Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005.
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Case No. 178 of 2025

Petition of M/s Mindspace Business Parks Private Limited (MBPPL), M/s Gigaplex Estate Private Limited (GEPL), and M/s KRC Infrastructure and Projects Private Limited (KRCIPPL) for approval of Power Purchase Agreement (PPA) and adoption of tariff for procurement of 60 MW power for a period of 20 years from wind-solar hybrid power projects.

Coram
Smt. Valsa Nair Singh, Chairperson
Shri. Anand M. Limaye, Member
Shri. Surendra J. Biyani, Member

M/s. Mindspace Business Parks Private Limited,	: Petitioner 1
M/s. Gigaplex Estate Private Limited,	: Petitioner 2
M/s. KRC Infrastructure and Projects Private Limited,	: Petitioner 3
V/s	
M/s. Sunsure Energy Private Limited	: Respondent 1
M/s. Sterling Agro Industries Ltd.	: Respondent 2

Appearance

For the Petitioner	: Mr. Palaniappan Meyyappan (Rep.)
For the Respondent 1	: Ms. Priyanka Vyas (Adv)
For the Respondent 1	: Mr. Nitin Chimote (Rep.)

ORDER

Date: 22 April 2026

1. The petitioners, M/s Mindspace Business Parks Private Limited (MBPPL), M/s Gigaplex Estate Private Limited (GEPL), and M/s KRC Infrastructure and Projects Private Limited (KRCIPPL) has filed this Petition on 18 July 2025 for approval of Power Purchase Agreement (PPA) and adoption of tariff (Rs. 4.35 to 4.40/kWh) determined through transparent process of bidding under Section 63 of the Electricity Act, 2003 and in accordance with 'Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects' issued by Ministry of Power, Government of India, on August 21, 2023, for procurement of 60 MW power for a period of twenty years from grid connected wind-solar hybrid power projects.

2. At the E-Hearing held on 28 November 2025, after hearing all parties, the Commission allowed parties to file written submissions and reserved the matter for orders.

3. Respondents, Sunsure Energy Private Limited (SEPL) and Sterling Agro Industries Ltd (SAIL), vide their respective submissions, have requested the Commission to adopt the tariff determined through a transparent competitive bidding process.

4. As an order in this matter could not be issued before the Chairperson, who heard the matter, has demitted the Office, this case was listed for a de novo hearing.

5. Petitioners vide submission dated 12 March 2026 requested the Commission to allow it to withdraw this Petition**.** Petitioners stated that, considering the changing business landscape in SEZs and uncertainty in long-term demand forecasting, it's prudent not to make long-term capacity commitments now. Therefore, they propose cancelling the bid process for 60 MW power from grid-connected wind-solar hybrid projects for twenty years. Instead, Petitioners consider procuring power through a medium-term framework rather than a 20- 25 year PPA, offering flexibility to adapt to evolving demand and business conditions.

6. **At the de-novo hearing held on 17 March 2026,** the Advocate of the Petitioners requested the Commission to allow them to withdraw the present Petition. Representative and Advocate for the Respondents opposed such withdrawal and stated that the Tariff discovered through the transparent competitive bidding process ought to be adopted by the Commission under Section 63 of the Electricity Act, 2003. Respondents have further contended that they have made substantial investments to supply power to the Petitioners under this bidding process.

7. Sterling Agro Industries Ltd vide its submission dated 1 April 2026, opposed the withdrawal of the Petition. It states that, post-bidding process under Section 63, Petitioners have issued an LOA for bidding contracts. It further relied upon Hon'ble APTEL judgment dated 16 December 2011 in Appeal No. 82 of 2011 titled ***Essar Power Limited v. UPERC & Ors.***, wherein the Hon'ble Tribunal in similar factual circumstances and considering similar RfS clauses held that procurer has foregone its right to terminate the rights of successful bidder post filing petition with the appropriate commission and even right to terminate on the basis of the market condition post issuance of the report of the evaluation committee. Accordingly, it requested the Commission to reject the Petitioners withdrawal application and adopt the tariff discovered through competitive bidding. Without prejudice to these submissions, Sterling Agro Industries stated that in case the Commission allows withdrawal of the Petition, then the Petitioners will be directed to return the bank guarantee and EMD submitted during the bidding process, and they should be compensated for expenses incurred to keep the bank guarantee alive and damages for losses suffered.

Commission's Analysis and Ruling:

8. As the Petitioners themselves have requested to allow withdrawal of the present Petition, the Commission is inclined to allow the same. However, Respondent have relied upon the judgment of the Hon'ble APTEL to state that under Section 63 of the EA 2003, Petitioners have foregone their right to terminate LoA/ bidding process post filing of petition for adoption of tariff before the Commission and hence Respondents have requested the Commission to adopt the tariff discovered through the competitive bidding process under Section 63 of the EA 2003.

9. The Commission notes that, under Section 63 of the Electricity Act, it cannot act as a mere post office without addressing the competitiveness of the price discovered in the bidding process. As per Section 86(1)(b) of the Electricity Act, 2003, the Commission is responsible for regulating the electricity purchase and procurement process of distribution licensees, including the pricing of electricity procured from generating companies or other sources.

10. The Commission notes that the Hon'ble Supreme Court vide Judgement dated 8 January 2024 in Civil Appeal No. 6503 of 2022 (Jaipur Vidyut Vitran Nigam Ltd. & Ors Vs MB Power (Madhya Pradesh) Limited & Ors) held that the Commission has power to question as to whether the rates quoted are market aligned or not, specifically, in the light of ample powers vested with the State Commission under Section 86(1)(b) of the Electricity Act, which also includes the power to 61 regulate the prices at which electricity shall be procured. The relevant para is reproduced below:

> *"....77.* ***If the contention of the respondent No.1-MB Power that the procurer is bound to accept all the bids emerged in a competitive bidding process once the bidding process was found to be transparent and in compliance with the Bidding Guidelines is to be accepted, in our view, it will do complete violence to clause 5.15 of the Bidding Guidelines itself. If that view is accepted, the DISCOMS will be compelled to purchase electricity at a much higher rate as compared with other suppliers. The said higher rate will be passed on to the consumers. As such, accepting the contention of the respondent No.1 would result in adversely affecting the interests of the consumers and, in turn, would be against the larger public interest****. For example, if in a bidding 60 process for 1000 MW power, 10 persons emerged as "qualified bidders". L-1 bidder quotes Rs.2 per unit for 100 MW power and L-2 bidder quotes Rs.2.25 per unit for another 100 MW power and from L-3 bidder onwards, they start quoting Rs.10 per unit and above for balance 800 MW power, could the public interest be subserved by compelling the procurer to buy balance 800 MW power at Rs.10 per unit and above when the prices quoted are totally not aligned to market prices.*
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> *78.* ***We are, therefore, of the considered view that the learned APTEL has grossly erred in holding that the State Commission has no power to go into the question, as to whether the prices quoted are market aligned or not and also not to take into consideration the aspect of consumers' interest****.*
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> *79. When the Bidding Guidelines itself permit the BEC to reject all price bids if the rates*

quoted are not aligned to the prevailing market prices, there is no question of the State Commission being not in a position to go into the question, as to whether the rates quoted are market aligned or not, specifically, in the light of ample powers vested with the State Commission under Section 86(1)(b) of the Electricity Act, which also includes the power to 61 regulate the prices at which electricity shall be procured from the generating companies, etc. The finding of the learned APTEL, in our view, therefore, is totally erroneous. ..."

11. The Commission further notes that the Hon'ble Supreme Court vide Judgement dated 2 January 2025 in Civil Appeal Nos. 7463-7464 of 2023(Municipal Corporation of Delhi Vs Gagan Narang & Ors) held that the Commission has to examine whether the interests of the generators/Discoms on one hand are balanced with the interests of the consumers.

40. The legislative intent behind Section 86(1)(b) of the Act is to empower the State Commission to regulate all matters regarding the electricity purchase and procurement processes.

41. ***As held by this Court in the case of Jaipur Vidyut Vitran Nigam Limited and others v. MB Power (Madhya Pradesh) Limited and others, the State Commission is not a mere post office, but a duty is cast upon it to balance the interests of consumers on one hand and that of generators or Discoms on the other hand.*** *If the provisions of Section 63 of the Act are read in harmony with the provisions of Section 86(1)(b) of the Act, the legislative intent that could be gathered is that the State Commission while exercising its powers under Section 63 of the Act shall adopt the tariff when it has been determined in the bidding process. However,* ***while adopting the same it will have to be satisfied that the same is done in a transparent manner. It will also have to be examined as to whether the interests of the generators/Discoms on one hand are balanced with the interests of the consumers.***

42. In our view, reading the Section 63 of the Act in the manner in which it has been interpreted by the APTEL, would impose unnecessary restrictions on the powers and duties of the State Commission under Section 86(1)(b) of the Act, which are of a very wide amplitude. .."

12. The Commission notes that Respondents have stated that the tariff discovered in the present matter (Rs. 4.35 to 4.40/kWh) is reflective of market conditions if factors such as a lower bid quantum, the relatively higher Wind contribution in hybrid power, etc., are considered. In this regard, the Commission is of the opinion that although the Petitioners have not taken any deviation from bidding guidelines, if their proposed wind-solar mix in Hybrid power is causing an increased tariff, then to protect the consumer interest, the Commission has to intervene using its powers to regulate the power procurement process and rate. The Commission notes that proposed power procurement is for 20 years and forms a substantial part of the total power procurement of the Petitioners. Entering such long-term power procurement at a relatively higher tariff when the option of RE power procurement at a lower tariff is available will be

against the consumer's interest.

13. The Commission notes that the discovered Tariff is not competitive in terms of the present market conditions and the recent Tariff adopted by this Commission for Wind-Solar Hybrid Power (MSEDCL – Rs. 3.42-3.43/kWh, TPC- Rs. 2.59/kWh). The Commission cannot adopt a tariff that is not market-aligned.

14. Also, the Petitioners themselves have requested permission to withdraw this Petition. Hence, the Commission allows such a request with the direction that the EMD and Bank Guarantee submitted by the respondent be returned within 15 days from the date of this Order.

15. Having ruled as above, if Respondents still have any grievance against Petitioner, they are at liberty to raise the same by resorting to appropriate legal proceedings.

16. Hence, the following Order.

ORDER

The Petition in Case No. 178 of 2025 is disposed of as withdrawn.

Sd/-	**Sd/-**	**Sd/-**
(Surendra J. Biyani)	**(Anand M. Limaye)**	**(Valsa Nair Singh)**
Member	**Member**	**Chairperson**

(Dr Prafulla S. Varhade)
Secretary