

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

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

Petition No. 78/2003

In the matter of

Issue of inter-state Trading Licence to M/s. Essar Electric Power Development Corporation Ltd (EEDCL)

And in the matter of

M/s. Essar Electric Power Development Corporation Ltd.
Essar House,
Mahalakshmi,
Mumbai – 400 034

..Applicant

The following were present:

1. Shri A.K. Srivastava, EEDCL,
2. Shri R.K. Narayan, EEDCL

**ORDER
(DATE OF HEARING: 20.11.2003)**

This application has been filed under Section 15 of the Electricity Act, 2003 (the Act) with a prayer to issue inter-state trading licence to the applicant to trade in power within the country, except the State of Jammu & Kashmir.

2. The applicant is a public limited company incorporated under the Companies Act by Essar Group to promote initiatives in the field of power trading. The applicant is stated to be a sister concern of Essar Power Limited and Vadinar Power Limited. Essar Power is stated to be an independent power producer with a capacity of 515 MW and supplies 300 MW power to Gujarat State Electricity

Board and the remaining 215 MW to Essar Steel. The applicant proposes to buy power from surplus areas for sale to power deficit areas. It is stated that under its Memorandum of Association, one of the main objects of the applicant is to engage in the inter-state trading in electricity.

3. Accordingly, the applicant has applied for grant of license for undertaking inter-state trading activities.

4. 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.

5. 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 regulations in this regard are likely to be finalised by the end of the current year.

6. 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.

7. 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”.

8. 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 5 above, the 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 31.12.2003 or when the terms and conditions etc. are notified by the Commission, whichever is earlier, in accordance with such terms and conditions.

9. As may be noticed, 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 above interim arrangement 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. Needless to say, the applicant has undertaken to abide by the Regulations that may be framed by the Commission in exercise of its statutory power and submit a fresh application for grant of licence for inter-state trading in electricity.

11. With this order, Petition No. 78/2003 stands disposed of.

**Sd/-
(K.N. SINHA)
MEMBER**

**Sd/-
(ASHOK BASU)
CHAIRMAN**

New Delhi dated the 24th November, 2003