

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
**World Trade Centre, Centre No.1, 13<sup>th</sup> Floor, Cuffe Parade, Mumbai 400005.**  
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**Case No. 205 of 2022 and I. A. Diary No. 265 of 2022**

**Petition of Eon Kharadi Infrastructure Private Limited seeking approval for Power Purchase Agreement and Adoption of Tariff determined through transparent bidding process for Short-Term Power Procurement and combined Renewable Energy Power Procurement**

**Coram**

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

Eon Kharadi Infrastructure Pvt. Ltd. (EON)

Petitioners

Appearance:

For Petitioner:

Adv. Tabrez Malawat  
Shri Vikram Yermalkar (Rep)

**ORDER**

**Date:** 26 December, 2022

1. Eon Kharadi Infrastructure Private Limited (SEZ Phase-I) has filed this Case on 10 November, 2022 seeking approval for Power Purchase Agreement and Adoption of Tariff determined through transparent bidding process for a) Short-Term Power Procurement of 2 MW RTC for a period of from 1 December, 2022 to 28 February, 2023 and b) Combined Renewable Energy Power Procurement of 21.75 MW for a period of one year from 1 December, 2022 to 30 November, 2023.
2. **Petitioners' main prayers are as under:**
  - a. *Approve the Power Procurement Plan to continue short-term power procurement till 30<sup>th</sup> November, 2023;*
  - b. *Approve the PPA signed between the Petitioner and Kreate Energy and adopt the tariff of Rs. 5.20/unit discovered through competitive bidding for procurement of 2 MW RTC as for a period of three months from 1st December, 2022 to 28<sup>th</sup> February, 2023.*

- c. Approve the PPA signed between the Petitioner and Kreate Energy and adopt the tariff of:
- i. Rs. 3.29 per unit discovered through competitive bidding for procurement of power 11.65 MW wind power without REC for a period from 1<sup>st</sup> December 2022 to 30<sup>th</sup> November 2023.
  - ii. Rs. 4.09 per unit discovered through competitive bidding for procurement of power 10.10 MW wind power with REC for a period from 1<sup>st</sup> December 2022 to 30<sup>th</sup> November 2023.
- d. To approve the power purchase cost made by EON to ensure supply of power for month of November 2022.  
.....”

**3. Eon Kharadi in the Petition has stated as follows:**

3.1 Eon Kharadi (SEZ Phase-I) is a Deemed Distribution Licensees for the IT and ITES SEZ at Survey No. 77, MIDC, Knowledge Park, Kharadi, Pune.

3.2 The Commission in its combined Order dated 15 September 2020 in Case No. 171 & 172 of 2022 has allowed EON’s power procurement plan for 2 years (FY 2020-21 to FY 2021-22) as follows:

Particulars	FY 2020-21	FY 2021-22
Base Load in MW (00:00 Hrs to 24:00 Hrs)	7	8
Peak Load in MW (08:00 Hrs to 23:00 Hrs from Monday to Friday, excluding national and other holidays)	9	10
Total Load in MW	16	18

The Commission allowed EON to file the power procurement plan for the balance 3 years (FY 2022-23 to FY 2024-25) once Covid-19 situation got stabilized. In the same Order, the Commission has adopted the tariff discovered for Short-Term Power Procurement for the period of 1 October 2020 to 30 September 2021.

3.3 Thereafter, vide its Order dated 13 October 2021, on the request of EON, above said power procurement was allowed to be extended for one more year, i.e., for the period from 1 November 2021 to 31 October 2022. While allowing such extension, the Commission in its Order dated 13 October 2021 directed EON to start preparing for medium term power procurement. Relevant part of the said Order is reproduced below:

*“9.5. Accordingly, the Commission allows EON to procure 7 MW power through short term PPAs to meet its load requirement till October 2022. At the same time, EON should start preparing its medium-term power procurement plan and submit the same to the Commission for approval well in advance i.e., before July 2022”.*

3.4 EON after seeking approval of Medium Term Power Procurement Plan from the Commission vide Order in Case No. 82 of 2022 published tender for Medium Term for period of 3 years starting from 1 November 2022 to 31 October 2025.

3.5 EON did not receive any response from the prospective bidders even after two extensions

of time till 5 August 2022. Due to no response from the bidders, EON cancelled the tender on 5 August, 2022.

- 3.6 Therefore, to ensure uninterrupted power supply, EON floated a short-term power procurement tender on Discovery of Efficient Electricity Price (DEEP) Portal on 18 August 2022 (ET 138) for procurement of power of 7 MW RTC (00:00 Hrs to 24:00 Hrs) from 1 November 2022 to 31 October 2023 in accordance with the Standard Bidding Guidelines, without any deviations.
- 3.7 EON issued a Public Notice in the Hindustan Times (Delhi) and Times of India (Pune) on 18 August 2022 for procurement of power in line with the e-Tendering and e-Reverse Auction process as per the Standard Bidding Guidelines.
- 3.8 The date of submission of bids was extended from 22 August 2022 to 30 August 2022.
- 3.9 Eon, thereafter, revised the tender document and Bid was divided in 5 Requisitions for which the bidder was given option to quote for any one or more or all requisitions (7 MW each in different time periods of 12 month) as under:
  - a) 01.11.2022:00.00 to 31.12.2022 (RTC Power 7 MW)
  - b) 01.01.2023:00.00 to 31.03.2023 (RTC Power 7 MW)
  - c) 01.04.2023:00.00 to 30.06.2023 (RTC Power 7 MW)
  - d) 01.07.2023:00.00 to 30.09.2023 (RTC Power 7 MW)
  - e) 01.10.2023:00.00 to 31.10.2023(RTC Power 7 MW)
- 3.10 Two interested generators/traders submitted the bids on DEEP Portal till 15 September 2022 for 7 MW RTC from 00:00 to 24:00 hours as under:
  - a) Manikaran Power Limited. (Rs.8.00-8.5 per unit) (Only 2 requisitions)
  - b) Kreate Energy (I) Private Limited. (Rs. 7.99 per unit) (All 5 requisitions)
- 3.11 As the prices discovered through E-Reverse Auction were higher (Rs. 7.99 per unit) than current market trends, Petitioner, issued letters on 18 October 2022 to Kreate Energy (I) Pvt Ltd as well as Manikaran Power Limited (MPL), to relook into prices offered.
- 3.12 In reply, KIPL revised their price offer on 29 October 2022 to supply 2 MW RTC Power for the period from 1 December 2022 to 28 February 2023 at a tariff of Rs. 5.20 per unit at delivery point.
- 3.13 EON accepted the Kreate Energy offer and signed the PPA on 7 November 2022.
- 3.14 Meanwhile, as the prices discovered through E-RA were higher (Rs. 7.99) than current market trends, Petitioner, EON decided to float another Renewable Energy Short Term Power procurement Tender.
- 3.15 The combined Renewable Energy Bid which was invited on 1 October, 2022 was as under:

Requisition No	Period	Source of Power	Quantum( MW) & Timing	Minimum Bid Quantity
1	1 Dec 2022 to 30 Nov 2023	Solar with REC	10 MW 08:00 to 18:00	10 MW
2	1 Dec 2022 to 30 Nov 2023	Solar Without REC	10 MW 08:00 to 18:00	10 MW
3	1 Dec 2022 to 30 Nov 2023	Wind with REC @ CUF 20%	20 MW 00:00 to 24:00	20 MW
4	1 Dec 2022 to 30 Nov 2023	Wind without REC@ CUF 20%	20 MW 00:00 to 24:00	20 MW
5	1 Dec 2022 to 30 Nov 2023	Hydro without REC @ CUF 60%	10 MW 00:00 to 24:00	10 MW

3.16 However, even after giving two extensions of time, only one Bidder i.e. Kreate Energy quoted only for the requisition No.4 (i.e., Wind Power without REC) for the period from 01.12.2022:00.00 to 30.11.2023 (00:00 to 24:00) at the rate Rs. 6.20 per unit.

3.17 As the prices discovered was higher (Rs. 6.20 per unit) than current market trends, Petitioner, issued letters on 18 October 2022 to Kreate Energy (I) Pvt Ltd to relook into prices offered.

3.18 Kreate via email, submitted their revised offer for RE Based combined power on 1 November 2022. KIPL revised their price offer to supply as follows:

- i. 11.65 MW wind power without REC at tariff of Rs. 3.70 per unit at delivery point.
- ii. 10.10 MW wind power with REC at tariff of Rs. 4.50 per unit at Delivery point.

3.19 Kreate Energy requested EON to pay the transmission charges of Maharashtra State directly to MSLDC. EON accepted the same and deducted the short term transmission charges of Rs. 0.41/kwh from the Kreate Energy final bid price.

3.20 EON accepted the Kreate Energy offer and signed the Power Purchase Agreement on 9 November 2022 with Kreate Energy (I) Pvt Ltd for a period of twelve months, i.e., from 1 December, 2022 to 31 November, 2023as under:

- i. 11.65 MW wind power without REC at tariff of Rs. 3.29 per unit
- ii. 10.10 MW wind power with REC at tariff of Rs. 4.09 per unit

3.21 As the present short term PPA was expiring in October 2022 and the revised offer for prices discovered through bids were received on 29 October 2022 and 1 November 2022, EON made an arrangement with KIPL to ensure supply to its consumers for the month of November-2022 through bilateral mode. Following table shows the Power requirement and arrangement for November 2022:

Particulars	% of Quantum	Units (KWH)	Rs/unit	Total Rs.	Remarks
RTC Thermal	40%	1488000	5.20	7737600	
Renewable Power with REC	43%	1600000	3.90	6240000	
Balance- IEX	17%	612000	6.00	3672000	IEX rate tentative
	<b>100%</b>	<b>3700000</b>	<b>4.77</b>	<b>17649600</b>	

3.22 Approved tariff for EON SEZ Phase-II in order of MERC Case no. 34 of 2022 is Rs. 5.05 per unit and EON has projected tariff for November 2022 to be Rs. 4.77 per unit through this arrangement.

4. Eon Kharadi Infrastructure Private Limited has filed a Misc. Application (I A Diary No. 265 of 2022) on 12 November, 2022 for urgent hearing in the Case No.205 of 2022.

**5. At the time of E-hearing held on 25 November, 2022:**

5.1 The Petitioner reiterated the submission made in the Petition. The Petitioner stated that EON did not receive any response to its Medium-Term Power Procurement from the prospective bidders even after two-time extensions till 5 August 2022. Due to no response from the bidders, EON cancelled the Bid and opted for short term power procurement.

5.2 Due to poor response, it floated Bids for conventional as well as Renewable Energy through competitive bidding process.

5.3 Eon Kharadi has accepted the Offers of Kreate Energy after the post bidding negotiation after carrying out competitive bidding process

5.4 During the hearing, the Commission raised concern about post bidding negotiation wherein quantum as well as requisition period has been changed. The Commission also directed EON to file additional submission explaining how power from proposed 20 MW+ Wind PPA can be absorbed in its Load Curve.

**6. Eon in its submission dated 26 November 2022 has stated as under:**

6.1. Eon has submitted projected data of various sources for the month of November 2022 to October 2023 on 15 minutes block basis. Summary of the same is tabulated below:

Month	Proposed Load (MW)			Proposed Thermal (MW)			Proposed Wind Power (MW)			Proposed from Power Exchange (MW)		
	Min	Max	Avg	Min	Max	Avg	Min	Max	Avg	Min	Max	Avg
Nov-22	4.00	6.00	4.95	2.00	2.00	2.00	2.00	2.90	2.49	-0.90	2.00	0.45
Dec-22	4.00	6.00	4.95	2.00	2.00	2.00	2.00	2.90	2.49	-0.90	2.00	0.45
Jan-23	4.00	6.00	4.95	2.00	2.00	2.00	2.00	2.90	2.49	-0.90	2.00	0.45
Feb-23	4.00	6.00	4.95	2.00	2.00	2.00	2.00	2.90	2.49	-0.90	2.00	0.45
Mar-23	4.00	6.00	5.04	2.00	2.00	2.00	2.00	2.90	2.49	-0.90	2.00	0.55

Apr-23	4.00	7.00	5.65	2.00	2.00	2.00	4.00	5.20	4.55	-2.30	0.50	-0.90
May-23	4.00	8.00	5.80	2.00	2.00	2.00	4.00	5.20	4.55	-2.30	1.20	-0.74
Jun-23	4.00	7.00	5.67	2.00	2.00	2.00	4.00	5.20	4.55	-2.60	0.70	-0.87
Jul-23	4.00	6.00	4.90	2.00	2.00	2.00	4.00	5.20	4.55	-2.60	-0.30	-1.65
Aug-23	4.00	6.00	5.05	2.00	2.00	2.00	4.00	5.20	4.55	-2.50	-0.30	-1.49
Sep-23	4.00	6.00	5.14	2.00	2.00	2.00	4.00	5.20	4.55	-2.50	-0.30	-1.41
Oct-23	4.00	6.00	4.90	2.00	2.00	2.00	2.00	2.90	2.49	-0.90	2.00	0.40

- 6.2. EON to ensure supply of power to its consumers has signed a Power agreement for thermal power of 2MW with Kreate Energy (I) Private Limited, for Period of 1<sup>st</sup> December 2022 to 28<sup>th</sup> February 2022 and EON has also signed a Power Purchase agreement for supply through Wind source in the following manner:

Period	Quantum (MW) and Timings (In hrs.)	Minimum Bid Quantity (MW)	Price (Rs. per unit)	Delivery Point
01st December 2022 to 30th November 2023	11.65 MW 00:00 to 24:00 hrs.	11.65	3.70	22KV Bus of 220/22KV Magarpatta Substation owned by MSETCL
01st December 2022 to 30th November 2023	10.10 MW 00:00 to 24:00 hrs	10.10	4.50	22KV Bus of 220/22KV Magarpatta Substation owned by MSETCL

- 6.3. EON reiterated that for the balance period from March 2023 to November 2023, EON shall float a Combined Power Purchase Tender for EON SEZ Phase – I and EON SEZ Phase- II, as the existing PPA in EON SEZ Phase II is concluding on 28<sup>th</sup> February 2023.
- 6.4. The proposed arrangement (thermal power) shall be in addition to the power procurement through wind source as per the agreement signed with Kreate Energy(I) Private Limited for period of 1 December 2022 to 30 November 2023.
- 6.5. EON has made sincere efforts by floating medium term tender initially as well as short term tender (Thermal & RE) along with subsequent extensions for each tender. There was no response to the medium-term tender after which EON was left with no option but to float short term tender in combination of thermal and RE which gives the maximum optimisation of power purchase cost. Purchasing power through IEX is highly unreliable for a Deemed Distribution Licensee. The average cost of power supply from IEX for the month of November-2022 (Day 1- Days 26) is Rs. 4.62 + 1.20 (Transmission charges) at our delivery point. The cost of Rs. 5.82 /unit is much higher than the discovered price of Rs. 4.77/unit for the month of November 2022.

### **Commission's Analysis and Ruling:**

7. The Commission has recognized EON Kharadi Phase I as a Deemed Distribution Licensee vide its Order in Case No 67 of 2020 dated 5 June 2020 and has notified the specific conditions of Distribution Licensee on 15 June 2021.
8. The Commission vide its Order dated 13 October 2021 in Case No. 105 of 2021 has approved short term power procurement of 7 MW at a tariff of Rs. 3.95 per unit discovered through competitive bidding for the period of 1 November 2022 to 31 October 2022.
9. Further, in its Order dated 27 June 2022 in Case No. 82 of 2022, the Commission approved EON's proposal for combined power procurement for its Phase-I and Phase-II SEZs on medium term basis through competitive bidding process. Accordingly, EON initiated bidding process, but even after two extensions no response was received. Hence, EON cancelled the combined (Phase I & II) medium term bidding process and conducted short-term bidding process for Phase-I only, as short-term contract for Phase-II was valid till 28 February 2023.
10. In present Petition Eon Kharadi SEZ Phase-I is seeking approval of the Commission for the following:
  - a. Power procurement for the month of November 2022 which is based on bilateral agreement with Kreate Energy @ Rs. 4.77 per unit (without any bidding as its bidding process has not resulted in a successful bid for Nov 2022).
  - b. Adoption of Short-term power of 2 MW (bidding on DEEP Portal) for the Period of 1 Dec 2022 to 28 Feb 2023 @ Rs. 5.20 per unit.
  - c. Adoption of Short Term RE power procurement (bidding on DEEP Portal) for following quantum & rate:
    - i. 11.65 MW wind power without REC at tariff of Rs. 3.29 per unit.
    - ii. 10.10 MW wind power with REC at tariff of Rs. 4.09 per unit.
11. The Commission notes that Hon'ble Supreme Court in recent Judgment dated 23 November 2022 in the Civil Appeal No. 1933 of 2022 has ruled on the role of the Commission when tariff is discovered through competitive bidding under Section 63 of the Act as follows:

*“73. Section 63 has five significant features: (i) Section 63 begins with a non-obstante clause. The non-obstante provision overrides Section 62 alone and not all the provisions of the Act; (ii) as opposed to Section 62 where the Commission is granted the power to determine the tariff, under the Section 63 route, the bidding process determines the tariff; (iii) the Commission is mandated to adopt such tariff that is determined by the bidding process; (iv) the Commission has the discretion to not adopt the tariff determined through the bidding process only if the twin conditions as mentioned in the provision are not fulfilled; and (v) the twin conditions are that (a) the bidding process must have*

***been transparent; (b) the bidding process must have complied with the guidelines issued by the Central Government.”***

Hence, while adopting tariff under Section 63 of the Electricity Act, 2003, the Commission has to scrutinize whether such tariff is discovered in a bidding process which is transparent and based on the competitive bidding guidelines notified by the Central Government. If these twin conditions are met, then the Commission has to adopt such discovered tariff. Considering this principle, the Commission is addressing prayers of EON in the present matter.

12. The Commission notes that approval sought in the present matter is for short term procurement of power. Ministry of Power has notified guidelines dated 30 March 2016 under Section 63 of the Electricity Act 2003 for short-term procurement of power by Distribution Licensees through tariff-based bidding process. Said guideline has stipulated process of tariff adoption as follows:

*“11.4 If the quantum of power procured and tariff determined are within the blanket approval granted by the Appropriate Commission in Annual Revenue Requirement (ARR) of the respective year, then the same will be considered to have been adopted by the Appropriate Commission.*

*In all other cases, the Procurer(s) shall submit a petition to the Appropriate Commission for adoption of tariff within 2 days from the date of signing of PPA. Appropriate Commission should communicate the decision within 7 days from the date of submission of petition.”*

Thus, if the quantum of power procured and the tariff discovered are not within the blanket approval specified by the Commission in ARR/ Tariff Order, Distribution Licensee needs to approach the Commission for approval of power procurement and to adopt the tariff discovered through competitive bidding process. In case of EON SEZ Phase-I, first tariff Order is yet to be issued. EON would need to file its first tariff Petition by 30 November 2022. Thus, there is no ceiling specified for its power purchase. Hence, EON has to approach the Commission for adoption of power purchase tariff post competitive bidding process.

13. The Commission also notes that in order to meet consumer demand, EON has undertaken various bidding options which have culminated into present Petition. For deciding present Petition, it is important to understand process adopted by the EON and hence the Commission is summarizing it as under:
  - 13.1. As approved by the Commission vide Order dated 27 June 2022, EON initiated competitive bidding process for Medium Term Power procurement. However as no response was received, EON cancelled said Tender process on 5 August 2022.
  - 13.2. On 18 August 2022, EON initiated bidding process for 7 MW RTC short term power



procurement for the period of 1 November 2022 to 31 October 2023. By the extended due date, financial bids were opened on 15 September 2022. M/s Kreate Energy Pvt. Ltd quoted lowest tariff of Rs. 7.99 per unit.

- 13.3. As the discovered tariff was higher, on 1 October 2022 compared to market rates, EON initiated bidding process for short term procurement of RE power during the period of 1 December 2022 to 30 November 2023. Till last date of bid submission i.e. 17 October 2022 only one bid of M/s Kreate Energy Ltd at a tariff of Rs. 6.20 per unit was received.
- 13.4. As tariff discovered was higher, vide letter dated 18 October 2022, EON requested Kreate Energy to reconsider and reduce its tariff quoted in both tenders i.e., 7 MW RTC and RE power.
- 13.5. In response, vide email dated 29 October 2022 Kreate Energy submitted revised offer. As against 7 MW original offer for the period of 1 November 2022 to 31 October 2023, Kreate Energy submitted revised offer of 2 MW for the period of 1 December 2022 to 28 February 2023. Further in respect of original offer of 20 MW Wind Power without REC for the period of 1 December 2022 to 30 November 2022, Kreate Energy submitted revised offer for the same period but split it into two tranches i.e. 11.65 MW Wind with REC and 10.10 MW Wind without REC. In both these revised offers, Kreate Energy reduced the tariff quoted in original offer.
- 13.6. As revised offers were received for the period starting from 1 December 2022 onwards and its existing PPA was expiring on 31 October 2022, EON entered into bilateral contract with Kreate Energy for supply of power for the month of November 2022.

With the above background of bidding process conducted by EON Kharadi Phase-I, in following paragraphs, the Commission is ruling on the prayers seeking approval for the power procurement.

#### 14. **Power Procurement for the month of November 2022:**

- 14.1. Existing short-term PPA of EON Kharadi Phase-I expired on 31 October 2022. EON initiated short-term bidding process for procurement of 7 MW power for the period of 1 November 2022 to 31 October 2023 through DEEP portal on 18 August 2022. However, as summarized in para 13 above, bidding process ultimately result into offer for the period starting from 1 December 2022 onwards. Hence, there was no PPA for the month of November 2022. EON entered into bilateral agreement with Kreate Energy for supply of power during the month of November 2022 through various source at an average tariff of Rs. 4.77 per unit. EON has requested the Commission to approve such power procurement for Phase-I as such tariff is lower than the tariff of Rs.5.05 per unit approved for EON SEZ Phase -II vide Order dated 10 March 2022 in Case No. 34 of 2022.

- 14.2. In this regard, the Commission notes that the power procurement for the month of

November 2022 is based on bilateral contract between parties. Under the Electricity Act, 2003, while regulating power procurement of the Distribution Licensee, the Commission after ascertaining the quantum of power requirement can either determine tariff for purchase of power under Section 62 or adopt the tariff discovered through competitive bidding process under Section 63. Proposed power procurement for November 2022 does not fall into either of these provisions of the Electricity Act 2003.

- 14.3. The Commission notes the market situation and the limited response being received for bids being floated by the Distribution Licensees. Especially, SEZ based Distribution Licensee having low power requirement with typical load curves are facing difficulties in getting response for their power procurement bid. In the past, in such circumstances, the Commission has allowed bilateral contracts but at a tariff linked to rate discovered in power exchanges, which is market discovered rate. But in the present case, although 17% power procurement of total power purchase basket for November 2022 is linked to power exchange rate, tariff for balance power is mutually decided by the parties.
- 14.4. In view of above circumstances, the Commission cannot adopt such tariff mutually decided by the parties. However, as EON Phase-I has already executed and operationalized such contract for meeting consumer demand and claimed that such contracting has helped to reduce power purchase cost as compared to its SEZ Phase-II, the Commission will consider prudence of such contract in Tariff proceeding while allowing power purchase expense. Thus, EON SEZ Phase-I may decide on continuing such mutual contract on its risk and cost.

#### **15. Adoption of Short-term power of 2 MW for the Period of 1 Dec 2022 to 28 Feb 2023:**

- 15.1. The Commission notes that EON SEZ Phase-I started bidding process for power procurement of 7 MW RTC (00:00 Hrs to 24:00 Hrs) for the period of 1 November 2022 to 31 October 2023 on DEEP Portal on 18 August 2022 as per competitive Bidding Guidelines dated 30 March 2016 for Short Term Power Procurement without any deviation.
- 15.2. Bid submission date was extended from 22 August 2022 to 30 August 2022. Thereafter to increase response to the bid, EON divided Bids into following 5 requisitions for different period between 1 November 2022 to 21 October 2023:
- a) 01.11.2022:00.00 to 31.12.2022 (RTC Power 7 MW)
  - b) 01.01.2023:00.00 to 31.03.2023 (RTC Power 7 MW)
  - c) 01.04.2023:00.00 to 30.06.2023 (RTC Power 7 MW)
  - d) 01.07.2023:00.00 to 30.09.2023 (RTC Power 7 MW)
  - e) 01.10.2023:00.00 to 31.10.2023 (RTC Power 7 MW)
- 15.3. The Commission notes that two interested generators/traders submitted the bids on DEEP Portal as follows:
- a) Manikaran Power Limited. (Rs.8.00-8.5 per unit) (Only 2 requisitions)
  - b) Kreate Energy (I) Private Limited. (Rs. 7.99 per unit) (All 5 requisitions)

- 15.4. As the prices discovered i.e. Rs. 7.99 per unit was higher, EON vide letter dated 18 October 2022 requested Kreate Energy to relook into prices offered. In response, Kreate Energy vide email dated 29 October 2022 submitted revised offer to supply 2 MW RTC power for the period of 1 December 2022 to 28 February 2023 at tariff of Rs. 5.20 per unit. EON SEZ Phase-I accepted such revised offer and requested the Commission to adopt the tariff and approve such power procurement.
- 15.5. The Commission notes that while submitting revised offer, Kreate Energy reduced the quantum (from 7 MW to 2 MW) and also restricted the period to 1 December 2022 to 28 February 2023. It is important to note that said revised period is not in line with any of the five requisitions (reproduced at para 14.2 above) stipulated in bidding document. Accepting such bids which is not as per bidding requisition is a change in bidding conditions post submission of bid. Such post bidding changes not only vitiate bidding process itself but also create non-transparency in bidding process.
- 15.6. The Commission in the past in respect of various Distribution Licensee has allowed to lower the discovered tariff with consent of both contracting parties. However, in present case, changes are not limited to lowering the tariff, but period of requisition stipulated in bid have also been changed in non-transparent manner.
- 15.7. As post bidding negotiations have vitiated the transparency of the bidding process, it does not fulfill mandatory condition of transparent bidding process required under Section 63 of the Electricity Act, 2003. Therefore, the Commission cannot adopt such tariff under Section 63 of the Act.

#### **16. Adoption of Short-term RE power for the Period of 1 Dec 2022 to 30 Nov 2023:**

- 16.1. As tariff discovered in 7 MW RTC bidding process was higher, on 1 October 2022, EON initiated parallel bidding process for short term procurement of RE power for the period of 1 December 2022 to 30 November 2023 as per competitive Bidding Guidelines dated 30 March 2016 for Short Term Power Procurement without any deviation. In the said bidding process, EON SEZ Phase-I requested bids for the following quantum:

Requisition No	Period	Source of Power	Quantum (MW) and Timing	Minimum Bid Quantity (MW)
1	1 Dec 2022 to 30 Nov 2023	Solar with REC	10 MW 08:00 to 18:00	10 MW
2	1 Dec 2022 to 30 Nov 2023	Solar Without REC	10 MW 08:00 to 18:00	10 MW
3	1 Dec 2022 to 30 Nov 2023	Wind with REC @ CUF 20%	20 MW 00:00 to 24:00	20 MW
4	1 Dec 2022 to 30 Nov 2023	Wind without REC@ CUF 20%	20 MW 00:00 to 24:00	20 MW
5	1 Dec 2022 to 30 Nov 2023	Hydro without REC @ CUF 60%	10 MW 00:00 to 24:00	10 MW

- 16.2. Eon Kharadi issued a public notice in the Hindustan Times and Times of India on 1

October, 2022 for wider publicity to ensure the wider participation. After two time extensions, time for bid submission was allowed till 17 October, 2022.

16.3. The Commission notes that only single bidder (i.e., Kreate Energy) submitted its bid within the prescribed time and that too only for requisition No.4 (i.e., Wind Power without REC for the period from 01.12.2022:00.00 to 30.11.2023 (00:00 to 24:00) 20 MW at the tariff of Rs. 6.20 per unit.

16.4. As the price discovered was higher (Rs. 6.20) than current market trends, Eon Kharadi vide letter dated 18 October 2022 requested Kreate Energy to relook into prices offered. In reply, Kreate Energy via email dated 29 October 2022 submitted following revised offer for the same period:

- i. 11.65 MW wind power without REC at tariff of Rs. 3.70 per unit at delivery point.
- ii. 10.10 MW wind power with REC at tariff of Rs. 4.50 per unit at Delivery point.

EON accepted such revised offer and has requested the Commission to adopt the tariff and approve such power procurement.

16.5. The Commission notes that while submitting revised Offer, Kreate Energy split its original offer of 20 MW Wind Power without REC (Requisition No. 4) into 11.65 MW Wind Power without REC (Requisition No. 4) and 10.10 MW Wind Power with REC (Requisition No. 3). It is important to note that in revised Offer, Kreate Energy has offered power under Requisition No. 3 which it had never submitted in original bidding process. Accepting such revised, even if the same appears to be a good rate in the present market scenario, the offer results in non-transparency in bidding process.

16.6. As post bidding negotiations is against the principle of maintaining transparency of the bidding process, it does not fulfill mandatory condition of transparent bidding process required under Section 63 of the Electricity Act, 2003. Therefore, the Commission cannot adopt such tariff under Section 63 of the Act.

17. The Commission in above part of the Order rejected EON's request for adoption of tariff on account of non-transparent process adopted by EON. Therefore, EON SEZ Phase-I shall immediately initiate fresh bidding process for meeting its power requirement and ensure that transparency is maintained in all stages of the bidding process.

18. Meanwhile, for meeting consumer demand EON SEZ Phase-I may procure power from Power Exchanges and other permissible routes. Prudence of such power purchase expenses will be scrutinized during tariff proceeding.

19. Having ruled as above, the Commission would also like to make observation on quantum of power considered by EON SEZ Phase-I for short term RE power procurement. Against the maximum load of 8 MW, Five requisitions under short term RE bid for base power requirement (00.00 to 24.00 hours) of 50 MW and additional 20 MW for peak period of 0800 to 1800 hours have been floated. Such a power requirement is very high as compared to

maximum load of 8 MW projected by EON in its submission dated 26 November 2022 (summarized in table at para 6.1 above). No justification has been submitted by EON SEZ Phase-I for inviting bids for such high quantum. Although the RE power has low CUF (Bid considered 20% CUF), but such CUF is computed on annual basis. In few months / times of day, availability of RE capacity would be very high and close to the contracted capacity. EON SEZ Phase-I, as a Regulated Distribution Licensee (unlike an Open Access Consumer who contracts more power and banks it) needs to contract the power to match its Load Curve. Considering must run status of RE, Distribution Licensee will have to backdown its other conventional generating capacities to absorb real time RE generation, unless it has energy storage facility to store such excess RE generation. Therefore, the Commission directs EON SEZ Phase-I to review its RE power requirement quantum and float tender for a quantity which matches its Load Curve.

20. Hence, following Order:


### **ORDER**

- 1. Case No. 205 of 2022 is dismissed.**
- 2. Bidding process conducted by EON Kharadi SEZ Phase-I suffers from non-transparent changes in bidding conditions post bidding process, hence the Commission cannot adopt such tariff under Section 63 of the Electricity Act 2003.**
- 3. EON SEZ Phase-I shall work out its requirement as per the load curve and thereafter initiate fresh bidding process for meeting its power requirement.**
- 4. EON shall ensure that transparency is maintained in all stages of the bidding process.**
- 5. In the meantime for meeting consumer demand EON SEZ Phase-I may procure power from Power Exchanges and other permissible routes. Prudency of such power purchase expenses will be scrutinized during tariff proceeding.**

Sd/-  
(Mukesh Khullar)  
Member

Sd/-  
(I.M. Bohari)  
Member

Sd/-  
(Sanjay Kumar)  
Chairperson

  
(Abhijit Deshpande)  
Secretary

