

Sharing of Expectations and Concerns between Regulators and Civil Society Institutions¹

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Mr. Chairman, Dr. Godbole, distinguished participants and friends,

Let me first talk about the Regulator's concerns at this point in time in Maharashtra. You are perhaps aware that the regulator has been given a very limited role to play in this State, unlike in other States. Till recently, our role was largely confined to the determination of tariff. Since the 27th October 2000, the additional power of adjudicating disputes and differences between utilities and licensees has been conferred on the Commission.

Now, as regards tariff determination, our first concern was to ensure a totally transparent process and, as a first step, we directed that the utility's proposal should be made known widely to all those who would be affected by any revision in the existing rates. Earlier, the procedure was different altogether in that it was more or less non-transparent so far as the consumer was considered. A tariff revision proposal would be received from the MSEB. It would be examined by the Energy Department of the Government. The file would be sent to the other concerned Departments, namely, Finance, Industries and Agriculture. These departments would record their views on the proposal. Thereafter, a Note for Cabinet would be prepared and circulated to the members of the Cabinet. If the Cabinet thought that the time was right for a revision from all points of view, especially political, the matter would be decided. If not, the matter would be postponed. It may even go into limbo till the time was considered right. As soon as it was decided, the Chief Minister would announce it at a press conference. No consultations with consumers, bodies representing consumers, etc., was envisaged.

So, as soon as we in the MERC received the proposal from the MSEB in October 1999, our first step was to make the proposal widely known all the over the State. We directed the Board to make available copies of the proposal in every office of Executive Engineer in the State, of course, at a nominal price. We invited objections from the consumers before a certain date in December in the form of affidavits. A copy of these affidavits had also to be endorsed to the MSEB by the objectors. We received some 500 such documents. We then announced the dates of public hearings at six different places in the State: Aurangabad, Nagpur, Amravati, Nashik, Pune and Mumbai.

Our next concern was to hold these public hearings in such a manner that it would afford an opportunity to everyone concerned to offer any oral evidence that he may have to support whatever he has stated on affidavit about the proposal. We had made arrangements to record all this evidence on audio tapes and we selectively videographed the proceedings for our record. For assisting us during the proceedings, we had appointed two well-known NGOs, Prayas of Pune and Mumbai

These are Mr. Chary's Personal Views

Grahak Panchayat, to represent the interests of consumers as required under the Electricity Regulatory Commissions Act. These two organisations made very effective presentations before the Commission and literally x-rayed the proposal of the electricity board. For helping the Commission to conduct the quasi-judicial proceedings, we had engaged a Counsel for the Commission.

Our third concern was to get a sufficiently senior representative of the Board to answer the various points raised in the affidavits and the oral evidence adduced, on each day of the proceedings. The Superintending Engineer, the Chief Engineer, the Accounts Member, the Technical Member and the Chairman of the Board gave evidence on oath clarifying the various points at these hearings from the MSEB's viewpoint.

The next step that we took in the tariff determination process was to validate the data presented by the Board with the help of our techno-economic consultants, M/s ICRA Advisory Services, and the representatives of consumer organisations. The data examined was relating to the revenue and expenditure of the Board. When we found serious discrepancies in the data, we directed the Board to submit a more comprehensive proposal for the year 2000-2001. We held another round of public hearings based on the comprehensive proposal and then wrote out our tariff order for release on the 28th April/5th May 2000.

Our concern, while preparing the tariff order, was to ensure that it would be a speaking order in the sense that it would answer every one of the issues that arose during the hearings. Our tariff order is a 197-page document. Even at the risk of being called immodest, we would say what the press and other informed people have already said, namely, that our order is a path-breaking order. We introduced a number of innovations. We have directed complete meterisation within three years in the State. We have insisted on the installation of Time of Day meters for high tension industries within a certain time-limit. We have incentivised shifting of load from peak hours to non-peak hours. The two part tariff system will be implemented progressively for all categories of consumers. We have attempted to quantify the real transmission and distribution losses in the Board's system. We have directed the Board to reduce these losses by 5 per cent during 2000-2001. In the matter of power purchase, the Board will have to follow the merit order principle. We have disallowed certain expenses as we considered them to be not properly chargeable within the meaning of Section 59 of the Electricity Supply Act of 1948. Our order is, of course, appealable before the High Court.

Our concern was also to create, through our tariff order, an atmosphere where any intending investor in the power sector would feel assured that the setting of tariffs is based on objective, logical and rational considerations and was not actuated by political or populist considerations.

Imitation, they say, is the best form of flattery. The Gujarat Commission, which is presided over by a former High Court judge, has recently come out with its tariff order. If you peruse it, you will find that it follows the pattern of the Maharashtra order to a large extent. I am confident that other Commissions would also do likewise in the days to come.

Let me now say a word or two about our expectations from civil society. Setting up of ERCs is only one part, though an important part, of power sector reforms in our country. Our SEBs, almost without exception, are in a financial mess today. The Rajadhyaksha Committee report submitted to the State government in December 1996 had spelled out eloquently the reasons for this state of affairs in the MSEB. It had also charted out the rational steps to be taken to get out of this mess. There was, however considerable reluctance, delay and dragging of feet on the part of the MSEB and the State government to implement their recommendations. I would say that the failure of civil society in this regard was its inability to put pressure on the MSEB and the Government to take timely steps to remedy this situation, to ensure that things did not become worse, that they did not go beyond repair.

Take this question of power sector reforms. Setting up the ERC is one aspect of the reforms. So far, so good. It would help in insulating tariffs from considerations of politics and competitive populism. More importantly, a number of other steps have to be taken by the State governments. It is almost axiomatic to say that monopolies breed inefficiency, lackadaisical attitudes in staff and workers, insensitivity to consumers, and, often, corruption. For SEBs which are as large as the MSEB, there is an urgent necessity to split them up into at least three entities of manageable proportions: one each for generation, transmission and distribution. This will help in locating where the malaise is most serious. Focused attention can then be given. Today, the problem is to identify where to start the repair. In their wisdom, Central and State governments thought in 1991 that the best place to start was from the generation end. The famous IPPs approach. Fast track projects. Where has it got us? Practically no where.

Now, everyone is veering around to the view that the real test is on the distribution side. Unless the present monopolistic situation is replaced by a system where there is healthy competition, things will not improve. Tariffs will keep on going up on a cost plus approach, from tariff revision to tariff revision. This is where civil society can play a role. It can help to change the mind -set of governments and even of union leaders. Other States have gone ahead. Maharashtra has lagged behind, unfortunately.

For all this, civil society should be prepared to impose some self -restraint and self-discipline. People will have to be educated to believe that they must be prepared to pay reasonable user charges, whether it is for electricity, drinking water and sanitation, cooking gas, telecommunications or for transport services. If a politician promises free power to, say, farmers, as one politician did, not very long ago in this State, civil society must protest and rebel against that idea and should give vocal and other expression to it.

Take, again, this question of reintroducing meters for every consumer in the State. If you go to purchase brinjals or potatoes in the vegetable market, will you not insist that the vendor measures the commodity on his weighing scale? Or, will you say, OK, don't bother, you look too old or too ignorant to make the effort. Apply flat rate tariff. Give me something, anything. I will give you Rs. 5/-. That is precisely what the State government and the MSEB did in 1997 when the system of horse-power tariff was introduced for agriculture in this State. And all the other States followed suit like dumb, driven cattle. And if the SEBs are in the mess that they are in today,

that fateful decision in 1977 is almost the genesis of this situation. What exactly was civil society doing at that time, I would like to ask? Should not someone have protested? My expectations from civil society would be to be ever vigilant in such matters at least from now onwards and to apply the corrective before the situation goes out of control. On that note, I will end. Thank you for your attention.

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