

BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

Quorum

Smt. Meenakshi Singh, Member
Shri I. B. Pandey, Member

In the matter of:

Petitioner

M/s Reliance Energy Ltd.

1. Petition No. 194 of 2004 regarding grant of second distribution license, Noida.
2. Petition No. 195 of 2004 regarding grant of second distribution license, Ghaziabad.
3. Petition No. 196 of 2004 regarding grant of second distribution license, Meerut.

Present in the Hearing:

1. Shri Akshat Srivastava, Advocate, Reliance Energy Ltd., Mumbai
2. Shri Sumit Notani, Reliance Energy Ltd., Mumbai

ORDER

(Hearing on 17.03.2015)

Reliance Energy Ltd. Petition No. 194/2004 (for Noida), 195/2004 (for Ghaziabad) & 196/2004 (for Meerut) for parallel license for Distribution

- (i) Reliance Energy Ltd. filed Petition No. 194/2004 (for Noida), 195/2004 (for Ghaziabad) & 196/2004 (for Meerut) seeking licence for distribution and supply of electricity using own distribution system for the area covered under municipal areas. The Commission heard the Petitioner and passed order 27.10.2004 directing the petitioner to submit within a month the following information;
1. There copies, each signed by the Petitioner, of maps of the proposed areas of supply incorporating details of the streets or roads in which the supply of energy is to be made, which shall be so marked or colored as to define any portion of such area and streets or roads which are under the administrative control of local authority and shall be on a scale as specified in the said Conduct of Business Regulations 2000.
Also, mark in the above maps the areas whole and any part of cantonment aerodrome, fortress, arsenal or any building or place in occupation of the Govt. for different purpose.

2. A list of local authority invested with the administration of any portion of the area of supply.
 3. The No Objection to the grant of licensee from Central Government for the purpose of the selection 15 (2) (ii) of the Act 2003.
 4. An approximate statement describing land, which the petitioner proposes to acquire for the purpose of the licensee and the means of such acquisition.
 5. Specify the activities to be undertaken by the petitioner during the roll out period of three years in different phases of development of distribution network showing their with the connectivity with the transmission system.
 6. Specify whether the petitioner has co-ordinated with state transmission utility or central transmission utility for use of their transmission system for carrying electricity to its distribution system.
- (ii) The Commission in hearing on 27.10.2004 also noted that (excerpts from the order):
- (1) The Central Govt. has not specified the said conditions which the petitioner shall comply with as necessary conditions and requirement from grant of license. Shri Chalasani submitted that the petitioner shall comply with requirement of capital adequacy, creditworthiness or code of conduct as may be prescribed by the Central Government besides other conditions or requirements and the Act 2003. It is noted that the petitioner has not submitted the business plan/potential envisaged by it, to be pursued under the propose license and in absence of such information, it would be difficult to ascertain the adequacy of capital and credit worthiness after the Central Government prescribed such requirement. Besides above, this is an issue in the present petitions as to whether the Commission has jurisdiction to grant a license under the given situation where the Central Govt. has not prescribed the said requirement which the petitioner shall be complying with before a license is granted. The petitioner is directed to put up an expert legal opinion by expert of Constitution of India on affidavit.
 - (2) The Commission shall, after ascertaining the completeness of the information, on scrutiny of the submission made by the petition as above issue further direction as considered necessary in the case.
- (iii) The Petitioner in compliance to the said order to undertook the following actions:
- (1) By letter dated 1.12.2004 , submitted:
 - (a) Expert legal opinion from J. Sagar Associates
 - (b) Activity during roll out period

- (c) Requested the Commission that copies of maps and list of local authorities shall be submitted within 15 days time, and
- (d) No objection certificate from Central Govt. shall be sought after the petition admitted and co-ordination with STU and CTU to commence after the license has been granted.
- (2) Requested for one month period for submission of maps and condonation of delay in filing by letter dated 16.1.2005.
- (3) Submitted maps by letter dated 18.2.2015
- (iv) The petitioner has not submitted the following:
 - (1) The map in the manner as required under sub para (1) of order dated 27.10.2004
 - (2) List of local authorities vested with administration of any portion of area of supply.
 - (3) No objection from Central Govt.
 - (4) Approximate requirement of land
 - (5) Activities to be undertaken during the roll out period of 3 years in different cases of development of distribution network showing their connectivity with the transmission system.
 - (6) Statement of co-ordination with STU and CTU
- (v) As per the observations of the Commission in order dated 27.10.2004 the business plan/potential envisaged to help determine adequacy of capital and credit worthiness in absence of guidelines of the Central Govt. have also not been provided.
- (vi) Through, 3 separate petitions have been filed but the subsequent information has not been filed on affidavit separately for each petition. The petitioner has preferred a letter addressed to the Secretary, UPERC to file this information.
- (vii) The petitioner may be directed to file complete information on affidavit separate for each petition.

The Commission heard the Petitioner and passed order 27.10.2004 directing the petitioner to submit within a month the following information;

1. There are copies, each signed by the Petitioner, of maps of the proposed areas of supply incorporating details of the streets or roads in which the supply of energy is to be made, which shall be so marked or colored as to define any portion of such area and streets or roads which are under the administrative control of local authority and shall be on a scale as specified in the said Conduct of Business Regulations 2000.
Also, mark in the above maps the areas whole and any part of cantonment aerodrome, fortress, arsenal or any building or place in occupation of the

Govt. for different purpose.

2. A list of local authority invested with the administration of any portion of the area of supply.
3. The No Objection to the grant of licensee from Central Government for the purpose of the selection 15 (2) (ii) of the Act 2003.
4. An approximate statement describing land, which the petitioner proposes to acquire for the purpose of the license and the means of such acquisition.
5. Specify the activities to be undertaken by the petitioner during the roll out period of three years in different phases of development of distribution network showing their connectivity with the transmission system.
6. Specify whether the petitioner has co-ordinated with state transmission utility or central transmission utility for use of their transmission system for carrying electricity to its distribution system.

The Commission heard the Petitioner and passed order on 24.3.2005:

The Commission heard the petitions on 18.10.04 and directed the Petitioner that in Order dated 27.10.04, he was directed to submit the information required under the Provisions of UPERC (Conduct of Business) Regulation, 2000 and section 14 and 15 of the Electricity Act, 2003 within a month.

The Petitioner in compliance to the said order, submitted by letter dated 1.12.2004 addressed to Secretary; expert legal opinion from M/s J. Sagar Associates and activities to be undertaken during roll-out period. It was requested that copies of Maps and list of local authorities shall be submitted within 15 days time, no-objection certificate from Central Government shall be submitted within 15 days time, no-objection certificate from Central Government shall be sought after the Petition is admitted and co-ordination with STU and CTU to commence after the license has been granted. Further, by letter-dated 16.1.2005, the petitioner requested for one-month period for submission of maps and condonation of delay in filing. The Petitioner has submitted Maps by letter-dated 18.2.2005. On scrutiny, it is found that the petitioner has not submitted the following:

(viii) The Petitioner in compliance to the said order to following actions:

(4) By letter dated 1.12.2004 , submitted:

- (e) Expert legal opinion from J. Sagar Associates
- (f) Activity during roll out period
- (g) Requested the Commission that copies of maps and list of local authorities shall be submitted within 15 days time, and
- (h) No objection certificate from Central Govt. shall be sought after the petition admitted and co-ordination with STU and CTU to commence after the license has been granted.

- (5) Requested for one month period for submission of maps and condonation of delay in filing by letter dated 16.1.2005.
- (6) Submitted maps by letter dated 18.2.2015
- (ix) The petitioner has not submitted the following:
- (7) The map in the manner as required under sub para (1) of order dated 27.10.2004
- (8) List of local authorities vested with administration of any portion of area of supply.
- (9) No objection from Central Govt.
- (10) Approximate requirement of land
- (11) Activities to be undertaken during the roll out period of 3 years in different cases of development of distribution network showing their with the connectivity with the transmission system.
- (12) Statement of co-ordination with STU and CTU

As per the observations of the Commission in order dated 27.10.2004 the business plan/potential envisaged to help determine adequacy of capital and credit worthiness in absence of guidelines of the Central Govt. have also not been provided.

It is observed that the Petitioner did not file the information expeditiously as directed in the said Order and in the manner prescribed under the said Conduct of Business Regulation. The information should have been filed on affidavit separate for each Petition but the Petitioner preferred to submit information through letters. We could have allowed the petitioner to publish a notice in the newspaper for inviting objections from publish under Section -15 of the Electricity Act, 2003, had Petitioner submitted all information required from them diligently. Petitioner is allowed one more opportunity to file all relevant information required from them within 15 days time in the manner as directed.

After filing of these information the Petitioner may publish a Notice in the manner prescribed under Regulation 88 of the Conduct of Business Regulation, 2000 in two Newspapers, each in Hindi and English, having wide circulation in the proposed area of supply for inviting objections from stakeholders and the public within 30 days of publication of such notice. The objections shall be filed with the Commission in quadruple with a copy to the Petitioner. The public notice shall contain a brief of the draft license and the information submitted by the Petitioner before the Commission. The petitioner shall also send a copy of the petition and subsequent information submitted with the Commission to the Central Govt. of UP, UP Power Corporation Ltd.

in its capacity of State Transmission Utility and Paschimanchal Vidyut Vitran Nigam Ltd.

The Commission heard the Petitioner and passed order on 6.3.2007 is as follows:

1. The connectivity of distribution systems with the grid and co-ordination with STU for that purpose,
2. The sources of power procurement,
3. The capital adequacy and creditworthiness,
4. The rural areas it undertakes to be included in the areas of supply according to the GOUP Policy,
5. Half-yearly targets in Roll-Out plans and penalties thereof, if the Petitioner fails to assume obligations to supply electricity to the consumers accordingly.

The submission in respect to above shall be made by 31.3.07 on the affidavit.

The State Govt. vide letter no. 581 dated 28.11.2007 submitted that Govt. of UP has not taken the final decision on the participation of private companies in the Distribution Area and until such decision is communicated to the Commission, the license may not be issued any of the private companies. This advise was issued under clause 108(1) of the Electricity Act 2003.

During the hearing on 17.3.2015 the Commission finds that the petitioner has not submitted the documents as directed by its order dated 6.3.2007 and Government of UP has not taken the decision in the matter of issue of distribution license to private companies.

During the hearing the petitioner's counsel Shri Akshat Srivastava appeared and submitted the application for withdrawal of petitions number 194 of 2004, 195 of 2004 and 196 of 2004.

In view of the above the Commission dismisses the petition nos. 194 of 2004, 195 of 2004 and 196 of 2004 as withdrawn.

(I. B. Pandey)
Member

(Meenakshi Singh)
Member

Dated: 31.03.2015