

**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. 171 of 2023 and IA No 48 of 2023**

**Case of AEML SEEPZ Limited (ASL) for approval of Power Procurement plan as per the direction of the Commission in Order dated 24 May 2023 in IA No. 25 of 2023 in Case No. 40 of 2023 and under Regulation 5.1 of MERC (Multi Year Tariff) Regulation, 2019.**

**Coram**

**Sanjay Kumar, Chairperson**  
**Anand M. Limaye, Member**  
**Surendra J. Biyani, Member**

AEML SEEPZ Limited (ASL): - ..... Petitioner

Appearance

For Petitioner: - .... Smt. Deepa Chavan (Sr. Adv.)

**ORDER**

**Date: 3 October, 2023**

1. AEML SEEPZ Limited (ASL) has filed this Petition on 7 August, 2023 seeking approval of Power Procurement plan as per the directions of the Commission in Order dated 24 May, 2023 in IA No. 25 of 2023 in Case No. 40 of 2023 and to adopt the discount discovered through competitive bidding over Indian Energy Exchange (IEX) under Section 63 of electricity Act, 2003 (EA, 2003) and approve MoU route power under Section 86 (1) (b) of EA, 2003 read with Regulation 5.1 of MERC (Multi Year Tariff) Regulation, 2019.
2. **ASL's main prayers are as under:**
  - a. *To approve the power procurement plan, as demonstrated in the present Petition;*
  - b. *To adopt the discount/ premium over DAM/ GDAM rates on IEX as discovered through competitive bidding, as well as approve procurement of power through power exchange, as provided in the present Petition;*

3. **ASL in its Petition has stated as follows:**
- 3.1 AEML SEEPZ Limited (ASL) is a company incorporated under the Companies Act, 1956. ASL is a 100% subsidiary of Adani Electricity Mumbai Limited (AEML).
- 3.2 The Commission vide its Order dated 6 June 2022 in Case No. 2 of 2022 confirmed the status of ASL as the deemed Distribution Licensee for the notified SEZ area under Section 14 of the Electricity Act, 2003 and approved the provisional tariff of Tata Power Company Limited (Distribution) (TPC-D) to be levied to its consumers. Further specific conditions of Distribution License applicable to ASL have been notified by the Commission on 12 June, 2023.
- 3.3 ASL has filed MYT Petition in Case No. 40 of 2023 along with IA 25 of 2023 for seeking urgent listing and seeking levy of lowest tariff amongst the parallel distribution licensees i.e AEML and TPC-D. The Commission in its Order granted levy of lowest tariff among the two and directed ASL to start its operation as Distribution Licensee by undertaking power procurement through competitive bidding process or power exchanges and complying with all other Regulatory requirement of scheduling power under State Grid Code and after completing the connectivity on InSTs network and State Entity registration with Maharashtra State Load Despatch Centre (MSLDC) before filing MYT Tariff Petition.
- 3.4 ASL has estimated its energy requirement assuming that all the consumers of AEML shall migrate to ASL. As such, ASL has undertaken review of the existing energy requirement in its deemed license area and has prepared the power procurement plan in line with the provisions of the MYT Regulations, 2019, considering the load profile of its consumers.
- 3.5 ASL has computed its energy requirement as per 15 minutes block data. The current load of AEML in SEEPZ-SEZ area is in the range of 10 MW to 30 MW.
- 3.6 Considering two parallel licensees in the area and to remain competitive, ASL has proposed power procurement for the remaining FY 2023-24. ASL will reassess its requirement and shall carry out power procurement for FY 2024-25 and beyond depending upon the rate of power procurement as obtainable under different scenarios including the option of extending the current contracts under the same terms and conditions shall also be considered depending upon rate reasonability vis-à-vis other possibilities.
- 3.7 ASL has floated tender for conventional power up to 25 MW on 6 May, 2023 and for 16 MW wind power on 9 May, 2023 on Discovery of Efficient Electricity Price (DEEP) Portal and extended the dates of submission for two times. Despite several extensions and clarifications, ASL did not receive any response against these E-Tenders. The other SEZs (deemed distribution licensees) are also receiving half-hearted responses in their

E-Tenders and the discovered tariff is also on the higher side. ASL has received no response to its bidding because the bidders are generally wary of offering this much quantum with obligation of supply up to a certain availability of 80%. However, this is not the case for other SEZs which require a much lower quantum, because generators/traders have more certainty of supply in case of small quantum like 3 MW.

- 3.8 Due to non-participation in short term E-tender on (DEEP) Portal, ASL has issued Tenders based on exchange linked prices wherein bidders were required to quote the discount over IEX Tariff for supply of upto 25 MW conventional power and up to 20 MW wind power. Such Competitive Bids were offline as there was no provision to increase discount during reverse auction on DEEP E-Portal. The discount offered is in the range of 0.04; 0.14 and 0.2 for conventional power and 0.04, 0.12 and 0.13 for green power.
- 3.9 ASL has issued Letter of Intent (LOI) to all the bidders participating in the competitive bidding. In fact, supply of power, at different times, shall be secured as available from the bidders on a least cost basis i.e., maximum power shall be bought from the bidder which has quoted for highest discount over the Exchange rate, followed by lower discounts in a Merit Order. This in order will ensure that power is purchased by ASL on a least cost basis.
- 3.10 ASL has entered MoU with M/s. Manikaran Power Limited (MPL), who is a licensed electricity trader for supply of upto 20 MW (~ 29.64 MU) at a ceiling tariff Rs. 3.50 per kwh at Delivery Point Maharashtra State periphery from intra state wind generators. As such, ASL in real-time sourcing of power would compare the rates offered by the bidders and that of MPL and accordingly would procure the power.
- 3.11 Thus, ASL proposes to meet its power requirement through exchange linked contracts, MoU signed between ASL and MPL or through Power Exchange for initial period of operation i.e., for FY 2023-24.
- 3.12 These contracts do not contain the obligation to supply power by the supplier, but the supply is required to be made on an availability basis. In case no bidder is able to supply at a particular time, then ASL shall have to resort to purchase from Exchange.
- 3.13 If the IEX rates for the period August-22 to July-23 are considered, the average rate amounts to Rs. 5.06 per unit at Weighted rate, which is considering the time and load profile of ASL. This rate is lower than the recently discovered rates on DEEP Portal, as well as the rates adopted by the Commission for other SEZ's.
- 3.14 Further, it is proposed that, in case any real time requirement, ASL shall propose to meet the additional requirement through inter Discom contract with other Discom's or Power Exchange to minimize additional impact of DSM charges.

- 3.15 ASL requested to approve the power procurement plan for FY 2023-24 so that ASL's distribution license can be operationalized. ASL will re-approach the Commission for approval of its power procurement plan for FY 2024-25 alone or for FY 2024-25 and beyond after reassessing its requirement and the economics.
4. At the time of E-hearing dated 29 August 2023, ASL reiterated its submission mentioned in the Petition.
5. **ASL in its additional written submission dated 2 September 2023 has stated as follows:**
- 5.1 The reason for non-response might be due to high volatility in the short-term market and bidders might have avoided locking their capacities in longer duration contracts so that they could use the same for getting maximum advantage of a volatile Short-Term Market. Further, recently discovered tariffs in the short-term tenders of various deemed Distribution Licensees (SEZs) by way of e-tendering amply demonstrate that the discovered tariff is in the range of approximately Rs. 6 per unit to Rs.10 per unit. Also, the offered quantum is in the range of 2 MW to 4 MW. Such higher power tariffs would result in the end tariffs being higher for the consumers of ASL which is not desirable in a competitive scenario, nor is it beneficial for consumers. Therefore, ASL issued Tenders based on exchange linked prices both for conventional and RE power, wherein bidders were required to quote a discount over Day Ahead Market (DAM) / Green Day Ahead Market (GDAM) IEX Tariff.
- 5.2 In regard to applicability of MoU route for procurement of RE power, ASL has already discovered exchange linked RE Power rates based on competitive bidding. However, to attempt further reduction in the rate, ASL has had further discussions with various traders on availability of RE power. The traders have shown their willingness to provide RE Power at a ceiling rate of Rs 3.5 per unit at Maharashtra state periphery which seems reasonable and reflective of the current market situation. Considering the volatility in price of RE power at the exchange and the need to optimize power purchase cost, ASL has entered MoU with MPL for supply from intra state wind generators at a ceiling rate of Rs. 3.5 per unit at Maharashtra state periphery. Power procurement can be undertaken by way of either competitive bidding under Section 63 of EA 2003 or the MoU route under Section 62 of EA 2003. ASL has placed reliance of APTEL judgment in *Appeal No. 106 & 107 of 2009*, titled as *BSES Rajdhani Power Ltd. v. DERC* and in *Appeal No. 88 of 2015*, titled as *Noida Power Company Limited v. UPERC & Anr.*
- 5.3 The ceiling rate of Rs 3.50 per unit is significantly lower than the recently adopted Tariff of Rs 5 per unit at Maharashtra State periphery by the Commission vide its Order in Case No. 218 of 2022 dated 16 January, 2023 for Short Term Renewable Power Procurement for a period of 12 months. Also, this ceiling rate of Rs 3.50 per unit is worked out by applying wheeling charges, operating charges, trading margin and losses on the rate Rs. 2.65 per unit approved by the Commission in its Order dated 16 February 2022 in Case No. 8 of 2022.

- 5.4 ASL requested to take a holistic view, and ought to approve the arrangements proposed by ASL as Section 62 route is fully and validly available for procurement of power, coupled with the regulatory powers conferred under Section 86(1)(b) of the EA 2003 to the Commission.
- 5.5 Further to ensure the consumer interest, in real-time sourcing of power, ASL would compare the rates offered by through Competitive Bidding and that of MPL (through the MoU) and would accordingly procure power.

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

6. ASL has been recognized by the Commission as a deemed Distribution Licensee, vide its Order dated 6 June 2022 in Case No 2 of 2022 and the Commission further issued specific conditions of License vide MERC (Specific Conditions of Distribution License applicable to AEML SEEPZ Ltd. for multi-product SEZ at SEEPZ SEZ, Mumbai) Regulations, 2023 dated 12 June 2023.
7. ASL has filed MYT Tariff Petition with the Commission in Case No. 40 of 2023. Thereafter, ASL has filed an Interlocutory Application No. 25 of 2023 seeking urgent hearing in its MYT Petition and seeking clarification regarding levying the lowest Tariff amongst the parallel distribution licensees as provisional tariff to its consumers. The Commission while disposing off the IA No. 25 of 2023 vide order dated 24 May 2023 directed ASL as follows: -

*2. AEML SEEPZ Ltd. is allowed to levy provisional Tariff and the Schedule of Charges for FY 2023-24 (i.e., from 1 April 2023 onwards), which would be the lowest applicable Tariff determined amongst the other parallel distribution licensees (i.e., Tata Power Company Ltd.-Distribution and Adani Electricity Mumbai Ltd.-Distribution), till the final disposal of the Multi Year Tariff Petition filed by AEML SEEPZ Ltd.*

*3. AEML SEEPZ Ltd. may start its operation as Distribution Licensee by undertaking power procurement through competitive bidding process or power exchanges and complying with all other Regulatory requirement of scheduling power under State Grid Code and after completing steps mentioned at para. 10 of this Order.*

*4. AEML SEEPZ Ltd. may approach the Commission with revised Multi Year Tariff Petition after completion of its power procurement process through competitive bidding under Section 63 of the Electricity Act, 2003.*

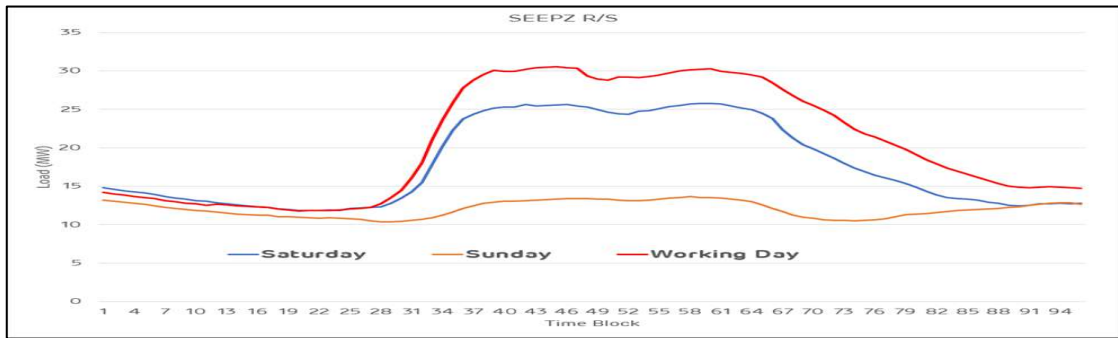
8. Accordingly, ASL has approached the Commission for power procurement plan and power procurement arrangement for FY 2023-24. While going through the material placed on record and after considering the submissions made at the time of hearing, the Commission frames following issues for its considerations:
- i. Power Procurement Plan

- ii. Power procurement arrangement.

The Commission's ruling on the above issues is given in subsequent paragraphs.

**9. Issue A: Power procurement plan for FY 2023-24**

9.1 ASL has submitted that it has assumed that post operationalization of its distribution license, existing consumers of AEML will migrate to ASL and accordingly has analyzed the 15 minutes energy requirement data for forecasting the load in the range of 10 MW to 30 MW. The base load and peak load estimated for ASL and the typical annual average load profile of ASL is as follows:



Considering the competitiveness in the SEZ area by other two parallel distribution Licensees, for time being, ASL has proposed power procurement for FY 2023-24 and depending on the re-assessment of its requirement ASL shall carry out power procurement for FY 2024-25 and beyond depending upon the rate of power procurement under different scenarios.

9.2 The Commission notes that being a distribution licensee in a small SEZ area, ASL will be in a better position to have communication with the consumers and estimate the prospective demand depending on the response. The Commission thinks it fit to assume that ASL has taken all efforts in terms of communication before predicting its demand and therefore, inclined to accept the demand projected by ASL of 10 MW to 30 MW for FY 2023-24.

**10. Issue B:- Power Procurement arrangement**

Exchanged Link Contracts

10.1 The Commission notes that ASL has floated tender on DEEP Portal without any deviations from Competitive Bidding Guidelines for procurement of conventional power up to 25 MW on 6 May 2023 and for 16 MW wind power on 9 May, 2023 and extended the due dates of submitting bid twice. However, ASL did not receive any response against these E-Tenders. Due to non-participation in short term E-tender on DEEP Portal, ASL issued Tenders based on exchange linked prices wherein bidders were required to quote the discount over IEX Tariff for supply of up to 25 MW conventional power and up to

20 MW wind power. Such Competitive Bids were offline as there was no provision to increase discount during reverse auction on DEEP E-Portal.

10.2 The Result of Competitive Bids for conventional power are tabled below:

Sr no	Trader	Source	Period	MW	Discount over W2 DAM rate in Rs Per unit
1	GMRETL	GMR Warora Energy Limited	1 June 2023 to 31 March 2024	Up to 25	0.14
		GMR Kamalanga Energy Limited		Up to 25	0.14
2	AEL	Mahan Energen Limited (MEL)	1 June 2023 to 31 March 2024	Up to 25	0.04

Only One Bidder has offered power from State Discoms wherein ISTS charges are not applicable as Supplying State Discom has Long-Term Access.

Sr no	Trader	Source	Period	MW	Premium* over W2 DAM rate in Rs Per unit
1	APPCPL	Utilities in NER-State Discoms	1 June 2023 to 31 March 2024	Up to 25	0.20

10.3 The Result of Competitive Bids for wind power are provided in the following table:

Sr no	Trader	Source	Period	MW	Discount over W2 GDAM rate in Rs Per unit
1	GMRETL	Nirani Sugars Limited	1 June 2023 to 31 March 2024	Up to 20	0.13
		MRN Cane Power(India) Limited		Up to 20	0.12
		Shree Kedarnath Sugar and Agro Products Limited		Up to 8	0.12
2	AEL	Adani Wind Energy Kutch Four Limited	1 June 2023 to 31 March 2024	Up to 20	0.04

10.4 The Commission notes that ASL has carried out the competitive bidding process on DEEP Portal but not succeeded and hence carried out competitive bidding for exchange link contracts. Power Exchange is the recognized platform under the Electricity Act where tariff for electricity is discovered through market mechanism. Any buyer can bid for its requirement on Power Exchange and get power at the market discovered rate. However, in the bid floated by ASL, only market discovered rate is considered as reference, but power is to be bought outside Power Exchange platform. Such competitive bidding for exchange link contracts is not envisaged in competitive bidding guidelines issued by the Government of India under Section 63 of the EA 2003. Such a type of bidding process would reduce liquidity on Power Exchange platform which would lead to increase in prices on exchanges. However, considering the fact that ASL has to start its Distribution Business and after several efforts it is not successful in bidding process conducted as per Competitive Bidding Guidelines, the Commission is inclined to allow ASL to go ahead with such market linked contracts as temporary measure.

- 10.5 The Commission notes that bidders have been offered discounts in the market discovered rate on power exchange in the range of Rs 0.04 to 0.20 per unit for conventional power and in the range of Rs. 0.04 to 0.13 per unit for green power. However, these contracts are not firmed contracts and bidders would provide power as per availability. Therefore, ASL would be required to depend upon other sources such as direct purchase from Power Exchange or Discom to Discom contracts. Such uncertainty in supply of power also emphasis need of taking continuous efforts to contract PPA with firm source of supply.
- 10.6 In view of the above, as a temporary measure, the Commission allows ASL to procure power from selected bidders on exchanged links contracts with a discount offered. However, ASL shall continue its effort to identify firm sources of power supply for its consumers. ASL shall immediately start the fresh competitive bidding process under Section 63 of the Electricity Act, 2003 and approach the Commission for adoption of tariff within 6 months from date of this Order.

MoU Route:

- 10.7 The Commission notes that ASL has proposed Memorandum of understanding (MoU) with MPL for 20 MW from Intra state wind generators at ceiling rate of Rs 3.50 per unit. In justification it has stated that it has carried out competitive bidding but not succeeded on DEEP Portal and hence finally opted for exchange linked contracts. To further reduce the RE rates, after discussion with the traders, ASL has entered into the agreement with MPL to provide RE Power at a ceiling rate of Rs 3.50 per unit at Maharashtra State periphery which includes wheeling charges, operating charges, trading margin and losses on the rate Rs. 2.65 per unit approved by the Commission in its Order dated 16 February 2022 in Case No. 8 of 2022. ASL has further stated that Section 62 route is fully and validly available for procurement of power, coupled with the regulatory powers conferred under Section 86(1)(b) of the EA 2003. Therefore, ASL requested the Commission to approve this MoU based PPA.
- 10.8 In this regard, the Commission notes that ASL has relied upon rate of Rs 2.65 per unit approved in Order dated 16 February 2022 which is pertaining to Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL), another Distribution Licensee in the State. In the past, MSEDCL has approached the Commission for entering into the contract with the wind generators whose EPAs under generic tariff route have expired. The Commission in Case No 264 of 2018 has approved the rate of Rs 2.25 per unit (Group I) generator and Rs 2.52 per unit for Group III and Group IV generators as ceiling rate for carrying out competitive bidding to have bilateral contract with the wind generators whose EPAs has been expired. This ceiling has been amended to Rs 2.65 per unit vide Order dated 6 January, 2023 in Case No. 202 of 2022.
- 10.9 It is important to note that Tariff of Rs. 2.65 per unit has been approved for procurement of power from Wind Generators by MSEDCL. Whereas, ASL has proposed rate of Rs. 3.50 per unit by justifying that Rs. 2.65 per unit becomes Rs. 3.50 per unit if wheeling



charges, operating charges, trading margin and losses are added, however ASL has not provided impact of each of this factor in rupees term for scrutiny of the Commission. It is also important to note that if Wind Generator is directly connected to transmission system, then Wheeling Charges and losses will not be applicable. ASL did not provide any details of wind generator under this MoU arrangement and hence, it is difficult for the Commission to access prudence of such charges proposed by ASL.

10.10 The Commission also notes that ASL has placed its reliance of APTEL judgment to state that competitive bidding under Section 63 of the EA 2003 is not the only option for power procurement, but the Commission can approve power procurement on MoU basis under Section 62 of the EA 2003. In this regard, the Commission notes that for power procurement under Section 62 of the EA 2003, tariff is determined by the Commission based on various parameters stipulated under Tariff Regulations after following due public consultation process under Section 64 of the EA 2003. Whereas in the present case, ASL is requesting the Commission to approve the tariff of Rs. 3.50 per unit which is decided by them bilaterally without providing any details of each of parameter of such tariff. This clearly cannot be allowed under Section 62 of the EA 2003. The Commission can only adopt the tariff if it has been discovered through competitive bidding under Section 63 of the EA, 2003 or else has to determine it as per provisions of its Tariff Regulations framed under Section 62 of the EA, 2003.

10.11 In view of the above, the Commission cannot allow MoU based PPA for procurement of Wind Power at tariff of Rs. 3.50 per unit. However, ASL is at liberty to buy such Wind Power at Tariff of Rs 2.65 per unit from Wind Generators and claim other actual charges such as operating charges in its ARR as a separate expense.

11. For any real- time power requirement over and above the contracts, the Commission allows ASL to fulfil its requirement through power exchanges or other permissible routes.

12. Hence, following Order.

### **ORDER**

- 1. Case No 171 of 2023 is partly allowed.**
- 2. Short term Power procurement plan for FY 2023-24 is approved as stated in para 9.2 above.**
- 3. Short Term Power Procurement through exchange linked contracts is allowed as a temporary measure with direction to ASL to immediately start competitive bidding process under Section 63 of the EA 2003 and approach the Commission for adoption of tariff within 6 months from date of this Order.**

4. MoU based PPA for procurement of Wind Power at tariff of Rs. 3.50 per unit is not allowed. However, ASL is at liberty to buy such Wind Power at Tariff of Rs 2.65 per unit from Wind Generators and claim other actual charges such as operating charges in its ARR as a separate expense.

Sd/-  
(Surendra J. Biyani)  
Member

Sd/-  
(Anand M. Limaye)  
Member

Sd/-  
(Sanjay Kumar)  
Chairperson

  
(Dr. Rajendra G. Ambekar)  
Secretary

