

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 212 of 2020

**Application filed by EON Kharadi Infrastructure Pvt. Ltd. for grant of Transmission
Licence for the Transmission Network being set up at Village Kharadi and Village
Wagholi, Taluka Haveli, District, Pune**

EON Kharadi Infrastructure Pvt. Ltd.Petitioner

V/s.

State Transmission UtilityRespondent No. 1

Maharashtra State Electricity Distribution Co. Ltd. Respondent No. 2

Appearance:

For EON Kharadi Infrastructure Pvt. Ltd. Shri M. Palaniappan (Rep.)

For State Transmission UtilitySmt. Vidya Bandekar (Adv.)

For Maharashtra State Electricity Distribution Co. Ltd. Shri Ravi Prakash (Adv.)

Coram

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

ORDER

Date: 23 July 2021

1. EON Kharadi Infrastructure Pvt. Ltd. (EON) has filed an Application on 3 November 2020 for grant of Transmission Licence for the Transmission Network being set up at Village Kharadi and Village Wagholi, Taluka Haveli, District, Pune. The Application has been filed under Sections 14 and 15 of the Electricity Act 2003 (EA) and MERC (Transmission Licence Conditions) Regulations, 2004 and its amendment.

2. **Petitioner's main prayer is as follows:**

- i. Grant Transmission Licence to M/s Eon Kharadi Infrastructure Pvt. Ltd, under Sections 14 and 15 of the Electricity Act, 2003 and the MERC (Transmission Licence Conditions) Regulations, 2004 as amended in 2005;*

3. **Petitioner has stated as follows:**

- 3.1 Panchshil Realty (**Panchshil**), established in year 2002, is engaged in real estate development. The Petitioner, M/s Eon Kharadi Infrastructure Pvt. Ltd. (**EON**), is a Group company of Panchshil and a Company incorporated under the provisions of the Companies Act, 1956, having its registered office at Tech Park One, Tower E, S.No. 191/A/2A/1/2, Next to Don Bosco School, Off Airport Road, Yerwada, Pune.
- 3.2 As per the Maharashtra's Information Technology/Information Technology Enabled Services (**IT/ITeS**) Policy 2015, the State of Maharashtra contributes around 20% of Information Technology (**IT**) exports of the country. The Government of Maharashtra (**GoM**) and the Maharashtra Industrial Development Corporation (**MIDC**) have taken necessary efforts to ensure that Navi Mumbai and Pune are developed as IT hubs. In case of Pune, the areas of Hinjewadi, Hadapsar and Kharadi are poised for growth in terms of infrastructure like roads, water etc.
- 3.3 The growth in IT sector will promote growth in residential and commercial complexes in the vicinity of IT Parks and Data Centres in the areas such as Hinjewadi, Hadapsar and Kharadi in Pune. The area around Kharadi is expected to have a demand of around 150-220 MVA in the next five years. To cater this demand, the power infrastructure has to be ready in all respects. However, the EHV Substations of MSETCL which supply the Kharadi area viz. 132/22 kV Kharadi (Khulewadi) Substation and the 220/22 kV Magarpatta Substation, are loaded almost 100% of their capacity and future load cannot be catered through these sub-stations.
- 3.4 EON has developed an IT & ITeS Special Economic Zone (**SEZ**) in MIDC Knowledge Park, Kharadi, Pune, which is spread over an area admeasuring 18 Hectares (**SEZ Phase I**) . EON has also set up an IT & ITeS SEZ on Survey No. 72, Kharadi, Pune, spread over 4.86 Hectares (**SEZ Phase II**). EON is the Deemed Distribution Licensee in these SEZ areas. The Commission, vide its Order dated 5 June 2020 in Case No. 67 and 68 of 2020, has taken on record the Deemed Distribution Licensee status of EON for both these SEZs viz. EON SEZ Phase I and EON SEZ Phase II.
- 3.5 EON has proposed a 132 kV Gas Insulated Substation (**GIS**) in its SEZ which will increase the voltage stability in the area and will reduce the load of MSETCL's 220/22 kV Magarpatta Substation and 132/22 kV Kharadi Substation.
- 3.6 On 3 May 2019, State Transmission Utility (**STU**) granted the grid connectivity for 102 MVA power demand at Kharadi area to establish 132/22 kV GIS Substation with 3x50 MVA Transformers on the plot of EON and 2 km Overhead line for Loop In Loop Out (**LILo**) on 132 kV Theur-Kharadi High Temperature Low Sag Conductor (**HTLS**) Line.

- 3.7 Following are the details of the lines and substation for which the Licence is being sought:
- i. 132 kV Double Circuit Line on 132 kV Theur-Kharadi HTLS by Monopole Tower- 2 kms
 - ii. Underground Cable work at Substation – approximately 200 metres
 - iii. 132 kV GIS Feeder bay – 2 numbers
 - iv. 132/22 kV GIS Substation – (3 x 50 MVA) Transformers
- 3.8 STU has also approved the Route Plan for the proposed Transmission Network.
- 3.9 The beneficiaries of the proposed 132kV GIS EON Kharadi Substation shall be the consumers of three Distribution Licensees, i.e., EON Phase I, EON Phase II, as well as the residential and commercial consumers in Kharadi area, which is a part of the licence area of Maharashtra State Electricity Distribution Company Limited (**MSEDCL**). Hence, it will be appropriate that the capital cost of this transmission infrastructure is added to the pooled Transmission Revenue Requirement, of the Intra-State Transmission System (**InSTS ARR**) and recovered from all Transmission System Users (**TSUs**) under the Transmission Pricing Mechanism implemented by the Commission in the State of Maharashtra.
- 3.10 In order to facilitate the recovery of the capital cost of this transmission infrastructure through the InSTS ARR, EON has decided to obtain a Transmission Licence for the capital investment in Transmission System, so that the costs are appropriately socialized.
- 3.11 Under Section 14 of the EA, the Commission is empowered to grant Licences for Distribution, Transmission and Trading of electricity in the State of Maharashtra. The MERC (Transmission Licence Conditions) Regulations, 2004 and its amendments notified by the Commission specify the procedure to be followed for grant of Transmission Licence.
- 3.12 The present Application has been submitted seeking a Transmission Licence for a period of 25 years from the date of grant of Transmission Licence, for the proposed Transmission Substation and lines, in accordance with Sections 14 and 15 of the EA and the MERC (Transmission Licence Conditions) Regulations, 2004, as amended in 2006. The Transmission Licence is sought under Alternative 2 of the General Terms and Conditions, viz., line-specific Transmission Licence.
- 3.13 EON confirms that neither the Applicant Company nor its partners, directors or promoters have been convicted by any Court of Law or other such authorities or there has been no indictment/adverse order by a regulatory authority which relates to a grave offence of such a nature that it outrages the moral sense of the community, insolvency and bankruptcy of the applicant or any of its partners, directors or promoters, pending legal proceedings, conviction of an offence involving moral turpitude, or any economic offence, fraudulent and unfair trade practices or market manipulation.

- 3.14 Further, the Petitioner confirms that within the proposed area of transmission, there is no cantonment, aerodrome, fortress, arsenal, dockyard or camp or any building or place in the occupation of the Government for defence purposes.
- 3.15 The Application for grant of Transmission Licence has been made in the specified format, i.e., Schedule 1 as per MERC (Transmission Licence Conditions) Regulations, 2004, and is attached with this Petition.
- 3.16 As all the required information and particulars have been submitted. The Applicant has requested to grant the Transmission Licence for the proposed Transmission Network.
4. EON has submitted the following supporting documents with the Petition:

Sr. No.	Particulars	Status of Documents
1	General Information – Name, Primary Contact details	Submitted
2	Information about the EON– Registered office, date of incorporation etc.	Submitted
3	Enclosures – Incorporation documents	Submitted
4	<ul style="list-style-type: none"> i. Enclosures – Technical Information, ii. Management information, iii. Description of the proposed location of the system of electric lines, iv. Detailed map of the proposed area of transmission, v. List of defence , forest , CRZ , Railway , Wild life Sanctuary areas etc., vi. List of street(s) which are repairable by private Parties 	Submitted
5	Financial Information	Submitted
6	Indicative investment plan and Network rollout plan for the next five years	Submitted

5. Further, as per Section 15(3) of the EA, EON submitted the copy of the Petition to the STU. The Commission has impleaded the STU as Respondent to the Petition, as the STU is the InSTS Planning Authority for the State of Maharashtra. Further, since EON has stated that MSEDCL will also be the beneficiary of the proposed Transmission System, the Commission also impleaded MSEDCL as the Party Respondent in the matter.
6. **STU, vide its reply dated 29 December 2020, stated as under:**

- 6.1 A Detailed Project Report (**DPR**) for establishment of 132/22 kV GIS substation at EON Kharadi was submitted to the Commission on 12 October 2017 which was approved by the Commission on 7 December 2017 with the estimated cost of Rs. 66 Cr.
- 6.2 In the Five Year STU plan for FY 2019-20 to FY 2024-25, the scheme for “132 kV power supply to EON Kharadi for power demand of 102 MVA at Wagholi area District Pune under DDF” was not included as EON proposed to establish the 132 kV EON Kharadi GIS Substation as Outright Contribution (**ORC**) consumer. Maharashtra State Electricity Transmission Company Ltd. (**MSETCL**) board has accorded approval for the same vide resolution dated 28 March 2018.
- 6.3 STU has granted grid connectivity to EON on 3 May 2019 for establishment of 132/22 kV GIS Substation for 102 MVA demand under Dedicated Distribution Facility (**DDF**) with the following scope of work:
- i. Establishment of 132/22 kV GIS Substation on plot of EON.
 - ii. LILO on existing Theur-Kharadi HTLS by underground cable -2 km.
 - iii. 50 MVA, 132/22 kV Power Transformers – 3 nos.
 - iv. Suitable ABT Metering arrangement capable of measuring Four Quadrant Reactive Energy, approved by Chief Engineer -Design, MSETCL
 - v. The load of EON Phase I shall be released only after (a) Completion of HTLS of 132 kV Theur Kharadi line and (b) Commissioning of 132 kV level at 400 kV Lonikand II substation with HTLS LILO at 132 kV Kharadi -Markal Line (c) Completion of HTLS work of 220 kV Lonikand- Theur DC Line
 - vi. EON shall implement load trimming scheme scrutinized and approved by Superintendent Engineer, Testing and Communication Circle, Pune at EON substation end in case of critical loading in the associated network
- 6.4 The Grid connectivity has been granted to EON subject to the following conditions:
- i. The land status of entire route such as forest/NA/Land/MIDC etc. has to be verified by EON.
 - ii. All the required statutory permissions such as forest/tree cutting, PTCC, Railway, Highway, Pune Municipal Corporation have to be obtained by EON.
 - iii. All the work shall be executed as per MSETCL’s specification and material shall be purchased from approved vendors of MSETCL under supervision of MSETCL.
- 6.5 EON vide its letter dated 18 October 2019, confirmed that 132 kV GIS Substation would be handed over to MSETCL after successful charging. Also, EON confirmed the acceptance of 15% supervision charges as per MSETCL charges.
- 6.6 Vide Order dated 5 June 2020, the Commission has taken on record the deemed Distribution Licensee status of EON.

- 6.7 EON had approached STU for connectivity of 18 MW for Phase I and 8 MW for Phase II from 220 kV Magarpatta substation at 22 kV level. EON has been granted grid connectivity for 18 MW and 8 MW through existing feeders.
- 6.8 In the present Petition, EON has claimed that the beneficiaries of the proposed 132/22 kV GIS Substation shall be the consumers of three Distribution Licensees viz. EON Phase I, EON Phase II as well as the residential and commercial areas in Kharadi area which is a part of MSEDCL's licence area. Hence, STU, vide its email dated 10 December 2020 sought MSEDCL's confirmation about it being beneficiary of the proposed substation as claimed by EON. However, STU is not in receipt of confirmation /clarification from MSEDCL.
- 6.9 The area of supply of EON SEZ Phase I and EON SEZ Phase II is being supplied through 132 kV MSETCL's network. Existing 132 kV Kharadi Substation has 3X50 MVA Power Transformers and the substation is 70% loaded. Also, there is a provision for 4th Transformer. In addition to this, following infrastructure strengthening work is being carried out by MSETCL for establishment of 132/22 kV Substation at Kharadi:
- i. Conversion to HTLS of existing Theur-Kharadi Line
 - ii. Conversion to HTLS of 220 kV Lonikand-Theur D/C Line
 - iii. Commissioning of 132 kV level at 400 kV Lonikand II Substation with HTLS LILO of 132 kV Kharadi-Markal Line
- 6.10 Thus, considerable investment is being made by MSETCL for establishment of 132 kV Substation at EON Kharadi.
- 6.11 It is also brought to the notice of the Commission that there are several cases wherein the Transmission assets created in SEZ areas have not been utilized/have been underutilized as the load growth did not come up as projected by these SEZ developers. It has been observed that the SEZ developers project higher load initially and then revise the requirement subsequently. Capitalization without adequate utilization of the Transmission assets creates financial burden on the consumers.
- 6.12 Nidar Utilities Panvel LLP had applied for connectivity for 75 MW wherein the load projections were made as 15.63 MW by FY 2020-21. However, as seen from the Order dated 30 March 2020 passed by the Commission in Case No. 327 of 2019, the base Transmission Capacity Rights (TCR) of Nidar is 0.53 MW. Nidar has stated that the full load of 75 MW is expected to be achieved in FY 2027-28.
- 6.13 Gigaplex Estate Pvt. Ltd. (GEPL) is a Deemed Distribution Licence for the SEZ area in Airoli and started its Distribution operations since April 2016. GEPL had applied grid connectivity to STU for 25 MVA at 220 kV level. The connectivity was issued to GEPL with the following scope of work:
- i. Establishment of 220 kV Substation in plot of GEPL
 - ii. LILO on existing Bapgaon Kalwa Line
 - iii. Suitable ABT Metering arrangement

- iv. Visibility of GEPL Substation to State Load Dispatch Centre (SLDC) for real time monitoring through Supervisory Control and Data Acquisition (SCADA)/Remote Terminal Unit -Data Concentrator (RTU-DC) as per SLDC's requirement
- 6.14 As an interim arrangement, final grid connectivity of 6 MW at 22 kV level was approved on 30 March 2016 on request of GEPL. As on date, base TCR of GEPL is less than 7.25 MW as recorded in the Order dated 30 March 2020 passed by the Commission in Case No. 327 of 2019.
- 6.15 M/s. Laxmipati Balaji is the SEZ Deemed Distribution Licensee for SEZ near Sai Village, Panvel as recorded in the Commission's Order dated 26 February 2019. Subsequently, Laxmipati Balaji applied for grid connectivity for 300 MW vide letter dated 23 October 2018 and revised the same for 149 MW at 110 kV level vide letter dated 15 March 2019. The same was approved on 5 July 2019 at 220 kV level. The connectivity was issued to Laxmipati Balaji with the following scope of work:
 - i. Establishment of 220 kV Substation in the premise of Laxmipati Balaji
 - ii. LILO on 220 kV Uran -Apta Ckt. 4 at Laxmipati Balaji 220 kV Substation – 13 km
 - iii. Suitable ABT metering arrangement
- 6.16 On 31 December 2019, Laxmipati Balaji again applied for interim connectivity of 1 MW at 22 kV level which has been approved on 3 August 2020.
- 6.17 Thus, it is seen that in all these SEZ cases, the SEZ Distribution Licensees initially applied for higher quantum of load and subsequently, the requirement was revised and reduced to a lower quantum. The Transmission infrastructure in Nidar SEZ is still underutilized. In other two cases, had the EHV infrastructure been created by the respective transmission licensees, it would have remained underutilized.
- 6.18 After capitalization of expenditure made for this transmission infrastructure, in case of underutilization, the unnecessary financial burden goes on the consumers.
- 6.19 If any SEZ Licensee needs EHV assets, it will be better to develop the Transmission network by their own expenses and the burden of these assets shall pass on the consumers of that SEZ Licensee only and not on the rest of the consumers of the State.
- 6.20 EON sought initial connectivity for 102 MW and subsequently applied for connectivity of 18 MW and 8 MW for Phase I and Phase II respectively on existing 22 kV network. The socialization of such cost is not recommended as it will create additional burden on consumers of the State.
- 6.21 Awarding Licence to EON for creation of 132/22 kV GIS Substation of 150 MVA capacity which EON had agreed to create at its own cost will result in socialization of expenditure and hence STU is not recommending the grant of Transmission Licence to EON and the Commission is requested to dismiss the Transmission Licence Application of EON.
7. **The Petitioner, vide its rejoinder dated 4 February 2021, stated that:**

- 7.1 As seen from the letter dated 12 June 2020 from the Chief Engineer (Distribution), MSEDCL to Chief Engineer (Project Schemes) MSETCL, it is clear that MSEDCL has given its consent for drawing 22 kV feeders from the proposed Transmission System to extend supply to its existing as well as proposed new loads in Kharadi area. MSEDCL, in its letter has stated as under:
- “ The 30 nos. of 22 kV outgoing feeders from 132/22 kV GIS s/s of M/s EON Kharadi will be allowed to extend its existing consumers and to proposed new load as per sanction of MSEDCL.”*
- 7.2 Thus, not only the EON SEZ Phase I and EON SEZ Phase II, but also the consumers of MSEDCL shall be the beneficiaries of this Substation. Hence, it will be appropriate that the capital cost of this transmission infrastructure is added to the pooled cost of InSTS ARR and recovered from the TSUs under the Transmission Pricing Framework implemented by the Commission in the State.
- 7.3 The in-principle approval for 132/22 kV EON Kharadi Substation was received by MSETCL on 7 December 2017 wherein the Commission had directed that MSETCL shall ensure that the scheme is implemented and the assets will be put to use in the stipulated time. This process has taken more time than required. Had the incumbent Transmission Licensee i.e. MSETCL developed an efficient network in stipulated time as per Section 40(2) of the EA, EON would not have gone ahead and built the necessary EHV Substation which was the utmost need for catering the load in the Kharadi area. It was due to delay in execution of the Commission’s approved DPR by MSETCL, EON had applied to develop the efficient network and erect the substation.
- 7.4 STU has cited cases of other SEZs wherein it has been observed that the loads projected by the SEZ Deemed Distribution Licensees have not been realized. It is submitted that the other SEZ cases cannot be compared as in present case. EON’s load is around 30 MW and MSEDCL’s existing as well as proposed load will also be supplied through the EON’s proposed EHV Substation and thus, the assets would be utilized.
- 7.5 STU has stated that the scheme was under DDF and same has been agreed and consented by EON. In this context, EON submits that as per the definition of DDF in MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005, the DDF is a part of Distribution System and for exclusive use of a consumer or group of consumers of same /contiguous premises. It is not case here. The said substation is not solely dedicated to the supply of electricity to a single consumer or a group of consumers on the same premise or the contiguous premises. The supply from proposed substation shall be extended to the three Distribution Licensees. MSEDCL has already consented to extend the said supply to its existing consumers and proposed new consumers in the said area.
- 7.6 The Commission, in its Order dated 16 February 2008 in Case No. 56 of 2007 has held that DDF cannot be shared in future by other consumers. Considering MSEDCL’s consent to extend supply from the proposed substation for other residential and commercial consumers in Kharadi area, comparison with other SEZ and underutilization thereof shall not be appropriate. Hence, underutilization of load by the

other SEZ licensees cannot be the valid ground for dismissing the Petitioner's Application. Further, in the cases cited by STU, the Distribution Licensees are distributing power to the SEZ areas only and hence, shall not be an appropriate comparison as the GIS Substation at EON shall also benefit other consumers of MSEDCL in the said area. The following table shows the loading condition of the proposed 132/22 kV GIS Substation:

Description	EON SEZ Phase I	EON SEZ Phase I	MSEDCL
Load in MVA	20	16	114
% loading for each Distribution Licensee	13%	11%	76%

7.7 Further, the present Application has been made for a Transmission Licence and hence a comparison with the underutilization by other SEZ Deemed Distribution Licensees is not an appropriate comparison. The Transmission and Distribution are two different activities. Even if EON is a Distribution Licensee, the current Application has been made for a Transmission Licence and therefore underutilization of load by other Distribution Licensees is not a valid ground for not recommending grant of Transmission Licence to EON.

7.8 STU has stated that the present Kharadi Substation is having capacity of 150 MVA with 3X50 MVA Transformers in operation and said Substation is loaded upto 70%. Also, provision for 4th Transformer has already been sanctioned. In this context, it is submitted that the data provided by STU is incorrect as the Kharadi Substation is loaded upto its full capacity. Further, STU has not mentioned the period of the data provided by it. EON had requested MSETCL to provide the loading data of this Substation which have been provided by MSETCL. Following table shows the exact loading condition of 132/22 kV Kharadi Substation which is tabulated below:

Description	Transformer 1	Transformer 2	Transformer 3
Capacity in MVA	50	50	50
Load in MW	43.12	43.34	43.78
% Loading	86%	87%	88%

7.9 The Kharadi substation of MSETCL is 87% loaded and there is no redundancy if any of the Transformers fails. Thus, it is practically impossible to draw power to Kharadi area and meet the load requirement of EON SEZ Phase I and EON SEZ Phase II and other surrounding areas which are served by MSEDCL from Kharadi Substation.

7.10 Considering the growth in demand of Kharadi area, it is the need of the hour to establish such a Substation at Kharadi and a more futuristic approach has to be considered as the establishment of a Substation is a permanent Substation and the requirements of the long term have to be taken into consideration.

7.11 One of the key objectives of the EA is to promote competition in the electricity sector. STU needs to adhere to the functions assigned to it without any discrimination. By

objecting to grant of Licence which is beneficial to the consumers of the State, a biased mind of STU towards EON can be observed. By raising the objections to a grant of Licence to another player who is willing to enter the market and by highlighting irrelevant comparison with the load of other SEZ Distribution Licensees, lack of co-ordination with MSEDCL, by providing vague loading conditions of Substations, unnecessary barriers to entry in the Transmission sector seem to have been created by STU and same is not in the interest of consumers of the State. The competition will definitely increase the efficiency of existing transmission licensees and benefit the consumers of the State.

- 7.12 EON has complied with all other requirements for grant of Licence and all conditions have been fulfilled by EON. The Commission is requested to reject the objections raised by STU.
8. In accordance with MERC (Transmission Licence Conditions) Regulations, 2004, the Application was scrutinized, and certain data gaps/queries were raised on EON on 14 March and 24 March 2021 which have been replied by EON on 30 March 2021.
9. On 25 March 2021, a Technical Validation Session in the present Application was held through video conferring mode in presence of STU's representative to discuss the data gaps raised on the Petitioner.
10. **STU in its additional submission dated 9 April 2021 stated that:**
- 10.1 The proposal for establishment of 132/22 kV EON Kharadi GIS Substation was approved by Board of Directors of MSETCL vide Board Resolution (**BR**) dated 15 July 2017 at an estimated cost of Rs 6569.81 Lakh covering the following scope of work:
- i. Construction of 132 kV D/C Line making LILO on existing Markal-Kharadi line- 2 km
 - ii. Installation for 50 MVA, 132/22 kV Transformers – 2 nos.
 - iii. 132 kV Transformer Bay HV Side (GIS) -2 nos.
 - iv. 132 kV bus couples bay (GIS) -1 no.
 - v. 132 kV line bays (GIS)- 2 nos.
 - vi. 132 kV T/F bay LV side (GIS)- 2 nos.
 - vii. 22 kV bus sectionaliser bay – 1 no.
 - viii. 22 kV GIS outlet -12 nos.
- 10.2 After aforesaid BR, MSETCL had submitted the DPR to the Commission on 12 October 2017 which was approved by the Commission on 7 December 2017. MSETCL had also floated tender on 8 December 2017 for establishment of 132 kV GIS Substation. However, EON, vide its Letter dated 7 December 2017, stated that it intends to invest in the Substation for its own requirement. As per request of EON, MSETCL prepared a scheme on ORC basis i.e. *Construction of 132/22 kV Kharadi Substation by Ms. EON Kharadi Infra Pvt. Ltd. on their own cost* and obtained approval of the MSETCL board

vide BR dated 23 March 2018. MSETCL, in its MYT Petition in Case No. 302 of 2019, had informed that the said scheme was being executed as an ORC scheme.

- 10.3 EON vide its letter dated 18 October 2019 has confirmed that the substation would be handed over to MSETCL after successful charging and also accepted 15% supervision charges. MSETCL, vide its letter dated 1 February 2020, informed EON that the Substation will be maintained and operated by MSETCL only.
- 10.4 Accordingly, revised scheme (Rs. 60.80 Cr.) for power supply to M/s. EON Kharadi Infra Pvt. Ltd. for power demand of 102 MVA at Wagholi area was prepared by MSETCL which has been approved by competent authority of MSETCL on 9 December 2020.
- 10.5 MSETCL raised demand note for 15% supervision charges (Rs. 178.71 Lakh) which has been paid by EON on 21 December 2020.
- 10.6 Two 150 MVA Substations of MSETCL (132 kV Kharadi and 220 kV Magarpatta) are in operation in Kharadi area. The 220 kV Magarpatta Substation is not fully loaded and can accommodate additional load. Also, 4th Transformer is planned at Kharadi Substation to accommodate existing and future load. The strengthening of 132 kV Theur Kharadi Line is being executed using HTLS conductor. This strengthening will also help in taking load of proposed 132 kV EON Kharadi Substation with LILO arrangement.
- 10.7 EON, in present Petition, has claimed that the beneficiaries of the proposed Substation would be the consumers of three distribution licensees viz. EON SEZ Phase I, EON SEZ Phase II and MSEDCL. In this regard, it is submitted that STU is in receipt of MSEDCL's letter dated 24 March 2021 wherein it is stated that addition of one transformer of 50 MVA in MSETCL Kharadi Substation in FY 2021-22 and in MSETCL's Lonikand Substation in FY 2022-23 will cater to the prospective demand of MSEDCL in the vicinity area and hence there is no immediate requirement of MSEDCL Loads on proposed Substation.
11. **EON, in its response dated 12 April 2021 to STU's additional submission, stated that:**
 - 11.1 As per the additional submissions by the STU, the proposal for establishment of 132/33 kV EON Kharadi GIS Substation was approved by Board of Directors of MSETCL on 15 July 2017 at an estimated cost of Rs. 6569.81 Lakh. Subsequently, MSETCL had submitted the DPR to the Commission on 12 October 2017 and the Commission accorded in-principle approval for the same on 7 December 2017.
 - 11.2 As per the additional Submission of STU, EON approached MSETCL vide its letter dated 7 December 2017 stating that EON will invest in a 50 MVA Transformer for power requirement for the properties of Panchshil group in the vicinity of Kharadi area. The said power was supposed to be fed by MSEDCL, which MSEDCL was not able to accommodate, due to lack of necessary transformation capacity. It is important to mention that, in the above-mentioned letter, EON has stated that the upcoming load of requirement of EON is only 50 MVA. However, the substation that is proposed is of 150 MVA capacity.

- 11.3 The load of 1/3rd of the capacity is load requirement of EON, and the balance requirement is of MSEDCL's consumers. EON, as a person of ordinary prudence, would not invest in a Substation with capacity of 150 MVA if it requires only 50 MVA of load. The only reason why EON has proposed to establish the GIS is because of the delay in execution by the MSETCL.
- 11.4 Further, STU has stressed that EON has agreed to set up the substation under ORC method, at its own expense, and has also paid the supervision fee of Rs. 1.79 Cr. in December 2020. In this regard, EON submits as under:
- a. If the Developer is setting up the desired infrastructure at his own cost under ORC method, then such infrastructure is dedicated in nature, and cannot be shared with any other entity. However, STU has accepted that MSEDCL shall also be utilizing the infrastructure to be created by EON, which clearly shows that the infrastructure is not dedicated for EON. It also shows that the STU wishes the Developer to set up the infrastructure at his own cost, but also share the infrastructure with MSEDCL. There is a clear contradiction in STU's approach here.
 - b. In MSETCL's letter dated 29 October 2018 addressed to EON, MSETCL has recorded the discussions held on 16 January 2018, as under:

“EON had offered to construct the said SS with capacity 2 x 50 MVA 132/22 kV TFs to meet the anticipated load of 75 MVA of M/s EON & MSEDCL. However MSETCL insisted to provide of 3 x 50 MVA TFs at initial stage & make space provision for the 4th 50 MVA TF, considering the N-1 redundancy.”
 - c. Thus, MSETCL has asked for the 3x50 MVA transformers, with space provision for 4th 50 MVA transformer, and has also clearly targeted to serve both EON's load as well as MSEDCL's load through this infrastructure. However, STU is now questioning the very need for this infrastructure.
- 11.5 EON has paid the supervision fee of Rs. 1.79 Cr. on 21 December 2020, when the Application for Transmission Licence was pending before the Commission. EON's only objective of paying the supervision fee was to ensure that the project is completed on time, and there is no further delay in the project.
- 11.6 Further, EON has also mentioned reasons in the letter dated 7 December 2017 that there has been significant delay by MSETCL in execution and taking possession of the land, and EON was incurring heavy loss due to such delay in execution by MSETCL. The lease agreement was signed with MSETCL on 11 July 2016 and till 7 December 2017, MSETCL had not taken physical possession of the land and no progress was made by MSETCL to erect the substation.
- 11.7 Looking at all the facts and circumstances, EON requested MSETCL to hand over the land back (though physical possession had still not been taken by MSETCL) so that EON could erect the substation to cater the load requirement in the Kharadi area. EON requested STU/ MSETCL for assistance for tapping from 132 kV Lonikand- Kharadi.
- 11.8 The huge delay on part of MSETCL was making a huge loss to the developers including us who were ready to invest in IT Parks, residential complexes and commercial

establishments in the vicinity of Kharadi. However, the clients were apprehensive to do so due to lack of power availability. This was leading to loss to the eastern corridor of Pune City and resulting into loss of jobs and growth. Due to lack of the willingness of MSETCL and subsequent delays in execution of the said 132/22 kV GIS Substation, EON was left with no option to execute it and give the necessary stability to the area w.r.t. transmission infrastructure.

- 11.9 The Commission may please note and censure MSETCL for its change in approach, as detailed below. The 132/22 kV substation was included by the STU in its Five-year Plan in 2017-18, when it was to be built by MSETCL. However, when EON had no other choice to reduce its losses, than to invest in the substation due to inordinate delay by MSETCL, STU is stating that the said substation is not required in the year 2020-21, when the substation should have ideally been charged, had there been no delay on MSETCL's part in taking possession of the land and erecting it. It is almost as if the STU/MSETCL has intentionally delayed the substation so that the Developer would have no choice but to erect the substation at his own cost, which was acceptable to STU/MSETCL. However, when the Developer has applied for Transmission Licence, STU is stating that the substation is itself not required. STU has very conveniently changed its stand in the said matter.
- 11.10 In STU's Plan of 2017-18 itself, based on MSEDCL's recommendations, STU has included the said substation in its plan. Later, MSEDCL has also given its consent for taking out 30 Nos. of bays from the proposed EON substation. MSEDCL would not have recommended the substation if it had not been a beneficiary neither would it give consent to EON to use certain bays for its existing consumers.
- 11.11 For reasons best known to itself, STU is selectively quoting the sentences from the MSEDCL letter dated 24 March 2021 and not correctly putting the facts mentioned by MSEDCL on being a beneficiary of the proposed substation and has conveniently omitted the part which is in favour of the Petitioner. In the aforesaid letter, MSEDCL has clearly expressed its intention to benefit out of the substation as it has stated that if few feeders are spared, it may result in improvement and reliability of power supply. Establishment of a substation is not a day's job and any such establishment is envisioned to cater to existing and future load. If in the year 2017-18 itself, MSEDCL has recommended the substation, there shall be no further doubt that the substation is not an immediate requirement in the year 2020-21. The power requirement in Kharadi, Wagholi and Lonikand areas is rising and the proposed substation is the need of the hour.
- 11.12 Further, the data provided by STU about the percentage loading of the nearby substations, i.e., Magarpatta and Kharadi substation is not correctly portrayed. The data has been provided for the Year 2020-21, wherein the power requirements were highly affected by the Covid-19 Pandemic. Further, the criteria to know how much additional load can be catered by a substation shall not be the average loading, but shall be the Maximum loading. If average loading is considered, there is no redundancy left on the substation. The actual loading conditions depicting the pre-Covid load catered by the

132/22 kV Kharadi substation is almost 85% and these figures show no scope for redundancy and show no capacity to cater additional load.

- 11.13 EON has serious concerns about the intentions of STU in this matter, as the data has been twisted as per its convenience by STU. STU is not acting in an impartial manner in this matter, for reasons best known to itself. The Commission is requested to kindly look into the conflicting submissions of STU in the matter and provide necessary relief to the Petitioner at the earliest.

12 MSEDCL, in its replies dated 7 June 2021, stated that:

- 12.1 The Petitioner has not approached the Commission with clean hands and is guilty of suppressio veri and suggestio falsi. EON has sought permission of MSETCL to build 132/22 kV GIS substation at Kharadi at its own cost and EON has also agreed to pay 15% supervision charges. Therefore, it is a kind of project under DDF scheme. In fact vide letter dated 18 October 2019, EON has confirmed to hand over the Kharadi substation to MSETCL after successful charging.

- 12.2 As stated in para 12 and 13 of the Petition, EON has filed the present Petition with the sole objective of recovering the expenses being incurred by it for establishing Kharadi Substation by socialising the same through InSTS ARR. Such passing of cost by EON on all the consumers of Maharashtra who are not the beneficiaries of such infrastructure in any manner, will be unfair and unjust.

- 12.3 MSEDCL opposes such expenses to be socialised through InSTS ARR and grant of Transmission Licence in light of the following facts:

- i. MSETCL has proposed to establish Kharadi substation. Accordingly, in meeting dated 15 July 2017, Board of Directors of MSETCL accorded its approval for the same.
- ii. On 12 October 2017, MSETCL submitted the DPR to the Commission for in principle approval of the aforesaid Kharadi Substation which was approved by the Commission on 7 December 2017. MSETCL immediately initiated the process for issuance of tender on 8 December 2017 itself.
- iii. On 7 December 2017, EON requested MSETCL to allow it to establish Kharadi Substation at its own cost for the reason that MSETCL will take at least 2-3 years to set up the necessary substation.
- iv. It is evident from the MSETCL's letter dated 29 October 2018 that during the meeting held on 16 January 2018, EON offered to construct 2x50 MVA, GIS substation whereas MSETCL insisted for 3x50 MVA GIS substation with a provision for 4th 50 MVA Transformer.
- v. EON vide its letter dated 18 October 2019 confirmed that Kharadi Substation would be created by it at its own cost and the same will be handed over to MSETCL after successful charging. EON also confirmed to pay 15% supervision charges to MSETCL. Since EON had offered to build substation at its own cost which is accepted by MSETCL, it becomes a contract binding upon the parties.

EON cannot be allowed to turn back now from the implied contract which it undertook on specified terms and conditions.

- vi. MSETCL, vide its letter dated 1 February 2020 informed EON that the EON Kharadi Substation will be a part of MSETCL's network and also will be maintained and operated by MSETCL only.
- vii. MSETCL, vide its letter dated 14 December 2020 informed EON about revised amount of the supervision charges and accordingly, EON has paid Rs. 178.71 Lakhs on 21 December 2020 to MSETCL. Once EON has paid the supervision charges to MSETCL for establishing Kharadi Substation under DDF, it is not open for the Petitioner to go back and seek recovery of cost through InSTS ARR.
- viii. It is pertinent to mention here that EON has categorically represented that the said Kharadi Substation would be created by it at its own cost and thereafter it would hand over the said substation to MSETCL for upkeep and maintenance. Based on the said representation only, MSETCL has allowed the Petitioner to establish the Kharadi Substation under DDF. It was never the intent of any of the parties herein to pass the cost of infrastructure to the consumers of Maharashtra.
- ix. It is worthwhile to note here that EON has never mentioned that it will seek to recover expenses being incurred for erection of 132 kV GIS substation at Kharadi by socialising the same through InSTS ARR from consumers of Maharashtra state. On the contrary, vide letter dated 20 February 2019, while applying for grid connectivity, EON specifically submitted that the substation and allied infrastructure is being setup at its own cost to provide power to its various projects at Kharadi and Wagholi area in the vicinity.
- x. As evident from the above-mentioned letter dated 20 February 2019, the Petitioner represented that it is creating said substation and allied infrastructure to provide power supply to its various own projects at Kharadi & Wagholi area as per attached list which is reproduced below:

Eon Kharadi 132/22 KV GIS Substation Load List				
Sr. No.	Site Name	Project	Project Name	Connected Load In MVA
1	M/s. Panchshil Infrastructure Holdings Pvt Ltd.	Residential	Wagholi Township - Panchshil Towers	8.0
2	M/s. Panchshil Infrastructure Holdings Pvt Ltd.	Residential	Wagholi Township - YOO Villas	4.5
3	M/s. Panchshil Infrastructure Holdings Pvt Ltd.	Residential	Wagholi Township - SoHo housing	1.0
4	M/s. Panchshil Realty & Developers Pvt Ltd	Residential	Eon Waterfront	2.0
Total Connected Load Demand In MVA				15.50
Max Use 80 % Load In MVA				12.40
5	M/s. Panchshil Infrastructure Holdings Pvt Ltd.	Industrial	Wagholi Township - Proposed School -02 nos	2.0
6	M/s. Panchshil Infrastructure Holdings Pvt Ltd.	Industrial	W - IT Tower	10.0
7	M/s. Panchshil Infrastructure Holdings Pvt Ltd.	Industrial	Wagholi Townships*- Forbes IT Tower	14.0
8	M/s. P-One Infrastructure Pvt Ltd	Industrial	World Trade Centre (WTC) Tower- 1,2 & 3	6.5
9	M/s. P-One Infrastructure Pvt Ltd	Industrial	World Trade Centre (WTC) Tower- 4 & 5	5.0
10	M/s. P-One Infrastructure Pvt Ltd	Industrial	World Trade Centre (WTC) Tower- 6 & 7	10.0
11	M/s. Eon Kharadi Infrastructure Pvt Ltd	Industrial	Eon SEZ IT Park - Phase -I	20.0
12	M/s. Eon Kharadi Infrastructure Pvt Ltd	Industrial	Eon SEZ IT Park - Phase -II	16.0
13	M/s. Eon Kharadi Infrastructure Pvt Ltd	Industrial	Eon 69 - IT Park	3.0
Total Industrial (IT Parks) Connected Load In MVA				86.50
Max Use 90 % Load In MVA				77.85
Total Connected Project Load Demand In MVA				102.00
Max Use Load In MVA				90.25

- xi. The above list clearly shows that the projected load demand is 102 MVA for various projects of EON itself. Therefore, the submission made by EON that the MSEDCL is the major beneficiary of the substation is not the correct position.
- xii. The Commission while giving the in-principle approval on 7 December 2017 to MSETCL for establishing 132/22 kV GIS substation at Kharadi has directed that MSETCL shall ensure that the scheme shall be completed and put to use within stipulated time. As stated above, MSETCL had taken prompt action in initiating tender process. Thus, there was no delay in initiation of implementation of the scheme. Vide its letter dated 7 December 2017, EON itself informed MSETCL about its willingness to develop said scheme at its own cost, which resulted in halting of the MSETCL's tender process, otherwise said scheme might have been implemented by MSETCL as per its schedule.
- xiii. EON has submitted replies to the data gaps based on its own assumptions and surmises. MSEDCL has never projected the load of 114 MVA in the year 2024-2025 as submitted by the Petitioner.
- xiv. In response to the MSETCL's letter dated 11 February 2019 and the Petitioner's letters dated 18 October, 15 November 2019 and 2 March 2020, MSEDCL has given its consent anticipating that all its consumers will be fed from this proposed substation. The consent given by MSEDCL is reproduced below for ready reference:

“Therefore, MSEDCL as per the submissions & request of M/s. EON Kharadi hereby submits its consent as below:

- i. After successful commissioning of 22kV Indoor AIS switchboard, M/s. EON Kharadi will handover the same to MSEDCL. M/s. EON Kharadi may be allowed to depute experienced manpower to MSEDCL in O&M of the same at no cost.*
 - ii. 30 nos. of 22kV outgoing feeders from 132 kV GIS s/s of M/s. EON Kharadi being executed under DDF, will be allowed to utilize to extend its existing consumers & to proposed new load as per sanction of MSEDCL.*
 - iii. M/s. EON Kharadi will be allowed for laying of 22kV cables after removing existing cable, till point of supply where existing metering is already available. This metering will be used for tariff metering and additional meters for energy audit purpose shall be provided at all 22kV AIS Indoor switchboard level for outgoing feeders. As per MSEDCL standard installation practice, RMU shall be installed before metering at double supply point existing consumers.*
 - iv. All the expenditure for the above work shall be borne by M/s. EON Kharadi Infrastructure Pvt. Ltd. The necessary estimate will be sanctioned by the concern MSEDCL authority.”*
- xv. From above, it is crystal clear that MSEDCL has given its consent for all 30 bays/feeders anticipating that all its consumers in the area will be catered.
- xvi. MSEDCL in its letter dated 24 March 2021 addressed to STU, has specifically mentioned that additional facility of 1x50 MVA Transformer is scheduled to be commissioned by MSETCL in existing 132 kV Kharadi Substation in FY 2021-22 and another transformer is scheduled for commissioning at Lonikand EHV substation in FY 2022-23. These additional transformers will be able to cater prospective demand of MSEDCL in the said area. Further, it was specifically clarified that presently, there was no immediate requirement of MSEDCL’s load on the proposed EON Kharadi substation.
- xvii. Even if some feeders are spared for MSEDCL, the Petitioner, as agreed in writing, should bear the expenses for 132/22kV GIS substation and handover the same to MSETCL after commissioning. The Petitioner should take the load of 102 MVA of its various own projects as proposed by him vide letter dated 20 February 2019 i.e. as per list submitted by the Petitioner along with this letter.
- xviii. STU has submitted load on Kharadi Substation with substation as a whole whereas EON has considered the transformer-wise load. However, EON’s approach is not appropriate. During forced outage on outgoing feeders, sometimes load on one feeder is diverted on another feeder which may be connected on different transformer. Thus, consideration of substation-wise load will be more appropriate.

12.4 In view of the aforesaid fact and circumstances, it is submitted that EON may be directed to build said substation at its own cost under DDF and hand over the same to MSETCL. Further, it is prayed that the Transmission Licence should not be granted to EON and the Petitioner should not be allowed to recover the said cost through InSTS ARR.

13 At the E-Hearing (which was an Admissibility Hearing) through video conferencing held on 8 June 2021:

13.1 The representative appearing on behalf of EON briefly reiterated its submissions as made out in the Petition and subsequent submissions and further stated that:

- i. EON would not invest in a Substation with capacity of 150 MVA when it requires only 36 MVA of load. The only reason why EON has proposed to establish the substation is because of the delay in execution by MSETCL.
- ii. Present loading of existing 132/22 kV Kharadi substation of MSETCL is 87% of its capacity.
- iii. STU has contended that EON has agreed to set up the substation at its own expense. STU has also questioned the very need for setting up this infrastructure. In this regard, it is submitted that:
 - a. Such dedicated infrastructure cannot be shared with any other entity. However, STU has accepted that MSEDCL shall also be utilizing the infrastructure, which clearly shows that the infrastructure is not dedicated for EON. It also shows that STU wishes the Developer to set up the infrastructure at his own cost, but also share the infrastructure with MSEDCL. There is no justification in expecting EON to invest Rs. 60-65 Cr. and not expect to recover such investment, and that too, when EON has been forced to make such investment on account of delay by MSETCL.
 - b. In MSETCL's letter to EON dated 29 October 2018, it is clearly recorded that MSETCL has asked for the 3x50 MVA transformers, with space provision for 4th 50 MVA transformer, and has also clearly targeted to serve both EON's load as well as MSEDCL's load through this infrastructure.
 - c. Due to lack of the willingness of MSETCL and delays in execution of the proposed 132/22 kV GIS Substation, EON was left with no option to execute it and give the necessary stability to the area w.r.t. transmission infrastructure, to meet the expected demand growth from upcoming IT Parks and Data Centres.
 - d. The 132/22 kV substation was included by the STU in its Five-year Plan in 2017-18, when it was to be built by MSETCL.
 - e. The Commission has approved the DPR to be undertaken by MSETCL in December 2017, based on the justification submitted by MSETCL. MSETCL has not executed the scheme in the last 3 ½ years. However, STU is now questioning the very need for the investment.

- f. MSEDCL has also submitted that though there is no immediate requirement of MSEDCL's load on the proposed EON substation, as Kharadi, Wagholi and Lonikand areas are emerging as fast-growing cities, in future, there may be an exponential rise in the load demand. In this scenario, if few feeders are spared from proposed 132/22 KV EON Substation, it may result in improvement of reliability of power supply due to redundancy and meeting future growth in Kharadi, Wagholi and Lonikand areas.
 - g. Further as per the EA, it is the duty of the STU to ensure development of an efficient, coordinated and economical system of Intra-State transmission lines for smooth flow of electricity from a generating station to the load centres.
- iv. Both STU and MSEDCL have changed their stands. MSEDCL initially consented to draw feeders from the substation and now it is saying that it does not have any requirement from the substation. STU has been insisting on executing of project under DDF and now when EON has applied for Transmission Licence, it is stating that the nearby Transmission infrastructure is adequate enough.
 - v. The Judgment dated 15 July 2009 passed by the Hon'ble Appellate Tribunal for Electricity (ATE) in Appeal No. 119 of 2008 and IA No. 151 of 2008 has ruled that there is no bar in the EA for the Distribution Licensee to obtain a Transmission Licence, and that there is no inconsistency of any kind in one person holding both Distribution Licence and Transmission Licence. There is also precedence of Reliance Infrastructure Ltd., Tata Power Company Ltd. and Adani Electricity Mumbai Ltd. being issued Transmission Licence and Distribution Licence on same day to same entity.
- 13.2 Advocate appearing on behalf of STU reiterated its submission as made out in the replies and additional submission and further stated that:
- i. EON has suppressed key facts while approaching the Commission seeking grant of Transmission Licence.
 - ii. The DPR submitted by MSETCL had been approved by the Commission on 7 December 2017 and tendering related activities had been initiated by MSETCL. However, vide its letter dated 7 December 2017, EON expressed its readiness to incur the cost of the substation. EON also agreed to hand over the substation to MSETCL after successful commissioning. EON has also paid the supervision charges to MSETCL. Various letters from EON shows that EON had consented to undertake implementation of the substation at its own cost. All these facts have been suppressed by EON in its Petition.
 - iii. The amendment to MERC (Transmission Licence Conditions) (Second Amendment) Regulations, 2017 provides that no applicant shall be qualified for grant of licence under these regulations if the Commission is of the opinion that conditions or circumstances exist that cast a doubt on the ability of the applicant to perform its duties and obligations under the EA. As per these Regulations,

“conditions or circumstances” means and include cases of conviction of the applicant or any of its partners, directors or promoters by a Court of Law or indictment/adverse order by a regulatory authority or which relates to a grave offence of such a nature that it outrages the moral sense of the community; insolvency and bankruptcy of the applicant or any of its partners, directors or promoters; conviction of an offence involving moral turpitude, or any economic offence; fraudulent and unfair trade practices or market manipulation; and any other sufficient reasons.

- iv. Suppressing and hiding the key facts while approaching the Commission and not coming with clean hands would amount to the “sufficient reason” for disqualification of the Licence Application of EON in accordance with the aforesaid Regulations. Hence, the Transmission Licence Application of EON should be rejected by the Commission.

13.3 Advocate appearing on behalf of MSEDCL re-iterated the submissions as made out in its replies and further stated that:

- i. EON, in its Petition, has stated that 76% of the capacity of the proposed EHV substation would be utilized towards meeting the load in MSEDCL’s Licence area. MSEDCL, had also initially stated that few feeders from the substation would improve reliability in power supply and would help in meeting the future load growth in Kharadi, Lonikand and Wagholi area.
- ii. Now, reconciliation of existing and future anticipated load/demand has been confirmed from Chief Engineer, MSEDCL, Pune and considering the upcoming capacity addition at MSETCL Kharadi Substation and Lonikand EHV Substation, MSEDCL’s total load in the vicinity of the proposed substation will be catered from existing EHV substations. Hence, MSEDCL will not require any load in future from proposed EON substation.
- iii. From the replies of the data gaps raised by the Office of the Commission, it is seen that entire premise of the present Licence Application is based on MSEDCL’s requirement. However, there is no requirement of MSEDCL from the proposed substation.
- iv. In case of certain SEZs, it is observed that the SEZ deemed Distribution Licensees projected very high load requirement which actually did not realize. This has resulted in stranding of assets which is not in the consumers’ interest if cost of such assets is socialized on the consumers.

13.4 Upon hearing the parties, the Commission opined that STU and MSEDCL cannot change their stands randomly and directed them to provide the load projections for the future period along with basis for such projections. The Commission also said that as per normal process, first an entity is granted a Transmission Licence and then, the Transmission Licensee submits a DPR along with the STU’s approval for in principle approval of the Commission. After in principle approval of the Commission, the capital expenditure including equipment ordering is done by the Transmission Licensee. However, EON has already taken steps for capital expenditure and is now seeking a

Transmission Licence. Thus, the sequence envisaged under the prevailing regulatory framework is not followed by EON. The Commission also opined that the delay on part of MSETCL might not have affected EON as EON has already operationalized its Deemed Distribution Licensees status in both of its SEZs. The Commission observed that the Party seeking its relief has to come clean with all factual positions placed on record. The Commission directed the Parties to file their respective written submissions.

14 In its written submission dated 14 June 2021, EON stated that:

- 14.1 MSEDCL has stated that the Transmission Licence should not be granted to EON and EON should not be allowed to recover the said cost through InSTS ARR. In this regard, it is to bring to the notice of the Commission that as per EON's understanding, MSEDCL has been impleaded only for stating/confirming its requirement of future load in Kharadi and Wagholi areas according to its future load projections. As per Section 15(4) of the EA, only STU may send its recommendations to the Commission on the Application for grant of Transmission Licence. Further, the proviso to the Section 15(4) of the EA provides that such recommendations are not binding on the Commission. Hence, MSEDCL has no jurisdiction or locus-standi to state that EON should not be granted a Transmission Licence. EON requests the Commission to ignore and reject MSEDCL's submission to the effect due to lack of locus.
- 14.2 MSEDCL has alleged that EON has not come with clean hands and has suppressed facts and acted in a fraudulent manner. MSEDCL has alleged fraud and has raised questions on the intentions of EON. EON condemns such serious allegations made by MSEDCL, which are denied as being devoid of any basis and proof.
- 14.3 There has been no concealment of data or misrepresentation on the part of EON. All relevant documents of EON are on record, and no material has been concealed from the Commission. EON has already submitted the relevant documents and is further ready to submit all documents and information necessary sought by the Commission. These documents have been shared with STU. However, both STU and MSEDCL have themselves not followed the provisions of Regulation 62 of the MERC (Conduct of Business) Regulations, 2004, by failing to serve copies of their submissions/communications on EON. STU and MSEDCL are much bigger entities and have been regulated by the Commission ever since their formation, and would be well aware of the regulatory processes and procedures to be followed. Even otherwise, principle of natural justice requires that copies should be served on EON, while making any submissions to the Commission on the Application filed by EON. It is observed that the Respondents have purposely omitted EON while communicating with the Commission as well as with each other, with respect to EON's Application.
- 14.4 EON has serious concerns about the intentions of MSEDCL as it has now stated that the future load projections will be catered through the existing Infrastructure, whereas in the STU Five Year Plan, it is clearly seen that the Substation is to be established in FY 2018- 19 for strengthening the Transmission network, as per the recommendations of MSEDCL. MSEDCL is itself suppressing facts and ignoring its own submissions. When the EHV substation is to be built by the Petitioner as a Transmission Licensee, it is suddenly not needed and when the same substation was being built by MSETCL in

the year 2018-19, it was needed for MSEDCL's consumers and was necessary and it was then justifiable to load the MSEDCL consumers with such costs. MSEDCL is also seemingly unconcerned about its own inconsistent submissions that the EHV substation is required so long as EON incurs the cost under the DDF route and does not seek to recover this cost.

- 14.5 On the one hand, MSEDCL has stated that if EON is allowed to recover the cost through the InSTS, then the cost will be loaded on the consumers of the State, but on the other hand, it has recommended the same, based on which the EHV substation appears in the STU Five Year Plan 2018-19. It appears that unnecessary barriers are being created by both the respondents to new entrants. Ideally, it should not matter to MSEDCL regarding which Transmission Licensee is setting up the transmission infrastructure. However, MSEDCL is trying to block EON's Licence Application, while supporting the same transmission infrastructure in case if it were to be set up by MSETCL. MSEDCL and MSETCL have been formed under the EA after the unbundling of erstwhile Maharashtra State Electricity Board. The only apparent reason for the position being taken by MSEDCL, is that MSETCL is a sister concern of MSEDCL.
- 14.6 MSEDCL has cited the list of projects to show that EON is creating the said substation and allied infrastructure to provide power supply to "its various own projects at Kharadi and Wagholi area". In this regard, EON submits that there is no such concept as 'Panchshil load'. It is agreed that Panchshil is developing various projects in the area, but Panchshil is not a Distribution Licensee. EON has two functional SEZs as a Distribution Licensee, namely, EON SEZ Phase I and EON SEZ Phase II. The EON Distribution Licence is only for the SEZ areas and not for the entire region of Kharadi and Wagholi. MSEDCL is the sole Distribution Licensee for these areas where the above-mentioned load is served by MSEDCL. From the list cited by MSEDCL, it is clear that the load of EON SEZ Phase I is 20 MVA and EON SEZ Phase II is 16 MVA, and the remaining load of 66 MVA (102 MVA – 36 MVA) is against Residential and Industrial projects being developed by Panchshil, but which are clearly part of MSEDCL's Distribution Licence area. The Commission may please verify from MSEDCL whether MSEDCL is claiming that these projects are not part of its licence area, and are part of the Petitioner's licence area.
- 14.7 The bulk of the load proposed to be served by the proposed EHV substation belongs to MSEDCL's licence area, and MSEDCL as Distribution Licensee, has to ensure that adequate transmission infrastructure exists, to enable it to supply electricity to its consumers in the said area. Further, in its submission, MSEDCL has claimed that the cost of the EHV substation will burden the consumers of Maharashtra, though they are not benefiting from the infrastructure in any manner. However, the fact is MSEDCL consumers shall be the major beneficiary of the said GIS substation. MSEDCL has also agreed in its letter dated 24 March 2021, that there is expected load growth in the Kharadi, Wagholi and Lonikand areas.
- 14.8 To put MSEDCL's stated position in perspective, MSEDCL is now denying any load requirement, though:

- i. MSEDCL had recommended the substation, which is the utmost need of the hour.
 - ii. STU has included the sub-station in its 5-Year Plan.
 - iii. MSETCL has obtained the Commission's approval for setting up the Transmission infrastructure.
- 14.9 It is clear that MSEDCL is now objecting to the EHV substation merely because EON, which is a private entity, has applied to become a Transmission Licensee and proposed to recover the cost of the transmission infrastructure through the InSTS Tariff. MSEDCL has stated that EON has filed the Application for Transmission Licence with the sole objective of recovering the cost for establishing the EHV substation, and socialising the same through the InSTS ARR. EON fails to understand MSEDCL's contention in this regard. It appears that MSEDCL is submitting that cost of capex should be recovered from the beneficiaries so long as the capex is being set up by MSEDCL or its sister concern MSETCL but should not be recovered from the beneficiaries if the capex is being set up by another entity. Such discriminatory approach is not permissible under the EA or the Regulations framed thereunder.
- 14.10 MSEDCL has also submitted that it was never the intent of any of the Parties herein to pass on the cost of this infrastructure to the consumers of Maharashtra. EON submits that expecting return and recovery of investment is a legitimate expectation of any investor. Neither MSEDCL nor MSETCL undertake capital investment, without expecting return and recovery of investment. Further, MSEDCL has claimed that MSETCL did not set up the infrastructure as the Petitioner came forward to set up the infrastructure at its own cost. In other words, MSEDCL has contended that had the Petitioner not stepped forward, MSETCL would have created this infrastructure, and obviously, by now this infrastructure would have been in place. So, as per MSEDCL's contention, MSETCL did not intend to recover the cost of this infrastructure from the consumers of the State, even when it was supposed to incur this capex. This is obviously factually incorrect and misleading. EON urges the Commission to reject outright such factually incorrect and misleading submissions made by MSEDCL.
- 14.11 EON was taken by surprise when the MSEDCL changed their position a day prior to the hearing on 8 June, 2021, presumably when it perceived that its own letter dated 24 March 2021 agreeing to the future load and need for the EHV substation, may support the grant of Transmission Licence to EON. EON requests the Commission to censure such conflicting submissions made by MSEDCL, which appear to have been made with the sole intention of blocking the Licence Application of the Petitioner.
- 14.12 Further, it has been repeatedly mentioned by both the Respondents that the EHV GIS is to be constructed under DDF. In this regard, the Petitioner would like to bring certain facts to the attention of the Commission. As per Regulation 2.2 (p) of the MERC (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 as well as Regulation 2.1 (g) of the MERC Supply Code Regulations, 2005, DDF is defined as under:

“Dedicated Distribution Facilities (DDF)” means such facilities, not including a service-line, forming part of the distribution system of the Distribution Licensee which are clearly and solely dedicated to the supply of electricity to a single Consumer or a group of Consumers on the same premises or contiguous premises.”

14.13 While it is true that the connectivity approval granted by STU to EON specifically mentions that the approval is granted under the DDF route, EON respectfully submits the following points for kind consideration of the Commission. Firstly, there is no legal or regulatory provision under which the STU can grant approval for setting up transmission infrastructure under the DDF route. Thus, the conditional approval given by the STU under the DDF route is untenable. Secondly, the very definition of DDF under the MERC Supply Code, as cited above, requires the following conditions to be fulfilled for qualifying under DDF, viz.

- i. DDF route is applicable only for distribution system, and cannot be extended to setting up transmission infrastructure, which is the present case.
- ii. The assets/facilities need to be solely dedicated to the supply of electricity to a single consumer, which is not applicable in the present case, as clearly brought out by MSEDCL submissions itself.
- iii. The assets/facilities need to be solely dedicated to the supply of electricity to a group of consumers on the same premises or contiguous premises, neither of which are applicable in the present case, as the premises are different as well as non-contiguous, as clearly brought out by MSEDCL submissions itself.
- iv. The premises are separate, and MSEDCL, as Distribution Licensee, will be providing separate connections even for construction purposes for each of the Residential and Industrial projects, cited by MSEDCL in the list of projects.
- v. As the EHV substation is intended to serve the Kharadi and Wagholi area, there will obviously be other consumers of MSEDCL, who will be utilising the transmission infrastructure proposed to be set up by the Petitioner.

14.14 Hence, EON respectfully submits that there is absolutely no basis in law or Regulations, under which MSEDCL and STU can claim that the EHV GIS needs to be executed under DDF scheme.

14.15 MEDCL, vide its Letter dated 7 June 2021 has changed its position and stated that MSEDCL is not a beneficiary, which is completely contrary to the facts as brought out by the following letters, wherein both the Respondents have confirmed that MSEDCL shall be a Beneficiary of the said sub-station:

- i. As per letter dated 12 June 2020 from the CE (Distribution), MSEDCL to The Chief Engineer (Project Schemes) MSETCL, MSEDCL has clearly provided its consent, wherein under ‘Point no (ii)’ of the consent, it has been stated that –

“The 30.nos of 22 kV outgoing feeders from 132/22 GIS s/s of M/s EON Kharadi will be allowed to extend its existing consumers and to proposed new load as per sanction of MSEDCL.”

- ii. In MSETCL's letter to the Petitioner dated 29 October 2018, MSETCL has recorded the discussions held on 16 January 2018, as under:

“EON had offered to construct the said SS with capacity 2 x 50 MVA 132/22 kV TFs to meet the anticipated load of 75 MVA of M/s EON & MSEDCL. However MSETCL insisted to provide of 3 x 50 MVA TFs at initial stage & make space provision for the 4th 50 MVA TF, considering the N-1 redundancy.”

- iii. Thus, MSETCL has asked for the 3 x 50 MVA transformers, with space provision for 4th 50 MVA transformer, and has also clearly targeted to serve both EON's load as well as MSEDCL's load through this infrastructure.

- iv. Further, MSEDCL's letter to the CE (STU) dated 24 March 2021 reads as follows:

‘Therefore, in the present scenario, there will be no immediate requirement of MSEDCL loads on the proposed M/s Eon Kharadi (deemed licensee) substation. However, Kharadi, Wagholi & Lonikand areas in vicinity are emerging as fast-growing cities. In future, there may be an exponential rise in the load demand. In this scenario, if few feeders are spared from proposed 132/22 KV EON GIS Substation, it may result in improvement of reliability of power supply due to redundancy and meeting future growth in Kharadi, Wagholi & Lonikand areas.’

- v. The 132/22 kV Sub-station was included by the STU in its Five-year Plan in 2017-18, when it was to be built by MSETCL, on the recommendations of the MSEDCL.

14.16 Vide its Letter dated 29 October 2018, STU has insisted EON to add an additional 3rd transformer and provide space for another 4th transformer. This clearly confirms that the substation which will be built will cater the load of MSEDCL, as at that time EON has not exercised its right as a Distribution Licensee. Now that EON has become a Distribution Licensee in two licence areas, three different Distribution Licensees, viz., EON SEZ Phase I, EON SEZ Phase II, and MSEDCL shall be the beneficiaries of the said substation. The majority of the beneficiaries are the consumers of MSEDCL, but the investment is of the Petitioner, and by objecting to the grant of Transmission Licence, MSEDCL is seeking undue benefit.

14.17 As regards MSEDCL's submission that it has never projected load of 114 MVA in this area by FY 2024-25, the Petitioner has already explained the rationale for arriving at 114 MVA in its earlier submissions. The EHV sub-station has thirty feeders, each of which can cater to 5 MVA load, i.e., total load of 150 MVA. As the load of the two Distribution Licensees of EON was projected as 36 MVA, the balance load of 114 MVA (150 MVA – 36 MVA) was considered against MSEDCL licence area.

14.18 STU and MSEDCL are adopting philosophy of convenience, and there is no consistent philosophy or logic in the view being taken by STU and MSEDCL, as clearly brought out by the following summary of inconsistent views/positions taken by STU and MSEDCL:

Sl.	Scenario	Cost Recovery	STU and MSEDCL View
1	MSETCL to set up the desired transmission infrastructure	Cost to be recovered through InSTS ARR, and shared by MSEDCL and all other Distribution Licensees	Capex required, and MSEDCL will utilise the infrastructure
2	The Petitioner to set up the desired transmission infrastructure under 'DDF'	Cost to be borne by the Petitioner	Capex required, and MSEDCL will utilise the infrastructure to meet future load
3	The Petitioner to set up the desired transmission infrastructure as a Transmission Licensee	Cost to be recovered through InSTS ARR, and shared by MSEDCL and all other Distribution Licensees	Capex not required; existing Transmission Infrastructure is sufficient to meet MSEDCL future load

14.19 To summarise the views of STU and MSEDCL:

- i. Capex is required if either MSETCL incurs the cost and recovers the same from the DISCOMs of the State or if EON incurs the cost under DDF and does not recover the cost. However, if EON seeks to recover the capex cost, then the capex is itself not required.
- ii. If MSETCL incurs the cost, then recovery of the cost through InSTS tariff borne by all DISCOMs including MSEDCL is justified, and MSEDCL's consumers will not be burdened by the same. However, if EON incurs the cost, then recovery of the cost through InSTS tariff borne by all DISCOMs including MSEDCL is not justified, as MSEDCL's consumers will be burdened by the same.
- iii. Another Licensee should not recover its capital investment, and if it so desires, then the Transmission Licence itself should not be granted. However, MSEDCL as a Distribution Licensee, will not incur any capex through debt-equity funds, without recovering the same from the consumers.

14.20 The inconsistency in the submissions of STU and MSEDCL is glaring and deserves to be rejected outright.

14.21 Following is the summary of the points, which EON would like to highlight:

- i. The EHV substation cannot be considered to be under DDF for the reasons detailed above.
- ii. MSEDCL as well as the STU/MSETCL had no objection to loading the cost of the same substation in 2018-19 on the consumers of the State, which has now become an issue merely because a private entity has applied for a Transmission Licence.
- iii. The contentions of STU and MSEDCL are completely inconsistent and not borne out by the facts as well as law and Regulations, and deserve to be rejected outright.

14.22 **Reply to the Commission's Queries during the Hearing held on 8 June 2021:**

A]Justification for initiating capital expenditure before getting the Commission's approval for the Transmission Licence and proposed capital expenditure

- i. The said substation has received in-principle approval of the Commission on 7 December 2017, when the substation was to be executed by MSETCL.
- ii. EON agreed to build the said infrastructure under DDF, when EON had not exercised its right as a Distribution Licensee for its SEZ Phase I and II.
- iii. EON has since, started operations as the Distribution Licensee in SEZ Phase I and II, and in the process has learnt about its rights to apply for a Transmission Licence.
- iv. As per the eligibility conditions and EA, EON prima-facie fulfils all the requirements to apply for a Transmission Licence and would like to exercise its rights to become a Transmission Licensee.
- v. EON has invested a considerable amount of funds in the above asset, and after a careful and insightful study, it has come to the conclusion that the transmission infrastructure being set up cannot come up under DDF, and hence, if MSEDCL is a major beneficiary of the huge investments being made by EON, then the costs should be socialized, which can happen if EON is granted the Transmission Licence.
- vi. The activities that were already started were continued, to maintain the status- quo. Despite filing the Application for Transmission Licence, EON has even honoured its commitment and paid supervision charges to MSETCL, in order to ensure that the construction of the said substation is not halted. EON definitely has not intended to abuse the process under the Regulations, and the same may kindly be considered by the Commission, and the irregular sequence of events may be condoned, in view of the peculiar circumstances of the present matter.

14.23 Basis for claiming delay on the part of MSETCL in setting up the EHV transmission infrastructure

In this regard, the Petitioner has detailed the sequence of events and the delay on the part of MSETCL in its earlier reply dated 12 April 2021.

The lease agreement was signed with MSETCL on 11 July 2016 and till 7 December 2017 (around one and a half years), MSETCL had not taken physical possession of the land. EON was ready to handover the land for erection of the substation and such agreement was recorded in the Board Meeting of MSETCL dated 6 March 2014 and modified MSETCL Board Resolution dated 6 April 2016. Since then, till 7 December 2017, no progress was made by MSETCL to erect the substation. The Developer was seriously affected by this delay on the part of MSETCL, and hence, decided to take up the investment, even under DDF as envisaged by STU. The Petitioner's submissions regarding the inappropriateness of considering this investment under DDF are already recorded earlier in this submission.

- 14.24 In view of the above, EON prays additionally to the Commission that it may be pleased to:
- i. Reject the objections of MSEDCL and STU on the Licence Application filed by EON.

- ii Provide an opportunity to EON to submit its rejoinder within one week, to any submissions that may be made by STU and MSEDCL, consequent to the directions of the Commission during the Hearing held on 8 June 2021.

15 MSEDCL, in its written submissions dated 16 June 2021, stated that:

15.1 On 8 June 2021, during the course of hearing the Commission has raised specific query from MSEDCL which is under:

- i. *What is anticipated load projection for MSEDCL upto year 2030 in Kharadi area?*
 ii. *What is MSEDCL plan to cater such future load?*

15.2 In respect of the above-mentioned queries, MSEDCL submits as under:

- i. In Kharadi and nearby area, there are six EHV substations (Installed Capacity 900 MVA) namely Theur, Magarpatta, VSNL, Mundhva, Lonikand and Kharadi which are catering the load of Nagar Road Division, Kharadi and Wagholi area. The Substation-wise installed capacity and year-wise recorded peak demand for substation are as given below;

Name of EHV substation	Installed capacity (MVA)	Sub-station Peak Demand (MVA) during the year					% Avg. Yearly Load growth
		2017-18	2018-19	2019-20	2020-21	2021-22 (Upto May 21)	
132/22 kV Kharadi	200	123.4	128.9	134.4	130.2	114.6	0.08
220/22 kV Magarpatta	150	92.8	90.5	98.9	76.4	69.3	3.34
220/22 kV Theur	150	69.4	76.9	75.8	81.8	80.3	5.4
220/22 kV VSNL	100	29.8	40.8	49.7	56.1	43	33.39
132/22 kV Mundhva	150	68	66.0	60	58	58	-8.09
220/22 kV Lonikand	150	116	113.0	111	119	126	-2.37
Total	900	499.4	516.1	529.8	521.5	491.2	1.73

- ii. From above, it is observed that the load demand in Kharadi and its nearby area is almost constant over last 3 years i.e. from FY 2017-18 to FY 2019-20. Due to Covid-19 Pandemic, demand has still reduced drastically during FY 2020-21 and same is continued in FY 2021-22. The maximum demand recorded for these six EHV substations during last 5 years is 529.8 MVA (FY 2019-20) which is 58.8 % of existing installed capacity.
- iii. As mentioned in the above table, the average load growth in last three years before Covid-19 pandemic is 1.73 %. Hence, anticipated load growth of 2% is considered for upcoming period upto FY 2029-30. Accordingly, there may be total rise in

demand of approximately 100 to 105 MVA. Considering the maximum demand reached in last 5 years, the projected demand upto FY 2029-30 will be as below.

No.	Financial Year	Projected Demand in MVA (considering 2% load growth / year)
	Max. demand in last 5 yrs.	529.86
1	2021-22	534.79
2	2022-23	545.48
3	2023-24	556.39
4	2024-25	567.52
5	2025-26	578.87
6	2026-27	590.45
7	2027-28	602.26
8	2028-29	614.30
9	2029-30	626.59

- iv. To cater the above tentative future demand of @ 100 MVA, additional or augmentation of Power Transformer will be planned jointly with MSETCL under STU Plan as per year-wise requirement.

Sus-station	Installed capacity (MVA)	Proposed Additional Capacity (MVA)	Remark
132/22 kV Kharadi	200	-	-
220/22 kV Magarpatta	150	-	The Capacity addition may be proposed if required.
220/22 kV Theur	150	-	
220/22 kV VSNL	100	-	
132/22 kV Mundhva	150	-	
220/22 kV Lonikand	150	50	50 MVA additional sanctioned under STU 2021-22 Plan
Total	900	50	

- v. It is pertinent to note here that MSETCL has already included erection of 50 MVA additional transformer at 220/22 KV Lonikand substation under STU plan for FY 2021-22. After commissioning of proposed EON Kharadi EHV Substation, demand of EON (DDF), 42 MVA will be diverted from Magarpatta, Theur and Kharadi EHV Substation which will further reduce the peak load demand of 529.8 MVA to 482 MVA on these existing MSETCL's EHV Substations. Hence, actual projected peak demand will be less in FY 2029-30 on these substations.
- vi. The capacity of above mentioned six nos. of existing EHV Substations is sufficient to cater the load in the nearby area of EON Kharadi during upcoming years upto FY 2029-30. In this view of background, MSEDCL has submitted that it will not require any load in future from 132/22kV EON Kharadi Substation.
- vii. The Regulation 12.2 (h) of MERC (State Grid Code) Regulations 2020 reads as under:

“Optimal utilization of resources to ensure and efficient and economical system with due consideration to power market, regional interconnection, or any other policy initiatives of Government of Maharashtra.”

- viii. As stated above, in last three year, the average load growth before covid pandemic is 1.73 %. Assuming the growth rate of 2 % upto FY 2029-30, the existing infrastructure is sufficient to cater the said demand. Therefore, the Commission is required to examine the present issue in this factual background keeping in mind the Regulation 12.2 (h) of MERC (State Grid Code) Regulations 2020.
- 15.3 MSETCL in its reply has cited various examples where the infrastructure was created expecting huge load demands but the said infrastructure could not be put to its optimal use even after years.
- 15.4 In view of the aforesaid fact and circumstances, MSEDCL reiterates that EON may be directed to build said substation at its own cost under DDF and hand over the same to MSETCL. Further, in view of the aforesaid facts and circumstances, it is prayed the Transmission Licence shall not be granted to EON and it should not be allowed to recover the cost of erection of the proposed substation and associated infrastructure through InSTS ARR as the same will burden the consumers of Maharashtra.
- 16 In its rejoinder dated 21 June 2021 to MSEDCL's written submissions, EON stated that:**
- 16.1 MSEDCL, in its reply has submitted that in Kharadi and nearby area, there are six EHV substations which are catering the load of Nagar Road Division, Kharadi and Wagholi area. EON would like to highlight the distance between the proposed EHV substation by EON and 220/22 kV Theur, 220/22 kV Lonikand and 220/22 kV VSNL is 13.1 km, 16 km and 16.9 km, respectively. It is practically impossible to draw power from these EHV Substations, which are located at such a distance away from the load centre. The Commission may kindly verify the above submission of MSEDCL with respect to the submissions of MSETCL while seeking the Commission's approval for the capex for 132 kV EHV substation, and whether MSETCL has also considered the same six EHV Substations for serving the load in the Kharadi and Wagholi area.
- 16.2 Further, the said proposed substation is already approved by the Commission on 7 December 2017. After receiving such in principle approval from the Commission, MSEDCL is now providing the Commission with data with the intention of trying to prove that the substation proposed by EON is not required. At the same time, MSEDCL has stated that the Petitioner should be directed to build the said EHV Substation under DDF route and hand over the same to MSETCL. MSEDCL has assumed that 132 kV EON Kharadi Substation will be commissioned and that some load will be shifted to that Substation. EON fails to understand MSEDCL's blatantly inconsistent approach, wherein EHV substation is not required if the cost is to be recovered by a Transmission Licensee, but required if the cost is borne by the Developer.
- 16.3 Further, MSEDCL in letter dated 24 March 2021 to CE(STU) has stated that there might be exponential growth in the Kharadi, Wagholi and Lonikand areas, and that the EHV substation would help to meet the future load, but in its reply dated 15 June 2021, it has stated that the anticipated growth is 2%. The Commission may please note the contradictory statements and recommendations made by MSEDCL as elaborated in the following table:

#	MSEDCL view	Reference
1	Exponential Growth	MSEDCL in letter dated 24 March 2021 to CE(STU)
2	Growth Rate @ 2%	Reply dated 15 June 2021

- 16.4 Further, following Table shows the different numbers of load growth that have been submitted by MSEDCL on various occasions:

MSEDCL Load Growth Rate (%)	References
2%	2 % Growth rate considered by MSEDCL in its submission dated 15 June 2021. This submission is factually misleading. Even the calculation of 2% is incorrect, as MSEDCL has claimed that the average growth rate before COVID pandemic years is 2%. However, by MSEDCL's own data, it is seen that the CAGR is 3%.
3%	As per data provided by MSEDCL itself, it is observed that the base TCR was projected to increase by 3%. Table 6 of Case No. 327 of 2019 (Base TCR for TSUs for the 4 th Control Period as approved)
4.06%	As per approved sales in Table 6-22 of Case No. 322 of 2019 (Sales for 4 th Control Period, as approved by Commission (MU))
6.71%	@ Actuals - Table 5-6 of Case No. 322 of 2019 (Energy Available for Sale for FY 2019-20 (MU) as approved by the Commission)
6.40%	Growth rate as per MSEDCL maximum load in STU plan (2018-19 to 2022-23)

- 16.5 From the above table, it is very clear that, MSEDCL has never envisaged such low load growth of 2%, and MSEDCL has projected growth ranging from 3.0 to 6.71%.
- 16.6 Further, the input data was extracted from MSEDCL website especially for Wagholi area. (*Region- Pune, Zone-Pune, Circle-Pune Rural Circle, Division-Mulshi, Subdivision- Hadapsar Rural*). The following table shows the load growth of 4.32% (CAGR) in Wagholi area since 2017-18. (Data was available on website from January 2017 only)

FY	MU	% Load Growth
2017-18	353	
2018-19	389	10.12%
2019-20	379	-2.66%
2020-21	401	5.92%
	CAGR	4.32%

- 16.7 Hence, it is very clear from the above facts that the average load growth of MSEDCL is in the range of 3.0 % to 6.71% and especially for Wagholi area for last four years it is 4.32%, which is likely to increase as Wagholi is proposed to be included in Pune Municipal Corporation (PMC) limits. Further, in addition, there is major development happening in Kharadi and Wagholi areas in terms of IT sector. Hence, the load growth submitted by MSEDCL in its submission dated 15 June 2021 is factually incorrect and misleading. Further, if these higher growth rates are considered, then by MSEDCL's

own data about EHV substation loading, it will be clear that the existing EHV substations, even if they were used to serve the load of Kharadi and Wagholi area (which is far-fetched), will be loaded well beyond 70%. This clearly leads to the conclusion that the EHV substation proposed to be established by the Petitioner as a Transmission Licensee will be required to meet the future load in the area.

- 16.8 Thus, there is no sanctity to the load growth numbers cited by MSEDCL, as MSEDCL is quoting different numbers depending on its objective at that point in time. Further, MSEDCL has submitted the data in this particular case as per its own convenience and intentionally to block the Petitioner's application.
- 16.9 As regards MSEDCL's submission that the 132 kV EHV Substation should be built by the Petitioner under DDF route, this issue has been dealt with at length by the Petitioner in the Rejoinder III submitted on 14 June 2021, which may kindly be referred.
- 16.10 For the reasons mentioned above and further taking into consideration the above irregularities and earlier change of positions by the MSEDCL, the Commission is requested to reject the objections of MSEDCL to the grant of Transmission Licence to the Petitioner.

17 In its written submission dated 1 July 2021, STU stated that:

- 17.1 During the E-hearing held on 8 June 2021, the Commission has raised specific queries to STU/MSETCL and MSEDCL as under:

- a. What is the anticipated load projection in the Kharadi area up to the year 2030?*
- b. What is the STU plan to cater to such a future load?*

- 17.2 In respect of the above-mentioned queries, STU/MSETCL submits as under:

- i. At present, 7 Nos. of EHV substations (Installed Capacity 950 MVA) namely 132/22 kV Kharadi, 220/22 kV Magarpatta, 220/22 kV Theur, 220/22 kV VSNL, 132/22/11 kV Mundhva, 400/220/22 kV Lonikand-I and 220/22 kV Serum caters a load of Nagar Road Division, Kharadi and Wagholi area. The Substation-wise installed capacity and year-wise recorded peak demand for substation are attached.
- ii. According to Annexure-I, it is seen that to cater to the load demand in Kharadi and its nearby area, almost 950 MVA capacity is installed at above 7 nos. of MSETCL substations. Considering the installed capacity and the average % peak load of these substations, it can be seen that loading is about 57% to 59%.
- iii. Also, to meet the demand of Kharadi and nearby area, following infrastructure strengthening work has been carried out by STU/MSETCL.
 - a. Conversion to HTLS of existing 132 kV Theur-Kharadi line **In progress**
 - b. Conversion to HTLS of 220 kV Lonikand-Theur D/C line **Completed**
 - c. Commissioning of 132 kV level at 400 kV Lonikand II S/s with HTLS LILO of 132 kV Kharadi- Markal line **In progress**

- d. Addition of 1 no. of 50 MVA 132/22 kV transformer at 132 kV Kharadi Substation **Completed**
- e. Addition of 1 no. of 50 MVA 220/22 kV transformer at 400/220/22 kV Lonikand-I Substation **Included in STU Plan.**

17.3 As per the future demand projected by MSEDCL up to FY 2029-30, it is submitted that the capacity of above mentioned 7 nos. of existing EHV Substations of MSETCL is sufficient to cater the load in the nearby area of EON Kharadi during upcoming years up to FY 2029-30.

17.4 In addition to the queries raised during the hearing held on 8 June 2021, STU/MSETCL would like to submit the following additional submission on record:

- i. STU has submitted ‘Additional submission’ before the Commission vide letter dated 9 April 2021. In this regard, it is to bring to the kind notice of the Commission that the copy of same has been served by STU to EON on 11 April 2021. Hence STU has not made any omission for serving the copy of additional reply filed by STU before the Commission to EON. EON is well aware of this fact and also have filed its rejoinder to the STU’s additional submission. Hence, STU denies all the contentions and allegations of the Petitioner.
- ii. STU has always acted impartially in this matter, and has submitted the data as per records only.
- iii. If any deemed distribution licensee needs EHV infrastructures, it will be better to develop necessary transmission network at its own expense and the burden of expenditure incurred for this transmission network shall pass on to the consumers of the concerned deemed distribution licensee only. This will avoid unnecessary financial burden to rest of the consumers in the State.
- iv. EON in its rejoinder-III submitted that “There is absolutely no basis in law or Regulations, under which MSEDCL and STU can claim that the EHV substation needs to be executed under DDF scheme.”

In this regard, it is submitted that the Commission, in its Order dated 18 January 2019 in Case No. 351 of 2018 has already provided its ruling on the issue “*Whether the scheme of EHV Substation and Lines/Towers executed by Consumer for the supply of electricity to its township comes under ORC or DDF category?*” Hence there is no merit in the submission of EON.

17.5 STU further summarizes its reply to the rejoinder/replies submitted by EON and MSEDCL as under:

- i. Vide its letter dated 20 February 2019 EON applied for grid connectivity to establish 132/22 kV GIS Substation for 102 MVA (Phase-I 70 MVA and Phase -II 32 MVA) power demand. In this letter, EON has stated as under.

“Creating a Substation and allied infrastructure is being set up at our own cost to provide further power to our various projects as Kharadi and Wagholi area (list attached) in the vicinity.”

The application mentioned “50 MVA X 3 nos. -- 1 no. 50 MVA transformer as a reserve for emergency purpose.

- ii. STU has granted the grid connectivity for the same vide letter dated 3 May 2019.
- iii. STU denies allegations of EON that there is delay in execution of the 132/22 kV Substation by MSETCL. In this regard, it is submitted that:

- a. The tender for establishment of 132/22 kV GIS Substation had been floated on 8 December 2017 i.e. immediately after receipt of in principle approval dated 7 December 2017 from the Commission. Before such approval, it was not possible to start the execution work on the plot allotted by EON.

- b. STU received a letter dated 7 December 2017 from EON wherein it was stated that:

“15. We request you to kindly allow us to install 50 MVA GIS S/S (at our own cost) and assist us in providing the necessary power lines from Lonikand-Kharadi.”

Hence the statement made by EON, that no progress was made by MSETCL to erect the substation and there is an inordinate delay caused by MSETCL has no merit. Only due to the application of EON, the published tender was cancelled by MSETCL.

- iv. STU objects to the prayers of the Petition and its claim of Transmission License etc. which is an afterthought,

The Petitioner’s revised application was to allow it to erect 132/22 kV GIS substation at its own cost and it was to handover the same to MSETCL after successful charging. The said fact can be verified from the letters of EON addressed to the Respondents. The details of the same are as follows;

- a. STU received a letter dated 7 December 2017 from EON wherein it was stated that:

“15. We request you to kindly allow us to install 50 MVA GIS S/S (at our own cost) and assist us in providing the necessary power lines from Lonikand-Kharadi.”

- b. STU has received letter dated 18 October 2019 from EON, which has captioned its subject as “Consent letter for handing over of 132 kV GIS substation at EON Kharadi Infra Pvt. Ltd. under DDF”. The Petitioner has stated therein that,

“with reference to the above subject and discussion had with you during the meeting held at MSETCL HQ Bandra on 17th October 2019, we hereby confirm that 132kv GIS substation will be handed over to MSETCL after successful charging”.

- c. STU received a letter dated 20 February 2019 from EON which has captioned its Subject as, “Revised application of Grid Connectivity for EON Kharadi 132 / 22 Kv GIS substation at Wagholi, Pune”. The Petitioner has stated that:

“with reference to the above subject and the telephonic discussion on dated 18th February 2019, please find the revised application of Grid Connectivity for EON Kharadi 132 / 22 Kv GIS substation at Wagholi.

Creating a substation and allied infrastructure is being set up at our own cost to provide further power to our various projects at the kharadi and Wagholi area (List Attached) in the vicinity.”

- v. Considering the load at the existing 132 kV Kharadi Substation, the scheme for addition of one 50 MVA, 132/22 kV transformer was included in STU plan for FY 2020-21 and the same is already commissioned. At present, the maximum peak load at 132 kV Kharadi Substation for the year 2020-21 is almost 61% of its capacity.
 - vi. STU while preparing the plan, considers the comments/suggestions of all Utilities in respect of future load growth in their areas. In the area of concerned distribution licensee, they should take care of future load growth considering the time required for the execution of EHV Substation and accordingly STU includes the same in next year plan as per load growth requirement projected by Distribution and Transmission Utilities.
 - vii. The consent letter of EON addressed to MSETCL for handing over the EHV Substation to MSETCL and prayer in this Petition shows that application for Transmission Licence is an afterthought and contradictory to its earlier undertaking. It is mentioned in the consent letter that EON is ready to carry out the required infrastructure work at its own cost along with payment of supervision charges to MSETCL. The consent is not given conditionally.
 - viii. EON has intentionally suppressed various material facts and their self-correspondence and records from the Commission as it has not disclosed the same.
 - ix. EON ought not to have surpassed and should have followed prescribed procedure and applicable provisions of law, rules and regulations. Since even before the Commission considers EON's Petition for granting it the Transmission Licence, EON has already paid supervision charges to STU and at the same time, continued to proceed with the present Petition. Hence, the Commission is requested to dismiss the Petition.
 - x. The question for grant of Transmission Licence does not arise. STU does not recommend the grant of Transmission Licence to EON for the 132/22 kV GIS Substation and allied lines.
- 17.6 In view of the above, STU requests the Commission to take the above additional submission on record and dismiss the Petition.
- 18 In its rejoinder dated 8 July 2021 to STU's written submission, EON stated that:**
- 18.1 STU in its submission has provided the peak load in MVA of the 7 EHV substations, purportedly, in the vicinity of or serving Kharadi and nearby areas. However, the peak load submitted by MSEDCL in its submission dated 15 June 2021 and the peak load submitted by STU does not match at all. EON has serious concerns on the data

submitted by both the respondents. The discrepancy in the data is summarised in the Table below:

Name of EHV substation	Installed capacity (MVA)	Substation loading in MVA submitted by MSEDCL in its reply dated 15.06.2021			Substation loading in MVA submitted by STU in its reply dated 01.07.2021			Remarks
		2019-20	2020-21	2021-22 (Up to May 21)	2019-20	2020-21	2021-22	
132/22 kV Kharadi	200	134.4	130.2	114.6	115.0	92.0	87.0	Data not matching for any year
220/22 kV Magarpatta	150	98.9	76.4	69.3	99.0	76.4	69.3	Data Matched
220/22 kV Theur	150	75.8	81.8	80.3	80.0	68.0	70.0	Data not matching for any year
220/22 kV VSNL	100	49.7	56.1	43.0	60.0	56.0	43.0	Data not matching for 2019-20
132/22 kV Mundhva	150	60.0	58.0	58.0	63.0	49.0	36.0	Data not matching for any year
220/22 kV Lonikand	150	111.0	119.0	126.0	123.0	106.0	113.0	Data not matching for any year

- 18.2 STU has submitted that in Kharadi and nearby area, there are 7 nos. of EHV substations (Installed Capacity 900 MVA) namely Theur, Magarpatta, VSNL, Mundhva, Lonikand, Serum and Kharadi, which are catering the load of Nagar Road Division, Kharadi and Wagholi area. In this regard, EON would like to highlight that the distance between the EHV substation proposed by EON and the 220/22 kV Theur, 220/22 kV Lonikand and 220/22 kV VNSL is 13.1 km, 16 km and 16.9 km, respectively. It is practically impossible to draw power from these EHV Substations, which are located at such a distance away from the load centre.
- 18.3 EON strongly objects to the STU's submission wherein STU has stated that any deemed Distribution Licensee needing EHV infrastructure should develop the necessary transmission network at its own expense and the burden of expenditure incurred for this transmission network should be passed on to the consumers of the concerned deemed Distribution Licensee only. EON respectfully submits such a view expressed by STU, which is the central planning authority for transmission infrastructure in the State of Maharashtra, is completely discriminatory against the deemed Distribution Licensees and the consumers of such deemed Distribution Licensees. While EON does not support the approach that the Distribution Licensee should set up the necessary transmission infrastructure, if at all such a rationale is to be adopted then the same should be applicable to all Distribution Licensees, irrespective of whether the Distribution Licence has been issued or the Distribution Licensee is a deemed Distribution Licensee. STU also appears to have completely forgotten the fact that MSEDCL is also a deemed

Distribution Licensee under the EA, and hence the Commission has not issued any Distribution Licence in favour of MSEDCL under Section 15 of the EA.

18.4 Further, STU is trying to confuse the issue by relying on the Commission’s Order dated 18 January 2019 in Case No. 351 of 2018. The Commission, vide Order dated 16 February 2021 in Case No. 137 of 2016, has ruled that EHV substation and lines must form part of Transmission assets rather than Distribution assets. The Commission’s rulings in the aforesaid Order read with the provisions of the MERC Supply Code Regulations, 2005 and MERC Supply Code Regulations, 2021 clearly show that the proposed EHV Sub-station cannot be set up under the DDF route.

18.5 Further, the following table shows the various discrepancies to point out why the principles laid down in the Case No. 351 of 2018 are not applicable to present case:

Sr.no	Facts of Case No. 351 of 2018	Facts of Case No. 212 of 2020
1	As per Commissions Analysis and Ruling: para 9. Table, point 8 “PPPL requested MSETCL to use spare capacity available at 220 kV substation and refund the cost of the project proportionately.”	In MSETCL’s letter to the Petitioner dated 29.10.2018, MSETCL has recorded the discussions held on 16.01.2018, as under: <i>“EON had offered to construct the said SS with capacity 2 x 50 MVA 132/22 kV TFs to meet the anticipated load of 75 MVA of M/s EON & MSEDCL. However MSETCL insisted to provide of 3 x 50 MVA TFs at initial stage & make space provision for the 4th 50 MVA TF, considering the N-1 redundancy.”</i>
2	Para 17: The Commission notes that it is admitted position that PPPL had applied for total 51 MVA load for its mega township project.	In this case, EON has applied for a load for various different sites. Further MSETCL has insisted to increase capacity of the substation and various sites of Panchshil are not on the same/adjoining premises, and doesn’t form a DDF Further, MSEDCL has recommended substation to STU for inclusion in STU Five year plan, and also given its consent to use the feeders.
3	The Substation is handed over to MSETCL and then Petition for refund of cost has been made.	The Substation is not handed over to MSETCL, and the Petition for a transmission license has been filed, as cost incurred by EON but majority of the beneficiary are consumers of the MSEDCL.

4	<p>The Commission vide its Order dated 16 February, 2008 in Case No. 56 of 2007 has stated :</p> <p><i>12. The transformer or the sub-station can also form a part of dedicated distribution facility if it is provided exclusively for giving supply to these consumers and no other consumer is fed from the said transformer/ sub-station .Also dedicated distribution facility cannot be shared in future by other consumers. Such facilities cannot be imposed on a consumer. -----” (Emphasis added)</i></p>	<p>The MSEDCL in contradiction to the principle laid down in Case No.56 of 2007, has given its consent to use the feeders. MSEDCL has also agreed to the fact that there might be exponential growth in Kharadi and Wagholi Areas, the same has been brought out by the Petitioner in previous submissions.</p>
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- 18.6 EON respectfully wishes to reiterate its concerns regarding the intentions of STU and MSEDCL, who have now stated that the future load projections will be catered through the existing Infrastructure, whereas in the STU Five Year Plan, it is clearly seen that the Substation is to be established in FY 2018-19 for strengthening the Transmission network, as per the recommendations of MSEDCL.
- 18.7 STU and MSEDCL are both suppressing facts and ignoring their own submissions. When the EHV sub-station is to be built by the Petitioner as a Transmission Licensee, it is suddenly not needed and when the same substation was being built by MSETCL in the year 2018-19, it was needed for MSEDCL’s consumers and was necessary and it was then justifiable to load the MSEDCL consumers with such costs. MSEDCL and STU are also seemingly unconcerned about their own inconsistent submissions that the EHV substation is required so long as EON incurs the cost under the DDF route and does not seek to recover this cost.
- 18.8 For the reasons mentioned above and further taking into consideration the above irregularities of data submitted by STU and earlier change of positions by STU and MSEDCL, the Commission is requested to reject the objections of STU and MSEDCL to the grant of Transmission Licence to EON.

Commission’s Analysis and Rulings:

- 19 Present Petition has been filed by the Petitioner for grant of Transmission Licence for the proposed Transmission System (comprising mainly of 150 MVA, 132/22 kV GIS substations and other related transmission infrastructure) being developed in Village Kharadi, District Pune. EON has requested the Commission to grant the Transmission Licence under Alternative 2 of the General Terms and Conditions, viz., line-specific Transmission Licence specified under MERC (Transmission Licence Conditions) Regulations, 2004.

- 20 The contentions/argument of the Parties have already been covered in detail (based on the multiple submissions) in preceding part of the Order and are summarised below.
- 21 EON has justified its Transmission Licence Petition broadly stating the following:
- i. The demand in Kharadi including its SEZs and other nearby areas catered by MSEDCL is growing and the existing infrastructure is not in a position to cater the demand and hence EON has proposed 132/22 kV EON Substation which needs to be established on immediate basis.
 - ii. MSETCL has delayed the implementation of the DPR approved by the Commission in the year 2017 for commissioning of 132/22 kV EON Substation. On account of this delay, EON and its parent Company was incurring heavy losses and hence there was no option left for EON other than investing in the EHV Substation.
 - iii. Although EON has undertaken to execute the 132kV Substation under DDF, neither present case falls under DDF nor DDF is permissible for Transmission related assets under the prevailing regulatory framework.
 - iv. The beneficiaries of the proposed Substation will be three Distribution Licensees viz. EON SEZ Phase I, EON SEZ Phase II and MSEDCL. MSEDCL has already consented to extend the said supply to its existing consumers and proposed new consumers in the said area.
 - v. Since majority of load (76%) to be met by the proposed Substation belongs to MSEDCL, the cost of the Substation needs to be recovered from all the Transmission System Users as per the Transmission Pricing Framework implemented by the Commission in the State.
 - vi. In order to facilitate the recovery of the capital cost of this transmission infrastructure through the InSTS ARR, EON has decided to obtain a Transmission Licence for the capital investment in Transmission System, so that the costs are appropriately socialized.
 - vii. The proposed Substation was part of the STU Plan for FY 2017-18 and also the DPR had been approved by the Commission. MSETCL has been insistent on EON for establishment of 3x50 MVA transformers, with space provision for 4th 50 MVA transformers, and STU has also clearly targeted to serve both EON's load as well as MSEDCL's load through this infrastructure. However, STU cannot now question the very need for this infrastructure.
- 22 STU has objected the grant of Transmission Licence raising the following contentions:
- i. There are several cases wherein the Transmission assets created in SEZ areas have not been utilized/have been underutilized as the load growth did not come up as projected by these SEZ developers. It has been observed that the SEZ Developers project higher load initially and then revise the requirement subsequently. Capitalization without adequate utilization of the Transmission assets creates financial burden on the consumers of the State.

- ii. If any SEZ Licensee needs EHV assets, it will be better to develop the Transmission network by their own expenses and the burden of these assets shall pass on the consumers of that SEZ Licensee only and not on the rest of the consumers of the State.
 - iii. EON had agreed to build the Substation under DDF and it has confirmed that 132 kV GIS substation would be handed over to MSETCL after successful charging. It has also paid the supervision charges and thus, EON has revised its stand. Also, this factual matrix was not disclosed by EON in its Petition.
 - iv. EON sought initial connectivity for 102 MW and subsequently applied for connectivity of 18 MW and 8 MW for Phase I and Phase II respectively on existing 22 kV network. The socialization of such cost is not recommended as it will create additional burden on consumers of the State.
 - v. Awarding Licence to EON for creation of 132/22 kV GIS Substation of 150 MVA capacity which EON had agreed to create at its own cost will result in socialization of expenditure and hence STU is not recommending the grant of Transmission Licence to EON and the Commission is requested to dismiss the Transmission Licence Application of EON.
 - vi. On account of EON's readiness to build the Substation under DDF, MSETCL dropped implementation of the DPR approved by the Commission.
 - vii. Two 150 MVA Substations (132 kV Kharadi and 220 kV Magarpatta) are in operation in Kharadi area. The 220 kV Magarpatta Substation is not fully loaded and can accommodate additional load. Also, 4th Transformer is planned/commissioned at Kharadi Substation to accommodate existing and future load. The strengthening of 132 kV Theur Kharadi Line is being executed using HTLS conductor. This strengthening, which are in progress, will also help in taking load of proposed 132 kV EON Kharadi Substation with LILO arrangement.
 - viii. MSEDCL has also not confirmed its beneficiary status for the proposed Substation and stated that addition of one transformer of 50 MVA in MSETCL Kharadi Substation in FY 2021-22 and in MSETCL's Lonikand Substation in FY 2022-23 will cater to the prospective demand of MSEDCL in the vicinity area and hence there is no immediate requirement of MSEDCL Loads on proposed Substation.
- 23 MSEDCL has also objected to grant of Transmission Licence to EON raising the identical issues which have been raised by STU and citing the following additional issues:
- i. EON has categorically represented that the said EON Kharadi Substation would be created by it at its own cost and thereafter it would hand over the said substation to MSETCL for upkeep and maintenance. Based on the said representation only, MSETCL has allowed the Petitioner to establish the Kharadi Substation under DDF.

- ii. The list attached with the EON's grid connectivity application shows that the projected load demand is 102 MVA for various projects of EON itself. Therefore, the submission made by EON that the MSEDCL is the major beneficiary of the substation is not the correct position.
- iii. An additional facility of 1x50 MVA Transformer is scheduled to be commissioned by MSETCL in existing 132 kV Kharadi Substation in FY 2021-22 and another transformer is scheduled for commissioning at Lonikand EHV substation in FY 2022-23. These additional transformers will be able to cater prospective demand of MSEDCL in the said area. Hence, there is no immediate requirement of MSEDCL's load on the proposed EON Kharadi substation.
- 24 The Commission notes that as per Form of Licence provided in Schedule 2 of the MERC (Transmission Licence Conditions) Regulations, 2004, the Transmission Licence can be granted under following two alternatives:
- “FORM OF LICENCE***
-
- Part III: General Terms and Conditions***
- 3. Area of transmission***
- Alternative 1:*
- The area of transmission shall be the State of Maharashtra.*
- Alternative 2:***
- The Licence authorizes the Transmission Licensee to establish and operate the following transmission lines: ”*
- 25 The present Licence Application has been filed under Alternative 2 i.e. for asset or line specific Transmission Licence , 150 MVA 132/22 kV GIS EHV Substation in present case and along with associated Lines and other equipment. However, in response to the present Petition, the questions have been raised on the manner of asset creation (whether under DDF mode in the capacity of a consumer or through a Transmission Licence in the capacity of Transmission Licensee). Also, questions have been raised on very need of the assets for InSTS. While considering the Licence Application for asset or Line specific Licence, if it is established that the asset is not needed for InSTS or the asset can be or needs to be created under DDF mode, no question would arise for considering the grant of Licence for such asset. Accordingly, the Commission has decided to deal with the preliminary objections raised by STU and MSEDCL to decide the admissibility of the Licence Application before proceeding ahead with the Licence Application.
- 26 From the material placed on record, it is observed that MSETCL had submitted the DPR for “ *Establishment of 100 MVA, 132/22 kV EON Kharadi GIS Substation*” to the Commission on 12 October 2017 which was approved by the Commission on 7 December 2017. Incidentally, vide letter dated 7 December 2017 itself, EON offered to invest in 50 MVA GIS Substation. Had EON not shown its readiness to erect Substation at its own cost, MSETCL might have implemented the scheme.

- 27 Subsequently, a meeting was held on 16 January 2018 between MSETCL and EON wherein EON offered to construct the said Substation with capacity of 2 X 50 MVA to meet the anticipated load of 75 MVA of EON and MSEDCL. However, MSETCL insisted on 3 X 50 MVA Substation with a provision for 4th Transformer.
- 28 On 26 November 2018, EON submitted a grid connectivity application for a power demand of 150 MVA. Subsequently, vide letter dated 21 January 2019, EON submitted a revised grid connectivity application with modified load requirement of 102 MVA (Phase I- 70 MVA and Phase II – 32 MVA).
- 29 It is observed that in its Application for grid connectivity, EON had projected that out of total demand of 102 MVA, 70 MVA will reach in first year and balance 32 MVA load will be coming in second year. Further, EON itself had indicated the Project Capacity of 50 X 3 MVA=150 MVA (with one Transformer spare). Hence, EON now cannot raise contention that the load of 1/3rd of the capacity is load requirement of EON, and the balance requirement is of MSEDCL's consumers and the contention of EON that EON, as a person of ordinary prudence, would not invest in a Substation with capacity of 150 MVA if it requires only 50 MVA of load, lacks merit. Further, MSEDCL has rightly highlighted that the list enclosed by EON along with the revised grid connectivity application clearly shows that the projected load demand is 102 MVA for various projects of EON itself or are associated with the group.
- 30 Accordingly, based on load projected by EON for its upcoming projects, revised grid connectivity under DDF was granted by STU vide its letter dated 3 May 2019. Vide its letter dated 18 October 2019, EON had given its consent to build the substation under DDF and thereafter to hand over the substation to MSETCL after successful charging. The only request made by EON was to allow maintenance engineers from EON to be involved in operation and maintenance activity for 132 kV and 22 kV System. However, vide its letter dated 1 February 2020, it was clarified by MSETCL that the proposed substation will be a part of MSETCL's network and operation and maintenance of the substation would be carried out by MSETCL only.
- 31 EON has relied upon the revised grid connectivity approval issued by STU on 3 May 2019 to claim that as per this approval, EON is required to establish the 150 MVA, 132/22 kV GIS substation for which EON is seeking the Transmission Licence. However, it is challenging the basic premise under which the grid connectivity approval had been accorded by STU i.e. work to be executed under DDF. EON is stating that the grid connectivity approval granted under DDF is not tenable and also DDF which is meant for Distribution related assets, is not relevant to Transmission related asset. The Commission is of the view that EON cannot have selective reliance on the grid connectivity approval i.e. use the scope of work as mentioned in the grid connectivity approval for seeking the licence and not accepting the DDF condition and opposing the basic premise under which the grid connectivity had been granted.
- 32 Further, the grid connectivity approval has been obtained by EON in the capacity of a consumer intending to ensure supply to its various upcoming projects. This is because the Deemed Distribution Licensee status of EON has been taken on record by the Commission only on 5 June 2020. Further, EON has operationalized its Deemed

Distribution Licensee status in October 2020. Post this development, EON has attempted to bifurcate the proposed substation's capacity of 150 MVA into 36 MVA for its own SEZs and 114 MVA for MSEDCL. Firstly, MSEDCL has not accepted that it, at any point in time, had projected this 114 MVA from the proposed substation. Further, the Commission is also not convinced by the manner in which EON has assessed the MSEDCL's load of 114 MVA. EON has stated that the EHV substation has thirty feeders, each of which can cater to 5 MVA load, i.e., total load of 150 MVA. As the load of the two Distribution Licensees of EON was projected as 36 MVA, the balance load of 114 MVA (150 MVA – 36 MVA) was considered against MSEDCL licence area. The Commission is of the view that the existing and future load in an area is not determined by the number of feeders in the proposed substation. Rather it is other way round i.e. depending upon the existing and future load, the number of feeders of a substation are decided. Further, if EON's own load is 36 MW, it can always seek revision of its connectivity to that quantum.

- 33 EON initially applied for grid connectivity of 150 MW. This means that this load belongs to EON as a consumer. When the grid connectivity was sanctioned by STU with specification that the infrastructure was to be developed by it, now EON is contending that the majority of this load will belong to MSEDCL's area of supply and hence cost needs to be shared by all consumers. It is difficult to understand the contradictory stand taken by EON. In a nutshell, EON either could have honoured the grid connectivity approval and could have gone ahead erecting the substation as per the approval given by the STU or surrendered the same as not acceptable to it due to DDF related issue or due to change in circumstances if any.
- 34 Further, EON has cited delay from MSETCL in implementation of the substation as the reason for seeking grant of Licence. However, the Commission does not find merit on aforesaid contention of EON for the following reasons:
- i. EON itself indicated readiness for undertaking capex due to which MSETCL dopped the DPR implementation and tendering activity was stopped. Had EON not shown its readiness to erect Substation at its own cost, MSETCL might have implemented the scheme.
 - ii. Both the SEZs of EON have already been operationalized. Their Deemed Licensee status have been taken on record. The Specific Conditions of Licence applicable to EON have been notified by the Commission. Their short term PPAs for the period 1 October 2020 to 1 September 2021 has been approved.
 - iii. EON has received final connectivity for its both SEZs on existing feeders and its distribution business has already been operationalized. Hence, EON as a Distribution Licensee has not been affected in any manner due to delay in implementation of the substation.
 - iv. EON should not bother about readiness of transmission infrastructure for meeting the existing/future load growth beyond its licence area. If at all the transmission infrastructure in Kharadi area and other nearby area (in MSEDCL's area of supply and beyond EON's Licence area) is inadequate to meet the future demand and

even if it is assumed that there is delay on part of MSETCL/STU in taking necessary steps to meet the load demand, EON, as a distribution Licensee, cannot raise a dispute, through the present petition, as a affected party for such delay by MSETCL/STU.

- v. The Commission also notes the submission of STU that immediately upon receipt of in principle approval dated 7 December 2017 from the Commission, tendering activity had been commenced by MSETCL and before such approval, it was not possible to start the execution work on the plot allotted by EON.
- vi. STU is responsible and accountable for efficient and economical transmission network to ensure the Demand is met. If EON is concerned about the upcoming projects (both residential and commercial) of its group company Panchsheel due to inadequacy of the Transmission Network in Kharadi area beyond its Licence area and hence it is proposing a Substation, EON could ideally consider and undertake the Transmission substation under DDF without seeking to load the infrastructure cost on rest of the consumers of the State. Else whenever the projects come up, the project developer could approach MSEDCL with requisite load demand and MSEDCL, under the SOP Regulations would need to take necessary steps.

35 Main basis for present Transmission Licence Application is that MSEDCL would be the beneficiary of the proposed Substation. In this context, it is relevant to note the context under which an initial consent had been given by MSEDCL. The relevant extract of the MSEDCL's letter dated 12 June 2020 is as under:

“ Therefore, MSEDCL as per the submissions & request of M/s. Eon Kharadi hereby submits its consents as below:

*....ii. 30 nos. of 22 kV outgoing feeders from 132/22 kV GIS S/s of M/s. Eon Kharadi **being executed under DDF** will be allowed to utilize to extend its existing consumers & to proposed new load as per sanction of MSEDCL.*

*...iv. **All the expenditure for the above work shall be borne by M/s. Eon Kharadi Infrastructure Pvt. Ltd.***”

36 Thus, MSEDCL's consent was based on premise that the expenses for the scheme shall be borne by EON. Further, MSEDCL's letter dated 24 March 2021 clarified that in view of MSETCL's network strengthening, there was no immediate requirement from MSEDCL, but MSEDCL had made a general comment that load in the nearby area may grow in future. Thus, there was no specific requirement as of now from MSEDCL.

37 Further, in subsequent submission, MSEDCL stated that reconciliation of existing and future anticipated load/demand has been confirmed from Chief Engineer, MSEDCL, Pune and considering the upcoming capacity addition at MSETCL Kharadi Substation and Lonikand EHV substation, MSEDCL's total load in the vicinity of the proposed substation will be catered from existing EHV substations. Hence, MSEDCL will not require any load in future from proposed EON substation. STU has also stated that the capacity of seven nos. of existing EHV Substations in nearby area is sufficient to cater the load in the nearby area of EON Kharadi during upcoming years up to FY 2029-30.

Thus, the need for substation for MSEDCL's requirement has not been clearly established. EON has raised its contentions on the stand taken by MSEDCL/STU on need of the proposed substation. EON has also raised the contention that some of the MSETCL's EHV substations considered by STU, are far away from the EON's proposed substation and therefore their spare capacities are not relevant in meeting the load in Kharadi and its nearby areas. On these contentions, the Commission notes that under the EA, STU is the InSTS Planning Authority for the State of Maharashtra and adequacy of existing infrastructure or proposed augmentation in the infrastructure to meet the present as well as future load is in domain of STU. Further, the technical feasibility for releasing the load is in purview of MSEDCL and STU for distribution and Transmission related infrastructure respectively and hence, the Commission deems it fit to reject the aforesaid contention of EON.

38 It is true that the Commission had approved the DPR on 7 December 2017 for establishment of 132/22 kV GIS substation at EON Kharadi. Also, the proposed substation was part of the STU Plan for FY 2017-18. However, the Commission also notes the submission of STU from which it is observed that during last three years, few schemes have either been undertaken or under progress that will be able to meet the demand in Kharadi and nearby areas. STU has stated that following infrastructure strengthening work has been carried out by STU/MSETCL to meet the demand of Kharadi and nearby area.

- a. Conversion to HTLS of existing 132 kV Theur-Kharadi line **In progress**
- b. Conversion to HTLS of 220 kV Lonikand-Theur D/C line **Completed**
- c. Commissioning of 132 kV level at 400 kV Lonikand II S/s with HTLS LILO of 132 kV Kharadi- Markal line **In progress**
- d. Addition of 1 no. of 50 MVA 132/22 kV transformer at 132 kV Kharadi Substation **Completed**
- e. Addition of 1 no. of 50 MVA 220/22 kV transformer at 400/220/22 kV Lonikand-I Substation **Included in STU Plan.**

39 The Commission notes that with addition of 1 no. of 50 MVA, 132/22 kV Transformer at existing MSETCL 132 kV Kharadi Substation (which has already been undertaken in May 2021) and addition of 1 no. of 50 MVA 220/22 kV Transformer at Lonikand-I substation (which has already been approved by MSETCL's Board of Directors in September 2020 and planned to be commissioned in FY 2022-23), an additional 100 MVA capacity would get available. Further, HTLS conversion schemes have also been undertaken/under progress by MSETCL. Thus, after approval of the DPR for establishment of 100 MVA EON Kharadi substation in December 2017, though the scheme has not been implemented, few other schemes have been executed in the Kharadi and nearby areas which have altered the capacity of the Transmission infrastructure in the nearby areas.

40 EON has also highlighted mismatch in the peak load data submitted by MSEDCL and STU in respect of MSETCL's EHV Substations. The Commission notes that although there is some data consistency, still it is seen that when the capacity of all these

substations is taken together, there is sufficient capacity left which can cater to the demand.

- 41 The entire premise of the Application is that MSEDCL will be beneficiary for the proposed Transmission System, but there is no specific requirement from MSEDCL as mentioned above. If MSEDCL has any requirement, it has to approach STU seeking outlets from STU after which STU/MSETCL has to do the needful as per the relevant Regulations.
- 42 EON has contended that both STU and MSEDCL have now changed their respective stands. This contention of EON seems right from the facts presented to the Commission. The Commission is fully aware that with passage of time and due to additional infrastructure that gets added on continuous basis, the requirement of the Distribution Licensees can undergo a change. These changes are required to be factored in by the STU for optimising the infrastructure cost and in that sense the infrastructure plan needs to be dynamic (within reasonable limits and subject to justification). In spite of this, the Commission expresses its concern about the frequent changes in the STU Plan. STU plan is expected to be an important planning tool in infrastructure development and is expected to vary only in a limited way, in exceptional cases due to specific reasons.
- 43 Also, the Commission is concerned about the changing stand of MSEDCL. The changing stand of MSEDCL involves the change in demand and also the change in the use of network at Distribution level. As can be seen from the submissions, the changes in the requirement have not been fully justified. As a responsible utility, MSEDCL needs to be very sensitive towards its projections and also the network through which it plans to serve the consumers by meeting the norms specified in MERC (Electricity Supply Code and Standards Of Performance for Distribution Licensees, including Power Quality) Regulations, 2021 .
- 44 Further to the observations at para 42 and para 43 above, it is seen that EON has also changed its stand. Earlier, it was ready to undertake the scheme under DDF in spite of being fully aware of the fact that some load in MSEDCL's area of supply had also been considered to be met from the proposed EON Substation. EON was also ready to hand over the Substation after successful charging and had also paid the supervision charges to MSETCL. EON in fact had opted for DDF on its own volition. This Petition thus is purely an afterthought. Also, EON never indicated that it would seek to recover the cost of the infrastructure from rest of the consumers of the State.
- 45 Thus the Commission opines that all the three parties in this Petition have changed their respective stands. However, the Commission is bound by the Regulations in Planning Code of the MERC (State Grid Code) Regulations, 2020 wherein the infrastructure needs to be developed in an efficient and economical manner. From the submissions, it is a matter of fact that in the intervening period, few schemes have either been implemented or are in progress of execution by MSETCL which have resulted into strengthening of the network in the area nearby.
- 46 Further, the assessment of upcoming load in MSEDCL's area of supply has to be done by MSEDCL only and thereafter the same can be considered by STU for planning of

Transmission system in the concerned area. The Commission notes MSEDCL's submission that it never projected load of 114 MW from the proposed EON Substation. Thus, MSEDCL's beneficiary status has not been clearly and unequivocally confirmed by MSEDCL themselves which is the key premise for developing Transmission infrastructure.

47 Also, the MERC (State Grid Code) Regulations, 2020 emphasizes on commercial and economical aspects of planning. The relevant extract is given below:

“ 13.2 Financial Planning Criteria:

13.2.1. While developing transmission system plan covering addition of new transmission system element (transmission line or substation) or for augmentation of the capacity of existing transmission line or addition of transformer or bay, the STU shall provide due consideration to commercial aspects and cost implications thereof arising on account of addition/augmentation of any transmission system element. For this purpose, STU shall be guided by but not limited to following commercial principles and parameters as outlined below:

(a) Optimum utilisation of the existing capacity and planned capacity addition of the transmission system element

(b) Economical and efficient development of transmission system element(s) to economise overall Return of Investment for transmission system

(c) Equitable and fairness in recovery of the cost from the transmission system users

(d) Coordinated development of transmission system elements, particularly with reference to inter-state/inter-regional transmission system elements vis-à-vis InSTS elements;”

48 In view of the above provisions of Grid Code, the responsibility for development of transmission infrastructure with optimum utilisation with due consideration of commercial aspect/financial criteria lies with STU and any entity such as EON cannot shoulder a responsibility on its own to create Transmission infrastructure to cater to existing/upcoming demand in an area.

49 EON has sought an asset specific licence mainly with the objective of socializing the cost associated with creation of these assets. However, the asset's need itself is not established for rest of the MSEDCL's consumers.

50 Further, while grant of earlier Transmission Licenses and also while amendment of Transmission Licences, the Commission has been considering the STU Plan. While grant of Transmission Licence to Tata Power Company Ltd. (TPC), the Commission had not considered the scheme for inclusion in the TPC's Licence which were not part of STU's plan. The relevant extract of the Commission's Order dated 14 August 2014 in Case No. 112 of 2014 is given below:

“ 5.22. Further, 16 Transmission Schemes proposed by TPC which are neither approved by the Commission and STU nor included in the STU Plan are rejected. The Commission directs TPC to approach the Commission on case to case basis for these 16 Transmission Schemes.”

51 Further, while passing the Order dated 11 March 2021 in Case No. 249 of 2019, the Lines and Bays which are not part of STU Plan have not been considered to be included in the TPC's amended Licence. The relevant extract of the Order is given below:

“39 The Commission has not considered some of the Proposed Transmission Lines and Proposed Bays provided in TPC-T Licence Amendment Application as those were not part of STU Five Year Plan. STU in its submission stated that these lines and bays are deleted from the STU plan as not required.”

52 In view of the above, the Commission thinks it fit to dismiss the Licence Petition at admission stage only as the basic need and thereafter the capacity of the transmission assets for the State as a whole for EON's own SEZs or combined for EON and MSEDCL has not been clearly established.

53 EON has contended that there is no legal or regulatory provision under which the STU can grant approval for setting up transmission infrastructure under the DDF route. The Commission notes that the issue of DDF for EHV Substation had been raised before the Commission in Case No. 351 of 2018. In that case, the township was developed by M/s Pegasus Developer in the Pune MIDC area with applied load/demand of 51 MVA. As per the approval of MSEDCL and MSETCL, M/s Pegasus had developed the scheme under DDF with the cost of Rs. 25.40 Crore. The supply was released at 220 /33 kV Substation which was built by Developer under supervision of MSETCL. After commissioning of the 220 kV Substation, the substation/line assets were handed over to MSETCL for O&M purpose. Thereafter, M/s Pegasus had filed the Petition in the year 2018 seeking refund of costs from MSETCL incurred by it towards construction of 220 kV EHV Transmission Line and Substation to avail supply for its Mega Township Project. The Commission vide its Order dated 18 January 2021 had declined the recovery of such incurred cost from MSETCL as Developer has executed the scheme under DDF willingly (exclusive for township load).

54 EON has stated that the facts of the above case were different from the facts in the present case. However, the Commission notes that EON has not been able to establish the difference between both these matters and has essentially tried to put emphasis that MSEDCL would be the beneficiary for the proposed Substation as MSEDCL would supply its consumers using the proposed substation. The Commission notes that in fact this is the similarity in both these cases as in Case No. 351 of 2018 also, the consumers in that project were supplied by MSEDCL only and thus MSEDCL was the beneficiary in that case also. In that case also, the consumers did not belong to Pegasus as Pegasus is not the Distribution Licensee and was a real estate developer. In present case also, for area beyond EON's Licence areas, EON is not Distribution Licensee and MSEDCL would supply (if MSEDCL opts to) to the consumers in the projects that would be developed by the parent Company of EON. Thus, the Commission is of the view that there is similarity in both these cases and the ruling Case No. 351 of 2018 would be applicable to the present case also.

55 It is relevant to note that the EA does not bar the consumer creating EHV assets under supervision of the Transmission Licensees. There have been various EHV consumers in the State which have created EHV Substations under the supervision of MSETCL.

Also, EON is entitled to seek. Connectivity from the STU/MSETCL for catering its load and that. DDF is at the discretion of EON. Hence, if at all, EON thinks that there is a need for these assets, EON may create its own EHV Substation under DDF to cater to its own Load and hand over the assets to MSETCL for operation and maintenance. In this case also, subject to the investment principles and procedures for Capital Investment by the Distribution Licencee, EON can factor in this cost in the ARR and recover the same as per the provisions of the relevant MYT Regulations. Thus, the need to seek separate Transmission Licence for the same is not established. EON can approach STU with revised grid connectivity, if required and STU would be mandated to provide the connectivity as per the prevailing Grid Code Regulations.

56 Hence, the following Order.

ORDER

1. Case No. 212 of 2020 is dismissed.

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

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

**Sd/-
(Sanjay Kumar)
Chairperson**

