

# **Executive Summary**

**Case No 140 of 2017**

BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION

CASE NO. 140 OF 2017

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

1. The 1<sup>st</sup> Petitioner is engaged inter alia in the business of generation, transmission and distribution of electricity. The 1<sup>st</sup> Petitioner undertakes setting up of power plant on EPC basis. The 1<sup>st</sup> 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 1<sup>st</sup> 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 2<sup>nd</sup> Petitioner being Reliance Electric Generation & Supply Limited, a wholly owned subsidiary of the 1<sup>st</sup> 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 read with Regulation 8.3.10 of Maharashtra Electricity

Regulatory Commission (General Conditions of Distribution Licence) Regulations 2006 for, inter alia, seeking approval of this Hon'ble Commission to assign the distribution licence granted to the 1<sup>st</sup> Petitioner and transfer of distribution utility including transfer of the assets of the 1<sup>st</sup> Petitioner to the 2<sup>nd</sup> Petitioner.

5. Pursuant to a Scheme of Arrangement between the 1<sup>st</sup> Petitioner, the 2<sup>nd</sup> Petitioner and their respective Shareholders and Creditors ("the Scheme" for short), the 1<sup>st</sup> Petitioner proposes to hive off its electricity related businesses to the 2<sup>nd</sup> Petitioner which as stated hereinabove is a wholly owned subsidiary of the 1<sup>st</sup> 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 1<sup>st</sup> 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 2<sup>nd</sup> 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 1<sup>st</sup> 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 2<sup>nd</sup> Petitioner, so as to become from the Appointed Date the reserves, debts, liabilities, contingent liabilities, duties and obligations of the 2<sup>nd</sup> 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 1<sup>st</sup> Petitioner required to carry on operations of power generation, transmission and distribution divisions shall stand vested in or transferred to the 2<sup>nd</sup> Petitioner without any further act or deed, and shall be appropriately mutated by the statutory authorities concerned therewith in favour of the 2<sup>nd</sup> 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 2<sup>nd</sup> 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 1<sup>st</sup> Petitioner relating to the power generation, transmission and distribution divisions are concerned, the same shall vest with and be available to the 2<sup>nd</sup> Petitioner on the same terms and conditions as applicable to the 1<sup>st</sup> Petitioner, as if the same had been allotted and/or granted and/or sanctioned and/or allowed to the 2<sup>nd</sup> 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. 1<sup>st</sup> and 2<sup>nd</sup> Petitioner have entered into the Scheme of Arrangement pursuant to which the 2<sup>nd</sup> Petitioner shall acquire the Mumbai Power Division from the 1<sup>st</sup> Petitioner under the Scheme of Arrangement. It is submitted that consequent to such transfer of the Mumbai Power Division to the 2<sup>nd</sup> Petitioner, the 1<sup>st</sup> Petitioner has agreed to sell to the Respondent and the Respondent has agreed to purchase from the 1<sup>st</sup> 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 Distribution License No. 1 of 2011, Distribution 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. It is submitted that four land parcels ("plots"), details of which are mentioned herein below, at Santacruz, are currently part of asset base of distribution licensed business of the 1<sup>st</sup> Petitioner.

<b>Sr.No</b>	<b>Plot Details</b>	<b>Plot Area - SqMtr</b>	<b>Boundary</b>
1	CTS NO. 34, F.P. No. 61A, TPS- V, Santacruz (E)	15513.90	On or towards North – F. P. No. 126 On or towards East – Western Express Highway On or towards South –

Sr.No	Plot Details	Plot Area - SqMtr	Boundary
			Road No. 3 On or towards West – Road No. 2
2	CTS NO. 34, F. P. No. 61A/3 , TPS- V, Santacruz (E)	2349.70	On or towards North – Road No. 3 On or towards East – Road No. 11 On or towards South – Road No. 12 On or towards West – Road No. 2
3	CTS NO. 52, F.P. No. 62, TPS -V, Santacruz (E)	2790.00	On or towards North – Road No. 6 On or towards East – Road No. 2 On or towards South – Road No. 3 On or towards West – F. P. No. 63 & F.P. No. 64
4	CTS NO. 33, F.P. No. 125, TPS-V, Santacruz (E)	1239.97	On or towards North – Road No. 5 On or towards East – Road No. 2 On or towards South – Road No. 6 On or towards West – F. P. No. 123 & F.P. No. 124

15. It is submitted that the said plots of 1<sup>st</sup> Petitioner were permitted to be used for distribution license activity. The 1<sup>st</sup> Petitioner wishes to retain these plots of land, in view of its presence at the site, at the value of land. In view of the proposed transfer of shares to the Respondentas stated above, the 1<sup>st</sup> Petitioner seeks approval of the Hon'ble Commission to permit retention of these plots of land by the 1<sup>st</sup> Petitioner as above, at a consideration of Rs. 250 Crores. The said

consideration amount has been arrived at based on the Ratable Value as per Ready Reckoner rates prescribed by Government of Maharashtra for the year FY2017-18, and is in line with the principle established by Hon'ble Appellate Tribunal for Electricity in judgment dated 08.04.2015 in Appeal No 160 of 2012 and batch of appeals.

16. Under the Scheme of Arrangement approved by Hon'ble High Court, the utility including assets and license of the 1<sup>st</sup> 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 2<sup>nd</sup> Petitioner. As stated above, the shares of 2<sup>nd</sup> 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 2<sup>nd</sup> Petitioner, are deemed to have been retained by and belong and accrue to the 1<sup>st</sup> 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 2<sup>nd</sup> Petitioner shall be to the account of 1<sup>st</sup> Petitioner. All such amounts receivable and recovered by the 2<sup>nd</sup> Petitioner from the



consumers and after adjusting the amount payable by the 2<sup>nd</sup> Petitioner to the consumers shall be paid / transferred accordingly to 1<sup>st</sup> Petitioner.

17. **Prayer**

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

- a. approve transfer of distribution utility including transfer of the assets from 1<sup>st</sup> Petitioner to 2<sup>nd</sup> 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 Distribution Licence No 1 of 2011 of the 1<sup>st</sup> Petitioner in favour of the 2<sup>nd</sup> Petitioner;
- c. approve transfer of 100% stake of 1<sup>st</sup> Petitioner in 2<sup>nd</sup> Petitioner to Respondent
- d. allow the 1<sup>st</sup> Petitioner to retain four plots of land at Santacruz valued at Rs 250 Crore
- e. hold that 1<sup>st</sup> Petitioner is entitled to receive from the 2<sup>nd</sup> Petitioner and is liable to pay to 2<sup>nd</sup> Petitioner, all such amounts as may become so receivable or payable in respect of past claims in respect of the licensed business

f. for such further and other reliefs as the nature and circumstances of the case may require.