

TAMIL NADU ELECTRICITY REGULATORY COMMISSION
(Constituted under section 82 (1) of the Electricity Act, 2003)
(Central Act 36 of 2003)

PRESENT:

Thiru M.Chandrasekar Chairman
Dr. T.Prabhakara Rao Member
and	
Thiru K.Venkatasamy Member (Legal)

T.L.A.No.1 of 2018

M/s.Ventus Energy Consultants
5/534, g2, Dr.Vaideghi Road
Vaideghi Nagar
Kottivakkam
Thiruvanmiyur
Chennai – 600 041.

.... Petitioner
(Adv.Rahul Balaji)

(Adv.E.Anbarasan on
behalf of the objector,
Thiru.N.Sivakumar
Rajaprabhu)

Dates of hearing : **14-08-2018, 25-03-2019, 15-10-2019,**
22-10-2019, 29-10-2019, 05-11-2019

Date of order : **24-11-2020**

ORDER

1. Prayer : -

The petitioner has filed this T.L.A.No.1 of 2018 for grant of category 'C' Licence for Intra State Trading in electricity in the State of Tamil Nadu.

The petitioner has enclosed the following documents along with his application:-

- (i) Application for Trading License with necessary details
- (ii) Format for Assessing Competence of Applicant with necessary details.
- (iii) Copy of Registration Certificate under Udyog Aadhar & GST, Pan Card of Mr.Vijayabaskaran (Proprietor – Ventus Energy Consultants)
- (iv) Organizational structure with Management & Team Profile.
- (v) Banker's Letter confirming the financial status and operative account.
- (vi) Net worth certificate along with provisional balance sheet as on 31-01-2018.
- (vii) Audited Balance Sheet for last 5 years.
- (viii) Business and Revenue Projection for next 5 years.
- (ix) Company rating certificate issued by SMERA.
- (x) Self-Declaration Certificate
- (xi) D.D. No. 631226 dated 13th February 2018, The Karur Vysya Bank Limited, Palavakkam for Rs.1,00,000 drawn in favour of "The Secretary, TNERC", payable at Chennai.

2. Brief History of the case :-

(2.1) The applicant M/s.Ventus Energy Consultants who is a Energy Consultant has filed an application under sub-section (1) of Section 15 of the Electricity Act, 2003 (Central Act 36 of 2003) read with Tamil Nadu Electricity Regulatory Commission (Licensing) Regulations, 2005 for grant

of category 'C' Licence for Intra State Trading in electricity in the State of Tamil nadu on 13-02-2018.

(2.2) The application was examined with reference to regulation 7 of the TNERC (Licensing) Regulations, 2005 and it was found that there are informations required from the applicant and the same was called for from the applicant on 26-03-2018.

(2.3) Details called from M/s.Ventus Energy Consultants

The informations were called for from the applicant on 26-03-2018. The informations called for and the reply furnished by the applicant in its letter dated 03-04-2018 are as follows:-

Question (i) : Who is the applicant? Mr.P.Vijayabaskar or M/s.Ventus Energy consultants.

Explanation of M/s.ventus : We wish to clarify that the applicant is M/s.Ventus Energy consultants.

Question (ii) : You have stated that you have trading experience as "Renewable Energy certificate trading for Tamil Nadu Projects India".

Explanation of M/s.Ventus : We have facilitated purchase of RECs by obligated open access consumers and sale of RECs from registered Solar & Wind projects through Tata Power Trading Corporation Limited.

Question (iii) : What is the quantum, Purchase price and sale price of REC trading?

Explanation of M/s.Ventus : Our consumers have bought around 2000 Non-solar RECs and 200 Solar RECs per annum for the past 3 years at floor price of respective RECs. We facilitated sale of around 12,000 Solar RECs per annum from 8.5 MW Solar projects and 6000 Non-solar RECs per annum from 2.8 MW Wind power Project. Both are traded at their respective floor prices.

Question (iv) : Kindly brief the source of REC and provide REC registration details.

Explanation of M/s.Ventus : Reply to sl.no.4:

S.no	Name of RE Generator	Capacity	REC type	Registration no.
1	Amirthaa Green Infra (P) Ltd	3 MW	Solar	TNOSLAMGIP001R260815
2	Asian Fabricx (P) Ltd	3 MW	Solar	TNOSLAFPPL001R140814
3	Asian Fabricx (P) Ltd	1.5 MW	Solar	TNOSLAFFPL002R171214
4	Karur Sree Rama Trading (P) Ltd	1 MW	Solar	TNOSLKSRTL001R070115
5	Basant Wind Farms (P) Ltd	0.8 MW	Non-solar	TNONSBAWFL002R260815
6	Basant Wind Farms (P) Ltd	2.0 MW	Non Solar	TNONSBAWFP001R260815

Question (v) : You have stated in the application that you have traded in electricity for the past 5 years and shown your income also. The above data shows that your revenue from Electricity trading for the past 5 years and approximately Rs.0.07 per Kwh. Please furnish the details of licence for doing the above trading activity.

Explanation of M/s.Ventus : As consultant, we facilitated sale of electricity from captive generating stations and our income in the balance sheet is accounted under consultancy income. The average revenue realized by us for the facilitation of sale of electricity is INR 0.07 per Kwh. We enable the power purchase agreement between generator and consumer and handled consultancy and co-ordination role. We do not have any trading license.

Question (vi) : Particulars of engaging a full time Engineering and Finance/accounts professional with a minimum of 20 years of experience.

Explanation of M/s.Ventus :

Mr.P.Poopathi , Engineering Professional with Vast experience for the Project construction, execution and Development of Wind farm with more than 25 years experience in handling renewable energy projects.

(Qualification: Diploma in Electrical Engineering)

Mr.P.Moorthy, Financial practitioner with twenty seven years of experience.

(Qualification : M.Com.)

Question (vii) : An undertaking as per Regulation 7-A of TNERC (Licensing) Regulations, 2005 duly notarized.

Explanation of M/s.Ventus : We have provided the Affidavit along with our application as per the Regulation and attaching the copy of the same.

(2.4) As the Commission was not satisfied that a professional in Engineering and a professional in Accounts were not in employment of the petitioner company, the Commission directed the petitioner to comply with this requirement in terms of regulation 7(7)(a) and (b) of TNERC (Licensing) Regulation, 2005. Accordingly, it has been informed by the petitioner on 06-06-2018 that they have appointed Tvl. P.R.LoChan Sarathy and P.N.Parthiban as Professional in Accounts (i.e., ACMA) and Graduation in Electrical Engineering respectively and they have furnished their details also. Then after satisfying the fulfillment of the provisions of regulation 7(7)(a) and (b) of the TNERC (Licensing) Regulations, 2005, the petition had been numbered as TLA no.1 of 2018 and admitted on 14-08-2018 and passed the following orders:-

" Thiru Manikandan appeared on behalf of the petitioner. Arguments heard. The petitioner is directed to publish in two English national daily newspapers, including one economic newspaper and two Tamil daily newspapers having wide circulation in the area for which the license is sought and a notice of his application as given in annexure 1 of the

licensing regulation. The petitioner is also directed to publish the said notice in all the newspapers simultaneously on the same day. The petitioner is further directed to publish the notice in at least two successive issues of the dailies and thereafter, submit a copy of the notice with other details as published on an affidavit to the Commission within seven days as per Regulation 9 of the Licensing Regulations. "

The Petitioner under Regulation 9 of the TNERC (Licensing) Regulations, 2005, published the notice of application in the following Newspapers on 19.09.2018 and 20.09.2018 as detailed bellow:-

S. No.	Name of the Newspaper	Published date	Tamil nadu Editions
1	Dinamani	19.09.2018 & 20.09.2018	Chennai, Coimbatore, Dharmapuri, Madurai, Nagapattinam, Tirunelveli, Trichy, Vellore, Villupuram
2	Business Line	19.09.2018 & 20.09.2018	Chennai, Tamil nadu
3	Tamil Hindu	19.09.2018 & 20.09.2018	Chennai, Coimbatore, Madurai, Trichy
4	The New Indian Express	19.09.2018 & 20.09.2018	Chennai, Coimbatore, Dharmapuri, Madurai, Nagapattinam, Tirunelveli, Trichy, Vellore, Villupuram

The objections were not received from any of the stakeholders on this public notice. But, it is noticed that though the applicant has stated to

have published the public notice, the application details were published only in English version in all the Newspapers on 19.09.2018 & 20.09.2018. The Tamil version of public notice was not published in the Tamil newspapers viz., Tamil Hindu and Dinamani on 19, 20.09.2018. Hence, the applicant was directed to publish the Tamil version in Tamil newspapers. Accordingly, the Petitioner has publicized the Tamil version of public notice in Tamil newspapers viz., The Tamil Hindu and Dinamani on 27.12.2018 and 28.12.2018.

(3) Objections of Thiru.Sivakumar Rajaprabhu, Chennai :

(3.1) Thiru.Sivakumar Rajaprabhu, Chennai, has raised objections, vide letter dated 06-01-2019, on the application hosed by the applicant; moreover the objector expressed of being heard in person by the Commission. On his objections, the reply received from the applicant M/s.Ventus Energy Consultants had been sent to the objector vide the Commission's office letter dt. 21-03-2019.

(3.2) The Objections raised by Thiru.Sivakumar Rajaprabhu and the replies of M/s.Ventus are furnished below:

- 1. " I have noticed the mismatch in Udyog Aadhar Number mentioned by the applicant in Page no.1 and page no.2 of the Application*

Reply: Udyog Aadhaar Number of M/s.Ventus Energy Consultants is TN02D0087547 and there is a typo error in the application and the copy of the same has been enclosed.

2. *I have noticed the GST Registration number referred in the application in Page no.1 as "33ABXPV1326QIZS" is incorrect. Kindly clarify.*

Reply: We wish to confirm that the correct GST Registration number of M/s.Ventus Energy Consultants is 33ABXPV1326Q1ZS and the copy of the same has been enclosed.

3. *I have noticed in the application that the following documents are not enclosed for download from the above said web link, as disclosed by the applicant in the application.*

(a) Udyog Aadhaar Certificate; (b) Self declaration certificate; (c) PAN card (d) Organogram (e) Senior Management Profile (f) staff profile (g) Bankers letter; (h) Audited Balance sheet for last 5 years (i) Projections for next 5 years (j) Approach and Methodology; (k) Business plan for next 5 years (l) Annual forecast of cost, sales, revenues, Project financing and funding arrangements for next 5 years

Reply: The requisite documents are available in the provided web link at www.ventusindia.com/ application

4. *In part -C of the application, I have noticed that M/s.Ventus Energy Consultants have the previous experience in Electricity Trading, and they have traded electricity for the past 5 years and shown their income as below.*

Particulars	<i>2012-13</i>	<i>2013-14</i>	<i>2014-15</i>	<i>2015-16</i>	<i>2016-17</i>
<i>Traded volume at voltage level (Million Units)</i>	<i>180.00</i>	<i>345.00</i>	<i>394.00</i>	<i>267.00</i>	<i>345.00</i>
<i>Revenue from Electricity Trading (Rs. Lakhs)</i>	<i>126.00</i>	<i>245.00</i>	<i>276.00</i>	<i>187.00</i>	<i>245.00</i>

If the applicant is already in the activity of electricity trading and renewable energy certificate trading for the past five years, and traded the above said volume and earned the above said revenue,

- i. If License is mandatory for Trading electricity in Tamilnadu, then how the applicant have traded the electricity for the past five years without License?*
- ii. What is the special purpose of this application to avail the license to trade electricity, if their existing activity is legal?*
- iii. Is there any threshold limit to trade the electricity, for which the license is not required*

Reply: We haven't done any trading of electricity. Since the application format doesn't contain provision to enter data regarding the consultancy particulars, it has been submitted under the Trading category.

- i. The volume mentioned in the application is not the electricity traded volume, it's the volume of energy consumed from captive generating stations where we provide services for such transactions in terms of consultant, accounting, verification of bills, co-ordination between generator and consumer end etc.,*
- ii. The current application is for availing Intra state trading license to buy and sell (trade) energy, under applicable TNERC Regulations*
- iii. No. There are no limits on Trading Volume as per our understanding.*

5. In Part-C of the application, I have noticed that the applicant have shown as below.

<i>Details of Trading in other sectors during the last 5 years</i>	<i>Year 1</i>	<i>Year 2</i>	<i>Year 3</i>	<i>Year 4</i>	<i>Year 5</i>
<i>Traded volume (28 MU) Retail Trade: wind: 20 MU Units & Solar: 8 MU units</i>	<i>28 MU</i>	<i>28 MU</i>	<i>28 MU</i>	<i>28 MU</i>	<i>28 MU</i>

- i. As the data provided under "Details of Trading in other sector", Is this a trade of Wind and Solar electricity? If any other, kindly clarify the same.*

- ii. If it is wind and solar electricity, kindly clarify that these 28 Million Units each year is exactly the constant quantum, while Wind and Solar Electricity are variable in nature.

Reply:

- i. We have facilitated purchase of RECs by obligated open access consumers and sale of RECs from registered Solar & Wind projects and provided connected services such as accounting, price information, arriving at volume of REC procurement and such other strategies connected therewith.
- ii. We facilitated sale of around 12,000 Solar RECs per annum from Solar Project and 6000 Non-solar RECs per annum from Wind Power Project. Both are traded at their respective floor prices.
6. In the application, I have noticed that the applicant have shown the Power Consulting Income and Net profit for the past five years as below.

Particulars	2012-13	2013-14	2014-15	2015-16	2016-17
Power Consulting income (Rs. Lakhs)	128.21	241.53	276.28	187.49	241.29
Net Profit (Rs. Lakhs)	48.46	78.2	90.36	64.21	80.51

The said data shows that the applicant have done Power consultancy service. Any service business involves, service contract, Service invoices with Description of Services provided, Monthly service tax returns, TDS certificate issued by the service recipients, Annual Income tax return with Audited Balance sheet.

- i. Whether the applicant have submitted the above said documents to Tamilnadu Electricity Regulatory Commission for perusing the correctness of the records?
- ii. If so, can I get a copy of the same? I agree to pay the applicable copy charges.

Reply: The audited balance sheets are provided along with the application to check the correctness of the income from power consulting services.

7. *Based on my understanding in the Power sector, there are 2 modes of Open Access Power Consumption.*
- i. Third party power purchase*
 - ii. Captive power consumption*

Revenue from electricity shown that the applicant earned margin of Rs.0.07 per unit (Revenue from electricity trading divided by Trading Volume) for the past 5 years. Is there any restriction to claim the Revenue of only Rs.0.07 per unit for trading electricity without license? It is evident that the applicant engaged in the business of electricity trading.

If the applicant have traded the power under third part made, kindly clarify the following.

- a. Under Third party power purchase mode, consumers are liable to pay the cross subsidy surcharge to TANGEDCO. Whether TANGEDCO have collected the Cross Subsidy Surcharge from those open access consumers, as per the below workings?*

<i>Particulars</i>	<i>2012-13</i>	<i>2013-14</i>	<i>2014-15</i>	<i>2015-16</i>	<i>2016-17</i>
<i>Traded volume at voltage levels (Million units)</i>	<i>180</i>	<i>345</i>	<i>394</i>	<i>267</i>	<i>345</i>
<i>Cross subsidy surcharge @Rs.3.40 per unit. (Rs. in Million)</i>	<i>612</i>	<i>1173</i>	<i>1339</i>	<i>907.8</i>	<i>1173</i>

- b. If the consumers of the traded power have paid cross subsidy surcharge, as stated above, kindly provide the data.*

If the Power Generators consume the power for captive purpose, either to its own company or to its group company,

- a. What is the role for the applicant to show the traded volume of power in this application?*
- b. On what basis the applicant have claimed the revenue from those Captive power Generators or Consumers?*

- c. *For consuming the self-generated power either in the same company or in the group company, is there any purpose for those companies to pay any form of remuneration to third party companies, for the value of Rs.0.07 per unit, constantly for the past 5 years? if so, are those companies are originally group companies or manipulated group companies as per the provisions of law, through a consultant to avoid paying cross subsidy surcharge to TANGEDCO?*
- d. *Can those captive power generating and consuming group companies declare that they have paid the commission or consultation charges to the applicant for the purpose of Captive power consumption, for the value they have paid and for the quantum of power they have consumed?*

Reply: As consultant, we facilitated captive consumption transactions through various advisory and administrative services and our income in the balance sheet is accounted under consultancy income. The average revenue realised by us for the services provided is generally fixed on unit basis and is INR 0.07 per KWh which is based on the mutually negotiated commercial terms between us and the service receivers.

We haven't carried out Trading of electricity under third party mode till date and we have applied for the license to do the same in the future.

8. *I have noticed in some part of the application, the applicant is an existing electricity trader for the past five years without license, and in some part of the application, the applicant is a service provider, as he shows the Power Consulting Income. This shows that the information provided in the application is contradictory to each other.*

Reply: M/s. Ventus Energy Consultants has only acted as service provider and we haven't traded electricity either by ourselves or on behalf of anybody. "

(3.3) Written response furnished by M/s.Ventus as directed in hearing dt.25.03.2019:

1. " The claim of objector that for self-generated power there is no purpose for a third party consultant –

There are several issues relating to level of generation, the amount that is to be used from own sources and from open access through third party. Planning of such consumption, on the basis of production schedules and weather conditions, the power availability and rates position of the open access market and the potential rates of power in the open market. Apart from this there are various specialized services which only an expert in the field will be able to provide. A mere generator or a manufacturing company which has say a textile business do not have the expertise and find it expensive to employ fulltime employees having expertise. It is in such cases where consultants are used.

2. The claim of the objector as to the purpose for providing the remuneration -

It is now established practice in the market that a consultant is provided consultancy charges only on the basis of the power that forms part of his advisory and consultant practices. This is for the reason that consumers and generators find it expensive to pay lump sum consideration. Further since the consultancy is an ongoing one over the entire period of time, such charges are paid constantly over a long period by consumers retaining the services of the consultant.

3. The claim of the objector as regards the declaration by the CGP and consumers

The charges are always accounted for as consultancy payments in both the books of account of the applicant and that of the entities receiving such consultancy charges. The books of account are public records available for inspection. Therefore, the question of filing any declaration is unnecessary and falls completely outside the scope of the present proceedings.

4. The objector's stand as regards the compliance with captive norms

The applicant is an independent consultant to the Generators as well as the consumers. It is the CGP generator and the consumers who have to ensure compliance with the CGP norms and the legal liability rests with them. The applicant provides consultancy services. The status of the entities who are third parties has no relevance to the issue of the grant of trading license to the applicant herein.

5. The objectors claim as regards application format

It is wholly objectionable that the objector should find fault with the format of the Hon'ble TNERC. The Regulator is free to prescribe a format and also call for such details as it deems fit under the Regulations. The objector has no right to

find fault with the process. In any event the applicant has provided all details and the necessary clarification and also details that were required other than what was in the format. The said objection is therefore entirely without merit. "

(3.4) Thiru.Sivakumar Rajaprabhu has filed his written submission as directed during the hearing held on 05-11-2019 as below:

1. *" Applicant did not come with clean hands and he suppressed several material things and applied for granting "Electricity trading Licence"*
2. *Applicant deliberately & conveniently did not enclose/furnish the necessary documents along with his application form. There is no option for general public also access those documents through the provided web link in the publication i.e., www.ventusindia.com/application, by the applicant for making effecton objection. And those documents were uploaded by the Applicant web link after completion of 30 days notice period and same was also admitted by the Applicant in his reply to the objections submitted by the objectors.*

Udyog Aadhar certificate, Self Declaration Certificate, PAN card, Organogram, Senior Management Profile, Staff Profile, Banker's letter, Audited Balance sheet for last 5 years, Projections for next 5 years, Approach and Methodology, Business plan for next 5 years, Annual forecast of cost, Sales, revenues, Project financing and funding arrangements for next 5 years.

3. *He has not uploaded any audited Balance sheet, TDS Certificates, Monthly & Annual Tax Returns for those five years along with his application, much less he has not furnished contract of services entered between Applicant and his customer and related invoices. Which is mandatory as per Regulation 7(2)(g) of TNERC (Licensing) Regulations, 2005. Only after submitting objection by the objector to this Hon'ble Regulatory commission. He has uploaded some crocked up/manipulated some balance sheet and uploaded in his web link in order to fill up lacuna that too after 30 days notice period.*
4. *Applicant has not effected paper publication in two English National daily newspapers namely Dinamani & The Hindu (Tamil Edition) on 28-12-2018 and he*

has not effected paper publication in two English National daily newspapers, more particularly in one Economic newspaper.

5. *In Part-C of the application form submitted by the Applicant it is mentioned that the Applicant is already in Electricity Trading business and having 5 years of past experience and in order to substantiate the said statement he has mentioned year wise profit consequently for five assessment years.*

<i>Particulars</i>	<i>2012-13</i>	<i>2013-14</i>	<i>2014-15</i>	<i>2015-16</i>	<i>2016-17</i>
<i>Traded volume at voltage levels (Million units)</i>	<i>180</i>	<i>345</i>	<i>394</i>	<i>267</i>	<i>345</i>
<i>Revenue from Electricity Trading (Rs. Lakhs)</i>	<i>126</i>	<i>245</i>	<i>276</i>	<i>187</i>	<i>245</i>

Therefore, once Electricity Act is came into force Licence is mandatory and no one can be permitted to trade the electricity without Licence under Section 14 of the Act. In such being case the Applicant has not explained what is the necessity for the Applicant to submit an Application before this Hon'ble Electricity Regulatory Commission now for getting "Electricity Trading Licence" and whether the Applicant was granted Licence for those period of five year nor not.

6. *As per data furnished by the Applicant regarding Traded Volume of Electricity he maintained 28 Million Units (Wind 20 MU & Solar 8 MU) volume of Electricity constantly for every year when the sources of such electricity is variable in nature due to weather/climate conditions how it is possible for him to maintain same volume of Electricity constantly for every year. For which the Applicant simply stated that he facilitated sale around 12000 Solar RECs p.a. from solar project and 6000 non-solar RECs (Wind power project) p.a. from. Which clinchingly shows that he manipulated and furnished false data regarding Traded volume of Electricity.*

<i>Details of Trading in other sectors during the last 5 years</i>	<i>Year 1</i>	<i>Year 2</i>	<i>Year 3</i>	<i>Year 4</i>	<i>Year 5</i>
<i>Traded volume (28 MU) Retail Trade: wind: 20 MU Units & Solar: 8 MU units</i>	<i>28 MU</i>	<i>28 MU</i>	<i>28 MU</i>	<i>28 MU</i>	<i>28 MU</i>

7. On perusal of the application submitted by the Applicant, it reveals that he is claiming that as if he comes under the category of 3rd party power purchase mode since in his application he himself has stated that he earned huge profit from Electricity Trading at the margin of Re.0.07 p.u. (Revenue from electricity trading divided by Trading volume) for the past 5 years.

Particulars	2012-13	2013-14	2014-15	2015-16	2016-17
Traded volume at voltage levels (Million units)	180	345	394	267	345
Cross subsidy surcharge @Rs.3.40 per unit. (Rs. in Million)	612	1173	1339	907.8	1173

As per above data furnished by the Applicant consumer of the Applicant should have been paid approximately sum of Rs.5205.40 Crores to TANGEDCO for five years towards cross subsidy surcharge for power consumption at the rate of Rs.3.40 per unit. Because of the Applicant there is loss to the Government to a tune of Rs.5205.40 Crores towards cross subsidy surcharge. Therefore, before considering his application, the Applicant has to furnish his clients details TANGEDCO for recovery of Rs.5205.40 Crores towards cross subsidy surcharge.

8. Application form against the Name of the applicant it is mentioned as P.Vijayabaskaran (personal capacity), But in public notice mentioned as M/s.Ventus Energy Consultant. The Applicant has to clarify in whose name the wants Licence.
9. The Applicant had furnished false information to this Hon'ble Electricity Regulatory Commission with regard to Udyog Aadhar Number of the Application. In Part-A and page no.1 of the Application form submitted by the applicant Udyog Aadhar number is mentioned as TN02D00887547 and whereas in Part-B and page no.2 of the Application Udyog Aadhar number is mentioned as TN02D0087547.
10. In Part-A and page no.1 of the Application Form submitted by the Applicant GST Registration number is mentioned as "33ABXPV1326QIZS". Whereas, in the

GST Registration certificate it is mentioned as GST Registration Number is mentioned as "33ABXPV1326Q1ZS". GST number in application and Certificate differs.

11. In some part of the application, the applicant has mentioned that he is an existing electricity trader for the past five years without license, and in some part of the application, the applicant is a service provider, as he shows the Power Consulting Income. This shows that the information provided in the application is contradictory to each other. "

(4) Findings of the Commission:

(4.1) Thiru.P.Vijayabaskaran, Proprietor of M/s.Ventus Energy Consultants, Thiruvannamiyur, Chennai-41 has filed a petition for getting a Trading Licence for undertaking trading in electricity within the State of Tamil Nadu and the application was numbered as T.L.A. 1 of 2018 and admitted on 14-08-2018. The applicant has submitted the application for getting of licence along with fees of Rs.1,00,000/- as application fees under sub-section (1) of Section 15 of the Electricity Act, 2003.

(4.2) Under Section 15 and 52 of the Electricity Act, 2003 and TNERC (Licensing) Regulations, 2005 certain requirements and conditions have been mandated for granting of trading licence. Accordingly, it is provided under sub-regulation (1) to (7) of Regulation 7 the technical requirement, capital adequacy requirement and credit worthiness which are required for

eligibility to become an electricity trader. Therefore, applicant of every trading licence has to fulfill the conditions stipulated thereon, as below:-

"7. Application for grant of licence

(1) The application for grant of licence under section 14 of the Act, to transmit electricity or distribute electricity or to undertake trading in electricity shall respectively be in Form No. 1, Form No. 2 and Form No. 3 specified as Annexures 2, 3 and 4 of these regulations and shall be accompanied by the proof of payment of such fees as prescribed by the State Government.

xxxx	xxxx	xxxx
xxxx	xxxx	xxxx
xxxx	xxxx	xxxx

(f) a copy of the Memorandum of Association (MoA) and Articles of Association (AoA) of the company where the applicant is a body corporate, Certificate of Incorporation/ Registration, Certificate of commencement of business, details of Income Tax registration or Tax Account Number and similar statutory documents in all cases;

(g) Audited annual accounts for previous five years in case the applicant was in the same business or the project report certified by the chartered accountant;

(h) proof for having paid the application fee;

(i) details and background of the applicant;

(j) such other documents/information as the Commission may, in this regard, require by order.

(k) in case of an applicant seeking a trading licence, volume of power intended to be traded during the first year after grant of licence and the future plans for trading during the next five years.

(3) The application for licence shall be supported by an affidavit in Form No. 4 in the Annexure 5 with these Regulations sworn before Advocate / Notary Public / Magistrate / Gazetted officer.

xxxx	xxxx	xxxx
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(5) Any Person applying for licence to undertake trading in electricity in the State of Tamil Nadu shall duly fulfil the conditions of capital adequacy requirement and credit worthiness as specified under sub-regulation (6) and technical requirement, as stipulated under sub-regulation (7).

(6) Capital adequacy requirement, and creditworthiness of electricity trader:

(a) Having regard to the volume of trading proposed to be undertaken, the networth of an electricity trader at the time of his application shall be as set out in the Table 1 hereunder:-

Table 1 - Net Worth

xxxx

xxxx

xxxx

(b) An applicant applying for a trading licence, and if the applicant is a company, the promoters of the company, and if the applicant is a partnership firm, the partners of the firm, shall at no time have been classified as "wilful defaulter" by the Reserve Bank of India or other relevant authority.

(c) If the applicant is a company, which has been rated by a credit rating agency within a period of eighteen (18) months prior to the date of the application for grant of trading licence, it shall have a rating above 'B'.

(d) Where an applicant has one or more borrowal accounts with a bank (s), all such accounts should be classified as 'Standard' by each of its bankers.

(7) Technical requirements of the applicant applying for a licence:

The applicant for a licence shall have:

(a) at least one full-time professional in the relevant discipline with a minimum of twenty years experience to lead the organisation along with sufficient engineering personnel commensurate with the quantum and nature of works involved in the licensed business.

(b) at least one full-time finance/ accounts professional with a minimum of twenty years experience to lead the finance and accounting wing, along with sufficient

finance and accounting personnel commensurate with the quantum and nature of works involved in the licensed business.

(c) Sufficient skilled staff, including those at the lower levels with adequate qualifications and experience and basic computer awareness, in order to discharge technical / commercial transactions smoothly.

(d) Adequate office area with appropriate communication facilities to the satisfaction of the Commission to effectively communicate with the different business associates and regulatory bodies.

(e) to show justification to the satisfaction of the Commission that the technical capability and resources exhibited by the applicant are adequate to manage the licensed business.

(4.3) The petition for Trading Licence application was taken up by the Commission in the Court hearing for consideration on 14-08-2018 and the Petitioner was directed to publish his application in the format prescribed in Annexure-1 of the TNERC Licensing Regulations, 2005.

The Petitioner, under Regulation 9 of the TNERC (Licensing) Regulations, 2005, published the notice of application in the Newspapers viz., Tamil Hindu, Dinamani, The New Indian Express and Business line on 19.09.2018 & 20.09.2018 respectively. To the said public notice, no objections were received from any of the stakeholders. But, it was noticed that the Tamil version of public notice was not published in the Tamil newspapers viz., Tamil Hindu and Dinamani on 19, 20.09.2018. Hence, the

applicant was directed by this Commission on 18.12.2018 to publish the Tamil version in Tamil newspapers. Accordingly, the Petitioner publicized the Tamil version of public notice in Tamil newspapers viz., The Tamil Hindu and Dinamani on 27.12.2018 and 28.12.2018 respectively.

(4.4) Based on the scrutiny of the Trading Licence application and observations made from it, the petitioner was directed to submit further details and explanations in connection with the application. Further, against the publication of application made on 27.12.2018 & 28.12.2018 an objection was received from Thiru.N. Sivakumar Rajaprabhu, Chennai-34 and the petitioner was directed to furnish replies to the said objections. In response to this, the petitioner furnished its written submissions/explanation on 04-02-2019 and 29-10-2019. The petitioner was given sufficient time and opportunity to submit the required information/replies to the objections.

(4.5) After studying the additional details/replies and explanations submitted by the applicant represented by Thiru.P.Vijayabaskaran, Proprietor, M/s.Ventus Energy Consultants, Chennai, the Commission would like to observe as follows:-

(i) Under Part-C of the application, the Petitioner has stated that he has previous experience in electricity trading. But in regard to the question on electricity trading in Tamil Nadu in the recent 5 years without obtaining of Licence, the Petitioner has stated that it has facilitated the sale of electricity from captive generating stations and enabled the PPA between the generators and consumers and further carried out the consultancy and co-ordination activities.

Though the applicant has stated that it has provided services for transactions for captive generating plants, it was not substantiated by any evidence. Further, the applicant has not submitted any documentary proof to verify the nature of transactions between Generators, Consumers and the Petitioner.

(ii) The petitioner has mentioned that it has been involved in other trading activities carried out by it during the last 5 years i.e., 20 MU of Wind power and 8 MU of Solar power every year. The objector has sought to clarify that 28 MU of power is a constant quantum in every year, while Wind and Solar power generation are variable in nature. The petitioner tried to substantiate that it has facilitated the sale of Renewable Energy Certificates (RECs) to the open access consumers only. However, it has not provided

any documentary evidences to the same and did not reply to the objector's question on the constant quantum of power every year.

(iii) Under Sl.no.4 of Part-C of the application, the petitioner has stated that the expected turnover from the business for which Licence is sought, is Rs.300 lakhs per annum from HT consumers @ Rs.6 per Unit which shall result the trading of 5 million units per annum. But, in the public notice issued in the newspapers, it was mentioned that the volume of business would range from 42.86 MU to 85.71 MU during the next 5 years. Thus, the applicant has mentioned different quantum of turnover in the application and in the public notice and the correctness of the same could not be ensured with the available records.

Under Regulation 7(2)(k) of the TNERC Licensing Regulations, 2005, as below, the applicant seeking trading licence shall specify the volume of power intended to be traded -

"(k) in case of an applicant seeking a trading licence, volume of power intended to be traded during the first year after grant of licence and the future plans for trading during the next five years."

In view of the above, it is a prima facie case where the petitioner has failed to mention even the exact/correct volume of power for which the trading licence is sought for.

(iv) In part-C of the application by the petitioner company has been stated that during the last 5 years from FY 2012-13 to 2016-17, electricity trading was done to the tune of 180 million units to 345 million units with the realization of consulting income at the uniform rate of Re.0.07 per unit throughout all 5 years period. Questioned by the Commission in this regard, it has been stated that it facilitated the sale of electricity from Captive generating plants to the HT consumers and the income is accounted under Consultancy income only.

(v) Thiru.Sivakumar Rajaprabhu (Objector) has stated that from the application it is understood that the applicant comes under the category of 3rd party power purchase mode; and according to the data furnished by the applicant, consumers of the applicant should have paid approximately a sum of Rs.5205.40 Crores to TANGEDCO for five years towards Cross subsidy surcharge (CSS) for power consumption at Rs.3.40 / Unit. Because of the applicant, there is a loss to TANGEDCO to a tune of Rs.5,205.40 Crores towards non-payment of CSS. In this regard, the petitioner has not

responded with any documentary evidence/agreement for the above quantum of transaction arranged by the Petitioner, whether under sale of electricity or captive consumption. Further, no documentary evidence had been submitted by the applicant to prove that it has done only consultancy service.

(4.6) From the replies furnished by the petitioner on 03.04.2018 the Commission is of the view that it has only facilitated the sale of electricity between the captive generating plants and consumers. The petitioner has not proved its case through valid evidence, so as to ensure that there is no hidden unrealized revenue loss to the Distribution licensee.

(4.7) In view of the discussions, under para 4.5 (i) to (v) above, it is to be concluded that the applicant does not qualify itself for a trading and has not assisted the Commission by providing the details conforming to the Licensing Regulations of TNERC as required in the application. The petitioner failed on its part to prove its claim beyond any doubt by documentary proof and without any concealment of any fact - for granting of Trading license in the State of Tamil Nadu under TNERC (Licensing) Regulations, 2005, and therefore the petition is liable for rejection under

section 14(1)(b). Accordingly, the application of the petitioner for grant of trading license is rejected with a liberty to file a fresh petition after rectifying the defects pointed out above. A copy of the order shall be sent to TANGEDCO for verification on CSS if any having become payable as alleged by the objectors.

With the above direction, this petition is finally disposed of.

(Sd.....)
(K.Venkatasamy)
Member (Legal)

(Sd.....)
(Dr.T.Prabhakara Rao)
Member

(Sd.....)
(M.Chandrasekar)
Chairman

/True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission