

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 9/SM/2021

Coram:

Shri P.K.Pujari, Chairperson

Shri I.S.Jha, Member

Shri Arun Goyal, Member

Shri P.K.Singh, Member

Date of Order: 8th July, 2021

In the matter of

Non-compliance of the provisions 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

Atria Energy Services Private Limited,
1st Floor, No.11, Commissariat Road,
Bangalore, Karnataka-6500 025.

.....Respondent

ORDER

Atria Energy Services Private Limited had filed the Petition No. 105/TD/2021 under Regulations 9(4) and 15(3)(a) of 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 Trading Licence Regulations') for down-gradation of inter-State trading licence in electricity from Category 'IV' to Category 'V' granted vide order dated 20.6.2017.

2. The Commission after considering the documents placed on record, in its order dated 29.6.2021, observed that as per Regulation 3(3) of the 2020 Trading Licence Regulations, a person applying for Category 'V' trading licence should have net worth of Rs. 2 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. However, as per audited special balance sheet as on 30.9.2020 submitted by the Respondent, it had a net worth of only Rs. 166.27 lakh. Therefore, the Respondent does not meet requirements of net worth for any category of trading licence as prescribed under Regulation 3(3)(a) of the Trading Licence Regulations.

Relevant portion of the order dated 29.6.2021 is extracted as under:

"11. The expression 'net worth' has been defined under Regulation 2(q) of the 2020 Trading Licence Regulations, which is reproduced as under:

"2.

...

(q) 'Net Worth' means aggregate value of the paid up equity share capital and compulsorily convertible preference shares and free reserves (excluding reserves created out of revaluation and write back of depreciation) reduced by the aggregate value of accumulated losses, deferred expenditure (including miscellaneous expenses) not written off and loans and advances to and investments made in Associates;"

12. *Thus, as per audited balance sheet as on 30.9.2020, the Applicant company has a net worth of Rs. 166.27 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 'IV' to Category 'V' is rejected.*

14. *Further, as observed above 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.*

15. *We further observe that the 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.”

16. As per above-mentioned 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 net worth as specified in the 2020 Trading Licence Regulations.

17. Further, 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;
.....”*

18. Since the licensee has failed to fulfill required net worth to hold the inter-State trading licence for any of 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.”

3. Regulations 3(a) and 3(b) of the Trading Licence Regulations provides for net worth requirement for inter-State trading licensee as under:

“(3) Financial Qualifications – Capital Adequacy and Liquidity Requirements

(a) Considering the volume of inter-State and intra-State trading proposed to be undertaken by the Applicant on the basis of the inter-State trading licence, the minimum Net Worth of the Applicant on the date of application, as per audited special balance sheet accompanying the application, shall not be less than the amount specified hereunder:

S No.	Category of the trading licence	Minimum Net Worth (Rs. in crore)	Volume of electricity proposed to be traded in a financial year
1	Category I Above	50.00	7,000 MUs
2	Category II	35.00	Not more than 7,000 MUs

3	Category III	20.00	Not more than 4,000 MUs
4	Category IV	10.00	Not more than 2,000 MUs
5	Category V	2.00	Not more than 500 MUs

(b) The Applicant shall have Net Worth as per clause (a) above and have a minimum Current Ratio of 1:1 and a minimum Liquidity Ratio of 1:1:

Provided that the Net Worth, Current Ratio and Liquidity Ratio specified in this regulation shall be computed on the basis of the audited special balance sheet prepared in accordance with the financial reporting framework prescribed under the Companies Act, 2013.”

4. Regulation 9(2) of the 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.”

As per the above provisions, trading licensee is obligated to maintain net worth in accordance with Regulation 3 of the Trading Licence Regulations at all times and the current ratio and liquidity ratio of 1:1 at the end of every financial year.

5. Regulation 17(3) of the Trading Licence Regulations provides 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;

.....”

As per the above provision, failure to meet the specified net worth criteria constitutes a contravention of the provisions of the Trading Licence Regulations by a trading licensee.

6. Regulation 18 of the Trading Licence Regulations provides for procedure for taking cognizance of the contraventions as under:

“18. Procedure for taking cognizance of the contraventions

(1) The Commission, on being satisfied on the basis of the information in its possession or on basis of the information submitted by any person that a prima facie case exists against any Trading Licensee with respect to any of the provisions of Regulation 17, may initiate suo-motu proceedings against the Trading Licensee and may direct the Trading Licensee to submit such information and explanation as may be considered necessary for the purpose of the proceedings.”

7. Regulation 19 of the Trading Licence Regulations provides for penalties for contravention by the licensee as under:

“19. Penalties for Contravention and non-compliance:

Where the charge of contraventions is established against the Trading Licensee, the Commission may:

(1) give warning to the Trading Licensee subject to such conditions as may be deemed fit in the facts and circumstances of the case; or

(2) direct that the Trading Licensee shall pay, by way of penalty, a sum which shall not exceed rupees one lakh for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction; and/or

(3) debar the Trading Licensee from trading in short term market or long term market or through power exchanges or banking or Cross Border Trade of Electricity for a period as may be specified by the Commission; or

(4) suspend the licence for a period as may be specified by the Commission; or

(5) revoke the licence of the Trading Licensee; or

(6) issue such other directions or impose such other conditions as the Commission may deem appropriate:

Provided that in case of debarment or suspension, National Load Despatch Centre or concerned Regional Load Despatch Centre or State Load Despatch Centre, as the case

may be, shall take appropriate action with regard to scheduling and despatch of electricity in respect of the transactions of the Trading Licensee.”.

8. Thus, based on documents available on record in Petition No.105/TD/2021, we are satisfied that a *prima facie* case exists against the Respondent with respect to contravention of Regulation 17(3) of the Trading Licence Regulations since it has failed to maintain the required net worth as prescribed under Regulations 3(3)(a) and 3(3)(b) read with Regulation 9(2) of the Trading Licence Regulations. Accordingly, we direct the Respondent to file its response within one month from the issuance of this order as to why penal provision be not invoked in terms of Regulation 19 of the Trading Licence Regulations for failure to maintain required net worth for holding any category of inter-State trading licence.

Sd/-
(P.K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I.S. Jha)
Member

sd/-
(P.K. Pujari)
Chairperson