

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai – 400 005
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Case No. 33 of 2011

In the matter of
Petition of M/s. Ixora Construction Pvt. Ltd., Mumbai for issuing Specific Conditions
of Distribution Licence

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

M/s Ixora Construction Pvt Ltd.,
6th Floor, Sigma,
Central Avenue,
Hiranandani Business Park,
Powai, Mumbai 400 076.

..... Petitioner

For the Petitioner:

Shri. Sitesh Mukarjee, Advocate
Shri. Prashant Anvekar (Rep.)

ORDER

Date: 26 August, 2012

M/s. Ixora Construction Pvt. Ltd. (hereinafter referred to as “ICPL”) submitted a Petition under affidavit on 3 March 2011, under Section 14 (b) of the Electricity Act, 2003 (EA 2003) for seeking Specific Conditions of Distribution Licence under Section 181 (2) (d) of EA, 2003 read with the proviso to Section 16 of EA, 2003.

2. The Petitioner has prayed as follows in its petition:

“

- a) *ICPL requests the Hon'ble Commission to admit the present Petition filed in accordance with provisions of MERC (General Conditions of Distribution Licence) Regulations 2006 and Section 16 and clause (d) of sub-section 2 of Section 181 of EA 2003.*
- b) *Examine the proposals of the petitioner for a favorable dispensation.*
- c) *Issue Specific Conditions applicable to ICPL for Panvel SEZ Area.*
- d) *Condone any inadvertent omission/errors/shortcoming and permit ICPL to add/change/modify/alter this filing and make further submissions as may be required at a future date.”*

3. The Petitioner in its petition has submitted as follows:

- a. ICPL is a registered company set up in July 2006 under the Companies Act, 1956 having registered office at 514, Dalamal Towers, 211, FPJ marg, Nariman Point, Mumbai -400 021. ICPL is registered as a Co-developer of Special Economic Zone (“SEZ”) at Panvel by the name of “Hiranandani Palace Garden” which is being developed by Sunny Vista Realtor Pvt. Ltd.
- b. M/s, Sunny Vista Realtor Pvt. Ltd. has been notified as a ‘Developer’ by Ministry of Commerce & Industry, Government of India vide Notification No. S.O. 5151(E) dated 19 February 2009 for SEZ (hereinafter referred as “Panvel SEZ”) located at Village Talegaon & Panshil, Taluka- Kahalapur and Village- Bhokarpada, Taluka- Panvel in district Raigarh in State of Maharashtra.
- c. The Panvel SEZ area under development is a new (virgin) area i.e. at present no habitation exists. The Panvel SEZ will consist of Residential Complexes, Commercial complexes, Hotels, Hospitals, Schools and retail malls.
- d. Though the Panvel SEZ area also falls under MSEDCL Licence area, ICPL is the desirable distribution licensee for distribution of electricity to its consumers as per the notification issued by Ministry of Commerce under SEZ Act, 2005.
- e. ICPL had filed an application under Section 14 of EA, 2003 and Regulation 5 of MERC (General Conditions of Distribution Licence) Regulations, 2006 for grant of licence to distribute electricity in Panvel SEZ area in Case 142 of 2008. Ministry of Commerce & Industry (Department of Commerce), Government of India has issued a notification dated 3 March 2010 granting “deemed Distribution Licensee ” status to the SEZ developer. In the view of the said notification, the Commission in Case 142 of 2008 ruled that the purpose of filing application for grant of distribution

licence was served with said notification. However, the Commission also mentioned that ICPL has to abide by all applicable provisions of EA, 2003.

f. With the amendment in EA, 2003, ICPL is a deemed distribution licensee in Panvel SEZ area in State of Maharashtra.

g. ICPL understands that it has to comply with MERC (General Conditions of Distribution Licence) Regulations, 2006 and undertake all functions as envisaged in the EA 2003 for a distribution licensee. However, ICPL opines that for operationalisation of licenced activities for its licence area, similar to other distribution licensees in the State, specific conditions of licence needs to be issued to them.

h. Upon issuance of such specific conditions of licence, ICPL shall be governed by such license conditions for its operation of distribution and retail supply of electricity in the area specified therein.

4. The Commission, vide Notice dated 23 March 2011 fixed a hearing in the matter on 15 April, 2011 and directed the Petitioners to serve a copy of the Petition to the Authorized Consumer Representatives.

5. Shri. Sitesh Mukarjee, Advocate appeared on behalf of ICPL. During the hearing the ICPL submitted that as per the notification of the Ministry of Commerce, Government of India, dated 3 March 2010, ICPL qualifies as a deemed distribution licensee. Therefore, the Commission may issue the specific condition of licence as per MERC (General Conditions of Distribution Licence) Regulation, 2006.

6. After hearing the Petitioner, the Commission has observed that, under present scenario SEZs can broadly be classified into three (3) categories, viz. (i) SEZ areas where no habitation or Electrification done previously; (ii) SEZ areas where distribution lines of other Licensee are passing through and (iii) SEZ areas carved out from areas already electrified. The Commission further opined that the specific conditions of licensee shall consider above three categories of SEZ. Hence, the matter shall be studied by appointing Consultant for specifying the specific conditions of license in the SEZ areas. The Commission further directed that the matter shall be dealt with after the appointment of the Consultant.

7. The Commission vide letter dated 30 August 2011 appointed M/s. Electricity No Problem as a consultant for issuing draft specific conditions of licence. The M/s. Electricity No Problem has submitted the report and draft specific conditions of licence on 15 May 2012.

8. Next hearings in the matter were held on 21 May 2012 and 27 June 2012. During the hearing held on 27 June 2012, the ICPL made a presentation offering comments on the report and draft specific condition of licence as submitted by M/s. Electricity No Problem

and requested to issue specific conditions of distribution licence applicable to it. The Commission directed M/s. Electricity No Problem to submit the final draft specific conditions of licence. Accordingly, M/s. Electricity No Problem has submitted the final draft specific conditions of licence on 3 August 2012.

9. Having heard the Petitioner and after considering all the documents available on record, the Commission as per the request of ICPL notes that ICPL is the Deemed Distribution Licensee for the Panvel SEZ area, developed by M/S. Sony Vista Realtors Pvt. Ltd. as per the notification of the Ministry of Commerce, Government of India, dated 3 March 2010, read with the Section 14 (b) of the EA, 2003.

10. The Commission vide Order dated 24 May 2010 in Case 142 of 2008 already recognized Deemed Distribution Licensee status of ICPL as follows:-

“14. The main prayer made by the Applicant reads as follow:-

“(a) this Hon’ble Commission be pleased to admit the present Petition and issue distribution license to the Petitioner company for the area of supply in Panvel SEZ”

However, the purpose of the application of the applicant has been served by the notification issued by the Ministry of Commerce & Industry (Department of Commerce), Government of India on 3rd March, 2010 exempting Co-developers from obtaining distribution license. In view of the above, the present application seeking grant of distribution license requires to be dismissed as infructuous. ”

11. As regards, making specific conditions of Distribution Licence for the ICPL under Section 16 of the EA 2003, the same cannot be made under this Order as Section 16 of the EA 2003 requires specific conditions of license to be notified by regulations under Section 181. The matter of making specific conditions of licence is however under consideration of the Commission for which a separate process has been initiated. In the meanwhile, the ICPL will adhere to the following:-

A. The Electricity Act 2003;

B. Rule 5A of SEZ Rules, 2006 which provides as follows:

“5A. INFRASTRUCTURE REQUIREMENTS RELATING TO INFORMATION TECHNOLOGY

a)In case of a Special Economic Zone relating to information technology, the following facilities shall be ensured, namely:-

b)Twenty four hours uninterrupted power supply at stable frequency in the Zone;

c)Reliable connectivity for uninterrupted and secure data transmission;

d) Provision for central air-conditioning system; and

e) A ready to use, furnished plug and pay facility for end users”

C. The Regulations notified by the Commission from time to time including the following to the extent of their applicability :

- (1) Maharashtra Electricity Regulatory Commission (General Conditions of Distribution Licence) Regulations, 2006;
- (2) Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005
- (3) Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005;
- (4) Maharashtra Electricity Regulatory Commission (State Grid Code) Regulations, 2006;
- (5) Maharashtra Electricity Regulatory Commission (Fees and Charges) Regulations, 2004;
- (6) Maharashtra Electricity Regulatory Commission (Distribution Open Access) Regulations, 2005 as amended from time to time
- (7) Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006”.
- (8) Maharashtra Electricity Regulatory Commission (Multi Year Tariff) Regulations, 2011.

12. In view of the above, the Commission directs its Secretariat to initiate the process of previous publication of the aforesaid draft specific conditions of licence Regulations for the Petitioner.

With the above, Case No. 33 of 2011 stands disposed of.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman