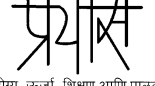


● PRAYAS

Initiatives in Health, Energy,
Learning and Parenthood



आरोग्य, ऊर्जा, शिक्षण आणि पालकत्व
मा निकर्मानैव विभोच सम्यक्

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

Tel.: (020) 65205726: Fax: (020) 2542 0337. E-mail: energy@prayaspune.org Web-site: www.prayaspune.org/peg

July 18, 2012

To,
The Secretary
MERC
Mumbai.

Subject: Prayas submission regarding MSEDCL petition for final True up for FY 2010-11, Aggregate Revenue Requirement (ARR) for FY 2011-12 & FY 2012-13 and Tariff determination for FY 2012-13

Ref: Public notice dated 28th May 2012, MERC case no 19 of 2012

Dear Sir,

In response to above matter, please find enclosed the comments/suggestions on behalf of Prayas (Energy Group) with respect to MSEDCL petition for final True up for FY 2010-11, Aggregate Revenue Requirement (ARR) for FY 2011-12 & FY 2012-13 and Tariff determination for FY 2012-13.

We request the commission to take our submission on record and kindly permit us to make a presentation during the public hearing in Pune on 25th July 2012 and to make additional submissions, if any.

Thanking you,

Yours sincerely

Ashwini Chitnis
Prayas Energy Group
Athawale Corner, Karve Road,
Deccan Gymkhana Pune, 411004 India
Tel. 91-20-25420720, **Mob:** 9822 517 481

Before the Maharashtra Electricity Regulatory Commission, Mumbai
Comments/Suggestion on MSEDCL petition for final true up for FY 2010-11; Aggregate Revenue Requirement for FY 2011-12 & FY 2012-13 and Tariff Determination for FY 2012-13

By
Prayas (Energy Group), Pune
July 2012

This submission deals with the revenue requirement projections and other claims made by MSEDCL in its revised petition for final true up for FY 2010-11; Aggregate Revenue Requirement for FY 2011-12 & FY 2012-13 and Tariff Determination for FY 2012-13.

1. Quality of tariff orders and tariff process:

- MERC has had a tradition of well documented orders that clearly and accurately reflect all the comments and suggestions made by the public. Tariff is the most critical part of the orders and all information pertaining to it should be easily accessible. The earlier orders used to unambiguously state the category-wise slab wise tariffs along with as annexure towards the end which gave details of category wise, slab-wise consumer numbers and revenue from various components of the revised tariff.
- However, recently issued tariff orders (e.g. case No. 100 of 2011, MA No. 4 of 2011 and case No. 143 of 2011) have been very ambiguous and lacking in such critical details. This has made it difficult for consumers to understand the exact tariff that is applicable to them. Further, multiple orders approving bits and pieces of tariff (e.g. case No. 43 of 2012, case No. 21 of 2012) have been issued which has added to the already existing confusion about current tariff.
- In fact, the unfortunate fact is that even after bringing to the commission's notice an act of legal violation by a licensee no action was taken. The said licensee was charging an unauthorized charge to consumers in their monthly bills, an act which is very clearly and strictly prohibited under the Electricity Act 2003. When a letter was written to commission to highlight this issue, the only response from commission was mere acknowledgement of receipt of the letter.
- Traditionally, the second section of the tariff order typically used to have list of objections and suggestions followed by utility's response to this and then the Commission's ruling regarding the same. This structure is very useful for consumers to understand commission's thinking on various issues. However recent orders did not capture all comments and submissions and also did not include Commission's ruling on individual objections or suggestions. Ensuring correct documentation of submissions made by all participants in tariff hearings is of utmost importance for following reasons:
 - a) People's faith in regulatory process is rooted in its transparency and accountability which is reflected through such processes,
 - b) Commission's view on the matter becomes clear to the public as well as utility, and
 - c) In case the commission or utility does not agree with a particular objection or suggestion, proper documentation of the same is critical to facilitate further legal recourse to the concerned party, if needed.
- We believe that the Commission appreciates the importance of this process and will ensure that old tradition of proper documentation of all suggestions and objections is continued and the high standard of quality of tariff orders is maintained.

- Therefore, in its order in this present matter, **the commission should clearly give detailed information and calculations on all matters affecting tariff**, including but not limited to the following information:
 - Detail revenue gap calculated after accounting for FAC, all other interim reliefs and any other tariff orders (MSETCL and MSPGCL)
 - Average cost of supply
 - Details of category wise slab wise tariff (both fixed and energy charges)
 - Details of changes in cross-subsidy structure, if any.
 - Annexure at the end of the order with category-wise, slab wise consumer numbers, sales and revenue from various components of tariff.

2. Summary of MSEDCL tariff proposal:

- The table 1 below captures year wise break-up of the total revenue requirement and gap in revenue as proposed by MSEDCL. As can be seen from this table, total revenue gap arising from ARR for FY 2010-11, FY 2011-12 and FY 2012-13 is Rs. 6105 Cr which is approximately 14% of revenue at existing tariff for FY 12-13. Increase in power purchase expense and capital expenditure related cost has been the key reason for increase in revenue requirement for FY 11-12 and FY 12-13. In addition to this gap, there are other expenses approved by commission through review orders or on account of the Appellate Tribunal judgments.

Table 1: Revenue gap calculated based on MSEDCL's proposal

Particulars	Expense in Rs Cr		
	FY 10-11 Actual	FY 11-12 Estimate	FY 12-13 Projected
Power purchase expense	25882	31707	36623
Transmission charges	1892	2199	2199
Operations & Maintenance	2779	3437	3893
Capital expenditure related costs	1816	2745	3454
Other	1058	579	309
Aggregate Revenue Requirement from Retail Tariff	33426	40667	46478
Revenue at existing tariff	33240	38108	43118
Gap	186	2559	3360

- Additionally the commission has issued tariff orders for MSPGCL and MSETCL recently which will also have an impact on MSEDCL's tariff proposal. Due to a number of parallel processes such FAC vetting, review of past tariff orders while tariff proposal is being considered, it has become confusing to estimate tariff increase sought or granted. Especially, the new trend of 'interim relief' in tariff matters needs to be strictly discouraged as it completely undermines the role of public participation in tariff process and creates information asymmetries and confusion regarding tariff proposal. The commission should mandate all licensees to submit their tariff proposals in due time. The licensee should be solely responsible for any delay in filing of the tariff petition and no petition seeking interim relief should be entertained once a tariff revision process has been initiated.

3. Demand projection:

- For LT-Domestic sales MSEDCL has considered growth of 5% from FY 11 to FY 12 but a growth rate of 18% from FY 12 to FY 13. Similarly in case of LT-Non-domestic, from FY 11 to FY 12 there is actually a drop of 6%, but from FY 12 to FY 13, an increase of 28% is assumed. MSEDCL has tried to justify this increase on the basis of increased supply availability and reduced hours of load shedding. Considering MSEDCL's claims of already reduced load shedding (and almost zero load shedding in urban areas), such high estimate of demand growth needs to be carefully scrutinized as it has direct impact on power purchase quantum and hence its cost.
- Further MSEDCL has also claimed a huge increase in LT-Agriculture sales from 15,811 MU in FY 2010-11 to 21350 MU in FY 11-12 (jump of 35%). The commission should present its analysis of increased agricultural demand and also its nature (all the increase is in un-metered category).
- The commission should validate MSEDCL's demand projections after analyzing change in load shedding patterns, if any as well as change in load management and hours of supply for agriculture feeders. The commission should clearly present this analysis while approving the sales forecast for FY 12 and FY 13.

4. Power purchase expense:

- This is biggest part of the discom's expenditure. MSEDCL has claimed power purchase expense of Rs. 27,058 Cr in FY 10-11, Rs. 31,925 Cr in FY 11-12 and Rs. 36,623 Cr in FY 12-13 i.e. year-on-year increase of 18% and 15% respectively. Table 2 below year-wise, shows source break-up of MSEDCL's power purchase. As can be seen, the two main reasons for increasing power purchase cost are: a) Increase in generation cost and b) Increase in quantum of short and medium term high cost power.

Table 2: Source break-up of MSEDCL's proposed power purchase quantum and cost

Particulars	FY 10-11		FY 11-12		FY 12-13	
	MU	Rs/unit	MU	Rs/unit	MU	Rs/unit
MSPGCL	42,239	2.92	43,753	3.01	53,601	3.10
NTPC	19,992	2.02	18,394	2.55	24,165	2.58
NPCIL	4,044	2.29	5,202	2.31	5,333	2.46
RGPPL	11,707	3.82	11,222	3.77	10,404	4.25
JSW	1,139	2.60	1,880	3.19	1,934	3.60
Adani Power	-	-	-	-	5,566	3.17
Mundra UMPP	-	-	-	-	2,289	2.30
Renewable energy	3,146	4.11	4,547	3.88	7,744	4.52
Trading	2,422	4.19	8,092	3.70	-	-
Medium term	-	-	2,562	4.12	3,141	4.16
Others	5,653	-	3,772	-	9,837	-
Total	90,342	3.00	99,423	3.21	11,6270	3.27

- MSPGCL's poor performance has contributed to the increase in cost significantly. However, as the commission has already issued tariff order for MSPGCL, MSEDCL's power purchase cost will have to be adjusted accordingly.

- Commission should also analyze the variation in both cost and quantum of JSW power from FY 12 to FY 13 and ensure that it is in accordance with per PPA terms and conditions. As per the PPA the quantum of power to be supplied to MSEDCL is 300 MW which works out to about 2077 MU considering normative availability of 85% and PLF of 90%. Units supplied by JSW in FY 12 were 1880 MU and 1934 MU in FY-13. The commission should verify that units supplied are as per agreed availability and PLF and in case there is any deviation from the contract, capacity charge calculations should account for the same.
- Similarly, the tariff considered by MSEDCL for Adani Power seems higher than the tariff as per the tariff schedule mentioned in the PPA dated 8th September 2008 approved for case-1 stage-1 bidding process. As per the said PPA the tariff for the first year of the contract should be Rs. 2.553 per unit. As the PPA tariff does not have any escalable components, it is not clear why MSEDCL has assumed per unit rate of Rs. 3.17 for this power. The commission should ensure that all the generation costs considered by MSEDCL are in accordance with respective contracts.
- Along with Adani Power, MSEDCL has also signed PPA on 25th September 2008 under the same bidding process with Lanco Mahanadi Power Private Limited which should also be commissioned as per its PPA at the same time, along with Adani Power. However MSEDCL has neither considered Lanco nor provided any explanation for omitting it from its power purchase plan. The commission should analyze the reasons for this and publish details such as current status of the plant and recourse measures under PPA in case of further delay.

5. Delays in capacity addition and demand-supply situation:

Significant part of power purchase cost is on account of trading and medium term power purchase. In this context, reasons for abandoning revenue headquarter based Zero Load Shedding model for distributing cost of short/medium term high cost power purchase is not clear and needs to be analyzed by the commission. Further, delays in commissioning of some of the expected projects have led to buying high cost power on short and medium term basis. The table 3 below shows the capacity addition projects considered by MSEDCL in the last tariff submission and actual capacity added.

Table 3: Expected Vs Actual capacity addition in MW as submitted by MSEDCL

Capacity Addition (MW)	2009-10		2010-11		2011-12		2012-13	
	Expected	Actual	Expected	Actual	Expected	Actual	Expected	Revised target
MSPGCL	500	-	1500	500	210	0	1000	1500
Central sector	1019	-	170	108	840	330	790	1686
Private	0	-	300	300	0	-	1320	1320

In this context, for consumers to get a better idea regarding demand supply situation in the coming years, the commission should present the following analysis in its tariff order:

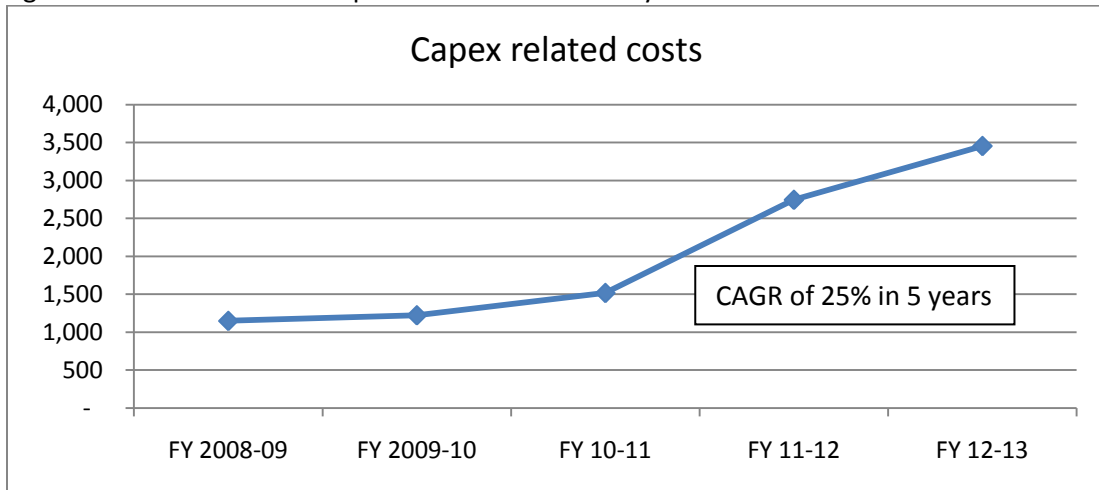
- Project wise data such as quantum of power contracted by MSEDCL with private generators through competitive bidding process and capacity contracted through MoU processes with IPPs, centre and state generating stations.

- Plant-wise and unit-wise actual status of this contracted capacity
- Comparative analysis of the commissioning timeframe of this capacity; such as when the capacity is/was expected to be commissioned as per the respective contract and what is the actual present status of the plant/unit.

6. Capital expenditure related costs:

Depreciation, interest on long term loan capital and return on equity are all capital expenditure (capex) related costs. As MSEDCL has huge plans of capital expenditure, these costs are likely to soar even higher in the coming years. As can be seen from figure 1 below, five year CAGR of capital expenditure related costs is ~25%. This is certainly going to have major impact on tariff and it will be a sustained effect for next 8-10 years at least.

Figure 1: Trend of MSEDCL capex related cost in last 5 years



- Therefore, as submitted by us in our previous tariff submissions, it is very important for the commission to ascertain that this huge expense is translating into proposed benefits as far as supply and service quality is concerned. This assessment should also look at prioritization of capex schemes. For example some projects such AMR metering of all 11KV feeders which had an outlay of just Rs. 47 Cr and DPR for which has been approved since Feb 2007 is still not implemented.
- Scheme like this can significantly improve the reliability of feeder load data and same can be said about other metering initiatives which also incidentally share similar fate. Neither the commission nor the utility has taken any efforts to ensure that such projects are implemented on priority. Such evidence dampens consumers' faith in prudence of the proposed schemes and the benefits thereof.
- Hence, in order to ascertain prudence of the capex undertaken, the commission should undertake third party independent audit of at least the major capex schemes such as feeder separation, R-APDRP, RGGVY, metering schemes etc. which are very critical from the point of view of supply and service availability and quality.
- Further, capex related costs of only those schemes should be approved for which the cost benefit analysis has been verified and found satisfactory. There can be conditional element to ensure implementation of schemes which are in consumer interest. For example, approval of capex related cost can be subject to conditions that the utility implements AMR metering related schemes on priority.

7. Consumer interest related issues:

While tariffs have been continuously increasing, same cannot be said to be true of either supply or service quality standards. This has largely remained a neglected area as far as efforts for improvement from the commission are concerned. Below are some of the issues in this context which highlight the neglect and demand initiative and action on top priority:

- a) **Delay in implementation of Multi-year tariff regulations:** The MYT regulations 2011, notified in February 2011 were supposed to become operation from April 2011. However, all licensees demanded deferment of its implementation, while seeking interim reliefs. These demands have been conceded by the commission. As per these regulations, the licensees would have to submit business plans for the entire control period (5 financial years) and trajectories for various parameters would be set based on that. Thus, having an MYT regime could have avoided ad-hoc tariff increase driven by litigations and interim orders, as has been the case in intervening period. As a result, licensees could not be held accountable for any performance norms. Therefore, after this present tariff process, the commission should not entertain any intermediate tariff revision proposal.
- b) **Accountability of distribution franchisees:** As submitted by MSEDCL, there are dues of more than Rs. 400 Cr from its various distribution franchisees. Considering the precarious financial condition of MSEDCL, such dues can have serious adverse impacts on working capital and hence O&M operations of the licensee. Such instances as well as our earlier review of Bhiwandi model, highlight the weakness in the licensee structure to effectively monitor and regulate such franchisee arrangements. Hence, as submitted by us before, while undertaking any franchisee schemes it is essential to bring both, the bidding process and post-franchisee monitoring, under regulatory purview. Regulatory oversight is also essential because as the number of franchisee's increase, the performance of franchisee will have significant impact on licensee's annual revenue requirement and performance targets. Therefore, the commission should ensure that franchisees are operating as per their contracts and take necessary action to ensure the same.
- c) **Standards of performance (SoP) regulations:** The commission had issued a public notice in August 2010 inviting comments and suggestions regarding some proposed changes to the existing SoP regulations. However, almost after 2 years of the said notice the regulations are yet to be notified. Such sheer neglect of issues that matter most to consumers is not only very discouraging but it also undermines the public faith in regulatory processes. The commission should notify these regulations on priority along with a statement of reasons regarding the public consultations.
- d) **Reporting regarding compliance with SoP as per section 59(2):** In spite of repeated reminders and submissions, the commission has till date never published any report or data regarding level of compliance to SoP by various licensees and details regarding compensation paid by them to consumers. Again, this demonstrates level of interest shown by commission in non-tariff issues which matter to consumers. Once again we would like to demand that the commission should start publishing this data as per its mandate under the Electricity Act 2003.
- e) **Cross-subsidy reduction road map:** following a directive issued by the state government, the commission had initiated a process of formalizing a road map for cross-subsidy reduction in October 2009. Later on, in February 2010 the commission invited feedback from the public on a discussion paper published in this context. However, as on July 2012, final regulations in this matter are yet to be notified.

Again, delay in decision making on such critical matters adversely affects consumer interest.

- f) **Transparency and accountability in load shedding process:** Maharashtra has been the only state in the country to have a transparent process of distributing shortages. However, recently this process has been dismantled and the utility has made unilateral changes to the protocol which was not legally contested by the commission. This has again been a big blow for accountability in a sensitive issue such as load shedding which is not only a major inconvenience to consumers but also has direct impact on power purchase, losses and hence licensee's revenue. Therefore the commission should ensure that hard earned accountability measures such as the load shedding protocol, which protect consumer interests, is followed in letter and spirit.

Issues enumerated above highlight commission's apathy towards matters that concern consumers most. Neglect of such issues makes consumers lose faith in regulatory process and reduces their willingness to pay. We are pained to state here that the commission has failed in its basic mandate of protecting consumer interest by improving accountability and transparency in important areas such as power purchase, capital expenditure and issues concerning with supply and service quality. Delaying or avoiding decisions on such issues which seriously and adversely affect consumer interest, will only further discourage consumer confidence in regulatory processes. Therefore, we would once again like to demand that commission should address the above mentioned issues on highest priority.

8. **Need for innovative approach:**

As tariffs are rising on account of various reasons, there is a need to protect interests of small consumers and especially weaker sections, whose electricity consumption is usually very low. This demands an innovative approach towards tariff design which caters to interests of both the licensee as well as small consumers. Below are a few suggestions in this regard:

- a) **New LT-General tariff category:** One way of protecting interests of small consumers would be to create a new 'LT-General' tariff category by clubbing LT domestic and non-domestic categories. The tariff within this category should be of telescopic nature, i.e. lowest slab, say of 0-50 units per month should be charged least while highest slab say, 301+ units per month should be charged highest. The tariff design should be such that licensee remains revenue neutral and there is no inter-category cross-subsidy but only intra-category cross subsidy. Tariff of the highest consumption slab should be made high enough to encourage these high end consumers to opt for green alternatives such as roof-top solar systems. This type of tariff design will also safeguard small consumers from opportunistic interpretation of section 126 pertaining to unauthorised use of electricity while it will also have the positive spill over effect of encouraging high end consumers to switch to environmentally benign alternatives.
- b) **Special tariff category for +1MW consumers:** In order to facilitate the move towards open access as envisaged in the Electricity Act 2003, the commission should as a first step segregate the ARRs of open access eligible consumers from the rest of the consumers. This distinction at ARR level should be independent of whether the consumer chooses to opt for open access or not. ARR and business plan formats should be modified accordingly for this purpose. The open access eligible consumers can be called 'deemed OA consumers' and should have a separate tariff category for

this class. This is will result in a realistic estimation of power purchase requirement for the regulated business as well as potential sales and revenue from deemed open access consumers. The tariff for deemed OA consumers should include a premium in addition to cross-subsidy surcharge and wheeling charge. The reason to have an additional premium is to account for the stand-by support and the significantly better supply and service quality enjoyed by these consumers, vis-à-vis other LT consumers. The commission may define trajectory for this premium such that it is tapering in nature. The exact quantum of this premium needs to be worked out based on details of deemed open access consumers

We once again request the commission to take our submission on record. We will be glad to clarify any particular issue. We would also request the commission to allow us to making additional submissions if any, during the subsequent hearings or process in this regard.

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