

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
AT GANDHINAGAR**

APPLICATION / PETITION NO. 2125 OF 2022

In the matter of:

Application / Petition under Sections 14, 15 and 18 of the Electricity Act, 2003 read with Regulations 4 and 16 of the GERC (Distribution License) Regulations, 2005 seeking alteration / modification / amendment of existing distribution licence by inclusion of the larger area of Mundra Taluka of Kutch District in the State of Gujarat in the licensed area of the Petitioner MPSEZ Utilities Limited (MUL).

Applicant / Petitioner : MPSEZ Utilities Limited (MUL)
Adani Corporate House,
South Wing, 3rd Floor,
Shantigram, Nr. Vaishno Devi Circle,
S. G. Highway, Khodiyar,
Ahmedabad – 382421

Represented By : Ld. Sr. Adv. Mr. Sanjay Sen along with
Ld. Adv. Mr. Hemant Singh, Ld. Adv. Mr. Chetan Garg
Ld. Adv. Ms. Mandakini Ghosh,
Mr. Mehul Rupera, Mr. Anil Rabadia
and Mr. Sanjay Mittal

Objector No. 1 : Gujarat Urja Sanyukt Sankalan Samiti (GUSSS)

Represented By : Mr. J.R. Shah

Objector No. 2 : Paschim Gujarat Vij Company Limited (PGVCL)

Represented By : Ld. Adv. Ms. Harini Subramaniam
and Mr. J.J. Gandhi

CORAM:

**Shri Anil Mukim, Chairman
Shri Mehul M. Gandhi, Member
Shri S.R. Pandey, Member**

Date: 09/10/2023

ORDER

1. The present Application / Petition has been filed by the Applicant / Petitioner MPSEZ Utilities Ltd. (MUL) seeking following reliefs:
 - i. To Admit the Application.
 - ii. To allow amendment / alteration / modification of the existing distribution licence of the Applicant / MUL by inclusion of the larger area of Mundra Taluka of Kutchh district situated in the State of Gujarat in the licensed area of the said Applicant / MUL in terms stated in the present Application / Petition.
 - iii. To grant any other relief as the Commission may deem fit and appropriate under the facts and circumstances of the case and in the interest of justice.
2. Brief facts of the Application are as under:
 - 2.1 The Applicant / Petitioner, MPSEZ Utilities Limited (MUL), is a Company incorporated under the Companies Act, 1956 carrying out the business of distribution of electricity in the State of Gujarat.
 - 2.2 The Applicant / Petitioner MPSEZ Utilities Limited (MUL) has filed an Application / Petition before the Commission on 18.06.2022, under Sections 14, 15 and 18 of the Electricity Act, 2003 read with Regulations 4 and 16 of the GERC (Distribution License) Regulations, 2005, seeking alteration / modification / amendment of its existing distribution licence by way of inclusion of larger Mundra Taluka area, including the Mundra-Baroi Municipality in the State of Gujarat.
 - 2.3 It is submitted that this Commission had earlier issued two orders regarding the existing licence of the Petitioner, whereby; through its first Order, the Commission had issued distribution licence under Section 14 of the Electricity Act, 2003 to the Petitioner thereby granting the Petitioner a distribution licensee for specified area notified as SEZ. Thereafter, through a subsequent Order, the Commission decided to allow inclusion of additional area notified as SEZ and accordingly extended the total area of licensee.
 - 2.4 The Applicant has submitted the detailed application along with required supporting documents for the alteration / modification / amendment of its existing distribution licence by inclusion of the larger area of Mundra Taluka area, including the Mundra-Baroi Municipality in the State of Gujarat under Sections 14, 15 and

18 of the Electricity Act, 2003 read with Regulations 4 and 16 of the GERC (Distribution License) Regulations, 2005.

2.5 The Applicant has submitted the map showing the geographical area within which the Applicant proposes to undertake distribution.

2.6 The Applicant has also submitted Chartered Accountant's certificate for Capital Adequacy as per requirement in the Distribution of Electricity Licence (Additional Requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005.

2.7 The Applicant has submitted duly filled in application in the prescribed format as specified in the GERC (Distribution License) Regulations, 2005 along with following documents:

1. Map showing Geographical Area within which Applicant proposes to undertake distribution (Mundra Taluka in the district of Kutch, state of Gujarat)
2. Order passed by the Commission issuing distribution licence and subsequent amendments to it.
3. Certificate of Registration / Incorporation of the Company, MUL.
4. Memorandum of Association and Articles of Association.
5. Original Power of Attorney authorizing Shri Mehul Rupera (Director, MUL) along with other officers to file the Application.
6. Details of Income Tax Registration.
7. Draft licence.
8. List of Local Authorities.
9. Statement of capital proposed.
10. Annual Reports of MPSEZ Utilities Limited and its holding company Adani Transmission Limited for last three years.
11. Receipt for payment of specified Application fees as per Commission's Regulations.
12. An affidavit by the Applicant verifying the correctness of the information disclosed in the application.

13. Details of group Companies engaged in the business of Generation, Distribution, Transmission or Trading of Electricity.
14. Brief history of promoters.
15. Brief note on technical qualification and past experience of the Applicant Company to discharge the obligations under the distribution licence.
16. Details of Financial Data of the Applicant and its holding company of last 5 years: Net worth and Annual Turnover.
17. Certificate of credit rating of its holding company (as MUL does not have any borrowings)
18. Certificate of Standard Borrowal Account of its holding company (as MUL does not have any borrowings).
19. Certificate stating that RBI has not classified the Applicant as a “wilful defaulter” of its holding company (as MUL does not have any borrowings)
20. Organizational & Managerial capability of the Applicant.
21. Approach & Methodology.
22. Five-year Business Plan for transmission or distribution of electricity for which the application is being made and funding arrangements for meeting its obligation under proposed licence for maintenance, operation, improvement and expansion for future load growth.
23. Five-year annual forecasts of costs, sales, revenues and project financing stating the assumptions underlying the figures provided.
24. Certificate of chartered accountant in compliance to Additional Requirements of Capital adequacy, Creditworthiness and Code of Conduct Rules, 2005.

2.8 The Applicant has prayed to allow amendment / alteration / modification of its existing distribution licensee by inclusion of the larger area of Mundra Taluka of Kutch District, situated in the State of Gujarat.

Public Notice

3. The Commission had, vide letter no. GERC/Legal/2022/No.-1145 dated 30.06.2022, directed the Applicant to comply with the procedures of Public Notice

in accordance with the provisions of Section 18 of the Electricity Act, 2003 read with Regulation 16 of the GERC (Distribution License) Regulations, 2005 and to invite comments and suggestions from the stakeholders / objectors and also to host the application on its website.

4. In compliance to aforesaid directives, the Applicant issued a public notice dated 06.07.2022 in Gujarati Newspapers viz. Gujarat Samachar (Bhuj Edition) and Kutchmitra (Bhuj Edition) and English Newspaper viz. The Indian Express (Ahmedabad edition) and also hosted the application on its website for inviting objections / suggestions on their Licence Application within 30 days and has thereafter also filed compliance affidavit dated 11.07.2022 in this regard before the Commission.
5. The captioned Petition was fixed for public hearing before the Commission on 13.09.2022.
6. No objection had been received on the matter till the hearing date. However, later on the Commission received a communication dated 20.09.2022 through an email post hearing from Gujarat Urja Sanyukt Sankalan Samiti (GUSSS) requesting to give an opportunity to hear them and for filing written submission before passing final order in the matter. The Commission felt that it would be proper and just to give an opportunity of hearing and to file any written submission from Gujarat Urja Sanyukt Sankalan Samiti. Hence, the Commission directed the staff to provide a copy of the communication received and gave liberty to GUSSS to file their submission / suggestions / objections on the Application / Petition if any with a copy to the Petitioner / Applicant. The Applicant / Petitioner was also given time to file their submission if any to the submissions of the GUSSS within 7 days with a copy to the GUSSS. The Commission issued a Daily Order dated 26.09.2022.
7. In the Daily Order dated 26.09.2022. the Commission after hearing the submissions, also directed the Applicant to file an Affidavit, to clarify the following:
 - (a) The scope of the Explanation to Rule 3 of the Distribution of Electricity Rules and whether the same stipulates adherence to any minimum area qua the subsequent licence application;
 - (b) Benefit to the consumers in the event, the amendment to licence is allowed by the Commission;

(c) Details of approvals taken for Aerodrome and Defence Establishment etc. within the applied licence area; and

(d) Copy of the Board Resolution / Power of Attorney of the authorized signatory.

8. The Applicant, vide affidavit dated 11.10.2022 has complied with the aforesaid direction.

Objections Received

9. The Commission has received the objections made by Gujarat Urja Sanyukt Sankalan Samiti (GUSSS), although being made after the lapse of the scheduled hearing but has given an opportunity to hear them and directed to file written submission.
10. The Commission has also directed the staff of the Commission to provide a copy of communication received from GUSSS to the Petitioner for their remarks and has directed Petitioner to file their submission, if any, against objections made by GUSSS.
11. The Commission has noted that the Petitioner has responded vide its rejoinder dated 27.10.2022 against the objections made by GUSSS dated 13.10.2022 to the caption Petition.
12. The Commission has also received objections from Paschim Gujarat Vij Company Limited (PGVCL) dated 01.11.2022.
13. The Commission has received the Petitioner's rejoinder dated 19.11.2022 against the objections made by the PGVCL dated 01.11.2022.
14. The Applicant / Petitioner and all Objectors were heard.

Submission of Objectors

15. The submissions made by the Objectors are as below:

1. Gujarat Urja Sanyukt Sankalan Samiti (GUSSS)

- The Petition filed by the Applicant to extend the licence area beyond the SEZ area needs to be considered as a fresh application, independent of the existing licence.
- The Amendment of the licence only deals with the terms and conditions of the licence and not to extend the licence to a larger area.

2. Paschim Gujarat Vij Company Limited (PGVCL)

- The distribution licence of the Applicant / MUL is restricted to the area covered under the Special Economic Zone (“SEZ”) and does not cover area outside the SEZ.
- The Petitioner / MUL must also necessarily fulfil all conditions as provided by the Central Government in Distribution of Electricity Licence (Additional Requirements of Capital Adequacy, Credit Worthiness, and Code of Conduct), 2005 and as per National Electricity Policy, 2005.

1. As per the Distribution of Electricity Licence (Additional Requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005.

“3. Requirements of capital adequacy and creditworthiness

.....

Explanation-For the grant of a license for distribution of electricity within the same area in terms of sixth proviso to section 14 of the Act, the area falling within a Municipal Council or a Municipal Corporation as defined in the article 243-Q of the Constitution of India or a revenue district shall be the minimum area of supply.”

2. As per National Electricity Policy, 2005:

“5.4.7..... For grant of second and subsequent distribution license within the area of an incumbent distribution licensee, a revenue district, a Municipal Council for a smaller urban area or a Municipal Corporation for a larger urban area as defined in the Article 243(Q) of Constitution of India (74th Amendment) may be considered as the minimum area.”

- Section 18 of the Electricity Act, 2003 does not envisage grant of a licence of new nature involving a new area and the amendment under the above provision only captures an amendment to the terms and conditions of the licence already granted

- PGVCL is an existing licensee in the area and the Application filed by MUL without impleading PGVCL is bad for non-joinder of necessary party.
- PGVCL has well established distribution infrastructure in the area of Mundra Taluka and is capable of servicing the existing and future power requirement of the area. The grant of parallel licence cannot be considered only for providing competition but also to be considered the aspects of economical and efficient development of distribution system and the practical impact of having multiple licenses in the area.
- PGVCL submitted that it is also required to consider implications on other cross-subsidized consumers if a second licence is granted. It is apprehended that the second licensee in the area will concentrate on the cross-subsiding industrial consumers, which will severely impact the ability of PGVCL, being an existing distribution licensee, to provide electricity at a subsidized rate to a vulnerable section of consumers. On the other hand, the interest of the consumers in the area is well served by the integrated distribution network established and operated by PGVCL in the much larger area of Paschim Gujarat.

The Applicant MUL's response on Objectors' submission

16. With regard to the extension of the licence area beyond the SEZ area needs to be considered as fresh application, independent of its existing licence. The Applicant / MUL has submitted that the Commission has granted Distribution Licence to MUL on 17.08.2015 vide Suo-Motu Petition No. 1446 of 2014 and pursuant to this, on 03.11.2017, the Commission has amended the Distribution Licence of MUL in terms of Section 18 of the Electricity Act, 2003 and Regulations 16 of GERC (Distribution Licence) Regulation, 2005, which clearly indicates that the commission is well powered to amend the licence of the MUL, and extend its licence area.
- 16.1 Furthermore, the Applicant / MUL has submitted that, there is no provision under the Electricity Act, 2003 or the GERC Distribution Licence Regulations, which mandates that a fresh application must be filed for the purpose of seeking enlargement of the licence area of a distribution licensee.

- 16.2 It is stated that the 6th proviso to Section 14 of the Electricity Act, 2003 stipulates that, “.... *No such applicant, who complies with all the requirements for grant of license, shall be refused grant of license on the ground that there already exists a licensee in the same area for the same purpose*”.
- 16.3 The Applicant / MUL at present is already a parallel licensee in the Mundra SEZ area, and the present application is filed for seeking parallel licence for the expanded area, which is contiguous to the existing area of licence. Once the Applicant / MUL is already an existing parallel licensee in the PGVCL area, it automatically qualifies for filing an application under Section 18 seeking amendment to the terms and conditions of its license, which would include inclusion of a larger area, as evident from a reading of Section 18(2)(b) of the Electricity Act, 2003. Thus, there is no bar in filing an application under Section 18 by an existing licensee for amendment of its licence.
- 16.4 The Applicant / MUL has submitted that, as per Section 18(2)(b) of the Electricity Act, 2003, an amendment of licence can also be an alteration or modification in the “area of supply”. When the concerned licensee makes an application before the Appropriate Commission seeking any alteration/ modification of its license, the said licensee shall be under an obligation to publish a notice of such application. The said regulation clearly states that the Appropriate Commission shall not make any alteration / modification to the licence unless all objections, which have been received within 30 (thirty) days from the date of the first publication of the notice have been considered.
- 16.5 The Applicant / MUL has duly fulfilled all procedures and complied with all the statutory requirements, including the conditions as envisaged under the Distribution of Electricity Rules as per Electricity Act, 2003. Furthermore, Applicant / MUL has submitted that Section 18(2)(b) of Electricity Act, 2003 specifically provides that an application may be made by any Applicant seeking an expansion of its area of supply, and therefore, there is no stipulation under Section 18 which restricts to allow / seek an expansion of its area of licence by way of an amendment. As such, the terms and conditions of the licence which is sought to be amended by way of the present application is inclusive of the ‘area of supply’.
- 16.6 Regarding objectors (PGVCL) contention that, the Applicant / MUL has been granted a distribution licence under Licence Application No. 6 of 2016, which

covers only the SEZ at Mundra as notified by the Department of Commerce, Ministry of Commerce and Industry. Further, it has already amended the licence area of the Applicant. In view of this, the status of Distribution Licence given to applicant is only restricted to the area covered by under the SEZ and not beyond it.

- 16.7 In the above context, the Applicant / MUL submitted, while vociferously refuting the aforesaid misplaced contentions raised by the PGVCL, it has grossly erred in interpreting the SEZ Act, 2005 and the Powers conferred upon the Central Government by virtue of clause (b) of Sub-clause (1) of Section 49 of the said Act. In exercise of said power, the notification dated 03.03.2010 was issued adding a proviso to Section 14(b) of the Electricity Act, 2003, which states as under:

“Provided that the Developer of a Special Economic Zone notified under sub-section (1) of Section 4 of the Special Economic Zones Act, 2005, shall be deemed to be a licensee for the purpose of such Special Economic Zone.”

It makes clear that once such amendment took place on 03.03.2010, then the SEZ developer would automatically be governed and regulated, qua its distribution licence in terms of the provisions of Electricity Act, 2003.

- 16.8 Furthermore, submitted by the Applicant / MUL that, there is no restriction under the Electricity Act, 2003, which prevents the Commission from enlarging / amending the area of licence of a distribution licensee. The Applicant / MUL, for the purpose of Electricity Act, 2003, is a distribution licensee, which is at par with any other distribution licensee, which is granted a licence under Section 15 of the Electricity Act, 2003. The 6th proviso to Section 14 also does not create any distinction or restriction for deemed distribution licensees, or SEZs which have been recognised as distribution licensees, qua applying for a licence over a larger area, wherein, a parallel licensee is already in existence.

- 16.9 In addition to the aforesaid, there is no such restriction under Section 18 of the Electricity Act, 2003 as well, which contemplates amendment of the distribution licence. It is submitted that the Commission’s attention is drawn to the fact that the Electricity Act, 2003 is a reformatory piece of legislation, which means that the Regulatory Bodies evolve over time keeping in mind the prevailing situation in the regulatory power market, for the purpose of creating/ introducing competition for the benefit of end consumers. In this regard, the Applicant / MUL referred the preamble of the Electricity Act, 2003 is reproduced below:

“An Act to consolidate the laws relating to generation, transmission, distribution, trading and use of electricity and generally for taking measures conducive to development of electricity industry, promoting competition therein, protecting interest of consumers and supply of electricity to all areas, rationalization of electricity tariff, ensuring transparent policies regarding subsidies, promotion of efficient and environmentally benign policies, constitution of Central Electricity Authority, Regulatory Commissions and establishment of Appellate Tribunal and for matters connected therewith or incidental thereto.”

- 16.10 From a careful reading of the above, it becomes clear that the mandate of the Electricity Act, 2003 is to introduce competition, inter alia, for the purpose of ensuring efficient / better services at competitive rates. Furthermore, the 6th proviso of Section 14 has been inserted consciously with the sole objective of furthering the above mandate by providing for grant of a parallel distribution licence. Interestingly, the statute also does not provide for a fixed number of licensees, which may be granted parallel distribution licence for supplying power in a particular area of supply.
- 16.11 The aforesaid means that the 6th proviso of Section 14 in particular, and the Electricity Act, 2003 in general have to be given a liberal and widest meaning possible, as far as protection of consumer interest is concerned. In the present case, as already elaborated hereinabove, there is no concept of restricting the distribution licence of SEZ developer to its original area, meaning thereby, that such licensee cannot apply for an area beyond the SEZ.
- 16.12 The Applicant / MUL submitted that the objector / PGVCL is clearly confusing SEZ Act, 2005 with the Electricity Act, 2003. Under the SEZ Act, 2005, there is a distinction between SEZ area and the area beyond the SEZ (which is called as domestic tariff area / DTA), where different tax regimes operate. However, there is no such distinction, when it comes to grant and regulation of distribution licensees under the provisions of the Electricity Act, 2003.
- 16.13 On the objection of PGVCL that the Applicant / MUL needs to make a separate application under Section 15, instead of initiating the present proceedings under Section 18 of the Electricity Act, 2003, it is submitted that there is no provision under the Electricity Act, 2003 or the GERC (Distribution Licence) Regulations,

2005 which mandates that a fresh application must be filed for the purpose of seeking enlargement of the licence area of a distribution licensee.

- 16.14 Furthermore, the Applicant / MUL is already a parallel licensee in the Mundra SEZ area, and as such, by way of the present application, the Applicant / MUL is only seeking an expansion to an area, which is contiguous to the Mundra SEZ. Therefore, under Section 18 of the Electricity Act, 2003, since the Applicant / MUL is already a parallel licensee, it automatically qualifies for filing an application under the aforesaid Section for amendment to the terms and conditions of its license, which would include any 'area' beyond the SEZ i.e., the existing licence area of the Applicant / MUL. In fact, the said section contains no bar for the Applicant / MUL to apply for amendment of licence qua area which is beyond the SEZ. Therefore, the only thing which needs to be seen is that the Applicant / MUL has complied with all the statutory requirements, including the conditions as envisaged under the Distribution of Electricity Rules. The said conditions stand satisfied in terms of the 6th proviso to Section 14, which has already been fulfilled by the Applicant / MUL. Moreover, without prejudice to the above, MUL submitted that the Application / Petition is filed under Section 14, 15 and 18 of the Electricity Act, 2003 read with the Regulations 4 and 16 of the GERC (Distribution Licence) Regulations, 2005 and also complied all the requirement specified as per the Act and Regulations.
17. The hearing was held on 06.12.2022, wherein all the Parties were present. During hearing on 06.12.2022, the authorized representative of GUSSS merely stated that he had nothing to say further and to consider the objections the samiti had already filed before the Commission.
18. Ld. Adv. Ms. Harini Subramaniam on behalf of PGVCL made objection that the distribution licensee of the MUL is restricted to the area covered under the Special Economic Zone ("SEZ") and not beyond. In this context, it was submitted that MUL could not have applied for amendment of licence to seek a larger area beyond the SEZ and that, MUL out to have gone through the rigors of Section 15 of the Electricity Act, 2003. She further submitted that Section 18 of Electricity Act, 2003 does not envisage grant of licence of new nature involving a new area and the amendment under the above provision only capture an amendment to the terms and conditions of the licence already granted.

19. In response to Ld. Adv. Ms. Harini Subramaniam on behalf of PGVCL, Ld. Sr. Adv. Mr. Sanjay Sen on behalf of MUL submitted that the legislature consciously used the words alteration, amendment and modification under Section 18(1) and Section 18(2)(a) of the Electricity Act, 2003, and that, there was no infirmity in the application filed by MUL seeking enlargement of its licence area. In this regard, reference was also made to the Notifications dated 25.08.2020 issued by the Government of Gujarat which was covered under the amended Explanation to Rule 3 of the Credit Worthiness Rules. Furthermore, it was submitted that the competitiveness amongst the licensees shall increase if MUL was granted a licence. In this regard, it would also have pointed out that under the Electricity Act, 2003, the Commission had no discretionary powers if all conditions have been met and complied with under the Electricity Act, 2003. To substantiate the above, it was submitted that MUL had gone through the rigours of issuing a public notice and inviting stakeholder comments and objections, and as such, the procedure under Section 15 as well as Section 18 of the Electricity Act, 2003 was complied.
- 19.1 In the above background, the Applicant / Petitioner / MUL submitted that the objections raised are without merit and are required to be summarily rejected and request to amend, alter and modify the Distribution Licence issued to MUL in the larger area of Mundra Taluka in Kutch District as prayed in its Application / Petition and to pass the appropriate order as per law.
- 19.2 The Applicant / MUL submitted that, PGVCL is already a Distribution Licensee in the Mundra SEZ area along with MUL and in similar way, will continue to operate as Distribution Licensee in Mundra Taluka. It will be up to the consumers of the area to choose from which distribution licensee they want to get power supply.

Analysis and Order

20. Heard the arguments of the parties and considered the submissions made by Objectors and rejoinder/reply submitted by the Applicant / MUL by the Commission. Now, we deal with the issues as follows.
- 20.1 It is necessary to refer sixth proviso to Section 14 of the Electricity Act, 2003 which is relevant in the present case as reproduced hereunder:

“.....Provided also that the Appropriate Commission may grant a license to two or more persons for distribution of electricity through their own

distribution system within the same area, subject to the condition that the applicant for grant of licence within the same area shall, without prejudice to the other conditions or requirements under this Act, comply with the additional requirements [relating to the capital adequacy, creditworthiness, code of conduct] as may be prescribed by the Central Government, and no such applicant, who complies with all the requirements for grant of licence, shall be refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose.....”

The aforesaid provision provides that the State Commission may grant licence for distribution of electricity to two or more persons having their own distribution system who fulfils the necessary requirements (as stipulated in the provision of the Act) in an existing distribution licence area.

Therefore, the Commission is empowered to issue second licence in the existing distribution licensee area.

20.2 It is also necessary to refer Section 15 of the Electricity Act, 2003 under which the present Petition preferred by the Petitioner which is reproduced below:

“Section 15. (Procedure for grant of licence): ---

(1) Every application under section 14 shall be made in such form and in such manner as may be specified by the Appropriate Commission and shall be accompanied by such fee as may be prescribed.

(2) Any person who has made an application for grant of licence shall, within seven days after making such application, publish a notice of his application with such particulars and in such manner as may be specified and a licence shall not be granted –

(i) until the objections, if any, received by the Appropriate Commission in response to publication of the application have been considered by it:

Provided that no objection shall be so considered unless it is received before the expiration of thirty days from the date of the publication of the notice as aforesaid;

(ii) until, in the case of an application for a licence for an area including the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the Appropriate Commission has ascertained that there is no objection to the grant of the licence on the part of the Central Government.

(3) A person intending to act as a transmission licensee shall, immediately on making the application, forward a copy of such application to the Central Transmission Utility or the State Transmission Utility, as the case may be.

(4) The Central Transmission Utility or the State Transmission Utility, as the case may be, shall, within thirty days after the receipt of the copy of the application referred to in sub-section (3), send its recommendations, if any, to the Appropriate Commission: Provided that such recommendations shall not be binding on the Commission.

(5) Before granting a licence under section 14, the Appropriate Commission shall –

(a) publish a notice in two such daily newspapers, as that Commission may consider necessary, stating the name and address of the person to whom it proposes to issue the licence;

(b) consider all suggestions or objections and the recommendations, if any, of the Central Transmission Utility or State Transmission Utility, as the case may be.

(6) Where a person makes an application under sub-section (1) of section 14 to act as a licensee, the Appropriate Commission shall, as far as practicable, within ninety days after receipt of such application, -

(a) issue a licence subject to the provisions of this Act and the rules and regulations made thereunder; or

(b) reject the application for reasons to be recorded in writing if such application does not conform to the provisions of this Act or the rules and regulations made thereunder or the provisions of any other law for the time being in force:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

(7) The Appropriate Commission shall, immediately after issue of a licence, forward a copy of the licence to the Appropriate Government, Authority, local authority, and to such other person as the Appropriate Commission considers necessary.

(8) A licence shall continue to be in force for a period of twenty- five years unless such licence is revoked.”

The above Section state regarding the procedure to be followed for grant of licence.

20.3 It is also necessary to refer the applicable provisions for grant of second licence as mentioned below:

1. As per the Distribution of Electricity Licence (Additional Requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005.

“3. Requirements of capital adequacy and creditworthiness

.....
Explanation-For the grant of a license for distribution of electricity within the same area in terms of sixth proviso to section 14 of the Act, the area falling within a Municipal Council or a Municipal Corporation as defined in the article 243-Q of the Constitution of India or a revenue district shall be the minimum area of supply.”

2. As per National Electricity Policy, 2005:

“5.4.7..... For grant of second and subsequent distribution license within the area of an incumbent distribution licensee, a revenue district, a Municipal Council for a smaller urban area or a Municipal Corporation for a larger urban area as defined in the Article 243(Q) of Constitution of India (74th Amendment) may be considered as the minimum area. The Government of India would notify within three months, the requirements for compliance by applicant for second and subsequent distribution licence as envisaged in Section 14 of the Act. With a view to providing benefits of competition to all section of consumers, the second and subsequent licensee for distribution in the same area shall have obligation to supply to all consumers in

accordance with provisions of section 43 of the Electricity Act 2003. The SERCs are required to regulate the tariff including connection charges to be recovered by a distribution licensee under the provisions of the Act. This will ensure that second distribution licensee does not resort to cherry picking by demanding unreasonable connection charges from consumers.”

3. The Ministry of Power has notified Distribution of Electricity Licence (Additional Requirements of capital adequacy, creditworthiness and Code of Conduct) Rules,2005, wherein Rule 3 reads as –

“Requirements of capital adequacy and creditworthiness

(1) The Appropriate Commission shall, upon receipt of an application for grant of licence for distribution of electricity under Sub-section (1) of Section 15 of the Electricity Act, 2003, decide the requirement of capital investment for distribution network after caring the applicant and keeping in view the size of the area of supply and the service obligation within that area in terms of Section 43.

(2) The applicant for grant of licence shall be required to satisfy the Appropriate Commission that on a norm of 30% equity on cost of investment as determined under sub-rule (1), he including the promoters, in case the applicant is a company, would be in a position to make available resources for such equity of the project on the basis of networth and generation of internal resources of his business including of promoters in the preceding three years after excluding his other committed investments.

Explanation -For the grant of a licence for distribution of electricity within the same area in terms of sixth proviso to section 14 of the Act, the area falling within a Municipal Council or a Municipal Corporation as defined in the Article243(Q) of the Constitution of India or a revenue district shall be the minimum area of supply.”

- 20.4 According to aforesaid provisions, the Commission can grant a Distribution Licence to the applicant for the distribution of electricity through its own distribution system when such applicant fulfils the conditions of capital adequacy

and credit worthiness as prescribed by the Central Government. From the Rules issued by Central Government on the subject matter, it can be seen that Rule 3 lays down the requirements of capital adequacy and creditworthiness which have to be fulfilled by the Applicant, who applies for a Distribution Licence in the same area where a Distribution Licensee already exists. The Explanation to Rule 3 has to be read with Rule 3 (1) and Rule 3 (2) of the Distribution of Electricity Licence (Additional Requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005. Thus, the Explanation to Rule 3 qualifies the “minimum” area for considering the two conditions of creditworthiness and capital adequacy and is to be read with 6th (Sixth) proviso to Section 14. The term “minimum” is inserted for computation of the two conditions of credit worthiness and capital adequacy only.

20.5 Furthermore, the Applicant MUL has already been issued Distribution Licence vide Licence No. 6 of 2016 which covers the Mundra SEZ which falls under the Mundra Taluka. The same licence area was amended vide order dated 03.11.2017. We also note the power conferred upon Central Government by virtue of clause (b) of sub-Section (1) of Section 49 of the SEZ Act, 2005. In exercise of the said power, the Notification dated 03.03.2010 was issued adding a proviso to Section 14(b) of the Electricity Act, 2003.

“Provided that the Developer of Special Economic Zone notified under sub-clause (1) of Section 4 of the Special Economic Zone Act, 2005, shall be deemed to be a licensee for the purpose of this clause, with effect from the date of notification of such Special Economic Zone”

The above makes clear that the distribution licence in such case also is in terms of provisions of the Electricity Act, 2003.

Furthermore, we also note that there is no restriction under Electricity Act, 2003, which prevents enlarging / amending the area of the licence of the distribution licensee. The licence issued to the MUL is at par with any other distribution license, which is granted a licence under Section 15 of the Electricity Act, 2003. The 6th proviso to Section 14 also does not create any distinction or restriction for deemed distribution licensee, or SEZ which have been recognized as distribution licensee. In addition to this, there is no such restriction under Section 18 of the Electricity Act, 2003 as well, which contemplates amendment of distribution licence.

20.6 We note that the Electricity Act, 2003 is a piece of legislation enacted with a view to bring reform in electricity sector, which means that the Regulatory bodies evolve over time keeping in mind the prevailing situation in the regulatory power market, for the purpose of creating / introducing competition for the benefit of end consumers. The preamble of the Electricity Act, 2003 is necessary to refer is reproduces below;

“An Act to consolidate the laws relating to generation, transmission, distribution, trading and use of electricity and generally for taking measures conducive to development of electricity industry, promoting competition therein, protecting interest of consumers and supply of electricity to all areas, rationalization of electricity tariff, ensuring transparent policies regarding subsidies, promotion of efficient and environmentally benign policies, constitution of Central Electricity Authority, Regulatory Commissions and establishment of Appellate Tribunal and for matters connected therewith or incidental thereto.”

From, the reading of preamble, it becomes clear that the Electricity Act, 2003 is enacted by parliament with a view to introduce competition, *inter alia*, for the purpose of ensuring efficient / better services at competitive rates. Furthermore, the 6th proviso of Section 14 has been inserted consciously with the sole objective of furthering the above by providing for grant of a parallel distribution licence.

20.7 The Government of India issued a Notification dated 21.03.2012 qua SEZs, thereby, stating as follows:

“6. Applicability of Electricity Act, 2003 and Electricity Rules made thereunder

All the provisions of the Electricity Act, 2003 and Electricity Rules, 2005, as amended from time to time by the Ministry of Power along with the various power resolutions issued by Ministry of Power will be applicable to generation, transmission and distribution of power whether stand alone or captive power.”

20.8 Thus, the provisions of the Electricity Act, 2003 prevails and ought to be complied by any party which falls under the proviso to Section 14(b) of the Electricity Act, 2003. Hence, the contention of the objector about the distribution licence of the Applicant / MUL is restricted to the area covered under the SEZ and not beyond is

contrary to the statutory objective of competition enshrined in the Electricity Act, 2003. Hence, the contention of the objectors cannot be accepted.

20.9 It is necessary to refer the Section 18 of the Act which state with regard to amendment / alteration / modification of distribution licensee is reproduced below:

“... 18. Amendment of licence –

(1) Where in its opinion the public interest so permits, the Appropriate Commission, may, on the application of the licensee or otherwise, make such alterations and amendments in the terms and conditions of a licence as it thinks fit:

Provided that no such alterations or amendments shall be made except with the consent of the licensee unless such consent has, in the opinion of the Appropriate Commission, been unreasonably withheld.

(2) Before any alterations or amendments in the licence are made under this section, the following provisions shall have effect, namely: - (a) where the licensee has made an application under sub-section (1) proposing any alteration or modifications in his licence, the licensee shall publish a notice of such application with such particulars and in such manner as may be specified;

(b) in the case of an application proposing alterations or modifications in the area of supply comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the Appropriate Commission shall not make any alterations or modifications except with the consent of the Central Government;

(c) where any alterations or modifications in a licence are proposed to be made otherwise than on the application of the licensee, the Appropriate Commission shall publish the proposed alterations or modifications with such particulars and in such manner as may be specified;

(d) the Appropriate Commission shall not make any alterations or modification unless all suggestions or objections received within thirty days from the date of the first publication of the notice have been considered.”

Thus, Section 18 of the Electricity Act, 2003, provides for procedure for amendment in the Distribution licence. The said Section provides that the Commission may make such alteration and amendment in the terms and conditions of licence if the public interest so permits, however, before such alteration or amendments the licensee is required to publish a notice of such application and before making any such alteration or modification the Commission is required to consider all the suggestions or objections received in this regard. As Regulation 16 of the GERC (Distribution Licence) Regulations, 2005, is on the same lines with the above Section 18 of Electricity Act, 2003, the same is not repeated for the sake of brevity.

- 20.10 Since, the present Application / Petition is filed by the Applicant / Petitioner for amendment / alteration / modification of distribution license, it is necessary for the Applicant / Petitioner to comply with the provisions of the Distribution of Electricity Licence (Additional requirement of Capital Adequacy, Credit Worthiness and Code of Conduct) Rules, 2005, are reproduced below:

“THE DISTRIBUTION OF ELECTRICITY LICENCE (ADDITIONAL REQUIREMENTS OF CAPITAL ADEQUACY, CREDIT WORTHINESS AND CODE OF CONDUCT) RULES, 2005

G.S.R. – 188 (E)

Date: 23.03.2005

In exercise of the powers conferred by sub-section (1) of, and clause (b) of (2) of section 176 of the Electricity Act, 2003 (36 of 2003), the Central Government hereby makes the following rules, namely :-

- 1) Short Title and commencement.*
 - 1. These rules may be called the Distribution of Electricity License (Additional Requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005.*
 - 2. They shall come into force on the date of their publication in the Official Gazette.*
- 2) Definition – In these rules, unless the context otherwise requires,*
 - a. ‘Act’ means the Electricity Act, 2003 (36 of 2003);*

b. *Words and expression used and not defined in these rules but defined in the Electricity Act, 2003 (36 of 2003), shall have the meanings respectively assigned to them in that Act*

3) *Requirements of capital adequacy and creditworthiness. -*

1. *The Appropriate Commission shall, upon receipt of an application for grant of licence for distribution of electricity under sub-section (1) of section 15 of the Electricity Act, 2003, decide the requirement of capital investment for distribution network after hearing the applicant and keeping in view the size of the area of supply and the service obligation within that area in terms of section 43.*

2. *The applicant for grant of licence shall be required to satisfy the Appropriate Commission that on a norm of 30% equity on cost of investment as determined under sub-rule (1), he including the promoters, in case the applicant is a company, would be in a position to make available resources for such equity of the project on the basis of the net worth and generation of internal resources of his business including of promoters in the preceding three years after excluding his other committed investments*

Explanation-For the grant of a licence for distribution of electricity within the same area in terms of sixth proviso to section 14 of the Act, the area falling within a Municipal Council or a Municipal Corporation as defined in the article 243(Q) of the Constitution of India or a revenue district shall be the minimum area of supply

4) *Requirement of code of conduct. The applicant for grant of licence shall satisfy the Appropriate Commission that he has not been found guilty or has not been disqualified under any of the following provisions within the last three years from the date of application for the grant of licence:*

a. *section 203, section 274, section 388-B or section 397 of the Companies Act, 1956;*

b. *section 276, section 276-B, section 276-BB, section 276-C, section 277 or section 278 of the Income-tax Act, 1961;*

- c. section 15-C, section 15-G, section 15-H or section 15-HA of the Securities and Exchange Board of India Act, 1992;
- d. clause (b), (bb), (bbb), (bbbb), (c) or (d) of sub-section (1) of section 9 of the Excise Act, 1944;
- e. section 132 or section 135 of the Customs Act, 1962, and that the applicant is not a person in whose case licence was suspended under section 24 or revoked under section 19 of the Act, within the last three years from the date of application:

Provided that where the applicant is a company, it shall satisfy the Appropriate Commission in addition to provisions of this rule that no petition for winding up of the company or any other company of the same promoter has been admitted under section 443(e) of the Companies Act, 1956 on the ground of its being unable to pay its debts.

.....”

21. Now, we deal with the issue as to whether the Applicant has fulfilled the above requirements of Capital Adequacy and Creditworthiness as per the provisions of the Rules, 2005.
- 21.1 The Applicant has submitted Corporate Identity Number U45209GJ2007PLC051323, dated 13.07.2007 issued by the Registrar of Companies, RoC Bhavan, Ahmedabad, Gujarat, certifying that MPSEZ Utilities Private Limited, originally incorporated on 13.07.2007 under the Companies Act, 1956, the name of the said company is changed to MPSEZ Utilities Limited.
- 21.2 The Applicant has submitted Memorandum and Articles of Association of the Applicant Company along with the Application.
- 21.3 The Applicant has submitted the original Power of Attorney authorizing Shri Mehul Rupera to do in their name or behalf all such acts, deeds and things necessary in connection with or incidental to amendment / alteration / modification of its distribution licence in larger area such as Mundra Taluka in district Kutch.
- 21.4 The Applicant has submitted a copy of PAN Card bearing no. AAFCM1901Q dated 13.07.2007 issued by Income Tax Department, Government of India.
- 21.5 The Applicant has submitted that the Applicant / MUL does not have any borrowings and hence, does not have certificate stating that RBI has not classified

the Applicant as a wilful defaulter. However, applicant has provided certificate of its holding company namely Adani Transmission Limited vide Certificate No. AXISB/CBG/2022-23/464 dated 09.06.2022 signed by Authorized Signatory of the Axis Bank Limited, Corporate Banking Branch, Ahmedabad, stating that Adani Transmission Limited has availed various credit facilities from Axis Bank Limited, and confirmed that, Adani Transmission Limited, does not appear in the wilful defaulter list of Reserve Bank of India as on the date of issue of the said Certificate.

- 21.6 The Applicant has submitted that the Applicant MUL does not have any borrowings and hence, does not have certificate of ‘standard’ borrowal account. However, applicant has provided certificate of its holding company namely Adani Transmission Limited vide Certificate No. AXISB/CBG/2022-23/463 dated 08.06.2022 signed by Authorized Signatory of the Axis Bank Limited, Corporate Banking Branch, Ahmedabad, stating that Adani Transmission Limited has availed various credit facilities from Axis Bank Limited, and confirmed that, Adani Transmission Limited, is having account of the borrower in the books of Axis Bank Limited, Corporate Banking Branch, Ahmedabad, is “standard” on the date of issue of certificate.
- 21.7 From the above, it is apparent that neither Applicant nor its holding company is a “wilful defaulter” and its account is “Standard” as on the date of issue of Certificate by Axis Bank Limited.
- 21.8 The Applicant has submitted the Annual Reports of the Applicant Company as well as its holding company namely Adani Transmission Limited for FYs 2018-19, 2019-20 and 2020-21 to substantiate the net worth and annual turnover of the Applicant Company and its holding Company. It is observed that the net worth of the Applicant Company is Rs. 70.64 Crore and its holding Company is Rs. 3,976.81 Crore on 31.03.2022. Further, the Annual Turnover of the Company is Rs. 216.28 Crore and its holding Company is Rs. 739.81 Crore in FY 2021-22. The same is stated in the table below:

MPSEZ Utilities Limited			
Date/Month/Year	Net Worth (Rs. Cr.)	Financial Year	Turnover (Rs. Cr.)
31 st March, 2018	78.91	FY 2017-18	155.36
31 st March, 2019	86.30	FY 2018-19	162.20
31 st March, 2020	96.96	FY 2019-20	180.13

MPSEZ Utilities Limited			
Date/Month/Year	Net Worth (Rs. Cr.)	Financial Year	Turnover (Rs. Cr.)
31 st March, 2021	119.88	FY 2020-21	203.32
31 st March, 2022	70.64	FY 2021-22	216.38

Adani Transmission Limited			
Date/Month/Year	Net Worth (Rs. Cr.)	Financial Year	Turnover (Rs. Cr.)
31 st March, 2018	3,852.77	FY 2017-18	835.29
31 st March, 2019	5,158.36	FY 2018-19	832.83
31 st March, 2020	4,810.44	FY 2019-20	857.79
31 st March, 2021	4,086.61	FY 2020-21	755.23
31 st March, 2022	3,976.81	FY 2021-22	739.81

From, the above, we note that Company has sufficient resources available to fund the equity requirement of Rs. 460 Crore during next 5-years period for the purpose of funding the larger area of Mundra Taluka in Kutch district.

- 21.9 The Applicant has also submitted the Certificate issued to its holding Company by India Rating & Research, A Fitch Group of Company for ratings of total bank loan facilities availed by the Company as on date.
- 21.10 The Applicant has also submitted the compliance to the Rule 4 of the Distribution of Electricity Licence (Additional Requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005 on affidavit dated 17.06.2022 as under:

“

TO WHOMSOEVER IT MAY CONCERN

We hereby confirm and declare that the MPSEZ Utilities Limited (MUL) has not been found guilty or has not been disqualified or no order has been passed against MUL under any of the following statutory provisions within the last three years:

- a) Section 270, Section 164, Section 196, Or Section 244 of the Companies Act, 2013:

b) Section 276, Section 276B, Section 276B8, Section 276C, Section 277 or Section 278 of the Income Tax Act, 196:

c) Section 15C, Section 15G, Section 15H or Section 15HA of the Securities and Exchange Board of India Act 1992:

d) Clause (b), (bb), (bbb), (bbbb), (c), or (d) of sub-section (1) of Section 9 of the Excise Act 1944:

e) Section 132 or Section 135 of the Customs Act 1962,

and that the MUL is not a person in whose case license was suspended under 24 or revoked under Section 19 of the Act, within the last three years.

2. We undertake that no Petition for winding up of the company or any other company of the same promoter has been admitted under section 443 (e) of the Companies Act, 1956 on the grounds of its being unable to pay its debts.
3. We undertake to satisfy this Hon'ble Commission and furnish additional information as may be directed for the purpose of ascertaining requirements of capital adequacy and creditworthiness in accordance with the Distribution of Electricity Licence (Additional Requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005.

For, MPSEZ Utilities Limited

..... ”

Thus, the Applicant has confirmed that it has not been found guilty and has not been disqualified under any of the relevant provisions of the Companies Act 1956, the Income Tax Act, 1961, the Security Exchange Board of India Act, 1992, the Excise Act, 1944 and the Customs Act, 1962. It is further submitted that the licence issued to the Applicant has not been suspended under Section 24 or revoked under Section 19 of the Act within last 3 years from the date of application. It is also certified that no petition for winding of the company or any other company of the same promoter has been submitted under section 443(e) of the Companies Act, 1956 on the ground of its inability to pay the debt.

- 21.11 From the above, we are satisfied that the Applicant has fulfilled the requisite criteria and qualifications, both financial and creditworthiness. The Applicant has complied with the provisions of the Distribution of Electricity Licence (Additional

requirement of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005 and Distribution Licence can be issued to the Applicant.

21.12 We note that the objector has submitted that PGVCL has well established distribution infrastructure in the area of Mundra Taluka and is capable of servicing the existing and future power requirement of the area. The grant of parallel licence cannot be considered only for providing competition but also to be considered from the aspect of economical and efficient development of distribution system and the practical impact of having multiple licensees in the area.

21.13 Further, objector has also submitted that it is also required to consider the implications on other cross subsidized consumers if second licence is granted. It is apprehended that the second licensee in the area will concentrate on the cross subsidizing industrial consumers, which will severely impact the ability of PGVCL, being existing distribution licensee, to provide electricity at subsidized rate to vulnerable section of consumers. On the other hand, the interest of the consumers in the area is well served by the integrated distribution network established and operated by PGVCL in the much larger area of Paschim Gujarat.

21.14 The Commission notes that it has the powers under Section 14 of Electricity Act, 2003 to grant distribution licence on fulfilment of the criteria as outlined in Rules, 2005. Further, the objective of the competition is outlined under the Electricity Act, 2003 and the mere existence of a distribution licensee in a particular area cannot become the basis for refusing a second licence. The Commission shall discharge its function by verifying that the Applicant fulfils the applicable criteria as per the Electricity Act, 2003 and the Regulations. Sixth proviso to Section 14 provides as under.

“.....

Provided also that the Appropriate commission may grant a license to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the condition that the Applicant for grant of license within the same area shall, without prejudice to other conditions or requirements under this Act comply with the additional requirements relating to capital adequacy, creditworthiness, or code of conduct as may be prescribed by the Central Government, and no such Applicant, who complies with all the requirements for grant of license, shall

be refuted grant of license on the ground that there already exists a licensee in the same area for the same purpose.”

From the above, it is clear that the Act provides that the Commission may grant licence to two or more persons for distribution of electricity within the same area.

- 21.15 The Electricity Act, 2003 clearly envisages promotion of efficiency and competition and therefore when the Applicant who has fulfilled the necessary criteria and satisfied the conditions there is no reason to reject this Application.
- 21.16 The objections raised by the Objectors are not convincing and cannot be accepted. Based on the submission of the Applicant and the decision of the Commission as outlined in above paras with respect to the issues raised, the Commission proposes to issue a parallel licence by way of amendment / alteration / modification to the Applicant in larger area of Mundra Taluka, including the Mundra-Baroi Municipality in the state of Gujarat as outlined below as per the powers vested with the Commission in Section 14, 15 and 18 of the Electricity Act, 2003 read with the GERC (Distribution License) Regulations, 2005 and Electricity Rules, 2005.
- 21.17 The Commission intends to encourage the use of renewable energy and installation of smart meters. The Applicant has to adhere to the applicable Rules and Regulations. Further, the Applicant shall focus on encouragement of Renewable Energy and installation of smart meters in the licence area of Mundra Taluka.
- 21.18 Further, MUL is already a holder of a second distribution license, it already fulfils the minimum requirements, for grant of second license, on account of the proviso to Section 14(b) added vide the notification issued under the SEZ Act, 2005. Hence, there is no additional requirement that would remain insofar as the “minimum area” concern, once the distribution licence is granted by the Commission under 6th proviso to Section 14 of Electricity Act, 2003.
- 21.19 We also note that when the Electricity Act, 2003, 6th proviso to Section 14 has envisaged a concept of parallel distribution license, it is only the larger benefit of the consumers as having two licensees in the same area of supply will only promote healthy competition thereby providing power supply at cost effective and competitive rate, which is the basic tenet of Electricity Act, 2003. Therefore, ultimately, the consumers by way of choice of the supplier are going to be benefitted if the Applicant is granted parallel distribution licence as there will be

competition between the two licensees to supply power at lower and more competitive rate with better services.

- 21.20 We also note that the concerned area in the present proceedings is a contiguous area to the existing licensed area in Mundra. This also includes the Mundra-Baroi Municipality. Thus, there would be a choice of supplier of electricity available to the consumer which was not available despite the Act contemplating competition as a salutary objective. The Act was enacted by the Parliament with the objective of promoting competition for the development of power sector. The preamble of the Act provides for “promoting competition” in the electricity industry. The enactment contemplates eventual establishment of an electricity market. Accordingly, the 6th Proviso to Section 14 enhances and is in aid of promoting competition in the Distribution sector of electricity industry.
- 21.21 As per Section 15(2)(ii) of the Electricity Act, 2003, where an Applicant is to be granted distribution license, it is necessary to confirm that the area of licence including the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purpose, the Appropriate Commission has ascertained that there is no objection to the grant of the licence on the part of Central Government.
- 21.22 We note that Airport which is situated within existing licence area of the Applicant, was a private air-strip, which is now opened to the public after securing the necessary approvals, and same is operated by Adani Group. We note that Applicant has submitted an affidavit to the effect that the area which is now sought to be covered by way of the amendment application does not contain any aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes. Therefore, the question of no objection/ permission / approval in terms of Section 15(2)(ii) of Electricity Act, 2003 does not arise.
- 21.23 The Objector PGVCL has contended that the amendment under Section 18 does not envisage grant of licence of a new nature involving any or other all together area. The amendment only deals with an amendment to the terms and conditions of licence already granted and not a grant of a new licence. It dehors the requirement of 6th proviso of Section 14 read with rules notified under it and Section 15 as well as. As far as the above contention of the objector the Commission notes that Section

14 of the Act as referred above states with regard to grant of licence. The 6th proviso provided under the said Section provides that the appropriate Commission may grant a parallel / multiple licence on an application made under Section 15 to any person. The said Section and proviso provided in the Act brings competition in the same area of licence by the licence holders, which is an intent of the legislation. Section 15 of the Electricity Act, 2003 provides “procedure for grant of licence” which includes an application made by the applicant in prescribed format accompanied with necessary fee etc. as per Regulations notified by the Commission. It also says regarding pre-publication of application invite comments / suggestions on it and decide in principle by the Commission as to whether the licence be granted to the applicant or not. If the Commission is of the view that in principle approval for the licence could be granted, then the Commission invite comments and suggestions from the stakeholders by issuing public notice. The Commission after following procedure specified in the said Section decides to grant licence to the applicant or not finally.

21.24 Section 18 of the Act as referred above provides that the appropriate Commission on an application by the licensee or otherwise make alteration and amendment in the terms and conditions of a licence in a public interest. However, such alternation or amendment shall not be made without the consent of the licensee unless such consent in the opinion of the Commission has been unreasonably withheld. It also provides that before alteration an amendment in the licence is made, the licensee shall comply with the procedure specified therein. The alteration or amendment in the licence terms and conditions include the amendment for alteration in area of licence because area is specified in the licence whenever it is granted to a person by the Commission. While granting the licence a map consist of area of licensee also has to be approved by the Commission. It is mandatory requirement that licensee can operate in a specified area wherein the boundary of the licence is also required to specified by the Commission. The same is specified as per Clause 2 of the licence issued by the Commission wherein the boundary of licence needs to be specified. Further, Clause 4 of the said licence provided in Schedule II of the Regulations provided that the grant of licence to licensee shall not in any way hinder or restrict the right of the Commission to grant a licence to any other person within the same area of distribution of electricity. The licensee shall not claim any exclusivity. The aforesaid provisions of the Regulations provide the terms and

conditions of licence. Any change amendment or alteration in the area as and when occur or desire by the person who has been granted licence by the Commission has to approach the Commission under Section 14 and 18 of the Electricity Act, 2003.

21.25 We note that the Commission has earlier in case of the Petitioner granted amendment in Licence No. 6 of 2016 granted by the Commission vide its Order dated 17.08.2015 in Suo-Motu Petition No. 1446 of 2014 wherein the original area of the licence of the Petitioner was 6641.278 Ha. The same was enhanced with consideration of addition of SEZ area in existing licence area and total area is now 8481.2784 Ha. The same was granted by the Commission vide its Order dated 03.11.2017.

21.26 We also note that the objector PGVCL has filed Petition No. 1600 of 2016 under Section 14 and Section 18 of the Electricity Act, 2003 for extension of licence area of the PGVCL and reduction in the area of UGVCL to the extent of transfer of 7 villages of Ranpur Taluka from UGVCL licence to PGVCL licence area. In the said case the Commission has decided that the transfer of 7 villages proposed by the Petitioner from UGVCL area to PGVCL area as a part of amendment in the licence is permissible. The said petition was filed by the Petitioner under Section 14 read with Section 18 and Regulation 16 of the GERC (Distribution Licence) Regulations, 2015. The above transfer was necessary on account of administrative convenience to the consumers of above villages as Ranpur Taluka and Botad District both are situated in PGVCL area.

The relevant portion of the said Order is reproduced below:

“

.....

6.1. Since the present Petition has been filed by the Petitioners seeking transfer of 7 villages of Ranpur Taluka from UGVCL license area to PGVCL license area i.e. amendment of distribution license areas of the above distribution licensee, it is necessary to refer the relevant provisions of the Act and Regulations of this Commission. Sections 14 and 18 of the Electricity Act, 2003

.....

6.5. Further, we note that the aforesaid proposal for change of villages has been considered and approved by the Board of PGVCL on 1.12.2015 and UGVCL on 15.12.2015 as well as the State Government approved the same vide letter NO. PGV/2016/232/K1 dated 12.4.2016.

.....

6.7. Thus, in light of the above, we concur with the rationale of the Petitioners that the transfer of 7 villages of Ranpur Taluka is for the betterment of consumers located in these areas, thus, in the public interest at large. As per the Statement furnished by the Petitioners, it will amount to transfer of 2801 Nos. of consumers across all categories, around 7441.1 kW load, 150 km. of HT lines, 54.81 km. of LT line and 598 No. of Transformer centers. Therefore, taking note of the Board approval of both the Petitioner companies, approval of State Government and compliance of the necessary Regulations of the Commission as well as the Act, we decide to approve the transfer as proposed by the Petitioners and the necessary amendments to the license areas of Petitioners. The Office of the Commission is directed to initiate necessary action for amendment to the Distribution Licence issued to the Petitioner incorporating the transfer of 7 villages of Ranpur Taluka and necessary revision in the license area maps thereto.

.....

8. In view of the above observations, the present petition succeeds. We decide to approve the transfer of 7 villages of Ranpur Taluka namely, Chaparka, Devaliya, Patna, Vejalka, Sundariyana, Chandarva (PP), Baraniya from license area of UGVCL to the license area of PGVCL and the necessary amendment to Distribution Licence No. 1 and 4 and their respective maps issued to the Petitioners.”

21.27 From the above, it is clear that the Commission has granted amendment sought by the Objector PGVCL in case of licence area under Section 14 read with Section 18 and Regulation 16 of the GERC (Distribution Licence) Regulations, 2005. Hence, the contention of the objector PGVCL are not valid and therefore, not accepted and rejected.

21.28 The Objector PGVCL has also contended that the Applicant / Petitioner / MUL is required to fulfil conditions contained in 6th proviso to Section 14 of the Electricity Act, 2003 read with distribution of Electricity licence (additional requirement of capital adequacy, creditworthiness and code of conduct) 2005 and following due procedure provided in Section 15 of the Act is concerned we note that the Applicant / Petitioner has filed the present Application under Section 14, 15, and 18 of the Act read with Regulation 16 of the GERC (Distribution Licence) Regulations, 2005. Title of Section 15 of the Act state regarding “Procedure for grant of licence”. Thus, the said Section state procedure required to be followed while granting any application for licence by the appropriate Commission on an application filed under Section 14 of the Act. While the title of Section 18 state “Amendment of licence”, the said Section also consist of procedure needs to be followed by the applicant and confirm by the appropriate Commission. Thus, both the above Sections of the Act are different and distinct from each other. Procedure under Section 15 of the Act is pre-procedure needs to follow prior to grant of licence. While the procedure specified under Section 18 of the Act is after the person having the licence needs to follow for amendment or alteration in the licence. We note that the Petitioner is an existing licensee as per the provision of the Electricity Act, 2003 Rules and Regulations made under it and the Commission has also granted the licence to the Applicant. Hence, the question to follow the procedure of grant of licence specified under Section 15 of the Act does not arise. Hence, therefore the contention of the objector PGVCL are not legal and valid and the same are rejected.

21.29 The Objector PGVCL has contended that the Applicant / Petitioner has not impleaded PGVCL as party to the Petition is bad for non-joinder of necessary party. On that ground the present application is liable to rejected. We note that as referred Section 14, 15 and 18 of the Act and provisions of Regulation 16 of the GERC (Distribution Licence) Regulations, 2005 not contemplate or state that the existing licensee is mandated to make party Respondent or objector. Moreover, in view of the public notice, PGVCL has approached the Commission raising objections and in that view of matter, found impleading party does not survive. Further, Section 18 specifies that the licence area proposed for amendment for alteration if comprising of any part of any cantonment, aero dram, fortress, dockyard, camp or building or place in the occupation of the Government for defence purpose. The Commission shall not make any alteration or modification except with the consent

of the Central Government. Hence, the limited consent requires as per the provision as per Section 18 (2) (b) from the Central Government if any activity as stated above is carried out in the licence area. Neither Section 15 nor 18 of the Act provides that the exiting licensee where parallel licence if any granted by the Commission desires amendment or alteration in that case the existing licensee be necessary party to such Application. Therefore, the contention of the Objector, PGVCL are devoid on merit. Hence, the same is rejected.

21.30 The Objector PGVCL has contended that they have established distribution infrastructure in Mundra Taluka and capable of servicing the existing and future power requirement of the area. The grant of parallel licence cannot be considered only for providing the competition but also to be considered the aspects of economical and efficient development of the distribution system and the practical impact of having multiple licence in the area is concerned the said arguments are not sustainable as it is against the preamble of the Act which envisage to create competition in the electricity sector including distribution of electricity. Sixth proviso of Section 14 specifically envisage multiple licence in the same licence area be granted by the Commission. Therefore, the contention of the objector PGVCL with regard to ignore the multiple licence or parallel licence is against the aforesaid statutory provision. Hence, the same is not valid and legal. Therefore, the same is rejected. Further, the objector PGVCL has contended that they have well established distribution infrastructure in the Mundra Taluka and is capable of servicing the existing and future power requirement of the area prove that the objector is having better footing than its competitor licence like applicant. Hence, the benefit of better service provider with existing distribution network the Objector itself compete with the Applicant / Petitioner if the Applicant / Petitioner be allowed to the distribution of electricity in the proposed licence area, which create the competition amongst the licensee and the same is in accordance with the provision of the Act. Hence, the objection raised by the PGVCL are not accepted.

21.31 The Objector PGVCL has contended that it is required to consider the implication on other cross subsidized consumers if Second licence is granted. The Second licensee will concentrate on cross-subsidizing industrial consumer affect severally impact the ability of PGVCL to provide electricity at subsidized rate to vulnerable Section of consumers. The interest of consumers is well served by the PGVCL. The aforesaid contention of the objector are not acceptable because the grant of

amendment in the licence area of the Petitioner, shall also have universal service obligations to provide electricity to any application / consumer of the said area including BPL category/ agriculture category / commercial category / industrial / public utilities etc at the tariff rate determined by the commission hence it is incorrect to state that merely industrial or high tariff consumers are only supplied by the application and to that extent the objector revenue be affected. We also note that by granting amendment, the consumers have an option of competition amongst the supplier which will be beneficial and in the interest of the consumers with regard to quality of supplier, reliability and tariff payable by them, which is an intent of the Act. Hence, the aforesaid objections of the objector are not sustainable and rejected.

21.32 We also note that the Hon'ble Supreme Court has in Civil Appeal No. 3607-3610 of 2008 in case of M/s. Jindal Steel and Power Limited Vs. CSERC & others passed Judgment dated 29.09.2022 and decided with regard to grant of licence by the appropriate Commission consists of the minimum area for grant of licence in terms of provision of the Electricity Act, 2003 Rules and Regulations framed under it. The relevant portion of the said Judgment are reproduced below:

“.....

31. *Section 14 of the 2003 Act which deals with grant of licence reads as under:*

14. Grant of licence- *The Appropriate Commission may, on an application made to it under Section 15, grant a licence to any person –*

- (a) *to transmit electricity as a transmission licensee; or*
- (b) *to distribute electricity as a distribution licensee; or*
- (c) *to undertake trading in electricity as an electricity trader,*

in any area as may be specified in the licence:

Provided that any person engaged in the business of transmission or supply of electricity under the provisions of the repealed laws or any Act specified in the Schedule on or before the appointed date shall be deemed to be a licensee under this Act for such period as may be stipulated in the

licence, clearance or approval granted to him under the repealed laws or such Act specified in the Schedule, and the provisions of the repealed laws or such Act specified in the Schedule in respect of such licence shall apply for a period of one year from the date of commencement of this Act or such earlier period as may be specified, at the request of the licensee, by the Appropriate Commission and thereafter the provisions of this Act shall apply to such business:

Provided further that the Central Transmission Utility or the State Transmission Utility shall be deemed to be a transmission licensee under this Act:

Provided also that in case an Appropriate Government transmits electricity or distributes electricity or undertakes trading in electricity, whether before or after the commencement of this Act, such Government shall be deemed to be a licensee under this Act, but shall not be required to obtain a licence under this Act:

Provided also that the Damodar Valley Corporation, established under sub-Section (1) of Section 3 of the Damodar Valley Corporation Act, 1948, (14 of 1948), shall be deemed to be a licensee under this Act but shall not be required to obtain a licence under this Act and the provisions of the Damodar Valley Corporation Act, 1948, in so far as they are not inconsistent with the provisions of this Act, shall continue to apply to that Corporation:

Provided also that the Government company or the company referred to in sub-Section (2) of Section 131 of this Act and the company or companies created in pursuance of the Acts specified in the Schedule, shall be deemed to be a licensee under this Act:

Provided also that the Appropriate Commission may grant a licence to two or more persons for distribution of

electricity through their own distribution system within the same area, subject to the conditions that the applicant for grant of licence within the same area shall, without prejudice to the other conditions or requirements under this Act, comply with the additional requirements relating to the capital adequacy, credit-worthiness, or code of conduct as may be prescribed by the Central Government, and no such applicant, who complies with all the requirements for grant of licence, shall be refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose:

Provided also that in a case where a distribution licensee proposes to undertake distribution of electricity for a specified area within his area of supply through another person, that person shall not be required to obtain any separate licence from the concerned State Commission and such distribution licensee shall be responsible for distribution of electricity in his area of supply:

Provided also that where a person intends to generate and distribute electricity in a rural area to be notified by the State Government, such person shall not require any licence for such generation and distribution of electricity, but he shall comply with the measures which may be specified by the Authority under Section 53:

Provided also that a distribution licensee shall not require a licence to undertake trading in electricity.

- 32.** *On a reading of Section 14 of the 2003 Act, it is clear that the appropriate Commission may, on an application made to it under Section 15 grant a licence to any person (a) to transmit electricity as a transmission licensee; or (b) to distribute electricity as a distribution licensee; or (c) to undertake trading in electricity as an electricity trader, in any area as may be specified in the licence.*

33. *The first three provisos to Section 14 of the 2003 Act are in the nature of saving clauses. The fourth and fifth provisions are not relevant to these cases. The sixth proviso which is under consideration states that the appropriate Commission may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the conditions that the applicant for grant of licence within the same area, shall, without prejudice to the other conditions or requirement under the Act comply with the additional requirements relating to the capital adequacy, creditworthiness, or code of conduct as may be prescribed by the Central Government, and no such applicant, who complies with all the requirements for grant of licence, shall be refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose.*

34. *The Central Government had enunciated the 2005 Rules w.e.f. 23.03.2005 as per Section 176 of the 2003 Act. Rule 3 is relevant for the purpose of these cases is extracted as under:*

3. Requirements of capital adequacy and creditworthiness.—*(1)The Appropriate Commission shall, upon receipt of an application for grant of licence for distribution of electricity under sub-Section(1) of Section 15 of the Electricity Act, 2003, decide the requirement of capital investment for distribution network after hearing the applicant and keeping in view the size of the area of supply and the service obligation within that area in terms of Section 43.*

(2)The applicant for grant of licence shall be required to satisfy the Appropriate Commission that on a norm of 30% equity on cost of investment as determined under sub-rule (1), he including the promoters, in case the applicant is a company, would be in a position to make available resources for such equity of the project on the basis of the networth and generation of internal resources of his

business including of promoters in the preceding three years after excluding his other committed investments.

Explanation—For the grant of a licence for distribution of electricity within the same area in terms of sixth proviso to Section 14 of the Act, the area falling within a Municipal Council or a Municipal Corporation as defined in the article 243(Q) of the Constitution of India or a revenue district shall be the minimum area of supply.

- 35.** *The controversy in these cases surrounds the interpretation to be given to the Explanation to Rule 3. As already noted, the 2005 Rules, under consideration have been prescribed having regard to the sixth proviso to Section 14 of the Act. The said proviso would apply only when the appropriate Commission considers it necessary to grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, in which case, there are certain additional requirements which the applicant must fulfil relating to capital adequacy, creditworthiness or code of conduct. It is only with regard to the aforesaid three aspects that the 2005 Rules have been prescribed.*
- 36.** *In response to the arguments of learned senior counsel for the appellants, the contention of respondent No.2 herein is that the appellant-JSPL does not fulfil the condition mentioned in the Explanation to Rule 3 inasmuch as the said appellant does not fulfil the condition of minimum area of supply as the area that the said appellant is supplying, is not for an entire Municipal Council or a Municipal Corporation or a Revenue District. The area of supply as per the licence of the appellant-JSPL is for the area comprised in the industrial park set up by the appellant and for two other villages only. Hence, the licence issued to the said appellant is vitiated as the area of supply prescribed in the licence does not conform to the Explanation to Rule 3 of the 2005 Rules.*

37. *In order to answer the aforesaid contention, it would be necessary to consider the sixth proviso to Rule 14 in light of the definition of 'area of supply' and the Explanation to Rule 3 of the 2005 Rules. On a conjoint reading of the same, it is noted that the sixth proviso to Section 14 applies to a situation where the appropriate Commission may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area subject to the applicant-JSPL complying with the additional requirements. Therefore, it is clear that within the same area, there could be two or more persons for distribution of electricity. As to what is the area within which there could be grant of licence to two or more persons is concerned under the sixth proviso to Section 14, the Explanation to Rule 3 prescribes the area falling within a Municipal Council or a Municipal Corporation as defined under Article 243 (Q) of the Constitution of India or Revenue District. The area of supply authorised by the Appropriate Commission shall be the minimum area of supply.*

38. *The 'area of supply' is defined under sub-section 3 of Section 2 to mean that area within which the distribution licensee is authorised by his licence to supply electricity. This 'area of supply' must fall 'within' a Municipal Council or a Municipal Corporation as defined under Article 243 (Q) of the Constitution of India or a Revenue District. That means that the 'area of supply' must fall 'within' the local authority of a Municipal Council or a Municipal Corporation as defined in sub-section 41 of Section 2 of the Act or a Revenue District, as the case may be, and within which area of supply, licence is granted for distribution of electricity. Therefore, the expression area in the sixth proviso of Section 14 is explained as the 'area falling within' a Municipal Council or a Municipal Corporation as defined under Article 243 (Q) of the Constitution of India or a Revenue District which shall be the 'area of supply'. As already noted, within such area, there could be two or more persons who are granted a licence to distribute electricity which is in terms of the provision granting license. The 'area within which they are authorised to supply electricity' is the 'area of*

supply' and such 'area of supply' in respect of which authorisation is granted under the licence is the "minimum area of supply".

- 39.** *Therefore, when two or more persons are granted licence within an area forming a Municipal Council or a Municipal Corporation or a Revenue District, the authorisation to supply electricity granted to a distribution licensee within the aforesaid area is the actual area of supply and the actual area of supply in respect of which the authorisation is granted under the licence is called the minimum area of supply.*
- 40.** *Thus, on a conjoint reading of the aforesaid provisions, it is clear that the 'minimum area of supply' would fall 'within the area' which is comprising of a Municipal Council or a Municipal Corporation or a Revenue District but it does not imply that the licence to supply electricity for an area or an 'area of supply which is the 'minimum area of supply' must extend to the 'entire area falling within' a Municipal Council or a Municipal Corporation or a Revenue District.*
- 41.** *But if the interpretation as suggested by the respondent No.2 is to be accepted, then the expression 'area falling within' in the Explanation would become otiose or redundant. The object of providing a Municipal Council or a Municipal Corporation or a Revenue District as an area is to provide a standard area, within which area, two or more persons could distribute electricity. It does not mean that the licensee must distribute electricity in the entire standard area. The words used are 'the area falling within' a Municipal Council or a Municipal Corporation or a Revenue District. The same does not mean that the area comprising of or an area equivalent to a Municipal Council or a Municipal Corporation or a Revenue District. It is only in an 'area falling within' a Municipal Council or a Municipal Corporation or a Revenue District that two or more persons could be granted licence for distribution of electricity which interpretation is supported by the use of the expressions 'within the same area' used twice in the sixth proviso to Section 14 of the 2003 Act. Also, the use of*

the expression 'within the same area' in the sixth proviso as well as in the Explanation to Rule 3 have to carry the same meaning.

- 42.** *Moreover, the expression 'within the same area' in the sixth proviso to Section 14 of the 2003 Act and the Explanation is analogous to the expression 'the area falling within' a Municipal Council or a Municipal Corporation or a Revenue District in the Explanation. Thus, the expression 'within the same area' cannot refer to the entire Municipal Council or a Municipal Corporation or a Revenue District but 'the area falling within' a Municipal Council or a Municipal Corporation or a Revenue District in respect of which a distribution licensee is authorised by its licence to supply electricity. Therefore, by the aforesaid interpretation it is held that the authorised 'area of supply' shall be 'the minimum area of supply'.*
- 43.** *Hence, the contention of respondent No.2 that the 'minimum area of supply' must comprise of the 'entire' Municipal Council or a Municipal Corporation or a Revenue District is not correct. The argument in the instant case is that the appellant-JSPL, not complying with the prescription in Explanation to Rule 3 of the 2005 Rules as per the terms of the licence cannot be permitted to supply electricity and therefore, the licence was rightly cancelled by the Appellate Tribunal also cannot be accepted.*
- 44.** *On the other hand, on a reading of the licence granted to the appellant, it is clear that the respondent No.1 was conscious of the fact that it was granting licence to the appellant-JSPL having regard to the fact that the said appellant had established an industrial park for which it had the responsibility for distribution of electricity and in addition, two more villages were added to the area comprised in the industrial park for the purpose of distribution of electricity. The area in respect of which the licence was granted and thereby authorisation provided to supply electricity is the minimum area of supply. The 'area of supply' is 'an area falling **within**' a Municipal Council or a Municipal Corporation or a Revenue District and in the instant case, it is a Revenue District. Since, the 'area of supply' authorised in the licence*

granted to the appellant-JSPL in the instant case is the 'minimum area of supply', the said appellant is bound to supply electricity in the said area of supply. The licensee cannot resile from the condition of supplying electricity as per the authorisation of the area of supply indicated in the license. This would also mean that the licensee cannot supply electricity in an area beyond the area of supply authorised under the license. This is because in respect of an area falling within a Municipal Council or a Municipal Corporation or a Revenue District, there could be two or more persons who could be granted licence and authorisation to distribute electricity in terms of the respective area of supply specified.

45. *In view of the aforesaid interpretation, we find no substance in the contentions advanced on behalf of the respondent No.2. On the other hand, on a reading of the order passed by the respondent No.1 Commission in C.A. Nos. 3607-3610 of 2008, we find that there has been an application of mind to the licence that was granted to the appellant for distribution of the electricity.*

46. *In view of the aforesaid discussion, we find that the Appellate Tribunal was not right in cancelling/setting aside the licence granted to the appellant-JSPL and hence, the impugned judgment is liable to be set aside.*

47. *In the result, the appeals are allowed and the impugned common judgment of the Appellate Tribunal is hereby set aside.*

.....”

From the above decision of the Hon'ble Supreme Court, also the contention of the Objector PGVCL with regard to the minimum area of licence and fulfilment of conditions of the Electricity Rules, 2005 are not valid. Hence, the contention of the objector PGVCL are not acceptable against the same and they are rejected.

22. Hearing in the present matter was held on 06.12.2022 and the Daily Order was issued on 10.01.2023. Subsequently, certain clarifications / documents were directed to be submitted by the Applicant so as to have the latest / updated details,

which was informed to the Applicant vide letter dated 09.08.2023 directing it to submit details / documents as mentioned below.

- (1) Annual Reports of MPSEZ Utilities Limited and its holding Company, Adani Transmission Limited (ATL), for FY 2021-22 and FY 2022-23.
 - (2) Net worth and Annual turnover of MPSEZ Utilities Limited and its holding Company, Adani Transmission Limited (ATL), for FY 2022-23.
 - (3) Latest Certificate of Credit Rating for MPSEZ Utilities Limited
 - (4) Latest Certificate of Standard borrowal account for MPSEZ Utilities Limited
 - (5) Latest Certificate stating that RBI has not classified the Applicant as a 'wilful defaulter' for MPSEZ Utilities Limited
 - (6) Latest Certificate in compliance to Additional Requirements of Capital adequacy, Creditworthiness and Code of Conduct Rules, 2005.
23. The Applicant, MUL, has submitted the above referred details vide affidavit dated 21.08.2023. From the above details and the Applicant's submission, apart from the financial data submitted by the Applicant for FY 2021-22 and FY 2022-23, it is observed that the name of the parent company of MUL, which was Adani Transmission Ltd. (ATL) at the time of filing of the present petition, is changed from Adani Transmission Ltd. (ATL) to Adani Energy Solutions Ltd. (AESL) w.e.f. 27.07.2023.
24. The Petitioner is seeking amendment / alteration in its existing distribution license area by inclusion of larger area of Mundra Taluka, Dist. Kutch, Gujarat, in the existing license area of MPSEZ Utilities Ltd. (MUL), to which distribution license was granted by the Commission vide its Order dated 17.08.2015. The Commission thereafter granted amendment for enhancement in the original area of the license which was 6641.278 Ha to 8481.2784 Ha vide Order dated 03.11.2017, in terms of Section 18 of the Electricity Act, 2003 and Regulation 16 of the GERC (Distribution License) Regulations, 2005.
25. On consideration of the details submitted by the Applicant / Petitioner and the material available on record, the Applicant fulfils the criteria for amendment / alteration / modification of licence area, laid down for the grant of distribution licence in the Mundra Taluka area as per Section 14 and 18 of Electricity Act, 2003, Electricity Rules, 2005 and Regulations 4 and 16 of the GERC (Distribution

License) Regulations, 2005. Hence, the Commission proposes to issue an amendment to the distribution licence of the Applicant for the larger area of Mundra Taluka including Mundra-Baroi Municipality area as mentioned / shown in the Map as submitted.

26. We also direct the Office of Commission to issue a notice in pursuance of Clause (a) of sub-Section 5 of Section 15 of the Electricity Act, 2003, in two local daily newspapers inviting suggestion or objection, if any, to the Commission's intention to grant amendment to the distribution license of the MPSEZ Utilities Limited, stating the name and address of the Applicant. A copy of this Order and copy of the Application be forwarded to GETCO (STU), SLDC, PGCIL (CTU), Energy and Petrochemical Department (EPD) - Government of Gujarat, Mundra Nagarpalika (Village – Mundra, Baroi, Goyarsama), GUVNL, PGVCL and District Collector - Bhuj (Kutch) District.
27. We order accordingly.

Sd/-
(S. R. Pandey)
MEMBER

Sd/-
(Mehul M. Gandhi)
MEMBER

Sd/-
(Anil Mukim)
CHAIRMAN

Place: Gandhinagar

Date: 09/10/2023