



**THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW**

Petition No. 2052 of 2023

QUORUM

Hon'ble Shri Arvind Kumar, Chairman

Hon'ble Shri Vinod Kumar Srivastava, Member (Law)

Hon'ble Shri Sanjay Kumar Singh, Member

IN THE MATTER OF

Petition for approval of Ceiling Tariff as per Section 62 of the Electricity Act, 2003 along with third proviso in Regulations 41.2 of UPERC MYT Regulations 2019, approval of Power Procurement through Power Exchange & Deep Portal under Section 63 of the Electricity Act 2003 along with Regulations 12 and 13 of UPERC MYT Regulations 2019, approval to claim Composite RPO under UPERC (Promotion of Green Energy through Renewable Purchase Obligation) Regulations, 2010 read with First Amendment, 2019 and Relaxation for implementation of CGRF as per UPERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2022 and other approvals as per UPERC relevant Regulations.

AND

IN THE MATTER OF

NIDP Developers Pvt. Ltd.

R/o: 514, Dalamal Towers,

Nariman Point,

Mumbai - 400021

...PETITIONER

THE FOLLOWING WERE PRESENT

1. Shri Kunal Vohra, CEO-Power, NIDP
2. Shri Shafi Sonde, VP - Projects, NIDP
3. Shri Saurabh Gupta, Head Regulatory & Power Purchase, NIDP
4. Shri Ghansham Thakkar, Consultant, NIDP



ORDER
(DATE OF HEARING: 09.01.2024)

1. The Petitioner is a private limited company primarily engaged in the business of developing and managing data centres, infrastructure facilities and other allied business activities including the distribution of electricity. The Petitioner is developing India's one of a kind first hyperscale DC Park at Greater Noida. The Commission vide Order dated 19.06.2023 issued the Distribution License to the Petitioner for carrying out the business of distribution of electricity in the area of Data Centre Park situated at Plot No. 7, Knowledge Park – V, Greater Noida, Uttar Pradesh subject to certain conditions.
2. The Petitioner submitted that it has been working towards completing the various activities required for commissioning of its Distribution Network in its area of supply. Therefore, the Petitioner would like to commence the distribution operations at the earliest. Accordingly, the Petitioner is planning to Go-Live with its distribution operations on 1st March 2024.
3. Accordingly, the Petitioner has approached the Commission to allow certain relaxations so as to operationalize the distribution function in its Area of Supply and meet the obligation. Submissions have been made by the Petitioner in regard to power procurement, ceiling tariff, procurement of Green Energy and operations of CGRF. On directions of the Commission in the hearing held on January 09, 2024, the Petitioner was required to file an additional affidavit for providing more details on the prayers that have been made. An additional affidavit was filed on January 16, 2024 covering the points raised by the Commission. The Petitioner's submissions and the Commission's view for the submissions are as below:

A. Procurement of power for consumers

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Petitioner's Submission

4. It is submitted that currently there is no Power Purchase Agreement (PPA) or arrangement in place for procurement and supply of power. At present one Data Centre is in operation and second building is expected to go live shortly. The construction works on the remaining four buildings are in progress. The present load at site is around 3 MW and it is expected that the same will gradually increase as the occupancy levels increase over time.
5. Further, with high uncertainties in the initial stage with regards to electricity distribution, at present it is difficult to estimate the exact power requirement for the power supply in the License area for the medium / long term. Also, there is no past trajectory available for projection purposes for the MYT Control Period since it is the first year of operation of the distribution licensee.
6. The Petitioner has also submitted that the average load in first complete year of operations i.e. FY 2024-25 will be around 4 - 5 MW which is expected to gradually increase. It is further submitted that clarity on the expected load increase for the upcoming months and the long-term projections for the ensuing years will be available post stabilisation of the business operation which is expected post the first year of operations. Therefore, in the absence of any trend of growth based on details of past power consumption or clear indication of future load requirements from the consumers, the Petitioner is not in a position to forecast long or medium-term demand and supply profile at present and has to be done in a flexible manner.
7. Accordingly, prayer has been made to allow procuring power from the Power Exchange for a period of 1 (one) month i.e. 1st March, 2024 to 31st March, 2024. For power procurement from 1st April 2024 onwards, Short Term Power Procurement will be done for the period between 01.04.2024 to 31.10.2024 for ~ 4 MW RTC as per "Guidelines for short-term (i.e. for a period of more than one day to one year) Procurement of Power by Distribution Licensees through Tariff based

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bidding process" dated 30th March, 2016 issued by Ministry of Power, Government of India through e-tendering and e-reverse auction to be published through DEEP e-bidding Portal. The additional requirement of power (if required) will be met through purchase from Power Exchange. Also, sale of excess power, if required, will also be through Power Exchange in case of any excess power being available with the Petitioner.

Commission's View

8. The Commission is of the view that since there is a very short period left in commencement of operations by the Petitioner, it is not possible to initiate the procurement process as per the guidelines of Ministry of power, Government of India for procuring power for the month of March, 2024. Taking into consideration the submissions made the Petitioner, the Commission allows procurement of power through procure exchange for the month of March, 2024. In regard to procurement of power from FY 2024-25, the Commission is of the view that the business of Data Centers is at a very nascent stage, as present, only one data center building is in operation. The remaining buildings are still in development phase. So, the concerns are there not only from the perspective of consumption pattern but also from the angle of load growth in the area of Petitioner. Hence, there is uncertainty with respect to load that will come up in future, which will depend on business proliferation in the data center as well as development of infrastructure amongst other factors.
9. In view of this, the Commission allows procurement of power in FY 2024-25, through short term bidding route as per the guidelines of the Government of India. The Petitioner must ensure that the power purchase price is within the limits to make its distribution business (as per UPERC MYT Regulations, 2019) viable at the tariffs being charged by the Petitioners. The Petitioner should also ensure that the approval of Commission is sought before commencement of schedule of short-term power.

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B. Charging Ceiling Tariff from Consumers

Petitioner's Submission

10. The Petitioner is a developer of Data Centre Park and has got License to distribute power to the consumers within the Data Center Park. At present, the Data Center is categorized under the HV-1: Non- Industrial Bulk Load category, which will comprise majority of the load of the Petitioner. In addition, the Petitioner expects some minimal amount of construction load for the next few years until construction activities for the rest of the DC buildings are completed. In regard to power procurement, it is submitted that, at present the Petitioner is not having Power Purchase Agreement (PPA) in place. Further, tariff determination process as laid down in UPERC MYT Regulations 2019 may also take another 1-2 months.

11. It is further submitted that as per Regulation 2.1 (14) of UPERC MYT Regulations, 2019, the Control period for the distribution licensee under the said Regulations is defined as April 1, 2020 to March 31, 2025. It is also submitted that the third proviso in Regulations 41.2 of UPERC MYT Regulations 2019 allows the Hon'ble Commission to determine the ceiling retail supply tariff for the distribution licensee whose tariff is yet to be determined. The relevant para of the said Regulations is quoted below:

"Provided also that in case of a Deemed Distribution Licensee whose tariff is yet to be determined by the Commission till the date of coming into force of these Regulations, the Commission may determine the ceiling retail supply tariff and ceiling Wheeling Charges for open access customer that may be charged by such Deemed Distribution Licensee till such time as considered appropriate by the Commission."

12. Since, the Petitioner intends to start the distribution operations starting from 1st March, 2024 & shall be in a position to file the Petition for approval of ARR and tariff

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