

Executive Summary

Case No 139 of 2017

BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION

CASE NO. 139 OF 2017

1. Reliance Infrastructure Limited
 2. Reliance Electric Generation and Supply Limited .. Petitioners
- Vs
- Adani Transmission Limited .. Respondent

1. The 1st Petitioner is engaged inter alia in the business of generation, transmission and distribution of electricity. The 1st Petitioner undertakes setting up of power plant on EPC basis. The 1st Petitioner is also involved in other businesses unrelated to electricity such as development, execution and implementation of infrastructure projects such as Metro Railway, Roads, etc.
2. The 1st Petitioner is a licensee having been granted licence for distribution of electricity under the provisions of Section 14 of the Electricity Act, 2003 (EA03 for short).
3. The 2nd Petitioner being Reliance Electric Generation & Supply Limited, a wholly owned subsidiary of the 1st Petitioner, is incorporated and registered under the provisions of the Companies Act, 1956 and is an existing company under the provisions of the Companies Act, 2013.
4. The present petition is being filed under the provisions of Section 17(3) of the EA03 for, inter alia, seeking approval of this Hon'ble Commission

to assign the transmission licence granted to the 1st Petitioner and transfer of transmission utility including transfer of the assets of the 1st Petitioner to the 2nd Petitioner.

5. Pursuant to a Scheme of Arrangement between the 1st Petitioner, the 2nd Petitioner and their respective Shareholders and Creditors ("the Scheme" for short), the 1st Petitioner proposes to hive off its electricity related businesses to the 2nd Petitioner which as stated hereinabove is a wholly owned subsidiary of the 1st Petitioner.
6. The Scheme is to take effect from the Appointed Date or such other date as may be decided by the Bombay High Court and would be operative from the Effective Date as defined therein.
7. With effect from the Appointed Date, the whole of the undertaking and properties of the power generation, transmission and distribution divisions of the 1st Petitioner, shall pursuant to the applicable provisions of the Companies Act, 1956 or the Companies Act, 2013 as may be applicable and without any further act, deed, matter or thing, stand transferred to and vested in and / or be deemed to be transferred to and vested in the 2nd Petitioner so as to vest all rights, title and interest pertaining to the power generation, transmission and distribution divisions.
8. With effect from the Appointed Date, all reserves, debts, liabilities, contingent liabilities, duties and obligations of every kind, nature and description of 1st Petitioner pertaining to power generation,

transmission and distribution divisions shall also, under the provisions of Company Act, 1956 and all other applicable provisions, if any, of the Companies Act, 2013 and without any further act or deed, be transferred to or be deemed to be transferred to the 2nd Petitioner, so as to become from the Appointed Date the reserves, debts, liabilities, contingent liabilities, duties and obligations of the 2nd Petitioner and it shall not be necessary to obtain the consent of any third party or other person who is a party to any contract or arrangement by virtue of which such reserves, debts, liabilities, contingent liabilities, duties and obligations have arisen in order to give effect to the provisions of this sub-clause.

9. With effect from the Appointed Date and upon the Scheme becoming effective, any statutory licenses, permissions or approvals or consents held by the 1st Petitioner required to carry on operations of power generation, transmission and distribution divisions shall stand vested in or transferred to the 2nd Petitioner without any further act or deed, and shall be appropriately mutated by the statutory authorities concerned therewith in favour of the 2nd Petitioner and the benefit of all statutory and regulatory permissions, environmental approvals and consents, registration or other licenses, and consents shall vest in and become available to the 2nd Petitioner as if they were originally obtained by it. In so far as the various incentives, subsidies, rehabilitation schemes, special status and other benefits or privileges enjoyed,

granted by any Government body, local authority or by any other person, or availed of by the 1st Petitioner relating to the power generation, transmission and distribution divisions are concerned, the same shall vest with and be available to the 2nd Petitioner on the same terms and conditions as applicable to the 1st Petitioner, as if the same had been allotted and/or granted and/or sanctioned and/or allowed to the 2nd Petitioner.

10. The Hon'ble Bombay High Court by its judgment and order dated 19.01.2017 in Company Scheme Petition Nos 440 and 441 of 2016 has given approval to the Scheme of Arrangement.
11. The Scheme specifically provides, inter alia, that the Scheme is and shall be conditional upon and is subject to the approval of this Hon'ble Commission.
12. It is submitted that the said Scheme is in the interest of efficient and effective conduct and running of the electricity generation, transmission and distribution businesses.
13. During the pendency of the present Petition, addendum to the Petition was filed to bring on record subsequent developments after filing of Petition in respect of integrated Mumbai Power Division i.e Generation, Mumbai Transmission and Mumbai Distribution business regulated by the Hon'ble Commission.
- 13.1. 1st and 2nd Petitioner have entered into the Scheme of Arrangement pursuant to which the 2nd Petitioner shall acquire the Mumbai Power

Division from the 1st Petitioner under the Scheme of Arrangement. It is submitted that consequent to such transfer of the Mumbai Power Division to the 2nd Petitioner, the 1st Petitioner has agreed to sell to the Respondent and the Respondent has agreed to purchase from the 1st Petitioner, the Sale Shares, as per the terms and subject to the conditions of the Share Purchase Agreement ("SPA") dated 21.12.2017 signed between Petitioners and Respondent

13.2. As per paragraph 5.2 of the Transmission License No. 1 of 2011, Transmission Licensee has to intimate the Hon'ble Commission on any change in the major shareholding of the Distribution Licensee. However, Petitioners are approaching this Hon'ble Commission for its approval for and intimation of the said share transfer to Respondent

14. Under the Scheme of Arrangement approved by Hon'ble High Court, the utility including assets and license of the 1st Petitioner in respect of the Mumbai Power Division, as on the appointed date (as referred in High Court order) shall stand transferred to and be operated by the 2nd Petitioner. As stated above, the shares of 2nd Petitioner would thereafter be transferred to the Respondent. It is therefore, submitted that all matters (including claims and liabilities) relating to the aforesaid licensed business upto the appointed date, which are under process, initiated or to be initiated in relation to any legal proceedings or regulatory proceedings, or pending with any Government Entity, pertaining to various expenses and/or disallowances and/or liabilities

and/or demands and/or receivables all of which are in relation to the period prior to assignment of license to 2nd Petitioner, are deemed to have been retained by and belong and accrue to the 1st Petitioner. All such amounts receivable from consumers or payable to consumers, if and when materialized in relation to the period prior to assignment of license to 2nd Petitioner shall be to the account of 1st Petitioner. All such amounts receivable and recovered by the 2nd Petitioner from the consumers and after adjusting the amount payable by the 2nd Petitioner to the consumers shall be paid / transferred accordingly to 1st Petitioner.

15. **Prayer**

The Petitioners, therefore, pray that this Hon'ble Commission may be pleased:

- a. approve transfer of transmission utility including transfer of the assets from 1st Petitioner to 2nd Petitioner pursuant to the aforesaid Scheme of Arrangement as approved by the Hon'ble Bombay High Court on 19.01.2017 in Company Scheme Petitions Nos 440 and 441 of 2016 and such further orders that may be passed by the appropriate forum; and
- b. to approve the assignment of the Transmission Licence No 1 of 2011 of the 1st Petitioner in favour of the 2nd Petitioner;
- c. approve transfer of 100% stake of 1st Petitioner in 2nd Petitioner to Respondent

- d. hold that 1st Petitioner is entitled to receive from the 2nd Petitioner and is liable to pay to 2nd Petitioner, all such amounts as may become so receivable or payable in respect of past claims in respect of the licensed business
- e. for such further and other reliefs as the nature and circumstances of the case may require.