

**Before the  
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION  
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005  
Tel. 022 22163964/65/69 Fax 22163976  
Email: mercindia@merc.gov.in  
Website: [www.merc.gov.in](http://www.merc.gov.in)**

**Case No. 68 of 2021**

**Petition filed by Tata Power Company Ltd.-Distribution seeking declaration that the letters dated 8 October 2020 and 9 December 2020 issued by the State Transmission Utility regarding grant of grid connectivity to M/s. Bharat Petroleum Corporation Ltd. are contrary to the provisions of the Electricity Act, 2003**

Tata Power Company Ltd.- Distribution .....Petitioner

V/s

State Transmission Utility .....Respondent No. 1

Bharat Petroleum Corporation Ltd. ....Respondent No. 2

Adani Electricity Mumbai Ltd.- Distribution ..... Respondent No. 3

**Appearance:**

For Tata Power Company Ltd.- Distribution ..... Shri Anand Shrivastava (Adv.)

For State Transmission Utility .....Shri Umesh Bhagat (Rep.)

For Bharat Petroleum Corporation Ltd. ....Smt Harsha Asnani (Adv.)

For Adani Electricity Mumbai Ltd.- Distribution ..... Smt Deepa Chavan (Adv.)

**Coram**

**Sanjay Kumar, Chairperson**

**I. M. Bohari, Member**

**Mukesh Khullar, Member**

**ORDER**

**Dated: 7 December, 2021**

1. Tata Power Company Ltd.- Distribution (**TPC-D**) has filed its Petition on 28 May 2021 under Section 86(1)(i) and Section 86(1)(k) of the Electricity Act, 2003 (**EA**) challenging

the legality of the letters dated 8 October 2020 and 9 December 2020 issued by the State Transmission Utility (STU) wherein STU approved and confirmed the connectivity directly to the Intra-State Transmission (InSTS) network, on the application made by TPC-D, to the EHV consumer of TPC-D i.e. M/s. Bharat Petroleum Corporation Ltd. (BPCL). TPC-D has sought a declaration that the aforesaid grid connectivity granted by STU is contrary to the provisions of the EA and prayed to set aside these letters issued by STU.

2. **Petitioner's main prayers are as follows:**

- i. In light of the aforesaid facts, circumstances, and legal position, it is most humbly prayed that this Hon'ble Commission may be pleased to:*
  - ii. Set aside the Impugned Letters dated 08.10.2020 and 09.12.2020 issued by the STU, insofar as they do not provide for the last mile connectivity to the consumer through the distribution system; and/or*
  - iii. Pass any such order as this Hon'ble Commission may deem fit in the interest of justice.*
3. On 6 July 2021, Adani Electricity Mumbai Ltd.-Distribution (AEML-D) filed its Miscellaneous Application (MA 22 of 2021 in Case No. 68 of 2021) seeking its impleadment in present matter.
  4. Vide its reply dated 22 July 2021 on the Petition, STU stated that BPCL being an existing consumer of TPC-D, the application for grid connectivity was made by TPC-D on behalf of BPCL and hence even though the application was made by TPC-D, the grid connectivity could be issued to BPCL (EHV Consumer) which accordingly had been granted by STU in line with the relevant Regulations.
  5. TPC-D, vide its submission dated 27 July 2021 objected to AEML-D's impleadment Application claiming that AEML-D was neither a 'necessary' nor a 'proper' party in terms of the settled principles of law.
  6. At the E-hearing dated 28 July 2021 held through video conferencing, Advocate of TPC-D sought adjournment to the hearing citing unavailability of Senior Counsel. The respondents did not object to the adjournment request of TPC-D. Accordingly, the Commission adjourned the hearing.
  7. On 29 July 2021, TPC-D filed its rejoinder to STU's reply and stated that any network supplying to consumer, necessarily formed part of distribution system.
  8. The E-hearing on AEML's Impleadment Application was held on 24 August 2021 through video conferencing. Vide its Order dated 7 October 2021, the Commission allowed the aforesaid impleadment Application and directed TPC-D, STU and BPCL to serve the copies of their respective Petition and submissions to AEML-D and AEML-D was directed to file its reply on the main Petition in Case No. 68 of 2021 within ten days of the Order. On 28 October 2021, AEML-D filed its reply on merits of the Petition objecting to the Petition of TPC-D.

9. The matter was listed for further hearing on 16 November 2021. On 15 November 2021, TPC-D filed an application seeking withdrawal of the Petition and stating that:

*“ ...during pendency of the present Petition, BPCL, vide its letter dated 05.07.2021 communicated to the Petitioner that additional electricity load as was sought by BPCL vide its letter dated 20.04.2018 is not required anymore. ...*

*That on view of the reasons stated in the paragraph hereinabove, there is no need to further adjudicate the matter before the Hon'ble Commission. Accordingly, the Petitioner prays leave of this Hon'ble Commission to withdraw the present Petition as settled while keeping the legal issues open.*

*That in the event that any fresh cause of action arises in this matter between the Petitioner and the Respondents, then the Petitioner reserves its right to initiate appropriate legal action against the Respondents before the appropriate authority or forum.*

#### **PRAYER**

*In the aforesaid circumstances, it is therefore, most respectfully prayed that this Hon'ble Tribunal be pleased to:-*

- i. Allow the present Application*
- ii. Allow the Petitioner to withdraw the present Petition in view of the reasons mentioned in this application, while keeping the legal issues open.*
- iii. Any other or further relief deemed fit and proper be also awarded in the facts and circumstances of the case in favour of the Applicant.....”*

**10. At the E-hearing dated 16 November 2021 held through video conferencing:**

- 10.1 The advocate appearing on behalf of TPC-D reiterated its withdrawal request as made out in the aforesaid application and requested the Commission to allow it to withdraw the Petition.
- 10.2 The advocate of BPCL stated that they had no objection to the withdrawal application of TPC-D.
- 10.3 The advocate of AEML-D stated that:
- i. On 5 July 2021, BPCL informed TPC-D that the requirement of additional load envisaged earlier was no longer needed in near future as the corresponding investment decision had been kept on hold by BPCL. Thus, there was no cause of action and there was no need for further proceeding in the matter after 5 July 2021. However, the proceeding continued after 5 July 2021 as TPC-D did not inform about BPCL's letter at an appropriate time.*
  - ii. This was not a responsible conduct on part of TPC-D which the Commission should take a note of.*
  - iii. AEML-D was opposing grant of any liberty to TPC-D as it had not come with clean hands.*

- iv. The Commission could determine the issues raised in the present Petition on suo moto basis or AEML-D would move a separate Petition seeking clarity of these issues.
- 10.4 In response, the advocate of TPC-D stated that the delay in filing of withdrawal application was on account of time required for completion of procedural formalities at their end.
- 10.5 The Commission observed that despite participating in the proceeding before the Commission, BPCL did not inform this development at the relevant time. In response to the query of the Commission on this issue, the advocate of BPCL stated that she had received the BPCL's aforesaid letter only recently.
11. After going through the withdrawal Application of TPC-D and after hearing the Parties on this Petition, the Commission notes that based on BPCL's additional load requirement being an existing consumer, TPC-D had approached STU seeking grid connectivity at Intra-State Transmission System (InSTS) and STU's grant of grid connectivity directly to BPCL was the cause of action for the present Petition. Since, BPCL does not require additional load, STU's request of grant of grid connectivity and associated dispute has now become infructuous. Hence, the Commission is of the view that there is no point in continuing the present proceeding.
12. TPC-D has prayed to allow to withdraw the Petition while keeping the legal issues open. The Commission notes that while the bone of contention was the STU's request of grant of grid connectivity directly to BPCL, various other coupled issues (as recorded by the Commission in its Order dated 7 October 2021 passed in MA 22 of 2021) had been raised in the proceeding. The issue as to whether a consumer can be directly connected to a Transmission System/InSTS is already before the Hon'ble Appellate Tribunal for Electricity. Also rest of the issues such as process to be followed for release of load for EHV consumers in parallel distribution licensing scenario, non-transferrable grid connectivity sought for InSTS etc. would require due consideration of all relevant factors and are directly concerning the interest of all concerned including consumers in the common area of parallel distribution licensees. These issues cannot be declared to be decided, unless duly adjudicated upon in appropriate proceeding. Further, if a new cause of action arises, the Parties will always have a liberty to approach the Commission under the applicable Regulations and provisions of EA. In light of the above, the Commission accepts the prayer of the Petitioner to allow the withdrawal of the present Petition while keeping all the legal issues open for adjudication if need arises in future.
13. Having said that, the Commission also notes that, on 5 July 2021 itself, BPCL had informed TPC-D that the additional load sought by it for 70 MW at 220 kV level was no longer needed. However, TPC-D sought to withdraw its Petition based on aforesaid letter only on 15 November 2021 stating that in light of this letter, there was no need to further adjudicate the matter.
14. After 5 July 2021, first hearing was held on 30 July 2021 which was adjourned at the request of TPC-D. The Parties filed their respective submission supporting/objecting to the TPC-D's Petition / AEML-D's Miscellaneous Application for impleadment in the

matter. Second hearing was held on 24 August 2021 wherein exhaustive arguments were made by the Parties on the impleadment Application of AEML-D. The Commission passed a detailed Order on 7 October 2021 on the impleadment Application of AEML-D. All these could have been avoided, had TPC-D filed its withdrawal application or TPC-D had informed about BPCL's aforesaid letter immediately after receipt of the same. All concerned, including the Commission, had to spend time and efforts on the proceeding which had become infructuous on 5 July 2021 itself.

15. TPC-D has stated that the delay in filing of withdrawal application was on account of time required for completion of procedural formalities at their end. However, TPC-D filed its submission on 27 July 2021 and on 29 July 2021. During these submissions, TPC-D could have informed about receipt of BPCL's letter dated 5 July 2021 and that it was being internally processed for deciding further course of action. However, it did not do so till the filing of their withdrawal application on 15 November 2021 i.e. a day prior to the date of hearing scheduled on 16 November 2021. BPCL, too, did not deem it necessary to inform the Commission even after participating in the proceedings. Hence, the Commission is constrained to express its displeasure over the conduct of TPC D and expects a more responsible conduct from the Parties in future.
16. Hence, the following Order:


### **ORDER**

**Case No. 68 of 2021 is dismissed as withdrawn at the request of Tata Power Company Ltd.-Distribution.**

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

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

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

  
**(Abhijit Deshpande)  
Secretary**

