

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

1. **Shri Ashok Basu, Chairman**
2. **Shri K.N. Sinha, Member**

Petition No. 85/2003

In the matter of

Application for grant of Inter-state Trading license

And in the matter of

GMR Infrastructure Limited.

.. **Applicant**

The following were present:

1. Shri Arun Garg, AGM, Business Dev, GMR Infrastructure
2. Shri Vibin Natarajan, GMR Infrastructure
3. Shri Pradeep Lenka, GMR Infrastructure
4. Shri V. Bhaskar, GMR Infrastructure
5. Shri R.S. Rana, GMR Infrastructure

**ORDER
(DATE OF HEARING: 11.12.2003)**

This application has been filed under Section 15 of the Electricity Act, 2003 (the Act) for grant of licence for inter-state trading in electricity.

2. The applicant is stated to be a company incorporated under the Companies Act, with one of the main objects of engaging in inter-state trading of electricity.

The applicant seeks licence for inter-state trading in electricity extending to the whole of India, except the State of Jammu & Kashmir.

3. The Act has come into force with effect from 10.6.2003. Section 15 of the Act, inter alia, lays down that the application for grant of license for inter-state trading is to be made in such form and in such manner as may be specified by the Central Commission and the application is to be accompanied by such fee as may be prescribed by the Central Government. Under Section 16 of the Act, the Commission is to lay down any general or specific conditions applicable to a licensee or class of licensees. Section 52 of the Act further empowers the Central Commission to specify the technical requirements, capital adequacy requirement and credit worthiness for being an electricity trader.

4. The Commission is in the process of finalising the form and manner for making an application for grant of licence, the conditions applicable to electricity traders and the technical and other requirements. The draft regulations in this regard have already been published.

5. Section 172 (b) of the Act legislates that notwithstanding anything to the contrary contained in the Act, all licenses, authorisations, approvals, clearances and permissions granted under the provisions of the repealed laws (which includes Electricity Regulatory Commissions Act, 1998) shall continue to operate for a period of one year or such earlier period as may be notified by the

appropriate Government, as if, the repealed laws were in force in respect to such licenses, authorisations, approvals, clearances and permission, as the case may be.

6. The Commission in exercise of its regulatory jurisdiction to regulate the inter-state transmission of energy under the provisions of Section 13 (c) of the Electricity Regulatory Commissions Act, 1998, had notified vide notification dated 24.11.1999, published in the Gazette of India, (Extraordinary) Part III – Section 4, dated 26.11.1999, that

“The Regulatory framework for sale and purchase transactions, involving the inter-sate transmission of energy, is yet to be notified by the Commission. Pending such notification, no specific approval from the Commission would be required for such transactions, subject to the condition that the provisions of the Indian Electricity Act, 1910. Electricity (Supply) Act, 1948 or any other law in force shall be complied with before such transactions involving the inter-state transmission of energy are entered into”.

7. In terms of the Commission’s notification dated 24.11.1999 *ibid*, the applicant could undertake transactions involving sale and purchase of inter-state energy without obtaining specific approval of the Commission till the regulatory framework is notified by the Commission. As we have noted in paragraph 4 above, necessary regulations are yet to be notified by the Commission. In the absence of these regulations and in view of the provisions of Section 172 (b) of the Act, the applicant may, if so advised, undertake sale and purchase transactions involving inter-state transmission of energy in terms of the notification

dated 24.11.1999 for a period up to 31.3.2004 for the present at its own risk. The applicant shall file a fresh application for grant of license under Section 14 (c) of the Act by 31.1.2004 or when the terms and conditions etc. are notified by the Commission, whichever is earlier, in accordance with such terms and conditions.

8. We have not considered the request of the applicant in the context of technical requirement, capital adequacy requirement and creditworthiness as the criteria for achieving these parameters has not yet been notified. Therefore, we leave it to the parties entering into arrangements for sale and purchase of electricity with the applicant to satisfy themselves of these requirements. However, we make it clear that the interim arrangement allowed shall not ipso facto confer on the applicant any right for grant of license in trading in electricity. As and when a fresh application is filed by the applicant, this will be considered on its own merits in the light of the provisions of the Act, the Rules and the Regulations to be notified by the Commission.

9. With this order, Petition No. 85/2003 stands disposed of.

Sd/-
(K.N. SINHA)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRMAN

New Delhi dated the 17th December, 2003