

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005.
Tel. 022 22163964/65/69 Fax 22163976
Email: mercindia@merc.gov.in
Website: www.merc.gov.in

Case No. 20 of 2021

Case of Maharashtra Airport Development Company Ltd seeking approval of power procurement plan for 4 years, Power Purchase agreement and adoption of Tariff for medium term procurement of power starting from 1 March, 2021 to 28 February, 2025

Coram
Sanjay Kumar, Chairperson
I.M.Bohari, Member
Mukesh Khullar, Member

Maharashtra Airport Development Company Ltd:-	Petitioner
Vs	
1. Maharashtra State Electricity Distribution Company Limited:-	Respondent No. 1
2. Maharashtra State Electricity Transmission Company Limited:-	Respondent No. 2
3. Maharashtra State Load Despatch Centre:-	Respondent No. 3
4. Abhijeet MADC Nagpur Energy Private Limited:-	Respondent No. 4

Appearance

For the Petitioner :-	Shri Vasant Pande (Rep)
For Respondent No. 1:-	Shri.Sainath Bongane (Rep)
For Respondent No. 2:-	Shri. Jagnath Chude (Rep)
For Respondent No. 3:-	Smt. Juelee Wagh (Rep)
For Respondent No. 4:-	None

ORDER

Date: 3 May, 2021

1. Maharashtra Airport Development Company Ltd (**MADC**), being deemed Distribution Licensee for MIHAN SEZ area at Nagpur, has filed this Case dated 5 March, 2021 under Section 86 and Section 63 of the Electricity Act, 2003 (**EA, 2003**) read with Competitive Bidding Guidelines issued by the Ministry of Power (**MoP**) Government of India (**GoI**) dated 30 January 2019 seeking the approval of Power Procurement Plan

for FY 2021-22 to FY 2024-25 and for Adoption of Tariff determined through transparent bidding process for a Medium-Term procurement of power for 4 years starting from 1 March, 2021 to 28 February, 2025.

2. MADC's main prayers are as under:

- a) *Condone the delay in filing the petition and admit the present petition;*
- b) *Approve the plan for Medium Term Procurement of power in its capacity as a Distribution Licensee as per 'Guidelines for Medium Term procurement of power by Distribution Licensees through Tariff based bidding process' dated 30th January 2019 issued by the Ministry of Power for the period of four (4) years starting from 01.03.2021 to 28.02.2025;*
- c) *Allow the deviation for interface point as 220 kV AMNEPL Bus and MSETCL transmission Network at Khairi-Khurd, Hingana, Nagpur.*
- d) *Allow MADC to charge consumers in the MIHAN SEZ area, the tariff that is applicable for the respective category of consumers in the MSEDCL area of supply, as modified from time to time, as the 'maximum ceiling tariff' in its area of supply, till such time the ARR and the tariff determined by this Hon'ble Commission, and approve the appropriate tariff schedule as applicable in the MSEDCL area of supply;*
- e) *In case the requirement of power in the MIHAN SEZ increases from maximum quantum estimated for every year, then in that case MADC be allowed to procure the same through IEX;*
- f) *Direct MSETCL and AMNEPL (in liquidation) for extending its co-operation and support to MADC in supplying power to consumers in MIHAN SEZ.*

3. MADC in its Petition has stated as follows:

- 3.1 Maharashtra Airport Development Company Ltd (**MADC**) is a Company incorporated under the Companies Act, 1956 that has been constituted in year 2002 by the Government of Maharashtra as the nodal agency in the planning and implementation of a Multi Modal International Hub Airport at Nagpur (**MIHAN**) for development of Vidarbha region along with a Multi-Product SEZ.
- 3.2 With a view to provide uninterrupted power supply in the MIHAN Area and in pursuance of an international competitive bidding process, a Concession Agreement dated 7 November, 2007 had been signed between MADC and Abhijeet MADC Nagpur Energy Pvt. Ltd (**AMNEPL**) for developing and operating a coal based power plant for supplying power to MIHAN SEZ area. Vide the said Concession Agreement,

it was *inter alia* agreed between the MADC and AMNEPL, that AMNEPL would erect the power plant along with interconnection facilities, and MADC, on the other hand, would set up the distribution network in the MIHAN SEZ area and handover the same to AMNEPL for operation and maintenance. Supply of power would be done by AMNEPL directly to the consumers. There is ongoing dispute between AMNEPL and MADC. Further, Insolvency proceedings have been initiated against AMNEPL. NCLT in its Order dated 20 August, 2018 has duly protected the rights of MADC and has clarified that the liquidation process shall be subject to the rights of MADC.

- 3.3 The Government of India, Ministry of Commerce, vide Notification dated 3 March 2010, changed the status of the SEZ Developers as Deemed Distribution Licensee.
- 3.4 The Commission vide its Order in Case No. 16 of 2011 dated 3 August, 2012 declared MADC to be a deemed Distribution Licensee under Section 14 of the EA, 2003 for the notified SEZ area.
- 3.5 Presently, MADC is purchasing power from Maharashtra State Electricity Distribution Company Limited (**MSEDCL**) at a tariff rate of Rs 4.89/kWh. This short term procurement period expired on 28 February, 2020. Hence MADC has filed Petition seeking approval of the Power Procure Plan for a period of Four years from 1 March 2021 to 28 February 2025.
- 3.6 The Commission vide its Order in Case No 236 of 2020 dated 14 January, 2021 has approved power procurement plan for medium term power purchase of MADC and had further directed to complete the bidding process and approach the Commission well in time considering the fact that existing power procurement contracts ends on 28 February, 2021.
- 3.7 Thereafter, in accordance with Ministry of Power (**MoP**) Government of India (**GoI**) Guidelines dated 31 January 2019, MADC floated a tender on Discovery of Efficient Electricity Price (**DEEP**) Portal on 21 December, 2020 for procurement of power for the period from 1 March, 2021 to 28 February, 2025. The power requirement is stated as per load profile and is different for each year.
- 3.8 A pre-bid meeting was conducted on 31 December, 2020. MSEDCL, PTC, Manikarn and JSW Energy participated in pre-bid meeting. During discussions in pre-bid meeting, it emerged that power requirement given by MADC would result in 16 requisitions for power and there would likely be a possibility of having different L1 for different slots of the day as well as for every year.
- 3.9 In order to avert above situation, the power requirement was revised as “up to 16 MW” and load profile for every year was given which was to be considered for availability calculations.

3.10 The details of revised power requirement are as below:

Hours	Capacity Required (In MW)	Commencement of Supply	Delivery Point
00:00 to 24:00	Upto 16 MW	1.03.2021 to 28.02.2025	At the interface point of 220 KV AMNEPL Bus and MSETCL Transmission Network at Khairi-Khurd, Hingana Nagpur

3.11 Requirement of power as per load profile given below

Period	00:00 to 06:00	06:00 to 09:00	09:00 to 14:00	14:00 to 17:00	17:00 to 20:00	20:00 to 24:00
1.03.2021 to 28.02.2022	6	9	13	12	11	6
1.03.2022 to 28.02.2023	6	9	14	12	11	6
1.03.2023 to 28.02.2024	6	9	15	13	12	6
1.03.2024 to 28.02.2025	6	9	16	14	12	6

3.12 Three corrigendum were issued in the bid process mainly due to change in power requirement, change in bid submission date & e-reverse Auction date and clarification regarding applicability of transmission charges and losses.

3.13 The Tender was floated on e-DEEP portal. Advertisement was published in The Indian Express in Mumbai, Nagpur, Pune editions and in Loksatta in Ahamadnagar, Aurangabad, Mumbai, Nagpur, Pune and New Delhi editions. However, on bid submission date 22 January, 2021, it was observed that only one bidder i.e. MSEDCL submitted its bid. The Technical bid of MSEDCL was opened and it was found that MSEDCL qualified on the laid down technical parameters.

3.14 As only one bidder i.e. MSEDCL had responded to the tender and there was limited time available for commencement of power flow under this tender as the then existing contract was expiring on 28 February, 2021, MADC decided to go along with single bidder. The Commission is requested to grant consent for selection of single bidder.

3.15 E -Reverse Auction was carried out on 4 February, 2021 and it was found that MSEDCL had quoted lumpsum tariff of Rs. 5.25/- per unit. Tariff comprised of base Fixed Charge and the Base Variable Charge in equal proportion which formed 50% of quoted tariff each. MADC has mentioned that 'transmission charge and losses' should not be applicable as MADC is Transmission System User (TSU) and is paying transmission charges to State Transmission Utility (STU) in its transmission pool account and drawal schedule of distribution licensee is grossed up by transmission loss to match with the source of power.

- 3.16 MSEDCL being single bidder, MADC requested MSEDCL to offer discount in offered price of Rs. 5.25/ kWh vide Letter No. dated 18 February 2020. In response MSEDCL did not offer any discount in bid price of Rs. 5.25/ kWh vide their letter dated 1 March 2021
- 3.17 As existing contract of Short Term power purchase with MSEDCL expired on 28 February, 2021 and in view of urgency to continue the supply, Letter of Award (LOA) was placed on MSEDCL for supply of power from 1 March, 2021 to 28 February, 2025 at price Rs. 5.25/kWh, subject to approval of the Commission.
- 3.18 The successful bidder would supply power at the interface point of 220 KV AMNEPL (bus) and MSETCL transmission network at Khari-khurd Hingna, Nagpur. Hence, in this regard, MADC seeks a deviation in the interconnection point considering that MADC distribution network in MIHAN SEZ is not directly connected to STU. The Commission vide Order dated 18 November 2014 passed in Case no. 149 of 2014, the Order dated 13 October, 2016 passed in Case no. 100 of 2016, the Order 4 August, 2017 passed in Case No. 116 of 2017, the Order dated 19 July, 2019, order dated 13 August, 2019 and Order in Case No. 174 of 2020 dated 29 August, 2020 had allowed the said deviation in respect of the inter-connection point earlier.
- 3.19 MADC has developed a SEZ area at MIHAN in which presently it has 3 number of HT consumers on 33 KV, 16 number of HT consumers on 11 KV and 52 number of LT consumers.
- 3.20 Further it is requested to approve applicability of MSEDCL Tariff for the respective category as maximum ceiling tariff as per the proviso to Section 62(1) (d) of the EA, 2003 till such time the Annual Revenue Requirement (ARR) and the tariff is determined by the Commission,
- 3.21 It is requested to approve the proposed Power Procurement Plan for procurement of power up to 16 MW with load profile for every year from 1 March, 2021 to 28 February, 2025, through the Competitive Bidding Process in accordance with the existing Guidelines. Further in case the requirement of power in the MIHAN SEZ increases over and above the mentioned quantum due to any event which MADC could not have reasonably foreseen, then in that case MADC may be allowed to procure the same through Indian Energy Exchange (IEX).

4. MSLDC in its submission dated 8 April, 2021 has stated as follows:

- 4.1 The Commission in the Order in Case No 236 of 2020 issued directions to MADC & MSETCL to take speedy efforts for ensuring connectivity of MADC directly from STU. Since this will change interface point of MADC, it is requested to direct MADC to complete the connectivity with STU network in a time bound manner so as to consider the said interface point while implementation of MERC DSM Regulations

2019. Specific time limit may be given to MADC to complete the work of connectivity with STU network.

5. At the time of E- hearing held on 15 April, 2021, MADC reiterated the submission made in Petition. MSEDCL stated that as a successful bidder, MADC has placed LOA for supply of power and accordingly it is scheduling power to MADC from 1 March, 2021.

Commission's Analysis and Ruling

6. MADC has been recognized by the Commission as a deemed Distribution Licensee vide its Order in Case No. 16 of 2011 dated 3 August, 2012 under Section 14(b) of the EA, 2003 being the Developer of the MIHAN SEZ.
7. MADC had earlier approached this Commission in Case No. 236 of 2020 for approval of its medium-term power procurement plan and approval for deviation in interconnection point as stipulated in competitive bidding guidelines. The Commission while allowing such petition, through its Order dated 14 January, 2021 had directed MADC as follows:

“1. The Case No. 236 of 2020 is partly allowed.

2. The Commission approves the power procurement plan of MADC as per para 10.5 above.

3. MADC should ensure that it completes the bidding process and approaches the Commission well in time considering the fact that the present power procurement arrangement ends on 28 February 2021.

4. Speedy efforts shall be made by MSETCL and MADC for ensuring the connectivity of MADC directly from STU.”

[Emphasis added]

8. Thus, considering the fact that MADC's only power procurement contract was expiring on 28 February, 2021, the Commission directed MADC to complete the bidding process and approach the Commission well in advance so that decision on newly discovered tariff through competitive bidding could be taken.
9. However, MADC filed present petition on 5 March, 2021 that too after issuing LOA to bidder and starting scheduling of power subjecting the same to approval from Commission. MADC in its petition has prayed for condonation of delay in filing the Petition but has not explained the reasons for such delay. This shows clear negligence on behalf of MADC to comply with Commission's directions.

10. In normal circumstances the Commission may not have condoned such delay, however in present matter as issue is relating to continuity of power supply to consumers, the Commission is reluctantly considering this Petition. MADC should avoid recurrence of such non-compliance, failing which the Commission will be compelled to initiate penal action against defaulting officials of MADC.
11. Having condoned the delay in filing Petition as above, the Commission frames following issues for its considerations in this matter:
- Approval to Revised Medium Term Power procurement plan
 - Adoption of tariff
 - Other issues

12. Issue A:- Approval to Revised Medium Term Power procurement plan

12.1 The Commission vide its Order in Case No 236 of 2020 dated 14 January 2021 has approved the medium power procurement plan submitted by MADC for four years starting from 1 March, 2021 to 28 February, 2025 as follows:

Period	09:00 Hrs to 13:45Hrs	14:00Hrs- 16:45 Hrs	17.00 Hrs. -19:45 Hrs
Base Demand (RTC) of 6 MW			
1.03.2021 to 28.02.2022	7 MW	6 MW	5 MW
1.03.2022to 28.02.2023	8 MW	6 MW	5 MW
1.03.2023 to 28.02.2024	9 MW	8 MW	6 MW
1.03.2024 to 28.02.2025	10 MW	8 MW	6 MW

12.2 MADC in the present Petition has stated that it floated a tender for power procurement on DEEP Portal on 21 December , 2020 as per the above power procurement plan and a pre-bid meeting was held on 31 December, 2020. During the pre-bid meeting it emerged that above power requirement would results in 16 requisitions for power and there was likelihood of a possibility of having different L1 for different slots of the day as well as for every year.

12.3 In order to avoid above situation, MADC revised power requirement as “up to 16 MW” and load profile for every year. The details of revised power requirement and the load profile are as below:

Hours	Capacity Required (In MW)	Commencement of Supply	Delivery Point
00:00 to 24:00	Upto 16 MW	1.03.2021 to 28.02.2025	AT the interface point of 220 KV AMNEPL Bus and MSETCL Transmission Network at Khairi- Khurd, Hingana Nagpur

Load profile

Period	00:00 to 06:00	06:00 to 09:00	09:00 to 14:00	14:00 to 17:00	17:00 to 20:00	20:00 to 24:00
1.03.2021 to 28.02.2022	6	9	13	12	11	6

1.03.2022to 28.02.2023	6	9	14	12	11	6
1.03.2023 to 28.02.2024	6	9	15	13	12	6
1.03.2024 to 28.02.2025	6	9	16	14	12	6

12.4 In this regard, the Commission observes that MADC's revised power procurement plan is just rephrasing/alternate representation of the power procurement plan approved by the Commission vide Order dated 14 January, 2021 and the said revised power procurement plan is almost matching earlier approved plan. Although MADC has stated the power 'up to 16 MW' is to be procured such procurement is subjected to yearly load profile. Such alternate representation of its power requirement was undertaken by MADC based on comments received during pre-bid meeting for simplifying bidding process.

12.5 As there is no major change in revised power procurement plan than that was approved by this Commission in Order dated 14 January, 2021, the Commission is approving the same.

13. Issue B:- Adoption of tariff

13.1 The Commission notes that present Petition does not have any specific prayer for adoption of tariff discovered through competitive bidding process and the only request in the Petition is to allow continuing the power procurement with single bid received in bidding process.

13.2 The Commission notes that Competitive Bidding Guidelines dated 30 January, 2019, requires the Commission to adopt the tariff discovered through competitive bidding process based on provisions of guidelines as reproduced below:

3. The tariff determined through the DEEP e-Bidding process using e-reverse Auction based on these Guidelines comprising the Model Bidding Documents shall be adopted by the Appropriate Commission in pursuance of the provisions of section 63 of the Act.

13.3 The Commission notes that in the present matter MADC has floated bids as per model bidding document after seeking approval for deviation relating to drawal point. Further bid has been floated on DEEP Portal and advertisement was published in the newspapers for giving wide publicity. However, MADC received only one bid of MSEDCL. Bid of MSEDCL was found as technically qualified and hence E- Reverse Auction was carried on 4 February, 2021. MSEDCL has quoted the tariff of Rs. 5.25/ kWh. MSEDCL being single bidder, MADC requested MSEDCL to offer discount vide letter dated 18 February, 2020 which was refused by MSEDCL. As existing Short Term contract with MSEDCL was to expire on 28 February, 2021, MADC has placed LOA with MSEDCL for supply of power from 1 March, 2021 to 28 February, 2025 at price Rs. 5.25 / kWh discovered through competitive bidding.

13.4 The Commission notes that Hon'ble Supreme Court in its judgment dated 11 April, 2017 in *Energy Watchdog* matter has explained the role of the Commission under Section 63 as follows:

*“19. The construction of Section 63, when read with the other provisions of this Act, is what comes up for decision in the present appeals. It may be noticed that Section 63 begins with a non obstante clause, but it is a non obstante clause covering only Section 62. Secondly, unlike Section 62 read with Sections 61 and 64, the appropriate Commission does not “determine” tariff but only “adopts” tariff already determined under Section 63. Thirdly, such “adoption” is only if such tariff has been determined through a transparent process of bidding, and, fourthly, this transparent process of bidding must be in accordance with the guidelines issued by the Central Government. What has been argued before us is that Section 63 is a standalone provision and has to be construed on its own terms, and that, therefore, in the case of transparent bidding nothing can be looked at except the bid itself which must accord with guidelines issued by the Central Government. **One thing is immediately clear, that the appropriate Commission does not act as a mere post office under Section 63. It must adopt the tariff which has been determined through a transparent process of bidding, but this can only be done in accordance with the guidelines issued by the Central Government. Guidelines have been issued under this section on 19-1-2005, which guidelines have been amended from time to time. Clause 4, in particular, deals with tariff and the appropriate Commission certainly has the jurisdiction to look into whether the tariff determined through the process of bidding accords with Clause 4.**”*

[Emphasis added]

Thus, the Commission cannot act as mere post office, but it has to evaluate whether rate discovered is through transparent process of bidding in accordance with guidelines issued by the Government.

13.5 The Commission notes that MADC has followed the procedure prescribed under the competitive bidding guidelines, but as only single bid has been received, competitive rate which is envisaged to be discovered through e-reverse auction process has not been reflective of current market conditions.

13.6 The Commission notes that discovered rate of Rs 5.25/ kWh through competitive bidding is exclusive of interstate transmission charges and transmission losses (since the source is intrastate). Whereas tariff for the contract which expired on 28 February, 2021 was Rs 4.89/ kWh (inclusive of interstate transmission charges and transmission losses). MSEDCL is power supplier in both the cases. Thus, new discovered rate is on higher side.

13.7 Further it is also important to compare such discovered rate with rates being discovered through other bidding process. The Commission in Case No 183 of 2020 dated 26 September, 2020 of Laxmipati Balaji Supply Chain Management Limited, another SEZ located in Panvel Raigad, has refused to adopt short term rate of Rs. 5.29/kWh (which was including of transmission charges and losses) as it was on higher side and directed it for retendering. Subsequent to retendering process, the Commission vide its Order in Case No 211 of 2020 dated 23 November, 2020 has adopted rate of Rs. 4.47/kWh inclusive of transmission charges and losses.

13.8 Also, the Commission in its Order in Case No 5 of 2021 dated 30 January, 2021 of Jawaharlal Nehru Port Trust, another SEZ located in Raigad, has adopted Rs 3.60/kWh at state transmission periphery for 2 MW power. This rate is exclusive of interstate transmission charges and transmission losses.

13.9 The Commission has also analyzed the result of recent Short-term bidding carried out on e-bidding portal (DEEP Portal) by Distribution Licensees in Maharashtra and summarised the same as below:

Name of distribution Licensee	Period	Quantity in MW	Rate Discovered in Rs/ kWh @state Transmission periphery
KRC Infra	01.04.21 to 30.06.2021	4 MW (RTC)	3.39
TPC-D	01.04.2021 to 30.04.2021	25 and 49 MW	3.31
TPC-D	01.04.2021 to 30.04.2021	100MW	3.37
TPC-D	01.05.2021 to 31.05.2021	25/49/75 MW	3.31/3.31/3.38

13.10 All above rates discovered by other licensees are for short term contract (less than one year) whereas MADC's proposed contract is for medium term (4 years). Although, these are two different type of contracts, in current market situations, rates for both type of contracts should more or less be similar. Besides, there is no justification given by MADC or seller for higher rates.

13.11 The Commission is fully aware of the fact that every tender is a separate process and may not be comparable with other tenders. However apart from these recently adopted rates as mentioned above, the overall market trend also does not justify the rate of Rs 5.25/kWh. Also, there was only single bidder and hence no competition at e-reverse auction process.

13.12 Hence, the Commission is of considered opinion that such high rate cannot be adopted under Section 63 of the EA, 2003 as it is not reflective of market price.

13.13 The Commission also notes that MADC without approaching the Commission has gone ahead and issued LoA to single bidder i.e. MSEDCL for supply of power for 4 years at rate of Rs. 5.25/kWh. MADC has justified its action by stating that there was an element of urgency as the then existing contract was expiring on 28 February, 2021.

The Commission does not accept the justification of MADC as such situation has been created due to inaction on the part of MADC. The Commission in its Order dated 14 January, 2021 has already cautioned MADC to complete bidding process as early as possible and approach the Commission in advance. But MADC's actions do not reflect that they are conscious of such situation.

13.14 Further, E-reverse bidding was completed on 4 February, 2021 and on that day itself MADC was aware of rate of Rs. 5.25/kWh quoted by MSEDCL which was on higher side. The Commission is aware that though this tariff was discovered under Section 63 of EA, 2003, MADC is bound to ensure the reasonability of tariff, which they have failed to do. MADC took 14 days to communicate to MSEDCL (dated 18 February, 2021) requesting for reduction in the rate and further waited until MSEDCL replied them on 1 March, 2021. After wasting such precious time available before expiry of the then existing contract on 28 February, 2021, MADC was not left with other option but to issue LoA to MSEDCL for supply of power at Rs. 5.25/kWh. This is clear failure on part of MADC in discharging its duty towards procurement of power at economical rate reflective of current market price.

13.15 The Commission has already observed that tariff of Rs. 5.25/kWh cannot be adopted, being non-reflective of market price. Hence, MADC needs to undertake re-bidding of its power requirement and complete the procedure within six months from the date of the Order.

13.16 Meantime, in order to maintain continuity of power supply to consumers in MIHAN SEZ, the Commission allows MADC to continue scheduling power against LoA issued by it to MADC at rate of Rs. 5.25/kWh. However, as such rate has not been adopted by the Commission; such power purchase cost may not be allowed to be passed on fully to consumers as it is. The Commission will take appropriate view on this issue based on new rates that would be discovered in re-bidding process ordered above and accordingly may disallow certain power purchase expenses during Multi Year Tariff (MYT) Petition filed with the Commission.

14. **Issue C:- Other issues**

14.1 MADC has also prayed for approval for deviation in bidding documents relating to interconnection point, allowing levy of MSEDCL's tariff as ceiling tariff and allowing procurement of additional power if required from IEX.

14.2 The Commission has already ruled on these issues in its Order dated 14 January, 2021 as follows:

“11. Issue b: Deviation in the bidding document for interconnection

.....

11.3 The Commission notes that in its earlier Orders, it has approved deviation in interconnection point considering the infrastructure developed and the circumstances of MADC. As same conditions still exist, the Commission allows deviation with regard to the interconnection point for the procurement of medium-term power.

.....
12. Issue c: Approval for applicability of ceiling tariff of MSEDCL

12.1 The Commission further notes that MADC in the present Petition has again prayed that it should be allowed to levy tariff to its consumers by considering MSEDCL's tariff as ceiling tariff till Commission decides tariff for MADC. The Commission in its Order in Case No 174 of 2020 dated 29 August 2020 has already raised concern as regards MADC seeking the same relief again and again in each Petition. Relevant extract of the Order is as follows:

13. The Commission further notes that in present Petition, MADC has also prayed that it should be allowed to levy tariff to its consumers by considering MSEDCL's tariff as ceiling tariff till Commission decides tariff for MADC. In this regard, the Commission notes that such relief has already been granted by this Commission in its Order dated 20 January 2015 in Case No. 149 of 2014 as follows:

“20. In its capacity as a Deemed Distribution Licensee and to fulfil its obligation to supply electricity to consumers in the MIHAN SEZ, MADC has sought approval for short term power procurement and provisional tariff for supplying power to consumers. The Commission notes that MSEDCL is another Distribution Licensee in the same area. Thus, MADC's Licence area falls under the proviso to Section 62(1) of the EA, 2003 which provides that, in case of distribution of electricity in the same area by two or more Distribution Licensees, the Commission may fix a ceiling tariff for retail sale of electricity. MSEDCL's tariff is the only approved tariff for the area. Hence, the Commission rules that the tariff approved for the respective consumer categories of MSEDCL will be the ceiling Tariff for the MIHAN SEZ area.”

Based on the above dispensation only, MADC is levying tariff to its consumers for the last five years. Therefore, the Commission does not understand propriety of seeking same relief again.

Now again MADC is again praying for the same relief in present Petition which only shows casual approach of MADC not commensurate with the statutory responsibilities of a Distribution Licensee. The Commission also notes that MADC has recently filed its MYT Petition before the Commission which is being processed separately. Till that time, above quoted ruling shall be applicable in respect of levying tariff to consumers in MADC area.

13. Issues d: Approval to amend PPA if requirement of power exceeds than the projected power.

13.1 MADC in the present Petition has also prayed for approval to amend contract if power requirement goes higher than projected demand of 16 MW to procure required capacity.

13.2 The Commission notes that MADC's Petition does not contain any supporting justification for such prayer. The Commission is of the view that though Distribution Licensees are free to source power through any source/alternate source to meet growing requirement of their consumer demand, it is expected that Distribution Licensee shall do so by conducting fresh bidding process. It needs to be shown that the sourcing of power is done in a most economic and transparent manner. Amending existing contract to source higher quantum of power is not advisable and can not be allowed without analysing its implications. Hence, this prayer of MADC cannot be allowed.

13.3 MADC should explore all possibilities of sourcing cheapest power so that consumers should not be unnecessarily burdened with increased cost."

As the Commission has already ruled on the issues as above, MADC should not have raised such issues again. This also shows rather casual approach of MADC towards filing of petition and seeking unwanted reliefs. As Commission has already decided on these issues, no fresh ruling is called for in the present matter.

15. Hence following Order.

ORDER

- 1. The Case No. 20 of 2021 is partly allowed.**
- 2. The Commission approves the revised power procurement plan of Maharashtra Airport Development Company Ltd.**
- 3. The Commission rejects adoption of tariff of Rs. 5.25/kWh, being non-reflective of market price.**
- 4. Maharashtra Airport Development Company Ltd to undertake re-bidding of its power requirement, complete the procedure and file the petition for adoption of tariff within six months from the date of the Order.**

5. The Commission allows Maharashtra Airport Development Company Ltd to continue scheduling of power against LoA issued by it at rate of Rs. 5.25/kWh in order to maintain continuity of power supply to consumers in MIHAN SEZ.
6. Such power purchase cost may not be allowed to be passed on fully to consumers as it is. The Commission will take appropriate view on this issue based on new rate as discovered in re-bidding process and accordingly may disallow certain power purchase expenses during Multi Year Tariff (MYT) Order.

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I.M. Bohari)
Member

Sd/-
(Sanjay Kumar)
Chairperson

