

**MERC/M-DNAC/2021-22/E-Letter**

**Date:- 9 June, 2021**

To,

**Adani Electricity Mumbai Ltd.**

Devidas Lane, Off SVP Road

Near Devidas Telephone Exchange, Borivali (W)

Mumbai 400 103

**The Tata Power Company Ltd.**

Dharavi Receiving Station, Matunga,

Mumbai – 400 019

**Sub:-** AEML-D's and TPC-D's letters regarding Application for Power Supply submitted by Administrative Officer, Hariyali Village Municipal School, Vikhroli (E).

**Ref.** — 1. AEML/MDNAC/Hariyali/01 dated 30 April 2021.

2. TPC's letter – CD/M-DNAC/FY22 / 01 dated 14 May 2021.

**Sir,**

With reference to the letter dated 30 April, 2021 received from AEML-D and letter dated 14 May, 2021 received from TPC-D and subsequent M-DNAC meeting held through video conferencing on 28 May, 2021 in presence of the representative of AEML-D and TPC-D, the Minutes of Meeting for the aforesaid meeting are attached herewith for your further necessary action.

Thanking you,

Yours faithfully,

**Sd/-**

(Rakesh Guhagarkar)

Convener, M-DNAC

**Encl.:** As above

**MINUTES OF MEETING**  
**OF THE**  
**MUMBAI DISTRIBUTION NETWORK ASSESSMENT COMMITTEE (M-DNAC)**

Date :- 28 May, 2021 at 16.00 Hrs.

Venue :- Through Video Conferencing.

Present :- Shri. Sanjay Taksande, Director (Operation), MSEDCL  
Shri. Prafulla Varhade, Director (EE), MERC  
Shri. Dilip Dumbre, Secretary, Ombudsman  
Shri. Rakesh Guhagarkar, Dy. Dir (Tech.), MERC

**Licensee's representatives:**

Shri Prashant Kumar – Tata Power  
Shri V. T. Narayanan –Tata Power  
Shri Nilesh Potphode – Tata Power  
Shri Ramesh Kharat – Tata Power  
Shri Mahesh Yadav – Tata Power  
Shri Vivek Mishra – AEML  
Shri Rupesh Tandel – AEML

**Discussions held:**

The M-DNAC had received letter from AEML-D for confirmation of scenario 53 (a) for Power Supply Application of Administrative Officer, Hariyali Village Municipal School, Vikhroli (E), Mumbai. Also, letter from TPC-D was received objecting to the scenario claimed by AEML-D and claiming that the consumer's location falls under 53(d) scenario with both the Licensees present in vicinity.

As the Lock-down rules and regulations are still in force due to onset of Covid-19 epidemic, the Committee found it appropriate to hold the discussion through video-conference for deciding the aforesaid proposal as was done in earlier case with the consent from both the parties. Thus, a discussion of M-DNAC was held on 28 May 2021, through video conferencing with the representatives of TPC-D and AEML-D to discuss the letters received from TPC-D and AEML-D. At the meeting/discussion, TPC-D and AEML-D representatives briefly explained the stands taken by them as below:-

**In its proposal and also during the meeting, AEML-D stated that:**

- i. AEML has received an application for power supply from Administrative Officer, Hariyali Village Municipal School, Vikhroli (E), for a load requirement of about 130 kW.
- ii. The existing network of AEML is already loaded sub-optimally and hence AEML requires a 11/0.4 kV substation in the premises (i.e. at Level 3, as per the framework established through the Order dated 12 June 2017 in Case No. 182 of 2014), to release power supply to the applicant.
- iii. Further, AEML understands that both the HT mains and LT network of the TPC-D are located at a distance of approx. 2.2 KM from the site (route distance). As against this, AEML's 11 kV mains is present in proximity to the consumer, at a distance of about 140 meters from the site. In view of the decisions already provided by the M-DNAC dated 4 September 2020 in case of the power supply application of MCGM's Ghazdarbund Pumping Station and earlier decisions, the location is required to be considered under Scenario 53(a), basis the network spread of the two Licensees.
- iv. Further, the Hon'ble ATE in its Judgment dated 28 May 2020 in Appeal No. 35 of 2020 has held that distance invariably is a deciding factor in determining which Licensee is more optimally placed to provide the new connection. In accordance with the above judgment, AEML has used the relative distance of the network of AEML and TPC to classify this application.
- v. In this case, as TPC's HT mains is present at about 2.2 KM from the applicant's premises, as per AEML's knowledge, the application must be considered to be in a situation where only one Licensee's network is present.
- vi. Therefore, in terms of the Order dated 12 June 2017 in Case No. 182 of 2014, the decisions of the M-DNAC thereafter and the above referred judgment of the Hon'ble APTEL, this application falls under Scenario 53(a) as described in the said Order i.e. where only one Licensee's network is existing. Further, as per the Order in Case No. 345 of 2018, it has been clarified by the Hon'ble Commission that Scenario 53(a) is applicable to all Levels and refers to situations where one of the two Licensees' network is non-existent.
- vii. Accordingly, M-DNAC is requested to verify the scenario categorisation as required under the above referred Order and inform the Licensees accordingly, so that further steps can be taken to release power to the Applicant.
- viii. In accordance with Para 7 of Annexure C of the said Order, the application details are being provided in the format set out in the Order, along with GIS sketch indicating the relative network positions.
- ix. TPC-D has raised similar objections in the present matter which it had raised in earlier matters too. These objections have already been rejected by the Hon'ble Commission and by the Hon'ble ATE in the respective proceedings before them.
- x. To a query raised by the Committee on LT network loading, AEML informed that AEML's nearby 11/0.433kV Distribution Substation (Tagore Nagar Symmetry

Substation) has 1000 kVA ONAN Distribution Transformer which is 70% loaded. Its peak load in last three years was 902 kVA which was recorded on 2 June 2018. Hence it requires to commission new distribution substation and the proposal belongs to level 3 of 53(a) scenario.

**In its proposal and also during meeting, representative of TPC-D stated that:**

- i. AEML has stated that TPC's mains are 2.2 km away from the premises. However, TPC's LT network is merely 1.1 km away from the premises while HT mains are 1.5 km away.
- ii. AEML's network is not within the premises of the applicant and merely in the vicinity. TPC's network spread is also within the vicinity and requires augmentation to connect to the applicant. AEML has also stated that it would require augmentation of the distribution network to release connection to the consumer.
- iii. Thus, both TPC-D and AEML-D both are similarly placed i.e. "present" (as defined under the Order dated 12 June 2017 in Case No. 182 of 2014) in the vicinity of the consumer and hence subject matter would fall under scenario 53(d) with both licensees "present". Hence, M-DNAC should ask both the parties to submit their bids in accordance with the protocol laid down under the Order dated 12 June 2017.
- iv. AEML's reliance on the ATE judgement dated 28 May 2020 (in case of Jugdeo Mhatre) is not correct. The facts of the said case are different. In that case, TPC-D's mains was 6.1 km away from the consumer's premise whereas in present case, TPC-D's HT distribution mains is merely 1.5 km away. Moreover, it was held therein that even when AEML's network was 850 meters away from the consumer premises, the same was present in the vicinity of the consumer. In any case, TPC-D has challenged the ATE Judgement dated 28 May 2020 which is pending before the Supreme Court.
- v. As regards the reliance on the Hon'ble Commission's Order dated 4 February 2019 in case no. 345 of 2018, it is important to note that the facts of the said case are different from the present case as the said case was a redevelopment case wherein only enhancement of load was involved and AEML-D had its existing infrastructure within its premises which is not the case here.
- vi. As regards reliance on M-DNAC's earlier decision, it is stated that M-DNAC's decisions are not binding since M-DNAC is neither a judicial nor a quasi-judicial body whose decisions have a precedential value. ATE's Judgment dated 28 May 2020 suggests that M-DNAC's decisions are merely recommendatory or advisory in nature.
- vii. Hence, AEML's submissions are incorrect. The applicable scenario is 53(d) with both licensees present and not 53(a). Hence, in terms of para. 143 of the Hon'ble Commission's Order dated 12 June 2017, M-DNAC should clarify that the applicant falls under the scenario 53(d) with both licensees present and inform the licensee. In any case, considering the appeals pending before the ATE, any decision of M-DNAC would be the outcome of the pending appeals.

**The Committee's observations are as under:**

- i. The Committee notes that TPC-D has stated that AEML's network is not within the premises of the applicant and merely in the vicinity. Also, AEML requires augmentation of the distribution network to release connection to the consumer as its existing LT distribution network is loaded. TPC-D has further claimed that its network spread is also within the vicinity and requires augmentation to connect to the applicant. According to TPC-D, both TPC-D and AEML-D are similarly placed i.e. "present" (as defined under the Order dated 12 June 2017 in Case No. 182 of 2014) in the vicinity of the consumer and hence subject matter would fall under scenario 53(d) with both licensees "present". Hence, M-DNAC should ask both the parties to submit their bids in accordance with the protocol load down under the Order dated 12 June 2017.
- ii. The Committee notes that AEML's 11kV mains is present in proximity to the consumer, at a distance of about 140 meters from the site. TPC-D has also stated that its LT network is 1.1 km away from the premises while HT mains are 1.5 km away.
- iii. Further, from the GIS map submitted by AEML-D, it is seen that AEML-D's Tagore Nagar Substation is in close proximity of the location of the consumer for whom the connection is proposed to be released. This means that AEML-D's LT network emanating from the Substation surrounds the area/location nearby or closer to the consumer.
- iv. AEML-D has confirmed that it has its LT network nearby which cannot cater the applicant's load as it loaded upto 70% of capacity and hence new substation is required which is level 3 connection as per the Order passed by the Hon'ble Commission in Case No. 182 of 2014.
- v. Considering the aforesaid fact and the relative network spread of both the Licensees, the Committee is of the opinion that the location of Applicant, Administrative Officer, Hariyali Village Municipal School, Vikhroli (E) for supply of 130 kW falls under scenario 53(a) as per Case No. 182 of 2014.
- vi. In view of the above, the Committee has decided to confirm for releasing power supply connection to Applicant location of Administrative Officer, Hariyali Village Municipal School, Vikhroli (E) which falls under scenario 53(a) and this criteria is satisfied by AEML-D.

**Sd/-**

Shri Prafulla Varhade,  
Director (EE), MERC

**Sd/-**

Shri. Dilip Dumbre,  
Secretary, Ombudsman

**Sd/-**

Shri, Sanjay Taksande,  
Director (Operation), MSEDCL

**Sd/-**

Shri. Rakesh Guhagarkar,  
Dy. Dir (Tech.), MERC