commission of the Respondent warrant action against the Respondent under Section 19 of the Act, read with Regulations 9, 19, and 20 of the Trading License Regulations, 2020.

8. The Petitioner is a generating company within the meaning of Section 2(28) of the Act, and is supplying power to Tamil Nadu, Rajasthan, and Chhattisgarh under long-term PPAs and is thus engaged under a composite scheme for the supply of power to more than one state. The Respondent is a trading licensee of this Commission. Therefore, this Commission has the jurisdiction to decide the present Petition under Section 79(1)(c) read with Section 79(1)(f) of the Act, 2003 and Section 19 of Act read with Regulations 9,

19 and 20 of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for Grant of Trading License and other related matters) Regulations, 2020.

Hearing dated 20.3.2024

9. During the course of the hearing, the learned counsel for the Petitioner made detailed oral submissions. After hearing the learned counsel, the Commission admitted the Petition and directed the Respondent to file its reply to the Petition, and the Petitioner may file its rejoinder thereafter.

Hearing dated 1.5.2024

10. The matter was heard along with Petition No. 306/MP/2022. The learned senior counsel for Respondent, KEIPL, sought two months to make payment of the entire outstanding principal amount to the Petitioner.

11. The learned counsel for the Petitioner insisted that the Respondent be directed to clear the principal amount within a month. Learned counsel submitted that the total outstanding principal in the said case is Rs. 7.08 crores, and the total outstanding LPS is Rs. 4.13 crores as on 30.11.2023. Learned counsel added that the Respondent, vide its various emails, had promised to pay the outstanding dues long back. However, to date, no payment has been received from the Respondent. Learned counsel further submitted that the Respondent ought to be directed to furnish an undertaking of its Managing Director regarding making the payment towards outstanding dues in a time-bound manner.

12. Considering the submissions made by the learned senior counsel and learned counsel for the parties, the Commission expressed strong disapproval of the conduct of Respondent, KEIPL. Keeping in view the overall facts and circumstances involved in these cases, the Commission directed Respondent, KEIPL, to make the payment of the entire principal outstanding in two equated monthly instalments, with the first instalment becoming due on 1.6.2024 and the second instalment becoming due on 1.7.2024. KEIPL was also directed to file a compliance affidavit within a week thereafter. The Commission also clarified that failure on the part of Respondent, KEIPL, to abide by the aforesaid direction will lead to the initiation of appropriate proceedings against Respondent under the provisions of the Electricity Act, 2003, and the Trading Licence Regulations.

Hearing dated 9.12.2024

13. Learned counsel for the Petitioner submitted that vide Record of Proceedings for the hearing dated 1.5.2024, the Commission had directed the Respondent, KEIPL, to make the payment of the entire principal outstanding. However, in disregard to the Commission's above direction, no payment had been made by the Respondent, KEIPL, towards the principal amount.

14. Learned senior counsel for the Respondent, KEIPL, admitted that the Respondent is yet to comply with the direction issued under the Record of Proceedings for the hearing dated 1.5.2024 and prayed that the additional 30 days may be allowed to comply with the above directions.

15. After hearing the learned senior counsel for the parties, the Commission directed to list the matter for further hearing/compliance on 26.12.2024, and in the meantime, the

Respondent may comply with the direction dated 1.5.2024. The Commission, however, made it amply clear that such compliance by the Respondent, if any, will be without prejudice to its liability arising out of the non-compliance with the direction dated 1.5.2024 in the stipulated timeframe.

Submission by the Respondent

16. The Respondent, in its reply dated 17.12.2024, has submitted as under:

a) The Petitioner, even prior to filing the present Petition, has been simultaneously running parallel proceedings on the same cause of action, for recovery of the exact/ same amount as being pressed by way of the present Petition before different forums:

- i. One case under Section 138 of the Negotiable Instruments Act, 1881, for the same amount before the Court of Metropolitan Magistrate, Andheri District, Mumbai vide Summary Case/4800191/2021
- ii. CP (IB) No. 521/ND/2022, under Section 9 of the IBC, 2016, for initiation of Corporate Insolvency Resolution Process (CIRP) before the Hon'ble National Company Law Tribunal, New Delhi. the NCLT vide Order dated 31.10.2023 dismissed the case
- iii. Appeal under Section 61 of the IBC before the National Company Law Appellate Tribunal vide Company Appeal (AT) (INS) No. 1710 of 2023 against the Order dated 31.10.2023, wherein the Petitioner is pressing for initiation of CIRP against the Respondent.

b) The Respondent submitted that the CIRP process would leave the Respondent unable to honor its commitments to other stakeholders, effectively rendering the entire organization unviable. This simultaneous pursuit of remedies clearly highlights the duplicative and oppressive conduct of the Petitioner, which places an undue and inequitable burden on the Respondent.

c) The Respondent has actively approached the Petitioner for a one-time settlement, offering the entire payment of principal in one go. Despite the attempts, the Petitioner still has not withdrawn any of the other cases being pursued against the Respondent, while the recovery is being constantly pressed. The Respondent has submitted that the Petitioner should settle the matter completely by giving an appropriate undertaking with respect to the withdrawal of all pending cases upon realization of the amount so directed by the Commission.

d) Revocation of the Respondent's license will not facilitate recovery of dues. On the contrary, it will frustrate the recovery process and disrupt the Respondent's existing business arrangements, including its transactions with other entities.

e) The Respondent has requested that necessary directions be passed for amicable settlement of the matter under the aegis of this Commission, whereby parties can sit together and arrive at a full and final settlement, which results in payment to the Petitioner, while also ensuring withdrawal of all the cases.

Hearing dated 26.12.2024

17. During the course of the hearing, the learned counsel for Respondent submitted that KEIPL is willing to pay the principal amount, including LPS thereon, subject to withdrawal of the parallel proceedings by the Petitioner, DBPL.

18. Learned counsel for the Petitioner opposed the proposal of the Respondent, KEIPL, for referring the matter(s) for arbitration and submitted that the reference of the dispute to the arbitration would further delay the payment of the Petitioner. Learned counsel submitted that vide Record of Proceedings for the hearing dated 1.5.2024 and 9.12.2024, KEIPL was directed to make the payment of the entire principal outstanding; however, in disregard of the Commission's above direction, no payment has been made by the Respondent, KEIPL, towards the said principal amount. Learned counsel urged

that the Respondent, KEIPL, be directed to comply with the direction of the Commission dated 1.5.2024 or lead to the initiation of appropriate proceedings against the Respondent, KEIPL, under the provisions of the Electricity Act, 2003, and the Trading Licence Regulations.

19. After hearing the learned senior counsel and learned counsels for the parties, the Commission reserved the matters for order.

Analysis and decision

20. We have considered the submissions of the parties. On perusal of records, it emerges that the Respondent offered to avail supply from the Petitioner on an RTC basis for the period from 1.9.2020 to 30.9.2020 at a tariff of Rs 2.75/kWh. The Petitioner has submitted that while the Petitioner has supplied the power, the Respondent has not made timely payment, and the total outstanding principal in the said case is Rs. 7.08 crores, and the total outstanding LPS, as on 30.11.2023, Rs. 4.13 crores

21. The Petitioner has submitted that it has learnt that the power supplied by the Petitioner was supplied onwards by the Respondent to Haryana Discoms and the Respondent has been paid in full amount by the Haryana Discoms for such supply, & despite this, the Respondent is not discharging its liability to the Petitioner. The Respondent, KEIPL, has submitted that it remains committed to resolving the dispute. However, the Petitioner's pursuit of parallel proceedings is making redressal difficult.

22. We have considered the submissions made by the parties. The Petitioner has filed the present Petition seeking direction upon the Respondent, KEIPL, for the payment of

the outstanding amount to the Petitioner against the 105 MW RTC power supplied by the Petitioner to the Respondent, KEIPL, for the period from 1.9.2020 to 30.9.2020. In addition, the Petitioner has also prayed for initiating the appropriate proceedings under Section 19 of the Act, read with Regulation 20 of the Trading Licence Regulations, for revocation of the inter-state trading licence granted to the Respondent. Pertinently, its liability towards the outstanding amount to the Petitioner has not been contested or disputed by the Respondent, KEIPL, in any manner. The Respondent, KEIPL, had, time and again, acknowledged to the Petitioner the outstanding amount towards the tariff for the supply of power made to it. In fact, in order to discharge its aforesaid liability, the Respondent, KEIL, had also issued a cheque for an amount of Rs. 10.87 crores, which was returned dishonored upon its presentation. Even during the course of hearings, the Respondent, KEIPL, had repeatedly indicated that it intended to resolve the issue and make payment towards the principal amount involved in the matter. In the above background, the Commission vide Record of Proceedings for hearing dated 1.5.2024 had directed the Respondent, KEIPL, to make the payment towards entire principal outstanding in two equated monthly instalments. However, the Respondent, KEIPL did not abide by the said direction and prayed for additional 30 days, which was also allowed vide Record of Proceedings for hearing dated 9.12.2024. Despite the repeated opportunities, the Respondent, KEIPL, did not comply with the direction(s) issued by the Commission for the payment of the outstanding amount. Thus, the Respondent, KEIPL, having already disregarded the direction(s) of the Commission for the payment of outstanding amount, we proceed to consider the prayer of the Petitioner for initiating the the appropriate proceedings under Section 19 of the Act read with the Trading Licence Regulations for revocation of the Respondent, KEIPL's inter-state trading licence.

23. The Commission has specified the Trading Licence Regulations 2020, which contain the terms and conditions, net worth requirement, and credit worthiness for the grant of a trading licence, the obligations of the licensee, revocation of the licence, offences and punishment to the licensee, etc. We are concerned with the exercise of the power of the Commission under Section 19 of the Act in the facts of the present case. Section 19 of the Act deals with the circumstances and procedure for the revocation of a licence. Regulation 20 of the Trading Licence Regulations 2020 contains analogous provisions. Section 19 of the Act is extracted as under:

“19. (1) If the Appropriate Commission, after making an enquiry, is satisfied that public interest so requires, it may revoke a licence in any of the following cases, namely:-

(a) where the licensee, in the opinion of the Appropriate Commission, makes wilful and prolonged default in doing anything required of him by or under this Act or the rules or regulations made thereunder;

(b) where the licensee breaks any of the terms or conditions of his licence the breach of which is expressly declared by such licence to render it liable to revocation;

(c) where the licensee fails, within the period fixed in this behalf by his licence, or any longer period which the Appropriate Commission may have granted therefor –

(i) to show, to the satisfaction of the Appropriate Commission, that he is in a position fully and efficiently to discharge the duties and obligations imposed on him by his licence; or

(ii) to make the deposit or furnish the security, or pay the fees or other charges required by his licence;

(d) where in the opinion of the Appropriate Commission the financial position of the licensee is such that he is unable fully and efficiently to discharge the duties and obligations imposed on him by his licence.

(2) Where in its opinion the public interest so requires, the Appropriate Commission may, on application, or with the consent of the licensee, revoke his licence as to the whole or any part of his area of distribution or transmission or trading upon such terms and conditions as it thinks fit.

(3) No licence shall be revoked under sub-section (1) unless the Appropriate Commission has given to the licensee not less than three months’ notice, in writing, stating the grounds

on which it is proposed to revoke the licence, and has considered any cause shown by the licensee within the period of that notice, against the proposed revocation.

(4) The Appropriate Commission may, instead of revoking a licence under subsection (1), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose, and any further terms or conditions so imposed shall be binding upon and be observed by the licensee and shall be of like force and effect as if they were contained in the licence.

(5) Where the Commission revokes a licence under this section, it shall serve a notice of revocation upon the licensee and fix a date on which the revocation shall take effect.

(6) Where an Appropriate Commission has given notice for revocation of licence under sub-section (5), without prejudice to any penalty which may be imposed or prosecution proceeding which may be initiated under this Act, the licensee may, after prior approval of that Commission, sell his utility to any person who is found eligible by that Commission for grant of licence.”

24. If the Commission, after making an enquiry, is satisfied that any of the above circumstances exist and public interest so requires, the licence can be revoked. Before revocation of the licence, the Commission has to give a notice of three months to the licensee stating the grounds on which it is proposed to revoke the licence, and after considering the cause shown by the licensee. Thus, satisfaction of the Commission after making an enquiry about the existence of any of the circumstances for revocation and further satisfaction that public interest requires revocation in such circumstances are the relevant considerations for the exercise of power under Section 19 of the Act.

25. We now proceed to examine whether the Petitioner has made the case under Section 19 of the Act against the Respondent. Section 19(1)(a) of the Act provides that “where the licensee, in the opinion of the Appropriate Commission, makes willful and prolonged default in doing anything required of him by or under this Act or the Rules or regulations made thereunder.” Section 52(2) of the Act provides that “every electricity trader shall discharge such duties, in relation to supply and trading in electricity, as may

be specified by the Appropriate Commission". Regulation 9 of the Trading Licence Regulations specifies the following obligations for inter-State trading licensees:

"9. Obligations of the Trading Licensee: The Trading Licensee shall be subject to the following obligations, namely:-

(1) The Trading Licensee shall comply with the requirements of laws in force and, in particular, the Act, the Rules and the Regulations, Grid Code, orders and directions issued by the Commission from time to time and any of the State Electricity Regulatory Commissions in accordance with law.

(2) The Trading Licensee shall maintain the Net Worth in accordance with Regulation 3 of these regulations at all times and shall maintain Current Ratio of 1:1 and Liquidity Ratio of 1:1 at the end of every financial year: Provided that if the current ratio or the liquidity ratio at the end of the financial year is less than 1:1, then the Trading Licensee shall be required to maintain additional Net Worth of 100% of the Net Worth stipulated for the respective category of trading licence.

(3) The Trading Licensee shall not exceed at any point of time 110 percent of the volume of trading authorized during a Year under the licence granted to him.

(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 fulfil the conditions of these regulations in accordance with the procedure specified in Regulation 15 of these regulations.

(5) The Trading Licensee shall not charge any amount exceeding the trading margin fixed by the Commission from time to time:

Provided that where it is established on the basis of regulatory audit carried out in accordance with clause (3) of Regulation 10 of these regulations or otherwise that the Trading Licensee has charged trading margin above the ceiling specified under these regulations, the Commission may direct disgorgement of excess margin along with interest back to the seller/buyer as the case may be, at the rate as may be specified by the Commission, after giving the Trading Licensee an opportunity of being heard and in case of such violation on more than three occasions, the Commission may also revoke the licence of the Trading Licensee after giving an opportunity of being heard.

(6) The Trading Licensee shall continue to be governed by the qualifications or disqualifications specified in Regulations 3 and 4 of these regulations throughout the period of licence. (7) The Trading Licensee shall establish adequate communication facilities like telephone, fax, computer, internet facilities, before undertaking trading

(8) The Trading Licensee may coordinate with Regional Power Committees, the Central Transmission Utility, State Transmission Utilities, the National Load Despatch Centre, the Regional Load Despatch Centers, and the State Load Despatch Centers with regard to his trading-related activities, to the extent authorized by the concerned buyer and seller.

(9) The Trading Licensee shall render all assistance to any person authorised by the Commission to carry out his duties relating to the licence.

(10) The Trading Licensee shall make payment of dues by the agreed due date to the seller for purchase of the agreed quantum of electricity through an escrow arrangement or irrevocable, unconditional and revolving letter of credit in favour of the seller. Such escrow arrangement or irrevocable, unconditional and revolving letter of credit in favour of the seller shall be equivalent to:

(a) one point one (1.1) times the average monthly bill amount (estimated average of monthly billing amounts for three months or actual monthly billing amount for preceding three months as the case may be) with a validity of one year for long term contracts;

(b) one point zero five (1.05) times of contract value for short term contracts.

(11) The Trading Licensee shall enter into an appropriate agreement for purchase and sale of electricity with the sellers and the buyers prior to scheduling a transaction, and that the agreement shall specify the following, namely-

(a) the boundaries, that is to say, upper and lower MW limits of electricity to be purchased or sold;

(b) modalities for scheduling;

(c) payment security mechanism as defined in clause 10 of this regulation;

(d) persons authorized to specify the schedule, or to modify it after it has been intimated to the Regional Load Despatch Centre or the State Load Despatch Centre;

(e) whether the buyer or the seller can unilaterally advise modification of the schedule, or whether the modification can only be advised jointly by the buyer and the seller;

(f) the liabilities of the parties (seller, buyer and Trading Licensee) in case the scheduled quantum (MW) and time of scheduling differs from the agreed terms, or in case of modification in schedule, and in the latter case, the party that will bear non-refundable part of short-term open access charges.

(12) The Trading Licensee shall ensure that there is no discrepancy or scope for dispute in the scheduling advised to the Regional Load Despatch Centre and in case of any discrepancy or ambiguity in the scheduling advice, the decision of the Regional Load Despatch Centre on the acceptance or otherwise of such advice shall be binding.

(13) The Trading Licensee shall ensure that the buyer and the seller are either grid connected entities or represent such entities with special energy meters on their periphery and that the mechanism for Deviation Settlement accounting by the appropriate authority is in place.

(14) The Trading Licensee shall not purchase electricity from the entities and the Associates of such entities, defaulting in payment of Charge for Deviations determined as per the Central Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, transmission charges, reactive energy charges, congestion charge and fee and charges for National Load Despatch Centre or Regional load Despatch Centre or the Unified Load Despatch and Communication Scheme or any other payment levied by the Commission or any of the State Electricity Regulatory Commissions under the provisions of the Act or any regulation made thereunder, when so advised by the Commission.

(15) The Trading Licensee shall pay the licence fee by the stipulated date specified by the Commission from time to time.

(16) The Trading Licensee shall not omit or neglect to undertake trading activity.

(17) The Trading Licensee shall not enter into any agreement related to purchase or sale of electricity that may lead to abuse of his dominant position or enter into combination which causes or is likely to cause a conflict of interest or an adverse effect on competition in electricity industry.

(18) The Trading Licensee shall maintain up to date record of all trading transactions undertaken by him, separately for Over the Counter (OTC) inter-State transactions, Over the Counter (OTC) intra-State transactions, if any, made on basis of the inter-State trading licence and transactions through the power exchange.

(19) The Trading Licensee shall not subject to settlement of commercial terms in accordance with law, omit sale of electricity to a consumer who has been allowed open access by the concerned State Electricity Regulatory Commission.

(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.

(21) The Trading Licensee can transfer or assign its licence only to such person who fulfils the conditions of Regulations 3 and 4 of these regulations with prior approval of the Commission:

Provided that the Trading Licensee shall make an appropriate application before the Commission containing the details of the person to whom the licence is proposed to be transferred or assigned, its eligibility to hold the licence under these regulations, and an affidavit from the proposed transferee or assignee that it will abide by all the terms and conditions of licence and comply with the provisions of the Act, Rules and Regulations made thereunder and the orders of the Commission as may be issued from time to time:

Provided further that the Trading Licensee shall be required to publish in brief in two daily newspapers having circulation in each of the five regions in addition to those published from Delhi, including one economic daily newspaper about its application for transfer or assignment of its licence and invite suggestions or objections within 30 days and submit the copies of the publication along with its response to the suggestions or objections, if any, within 45 days from the date of publication.

(22) The Trading Licensee shall designate one of its officers as Compliance Officer who shall be the nodal officer for communication with the Commission and shall be responsible for compliance with the provisions of the Act and Rules and Regulations specified by the Commission, particularly Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence, and other related matters) Regulations, 2020, Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010, Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009, Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008, Central Electricity Regulatory Commission (Payment of

Fees) Regulations, 2012, Central Electricity Regulatory Commission (Power Market Regulations, 2010, Central Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2014 and Central Electricity Regulatory Commission (Cross Border Trade of Electricity) Regulations, 2019 as amended from time to time or any subsequent re-enactment thereof;

(23) In the event Trading Licensee has entered into a contract for sale of power with a buying entity for a particular period, then the Trading Licensee shall not enter into any contract for sale of the same power with any other entity for such period except with the prior consent of the buying entity.

(24) Trading Licensee undertaking banking of electricity shall simultaneously enter into contract for supply of power and contract for return of power, with each of the utilities participating in the banking arrangement, as applicable.”

26. Section 52(2) read with Regulation 9 of the Trading Licence Regulations casts a statutory obligation on the person issued with a trading licence by this Commission to discharge such duties in relation to the supply and trading of electricity as may be specified by the Commission. The Petitioner has submitted that the Respondent, KEIPL, has violated the obligations of the licensee specified in Regulation 9 of the Trading Licence Regulations. Regulation 9(10) provides that the licensee is required to always ensure payment to the seller for the purchase of the agreed quantum of electricity either through a letter of credit or any other appropriate instrument or as may be mutually agreed between the seller and the licensee. Thus, a trading licensee is bound to always ensure payment to the Seller for the purchase of the agreed quantum of electricity through the appropriate instrument or as may be mutually agreed between the parties.

27. In the present case, KEIPL has failed to release the payment to the Petitioner for the purchase of the agreed quantum way back in September 2020. Despite having acknowledged and admitted its liability, it has not only failed to timely discharge the said liability but also failed to adhere to its own proposed payment plans as well as the

direction(s) of this Commission for payment. Even the cheque furnished by KEIPL for clearing the outstanding amount came to be returned as dishonored upon its presentation. All of these, in our view, constitute prolonged and willful defaults on the part of KEIPL to ensure timely payment to the Petitioner for supply of power which KEIPL as a trading licensee is required to comply with in terms of Regulation 9(10) of the Trading Licence Regulations 2020.

28. In our view, the actions of Respondent, KEIPL, are in violation of the provisions of Regulation 9(10) of the Trading Licence Regulations, which enjoins upon the trading licensee to ensure payment of dues to the seller. Therefore, it satisfies the conditions of Section 19 (1) (a) of the Act. Further, the trading in electricity is a regulated activity under the Act, as trading is envisaged to promote competition and thereby serve public interest. If the trading licensees are allowed to flout the terms and conditions of the agreements for purchase and sale of electricity in the course of trading, there will be chaos in the market, shake the confidence of the generating companies and distribution licensees/ consumers, and thereby will affect competition, which is against public interest. Therefore, public interest demands that such practices are strongly discouraged and that licensees indulging in such practices are dealt with strictly in accordance with the law. We are of the view that a case against KEIPL under Section 19 (1) (a) of the Act for revocation of the licence has been made out.

29. We further note that the Commission, on several occasions, has directed the Respondent, KEIPL, to rectify its prolonged and willful non-compliance with the terms and conditions of the Trading License Regulations. However, the Respondent has failed to

comply with these terms, particularly regarding the payment of the outstanding amount. On multiple occasions, the Commission expressed its strong disapproval of KEIPL's conduct and made it clear that failure to adhere to the directions would result in the initiation of appropriate proceedings under the provisions of the Act and the Trading License Regulations. Despite this, KEIPL has continued to disregard the Commission's directions, reflecting an insouciant and negligent attitude towards compliance.

30. Further, the Commission on enquiry found that, this is not one-off case, wherein Respondent, KEIPL, has been alleged to have committed the violations under the Trading Licence Regulations 2020, and the applicable provisions of the Act. The list of Petitions presently pending before the Commission on the above subject matter is as below and in Petition No. 306/MP/2022, the Commission has already observed a willful and prolonged default on the part of KEIPL therein to proceed with the revocation of trading licence and has consequently issued a show cause notice under Section 19 of the Act read with Regulations 9 and 20 of the Trading Licence Regulations:

S No.	Petition No.	Petitioner	Type of Default
1	306/MP/2022	Uttarakhand Power Corporation Ltd. (UPCL)	Non-Payment of Outstanding Dues (Order Issued on 19.05.2025)
2	282/MP/2022	Haryana Power Purchase Centre (HPPC)	Default in Return of Banked power
3	261/MP/2024	Southern Power Distribution Company of Andhra Pradesh Ltd. (APSPDCL)	Default in Return of Banked power
4	288/MP/2024	Himachal Pradesh State Electricity Board Limited (HPSEBL)	Default in Return of Banked power
5	296/MP/2025	Meghalaya Power Distribution Corporation Ltd. (MePDCL)	Default in Return of Banked power

31. According to sub-section (3) of Section 19 of the Act, the Commission is required to give “three months” notice to the licensee stating the grounds for revocation of the licence and take a decision after considering the cause shown by the licensee. In view of the above, the Commission is satisfied that public interest requires and there is willful and prolonged default on the part of Respondent and there are sufficient grounds to proceed under Section 19 (3) of the Act read with Regulations 9 and 20 of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2020 for revocation of licence granted to KEIPL by the Commission for violation of various provisions of the Act and the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2020.

32. Accordingly, notice is hereby given to Respondent, KEIPL under Section 19 (3) of the Act read with Regulations 9 and 20 of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2020 to show cause as to why its licence for inter-State trading of electricity should not be revoked for the various acts of violations as stated above.

33. Respondent, KEIPL, is directed to submit its reply within three (3) months from the issuance of this order. The reply submitted by KEIPL shall be considered while deciding on the notice of revocation of licence under Section 19(1) (a) and Section 19 (1) (b) of the Act, issued herein above.

34. The matter shall be listed for hearing in due course, for which a separate notice shall be issued to the parties.

Sd/-
(हरीश दुदानी)
सदस्य

sd/-
(रमेश बाबू व.)
सदस्य

sd/-
(जिश्नु बरुआ)
अध्यक्ष

