

**JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION
RANCHI**

FORM OF PROCEEDING

Case No. 13 of 2012

M/s Manikaran Power Trading Ltd. Applicant

Sl. No.	Date of proceeding	Proceedings of the Commission with signature	Office action taken with date
1	2	3	4
	12.10.2012	<p style="text-align: center;"><u>ORDER</u></p> <p>M/s Manikaran Power Trading Ltd. filed an application under Sec. 14 of the Electricity Act, 2003 on 28.06.2012 for grant of Distribution License for the district of Ranchi. The Commission scrutinized the application and found numerous discrepancies which have been listed in its order dated 16.07.2012 and communicated to the applicant. In the meanwhile, the applicant was also directed to publish a notice in English and Hindi news papers inviting suggestions/comments/objections from the public on its petition. The applicant filed its reply to the discrepancies pointed out by the Commission. Again some discrepancies were noticed and the same were communicated to the applicant vide order dated 04.08.2012. The petitioner filed its reply to the additional discrepancies pointed out by the Commission and thereafter a notice for public hearing was issued. The public hearing took place on 15.09.2012 in Commission's office in which 34 stakeholders including the representatives of the Jharkhand State</p>	

Electricity Board-the present licensee, the representative of the Jharkhand Small Industry Association and the representatives from Jharkhand Chamber of Commerce & Industry were present. The representatives of the applicant made a presentation of its application. The objections raised by the stakeholders were communicated to the applicant who has filed its reply.

Before dealing with the objections/comments/suggestions raised by various stakeholders and discussion on the merits of the application for grant of license under Sec. 14, we deemed it appropriate to refer to Sec. 14 of the Electricity Act 2003.

Relevant portion of which is reproduce below:

“14. Grant of Licence - The Appropriate Commission may, on application made to it under section 15, grant a licence to any person -

- a. to transmit electricity as a transmission licensee; or***
- b. to distribute electricity as a distribution licensee; or***
- c. to undertake trading in electricity as an electricity trader,***

in any area which may be specified in the licence:

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Provided also that the Appropriate Commission may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the conditions that the applicant for grant of licence within the same area, shall, without prejudice to the other conditions or requirements under this Act, comply with the additional requirements [(relating to the capital adequacy, credit-worthiness or code of conduct)] as may be prescribed by the Central Government, and no such applicant, who complies with all the requirements for grant of licence, shall be refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose:”

As stated earlier Jharkhand State Electricity Board is already distributing electricity not only in the district of Ranchi, rather throughout the State of Jharkhand. The applicant is seeking for a parallel license for distribution of electricity in the entire district of Ranchi. The aforesaid proviso to Sec. 14 of the Electricity Act, 2003 surely provides that a parallel license may be granted subject to the conditions which the applicant has to fulfill. These conditions include Capital Adequacy, Creditworthiness or Code of Conduct as may be prescribed by the Central Govt. The Central Govt. in exercise of its powers has notified Distribution of Electricity License (Additional Requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005 on 23rd March 2005. The Commission has also notified JSERC (Distribution License Conditions) Regulations, 2005, vide gazette notification dated 5th July 2005 in which various terms & conditions necessary for the applicant have been specified. Also, the format of the application for such license has been prescribed in the schedule (I) of the said Regulations.

Coming to the objections raised by the objectors, one of the point was that the company is new and has no experience in this sector. A perusal of the information supplied by the applicant through the application shows that it was incorporated on 9th July 2010 and has done no business in the distribution of electricity sector as yet. The applicant agreed that they don't have any experience in the distribution of electricity field but added that they have enough expertise to handle the electricity distribution business. It is a fact that the applicant is incorporated as a company on 9th July 2010. It is also a fact, as admitted by the applicant itself, that it does

not have any experience in the field of distribution of electricity. So the objection raised by the objectors is valid as far as experience in the distribution of electricity is concerned. Moreover, the applicant was required to file three years accounting statements together with auditors reports. Since the applicant's company is registered only in July 2010, it has not completed three years. The words used in the application Form which is given in schedule (I) of the JSERC (Distribution License Condition) Regulations, 2005 are “ *most recent three year of accounting statements together with auditors reports; if any*”. That means the operational period of the company has to be three years or more. Admittedly the applicant has not yet completed three years period of its operation.

The distribution of electricity license (Additional Requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005 also require an undertaking from the applicant stating therein that within the last three years from the date of application for grant of license, the applicant has not been found guilty or has not been disqualified under various provisions of different laws mentioned in the said Code of Conduct. This again shows that the operations of the company on the date of the application for the license must have at least completed three years. But as discussed above, this condition is not fulfilled by the applicant.

Another objection raised by the objectors was that the applicant is not financially sound and as such would not in a position to run the business of electricity distribution. The applicant argued that company is financially very sound and if the license is granted, it would muster enough resources to build the required infrastructure and run the electricity

	<p>distribution business efficiently. Financial viability of a company is of paramount importance for the smooth business of a company. From a perusal of the application as well as from the information supplied later on in response to the queries raised by the Commission, the assertion of the applicant on the soundness of finances does not seem to be holding good. We do not understand as to why the applicant transferred Rs. 50 Lakh to third party as loans and advances even before the receipt of Certificate of Commencement of Business from Registrar of Companies, West Bengal. We also do not understand as to why the applicant has given Rs. 12.90 Crs. to various parties as capital advances without any interest. What is meant by capital advances has not been explained by the applicant and why it was given out of share application money even before allotment of share capital is not understandable to us. Moreover, the applicant has incurred losses during the financial year 2010-11 and 2011-12. When the applicant has no revenue, then why the share application money was not invested in the bank deposits or elsewhere which could have earned the applicant at least some interest. Instead of this, the applicant preferred to give unsecured loans (as capital advances) to various parties free of interest. The certificate from State Bank of India – Commercial Branch, Ranchi is vague, ambiguous and in our considered opinion, such a certificate can not be treated as a firm assurance for 70% loan for the proposed business. Further it is surprising as to how the applicant has received share application money during the period from 20.07.2010 to 30.03.2011 when its authorized capital was increased only on 28.12.2011. Prima facie all these transactions, in our opinion, do not fit in the basic principles of sound</p>	
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financial management.

Regarding the technical and other informations, the applicant is supposed to give the information about the manpower available in respect of operation and maintenance, projects, commercial, finance and HR functions. The information supplied by the applicant shows that he has only two functionaries from the field of electricity. One of them is designated as Chief General Manager and another is designated as Manager (Marketing) . In the district of Ranchi where the total population is 29,12,022 covering 3,58,828 households and 3,24,218 consumers of all categories in an area of 7974 Sq. Kms. only two specialist in the field of electricity are available with the applicant . In our view, such a vast number of consumers spread over in the capital town of Ranchi and far-flung rural areas cannot be managed by two technical persons. No manpower planning catering to the expanding network and increasing number of consumers has been submitted by the applicant. The applicant was supposed to give the population of Schedule Castes and Schedule Tribes, population of BPL and their households, number of urban households and rural households, information on the number of urban and rural households electrified but no such information is provided in the application. Moreover, the statement describing any land or assets, which the applicant proposes to acquire for the purposes of license and the means of such acquisition have also not been provided in the application. The applicant was expected to submit its investment plan and network role out plan for the next five years detailing year-wise and area-wise plan of the distribution system with the resultant efficiency improved targets year-wise. Information of investment plan and

network role plan (though not complete) has been given but the other details are missing.

Further more from the pre-feasibility report of the proposed distribution network for Ranchi, as submitted by the applicant, we understand that the applicant will start distribution network from Namkom and Kokar area. But after that which of the other areas year-wise including urban and rural will be taken up for expansion of distribution network has not been explained by the applicant. A licensee is expected to cover its entire licensed area within a period of five years and that's why the information in the application was asked about the business plan of five years. The applicant has failed to provide the detailed network expansion plan. About the consumers also, the information given by the applicant shows that in first year it would cover 70% industrial, 20% domestic, 7% commercial and 3% utilities. Next year this percentage changes to 65%, 25%, 7% and 3% respectively and in the fifth year this ratio of consumers is shown as 45%, 45%, 7% and 3%. In other words the applicant's main focus seems to be the "*Creamy Layer*" consumers. What will happen to other consumers and universal service obligations in its licensed area has not been explained . Secondly, the applicant was expected to give the category wise consumers numbers along with their connected load and not the percentage. Here also, it seems to us that proper home work has not been done.

We are aware about network of the JSEB-the present licensee in the district of Ranchi. There are 3 grid sub-stations, 44 sub-stations, 914 Kms of 33 KV lines, 5235 Kms of 11 KV lines and 61819 Kms of LT lines and 5265 consumer distribution transformer. This huge infrastructure is worth

of Rs. 1500 Crs. Even if the applicant is supposed to have one third of the JSEB's network, he will require Rs.500 Crs.. But the applicant has worked out an investment in infrastructure to the tune of around Rs. 34 Crs. Taking into consideration today's market prices of equipments and materials required for distribution network, in Rs.34 Crs. no worthwhile infrastructure can be created.

The applicant was expected to disclose about power procurement plan with the details of generating and trading companies from which power purchase has been planned along with the PPA & MoU and details of points of power injection and power withdrawals from transmission system and availability of transmission capacity for the same. But from the information which has been supplied by the applicant, there is no mention of PPA with any generating or trading companies. The applicant says that in case the license is granted to it , it will draw power from transmission system of the JSEB at Namkom, but has not made efforts to find out the transmission capacity of JSEB system. From all these, it seems to us that there is hardly any technical and other relevant informations on record, which can lead us to conclude that the applicant is competent to run the electricity distribution business. This was one of the major concerns of the objectors during the course of public hearing also and from the above discussion, their apprehensions, to our mind, are well founded. Lack of vital information in the application shows that the applicant has not done its ground work properly and unless the proper ground work is done, no worthwhile planning can be done in any business.

The JSEB-the present licensee, in additions to the objections

discussed in the for going paragraphs, also pointed out that distribution business of Ranchi circle is going to a franchisee and as such if a parallel license is given, their business and that of the franchisee, will be adversely affected. The Jharkhand State Electricity Board may be right in putting forward such an argument from their point of view, but the Commission feels that the law provides for a parallel license if an applicant is found suitable for it. The objection of licensee-JSEB on this count is not tenable.

In view of the above discussion, we feel that from all angles i.e Capital Adequacy, Creditworthiness, Code of Conduct, technical expertise etc. the applicant does not qualify for issuance of electricity distribution license and as such the application is rejected.

The JSERC (Distribution License Condition) Regulations, 2005 (Regulation No. 10.1) provides that the Commission shall, as far practicable, within 90 days of filing of the application grant or refuse the license. The application could not be disposed of within 90 days because of the all India Conference of Forum of Indian Regulators (FOIR) held at Ranchi from 4th Oct. to 6th Oct. 2010.

Let a copy of this order be sent to the applicant through the secretary of the Commission .

Sd/-
Member (Engg.)

Sd/-
Chairperson