

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 152/TD/2021

**Coram:
Shri P.K.Pujari, Chairperson
Shri I.S.Jha, Member
Shri P.K.Singh, Member**

Date of Order: 31st July, 2021

In the matter of

Petition for down-gradation of trading licence under Regulation 15 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

Essar Electric Power Development Corporation Limited
Lower Ground Floor,
Hotel Conclave Boutique,
A-20, Kailash Colony,
New Delhi-110 048

.....Applicant

Following was present:

Shri Alok Shanker, Advocate, EEPDCL

ORDER

The Applicant, Essar Electric Power Development Corporation Limited, has filed the present Application for down-gradation of its inter-State trading licence in electricity from Category 'II' to Category 'IV'.

2. By order dated 14.5.2010, Essar Electric Power Development Corporation Limited was granted Category 'C' licence under the Central Electricity Regulatory Commission (Procedure, Terms and Conditions of Trading Licence and other related matters) Regulations, 2004 for undertaking inter-State trading in electricity in whole

of India except the State of Jammu and Kashmir, up to 500 MU in a year. Consequent to the notification of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions of Trading Licence and other related matters) Regulations, 2009 (in short, 'the 2009 Trading Licence Regulations'), the licence granted to the Applicant stood re-categorised as Category 'III'. Based on the request of the Applicant, vide order dated 5.9.2014 in Petition No. 79/RC/2014, licence of the Applicant was upgraded from Category 'III' to Category 'II'.

3. The 2009 Trading Licence Regulations has since been repealed and the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2020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 2020 Trading Licence Regulations") has been notified. Accordingly, the Applicant has now approached the Commission under provisions of the 2020 Trading Licence Regulations for down-gradation of its inter-State trading licence from Category 'II' to Category 'IV'.

4. It has been submitted by the Applicant that in view of stiff and tough competition in power market and due to Covid-19 pandemic, the Applicant is seeking down-gradation of its inter-State trading licence from Category 'II' to Category 'IV' and is desirous to trade not more than 2000 MU in a year.

5. Case was called out for virtual hearing on 25.6.2021. The learned counsel for the Applicant submitted that the Applicant fulfills all the requirements of Category 'IV' trading licensee and has already submitted all the requisite details in support thereof including the audited special balance sheet as on 31.1.2021. The Applicant vide Record of Proceedings for the hearing dated 25.6.2021 was directed to submit complete 'notes to account' of the audited special balance sheet submitted along

with Petition and statement specifically mentioning loan & advance and investment made in associates in reference to audited special balance sheet. The Applicant vide its affidavit dated 9.7.2021 has submitted the information called for which has been dealt with in succeeding paragraphs.

6. We have considered the submissions of the Applicant. Regulation 9(4) of the 2020 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.”

7. Further, Regulation 15(3) of the 2020 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 downgradation 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.”

8. As regards the net worth requirements for Category ‘IV’ trading licence, Regulation 3(3) of the 2020 Trading Licence Regulations provides that a person applying for Category ‘IV’ trading licence should have net worth of Rs.10 crore and should have maintained minimum current ratio and liquidity ratio of 1:1 on the date of special audited balance sheet accompanying the application.

9. Based on the special audited balance sheet as of 31.1.2021 submitted by the Applicant, its net worth has been worked out as under:

Net Worth Computation	Audited Special Balance Sheet as on 31.1.2021
	(Rs. in lakh)
Particulars	
A) Paid up equity capital (1)	3888.89
B) Reserves and Surplus	
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 and Reserves other than free reserves	0.00
B.6 Securities Premium Reserve	0.00
B.7 Surplus (P & L Account)	-1828.94
B.8 Other Free Reserves (i.e. General Reserve)	0.00
Free Reserves and Surplus Considered for Net worth (2) (B.6+B.7+B.8)	-1828.94
C) Loans & Advances given to associates/Investments in associates (3)	2976.88
D) Deferred Expenditure (including Miscellaneous Expenses) not written off (4)	0.00
Net Worth (1+2-3-4)	-916.93

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

Net worth (Asset approach), Current Ratio & Liquidity Ratio Computation	As on 31.1.2021
	(Rs. in lakh)
A) Non-current Assets	
A.1 Net block of Tangible Asset	0.11
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	2.50
A.5.1 Less: Investments in associates	2.50
A.5.2 Net Non-Current Investments (A.5 - A.5.2)	0.00
A.6 Deferred Tax Assets	18.49
A.7 Long-term loans and advances	35.00
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)	35.00

A.8 Other Non-Current Asset	0.00
A.9 Deferred Expenditure (including Miscellaneous Expenses) not written off (not considered for net worth computation)	0.00
Total Non-Current Assets	56.10
Total Non-Current Assets considered for net worth (1)	53.60
B. Non-Current Liabilities, Preferential Share & 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	0.00
B.4 Deferred tax Liabilities	0.00
B.5 Other Long Term Liabilities	0.00
B.6 Long Term provisions	0.00
B.7 Reserves other than free reserves	0.00
Total Non-Current Liabilities, Reserves other than free reserves considered for Net worth (2)	0.00
C. Current Assets	
C.1. Current Investments	121.68
C.1.1 Less: Investments in associates	0.00
C.1.2 Net Current Investments (C.1 - C.1.1)	121.68
C.2. Inventories	0.00
C.3. Trade Receivables	0.00
C.4. Cash and cash equivalents	355.58
C.5 Short Term Loans & Advances	5505.38
C.5.1 Less: Loans & Advances given to associates	2974.38
C.5.2 Net Short Term Loan & Advances (C.5 - C.5.1)	2531.00
C.6 Other current assets (including current tax assets)	4.73
C.7 Deferred Expenditure (including Misc. Expenses) not written off (not considered for net worth and liquidity purpose)	0.00
Total Current Assets	5987.37
Total Current Asset considered for net worth (3)	3012.99
D. Current Liabilities	
D.1. Short-term Borrowings	2680.00
D.2. Trade payables	1275.00
D.3. Other Current liabilities	28.52
D.4. Short-term provisions	0.00
Total Current Liabilities considered for Net worth (4)	3983.52

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

	As on 31.1.2021 (Rs. in lakh)
Net worth	(-)916.93
Current Ratio (Total Current Asset)/(Total Current Liability) (Minimum 1:1)	1.50
Liquid Ratio (Total Current Asset - Inventories - Prepaid expenses)/(Total Current Liability) (Minimum 1:1)	1.50

12. Thus, as per audited balance sheet as on 31.1.2021, the Applicant company has a net worth of Rs.(-)916.13 lakh. Therefore, the Applicant company does not meet requirements of net worth for any Category of trading licence as prescribed under Regulation 3(3)(a) of the 2020 Trading Licence Regulations.

13. Accordingly, the prayer of the Applicant for down-gradation of its licence from Category 'II' to Category 'IV' is rejected.

14. Regulation 9(2) of the 2020 Trading Licence Regulations provides for an obligation of the trading licensee as under:

"9. Obligations of the Trading Licensee

The Trading Licensee shall be subject to the following obligations, namely:-

.....

9(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."

15. As per the above provisions, trading licensee is obligated to maintain the net worth in accordance with Regulation 3 of the 2020 Trading Licence Regulations at all times and the current and liquidity ratios of 1:1 at the end of every financial year. Evidently, the Applicant has failed to fulfill its obligations to maintain the required net worth as specified in the 2020 Trading Licence Regulations.

16. As per the Regulation 17(3) of the 2020 Trading Licence Regulations, failure to meet the specified net worth criteria constitutes a contravention of terms of conditions of license by the trading licensee. Regulation 17(3) of the 2020 Trading Licence Regulations reads as under:

“17. Contravention by Trading Licensee

Contraventions of the provisions of the Act, Rules and Regulations framed thereunder and non-compliance of the orders of the Commission by a Trading Licensee shall cover the following:

...

(3) Failure to meet the Net Worth criteria specified in these regulations;

.....”

17. Since the licensee has failed to fulfill required net worth to hold the inter-State trading licence for any category in terms of the 2020 Trading Licence Regulations, we direct the office of the Commission to initiate appropriate proceedings against the Applicant as per the provisions of the 2020 Trading Licence Regulations.

18. The Petition No. 152/TD/2021 is disposed of in terms of the above discussions and findings.

Sd/
(P.K.Singh)
Member

Sd/
(I.S.Jha)
Member

Sd/
(P.K.Pujari)
Chairperson