

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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CASE NO. 142 of 2017

Suo moto proceeding in the matter of
Show-Cause Notice issued in Order dated 8 February, 2017 in Case No. 89 of 2015

Coram

Shri Anand B. Kulkarni, Chairman
Shri Deepak Lad, Member

1. M/s. NTS Power, Pune
2. M/s. Knowledge Infrastructure Systems Pvt. Ltd., New Delhi
3. M/s. 21st Century Infrastructure (India) Pvt. Ltd., Nagpur
4. M/s. D. M. Corporation Pvt. Ltd., Kolhapur

Appearance

Authorized Consumer Representative : Dr. Ashok Pendse, TBIA

ORDER

Dated: 12 December, 2017

1. The Commission had granted the following Licences for Intra-State Trading within the State of Maharashtra:-
 - i. M/s. Indiabulls Power Generation Ltd. – Licence No. 2/2008 dated 21.8.2008
 - ii. M/s. NTS Power – Licence No. 1/2011 dated 4.5.2011
 - iii. M/s. Knowledge Infrastructure Systems Pvt. Ltd. – Licence No. 2/2011 dated 2.9.2011
 - iv. M/s. 21st Century Infrastructure (India) Pvt. Ltd. – Licence No. 3/2011 dated 15.12.2011
 - v. M/s. D. M. Corporation Pvt. Ltd. – Licence No. 1/2013 dated 25.11.2013
2. A suo-moto proceeding in Case No. 89 of 2015 was initiated by the Commission to review the compliance of Trading Licence Conditions by these Trading Licensees. During this proceeding Indiabulls Power Generation Ltd. (name changed to Devona Power Limited) sought to surrender the Licence No. 2 of 2008 which the Commission

accepted vide Order dated 8 February, 2017 and the other four Trading Licensees viz. Knowledge Infrastructure Systems Pvt. Ltd., 21st Century Infrastructure (India) Pvt. Ltd., NTS Power and D. M. Corporation Pvt. Ltd. were issued notice under Section 19(3) of the Electricity Act, 2003 to show cause within three months why their Licences should not be revoked. The relevant para. is reproduced below:-

“20. In view of their prolonged breaches of the provisions of the MERC (Trading Licence Conditions) Regulations, 2004 and the conditions of their Licences, and their non-compliance of the Commission’s directions, as set out above, notice is given through this Order to the Trading Licensees, viz. NTS Power, Knowledge Infrastructure Systems Pvt. Ltd., 21st Century Infrastructure (India) Pvt. Ltd. and D. M. Corporation Pvt. Ltd., under Section 19(3) of the EA, 2003 to show cause within three months why their Licences should not be revoked.”

3. In response, NTS Power made its submission on 30 March, 2017. NTS Power requested the Commission not to revoke its Trading Licence stating the following:
 - i. Due to unfavorable market conditions and uncertain Trading business environment, the Trading business could not be commenced. The circulars issued by MSEDCL (circular no. 147 and 155 dated 27 March, 2008 and 27 May, 2008 respectively) made it difficult for the Trading Licensee to undertake Trading business as the circulars were in contradiction with the applicable laws which lead to various litigations pertaining to open access and resulted into uncertainty in the Trading business.
 - ii. New Distribution Open Access Regulations 2016 has opened up opportunities for Trading Business. An application for short term open access was made and permission for the month of February and March, 2017 was received from MSEDCL.
 - iii. In future, NTS Power will adhere to the Regulations regarding submissions of quarterly reports about the trading transactions undertaken and performance details.
4. The other three Trading Licensees, viz., Knowledge Infrastructure Systems Pvt. Ltd., 21st Century Infrastructure (India) Pvt. Ltd. and D. M. Corporation did not respond to the notice issued by the Commission.
5. In accordance with the MERC (Fees and Charges) Regulations, 2017, Annual Licence Fees payable by the Trading Licensee is 0.02 per cent of revenues from the sale of electricity, subject to a minimum of Rs. 2,00,000 and a maximum of Rs. 5,00,000 and the timelines for such payment was 30 April, 2017. Since none of the four Trading Licensees had made such payment, the Office of the Commission issued letters on 18 May, 2017 to these Trading Licensees for payment of Annual Licence Fees for FY 2017-18. However, through letter dated 13 June, 2017, Knowledge Infrastructure Systems Pvt. Ltd. informed that it had not entered into power trading contract in the State of Maharashtra using the Intra-State Trading Licence granted by the Commission and no Intra-State Trading transactions would be undertaken under this Licence and therefore it is surrendering the Trading Licence granted to it.

6. Knowledge Infrastructure Systems Pvt. Ltd. was asked to submit its Licence surrender request on affidavit indicating whether it has any outstanding liability. Accordingly, on 28 August, 2017, Knowledge Infrastructure Systems Pvt. Ltd. submitted its Licence surrender request on affidavit confirming that it does not have any outstanding liability towards any party on account of the Licence being surrendered, and that no recovery is pending.
7. There was no response from the other two Licensees viz. 21st Infrastructure India (Pvt.) Ltd. and D. M. Corporation Pvt. Ltd., on the Show-Cause notice issued by the Commission.
8. In order to provide 21st Infrastructure India (Pvt.) Ltd. and D. M. Corporation Pvt. Ltd., an opportunity for hearing before revocation of their respective Licences, hearing was scheduled on 6 December, 2017 in the Office of the Commission. However, no representative of 21st Infrastructure India (Pvt.) Ltd. and D. M. Corporation Pvt. Ltd. appeared at the hearing.

Commissions' Analysis and Ruling

A) Knowledge Infrastructure Systems Pvt. Ltd.:-

9. **The Commission notes that Knowledge Infrastructure Systems Pvt. Ltd. has not conducted any trading activity under its Trading Licence. When Office of the Commission followed up with the Licensee for payment of Annual Licence Fees for FY 2017-18, it informed that it will not be utilizing the Intra-State Trading Licence granted by the Commission for undertaking any Intra-State trading transaction. Vide its affidavit dated 28 August, 2017, it has sought to surrender its Licence. It has also confirmed that it does not have any outstanding liability towards any party on account of the Licence being surrendered, and that no recovery is pending.**
10. **Section 19(2) of the EA, 2003 reads as follows:**

“Where in its opinion the public interest so requires, the Appropriate Commission may, on application, or with the consent of the licensee, revoke his licence as to the whole or any part of his area of distribution or transmission or trading upon such terms and conditions as it thinks fit.”
11. **In view of the above, the Commission hereby accepts the request of Knowledge Infrastructure Systems Pvt. Ltd. to surrender its Trading Licence No. 2 of 2011 granted to it on 2 September, 2011.**
12. **On the issue of payment of Annual Licence Fees, the Commission notes that the Trading Licensees, under the old MERC (Fees and Charges) Regulations, 2004 were required to pay the Annual Licence Fees which was linked to revenue from sale of electricity. Knowledge Infrastructure Systems Pvt. Ltd. has submitted that it has not undertaken any trading transaction till date. As such, it is not entitled for Annual Licence Fees under the old Regulations. However, the Commission notified MERC (Fees and Charges) Regulations, 2017 on 6 April, 2017 which**

mandates Annual Licence Fees to be paid for each year in advance at the commencement of the year as per Sr. No. 3(iii) of Schedule in the Regulations. The relevant extract of MERC (Fees and Charges) Regulations, 2017 is as follows:

“3.

(iii) Trading Licence Fee

.....

e) the Annual Licence Fee payable by a Trading Licensee shall be computed based on the revenue from the sale of electricity as shown in the Audited Accounts of the financial year prior to the last financial year;

.....0.02 per cent of revenues, excluding taxes and duties, from the sale of electricity (rounded off to the nearest one hundred rupees), subject to a minimum of Rs. 2,00,000 and a maximum of Rs.5,00,000

.....Trading Licensees shall pay the Annual Licence Fee for FY 2017-18 by 30th April, 2017, and Transmission Licensees by 10th June, 2017; ”

However, the Licensee has not paid any Annual Licence Fees for FY 2017-18. According to the Regulations, as there was transaction, it was required to pay minimum Annual Licence Fees of Rs. 2,00,000 (Rs. Two Lakhs).

13. Knowledge Infrastructure Systems Pvt. Ltd. was holding Trading Licence as on 1 April, 2017 and still holding the same till the date of issuance of this Order. Thus it is required to pay Annual Licence Fees of Rs. 2 Lakhs although it sought to surrender its Trading Licence. The Commission therefore directs Knowledge Infrastructure Systems Pvt. Ltd. to pay the Annual Licence Fees for FY 2017-18 based on the Regulations mentioned above alongwith the delayed payment charges. The fees shall be paid within one month of this Order, failing which the appropriate action for recovery of payment shall be initiated against Knowledge Infrastructure Systems Pvt. Ltd. in accordance with Law.

B] NTS Power:

14. NTS Power has requested the Commission not to revoke its Licence. NTS Power stated that it had received Short Term Open Access permissions for the February and March, 2017 from MSEDCL. The Commission notes that these STOA permissions are for 1.5 MVA load with M/s. Poona Health Services Pvt. Ltd. being the injecting entity and M/s. Kamath Hotel India Ltd. as the consumer. The Commission notes that M/s. Kamath Hotel India Ltd. has been actually supplied power by NTS power under open access during this period. Thus, NTS Power has commenced the trading business. It is also observed that NTS Power has paid the Annual Licence Fees for FY 2017-18. Accordingly, the Commission discharges the show cause notice issued to NTS Power. The Commission directs NTS Power to adhere to the conditions of Licence granted to it and also the MERC (Trading Licence Conditions) Regulations, 2004 and its subsequent amendments. The

compliance of the Licence Conditions and Trading Regulations by NTS Power shall be reviewed by the Commission at appropriate time interval.

C] 21st Century Infrastructure (India) Pvt. Ltd. and

D] D. M. Corporation Pvt. Ltd.

15. Other two Trading Licensees viz. (i) 21st Century Infrastructure (India) Pvt. Ltd. and (ii) D. M. Corporation Pvt. Ltd., did not submit any response to the Commission's Show-Cause Notice. Therefore, the issue of non-compliance by these two Trading Licensees is being dealt in accordance with the Trading Licence Regulations and relevant provisions of EA, 2003.
16. The MERC (Trading Licence Conditions) Regulations, 2004 require a Trading Licensee to submit quarterly reports of its trading transactions to the Commission. No such quarterly reports have been submitted by 21st Century Infrastructure (India) Pvt. Ltd. and D. M. Corporation Pvt. Ltd.
17. 21st Century Infrastructure (India) Pvt. Ltd. and D. M. Corporation Pvt. Ltd. had not reported to the Commission any issue affecting their ability to trade, as envisaged under Regulation 16.2(b). This requirement is also reflected in Clause 5.2 of the Licences. Admittedly, these two Trading Licensees have not undertaken any trading activity.
18. These two Licensees have, therefore, been consistently in breach of Regulation 16.1(j) which requires that

“The Electricity Trader shall not omit or neglect to undertake the Licensed Business for four consecutive quarters;...”
19. Vide Order dated 8 February, 2017, the Commission issued notice under Section 19(3) of the EA, 2003 to these Licensees to show cause within three months why their Licences should not be revoked. 21st Century Infrastructure (India) Pvt. Ltd. and D. M. Corporation Pvt. Ltd. have not responded to the show cause Notice.
20. In order to provide these Licensees, an opportunity for hearing before revocation of their respective Licences, hearing was scheduled on 6 December, 2017 in the Office of the Commission. However, no representative of 21st Infrastructure India (Pvt.) Ltd. and D. M. Corporation Pvt. Ltd. appeared at the hearing.
21. In view of their prolonged breaches of the provisions of the MERC (Trading Licence Conditions) Regulations, 2004 and the conditions of their Licences, and their non-compliance of the Commission's directions, as set out above, the Commission hereby revokes the Licence granted to 21st Century Infrastructure (India) Pvt. Ltd. (Licence No. 3/2011 dated 15.12.2011) and D.M. Corporation Pvt. Ltd. (Licence No. 1/2013 dated 25.11.2013) from the date of this Order.
22. As regards the payment of Annual Licence Fees for FY 2017-18, the Commission notes that as on 1 April, 2017, both these Licensees were holding their respective


Licences. Accordingly, the directions at para. 13 above, would equally be applicable to 21st Century Infrastructure (India) Pvt. Ltd. and D. M. Corporation Pvt. Ltd. These Trading Licensees are therefore directed to pay the Annual Licence Fees for FY 2017-18 alongwith delayed payment charges within one month of this Order, failing which the appropriate action for recovery of payment shall be initiated in accordance with Law.

23. The Secretariat of the Commission shall intimate the Government of Maharashtra (Energy Deptt.), the Maharashtra State Load Despatch Centre, and all Transmission and Distribution Licensees in Maharashtra of the cancellation of Intra-State Trading Licences of 21st Century Infrastructure (India) Pvt. Ltd., D. M. Corporation Pvt. Ltd. and Knowledge Infrastructure Systems Pvt. Ltd.

Case No.142 of 2017 stands disposed of accordingly.

Sd/-
(Deepak Lad)
Member

Sd/-
(Anand B. Kulkarni)
Chairperson


(Ashwani Kumar Sinha)
Secretary

