

Form I
(See Regulation 28)
Before the Maharashtra Electricity Regulatory Commission, Mumbai

Filing No.

Case No.

IN THE MATTER OF

Petition requesting the commission to seek status and copies of various power purchase related contracts, commitments, clearances etc. related to IPP projects of MSEB.

IN THE MATTER OF

Petitioner / Applicant:

Prayas,

Amrita Clinic, Athawale Corner, Karve Road, Deccan Gymkhana, Pune 411 004

Tel: (020) 544 1230 Tel/fax: (020) 542 0337

Respondent:

Maharashtra State Electricity Board,

Prakashgad, Bandra

Mumbai.

The Honorable Commission is duty bound to perform the functions in the ERC Act 1998, which require the commission to determine tariff (wholesale, bulk and retail) regulate power purchase and procurement process and to promote competition, efficiency and economy in the activities of the electricity industry. In order to perform these functions efficiently and in the public interest, it is essential for the honorable commission to analyze and approve various contracts, commitments and agreements entered into in relation to the power purchase and the process adopted for the same by MSEB.

We are making this petition requesting the commission to direct MSEB to submit all contracts, clearances, and commitments given by the MSEB in the context of power purchase from different suppliers along with chronological listing of events and changes made in these documents. Further, since fuel supply contracts also affect the overall efficiency and economy of the sector, all such contracts, commitments, clearances given by the MSEB, along with chronological list of changes and events should also be submitted

Place: Pune

Date: 7th October 2000

Girish Sant
For PRAYAS

October 7, 2000

Before the Maharashtra Electricity Regulatory Commission, Mumbai

Responsibilities of the Commission

1. The Electricity Regulatory Commissions Act, 1998, which came in to force on 2nd July 1998, under which the Maharashtra Electricity Regulatory Commission (MERC) was established in August 1999, confers vast powers and responsibilities on the MERC.
 - As per section 22 (1) of the ERC Act 1998, the MERC is required
 - ; To determine the tariff for electricity, wholesale, bulk, grid or retail in accordance with Section 29 the ERC Act 1998
 - ; To regulate power purchase and procurement process, and
 - ; To promote competition, efficiency, and economy in the activities of the electricity industry.
 - As per section 29 (d) and (e), fixation of tariff would be guided by factors such as encouraging efficiency, economical use of resources, good performance and optimum investments, and the interests of the consumers are safeguarded.
 - Further, as mentioned in the preamble of the ERC Act 1998, the purpose of the Act is to provide for transparent policies regarding subsidies and promotion of efficient and environmentally benign policies.

The Emerging Scene

2. Further, our analysis indicates that in order to meet MSEB's revenue requirements, an average tariff increase of 9.6 % each year (CAGR of 9.6 %) would be required for the next four years (i.e. between FY 00-01 to 04-05). This estimate assumes that MSEB is able to achieve substantial efficiency improvements resulting in T&D loss levels of only 18% (i.e. reduction of losses by 14%, compared to the present level) and that there is no increase in MSEB's manpower, administrative & general expenses, and R&M expenses compared to FY 2000-01.
3. The above calculation assumes the capacity addition of only 3,700 MW between FY 01-02 and 04-05, as against the capacity addition plan of about 6,500 MW being discussed by MSEB for the same period. Even for a high growth scenario, assuming 7% growth in demand (excluding increase in sales due to reduction in commercial losses), and capacity addition of only 3,700 MW, there would be substantial energy surplus in the MSEB system.

4. The power purchase costs form a significant part of MSEB's total revenue requirement. For example, in the year 2000-01, power purchased from IPPs would form 15 % of MSEB's revenue requirement. In the coming years, power purchase costs are likely to further dominate the total revenue requirement of MSEB. Our analysis, mentioned above, indicates that in the FY 2004-05, the IPP power purchase cost is likely to be around Rs. 11,500 Cr., which would be over 45% of MSEB's revenue requirement. This needs to be compared with MSEB's total revenue requirement of around Rs. 12,500 Crore in FY 2000-01. In other words, increase in IPP power purchase costs would account for over 70% of the total incremental revenue requirement of MSEB in next four years.

Implications

5. Thus, expenditure on power purchase becomes a pivotal factor in many crucial aspects such as,
 - Overall economy and efficiency of the sector: If the power purchase decisions result in over supply, then the average cost of supply would increase, as the plants (of MSEB's and /or IPPs) would run at sub-optimal efficiency and generation levels. Moreover, if the power purchase is made without considering least cost options or is made at un-reasonable costs, then again the average cost of supply would increase, resulting in adverse impact on overall economy and efficiency.
 - Consumer tariff and cross-subsidy: Unreasonable and higher power purchase expenditure and the resultant unreasonable / higher revenue requirement of MSEB would force the Commission to order steeper and higher tariff rise than in case of reasonable decisions regarding power purchase. The sudden and severe tariff shock is then likely to aggravate the severity of social and economic impacts of electricity tariff hike. As developments in other states demonstrate, this could lead to conflict and social tensions. The financial health of the power utility would be adversely affected in this situation.
6. Considering the large scale, lumpy, and contractual nature of power purchase costs it is essential that commitments regarding power purchase be made with utmost care and in a complete transparent manner. Impact of these commitments on demand-supply situation, tariff, and overall economy and efficiency of the sector needs to be evaluated. Appropriateness and reasonableness of these commitments along with possibilities of other least cost options should also be carefully analyzed. Further, such a detail analysis would require substantial effort and time, and it may not be possible for either the commission, the consumers, and the public at large; to address these issues sufficiently during the process of tariff revision. In fact, during the process of Case 01/99, MERC has not analyzed the appropriateness and reasonableness of the capacity payment (of about Rs. 85 Cr./ month) to DPC.
7. Further, the objective of promoting efficiency and economy in the sector requires a long-term perspective about the future financial commitments, efficiency improvement potential, and tariff impacts. Consumers can take adequate action in terms of planning load growth, making investments for efficiency improvements etc.

only if they can visualize the likely cost of power in next few years, say 3-4 years. For this purpose also it is essential that the consumers have an idea of the likely future commitments such as power purchase expenditure.

8. For various reasons mentioned below, it is essential for the honorable Commission to analyze and regulate various power purchase related contracts, commitments, agreements, and the process adopted for the same by MSEB. The reasons for this include, (a) the ERC Act mandates the Commission to 'Regulate the Power Purchase and Process adopted for the same', (b) the power purchase decisions have serious implications on (i) economy and efficiency, (ii) consumer interests, (iii) power tariff, and (iv) transparency of subsidy policies; which are among the prime responsibility and authority of the Commission. In order to fulfill these responsibilities, it is essential for the Commission to procure and start analysing the documents related to power purchase.

Considering these aspects, we are making following prayer before the commission.

9. Prayer:

The commission should immediately direct the MSEB to submit following documents to the commission within one month's period. We believe that all these documents are absolutely essential for undertaking a through analysis of various aspects related to the power purchase expenditure. Further, considering the legal, financial and demand-supply implications of these projects, these documents would be readily available with the MSEB. These documents should also be made available to the petitioners and the consumers.

1. Copies of most recent versions of all contracts, clearances, and commitments (such as PPAs, Government and MSEB support agreements, guarantee and counter guarantee agreements, escrow agreements, CEA and other statutory clearances) in relation to IPP projects of
 - q Dabhol Power Project (Phase I and II)
 - q Reliance Patalganga Project
 - q Bhadrawati Power Project
 - q Liquid fuel based projects
 - q Other generation projects (co-generation, renewable energy, etc.)
2. Fuel supply agreements of these projects, including take-or-pay commitments if any,
3. Chronological list along with relevant documents describing:
 - q The process adopted by MSEB in selecting the promoters, capacity, fuel and approving the costs of these projects
 - q Changes made in the documents mentioned in points 1 and 2 above

4. Documents and status report indicating progress of each of the above projects on following aspects:
 - q Status of various statutory clearances
 - q Financial package and financial closure, equity structure, promoters contribution and equity tie-up / share holder agreements,
 - q EPC contract and O & M Contract,
 - q Project insurance contract,
 - q Power plant construction and expenditure on the project
5. Mathematical / computer models being used or likely to be used by the MSEB to calculate tariff and bill payable to each of the above IPP projects
6. If any of the above documents are not finalized, then the most recent draft version of the same
7. MSEB's estimate of demand – supply situation in the state and MSEB system for the next 5 years, along with detail calculations, assumptions, and supporting information / documents.

- 0 -
