

Date: 26.09.2026

To,
The Secretary
Uttar Pradesh Electricity Regulatory Commission
Vidyut Niyamak Bhawan,
Vibhuti Khand, Gomti Nagar,
Lucknow – 226010

Reference: Comments/Suggestions/Objections submitted by All India Power Engineers Federation (AIPEF) on Petition No. 2333 of 2025 filed by Adani Energy Solutions Step-Eleven Limited before this Hon'ble Commission for grant of a Distribution Licence for the Data Centre Park being developed by DC Development Noida Limited at Plot 20, Sector 62, NOIDA, Uttar Pradesh, under Sections 14 and 15 of the Electricity Act, 2003.

Subject: AESSEL's Response to the Comments/Suggestions/Objections submitted by AIPEF on Petition No. 2333 of 2025 dated 09.09.2026

Respected Sir,

We, Adani Energy Solutions Step-Eleven Limited ("AESSEL"), are submitting our response to the comments/suggestions/objections submitted by All India Power Engineers Federation ("AIPEF") on 09.09.2026 pursuant to the Public Notice issued on behalf of AESSEL under Section 15(2) of the Electricity Act, 2003, published on 12.08.2026 in two Hindi daily newspapers (Amar Ujala and Hindustan) and two English daily newspapers (Indian Express and Hindustan Times), Lucknow and Delhi editions, in terms of the directions of this Hon'ble Commission vide Order dated 05.08.2026, thereby inviting comments/suggestions/objections on the Petition filed by AESSEL for grant of a Distribution Licence under Sections 14 and 15 of the Electricity Act, 2003.

The response is submitted by way of an affidavit along with an index, for kind consideration and for being taken on record by this Hon'ble Commission.

Thanking You,



Authorized Signatory
For Adani Energy Solutions Step-Eleven Limited

**BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY
COMMISSION AT LUCKNOW**

Filing No. _____
Petition No. 2333 of 2025

IN THE MATTER OF:

Petition under Sections 14 and 15 read with Section 86 (1) (d) of Electricity Act, 2003 readwith UPERC (General Conditions of Distribution Licence) Regulations, 2004 readwith Distribution of Electricity License (Additional Requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005 and the Amendment thereof, and Government of Uttar Pradesh Notification No. 444/24-P-3-2023 dated 10.03.2023, and readwith Uttar Pradesh Data Centre Policy 2021 (as amended on 07.11.2022) for grant of Distribution License to Adani Energy Solutions Step-Eleven Limited for undertaking supply and distribution of power in the Data Centre Park being developed by DC Development Noida Limited at Plot 20, Sector 62, NOIDA, Uttar Pradesh.

IN THE MATTER OF:

Adani Energy Solutions Step-Eleven Limited

Adani Corporate House, Shantigram,
Near Vaishno Devi Circle,
S G Highway, Ahmedabad, Gujarat-382421

...PETITIONER NO.1

Adani Energy Solutions Limited

Adani Corporate House, Shantigram,
Near Vaishno Devi Circle, S G Highway,
Khodiyar, Ahmedabad, Gujarat-382421

...PETITIONER NO.2

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Place: New Delhi
Date: 26.09.2026

**BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY
COMMISSION**

PETITION NO. 2333 OF 2025

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...PETITIONER NO.2

**AFFIDAVIT ON BEHALF OF ADANI ENERGY SOLUTIONS STEP-ELEVEN
LIMITED TO PLACE ON RECORD RESPONSE TO THE OBJECTIONS/
SUGGESTIONS SUBMITTED BY ALL INDIA POWER ENGINEERS
FEDERATION (AIPEF) ON 09.09.2026**

I, Manish Kumar, S/o Late Braj Kishore Prasad, aged about 35 years, R/o A-12, Yogiswami Cooperative Housing Society, Borivali West, Mumbai-400091, Authorized Representative of Petitioner No.1 viz., Adani Energy Solutions Step-Eleven Limited, having office at Adani Corporate House, Shantigram, Near



Vaishno Devi Circle, S G Highway, Ahmedabad, Gujarat-382421, presently at New Delhi, do hereby solemnly affirm and state as follows:

1. That I am the authorized representative of the Petitioner No.1 Company, Adani Energy Solutions Step-Eleven Limited ("**Petitioner No.1**" or "**AESSEL**") and I am fully conversant with the facts and circumstances of the case, and I have been duly authorized and am, therefore, competent to affirm this affidavit.
2. That, I state that the Petitioner No. 1, Adani Energy Solutions Step-Eleven Limited ("**AESSEL**"/"**Petitioner**"), has filed the present Petition under Sections 14, 15 and 86(1)(d) of Electricity Act, 2003 ("**EA 2003**"), read with UPERC (General Conditions of Distribution License) Regulations, 2004 ("**UPERC Distribution License Regulations**"), read with Distribution of Electricity License (Additional Requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005 as amended thereof (2022) ("**Distribution License Rules**"), and read with Uttar Pradesh Data Centre Policy 2021 (as amended on 07.11.2022) ("**DC Policy**") for grant of Distribution License to the Petitioner No.1 for undertaking the supply of power in the Data Centre Park being developed by DC Development Noida Limited ("**DCDNL**") having office at Plot 20, Sector 62, NOIDA, Uttar Pradesh.
3. That, through Order dated 05.08.2026, this Hon'ble Commission directed the Petitioner to publish a notice under Section 15(2) of EA 2003, in at least two Hindi and two English newspapers. Accordingly, through the Public Notice published by the Petitioner, comments/suggestions were invited from the public within 30 days from the date of publication of notice.
4. Thereafter, post publication, All India Power Engineers Federation



("AIPEF"/"Objector") vide letter dated 09.09.2026, submitted its objections against the Petition filed by AESSEL for grant of license under Section 14. The following response is submitted by Petitioner No.1 to the said objections, for consideration of this Hon'ble Commission.

5. Before advertng to the specific objections, it is submitted that AESSEL has made detailed submissions in the aforementioned Petition and thereby established its qualification for grant of license in terms of Sections 14 and 15 of EA 2003 read with Distribution License Rules. The submissions made therein, may be referred for the purpose of present response to the objections.
6. At the outset, it is submitted that the Objections proceed largely by way of rhetorical questions and do not controvert, on facts, any specific averment made in the Petition or in the Affidavit dated 17.06.2026.
7. It is submitted that the objections raised by AIPEF are misconceived both on the statutory scheme underlying the Electricity Act, 2003 and the Rules framed thereunder, and on binding judicial precedents.

Objection: AESSEL has no existing distribution license in the country and the fact that its parent/ group entities may be engaged in activities in the electricity sector cannot by itself confer upon AESSEL the status, experience, statutory rights or regulatory credentials of those separate legal entities. Thus, this Hon'ble Commission is requested to examine specifically whether AESSEL independently satisfies every statutory and regulatory requirement for grant of distribution license.

8. It is stated that the contention of the Objector that the absence of a pre-existing distribution licence disentitles AESSEL from seeking grant of a fresh distribution licence, is a completely misleading contention and is also fundamentally flawed. In this context, the following is to be



considered:

- a. Neither Section 14 nor Section 15 of the EA 2003, nor the UPERC Distribution License Regulations, nor the 2005 Rules, prescribe prior holding of a distribution licence by an applicant. as a condition precedent for grant of a fresh licence;
- b. Rule 3 of the Distribution License Rules expressly permits capital adequacy and creditworthiness to be assessed on the net worth and resources *"of his business including of promoters."* The relevant extracts of the Rules (as amended) are set out below for ready reference:

"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 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 license 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 the 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 network and generation of internal resources of his business including of promoters in the preceding three years after excluding his other committed investments.

Explanation- For purposes of this sub-rule, it is hereby



clarified that for grant of a license for distribution of electricity within the same area in terms of sixth proviso to section 14 of the Act, the entire area covering either a Municipal Corporation as defined in Article 243Q of the Constitution or three adjoining revenue districts, or a smaller area as may be notified by the Appropriate Government shall be the minimum area of supply."

- c. As is discernible from the above extract, using the credentials of the promoters (Petitioner No.2) of the applicant qua assessing network and ability to generate internal resources, is permitted. In this regard, it is noteworthy that 100% of the equity invested in Petitioner No.1 is owned by Petitioner No.2, and as such, under Rule 3(2) of the Distribution License Rules, the Petitioner No. 1 can use the credentials of its parent company/ promoter company.

Accordingly, the entire basis of the Objections, regarding AESSEL independently satisfying every statutory and regulatory requirement for grant of distribution license, is liable to be rejected as the same proceeds on an incorrect interpretation of the Distribution Licence Rules and the statutory framework governing grant of distribution license.

9. Further, AESSEL has, in any event, placed on record its own stand-alone audited financial statements for FY 2024-25 and FY 2025-26 and has additionally, and as is legally permissible under Rule 3(2), relied upon the financial strength, technical expertise and operational track record of its promoter/ holding company, AESL, whose audited financial statements for the preceding five financial years already stand submitted as part of the Petition.
10. Without prejudice to the foregoing, it is submitted that the eligibility and capability of an applicant are required to be assessed on the basis of the



cumulative material placed on record. In this regard, the Petitioner has already submitted its Business Plan and other supporting documents demonstrating its technical capability, operational preparedness and financial strength for undertaking the proposed distribution business. Further, the Petitioner, together with its promoter, Adani Energy Solutions Limited ("AESL"), possesses the requisite technical expertise and financial resources necessary for development, operation, maintenance and augmentation of the proposed distribution system. The Petitioner further undertakes to furnish such additional information or documents as may be required by this Hon'ble Commission.

11. Further, reliance is also placed on the Judgment passed by the Hon'ble Supreme Court in the case of "New Horizons Ltd. & Anr. v. Union of India & Ors.", reported as [(1995) 1 SCC 478], wherein, it was held that, where the eligibility or experience of a corporate applicant that is a joint venture/ subsidiary is under consideration, the resources, credentials and experience of its constituent or parent/owning companies must be taken into account. It is respectfully submitted that AESSEL's position is a fortiori stronger than that of the applicant in New Horizons (where the relevant parent held only 40% of the equity), since AESSEL is a 100% wholly owned subsidiary of AESL, with AESL's entire shareholding, control and management vested over AESSEL.

Objection: *That, a contractual arrangement between AESSEL and DCDNL, cannot by itself, create a statutory right to carry on the licensed activity of distribution of electricity. As such, this Hon'ble Commission has been requested to independently determine certain facets of relationship between AESSEL and DCDNL.*

12. It is respectfully submitted that the statutory right to seek and be granted a distribution licence flows exclusively from Section 14 read with Section



15 of the Electricity Act, 2003, the 2005 Rules and the UPERC Regulations of 2004, under which the present Petition has been filed for seeking grant of distribution license. Under the said provisions, any applicant can apply for grant of distribution license.

13. Further, Clause 4.1(a) of the Data Centre Policy categorically makes an Operator eligible for seeking license for power distribution within the data centre park. This is provided since power distribution is a specialised activity for which the developer of the Data Center may not have the requisite experience. The same is also recognised under the U.P. Government Notification dated 10.03.2023.
14. In this context, the Operator Agreement has been executed establishing the factual and contractual matrix by which AESSEL is appointed as the "Operator"/"associate" of the DC Park Developer (DCDNL) for the purpose of seeking of distribution license with respect to the data centre park.
15. As regards each of the specific questions posed by AIPEF under this head, the said specific queries are responded to in a point wise manner below:

(i) The precise legal status of AESSEL vis-à-vis DCDNL

- AESSEL has been appointed by DCDNL (*the developer of the DCP*), as the "Operator" of the Park under the Contract for Appointment of Operator dated 05.12.2025, as amended by the Addendum dated 09.06.2026. In this regard, it is to be considered that the U.P. Govt. Notification dated 10.03.2023 uses the words "operator" and "associate" of the Developer inter-changeably for the purpose of distribution of electricity in the data centre park, and as such both denote an entity which



can be appointed by the Developer of the data centre park and that there is no special meaning attached to these words. Accordingly, the Developer herein has appointed the applicant herein/ AESSEL as the operator/ associate for undertaking distribution of electricity within the data center area. In this regard, the applicant has already filed an affidavit dated 17.06.2026 explaining the legal status, the contents of the same are not being repeated herein for the sake of brevity.

- It is submitted that AESSEL, while functioning as an associate/Operator of DCDNL, is not a mere extension of DCDNL. Rather, AESSEL is a distinct juristic person, independently incorporated under the Companies Act, 2013, with its own board of directors, its own statutory financial statements (*Annexure-C to the Affidavit dated 17.06.2026*), and would, upon grant of the licence sought, hold that licence and bear the statutory obligations of a distribution licensee in its own name and rights conferred by the EA 2003, and not as DCDNL's nominee.

(ii) Whether AESSEL is the developer, operator, associate or merely a service provider

- It is submitted that DCDNL, and DCDNL alone, is the "Developer" of the DCP ("DCPD"), being the 100% subsidiary project company of Adani Connex Private Limited. AESSEL does not claim, and has never claimed, to be the Developer.
- As clarified above, AESSEL is the "Operator" appointed by the Developer under the Operator Agreement and is legally eligible under the Policy read with the Govt. Notification dated



10.03.2023 to seek license for distribution of electricity. It is submitted that in accordance with the applicable policy framework, the DCPD / Operator or its associate is eligible for grant of distribution license for undertaking the specialised activity of developing, operating and maintaining the power distribution infrastructure and procuring power within the Data Centre Park. AESSEL has accordingly been appointed as Operator/associate and is therefore eligible to apply for a distribution licence in terms of the Policy and the Government Notification dated 10.03.2023. Hence, AESSEL is accordingly and accurately described as “Operator/associate”, and not as either “Developer” or a “mere service provider.”

- The distinction between an “operator/associate” and a “mere service provider” is not semantic but substantive and determinative. A service provider renders services for consideration under the operational and legal responsibility of its principal, without itself acquiring any independent regulatory status. AESSEL, by contrast, is the very entity that has applied for, and upon grant would itself hold the distribution licence before this Hon’ble Commission, and would thereupon bear all statutory obligations of a distribution licensee directly, independently, and in its own rights under the EA 2003, a status categorically different with that of a mere service provider.

(iii) The precise rights conferred upon AESSEL under the agreement

- Under the Contract for Appointment of Operator dated 05.12.2025, DCDNL has appointed AESSEL “to act as the ‘Operator’ for carrying out the activities of a distribution



licensee within the Park". The rights so conferred upon, and correspondingly assumed by, AESSEL include, without limitation:

- a. the right to apply for, and upon grant, to hold the distribution licence for the DCP in its own name;
- b. the right and corresponding responsibility to develop, construct, own, operate and maintain power distribution infrastructure within the DCP;
- c. the right and responsibility to procure power for supply within the DCP;
- d. under Clause 7.3 of the Contract, as substituted by the Addendum dated 09.06.2026, the right to continue as Operator save upon:
 - (i) an uncured Event of Default following a Cure Notice and Termination Notice, in accordance with the procedure prescribed therein, or
 - (ii) the Developer winding up or discontinuing the Data Centre business established under the DCP.
- e. Further, Clause 7.4 of the Contract, as substituted by the Addendum, provides that AESSEL, and not DCDNL, that holds the licence to "*without undue delay, take all necessary steps to cancel, surrender, seek modification or transfer such Distribution License*" upon termination, subject always to "prior approval of this Hon'ble Commission and compliance with Applicable Law."

(iv) Ownership of the proposed distribution assets



- It is submitted that the consistent scheme of the DCP, the Notification dated 10.03.2023, and the Operator Agreement under which AESSEL, as Operator/ associate, has been appointed, is that the said Operator is required to develop and maintain the power distribution infrastructure for the DCP, and under which AESSEL alone (*and not DCDNL*) would hold, and upon termination be responsible for surrendering or transferring, the distribution licence. The Agreement contemplates that the distribution assets constructed and deployed by the Operator will be financed, owned and held by said Operator itself as licensee, consistent with the requirement under Section 14 of the EA 2003 that distribution be carried out through the licensee's "*own distribution system.*"

(v) Responsibility for financing, construction, operation and maintenance

- As set out in the Affidavit dated 17.06.2026, the DCP is a highly specialized and capital-intensive infrastructure ecosystem requiring diverse technical expertise for its efficient development, operation and maintenance, including the upkeep of power distribution infrastructure and procurement of power. It is precisely this specialised activity of power distribution which AESSEL has been appointed by DCDNL to undertake, and which Clause 8.4(iii) of the DCP and the Notification dated 10.03.2023 recognises as fit to be discharged by an "*operator*"/ "*associate*" of the Developer. Financing, construction, operation and maintenance of the distribution network within the DCP would accordingly be the direct responsibility of AESSEL as licensee.



(vi) Responsibility towards consumers

- It is submitted that, upon grant of the distribution licence, AESSEL would owe direct, independent and non-delegable statutory duties to consumers within the DCP, including the duty to supply electricity on request under Section 43 of the Electricity Act, 2003, compliance with the tariff as may be determined/ approved by this Hon'ble Commission. AESSEL would also remain in compliance with all the Regulations of this Hon'ble Commission applicable to distribution licensees, including the Supply Code and responsibility for consumer grievance redressal through the Consumer Grievance Redressal Forum/ Electricity Ombudsman mechanism applicable to distribution licensees, in the same manner as any other distribution licensee regulated by this Hon'ble Commission. These statutory obligations would attach to AESSEL directly, in its capacity as licensee, and are neither discharged nor diluted by the existence of the Operator Agreement with DCDNL.

(vii) Responsibility for procurement of electricity

- This query is squarely and expressly covered by Clause 8.4(iii) of the Data Centre Policy read with the Notification dated 10.03.2023, which recognise that DC Park Developers or its associates/ operators are permitted to develop and maintain power distribution infrastructure and procure power, which is a specialised activity for the entire data centre park. Accordingly, AESSEL, as Operator/ associate, would be directly responsible for procurement of power for supply within



the Data Centre Park, subject to compliance with extant regulatory framework.

(viii) Responsibility for system reliability and grid discipline

- As licensee, AESSEL would be bound by, and directly responsible for compliance with the Grid Code, the Supply Code, and the directions of the State Load Despatch Centre, in precisely the same manner as any other distribution licensee regulated by this Hon'ble Commission. AESSEL would bear direct and independent responsibility for the reliability of supply and grid discipline within its licensed area. These are non-delegable statutory obligations of a licensee under the EA 2003 and the regulations framed thereunder, and it is neither proposed, nor would it be legally permissible, for such obligations to be discharged vicariously by DCDNL/ any other entity on AESSEL's behalf.

(ix) Whether the contractual arrangement legally supports AESSEL's claim to be granted a distribution license

- It is submitted that the Operator Agreement supports AESSEL's claim to the extent of establishing AESSEL's factual and contractual status as "Operator"/"associate" of DCDNL, consistent with Clause 8.4(iii) of the DCP and the Notification dated 10.03.2023. Once AESSEL is appointed as the Operator, it becomes entitled to seek grant of distribution license under Sections 14 and 15 of the EA 2003 read with the Distribution License Rules. The statutory right to the licence, if any, would flow exclusively from this Hon'ble Commission's independent satisfaction on all such criteria



under Section 14 read with Section 15 of the Act, and not solely from the Operator Agreement.

(x) *A contractual appointment as an operator cannot be treated as a substitute for statutory eligibility*

- The Petitioner respectfully submits that it does not contend, and has never contended, that the Operator Agreement by itself creates any statutory right or constitutes a substitute for the eligibility requirements prescribed under the Electricity Act, 2003. The appointment of AESSEL as an Operator merely establishes the factual and contractual basis on which AESSEL has been entrusted with the specialised activity of development, operation and maintenance of the power distribution system within the Data Centre Park. The grant of a distribution licence is sought independently under Sections 14 and 15 of the Electricity Act, 2003 and is subject to the Petitioner's satisfaction of all statutory and regulatory requirements applicable thereto. Therefore, the Operator Agreement is not being relied upon as a source of statutory entitlement, but only as evidence of AESSEL's designated role within the Data Centre Park framework contemplated under the applicable Data Centre Policy and Government Notification dated 10.03.2023.
- In fact, the very filing of the present Petition and the Petitioner's submission to the regulatory scrutiny of this Hon'ble Commission demonstrates that the Operator Agreement is not being treated as a substitute for statutory eligibility, but only as one of the factual documents supporting



the Petitioner's application under Sections 14 and 15 of the Electricity Act, 2003.

Objection: *If AESSEL relies upon the technical expertise, financial resources, managerial experience or regulatory experience of its parent/ group companies, the Commission should require the Applicant to establish the legal basis on which such resources and experiences are proposed to be made available to AESSEL*

16. The proposition that each company is a separate legal person is not in dispute as a general principle of company law. However, as demonstrated, per Rule 3(2) of the Distribution License Rules, the specific statutory test applicable to grant of a distribution licence itself requires the Commission to look at the net worth and resources of the applicant "including of promoters". Further, the ratio in *New Horizons Ltd. (supra)* confirms that the resources, credentials and experience of a parent/ promoter company are legally relevant and must be taken into account in assessing the eligibility of its subsidiary.
17. AESSEL, as a 100% wholly owned subsidiary of AESL, has also furnished its own stand-alone audited financial statements (Annexure-C) and has, in addition, relied upon the demonstrable financial strength, technical expertise and operational track record of AESL, whose 100% shareholding in AESSEL is a matter of record in the financial statements themselves.
18. Without prejudice to the foregoing, it is submitted that AESSEL is a wholly owned subsidiary of Adani Energy Solutions Limited ("AESL"), and the financial, managerial and technical resources being relied upon by AESSEL emanate from its promoter and holding company. The control and management of AESSEL vest with AESL through its 100%



shareholding and board oversight. Further, AESL has supported the present application by permitting reliance on its credentials and resources for the purposes of demonstrating compliance with the requirements of the Distribution Licence Rules. To the extent required, AESL remains committed to providing the necessary technical, managerial and financial support to AESSEL for the development, operation and maintenance of the proposed distribution system and for discharge of AESSEL's obligations as a distribution licensee.

19. Such reliance by a wholly owned SPV upon its parent company's track record, for the specific and limited purpose of demonstrating capital adequacy and creditworthiness under Rule 3(2) of the Distribution License Rules, is neither a request to disregard corporate personality generally, nor a departure from settled principles. When the Distribution License Rules themselves expressly permit consideration of the resources and net worth of the promoters of the applicant company, the objection overlooks the statutory framework governing grant of distribution licences.. Further, this Hon'ble Commission may impose such conditions or require such undertakings as it may deem appropriate for ensuring the continued availability of the requisite financial, technical and managerial resources for discharge of the obligations of a distribution licensee.

Objection Nos. 4,5 and 6: *The existence of an existing distribution licensee in the area cannot be ignored. As such, this Commission may ascertain whether the proposed parallel license is actually necessary in the public interest.*

20. Section 14 of the EA 2003 empowers the Appropriate Commission (being this Hon'ble Commission in the present case), on an application made under Section 15, to grant a licence to any person to distribute



electricity "in any area as may be specified in the licence." Pertinently, the **sixth proviso** to Section 14, reads as under:

"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."

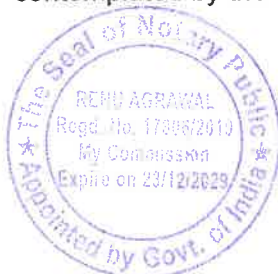
21. It is submitted that the sixth proviso brings three things material to the present proceedings: (i) it confers express statutory power on this Hon'ble Commission to grant a distribution licence to "two or more persons" for the same area; (ii) it subjects such grant only to compliance with additional requirements of capital adequacy, credit-worthiness and code of conduct "as may be prescribed by the Central Government", i.e., the Distribution License Rules; and (iii) it contains an express, mandatory, negative stipulation that no applicant who complies with such requirements shall be refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose.
22. As demonstrated above, the sixth proviso to Section 14 itself expressly empowers this Hon'ble Commission to grant a distribution licence to "two or more persons" for distribution through their own distribution system "within the same area", subject only to compliance with the 2005 Rules, and contains an express statutory bar against refusal of licence "on the ground that there already exists a licensee in the same area for the same



purpose." This is not, therefore, a matter of executive or regulatory discretion contingent upon a prior finding of default or incapacity on the part of the existing licensee.

Accordingly, the contention of the Objector that the Hon'ble Commission may consider the necessity of grant of a parallel license, stands answered in terms of the above provision of the EA 2003. From the aforesaid, it is concluded that the EA 2003 does not vest any ability in this Hon'ble Commission to consider the necessity of a parallel license only because there is an existing licensee. The above provision mandates grant of a parallel license if the applicant satisfies creditworthiness and capital adequacy tests.

23. It is further submitted that the test of public interest under the Electricity Act, 2003 cannot be interpreted in a manner that defeats the express legislative intent embodied in the sixth proviso to Section 14. The statute itself recognises the possibility of two or more distribution licensees operating within the same area and expressly prohibits refusal of a licence merely on the ground that another distribution licensee already exists in such area. Therefore, once the statutory requirements relating to capital adequacy, creditworthiness and code of conduct stand satisfied, the question of public interest must necessarily be assessed harmoniously with the legislative mandate contained in the sixth proviso and not in a manner that renders the said provision redundant or nugatory. Acceptance of the Objector's contention would effectively nullify the statutory right conferred upon eligible applicants to seek a parallel distribution licence under the framework expressly contemplated by Parliament. Accordingly, the existence of an incumbent distribution licensee cannot be elevated into an additional eligibility criterion not contemplated by the Electricity Act, 2003.



It is further submitted that the present application cannot be viewed in isolation from the specific policy framework governing Data Centre Parks in the State of Uttar Pradesh. The Uttar Pradesh Data Centre Policy, 2021 and the Government Notification dated 10.03.2023 specifically contemplate that the Developer of a Data Centre Park, or its Associate/Operator, may undertake the specialised activity of development and maintenance of power distribution infrastructure and procurement of power for the Data Centre Park. These policy instruments have been issued by the State Government after due consideration of the unique operational requirements of Data Centre Parks and the larger public interest in promoting digital infrastructure and investment within the State. The fact that Data Centre Parks would necessarily be situated within the area of supply of an existing distribution licensee was fully known and contemplated while formulating the said policy and notification. Accordingly, the objection that a parallel distribution licence ought not to be granted merely because an existing licensee serves the area runs contrary not only to the statutory framework under the Electricity Act, 2003 but also to the specific policy framework governing Data Centre Parks in Uttar Pradesh.

24. Without prejudice to the foregoing, it is submitted that the ability, willingness or readiness of the existing distribution licensee to provide electricity supply within the proposed licence area cannot override the statutory framework embodied in the sixth proviso to Section 14 of the Electricity Act, 2003. The existence of an alternative source of supply, or the possibility of supply being extended by an incumbent licensee, is neither a condition precedent nor a determinative factor for grant of a parallel distribution licence. Once an applicant satisfies the requirements prescribed under the Electricity Act, 2003 and the Distribution Licence Rules, the licence application is required to be considered on its own



merits and cannot be rejected merely because the existing licensee is capable of serving the area.

25. It is further submitted that the 7th proviso to Section 14 is not applicable to the present case, the same contemplates a franchisee or another entity to whom the existing licensee may delegate some of its power qua supply of electricity to consumers. Further, for such activity, the entity, who appoints such another person, remains the licensee for all purposes. Since, the present case falls under the 6th proviso, where grant of license to another person within the area of an existing license is provided, no reference can be made to the 7th provision by the Objector as the 7th proviso is a separate dispensation which does not concern the applicant herein.

In this regard, reference be made to the Judgment passed by Hon'ble Supreme Court in the case of *M/s Jindal Steel and Power Ltd. v. Chhattisgarh State Electricity Regulatory Commission & Ors.*, reported as [(2022) 7 SCR 378], wherein, while dealing with a distribution licence granted for captive-power-based supply to an industrial park, the Hon'ble Supreme Court set aside the cancellation of the distribution licence and held that the sixth proviso to Section 14 of EA 2003 must be construed liberally and purposively, consistent with the underlying object of the EA 2003 to liberalise generation, transmission, distribution and supply of electricity.

26. In view of the above, it is submitted that the Objector seems to have mounted a challenge against the legality of 6th proviso of Section 14 of Electricity Act which allows grant of parallel distribution license to two or more entities within the same area of supply, and as such these objections cannot be considered by this Hon'ble Commission as this Hon'ble Commission is a creature of statute and its functions are



circumscribed within the four corners of the EA 2003. Further, the EA 2003 already has provisions relating to open access under Section 42, and at the same time envisages parallel distribution license under the 6th proviso of Section 14. Thus, the intention of the legislature is very clear and unambiguous that both the above provisions shall co-exist.

27. Regarding the objections raised by the Objector *qua* duplication of distribution infrastructure, it is submitted that the 6th proviso gives an unequivocal right to the applicant to distribute electricity post grant of license. Also, the issue of the extent of network development in a parallel license area has been settled through various judicial pronouncements of the Hon'ble Supreme Court and Hon'ble APTEL. AESSEL is committed to follow the principles contained in the said judgments and any other conditions which may be imposed by this Hon'ble Commission in this regard, pursuant to the grant of license. As such, the objections raised now, are premature and cannot be considered at the stage of grant of licence.
28. Further, it is stated that the primary objective of the Petitioner(s) for planning the electrical distribution network in the Data Centre Park, is to provide world class reliability and quality of power so that invaluable data can be preserved in the most efficient manner. Since reliable electricity forms the most critical element for the Data Centre Park operations, keeping in mind the high power intensive category of the business, the primary objective for planning the electrical network of the Data Centre Park has been to ensure world class reliability and quality of supply. It is also noteworthy that the Data Centre Park is a highly specialized and capital and power intensive infrastructure ecosystem requiring diverse technical expertise for its efficient development, operation and maintenance, including the upkeep of power distribution infrastructure and procurement of power, and that, given the criticality of uninterrupted



and reliable power supply, through a robust network of power lines/ distribution network with adequate redundancy, the governing policy framework qua data centres specifically provides enabling provisions to facilitate participation of competent entities in such activities, such as AESSEL in the present case.

29. Without prejudice to the foregoing, it is submitted that the ability or willingness of an existing distribution licensee to supply electricity cannot override the statutory scheme embodied in the sixth proviso to Section 14 of the Electricity Act, 2003. The existence of an alternative source of supply is neither a condition precedent nor a determinative factor for grant of a parallel distribution licence.
30. As such, Objection Nos. 4, 5 and 6 of AIPEF, each of which in substance invites this Hon'ble Commission to decline or defer the grant of licence because an existing distribution licensee already serves, or could be made to serve, the area, ought to be rejected *in limine*.

Objection: Section 14 of EA 2003 requires applicant's own distribution system. The Commission is requested to enquire who owns the assets, who is investing in the assets, who will construct them, who will operate and maintain them, who will bear augmentation expenditure, who will replace the asset, whether the assets are legally vested in AESSEL, whether the assets belong to DCDNL and what happens to the assets if the Data Centre Project comes to an end.

31. As explained in the Petitioner's detailed response to Objection No. 2, sub-query (iv), the consistent scheme of the Data Centre Policy, the Notification dated 10.03.2023, and the Operator Agreement under which AESSEL alone would hold the license, and upon termination be responsible for surrendering or transferring the said licence. Clause 7.4



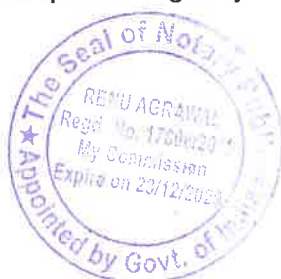
of the Addendum dated 09.06.2026 necessarily contemplates that the distribution assets will be financed, owned and held by AESSEL as licensee.

32. AESSEL, as the entity appointed to undertake the specialised activity of developing and maintaining power distribution infrastructure under Clause 8.4(iii) of the Data Centre Policy, would be responsible for the investment in the distribution assets, drawing upon its own resources and, as is expressly contemplated under Rule 3(2) of the Distribution License Rules, the net worth and resources of its promoter, AESL.
33. AESSEL, has been specifically appointed by DCDNL to act as the 'Operator' for carrying out the activities of a distribution licensee within the Park, which includes "the upkeep of power distribution infrastructure" i.e., its development and construction as a specialised activity for the Data Centre Park. As such, AESSEL as licensee, would operate and maintain the distribution assets and also bear augmentation expenditure on an ongoing basis, consistent with the universal service obligation under Section 43 of the EA 2003 read with the tariff chapter of the said statute.
34. It is clarified that DCDNL, as the Data Centre Park Developer, is responsible for the development of the Data Centre Park as a whole *(including land, common infrastructure and the Data Centre facilities themselves)*, whereas the distribution assets specifically the "system of wires and associated facilities" within the meaning of Section 2(19) of the EA 2003 are intended to be developed, owned and operated by AESSEL in its capacity as the appointed Operator/ distribution licensee.
35. With respect to the apprehension relating to assets in case the Data Centre Project or the agreement comes to an end, the said contingency



is expressly addressed in Clauses 7.3 and 7.4 of the Contract for Appointment of Operator, as substituted by the Addendum dated 09.06.2026. Under Clause 7.3(2), the Contract stands terminated only in the event the Developer (DCDNL) winds up or discontinues the Data Centre business established under the Data Centre Park and under Clause 7.4, upon any such termination, AESSEL, as Operator, is obliged, without undue delay, to take all necessary steps to cancel, surrender, seek modification or transfer such Distribution License in accordance with the procedure prescribed under the applicable regulations issued by this Hon'ble Commission. This ensures an orderly, Commission-supervised wind-down of the licence (and, necessarily, of the associated distribution assets and consumer arrangements) in the event the underlying Data Centre project itself ceases.

36. Without prejudice to the foregoing, insofar as the Objector has sought verification of land rights, statutory approvals, permissions and inclusion of the proposed area within the licence boundaries, it is respectfully submitted that the proposed licence area forms part of the identified Data Centre Park being developed by DC Development Noida Limited. The development of the Data Centre Park is being undertaken by the Developer in accordance with the applicable policy and statutory framework, and the Petitioner derives its operational rights in relation to power distribution within such area through its appointment as Operator. The Petitioner has already placed on record the particulars of the proposed licence area, the contractual arrangements governing its appointment as Operator and such documents as are required under the Electricity Act, 2003, the applicable Rules and the Regulations framed thereunder. It is further submitted that the grant of a distribution licence is not contingent upon the applicant establishing ownership of the entire project land, but upon its eligibility to undertake the licensed activity and



its capability to establish, operate and maintain its own distribution system in accordance with law. In any event, the Petitioner shall obtain and maintain all approvals, permissions, wayleave rights, easements, licences, consents and authorisations as may be required for development, operation and maintenance of the proposed distribution network within the licence area. Accordingly, the objections raised on this count do not furnish any valid basis for either refusal or deferment of the licence sought by the Petitioner.

Objection: *Public Interest and consumer Interest must remain paramount*

37. The Petitioners have no quarrel with the proposition that a distribution licence carries continuing statutory obligations, including the duty to supply on request under Section 43, tariff compliance, RPO obligations, Grid Code and Supply Code compliance, and consumer grievance redressal, and undertakes to comply with the same, exactly as AIPEF itself notes. Rule 3(1) of the Distribution License Rules itself requires this Hon'ble Commission to assess the requirement of capital investment keeping in view the size of the area of supply and the service obligation within that area in terms of section 43, confirming that consumer-protection safeguards are already fully embedded in the very statutory process presently underway before this Hon'ble Commission.
38. The Petitioner respectfully submits that grant of the proposed licence is not only consistent with the statutory framework governing distribution licences but is also fully aligned with the larger public interest objectives underlying the Electricity Act, 2003, namely promotion of competition, efficiency, investment in infrastructure, quality of service and consumer choice. The Electricity Act, 2003 itself recognises competition as a means of promoting efficiency and consumer welfare in the electricity



sector. The proposed licence area comprises a specialised Data Centre Park requiring uninterrupted, high-quality and highly reliable electricity supply for hosting critical digital infrastructure. The grant of a distribution licence would facilitate focused investment in power infrastructure, network redundancy, procurement planning, reliability enhancement and operational efficiency specifically tailored to the unique requirements of data centre operations. Far from being contrary to public interest, the proposed arrangement would serve the broader public interest by supporting infrastructure development, digital economy growth, investment promotion and creation of a robust power framework for one of the State's identified growth sectors.

39. It is further submitted that the present application has been filed in the context of the Uttar Pradesh Data Centre Policy, 2021 and the Government Notification dated 10.03.2023, which specifically recognise the unique operational requirements of Data Centre Parks and enable the Developer or its Associate/Operator to undertake the specialised activity of development and maintenance of power distribution infrastructure and procurement of power. The said policy framework has been formulated by the State Government after due consideration of the larger public interest associated with promotion of digital infrastructure, investment, and economic development within the State. While formulating the Policy and issuing the aforesaid Notification, the State Government was fully conscious of the fact that Data Centre Parks would necessarily be established within the area of supply of an existing distribution licensee. Nevertheless, the Policy specifically enables a separate distribution framework for Data Centre Parks in recognition of their specialised requirement for highly reliable, resilient and dedicated electricity infrastructure. Accordingly, the grant of the licence sought by the Petitioner is not only consistent with public interest but is also in



furtherance of the express policy objectives of the Government of Uttar Pradesh.

40. It is submitted that grant of a distribution licence for the Data Centre Park, which is a discrete, specially notified area under the Data Centre Policy 2021 and not part of the general public supply area, will in fact subserve the public interest by ensuring uninterrupted, technically specialised power supply to a critical and capital & power intensive infrastructure facility, consistent with the object of the EA 2003.
41. As such, AESSEL further states before this Hon'ble Commission that in terms of the present petition and post grant of distribution license, it shall duly comply with the duties and obligations of a distribution licensee as laid down under Sections 42 and 43 of the EA 2003 read with the provisions of Distribution License Rules. In terms of the said provisions of law, AESSEL shall develop and maintain an efficient, coordinated and economical distribution system in its Proposed Area of License. Further, AESSEL, without any discrimination, upon receipt of any application by the owner or occupier of the premises, shall provide electricity connection to such premises as per the provisions of law.
42. In view of the above and the detailed submissions made in the captioned Petition, it is submitted that the Petitioners duly comply with all the requirements of capital adequacy, credit-worthiness, or code of conduct as specified under Section 14 of the EA 2003 read with Distribution License Rules. Once the Applicant complies with the requirements under the Act and the aforementioned Rules, it is the mandate of 6th proviso that no Applicant shall be denied of the distribution license. Therefore, AESSEL is entitled for grant of Distribution License by this Hon'ble Commission in terms of 6th proviso to Section 14 of the Electricity Act, 2003.



43. It is therefore beseeched that this Hon'ble Commission ought to reject the allegations and contentions of the Objector and allow the present petition, thereby granting the distribution license to AESSEL under Section 14 of EA 2003 and the extant Regulations, for the Proposed License Area.
44. The Petitioner craves leave to place on record such further submissions, clarifications, statutory provisions and documents as may be necessitated in the course of these proceedings, and reserves its right to file a further and more detailed rejoinder, if so directed by this Hon'ble Commission.
45. That, I state that the present Affidavit has been made in *bonafide*. It is most humbly submitted that in the interest of justice, equity and fairness.

2/18/10/07
I identified the deponent who
has signed in my presence

VERIFICATION

I, the Deponent above named do hereby verify that the contents of the above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this 26 SEP 2026 day of September 2026.



ATTESTED
NOTARY PUBLIC
(INDIA)

26 SEP 2026



DEPONENT

