

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 154/TDL/2017

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri A.K.Singhal, Member

Shri A.S.Bakshi, Member

Dr. M.K.Iyer, Member

Date of Order: 29th of August, 2017

In the matter of

Application for grant of inter-State trading licence to Jindal Poly Films Limited.

And

In the matter of

Jindal Poly Films Limited
Plot No. 12, Sector-B1, Local Shopping Complex,
Vasant Kunj, New Delhi-110 070

..... **Petitioner**

The following were present:

Shri Hemant Singh, Advocate, JPFL
Shri Matrugupta Mishra, Advocate, JPFL
Ms. Shikha Ohari, Advocate, JPFL

ORDER

The Petitioner, Jindal Poly Films Limited, a company registered under the Companies Act, 1956 (1 of 1956) has made the present application under sub-section (1) of Section 15 of the Electricity Act, 2003 (hereinafter referred to as "the Act") read with the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Trading Licence and other related matters) Regulations, 2009 (hereinafter

referred to as “Trading Licence Regulations”) amended from time to time, for grant of Category `I` licence for inter-State trading in electricity in whole of India.

2. Regulation 6 of the Trading Licence Regulations provides for the procedure for grant of trading licence as under:

“6. Procedure for grant of licence

(1) Any person desirous of undertaking inter-State trading in electricity shall make an application to the Commission for grant of licence in the manner specified in Form-I appended to these regulations and such application shall be accompanied by , -

(a) Such fee as may be prescribed by the Central Government from time to time payable through Bank Draft or pay order drawn in favour of Assistant Secretary, Central Electricity Regulatory Commission, New Delhi.

(b) Copies of the annual reports in case of the persons incorporated under the Companies Act, 1956 (1 of 1956) and audited accounts along with the Director’s Report, Auditors’ Report, the Schedules and notices on accounts for three years immediately preceding the year in which the application has been made and the special balance sheet as on any date falling within 30 days immediately preceding the date of making the application:

Provided that where the applicant has not been incorporated, registered or formed during the period of three years immediately preceding the year in which the application is made, the application shall be accompanied by the copies of the annual reports and audited accounts for such lesser period for which the applicant has been in existence.

(2) The application for grant of licence, along with annexures and enclosures shall also be submitted to the Commission on compact disc (CD).

(3) The applicant shall post complete application along with annexures and enclosures on his own website so as to facilitate access to the application by any person through internet and shall keep them on the website till the disposal of his application.

(4) The applicant shall within 7 days after making such application, publish a notice of his application, in two daily newspapers having circulation in each of the five regions in addition to those published from Delhi, including one economic daily newspaper in Form II, with the following particulars, name

x x x x x x

(5) The applicant shall within 7 days from the date of publication of the notice as aforesaid submit to the Commission on affidavit the details of the notice published and shall also file the original complete page of the newspaper in which the notice has been published.

(6) The applicant may file his reply to the objections or suggestions received in response to the notice within 45 days of its publication in the newspapers.

(7)The Commission after consideration of the objections or suggestions received in response to the notice published by the applicant and his reply may propose to grant

licence.

(8) When the Commission proposes to grant licence, it shall publish a notice of its proposal in two daily newspapers, as the Commission may consider appropriate, stating the name and address of the person to whom it proposes to issue the licence, with such other details as the Commission considers appropriate, to invite further objections or suggestions to its proposal."

3. The Petitioner has made the application as per Form-I along with CD and paid the fee of Rupees one lakh as prescribed by the Government of India.

4. The Petitioner has posted the application for grant of trading licence on its website in terms of Regulation 6(3) of the Trading Licence Regulations. The Petitioner has placed on record the relevant copies of the newspapers in original in which notice of its application has been issued. The notices under sub-section (2) of Section 15 of the Act read with clause (4) of Regulation 6 of the Trading Licence Regulations have been published by the petitioner on 10.6.2017 in all editions of 'Business Standard', 'Rashtriya Sahara', Delhi edition, 'Navshakti', Mumbai edition and 'Dainik Assam', Assam edition. No objection has been received in response to the public notices.

5. Proviso of Regulation 3 (1) of the Trading Licence Regulations provides that the applicant should have been authorized to undertake trading in electricity by its Memorandum of Association. Relevant portion of proviso is extracted as under:

"Provided that the applicant should have been authorized to undertake trading in electricity in accordance with its constitutional/organizational documents such as the Main Objects in the Memorandum of Association (in case of a company incorporated under the Companies Act, 1956) or the Partnership Deed (in case of a partnership firm registered under the Indian Partnership Act, 1932) or the constitutional documents of Limited liability Partnerships under Limited Liability Partnership Act, 2008."

6. It is noticed that 'trading in electricity' is not explicitly prescribed in the Memorandum of Association of the Petitioner Company. However, one of the objects of

the Petitioner Company as per the Memorandum of Association filed is "to buy, sell, resell, acquire, use, transmit, accumulate, employ, distribute, develop, handle, protect, soupy, and/or to act as agent, broker, representative, consultant, collaborator or otherwise to deal in electric power at such place or places as may be permitted by law."

The Petitioner, vide letter dated 5.7.2017, was directed to confirm whether Petitioner Company fulfills the requirement of Regulation 3 (1) of the Trading Licence Regulations. In response, the Petitioner vide its affidavit dated 14.7.2017, has submitted that as per Section 2(71) of the Electricity Act, 2003 'trading' means purchase of electricity for resale thereof and the expression 'trade' shall be construed accordingly. Therefore, from the bare reading of the definition of trading as defined under the Act read with the provisions of clause 8 (a) of the main objects of the Memorandum of Association of the Petitioner Company, it can be construed that the Petitioner Company is authorized to undertake the business of resell of electric power in terms of Regulation 3 (1) of the Trading Licence Regulations. In view of the above, the Petitioner fulfills the requirements specified in Regulation 3 (1) of the Trading Licence Regulations.

7. Transmission of electricity is covered under the Main Objects of the Memorandum of Association of the Petitioner. However, the Petitioner vide its affidavit dated 5.6.2017 has submitted that during the subsistence of the trading licence if granted by the Commission, it shall not apply for any transmission licence before any concerned authority without surrendering the trading licence granted to it. The affidavit has been taken on record.

8. In accordance with Regulation 3 (3) of the Trading Licence Regulations, a person applying for Category `I` trading licence should have net worth of ₹ fifty crore, and should have maintained minimum current ratio and liquidity ratio of 1:1, as on date of audited balance sheet accompanying the application. As per Regulation 6 (1) (b) of the Trading Licence Regulations, the applicant is required to submit the special balance sheet as on any date falling within 30 days immediately preceding the date of making the application. The licensee filed its application under affidavit dated 5.6.2017 and submitted audited special balance sheet as on 31.3.2017 and special balance sheet as on 14.5.2017.

9. Based on the special audited balance sheet as on 14.5.2017, net worth and liquidity ratios has been worked out as under:

(Rs. in lakh)	
Net Worth Computation	As per audited Balance Sheet as on 14.5.2017
Particulars	
A) Paid up equity capital (1)	4378.64
B) Reserves and Surplus	
B.1. Capital Reserves	22611.07
B.2. Capital Redemption Reserve	11518.82
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	4071.49
B.6. Securities Premium Reserve	21069.36
B.7. Surplus (P and L Account)	94056.78
B.8. Other Free Reserves	26164.37
Free Reserves and Surplus considered for Net worth (2) (B6+B7+B8)	179491.89
C) Loans and Advances given to associates (3)	891.89
D) Deferred Expenditure (including Misc. Expenses) not written off (4)	0.000
Net Worth (1+2-3-4)	182978.64

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

(Rs. in lakh)

Net worth (Asset approach), Current Ratio and Liquidity Ratio Computation	As per special Balance Sheet as on 14.5.2017
A) Non-current Assets	
A.1. Net block of Tangible Asset	140193.74
A.2 Net Block of Intangible Asset	165.37
A.3 Capital work in progress	1951.40
A.4 Intangible Assets under development	0.00
A.5 Non-Current Investments	73797.23
A.6 Deferred Tax Assets	0.00
A.7 Long-term loans and advances	883.50
A.7.1 Less: Loans & Advances given to Associates included in above	883.50
A.7.2 Net Long Term Loans & Advances (A.7 - A.7.1)	0.00
A.8 Other Non Current Asset	2414.10
A.9 Deferred Expenditure (including Misc. Expenses) not written off (Not considered for net worth computation)	0.00
Total Non-Current Assets	219405.34
Total Non-Current Assets considered for net worth (1)	218521.84
B. Non-Current Liabilities, Pref. 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 (i.e. Debentures)	38510.17
B.4 Deferred tax Liabilities	19602.44
B.5 Other Long Term Liabilities (i.e. Security Deposit)	10642.94
B.6 Long Term provisions (i.e. prov. for gratuity)	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)	68755.55
C. Current Assets	
C.1. Current Investments	15297.03
C.2. Inventories	33248.61
C.3. Trade Receivables	12075.40

C.4. Cash and cash equivalents	2678.32
C.5 Short Term Loans and Advances	9541.68
C.5.1 Less: Loans and Advances given to associates	8.39
C.5.2 Net Short Term Loan and Advances (C.5 - C.5.1)	9533.29
C.6 Other current assets (other receivables)	20614.30
C.7 Deferred Expenditure (including Misc. Expenses) not written off (not considered for net worth & Liquidity purpose)	0.00
Total Current Assets	93455.34
Total Current Asset considered for Net worth (3)	93446.95
D. Current Liabilities	
D.1. Short-term Borrowings	17513.75
D.2. Trade payables	19394.75
D.3. Other Current liabilities (advance from customers, other expenses)	21813.49
D.4. Short-term provisions	1512.60
Total Current Liabilities considered for Net worth (4)	60234.59
Net worth ((1-2)+(3-4))	182978.65

11. Based on the above, the net worth, current ratio and liquidity ratio work out as under:

S. No.	Particulars	14.5.2017
1.	Net worth (₹ in lakh)	182978.65
2.	Current ratio	1.55
3.	Liquidity ratio	1.00

12. In accordance with Regulation 3 (2) of the Trading Licence Regulations, the Petitioner should have at least one full time professional having, qualifications and experience in power system operation and commercial aspects of power transfer and finance, commerce and accounts. As per information submitted by the Petitioner, it fulfils the requirements of Regulation 3 (2) of the Trading Licence Regulations.

13. On consideration of the above facts, we are ***prima facie*** satisfied that the Petitioner meets the net worth requirements specified by the Commission for grant of Category `I` trading licence and fulfills other conditions for grant of trading licence subject to the condition that the petitioner shall maintain the net worth as per the Trading Licence Regulations during the subsistence of the trading licence, if granted. The Commission proposes to grant Category `I` trading licence to the Petitioner. We direct that a notice under clause (a) of sub-section (5) of Section 15 of the Act be issued inviting further suggestions or objections to the proposal of the Commission.

14. List this petition for further directions on 14.9.2017.

Sd/-
(Dr. M.K.Iyer)
Member

sd/-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson