



Ref: AENML/Case 173 of 2022/07

30 December 2022

To,

The Secretary

Maharashtra Electricity Regulatory Commission
World Trade Centre, Centre No.1,
13th Floor, Cuffe Parade,
Colaba, Mumbai- 400005

Subject: Response to the objections/ suggestions submitted by the **Centre of Indian Trade Unions (Maharashtra State Committee) ("CITU")** (Maharashtra State Committee) vide email dated 25.12.2022, and **Maharashtra Rajya Swabhimani Vidyut Workers Union** (affiliated to CITU) vide email dated 26.12.2022, against the Petition (Case No. 173/2022) filed by Adani Electricity Navi Mumbai Ltd. before this Hon'ble Commission for grant of Distribution License for the entire geographically contiguous area comprising of Mulund, Bhandup, part of Thane District, Navi-Mumbai, Panvel, Kharghar, Taloja and Uran

Dear Sir,

1. The Petitioner No. 1 i.e., Adani Electricity Navi Mumbai Limited ("**AENML**") alongwith its parent company Adani Transmission Ltd./ Petitioner No. 2 ("**ATL**") approached this Hon'ble Commission by way of filing a Petition being Case No. 173 of 2022, under 6th proviso to Section 14 and Section 15 of the Electricity Act, 2003 ("**the Act**") readwith Maharashtra Electricity Regulatory Commission (General Conditions of Distribution License) Regulations, 2006 and Distribution of Electricity License (Additional Requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005 (as amended on 28.11.2022) ("**Distribution License Rules**") for grant of Distribution License for the entire geographically contiguous area comprising of Mulund, Bhandup, part of Thane District, Navi-Mumbai, Panvel, Kharghar, Taloja and Uran ("**Proposed License Area**").
2. That *qua* the Proposed License Area for which AENML seeks grant of distribution license, Maharashtra State Electricity Distribution Company Limited ("**MSEDCL**") is an already existing licensee. That, post grant of Distribution License by this Hon'ble

Commission in terms of the present petition, AENML would become a parallel distribution licensee in the Proposed License Area, in terms of 6th proviso to Section 14 of the Act.

3. That on 25.11.2022, this Hon'ble Commission admitted the aforesaid Petition/ Application and directed AENML to publish a Public Notice in terms of Section 15 (2) of the Act. In compliance thereto, on 26.11.2022, Public Notice was published, thereby inviting suggestions/ objections from the stakeholders and the public at large.
4. Thereafter, post publication, on 25.12.2022, Centre of Indian Trade Unions (Maharashtra State Committee) ("CITU") (Maharashtra State Committee) and Maharashtra Rajya Swabhimani Vidyut Workers Union (hereafter referred as "**the objector**") submitted its objections against the petition filed by AENML for grant of license under 6th proviso to Section 14. That the objector has raised certain factual objections on the ground of the Petition being deficient due to non-disclosure of alleged relevant information. Such objections are responded/ clarified by AENML in terms of the following:

- (i) The objector levelled aspersions on the financial credentials of the Petitioner No.2/ ATL. With respect to this, AENML outrightly submits that the objector failed to appropriately consider the material contents of the petition whereby they have duly brought on record the requisite and relevant financial statements, net worth certificate, solvency certificate of ATL thereby establishing the credit worthiness, capital adequacy and code of conduct of ATL in terms of Rule 3 of Distribution License Rules. In this regard, reference may also be made to *Order dated 28.06.2018 passed in Case No. 140 of 2017* wherein this Hon'ble Commission upheld the eligibility of ATL to hold the distribution license as per Distribution License Rules.

As such, contextually, it may be noted that the Adani Portfolio companies have successfully and repeatedly executed an industry beating expansion plan over the past decade. While doing so, the companies have consistently de-levered with portfolio net debt to EBITDA ratio (Earnings Before Interest, Taxes, Depreciation, and Amortisation) coming down from 7.6x to 3.2x, EBITDA has grown 22% CAGR in the last 9 years and debt has only grown by 11% CAGR during the same period.

- (ii) The objector further alleges that AENML fails to possess requisite experience in the field of distribution business. With respect to this objection, AENML reiterates its submissions as made in the petition that

AENML, while taking benefit of the expertise of its parent company and sister concern i.e., ATL and Adani Electricity Mumbai Ltd. ("**AEML**"), respectively, seeks to undertake the distribution business by developing the distribution network in the Proposed License Area. Further, while raising this objection, the objector completely failed to appreciate the fundamental proposition that AENML is a freshly incepted entity and stands enriched by the experience garnered by ATL and AEML.

- (iii) It is further alleged that AENML failed to bring on record the Auditor's Report and Balance Sheet/ Profit & Loss Statements of its sister concern i.e., AEML. With respect to this, it is submitted that in terms of the extant legal framework being Distribution License Rules, AENML suitably established its qualifications through bringing on record the credentials of its parent company i.e., ATL. As such, it may be noted that AEML is an existing licensee and possesses adequate financial standing. Further, tariff orders of AEML passed by Hon'ble MERC are in public domain, and that the same can be accessed for the purpose of track record of AEML.
- (iv) Further, it has been alleged that AENML failed to disclose the claim of Rs 13,500 cr. made by Reliance Infra against ATL in the arbitration pertaining to Mumbai Centre. AENML, at the outset, submits that the said information is not relevant for the purpose of adjudication of the present petition for grant of distribution license. It is further submitted that, what is required under the provisions of law for grant of license, is to establish the credit worthiness and capital adequacy of the applicant which have suitably been demonstrated by AENML vide the present petition.
- (v) Further, the objector has also sought information pertaining to the instruments/ agreements executed between the parties for transfer of integrated Generation, Transmission and Distribution business from Reliance Infrastructure Ltd. (RIL) to ATL. Such requisition of information is not relevant for the purpose of the present petition. As such, by means of the responses filed by the objectors, they cannot be permitted under law to undertake fishing and roving inquiry against AENML.
- (vi) As such, AENML submits that for the purpose of the present petition, what is required to be evaluated is the satisfaction of the legal criterion/ qualifications by the Applicant in terms of 6th proviso to Section 14 of the Act readwith Distribution License Rules. That AENML by means of its petition being Case No. 173 of 2022, duly and elaborately established the fulfilment of the aforesaid three criterion i.e., *capital adequacy, credit-*

worthiness, or code of conduct as prescribed under the Act readwith the Distribution License Rules. Therefore, once the said requirements are satisfied, undeniably, AENML becomes legally entitled for grant of distribution license by this Hon'ble Commission as per the provisions of the Act readwith MERC (General Conditions of Distribution License) Regulations, 2006.

In addition to the aforesaid, AENML also submits that it has presented before this Hon'ble Commission its clearly specified network laying philosophy in terms of the requirements prescribed under the extant statutory provisions/ orders/ judgements passed by the Courts of Law. This categorically establishes that AENML is determined to fulfil the Universal Supply Obligations and other obligations provided under the Act and the Regulations framed thereunder, in addition to the aforementioned requirements under Rule 3 of Distribution License Rules.

- (vii) It is pertinent to note that the objector has also raised an objection in relation to the alleged higher tariff of AEML as opposed to the tariff being offered by MSEDCL during the same period of time. At the outset, the said objection *qua* alleged higher tariff of AEML, is completely unfounded and irrelevant for the purpose of grant of license to AENML. It is stated that the Objector seems to be undertaking a selective reading of the tariff orders of AEML, and also it is also not clear as to from which order the alleged data has been taken out. Further, the Objector himself states that the above data *qua* alleged higher tariff, needs to be verified. Thus, such unverified data cannot be considered for the purpose of adjudication of the present proceedings.

Even otherwise, it may be noted that one of the benevolent objectives of the Act is to promote competition within the power sector as evident from the Preamble of the Act envisioned by the Legislature. Additionally, clause 5.4.7 of the National Electricity Policy, 2005 harnesses and furthers the aforesaid objective of promoting competition by allowing *multiple licensees in the same area of supply*. Therefore, there cannot be any quarrel or qualm with the fact that allowing the present petition and thereby granting license to AENML besides the existing licensee i.e., MSEDCL, shall be a step towards cementing the tenants of competition, which shall allow the consumers of the Proposed License Area with the option to choose one of the suppliers thus propelling competition between the licensees to supply reliable and quality power at competitive rates.

5. In view of the above and the detailed submissions made in the captioned Petition, it is submitted that the Petitioners duly comply with all the requirements specified under 6th proviso to Section 14 of the Act read with Distribution Licence Rules. Once the Applicant complies with the requirements under the Act and the aforementioned Rules, it is the mandate of 6th proviso that no Applicant shall be denied of the distribution license. Therefore, AENML qualifies for grant of Distribution License by this Hon'ble Commission in terms of 6th proviso to Section 14 of the Act.
6. It is therefore beseeched that this Hon'ble Commission may dismiss the allegations and contentions levelled by the objector and allow the present petition, thereby granting the distribution license to AENML under 6th proviso to Section 14 of the Act and the extant Regulations, for the Proposed License Area.

For **Adani Electricity Navi Mumbai Limited**



(Kishor Patil)

Authorised Signatory

Copy with compliments by email to –

1. Centre of Indian Trade Unions (Maharashtra State Committee) ("CITU")
(Maharashtra State Committee), email: vivekmonteiro@yahoo.com
2. Maharashtra Rajya Swabhimani Vidyut Workers Union (affiliated to CITU), email: rana.kathale@gmail.com