

MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Date: - 25 March, 2022

CORAM: - Sanjay Kumar. Chairperson
Mukesh Khullar, Member

Case No 1 of 2022

Case of KRC DISCOMs seeking approval for additional power purchase cost incurred in the month of October 2021 on account of uncontrollable factors

KRC DISCOMs

Minspace Business Parks Private Limited

Gigaplex Estate Private Limited

KRC Infrastructure and Projects Private Limited

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Petitioner

1) Kreate Energy Pvt Ltd. (KEPL):-

Impleaded Respondent

2) Maharashtra State Load Despatch Centre (MSLDC):-

Impleaded Respondent

Appearance

For Petitioner: -

Smt. Deepa Chavan (Sr.Adv.)

For Respondent No.1: -

Shri. Adarsh Tripathi (Adv.)

For Respondent No. 2:-

Smt. Juilee Wagh (Rep)

Daily Order

1. Heard the Advocates/ Representatives of the Petitioner and Respondents.
2. Advocate of the Petitioner explained the background of the Petition and stated that the Petition is not against any contempt or allegations on the other parties, but it is restricted to the approval of additional power procurement expenses and recovery of the same through FAC Mechanism. In reply to the query of whether full differential amount can be recovered from defaulting party, she stated that as per terms and conditions of PPA only liquidated damages are recoverable and same have been recovered from KEPL. If it is found at later stage that certain gaming/malpractice had happened during the transactions in the month of October 2021, separate petition would be filed as per applicable law.
3. Advocate of KEPL stated that he has received the copy of the Petition day before the hearing and requested for 2 weeks time to make submissions in this regard. He further stated that he was a trader in the contract with KRC DISCOMs and having back to back

agreement with Lloyds Energy Pvt Ltd (Lloyds) as a generator supplier. KRC DISCOMs was intimated well in time for non-supply of power during the month of October, 2021 upon the communication received from the generator. Further, KEPL has paid liquidated damages as per PPA for the non supply of power. Penalising the trader for the full differential amount would be tantamount to the deviation of contract. He further stated that the generator is a vital party in this Petition and needs to be impleaded. He further assured to file copy of back to back agreement entered with the generator in this matter.

4. MSLDC stated that it received the copy of the Petition day before the hearing and requested for 2 weeks time to make submissions in this regard. MSLDC further stated that it had submitted the report to the Commission in December, 2021 on the complaint received from KRC DISCOMs about sale of power on power exchanges by Lloyds during zero scheduling in October 2021. The Commission enquired with MSLDC as to how the open access was allowed to Lloyds when zero schedules were sanctioned during October, 2021. MSLDC stated that it would file its written submissions in this regard. The Commission directs MSLDC to submit detailed submission in this respect.
5. Having heard the parties, the Commission is of the opinion that although relief sought in this Petition is limited to allowing passthrough of higher expenses on power procurement, the root cause for such increased expenses also needs to be scrutinised in detail. As Lloyds was involved in the transaction, the Commission deems it appropriate to direct Petitioner to implead Lloyd as Respondent in this matter and serve a copy of its Petition on it. The Commission directs KEPL and MSLDC to serve the copies of their response to the petition to Lloyds. Further, the Commission directs KEPL and MSLDC to file their additional submission and serve the same to KRC DISCOMs and Lloyd within 2 weeks. MSLDC in its submission shall include copy of its Report submitted to the Commission in the month of December 2021. After receipt of such submissions, parties shall file their Rejoinder / additional submission / Reply, if any, within 2 weeks thereafter.

After receipt of the submissions, next date of hearing will be intimated by the Secretariat of the Commission.

**Sd/-
(Mukesh Khullar)
Member**

**Sd/-
(Sanjay Kumar)
Chairperson**