

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION

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Case No. 149 of 2011

In the matter of

**Petition filed by Ixora Construction (P) Ltd., Mumbai for approval of Power quantum
and Power purchase for Medium Term from FY 2013-14 to FY 2017-18.**

Shri V.P. Raja, Chairman

Shri Vijay L. Sonavane, Member

Ixora Constructions (P) Ltd., Mumbai

..... Petitioner

For the Petitioner:

Shri Prashant Anvekar and
Shri Jayesh Chauhan

ORDER

Dated: 16th January, 2012

Ixora Constructions (P) Ltd., Mumbai (“ICPL”) is a ‘Co-developer’ for providing power distribution infrastructure for SEZ at Panvel, located at Village Talegaon and Panshil, Taluka Khalapur and village Bhokarpada, Taluka Panvel in District Raigarh in the State of Maharashtra. ICPL has submitted a Petition under affidavit on October 12, 2011 under Section 62 of the Electricity Act 2003 for seeking approval of power quantum and power purchase for medium term from FY 2014 to FY 2018.

2. The prayers of ICPL in the petition are as follows:-

“

- a. *Approve the power quantum as per the demand projections provided in Table 2,*
- b. *Approve the procurement of power for the above quantum through MoU route on medium term basis from FY 2014 to FY 2018.*
- c. *Allow submission for the Hon'ble Commission's approval the proposed MoU/PPA for the approved quantum of power purchase as per Section 62 of the EA, 2003.*
- d. *In future, based on the load growth in the SEZ, allow submission of revised power quantum and power procurement proposal to the Hon'ble Commission.*
- e. *Examine the concerns expressed by the petitioner for a favourable dispensation.*
- f. *Condone any inadvertent Omissions/ error/ shortcomings and permit ICPL to add/ change/modify/ alter this filing and make further submissions as may be required at a future date.*
- g. *Pass such further and other orders, as the Hon'ble Commission may deem fit and proper keeping in view the facts and circumstances of the case.”*

3. ICPL in its Petition submitted as under:

A. Background:

- i. The Ministry of Commerce & Industry, Government of India vide letter dated August 20, 2009, has approved M/s. Ixora Construction Private Limited (ICPL) as a 'Co-developer' for providing power distribution infrastructure for SEZ at Panvel, located at Village Talegaon and Panshil, Taluka Khalapur and village Bhokarpada, Taluka Panvel in District Raigarh in the State of Maharashtra.
- ii. The Ministry of Commerce issued notification on March 3, 2010 granting Deemed Distribution Licensee status to developers of SEZ. Thus, ICPL is a Deemed Distribution Licensee in the SEZ area with all concomitant rights and obligations of a Distribution Licensee within the State of Maharashtra.
- iii. The SEZ is being developed as a multi-service SEZ inter-alia including IT/ITeS companies and residential township along with associated infrastructure over a total area of 139.83 hectares. SEZ area is a virgin area where at present there is no habitation or existence of electricity consumers. ICPL is in the process of establishing the necessary electrical distribution network in the SEZ.

B. Network Rollout plan:

ICPL submitted that it would establish the necessary electrical distribution network in the SEZ to supply power to various consumers within the SEZ. It has proposed to receive power at 33 kV level from interconnection with the Transmission Licensee through a proposed 110/33kV switchyard near premises and would lay the distribution network to cater to residential, commercial and other loads. ICPL proposes to install a SCADA system for operation, monitoring and control of the power distribution system.

C. Power Quality Management:

ICPL submitted that it would take adequate measures to maintain high quality of power supply in SEZ. For this, ICPL would appoint Panacean Energy/ IIT Bombay as a consultant to study load characteristics of typical IT/ITeS Company in SEZ, analysis of different types and causes of power quality, suggesting methods and systems for monitoring and improving the power quality.

D. Load Forecasting in SEZ:

ICPL has appointed M/s Feedback Infrastructures Services Pvt. Ltd. to prepare Demand Forecasting Report for the period starting from FY 2014 to FY 2018. ICPL submitted that the Demand Forecasting Report is based on recommended energy consumption norms for commercial, residential buildings and other social infrastructure. The estimated power demand (MW) forecast for SEZ area based on Demand Forecasting Report is shown in following table:

(In MW)

Category	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Residential	2.60	7.18	11.53	17.07	23.08
Commercial	1.61	3.80	5.93	8.26	10.75
Social Infrastructure	1.07	1.10	1.12	1.12	1.12
Total Load	5.28	12.08	18.57	26.45	34.96

E. Power Sourcing for SEZ:

ICPL submitted that it would cater its base load requirements through medium term MoU based PPA and peak load requirement through short term power purchase. The reasons for adopting the MoU route for procurement of power are submitted as under:

- a. It is unsure about attracting the adequate number of bids as power procurement quantum is staggered. The load forecasting is currently tentative and may vary in reality till FY 2018.
- b. As the power procured through bidding will require Distribution Licensee to make capacity charges payment for available power, it is possible that the overall cost of power procurement will increase for end-consumers.
- c. ICPL submitted that it would adopt the competitive bidding route for procurement of power when the power demand (expected around 2018) in the SEZ reaches a level where it attracts enough bidders.

4. The Commission vide its notice dated October 21, 2011, scheduled a hearing in the matter on November 18, 2011 in the presence of authorized consumer representatives under Section 94(3) of the Electricity Act, 2003.

5. Accordingly, a hearing was held on November 18, 2011. Shri Prashant Anvekar, appearing on behalf of ICPL, made a presentation explaining the proposals contained in the petition. Further, Shri. Jayesh Chauhan, also appearing for ICPL, summarized the methodology adopted in the Demand Forecasting Report. The Commission directed the Petitioner to opt for two stage competitive bidding route for medium term power procurement. The Commission also directed the Petitioner to validate the data submitted in Demand Forecasting Report and make the necessary changes in it and submit the same to the Commission.

6. The Commission received the revised Demand Forecasting Report and brief note on validation of Demand forecasting data on December 15, 2011. ICPL in the revised Demand Forecasting Report submitted as under:

- i. The Demand forecasting for the SEZ includes the demand for two commercial buildings, twenty residential buildings consisting of two buildings of eleven storeys and eighteen buildings of thirty storeys and other social infrastructure.
- ii. The SEZ is said to start operations in the 2013 and hence past power consumption data is not available. Hence for demand forecasting of these buildings, bottom-up demand estimation is done on the basis of various norms / assumptions specified by Bureau of Energy Efficiency (BEE), India Green Building Council (IGBC), Energy Conservation Building Code (ECBC) and building configuration data inputs based on the building drawing plans. The total demand (in MWs) is estimated by multiplying the built up area (in sq. ft) by the norms assumed (in Watt / sq. ft).

- iii. The planning and architectural principles of the commercial and residential buildings proposed by ICPL at Panvel are similar to the Hiranandani Gardens located at Powai. Hence, for validation of the demand forecasting report, ICPL has used the electrical demand data of five residential buildings, two Citipark commercial buildings and Kensington SEZ located at Hiranandani Gardens, Powai. ICPL validated the data submitted in Demand Forecasting Report by comparing maximum demand per square feet (in Watt/ sq. ft.) for residential and commercial, which gives reasonable assessment of power demand in such buildings.
- iv. Based on the above discussed norms and validation of data, the year wise revised power quantum submitted is as under:

(In MW)

Category	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Residential	1.72	3.6	5.95	9.20	12.77
Commercial	0.35	6.47	9.85	15.13	21.35
Social Infra & Construction Load	1.07	1.10	1.12	0.92	0.92
Total Load	3.14	11.16	16.92	25.25	35.04

7. The Commission vide its notice dated November 23, 2011, scheduled a second hearing in the matter on December 29, 2011 in the presence of authorized consumer representatives under Section 94(3) of the Electricity Act, 2003.

8. During the hearing held on December 29, 2011, Shri Prashant Anvekar and Shri Jayesh Chauhan appeared on behalf of ICPL. Shri Jayesh Chauhan made a presentation on the revised Demand Forecasting Report and Shri Prashant Anvekar apprised the Commission of the validation of data submitted in the Demand Forecasting Report. Further, during the hearing, ICPL prayed before the Commission to allow power procurement through a single stage bidding process for medium term power procurement for SEZ under the Competitive Bidding Guidelines, 2005.

9. Having heard the matter and considering the material placed on record, the Commission is of the view as under:

- a. Regulation 23.1 of MERC (MYT Tariff) Regulations, 2011 allows Distribution Licensee to undertake its power procurement as approved by the Commission. The relevant extract is reproduced below;

“23.1 The Distribution Licensee shall undertake its power procurement during the year in accordance with the power procurement plan for the Control Period, which may include long-term, medium-term and short-term power procurement, approved by the Commission in accordance with these Regulations”

ICPL being a Deemed Distribution Licensee submitted a quantitative forecast of unrestricted demand in the form of a Demand Forecasting Report under Regulation 24.2(b) of MERC (MYT Tariff) Regulations, 2011.

The Commission analysed the demand projected by ICPL for the period from FY 2013-14 to FY 2017-18 and the validation of the submitted data. The Commission is of the view that demand projected appears to be reasonable considering the various assumptions and methodology adopted for forecasting and validating the demand. Hence, the Commission approves the quantum of power to be procured by ICPL for the period as under:

Period	Demand (in MW)
FY 2014	3
FY 2015	11
FY 2016	17
FY 2017	25
FY 2018	35

- b. ICPL initially prayed for procurement of power for the above said quantum through MoU route on Medium term basis for the period from FY 2014 to FY 2018.

However, during the hearing, the Petitioner requested the Commission to allow it to adopt a single stage bidding process under Competitive Bidding Guidelines, 2005. Clause 5.1 of *“Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees”* issued by Ministry of Power dated January 19, 2005 is reproduced as below:

*“5.1 For long-term procurement under these guidelines, a two-stage process featuring separate Request for Qualification (RFQ) and Request for Proposal (RFP) stages shall be adopted for the bid process under these guidelines. **The procurer may, at his option, adopt a single stage tender process for medium term procurement, combining the RFP and RFQ***

processes. Procurer or authorized representative shall prepare bid documents including the RFQ and RFP in line with these guidelines and standard bid documents.”(Emphasis added)

The aforesaid clause was replaced with the following pursuant to amendments made to the “*Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees*” on 27th March, 2009:-

“2.16 Clause 5.1 is replaced by the following:

*For long-term procurement under Case 2, a two-stage process featuring separate Request for Qualification (RFQ) and Request for Proposal (RFP) stages shall be adopted for the bid process under these guidelines. **The procurer may, at his option, adopt a single stage tender process for long term or medium term procurement under Case 1, combining the RFP and RFQ processes. However, as specified earlier in para 2.2, the Procurer shall adopt separate RFP processes for procuring base load or peak load or seasonal load requirements, as the case may be. Procurer or authorized representative shall prepare bid documents including the RFQ and RFP (only RFP in single stage process) in line with these guidelines and standard bid documents.” (Emphasis added)***

“2.17 Clause 5.2 is replaced by the following:

The procurer shall publish a RFQ (RFP in single stage process) notice in at least two national newspapers, company website and preferably in trade magazines also to accord it wide publicity. The bidding shall necessarily be by way of International Competitive Bidding (ICB). For the purpose of issue of RFQ (RFP in single stage process) minimum conditions to be met by the bidder shall be specified by the procurer in the RFQ (RFP in single stage process) notice.”

10. Hence, in view of the above provisions, the Commission approves the request of the Petitioner to adopt a single stage bidding process for medium term power procurement in accordance with all applicable stipulations under the “*Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees*”.

11. In case of any deviation from the “*Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees*”, ICPL has to approach the Commission for the approval of the same and to further submit the Power Purchase Agreement (PPA) for approval.

With the above, the Petition filed by ICPL in Case No. 149 of 2011 stands disposed of.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V.P. Raja)
Chairman