

MAHARASHTRA ELECTRICITY REGULATORY COMMISSION

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Maharashtra Electricity Regulatory Commission (Specific Conditions of Distribution Licence applicable to M/s. Serene Properties Private Limited (SPPL) for the IT/ITES SEZ at Airoli, Thane) (First Amendment) Regulations, 2016

STATEMENT OF REASONS

Date: 16 August, 2016

M/s. Mindspace Business Parks Private Limited (MBPPL) (formerly M/s. Serene Properties Pvt. Ltd.), had filed a Petition in Case No. 152 of 2015 for amendment of the MERC (Specific Conditions of Distribution Licence applicable to M/s. Serene Properties Pvt. Ltd. for the SEZ at Airoli, Thane) Regulations, 2013 due to the change in its name from M/s. Serene Properties Pvt. Ltd. (SPPL) to M/s. Mindspace Business Parks Pvt. Ltd.

Vide Order dated 16 May, 2016, the Commission allowed the Petition in principle and stated that the process of amending these Regulations to the extent of the change of name of SPPL to MBPPL shall be undertaken separately.

Accordingly, a Public Notice inviting suggestions and objections on the draft Maharashtra Electricity Regulatory Commission (Specific Conditions of Distribution Licence applicable to M/s. Serene Properties Private Limited (SPPL) for the IT/ITES SEZ at Airoli, Thane) (First Amendment) Regulations, 2016 incorporating the change in name of SPPL to MBPPL was published in daily newspapers (Times of India, Indian Express, Maharashtra Times and Lokmat) on 6 June, 2016, and the draft Regulations were made available on the Commission's websites. The last date for receipt of comments was 6 July, 2016.

In response, comments have been received from Shri Rakshpal Abrol of Bharatiya Udhami Avam Upbhokta Sangh. Shri Abrol has stated that the Distribution Licensee has not taken prior approval of the Commission as required under Section 17 of the Electricity Act, 2003 (EA, 2003). Issue of fresh Registration under the Companies Act does not empower grant of Licence under Section 14 of the EA, 2003 and Specific Conditions under Section 16.

Analysis and Commission's Decision

Section 17 of EA, 2003 reads as follows:-

“ Section 17. (Licensee not to do certain things): ---

(1) No licensee shall, without prior approval of the Appropriate Commission, -

(a) undertake any transaction to acquire by purchase or takeover or otherwise, the utility of any other licensee; or

(b) merge his utility with the utility of any other licensee:

Provided that nothing contained in this sub-section shall apply if the utility of the licensee is situate in a State other than the State in which the utility referred to in clause (a) or clause (b) is situate.

(2) Every licensee shall, before obtaining the approval under sub-section (1), give not less than one month's notice to every other licensee who transmits or distributes, electricity in the area of such licensee who applies for such approval.

(3) No licensee shall at any time assign his licence or transfer his utility, or any part thereof, by sale, lease, exchange or otherwise without the prior approval of the Appropriate Commission.

(4) Any agreement, relating to any transaction specified in sub-section (1) or sub-section (3), unless made with the prior approval of the Appropriate Commission, shall be void.”

The present matter is not regarding acquisition, takeover or sale of the Utility or assignment of Licence. It is a matter of change of name from SPPL to MBPPL. The Registrar of Companies has issued a fresh Certificate of Incorporation for the change of name on 23 November, 2015 under Rule 29 of the Companies (Incorporation) Rules, 2014. As submitted by the Petitioner in its Petition, there is no change in ownership pattern or management of the Licensee.

Considering the above, the Commission is of the view that no change is required in the draft amendment to the Regulations, and it is finalised accordingly.

**Sd/-
Deepak Lad
Member**

**Sd/-
Azeez M. Khan
Member**