

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 1856 of 2020.

In the Matter of:

Application for Increase in Land area of Electricity Distribution License pertaining to Jubilant Infrastructure Limited SEZ located at Plot No. 5, Vilayat, Tal. Vagra, Dist. Bharuch, under Section 18 of Electricity Act, 2003 and Regulation 17 of the GERC (Distribution License) Regulations, 2005. Present Land area of Electricity Distribution License is 107.16.50 Hectares area and the Increase is proposed by 18.55.92 Hectares (thus aggregating to a total area of 125.72.42 Hectares).

Petitioner : Jubilant Infrastructure Limited,
Plot No. 5, Vilayat Industrial Estate,
Taluka: Vagra, District – Bharuch, Gujarat – 392012.

Represented by : Shri C. B. Bhardwaj, Shri Atul Sharma, Shri Varun Sethi, Shri Mahesh Mandwarya, Shri Pranay Shah and Shri Rajan Roy

CORAM:

Mehul M. Gandhi, Member

S. R. Pandey, Member

Date: 12/07/2021.

DAILY ORDER

1. The present matter was heard on 07.07.2021 through virtual hearing by Video Conferencing on account of prevailing COVID 19 pandemic.

2. Shri Varun Sethi on behalf of the Petitioner Jubilant Infrastructure Limited submitted that the Commission granted electricity distribution license to the Petitioner vide License No. 7 of 2012 dated 10.10.2012 with demarcated area of 107.16.50 Hectares as notified in Notification No. S.O.290 (E) dated 11.02.2008 by the Ministry of Industry and Commerce, Government of India in Special Economic Zone (SEZ) Vilayat. The present Petition has been filed for inclusion of adjoining area of Plot No. 4 admeasuring 18.55.92 Hectares in the existing distribution license area of 107.16.50 Hectares of the Petitioner as stated in aforesaid license issued by the Commission. He submitted that Ministry of Commerce and Industry vide Notification No. F.2/270/2006-SEZ dated 06.09.2017 has forwarded copy of Notification dated 05.09.2017 notifying an additional area of 18.55.92 Hectares as a part of original area of 107.16.50 Hectares of above SEZ thereby making total area of SEZ as 125.72.07 Hectares mentioning relevant survey no. and its area in Hectares. He submitted that the 'Deed of Rectification' of lease in favour of Petitioner admeasuring 18.55.92 was also executed with GIDC on 22.06.2016. Accordingly, the Petitioner has prayed for amending License No. 7 of 2012 by including 18.55.92 Hectares and issue revised Distribution License.
3. We have considered the submissions made by the Petitioner. We note that the Petitioner has filed the present Petition for amendment in the license area pursuant to the Notification dated 06.09.2017 in file no. F.2/270/2006-SEZ of Ministry of Commerce and Industry, Government of India for addition of 18.55.92 Hectares area to the existing SEZ area of 107.16.50 Hectares. We also note that the Petitioner was granted Distribution License No. 7 of 2012 with demarcated area of 107.16.50 Hectares.
 - 3.1. The aforesaid Distribution Licence No. 7 of 2012 was issued by the Commission to the Petitioner pursuant to the Order dated 06.09.2012 in Suo-Motu Petition No. 1209 of 2012 demarcating the license area of 107.16.50 Hectares with consideration of Notification No. S.O. 290 (E) dated 11.02.2008. Now, the Petitioner has requested to issue amended Distribution Licence considering addition of 18.55.92 Hectares area to the existing SEZ area vide Notification dated 05.09.2017 of Ministry of Commerce and Industry.

- 3.2. We note that the Petitioner has filed map showing Plot No. 4 which is not legible with regard to survey numbers and other details. Therefore, the Petitioner is directed to file map with suitable scale showing relevant survey numbers of existing and addition sought with their respective area duly certified by appropriate authority and clearly demarcating the existing boundary and new boundary.
- 3.3. We note that Section 18 of the Electricity Act, 2003 empowers the Commission to alter or amend the terms and conditions of license as deem fit, upon the receipt of application from the licensee. Thus, it is apparent that the Commission has jurisdiction to decide the matter and accordingly we decide to admit the Petition.
- 3.4. As the Petitioner has filed the present Petition for amendment of license area, it is necessary to refer the Section 18 of the Electricity, 2003, which reads as under:

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18. Amendment of license. -

(1) Where in its opinion the public interest so permits, the Appropriate Commission, may, on the application of the licensee or otherwise, make such alterations and amendments in the terms and conditions of his Licence as it thinks fit:

Provided that no such alterations or amendments shall be made except with the consent of the licensee unless such consent has, in the opinion of the Appropriate Commission, been unreasonably withheld.

(2) Before any alterations or amendments in the licence are made under this section, the following provisions shall have effect, namely: -

(a) where the licensee has made an application under sub-section (1) proposing any alteration or modifications in his licence, the licensee shall publish a notice of such application with such particulars and in such manner as may be specified;

(b) in the case of an application proposing alterations or modifications in the area of supply comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or any building or place in the occupation of the Government for defence purposes, the Appropriate Commission shall not make any alterations or modifications except with the consent of the Central Government;

(c) where any alterations or modifications in a licence are proposed to be made otherwise than on the application of the licensee, the Appropriate Commission shall publish the proposed alterations or modifications with such particulars and in such manner as may be specified;

(d) the Appropriate Commission shall not make any alterations or modifications unless all suggestions or objections received within thirty days from the date of the first publication of the notice have been considered.

.....”

As stipulated in the aforesaid provisions, it is necessary to issue a public notice with regard to amendment/alteration/modification of licence and invite suggestions and objections from the public within 30 days from the date of such first publication of the notice.

3.5. The Commission has also notified GERC (Distribution Licence) Regulations, 2005. The relevant Regulation 16 pertaining to amendment of a Distribution Licence is reproduced below:

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16. Amendment of a Distribution Licence

i) Where in its opinion the public interest so requires, the Commission may, on the application of the Distribution Licensee or of a local authority or otherwise, make such amendments to the terms and conditions of a Distribution Licence as it thinks fit, having regard to the object and purposes of the Act:

Provided that no such amendment, other than an amendment made by virtue of a term or condition of the Distribution Licence or of a term or condition imposed under sub-section (5) of section 23 of the State Act read with Regulation 17 (iv) of these Regulations, shall be made, except with the consent of the Distribution Licensee, unless in the opinion of the Commission, such consent has been unreasonably withheld.

(ii) Where a Distribution Licensee has made an application for amendment of its Distribution Licence, the Distribution Licensee shall, within fifteen (15) days of making such application, publish a notice in one issue each of a daily newspapers in English language and two daily newspapers in Gujarati language having wide circulation in the area of operation of distribution licence sought to be amended giving following particulars:

- (a) Brief details of existing Distribution Licence;*
- (b) Proposed amendments to the existing Distribution Licence; and*
- (c) Reasons for the amendment;*
- (d) The names, addresses and other necessary details of the person(s) nominated by the applicant in major cities or towns of area of proposed distribution licence, who can make available for inspection the application and other documents or from whom they can be purchased in person or by post at reasonable charges, not exceeding photocopying charges;*

(e) A statement that any person, desirous of making any suggestion or objection with reference to the application to the Commission, may do so by way of written intimation (six copies) addressed to the Secretary within thirty days from the date of the first publication of the notice.

(iii) All objections to an application for amendment pursuant to publication of notice under clause (ii) above shall be considered by the Commission if received within thirty (30) days from the date of first publication of the notice.

(iv) Where an amendment to a Distribution Licence is proposed by the Commission suo motu, the Commission shall publish a notice in one issue each of daily newspapers in English language and two daily newspapers in Gujarati language having wide circulation in the area of operation of distribution licence sought to be amended giving following particulars:

(a) Name of the Distribution Licensee and address of main office in the area of supply;

(b) Description of alteration or amendment proposed to be made by the Commission;

(c) Brief Reasons for proposed alteration or amendment;

(d) A statement that any person, desirous of making any suggestion or objection with reference to application to the Commission, may do so by way of written intimation (six copies) addressed to the Secretary within thirty days from the date of the first publication of the notice.

All objections to the proposed amendment, received within one month from the date of first publication of notice, shall be considered by the Commission before effecting or rejecting the proposed amendment.

(v) The provisions of these Regulations relating to grant of Distribution Licence shall, as far as may be practicable and necessary, apply to consideration and disposal of an application for amendment of Distribution Licence.

(vi) In the case of an application proposing an amendment in an Area of Licence comprising the whole or any part of the cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Central Government for defence purposes, the Commission shall not make the amendment except with the consent of the Central Government.

.....”

The aforesaid Regulation also provides that prior to amendment in licence, it is necessary to issue public notice, invite comments and suggestions from the public within 30 days and thereafter, considering suggestions/objections, the Commission shall decide about the amendment in licence.

3.6. We note that the present Petition has been filed by the Petitioner seeking amendment in its existing license by inclusion of 18.55.92 Hectares to its existing

Distribution License area of 107.16.50 Hectares. We are aware that Dakshin Gujarat Vij Company Limited (DGVCL) is also an existing distribution licensee in southern part of the State and Gujarat Energy Transmission Corporation Limited (GETCO) is transmission licensee apart from being the State Transmission Utility. The Petitioner is directed to implead the distribution licensees in the State and GETCO as party Respondents in the present matter and accordingly, amend the memo of parties and provide copy of Petition with amended memo of parties to them. The Petitioner shall also file amended memo of parties including affidavit of service to above Respondents, who are at liberty to file their comments/suggestions, if any, on the present Petition.

- 3.7. Further, we are of view that it is necessary for the Petitioner to issue public notice in two daily newspapers, one in English language and one in vernacular language i.e., Gujarati, inviting suggestions and objections on the present Petition from the stakeholders and thereafter, the Commission shall decide the matter after considering the suggestions/objections received, if any, from the public and the Respondents.
- 3.8. Accordingly, we hold that a public hearing is required to be conducted to take into consideration the views/comments/suggestions/objections of the stakeholders and Respondents before deciding the present matter. The Petitioner is, therefore, directed to issue a public notice in one daily Gujarati Newspaper and one English Newspaper having wide circulation in the State/National level stating that they have filed Petition No. 1856 of 2020 before the Commission for seeking amendment in its existing license by inclusion of 18.55.92 Hectares to its existing Distribution License area of 107.16.50 Hectares. The Petitioner is also directed to upload the present Petition with amended memo of parties and all the documents on its website for 30 days from the date of issuance of public notice and invite comments and suggestions from the stakeholders on affidavit. The Petitioner shall also state in the public notice that the stakeholders/objectors shall file their objections/suggestions in the Petition to the Secretary, Gujarat Electricity Regulatory Commission, 6th Floor, GIFT ONE, Road 5C, 3 Zone 5, GIFT City, Gandhinagar - 382355 in five copies along with affidavit in support of their submissions with a copy to the Petitioner within 30 days from the date of public

notice. Upon receipt of the comments/views/objections/suggestions from the stakeholders/objectors and newly joined Respondents, the Petitioner is at liberty to file its reply, if any, to the Commission. The staff of the Commission is also directed to upload the Petition along with all relevant documents on the website of the Commission after compliance affidavit of issuing public notice and uploading of Petition is filed by the Petitioner along with copy of public notices issued by the Petitioner is provided to the Commission and invite comments/suggestions from the stakeholders.

3.9. We also direct the staff of the Commission to provide the copy of representation, if any, received in the present matter to the Petitioner to enable filing reply/response to the same.

3.10. The staff of the Commission is directed to inform/issue hearing notice for the present Petition to the Respondents and stakeholders/objectors who file their submissions/objections/comments before the Commission.

4. The next date of hearing will be intimated separately.

5. We order accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Place: Gandhinagar.

Date: 12/07/2021.