

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 35 of 2010

In the matter of
Application of M/s. NTS Power for grant of licence in accordance with the
MERC (Trading License Conditions) Regulations, 2004

Shri V. P. Raja, Chairman
Shri Vijay. L. Sonavane, Member

M/s. NTS Power

.....Applicant

ORDER

Dated: May 4, 2011

M/s. NTS Power (“NTS or the applicant”) vide their letter dated June 19, 2010 submitted an application, in accordance with the MERC (Trading Licence Conditions) Regulations, 2004, for grant of License, in order to undertake intra-State trading of electricity, for 20 MU for the first year and gradually increase to 100 MU over a period of five years, in the State of Maharashtra.

M/s. NTS Power is a proprietary firm promoted by Shri. Satendra B Navalakha who is qualified Chartered Accountant, FCA and is in business for the last 30 years having diversified activities including generating power from Renewable Energy Resources as submitted by the Applicant.

2. NTS submitted the following documents along with their Application:

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- a. Asset & Liability Statement of Mr. S.B Navalakha as on 31 March ,2009 duly certified by Shri Pankaj Modani ,Chartered Accountant;
 - b. Names, particulars and experience of the promoter of NTS and of persons holding key managerial positions in NTS;
 - c. Income-Tax Return for Assessment years 2008-09 and 2009-10 of Shri. Satendra B Navalakha with acknowledgement from Income Tax office.
3. Based on the legal scrutiny the Application was found deficient, and the same was communicated to the Applicant vide MERC letter no. MERC/LEGAL/New Appln/2010/834 dated July 27, 2010 directing the Applicant to file a Petition as per Form II of MERC (Conduct of Business) Regulations, 2004, within two weeks of the issue of the letter. The deficiency was rectified by the Applicant vide letter dated August 6, 2010.
4. Further, based on preliminary scrutiny of the application in accordance with Regulation 6.1 of the MERC (Trading Licence Conditions) Regulations, 2004, the Commission vide its letter dated September 14,2010 directed NTS to submit the following information:
- a. The Networth Certificate in original certifying the Networth of the promoter as the Applicant is a Proprietary firm;
 - b. Income-Tax Return for the Assessment year 2007-08 and the supporting Statement of Income for a period of three Assessment years(from 2007-08 to 2009-10);
 - c. Specify the 'Category of License' applied for as mentioned in the Regulations 2004, Chapter II, para 5.4 in order to ascertain the Networth requirements.

NTS was directed to remove the aforesaid deficiencies/defects pertaining to its application seeking trading license, so that the procedure for publication of notice, as referred to in Section 15(2) of the Electricity Act, 2003 ("EA 2003") read with Regulation 7 of the MERC (Trading License Conditions) Regulations, 2004, could be complied with.

5. NTS submitted the following additional information on September 21, 2010:



- a. The original Networth Certificate, certified by the Chartered Accountant Shri Pankaj Modani stating the networth of the Shri Satendra B. Navalakha to be Rs.15,58,20,858/- as on March 31,2009.*(Rupees Fifteen crores, fifty-eight lakhs, twenty thousand, eight hundred and fifty-eight)*
 - b. Copies of Income-Tax returns for the AY 2007-08 to 2009-10 alongwith the Statement of Income;
 - c. Specified the 'Category of License' applied for as Category A;
6. The Commission vide its letter dated October 5, 2010, directed NTS to comply with the procedure of publication of notice in accordance with Section 15(2) of EA, 2003 read with Regulation 7 of the MERC (Trading Licence Conditions) Regulations, 2004 and submit the proof of compliance to the Commission alongwith copy of the notice so published.
7. Thereafter, NTS vide its letter dated October 19, 2010 received on October 22, 2010, submitted, the proof of publication of the notice of its application seeking license, in two English newspapers, viz., The Financial Express, The Free Press Journal and two Marathi language newspapers, viz., Prabhat (Pune edition), Navshakti (in circulation in Maharashtra- Kokan), both dated October 13, 2010. In response to the public notices, no objections were received.
8. Based on the details furnished by the applicant, it was established that the applicant had the required net worth at the time of making of the application. Accordingly, the applicant *prima facie* qualified for grant of licence for intra-State trading in electricity as a category 'A' electricity trader. On the above considerations, the Commission had proposed to grant licence to the applicant for Category 'A'. Subsequently, the Commission in pursuance of clause (a) of sub-section (5) of Section 15 of the EA 2003 issued the Public Notice on December 5, 2010 inviting the suggestions and objections, to the proposal to grant the trading licence to NTS for intra-State trading of electricity in the State of Maharashtra. Except, Shri Manish Desmukh who vide his email dated December 7,2010 raised an objection with the Commission ,regarding the details of the Application of M/s. NTS Power not being available on the website for general public viewing, no other objections were received in response to the public notices. The copy of the Application



and the corresponding Annexures were already uploaded on the Commission's website (www.mercindia.org.in). A Corrigendum to Public Notice was issued by the Commission in the Times of India and the Sakal (Nagar edition) on December 10, 2010 informing the public at large that in addition to the website of the Applicant (www.navalakhagroup.com) a copy of the Petition along with its Annexures and enclosures would also be available on the Commission website (www.mercindia.org.in).

9. The Public Hearing in the matter was held on January 4, 2010 at the Commission's office to take up the Application of NTS Power seeking intra-state trading licence. Shri. Satendra B. Navalakha appeared for NTS. The Commission enquired about the background of the Applicant and asked him to briefly explain his role in the business. The Applicant submitted that he was a Chartered Accountant involved in many kinds of businesses, in the capacity of a partner in the firm. Further the Commission enquired about the nature of the various businesses of the Applicant. The Applicant submitted, that he was involved in the business of wind power generation, cultivation & export of fruits and flowers and providing infrastructure to wind manufacturers and others. He also submitted that no objection or suggestion has been filed in regard to the said application, with him. The Commission directed the Applicant to provide the full and detailed disclosure of all the Firms/Companies and business activities in which he is involved, along with the respective Income Tax Clearance Certificates.

10. NTS vide its letter SBN/NTS/2010-11/05 and 06 submitted the requisite details of all the businesses, viz. M/s.Navalakha Translines, M/s.Nav Gases & Chemicals, M/s.T S Wind Power Developers, M/s.Navalakha Constructions Pvt. Ltd, M/s.S B Navalakha Associates and M/s. Indrayani Flora as directed by the Commission.

11. On examination of NTS's application for grant of intra-State Trading License in the State of Maharashtra and additional information submitted by NTS in accordance with the provisions of MERC (Trading Licence Conditions) Regulations, 2004, observations and findings are made in the following paragraphs:

12. Regulation 5 of MERC (Trading License Conditions) Regulations, 2004 specifies the following eligibility criteria with respect to Technical requirement, capital adequacy requirement and creditworthiness:



“A. Technical Requirement

5.2 The applicant shall have not less than one full-time professional having experience in each of the following disciplines, namely:-

- (a) power system operations and commercial aspects of power transfer;*
- (b) finance, commerce and accounts*

Provided that the technical requirement of staff shall be complied with before undertaking the Licensed Business notwithstanding the fact that the Commission has granted the licence.

5.3 The applicant shall furnish to the Commission the details of the professional and supporting staff engaged by him on full time basis before undertaking the Licensed Business

NTS, in its Application, has submitted details of key persons of the organization, i.e., the Chief Executive Officer, Manager Administration and Manager Accounts who would manage the commercial, regulatory, administrative and other matters of the firm.

Based on brief resumes of the key persons provided along with the application, it is observed that the application submitted by NTS meets the technical requirement laid down under Regulation 5.2 of the MERC (Trading License Conditions) Regulations, 2004.

B. Capital Adequacy and Credit Worthiness Requirement

As per Regulation 5.4 of MERC (Trading License) Regulations, 2004, the Net worth of the applicant for Category A license shall not be less than Rs 1.50 Crore for trading of upto 100 MU per annum. Further, the Net Worth in MERC (Trading Licence Conditions) Regulations, 2004 is defined as follows:

“Net worth means, in the case of an individual or body of individuals, the sum total of cash, bank balances and market value of investments in listed securities as reduced by the amount of any loans and liabilities owing to any person, and, in case of any other person, the sum total of paid up share capital, share premium and such of the reserves as are eligible for distribution as dividend”

The Commission is of the view that, as NTS is a Proprietary firm, the criteria of Net Worth as applicable to any other person shall be applicable in this case. Thus, the Net-worth of the Proprietor Shri Satendra B. Navalakha has been considered as the sum of net investments and the net value of fixed assets owned by him. The net investment



component comprises of sum of investment in listed shares ,investments in other Partnership firms, balances of Capital accounts and other investments at cost like PPF, NSC and others as reduced by the amount of margin.

NTS along with its application received on September 21, 2010, submitted the Net worth Certificate from Chartered Accountant Shri Pankaj Modani, certifying the Net worth of Shri Satendra B. Navalakha, proprietor of NTS as on March 31, 2009 as Rs 15.58 Crore.

13. As per Regulation 7.1 of MERC (Trading License) Regulations, 2004 the Applicant is required to publish a notice of his application for grant of licence in not less than two daily English language and two daily Marathi language newspapers in the proposed area of trading.

NTS complied with the requirement of Regulation 7.1 of MERC (Trading License) Regulations, 2004 by publishing the notice of his application in the English language newspaper viz. The Financial Express (Pune) and Free Press Journal(Mumbai newspapers and the Marathi language newspaper viz. Prabhat (Pune) and Navashakti in the October 13,2010 edition. In response to the public notices, only one objection was received which as aforesaid was addressed.

14. The Commission is of the view that NTS, the Applicant, has submitted before the Commission all requisite information in accordance with MERC (Trading License Conditions) Regulations, 2004. The Applicant has also submitted an undertaking that no cases/litigation are pending against NTS and its proprietor.

The Commission has carried out a detailed analysis of the eligibility of the Applicant as against the technical requirement, capital adequacy and creditworthiness pursuant to the provisions under Section 52 of the EA 2003 and MERC (Trading License Conditions) Regulations, 2004 duly amended from time to time. Having considered the material placed on record, the Commission is of the view that the Applicant satisfies the technical, commercial and financial requirements to qualify for the grant of licence to undertake intra- State trading in accordance with MERC (Trading License Conditions) Regulations, 2004.

15. In view of the above, the Commission hereby grants licence to M/s NTS Power for undertaking intra-State trading of electricity upto 100 Million kWh per annum in the State



of Maharashtra for a period of Twenty Five (25) years as specified under sub-section (8) of Section 15 of the Act.

Further, as the Applicant has submitted a trading plan for undertaking trading less than 100 MU per year in the first two years and 100 MU for the next four years and as the license is being granted for a period of twenty five years to trade upto 100 MU electricity on an annual basis, until or unless revoked earlier, NTS should also submit the detailed trading plans before the end of every fifth year for the subsequent five years.

16. Accordingly, the Commission directs that the Applicant be issued the license for Intra-State trading as a Category “A” trader within the State of Maharashtra and a copy of the same be forwarded to Government of Maharashtra, all electricity transmission and distribution utilities in the State of Maharashtra and a copy be posted on the website of the Commission. The grant of license shall be subject to the Applicant complying with the provisions of the EA 2003, the rules framed by the Appropriate Government and regulations as specified by the Commission from time to time in all respects. NTS shall abide by such trading margin, as the Commission may decide to fix under Section 86(1)(j) of the EA 2003 for Intra-State trading transactions in the State of Maharashtra. NTS shall not engage in any trading transaction which would be detrimental to the interests of the electricity consumers in the State of Maharashtra.

With the above, Case No. 35 of 2010 stands disposed of.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman



(K. N. Khawarey)
Secretary, MERC

