

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 157 of 2011

In the matter of
Petition of Serene Properties Private Ltd for taking on record the Distribution Licensee status of the Petitioner for IT & ITES SEZ at Plot No. 3 Airoli, Kalwa TTC Industrial Area, MIDC, District Thane and for issuing the Specific Condition of Distribution Licence applicable to the Petitioner

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

M/s Serene Properties Pvt Ltd.,
Plot No. C-30, Block - 'G'
Opp. SIDBI, Bandra-Kurla Complex,
Bandra (East), Mumbai 400 051

..... Petitioner

Present during the hearings:

For the Petitioner: Shri. Viswas Dhumal (Rep.)

ORDER

Date: 11th April, 2012

Serene Properties Private Ltd, submitted a petition under affidavit on 04 November 2011, under Section 14 of the Electricity Act, 2003 and MERC (General Conditions of Distribution Licence) Regulations, 2006, for taking on record the Distribution Licensee status of the Petitioner, M/s. Serene Properties Private Limited for IT & ITES Special Economic Zone at Plot No. 3 Airoli, Kalwa TTC Industrial Area, MIDC, District Thane and for issuing the Specific Conditions of Distribution Licence applicable to the Petitioner.

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

“

a) To take on record the deemed distribution licensee status of the Petitioner, SPPL, under Section 14 the Electricity Act, 2003 in terms of the

notification dated March 3, 2010 issued by the Ministry of Commerce & Industry (Department of Commerce), Government of India.

- b) To issue a Specific Condition of Distribution Licence applicable to SPPL thereby specifying area of supply and period of Licence.*
- c) Condone any inadvertent omissions/errors/shortcomings and permit SPPL to add/change/modify/alter this filing and make further submissions as may be required at a future date*
- d) Pass such Orders as the Hon'ble Commission may deem fit in the facts of the present case."*

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

- a. The Petitioner Serene Properties Private Limited (SPPL) is registered as a private company under the Companies Act, 1956. The Petitioner, under Section 3 of the Special Economic Zones Act, 2005, is setting up a sector specific Special Economic Zone for Information Technology and Information Technology Enabled Services at Plot No. 3, Airoli, Kalwa Trance Thane Creek Industrial Area, MIDC, District Thane.
- b. The Central Govt. has granted letter of approval in the name of the Petitioner on 23rd October, 2006 under sub-section (10) of Section 3 of the SEZ Act for development, operation and maintenance of the SEZ for IT and IT enabled services at above mentioned area.
- c. The Petitioner, which has been notified as the Developer of the SEZ by the Ministry of Commerce and Industry (Department of Commerce), Govt. of India vide Notification No. S.O. 1876 (E) dated 2 November, 2007, is developing the said IT/ITES SEZ over an area of 19.34 hectares at Plot No. 3, Airoli, Kalwa Trance Thane Creek Industrial Area, MIDC, District Thane.
- d. The Ministry of Commerce & Industry (Department of Commerce), Government of India vide its Notification dated 3 March, 2010 issued under clause (b) of sub-section (1) of Section 49 of the Special Economic Zones Act, 2005, specified that the Developer of the SEZ is deemed to be a distribution licensee under the provisions of the Electricity Act 2003.
- e. With the amendment in the Electricity Act 2003, SPPL is a deemed distribution Licensee in the above mentioned SEZ area. It is prayed to take on record the deemed distribution licensee status of the Petitioner.

- f. The SEZ area under construction is a new area which also overlaps with the distribution licence area of Maharashtra State Electricity Distribution Company limited. The project consists of development of thirteen numbers of proposed buildings to accommodate Units related to IT and IT enabled services. The land acquisition and necessary statutory approvals have been received. Four numbers of buildings have been developed. Each building is supplied separately (under HT I – Industrial category) at 22 kV by MSEDCL.
- g. The consumer base of a typical distribution licensee would include diverse consumer categories, viz., residential, industrial, commercial, agriculture, public lighting, public works, railways, etc. The SEZs set up under the SEZ Act, 2005 are unlikely to include the entire consumer mix of a typical distribution licensee. The Petitioner is setting up a sector specific SEZ meant exclusively for IT and ITes, which is included under the industrial category by the MERC for tariff purpose. The SEZ area under development is of 19.34 hectares only. It does not have any other industrial, agricultural, domestic, Railways categories in its SEZ area. Therefore, the Petitioner, who is deemed distribution licensee, can be said to be a niche class of licensee.
- h. As per provisions of the Electricity Act 2003 and governing Regulations of MERC, it is required to comply with MERC (General Conditions of Distribution Licence) Regulations, 2006 and undertake all the functions as envisaged in the Electricity Act, 2003 and in the various Regulations framed by the Commission.
- i. For the Petitioner, electricity distribution business is not the main activity; it is only one of the support services extended to its customers under its main services. Presently, SPPL is under various stages of development of manpower for its electricity distribution business.
- j. As per Section 16 of the Electricity Act, 2003 the Commission is empowered to issue any General or Specific Conditions of Licensee to a Licensee or a class of Licensee and such conditions shall be deemed to be the Condition of such Licensee. The Petitioner further submitted that Regulation 8.16.2 of the MERC (General Conditions of Distribution License) Regulations, 2006 made under Section 16 read with clause (d) of sub-section (2) of Section 181 of EA 2003 provides for issuance of Specific Conditions applicable to a specific Distribution Licensee.
- k. The Petitioner has requested to specify the notified SEZ area as the “area of supply” in the Specific Conditions of Distribution Licence. Further, the Petitioner has requested to specify the period of licence as 25 years from 2nd November, 2007 (date of notification of SEZ) to 1st November, 2032.

4. The Commission, vide Notice dated 25 November, 2011 fixed a hearing in the matter on 29 December, 2011 and directed the Petitioners to serve a copy of the Petition on the Authorized Consumer Representatives.

5. During the hearing the Petitioner gave a presentation on their IT and ITES SEZ at Kalwa, detailing the SEZ status, Construction plan and Power supply provisions etc. During the hearing, the Commission directed the Petitioner to submit a Map of the said SEZ as registered and recorded with the relevant Government Authority viz MIDC/ District land record officer. In order to ensure that uninterrupted quality power is provided to the IT & ITES customer of the SEZ, the Commission directed the Petitioner to submit a report regarding the best practices followed across the globe on quality and reliability of power provided to IT & ITES offices.

6. In compliance to the above, on 21 February 2012 the Petitioner submitted a map of said SEZ area (19.34 hectares) certified by the Deputy Engineer, MIDC, Mahape. Regarding quality of power, the Petitioner submitted detailed report wherein it is mentioned as follows:

- a. The Commission had suggested conducting the visit to IT buildings located in Bangalore, etc.. Unfortunately, despite the Petitioners' best efforts, these Companies are not willing to share the data because of security and confidentiality concerns.
- b. The Petitioner has followed the project design Consultant's recommendations for executing the distribution infrastructure and the Consultant's knowledge base is based on its past experience. Based on this, the Petitioners are confident that the design features of the infrastructure being implemented at the said SEZ area will be in accordance with the best practices followed across the globe.
- c. To maintain the constant performance / track record, from the beginning itself, the Petitioner has ensured facilities dedicated to provide un-interrupted service to buildings occupying IT and ITes Offices. Among these main features are the following:
 - 24 x 7 x 365 power availability
 - Fail safe reliability and continuous monitoring
 - Power management
 - Earthing
 - Fire suspension and early warning smoke detection system.
- d. Major physical infrastructure considerations have been addressed at the design stage itself to ensure IT buildings are designed to meet the complex challenges facing IT & ITES companies setting up facilities in India.
- e. For reliability of power supply, the Petitioner has strived to provide state of the art distribution system which has the following features:

- Dual source breakers
- Double run HT Cables from incoming source to every building
- Ring Main Units
- Entire Underground cabling
- 100% redundant transformers
- 70% loaded transformers
- N+1 capacity of DG sets for 100% back up
- UPS for emergency services
- Chillers with N+1 Capacity
- Proper co-ordination between the equipments of reputed make.
- Round the clock personnel (dedicated) to carry out Operation and maintenance
- High quality and international brands of equipments are used.

f. In order to tackle power quality issues, the Petitioner has taken the following measures at the first place:

- On Load Tap Changer (OLTC) arrangement to automatically correct the voltage
- Transient voltage surge suppressors in distribution panels
- Automatic Power Factor Correction panels for PF improvements
- Optimum equipment sizing
- Earthing as per relevant standards

g. On the parameter of power quality (i.e. voltage and frequency), the Petitioner has taken every measure to control the voltage. As regards frequency, it is submitted that grid frequency depends on the overall demand-supply position of the entire grid.

7. Next hearing in the matter was held on 23 February 2012. During the hearing, the Petitioner briefed the Commission on the report submitted by it and requested to issue specific conditions of distribution licence applicable to it.

8. Having heard the Petitioner and after considering all the documents available on record, the Commission notes that Ministry of Commerce & Industries, Govt. of India vide its letter dated 23 October, 2006 accorded approval of setting up of sector specific Special Economic Zone for IT/ITES sector to be developed by M/s Serene Properties Private Limited (Petitioner) as a developer in Thane District.

9. Further, Ministry of Commerce and Industries, Govt. Of India vide its Gazette Notification dated 2 November 2007 notified the area developed by the Petitioner at Kalwa Trans Thane Creek Industrial Area, MIDC, Dist Thane as SEZ for Information Technology and Information Technology enabled services. The said Notification is reproduced below:

“ **S.O. 1876(E)** – Whereas M/s Seren Properties Private Limited, a Private Organisation in the State of Maharashtra, has proposed under Section 3 of the Special Economic Zone Act, 2005 (28 of 2005), hereinafter referred to as the said Act, to set up a sector specific Special Economic Zone for information technology and information technology enabled services at Kalwa Trans Thane Creek Industrial Area, MIDC, District Thane, in the State of Maharashtra;

And whereas, the central Government is satisfied that requirements under sub-section (8) of Section 3 of the said Act, and other related requirements are fulfilled and it has granted letter of approval under sub-section (10) of Section 3 of the said Act for development, operation and maintenance of the Special Economic Zone for information technology and information technology enabled services at the said Kalwa Trans Creek Industrial Area, MIDC, District Thane, in the State of Maharashtra on 23rd October, 2006;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 4 of the Special Economic Zones Act 2005, and in pursuance of rule 8 of the Special Economic Zones Rules, 2006, the Central Government hereby notifies the following area at Kalwa Trans Creek Industrial Area, MIDC, District Thane, in the State of Maharashtra, comprising of the Survey number and the are given below in the Table, as a Special Economic Zone:-

TABLE

Serial number	Plot Number	Area in hectares
1	3 (part)	19.34

10. The Petitioner has submitted a map showing boundaries of above said SEZ area (19.34 hectares) located Plot No. 3 (part), Kalwa, Trans Thane creek Industrial Area, MIDC, Dist. Thane certified by the Deputy Engineer, MIDC, Mahape.

11. The Commission also notes that in order to provide deemed licensee status to SEZ, Section 14 of the Electricity Act 2003 has been amended through notification dated 3 March 2010 issued under Special Economic Zones Act, 2005. The relevant part of the said notification is reproduced below:

“ In clause (b) of Section 14 of the Electricity Act, 2003 (36 of 2003), the following proviso shall be inserted, namely:-

“ Provided that the Developer of a Special Economic Zone notified under sub-section (1) of Section 4 of the Special Economic Zones Act 2005, shall be deemed to be a licensee for

the purpose of this clause, with effect from the date of notification of such Special Economic Zone”.

12. In view of the above notification, the Commission noted that the Petitioner M/s Serene Properties Private Limited who is a developer of sector specific Special Economic Zone for IT/ITES sector to be setup at Plot No. 3 (part), Kalwa, Trans Thane creek Industrial Area, MIDC, Dist. Thane, is a deemed Distribution Licensee under Section 14 of the Electricity Act 2003 for that SEZ area.

13. The Petitioner has prayed for issuing specific conditions of distribution licence. In terms of Central Govt Notification dated 3 March, 2010 issued under Section 49(1)(b) of the SEZ Act, 2005, the developer of a notified SEZ will be deemed to be a licensee to distribute electricity as a distribution licensee. Accordingly, Section 14(b) of the EA 2003 stands amended. Therefore, it is essential that conditions of licence should be notified under Section 16 of the Electricity Act, 2003 for the developer of a notified SEZ which is a deemed licensee. There could be general conditions of licence and / or specific conditions of licence under Section 16.

14. However, the Commission observes that conditions of licence needs to be specified under Section 16 of the Electricity Act 2003. The word “specified” has been defined under the Electricity Act 2003 as follows:

“ (62) “specified” means specified by regulations made by the Appropriate Commission or the Authority, as the case may be, under this Act;”

In view of above, specific conditions as prayed by the Petitioner need to be specified by way of Regulations after following the process of previous publication. Hence, the Commission directs the Secretary of the Commission to initiate the process of preparing draft Regulations for specific conditions of licence of the Petitioner.

With the above , Case No. 157 of 2011 stands disposed of.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman