

Supplementary Submission to MERC (24th April 2000)
Case 1/99 – Revised Tariff Proposal of MSEB for the Year 2000-2001

Index:

- I] Additional Points Made at the Time of Oral Presentation on 11th April 2000**
- II] Rejoinder to MSEB's Reply to Prayas (dated 17th April 2000)**
- III] A Plea for Balanced and Long-Term View**

This submission discusses only the additional points that were mentioned at the time of the public hearing on 11th April 2000. This submission also contains comments on MSEB's reply (dated 17th April 2000) to our earlier submission.

I] Additional Points Made at the Time of Oral Presentation on 11th April 2000

1. **DPC related Expenditure:** The MSEB proposal contains some expenditure that relate to its investments in Dabhol Power Company (DPC). The scope of the tariff proposal should be restricted only to the "regulated" activities of MSEB. Any expenditure for "unregulated" activity cannot be and should not be included in the tariff proposal and should not be loaded on consumers. In other words, MSEB cannot have the cake and eat it too.

Thus, in the case of its costs of "unregulated" activities, MSEB should be made to choose either of the following two paths. (a) If MSEB chooses to continue with inclusion of this cost, then, MSEB has to accept that its investments related to DPC comprise of regulated activity. In that case MSEB should have taken the consent from the other equity partners in DPC and should have submitted a copy of the same to the Commission. (b) The second path open to MSEB is to take a position that its investments in DPC are not part of its "regulated" activities. In this case, MSEB should withdraw this cost item from the proposal. If MSEB continues to maintain this duality, then the Commission should disallow the part of the costs for private placement bonds that are related to investments in DPC i.e., Rs. 180 crores (refer page no. 217 of the revised proposal).

2. **Difference between PLF and Availability of Thermal Plants:** The MSEB proposal mentions that due to the poor coal quality, the thermal plants of MSEB are not performing as expected, and it is resulting in a loss in capacity of about 11% (i.e. 676 MW) (refer page 193, 194 of MSEB's revised proposal). This has a very large impact on the economic operation of plants. The need for high cost projects like DPC (that supplies 740 MW) could have been largely offset, if the overall plant performance was up to the mark and this capacity is not lost.

The economic impact of this loss in availability is very large for MSEB. The loss to MSEB is due to two factors:

(A) First factor is the cost of unnecessarily increased capacity. This added capacity cost needs to be deducted from the capacity cost of the newly added plants such as DPC. As per the MSEB proposal, the fixed cost of DPC is Rs 1,020 crores p.a., implying a capacity cost of Rs 1.378 crores per MW per year. For the unnecessarily added capacity of 676 MW, the total capacity cost is equal to Rs 932 crores p.a.!

(B) The second aspect relates to the higher fuel cost of plant such as DPC compared to that of coal plants. The average fuel cost of coal plants is Rs 0.85/U, whereas, for DPC, it is in the range of Rs 2.33/U. The difference in fuel cost works out at Rs 1.48/U. If the above said capacity were available then DPC generation could have been avoided to that extent. A rough estimate of this increased fuel cost can be arrived at by multiplying the likely generation of this capacity, with the difference in fuel costs. The likely generation of 676 MW is at least 2961 MU (at 50% PLF). Implying a annual loss of Rs 438 Crore.¹

Thus, the total of the increased costs due to the two factors mentioned in A and B is **Rs 1,370 crores p.a.** Any measure, like coal washery, blending of imported low-ash coal or even change / addition of equipment at the thermal plants would have been far more economical than this increased costs. We wonder if MSEB has done calculations for such comparative options' assessment exercises. MSEB should produce options assessment analysis in this context, if it wishes to prove that its operations are economical.

To take an example, import of coal is cost-competitive near the shore. Hence, blending of imported coal may have negligible increase in cost. The other option might be to simply modify / add boiler and related equipment that can burn additional coal. Our calculations suggest that addition of 11% boiler capacity should not cost more than Rs 700 crores of investment². The third option would be to add a coal washery unit. Due to lack of data on costs of coal washery and port-cost of imported coal, we take the cost of addition of boiler capacity for making further calculations.

Hence, by not making “one time investment” of Rs 700 crores, MSEB is suffering a loss of Rs 1,370 crores per annum. This is simply not an efficient operation and there is little justification for passing on costs of such extravaganza onto consumers. Though the Commission does not have control over MSEB's investments and choice of projects, it at least could help the consumers and the sector by taking a very strong view of projects that do not fit the criteria of "least-cost". We request the Commission to consider this point carefully.

3. **New Investments in Generation:** Some reports indicate that MSEB is planning new investments in power generation. It is very much a legal right of MSEB to go ahead

¹ On the higher side the plant can run at same PLF as the whole of thermal plant (i.e. about 80% PLF). Then the avoided fuel cost would be proportionately higher – Rs 700 Crore p.a. (Rs 263 Cr more than above estimate).

² This calculation assumes following information which is true to my belief. Boiler including accessories cost about Rs 20 Lakh / TPH of steam. A 4 TPH boiler equals one MW electrical O/p. Add a maximum of another 25% for miscellaneous costs, synchronizing controls etc. Implying a investment of Rs. 1 Crore / MW. This equals Rs 676 crore investment for all plants. To round it off consider a cost of Rs 700 crore on the higher side.

with such plans after it has convinced itself that these are the least cost options. When MSEB claims this expenditure in tariff proposal, at that time it will be essential for it to prove that these were really the least cost options. If proved otherwise, it will be required that the Commission does not pass on the unjustified cost to the consumers. Hence, we request the Commission to caution MSEB through its order in this regard.

To avoid complications in future, MSEB may choose to submit its 'generation expansion plan' (and other such major investment plans) to the Commission. This will help MSEB get Commission's opinion on the least cost nature of its plans. We do understand that this is not required legally but may help avoid a situation where the Commission will be forced to disallow huge expenditure.

4. **Use of Existing Assets of MSEB for Non-Regulated Business:** Reports in media also indicate that MSEB is planning to use its power distribution network for laying optical fiber cables, to be used for purposes not related to supply of power. This constitutes a non-regulated activity, which would be using the infrastructure created for the purpose of carrying out regulated activity. Such steps can earn additional income for MSEB and it is a welcome step. But we wish to point out that (a) all such income should be shown by MSEB, and should be deducted from the revenue requirement in its calculations. (b) MSEB should take due precautions to maximize such benefits to the consumers.

II] Rejoinder to MSEB's Reply to Prayas (dated 17th April 2000)

The following points are constitute a rejoinder to MSEB's reply (dated 17/04/2000) on our comments. For the sake of convenience, the paragraph numbering is continued from the last section.

5. **Wheeling Charges :** Point 2 in MSEB's reply pertains to 'Wheeling Charges'. MSEB accepts that an income of Rs 5 crore has been left out by oversight. In addition, it says that wheeling charges paid by TEC are nullified against the 'wheeling charges' paid to TEC for feeding MSEB consumers. MSEB needs to confirm that these payments to TEC are not shown in expenditure. If the expenditure would be shown as payments to TEC (which generally is the case), then it would be essential that the income is also shown on income side in MSEB's account. Coming to the issue of frequency-based penalties, which are uncertain in nature, we have a similar comment to make. If MSEB shows penalties paid to other organizations (such as GEB and MPEB), then it also has to show the penalties paid by other organizations on income side— whether it is materialized or adjusted in subsequent bills. Further, it needs to be mentioned that MSEB has considered income on this account while estimating the rate of return (RoR) in earlier years. Considering all these factors, we urge the Commission to deduct this amount of Rs. 60 crores from the proposed tariff increase.
6. **Partial Recovery of “Other Income” and “Recovery Cost of Agricultural Consumers”:** MSEB argues that incomes in the category of “Other Income” (such as 'delayed payment charges') are not a primary revenue source. MSEB also argues that these incomes are subject to waiver / remission depending on the circumstance. In the case of 'recovery-cost' of agricultural bills, MSEB argues that for commercial considerations it has to offer such incentives. We wish to argue that all such reduced

income (of whatever nature) due to commercial considerations should be brought under a single heading.

The 'Bad-Debts' need to be written-off because it is commercially not possible for MSEB to recover these dues in timely fashion, though MSEB has other avenues such as 'supply disconnection' available to it. Hence, all such items relating to waivers for commercial considerations or to difficult-to-recover dues need to be clubbed together under the rubric of “Bad-Debts or Write offs”. Moreover, all such decisions have similar impact on revenue as well as on need for tariff increase.

7. **B-80 Adjustments** : In this context, we wish to put forth the following points.

The first striking point is the fact that the B-80 adjustments are of a very large magnitude. As per the table in point D2, this amounts to **15% of the “Net Demand”** and over Rs. 400 crores. for 12 months. The second striking point is the absence of HT consumers in this list. It needs to be investigated whether the B-80 adjustment for HT consumers are done through some different procedures and remain hidden somewhere under some innocuous-looking account-head. It is a welcome step that MSEB has initiated a detailed scrutiny of B-80 adjustments. Though MSEB has given a detailed reply to this point, it is very difficult to ascertain whether all the B-80 adjustments are justified.

Looking at the very large magnitude of the amounts involved, we request the Commission to treat B-80 adjustments as a special issue. The present tariff judgement may include a conditionality that MSEB gets all adjustments in bills audited by an independent, technically-qualified agency. The name of the agency should be suggested by the Commission. If the audit finds major lacunae in these affairs or some of the adjustments could not be justified, then the Commission should reserve the right to disallow such items at a later date. Such amounts should be later incorporated as a tariff correction – on the similar lines as that of FCA charges. By that time it will also be clear whether MSEB's claim that B-80 amounts will reduce due to improved software realize in practice. This audit should cover all the inputs that go in for billing including the corrections in the bill (such as B-80).

8. As regards Point 3 relating to agricultural data, we wish to reiterate that a scientifically designed sample and routine monitoring of consumption are necessary. We reserve the right to make representation on our contention that MSEB was hiding data related to the agricultural consumption.
9. As regards Point 5 referring to the accuracy of billing, we wish to point out that the bills are not printed in a fully transparent manner. For example, in the printed bill in the matter, the meter reading and the date (mentioned as “*Magil*” or Earlier) do not have any relation with each other. Such lacunae should be removed.
10. As regards Point number 7 related to supply interruptions, we wish to reiterate that it is not sufficient to discuss this matter in generality. For a firm assessment of performance, causes of supply interruption need to be documented. Preparing documenting on important parameters (such as number of times supply was interrupted, and causes of the interruption, duration of the interruption) is but

essential. These results should be publicly displayed from the lowest to top levels of MSEB offices. Comparison with past track record should also be maintained and displayed. Only with such elaborate systems, a proper assessment of performance could be done.

11. We also wish to request the commission to look into the issue of judicial procedure applicable for booking the cases of power theft and comment on the same.

III] A Plea for Balanced and Long-Term View

At the end of this last submission, before we come to our last plea, we wish to express our happiness over the fact that the process of regulatory oversight has started bringing out several inefficiencies of MSEB in open. It also needs to be mentioned that MSEB seems to have initiated steps to correct some of these inefficiencies. This is a very important and positive achievement of the process, for which we wish to complement the Commission and MSEB. At the same time, we also feel that this is only a beginning and several areas of inefficiency are yet to be touched upon.

Coming to our last plea, in our submissions to the Commission during this case, compelled by the then prevailing situation, we have been focusing largely on various inefficiencies in the functioning of MSEB and on systems that would help achieve some improvement in this situation. However, at the end of this last submission, we wish to reiterate our basic position that, at least during the critical initial phases, the regulatory commissions need to take a comprehensive, balanced, and long-term view on the regulatory process and hence need to be extremely careful about implications of their decisions. Such a view and the caution is required by the real-life complexities surrounding the role power sector plays in developing societies, by the imperatives of diverse society governed by a less-than-ideal democratic system, and by the historic burden of underdevelopment and state-centeredness.

The "comprehensiveness" refers to the implications for diverse areas of economy and society that have connections with the power sector and hence are affected by tariff decisions in the power sector. While the term "balanced" refers to the balancing act the Commissions will have to perform in order to overcome various contradictions in the ground reality and legal mandates, the term "long-term" emphasizes the need to focus on long-term implications of the regulatory decisions, despite pressures for short-term relief.

We request the Commission to look at the tariff revision application in this broad perspective. In delivering the first order on tariff revision application by MSEB, MERC is expected to (a) rationalize the tariff structure and (b) ensure a fair deal to consumers by preventing the utility to pass on the unfair costs (that relate to its inefficiency). These decisions, though long overdue, are hard decisions. These will cause hardships not just to some groups of consumers but also to MSEB. As seen in other parts of the country and the world, this transition from one system to other system will be a difficult process for both. We wish to emphasize here that, in order to ensure long-term sustainability of the sector as well as to ensure continued public faith in the regulatory process, it is of utmost

importance that this transition is as smooth as possible. In short, this situation calls for a gradual approach in dealing with the tariff revision application.

The first imperative of the gradual approach is that tariff increase for any category of consumers (however subsidized it may be) should not exceed a certain limit, say of 30% or 40% (please refer to the 'Note on Agricultural Tariff Policy' in our submission dated February 5, 2000). This would be a difficult proposition in the light of the all-pervading clamor for immediate and complete relief in tariff. However, it needs to be understood that, as a result of the historical promise of subsidy, many individuals and institutions have made serious financial, economic, and other types of commitments, putting their assets at stake. If viability of their ventures comes under threat due to drastic tariff hikes, these players (which include a large number of poor individuals) will have to pay a very high price for it, causing serious disruptions in society and economy³. This, in turn, might pose serious threats to the very public support to this otherwise extremely positive and essential regulatory process. We wish to point out that it is no fault of these individuals that the mainstream wisdom—underlying past agricultural, financial, and power sector policies that not only encouraged but coaxed them to make these commitments—has changed so suddenly and so drastically. These commitments made under the subsidy regime are not easy to retract or rearrange so suddenly, especially for the disadvantaged sections, who do not have access to knowledge and resources required to remedy the situation in such a sudden manner. In this background, it becomes imperative that these consumers are allowed sufficient time for making the transition and also that they are provided with the necessary support (in terms of knowledge and investment, wherever needed) for making the transition.

It is certainly relatively easy to force MSEB to minimize various inefficiencies. But even in this case it needs to be acknowledged that this involves a complex process, which might take two to three years to bear results of satisfactory level. Hence, we have requested the Commission not to disallow all of the excessive T&D losses of MSEB in one step (contrary to what is indicated in Point 4 of MSEB's reply). What we request the Commission to do is to recognize and acknowledge the inefficiencies pointed out and disallow a part of the associated losses to the extent which, in Commission's view, could be rectified in a year's time.

Such an approach has important implications. Most importantly, in the transition period of few years, some sections in society have to continue paying for the cost of inefficiency, though at decreasing level and only for a limited period, thanks to the regulatory intervention. This will be required in order to ensure financial sustenance of the utility, obviously assuming an improving level of efficiency in its operations due to regulatory oversight. In this light, we request the Commission to give due importance to the long- term public interest (in the form of financial viability of the utility), while some

³ The NABARD loans for example, continued to assume subsidised electricity until late. Such loans, taken for say pumping systems, involving mortgaging of lands by a large number of small and marginal farmers. Any threat to these mortgaged lands would lead to serious implications such as farmers committing suicides.

sections of public might express serious and vocal concerns for the short-term objectives such as drastic and immediate lowering of tariff.

This also requires that the Commission should emphasize on eliminating, or at least minimizing, the irrational and unjustified drains (present and impending) on utility finances. We request the commission to be highly proactive in this respect. An example of this is the high-cost private power that is adding a very large financial burden on MSEB. Another example is the best utilization of existing capacity and preparation / adherence to the least cost plan.

The last point we wish to make relates to the non-vocal class of consumers and more importantly the NON-consumers. The regulatory process might prove inaccessible and hence unfair to these classes due to its structural limitations. The quasi-judicial process relying heavily on techno-economic criteria might result in the vocal and articulate class having higher influence on the process. Even this is as bad as the earlier situation where other factors allowed unjustified influence of certain sections on decisions. Unfortunately, while the disparity in all aspects of lives and in every sense of the term is extremely high in our society, our nascent regulatory system has nothing like the American institution of 'Office of Public Advocate', which has the sole job of representing the non-represented (or not so well represented) classes of consumers. Hence, in absence of such safeguards, we request the Commission to be extra careful about this category of consumers.

At the conclusion, we wish to request the Commission—while delivering its tariff order—to take a long-term view, to consider the ground-reality, to be cautious in dealing with the genuine and disadvantaged, and be strict and proactive in dealing with distortions and disruptions.

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