

**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. 174 of 2020**

**Case of Maharashtra Airport Development Company Ltd seeking approval for its power procurement plan and for undertaking competitive bidding for Short Term Power Procurement for six months starting from 1 September, 2020 to 28 February, 2021.**

**Coram**

**I.M.Bohari, Member**  
**Mukesh Khullar, Member**

Maharashtra Airport Development Company Ltd

.....Petitioner

Vs

Abhijeet MADC Nagpur Energy Pvt. Ltd.

.....Respondent No. 1

Maharashtra State Electricity Distribution Co. Ltd.

.....Respondent No. 2

Maharashtra State Electricity Transmission Co. Ltd.

.....Respondent No. 3

Maharashtra State Load Despatch Centre.

.....Respondent No. 4

Appearance

For the Petitioner

: Shri Rahul Sinha (Adv)

: Shri. R. K. Gupta (Rep)

For Respondent No. 1

: Shri Satish Shrikhande (Rep)

For Respondent No. 2

: Shri. Paresh Bhagwat (Rep.)

For Respondent No. 3

: Shri. P.G. Narnaware (Rep.)

For Respondent No. 4

: Shri Dhengle (Rep.)

**ORDER**

**Date:- 29 August, 2020**

1. Maharashtra Airport Development Company Ltd (**MADC**), being deemed Distribution Licensee for MIHAN SEZ area at Nagpur, has filed this Case dated 21 August, 2020 seeking approval for its power procurement plan and to undertake competitive bidding for power procurement for six months starting from 1 September, 2019 to 28 February, 2020 under Section 86 of the Electricity Act, 2003 (**EA**) read with Competitive Bidding Guidelines issued by the Ministry of Power (MoP) Government of India (GoI) dated 30 March, 2016

## 2. MADC's main prayers are as under:

- a) *Approve the plan for short term procurement of power in its capacity as a Distribution Licensee as per the 'Guidelines for short term (i.e. for a period of more than one day to one year) procurement of power by Distribution Licensees through Tariff based bidding process' dated 30<sup>th</sup> March 2016 issued by the Ministry of Power for the period of six months starting from 01.09.2020 to 28.02.2021;*
- b) *Allow the deviation sought as per Clause No. 8 of the 'Guidelines for short term (i.e. for a period of more than one day to one year) procurement of power by Distribution Licensees through Tariff based bidding process' dated 30<sup>th</sup> March 2016 issued by the Ministry of Power'*
- c) *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 is determined by this Hon'ble Commission, and approve the appropriate tariff schedule as applicable in the MSEDCL area of supply;*
- d) *In case the requirement of power in the MIHAN SEZ increases from 16 MW, then in that case MADC be allowed to procure the same through IEX.*
- e) *Direct MSETCL 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 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 07 November 2007 had been signed between MADC and Abhijeet MADC Nagpur Energy Private Limited (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.
- 3.2 The Commission vide its Order in Case No. 16 of 2011 dated 03 August 2012 declared MADC to be a deemed Distribution Licensee under Section 14 of the EA for the notified SEZ area.
- 3.3 The Commission, vide its Order in Case No 23 of 2013 dated 23 August, 2013 has rejected the petitions filed by MADC and AMNEPL as non-maintainable with the observation that

arrangement between MADC and AMNEPL under the Concession Agreement involving generation and sale of electricity by a generating company to the consumers directly, including the price at which the electricity would be generated and sold to the consumers under the bilateral agreements, was not regulated by the Appropriate Commission and the said arrangement did not fall either under Section 62 or Section 63 of the EA.

3.4 Thereafter, MADC has purchased the power through IEX and through short term tender, under the relevant Guidelines for Short-term Procurement of Power issued by GoI, MoP from time to time, as under:

- (a) Through IEX during period from 22 November 2014 to 28 February 2015. From M/s. Lloyd for the month of March 2015 against short term power purchase tender.
- (b) Through IEX during period from 01 April 2015 to 10 June 2015.
- (c) From Maharashtra State Electricity Distribution Co. Ltd. (**MSEDCL**) during period from 11 June 2015 to 30 October 2016 against Short Term Power Purchase tender. Subsequently extended up to 31 December 2016 and then up to 28 February 2017.
- (d) From MSEDCL during period from 1 March 2017 to 31 August 2017 against Short Term Power Purchase agreement approved by the Commission vide its Order in Case No. 175 of 2015 dated 27 December 2016.
- (e) From MSEDCL during the period from 01 September 2017 to 31 August 2018 against Short Term Power Purchase agreement approved by the Commission vide its Order in Case. No. 116 of 2017 dated 04 August 2017 read with Order in Case No. 125 of 2017 dated 30 August 2017.
- (f) From MSEDCL during the period from 01 September 2018 to 31 August 2019 as approved by the Commission vide its Order in Case No. 191 of 2018 dated 19 July 2018 read with Order in Case No. 238 of 2018 dated 20 August 2018.

3.5 Presently MADC is purchasing power from MSEDCL for the demand varying from 4MW to 16MW at a tariff rate of Rs 4.89/ kWh as approved by the Commission vide its Order in Case No. 165 of 2019 dated 13 August, 2019 read with its Order in Case No. 244 of 2019 dated 30 August, 2019. This period is expiring on 31 August 2020.

3.6 Hence, MADC has filed the present case seeking approval of the Power Procurement Plan for the period of six months starting from 1 September 2020 to 28 February 2021.

3.7 Insolvency proceedings have been initiated against AMNEPL. National Company Law Tribunal (**NCLT**) its Order in C.P. No. 1315 of 2017 dated 21 September, 2017 has passed a direction to the Interim Resolution Professional and the Committee of Creditor (**COC**) to co-operate with the MADC for supplying electricity to SEZ area and also to extend all further co-operations as and when required by MADC. Also the 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.

3.8 The Commission vide its Order in Case No 96 of 2017 dated 23 December, 2019 disposed of the MYT Tariff Petition filed by MADC with a direction to file fresh Petition covering the ARR for the past periods along with the ARR and other stipulated details for new Control Period of FY 2020-21 to FY 2024- 25 under MYT Regulations, 2019 within three months from date of that Order.

3.9 Due to lack of manpower and staff at the office on account of novel COVID 19 pandemic, MADC has not been able to file the Petition for medium term power procurement. Since Short Term Power Procurement period expires on 31 August, 2020, MADC has proposed to procure Short Term Power for 6 months for the time being and will make necessary application for medium term power procurement after the end of the pandemic.

3.10 As per the Guidelines dated 30 March 2016 issued by the MoP, prior approval of the Short Term Power Procurement Plan by a Distribution Licensee is necessary. Accordingly, MADC is proposing to initiate the process of Power Procurement on Short Term basis for the period 01 September, 2020 to 28 February, 2021 as below:

Period	Blocks	Duration	Quantum (MW) Firm basis
01.09.2020 to 28.02.2021	1- 96	00.00 hrs. to 24.00 hrs.	4MW
	1-24	00.00 hrs.to06.00 hrs.	+7MW
	25-36	6.00 hrs. to 9.00 hrs.	+ 9MW
	37-48	9.00 hrs. to 12.00 hrs.	+ 11 MW
	49-76	12.00 hrs.to 19.00 hrs	+ 12 MW
	77-88	19.00 hrs. to 22.00 hrs.	+ 9 MW
	89-96	22.00 hrs. to 24.00 hrs.	+ 7 MW

*Note: It may be noted that for the “00.00 to 24.00 hrs.” duration the 4 MW Round the Clock (RTC) requirements is the base figure and the figures in the following blocks are in addition to 4 MW. Further, it may be noted that block wise schedule as given above may vary during the actual execution.*

3.11 Further, in case the requirement of power in the MIHAN SEZ increases from 16 MW due to any event which MADC could not have reasonably foreseen, it is requested to permit procurement through Indian Energy Exchange Limited (IEX).

3.12 The successful bidder would supply power at the interface point of 220 kV AMNEPL (bus) and MSETCL transmission network at Kharikhurd – 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 State Transmission Utility (STU). It is connected to MSETCL network through AMNEPL switchyard and transmission network.

3.13 The Commission vide its earlier Order in Case no. 149 of 2014 dated 18 November, 2014, the Order in Case no. 100 of 2016 dated 13 October, 2016, the Order in Case No. 116 of 2017 dated 04 August, 2017, the Order in Case No 191 of 2018 dated 19 July, 2018 and the Order in Case No 165 of 2019 dated 13 August, 2019 had allowed the said deviation in respect of the interconnection point.

3.14 Further, presently MADC has 3 number of HT consumers on 33 kV in MIHAN SEZ, 16 number of HT consumers on 11 kV in MIHAN SEZ and 47 number of LT consumers. MADC is seeking appropriate directions for allowing 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 Annual Revenue Requirement (**ARR**) and the tariff is determined by the Commission, and approve the appropriate tariff schedule as applicable in the MSEDCL area of supply.

**4. State Transmission Utility (STU) in its submission dated 25 August, 2020 has stated as follows:-**

4.1 STU has been following the directives of the Commission to co-operate and facilitate MADC for supplying powers to the consumers in MIHAN SEZ.

4.2 The Commission in its tariff Order in Case No 327 of 2019 dated 30 March 2020 has considered MADC as a Transmission System User (TSU) for the purpose of sharing of Total Transmission System Cost (TTSC). Accordingly, STU has raised the bills to MADC for April, May, June and July 2020. But MADC has not paid the amount and has also not submitted the Letter of Credit (LoC) to STU Pool Account.

4.3 It is requested to direct MADC for making payments and for submission of LoC to state Pool Account.

**5. AMNEPL in its submission dated 25 August 2020 has stated as follows:**

5.1 AMNEPL is currently undergoing liquidation process under the Insolvency and Bankruptcy Code, 2016 pursuant to the Order of (NCLT), Mumbai Bench dated 31 August, 2018 in C.P. (IB) No. 1315/ I&BP/ 2017, and Vinod Kumar Kothari, having registration no. IBBI/IPA-002/IP-N00019/2016-17/10033 was appointed as the Liquidator. The NCLT, Mumbai Bench *vide* the liquidation Order dated 31 August 2018 further allowed MADC to use the dedicated Transmission System of the Company during liquidation process also.

5.2 Since 2014, MADC has been paying transmission charges @Rs. 0.19/ unit. In fact, it pays at around Rs. 0.14/ unit only by retaining around 25% of the amount at its end, and delaying payments of the monthly transmission charges to the AMNEPL which is therefore finding it very difficult to operate and maintain its Transmission line in view of the meagre charges paid by the MADC per month. Despite that AMNEPL has ensured

continual transmission services, without any disruption, even during the unprecedented situation during ongoing COVID-19 pandemic.

- 5.3 An application being Case No. 331 of 2019 has been filed before the Commission for fixation of User Fees in respect of its 220 kV dedicated transmission system. The said application is presently pending before the Commission. Presently, the monthly transmission charges are being collected on a provisional basis as per transmission charges applicable to MSETCL for FY 2014-15. However, the final transmission charges will be applicable as per Order as may be passed by the Commission in Case No. 331 of 2019.
- 5.4 AMNEPL has reached the fag end of the liquidation process. As per Regulation 44 of the IBBI (Liquidation Process) Regulations, 2016, the two years' time frame of liquidation process would conclude on 31 August 2020. However, the same stands extended by the period of lockdown imposed by the Government (w.e.f. 25 March 2020), in terms of Regulation 47A of the IBBI (Liquidation Process) Regulations, 2016.
- 5.5 Permission to MADC to procure power and route it through the Transmission System of AMNEPL may be granted only subject to the following conditions:
- a) All pending invoices, pertaining to the provisional bills towards transmission charges at Rs. 0.46/ unit, till the date of filing of this Reply Affidavit be duly paid on or before 31 August, 2020; and
  - b) Subject to fulfilment of (a), the permission to procure power shall be given for the period beginning from 1 September 2020 and ending on 28 February 2021 or the passing of dissolution Order of AMNEPL, whichever is earlier.
  - c) Directions upon MADC to release payments towards the monthly provisional bills for Transmission Charges to be raised in future, within 7 days of the end of each month, failing which they shall be liable to interest @12%p.a. for each day of delay.
  - d) No deviation whatsoever may be allowed unless MADC pays/ undertakes to pay all the sums unreasonably retained by it, along with interest @12% p.a., and pays the differential charges upon Order of the Commission in Case No. 331 of 2019.

**6. MSEDCL in its submission dated 25 August 2020 has stated as follows:**

- 6.1 Currently MSEDCL, as a successful bidder, is supplying power to MADC on Short Term basis for the period from 01 September, 2019 to 31 August 2020.
- 6.2 On the request made by MADC, MSEDCL is keen to extend the power supply from existing contract on short term basis for the period from 01 September, 2020 to 28 February 2021 with the same terms and conditions as per LOI MADC/MIHA/044-13A/Power Purchase/80 dated 31 August, 2019. Accordingly, a consent letter for extension of existing contract is given to MADC on 25 August 2020

6.3 As per tender documents provision, there is a provision for extension of the existing contract on mutual consent as follows

*“....the period of supply of power may also be extended further beyond the contract period as per requirement based on mutual consent”*

6.4 Also, the Commission vide its Order in case no 175 of 2016 dated 27 December 2016 has given approval for extension of power supply under prevailing contract.

7. At the time of E-hearing dated 26 August, 2020, MADC stated that process of bidding for procurement of power would take time and hence requested the Commission to allow extension to existing contract for 6 months or one year on the same terms and conditions with the discovered rate of Rs 4.89/ kWh. Respondents reiterated their submission made in the Petition. AMNEPL stated that the Commission may grant such permission for power procurement and use of its dedicated transmission line upto 28 February, 2021 or the passing of Order by NCLT in insolvency proceedings of AMNEPL, whichever is earlier.

### **Commission’s Analysis and Ruling**

8. 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, being the Developer of the MIHAN SEZ. MADC is presently procuring power under a Power Purchase Agreement (PPA) entered into with MSEDCL through competitive bidding process at a rate of Rs 4.89/kWh approved by the Commission vide its Order dated 30 August, 2019 in Case No 244 of 2019. While approving such power procurement, the Commission had made following observations about MADC’s lackadaisical approach:

*“13. Having allowed the request of the MADC, the Commission would like to put on record its displeasure that the repeated incidences of filing of Cases related to power procurement at last moment is not befitting its goodwill. Power procurement planning is a most essential and critical function of any Distribution Licensee. It should be undertaken well in advance with proper planning. Filing a Case on 28 August, 2019 for power procurement which is to be started from 1 September, 2019 and without which consumer of MADC were at risk to go into dark. MADC should look into its administrative process to avoid recurrence of such incidences in future.”*

But MADC in the present Petition has again shown same lethargy towards their obligation as Distribution Licensee. It has filed present Petition on 21 August 2020 seeking approval for initiating short-term bidding process as against its existing PPA which is expiring on 31 August 2020. Petition does not mention anything about how such process could be completed before 31 August 2020 and what are arrangements made to mitigate contingencies in case bidding process is not completed by that date. During the hearing, MADC has stated that conducting bidding process is not possible and requested to extend existing power purchase agreement by another six months or a year. MADC tried to justify

this delay on account of Covid-19 pandemic which in the opinion of the Commission is not a fully justified reason since after adoption of existing PPA in August 2019, MADC had a complete year to work on its Medium Term Bidding process, out of which 7 months were prior to the impact of Covid-19 pandemic. As existing PPA is expiring on 31 August 2020, the Commission is left with no other option but to extend the existing PPA so as to avoid consumers of MADC going into dark, but at the same time, as explained in subsequent part of this Order, the Commission deems it appropriate to invoke its power under Regulation 23 of the MERC (Multi Year Tariff) Regulations, 2019 to disallow part of expenditure on account of MADC's deficiencies in prudent power procurement.

9. Based on the issues discussed during these proceedings, the Commission frames following issues for its considerations:
  - a. Can existing PPA be extended for six month / year?
  - b. What is implication of NCLT proceedings on use of AMNEPL's dedicated transmission line by MADC?

The Commission is addressing these issues in following paragraphs.

**10. Issues A: Can existing PPA be extended for six month/year?**

- 10.1 MADC's existing short-term procurement is expiring on 31 August 2020 and it has filed this Petition for procurement of short-term power for the period of 6 month from 1 September 2020 to 28 February 2021. During the hearing held in the matter on 26 August 2020, MADC has requested the Commission to extend the existing PPA at the rate of Rs. 4.89/kWh for further period of six month or a year, as conducting competitive bidding process would take time.
- 10.2 MSEDCL stated that currently it is providing power supply to MADC and has consented to extend the Short Term Power supply from 1 September 2020 to 28 February 2020 on the same terms and conditions of the previous PPA (LOI MADC/MIHA/044-13A/Power Purchase/80 dated 31 August, 2019). MSEDCL has referred to the Commission's Order in Case No 175 of 2016 dated 27 December 2016 for extending the contract. It has also sent consent letter dated 25 August 2020 to MADC.
- 10.3 The Commission notes that existing short-term PPA of MADC, which is the sole and only agreement for supply of power to its consumers, is expiring on 31 August 2020. MADC is yet to initiate any competitive bidding process for power procurement from 1 September 2020. Under these circumstances, if the Commission does not allow extension of the existing PPA, consumers of MADC would go in dark from 1 September 2020. Hence, in this compelling circumstance, the Commission has no other option but to extend existing PPA Short Term PPA with MSEDCL at rate of Rs. 4.89/kWh for further period of 1 September 2020 to 28 February 2021 or any such earlier period in case MADC is able to enter into fresh contract based on fresh competitive bidding process.



This extended PPA can be terminated by advance notice of 30 days or any lower period agreed mutually by parties.

- 10.4 Having allowed extension of existing PPA as stated above, the Commission notes that MADC has miserably failed in its obligation of making efforts in procuring cheapest power for its consumers. In the present circumstances of Covid-19 pandemic when energy demand has drastically reduced and power is available at cheaper rate in market, MADC's inaction on power procurement front would probably impose higher costs on its consumers. The Commission cannot allow such inefficiencies to be passed on to consumers. The Commission notes that following provision of MYT Regulations, 2019 enables it to disallow certain expenses, if it is found that utility has not conducted its business in prudent manner:

*“23.2 In determining the Aggregate Revenue Requirement and Tariff of the Generating Company or Licensee or MSLDC, the Commission shall assess the financial prudence exercised with regard to the following factors:*

- (a) revenue;*
- (b) revenue expenditure;*
- (c) capital expenditure:*

*Provided that the Commission may disallow a part of the Aggregate Revenue Requirement, as an efficiency measure, if it finds the exercise of such prudence to have been deficient.*

.....

*23.4 The financial prudence with respect to revenue expenditure shall be assessed in terms of the following parameters:*

.....

*(c) transparent method of power procurement, with the objective of optimising the power purchase expenses, as specified in Regulations 19, 20, 21, and 22: ”*

Thus, as per above Regulations, if it is found that Distribution Licensee has failed in optimising its power purchase expenses, then the Commission may disallow such increased expenses in ARR.

- 10.5 In the present case, MADC's inaction has compelled the Commission to extend existing PPA at rate of Rs. 4.89/kWh. The power available on power exchange at present is at a rate below Rs. 3/kWh due to the current low demand circumstances. The Commission is aware that power exchange cannot be sourced for 100% of power requirement. But MADC has failed to take any advance actions for securing firm source of power for period starting from 1 September 2020 onwards wherein there was a possibility of procuring power at a rate lower than Rs 4.89/kWh. MADC has tried to justify its inaction on non-availability of requisite manpower, due to Covid-19 forced lockdown. At the same time, the Commission also notes that during this period of Covid-19 lockdown, M/s Eon Kharadi Infrastructure Ltd, one of the SEZ regulated by this Commission, has

successfully conducted bidding process for short-term power procurement and was able to secure rate of Rs. 3.97/kWh for its base load of 7 MW and rate of Rs. 4.34/kWh for peak load of 9 MW and filed Petition in Case No. 172 of 2020 for adoption of such tariff. M/s Eon Kharadi, which will be starting its operation from 1 October 2020 has successfully conducted bidding process, but MADC which is in operation for the last 6 years is not able to conduct competitive bidding process. This clearly establishes that sincere efforts have not been taken on behalf of MADC towards its obligation as Distribution Licensee. Hence, the Commission deems it appropriate to rule that at the time of tariff determination, the Commission may disallow the power purchase expenses to the extent of difference between Rs. 4.89/kWh and the rates at which power is available during the period of operation of this extended PPA.

10.6 MADC is directed to separately show the difference in amount as mentioned as Para 10.5 based on the rates of power during the extended period of the PPA. The said disclosure shall be a part of the ARR submissions. Based on such data and the submissions of MADC in this regard, the Commission will decide the extent to which the provisions of MYT Tariff Regulations, 2019 (section 23.2 to 23.4) are to be made applicable. In view of this, in their own interest, MADC is advised to make immediate efforts to reduce such possible disallowance by procuring part of its power requirement through power exchanges subject to the provisions of the PPA or to speed up process of fresh competitive bidding and enter into fresh contract.

#### **11. Issue B: What is implication of NCLT proceedings on use of AMNEPL's dedicated transmission line by MADC?**

11.1 AMNEPL has stated that liquidation process of the Company has been started and dissolution order may be passed under the Insolvency and Bankruptcy Code (IBC). In view of that, without objecting to the proposed power purchase by MADC for the period from 1 September 2020 to 28 February 2021, it has requested the Commission to approve the same with the rider that transmission network of AMNEPL would be available till the completion of the power purchase period or the passing of dissolution Order of AMNEPL, whichever is earlier. During the hearing in the present matter, MADC requested time for filing its response on this issue but have failed to do so till date.

11.2 In this regard the Commission notes that NCLT in its Order dated 31 August, 2018 has approved to carry out liquidation process of AMNEPL subject to the rights of MADC and directing that the liquidator should continue to manage the switchyard and the transmission line as stated in the Order dated 4 August, 2017 passed by the Commission and the concession agreement dated 7 November, 2007. Final Order of NCLT in this matter will decide fate of AMNEPL's dedicated transmission line. Therefore, the Commission is of the opinion that even though AMNEPL has not specifically subjected the extension of this power procurement to outcome of NCLT Order, said order of NCLT and its consequences would need to be complied with by concerned parties.

- 11.3 MADC being distribution licensee has statutory responsibility of maintaining continuity and reliability of power supply in its area of supply. As order of NCLT will decide fate of AMNEPL's dedicated transmission line which is sole point of supply connection between MADC's distribution network and State Transmission System, MADC as an affected party should keep eye on the liquidation process of AMNEPL and should approach appropriate authorities from time to time to avoid any possible adverse ramification on its consumers. The Commission would like to remind MADC that in the past the Commission had suggested MADC to explore possibilities of directly connecting to the State Transmission System. However, till date the Commission is not aware of any action taken by MADC in this regard. Considering the emerging situation, the Commission expects MADC to seriously work on having separate connectivity with State Transmission System.
12. The Commission notes that various respondents in the matter have raised issues of outstanding payment from MADC. As during the hearing MADC has undertaken to pay outstanding amounts, the Commission is not indulging any further on this issue. If any party still has grievance, it can file separate Petition as per law.
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.

14. This issue also brings out the fact that separate tariff for MADC's licence area is yet to be decided. The Commission in its Order dated 23 December 2019 in Case No 96 of 2017 had directed MADC to file fresh Petition within three months from the date of Order. The Commission is yet to receive such Petition from MADC. Considering, Covid-19 circumstances, the Commission deems it fit to grant additional 3 months to MADC for filing of MYT Petition. In case MADC fails to do so by 30 November 2020, the

Commission would consider it as non-compliance of its Order and may imposed penalty as specified under Section 142 of the Electricity Act, 2003. To avoid such adverse action, MADC should file MYT Petition on or before 30 November 2020.

15. Hence following Order

### **ORDER**

**1. The Case No. 174 of 2020 is allowed subjected to the following:**

- a. Existing Short Term PPA with MSEDCL is extended for a further period of six months from 1 September, 2020 to 28 February, 2021 at Rs 4.89/ kWh which can be terminated by advance notice of 30 days or any lower period agreed mutually by parties.**
- b. Due to MADC's inefficiencies in power procurement, it will not be allowed to include entire power purchase expenses in the ARR. There may be disallowance to the extent of difference between Rs. 4.89/kWh and the rates at which power is available during the period of operation of this extended PPA.**
- c. MADC is directed to separately show the difference in amount of the power purchase cost as has been directed in Para 10.5 and para 10.6 above.**
- d. MADC is directed to work on establishing separate connectivity link with State Transmission System before the end of this extended period of PPA.**
- e. MADC may reduce such disallowance in power procurement by procuring part of its power requirement through power exchanges or speed up process of fresh competitive bidding and enter into fresh contract.**

**2. MADC to file its MYT Petition on or before 30 November 2020.**

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

**Sd/-  
(I.M. Bohari)  
Member**



