

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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**In the matter of Petition of Maharashtra State Electricity Distribution Company Ltd.,
for initiating enquiry in respect of revocation/ suspension of License of Mula Pravara
Electric Co-op Society Ltd. (MPECS)**

Dated: 28th December, 2010

NOTICE FOR SUSPENSION OF DISTRIBUTION LICENCE

Mula Pravara Electric Cooperative Society Ltd ('Mula Pravara') has been a Licensee in the State of Maharashtra to undertake distribution and retail supply of electricity to the consumers in the specified area in Ahmednagar District as more fully set out in the Licence dated 28th January 1971 by the then Government of Maharashtra under the Indian Electricity Act, 1910. The licence was initially for a period of 20 years expiring in the year 1991. The licence has been extended by another 20 years, namely, till 31st January 2011.

2. Mula Pravara has been getting the supply of electricity in bulk from the Maharashtra State Electricity Board till its reorganization under the Electricity Act, 2003 and thereafter from the Maharashtra State Electricity Distribution Company Limited ('MSEDCL'), which is presently the Licensee in the Ahmednagar District and other areas of the State of Maharashtra as a successor entity of the Maharashtra State Electricity Board, other than the geographical area of the Mula Pravara and other distribution licensees.

3. There have been long pending disputes between MSEDCL and Mula Pravara on various aspects of the supply of electricity in bulk by MSEDCL to Mula Pravara. The Commission had also passed Orders from time to time in regard to the bulk supply tariff to be paid by Mula Pravara to MSEDCL for getting the power supply. There has been failure on the part of Mula Pravara in regard to payment of the bulk supply tariff determined by the Commission. MSEDCL has filed proceedings being Case No. 10 of 2007 seeking for



revocation of licence granted to Mula Pravara on various grounds as set forth in the petition.

The Case No. 10 of 2007 filed by MSEDCL, inter alia, is on the following basis:

- “(i) That the Respondent(Mula-Pravara) has since October 1977 defaulted in making payments of regular bills to the erstwhile MSEB (whose distribution functions have been vested into the Petitioner Company) for the electricity supplied by MSEB to the Respondent. This default continues till date resulting in arrears amounting to Rs 951.49 crores. The amount of arrears is increasing by around Rs 12 crores every month.*
- (ii) Due to the huge amount of arrears the Petitioner in turn is in default of approximately Rs 500 crores to Maharashtra State Power Generation Company Limited and other suppliers and contractors. This will in turn affect power supply to the entire State.*
- (iii) That the High Court of Judicature at Bombay, Nagpur Bench, vide its Order dated 30.4.2003 in Writ Petition No. 3399 of 2000 expressed a concern as to why the licence of the Respondent herein is not being revoked and its assets being handed over to the MSEB for adjustment towards the dues/arrears and/or supply of electricity by MSEB to the consumers of the Respondent as a consequence thereof.*
- (iv) That the Petitioner objected to the continuation of the Respondent as a licensee and supply of power by MSEB to the Respondent at `Viable Tariff` and creation of regulatory asset as suggested by the Commission under its letter dated 27.1.2004 to the State Government.*
- (v) The condition under which the licence of the Respondent was renewed on 21.5.1999 was that it would regularly pay the erstwhile MSEB (whose distribution functions have been vested into the Petitioner Company) the monthly energy charges and the amount of arrears. However, the Respondent has failed to comply with these conditions which were stipulated in its renewed licence. Thus, the Respondent is in breach of the conditions of its licence.*
- (vi) The financial position of the Respondent is such that it is unable to fully and efficiently discharge the duties and obligations imposed on it by its licence”.*

4. The proceedings in Case No. 10 of 2007 has been pending for various reasons including that the matter was adjourned sine die in view of the pendency of the proceedings before the Hon'ble Supreme Court.

5. The Commission has started hearing the matter again after the Hon'ble Supreme Court refused to grant interim stay sought for by Mula Pravara.

6. In the meanwhile, as the licence granted to Mula Pravara is expiring on 31st January 2011, the Commission has initiated proceedings inviting Expression of Interest from interested persons for taking over the distribution and retail supply of electricity in the



specified licensed area of Mula Pravara. MSEDCL and Mula Pravara are the two active persons presently pursuing the Expression of Interest. These proceedings are pending before the Commission. The Commission has fixed 14th January 2011 for a public hearing in the above petition dealing with the Expression of Interest.

7. While the Commission is examining the Expression of Interest submitted for fresh licence by the parties, the Commission has to take a decision on the petition filed by MSEDCL for revocation of licence and also for action to be taken on the alleged defaults and failure on the part of Mula Pravara. The Commission has to ensure that the fresh licence to be granted under Section 14 of the Electricity Act, 2003 for undertaking the distribution and retail supply of electricity by the selected person would ensure that there will not be any difficulty in the maintenance of supply of electricity to the consumers in the area and that the problems and issues faced as of date between Mula Pravara and MSEDCL in regard to the payment of the bulk supply tariff by Mula Pravara gets duly addressed in the new licence. In other words, the present position in regard to non-payment of bulk supply tariff by Mula Pravara as per the directions and Tariff Orders issued by the Commission from time to time cannot be allowed to continue. As on 30.09.2010, according to MSEDCL, a sum of over Rs 2222.035 Crores is due and outstanding from Mula Pravara to MSEDCL as per the tariff determined by the Commission. Mula Pravara in its various pleadings including in Case No.10 of 2007 has represented that it is unable to meet the payment obligation as per the tariff determined by the Commission.

8. In the circumstances mentioned above, it appears to the Commission that Mula Pravara has persistently defaulted in complying with the directions given by the Commission, including its Tariff orders. It lacks the financial ability to pay for its power purchase or procure power, resulting in a case for suspension of the distribution licence pending a decision on the petition filed by MSEDCL for revocation of licence.

9. Independent of the above, the Commission is also of the view that the above suspension of licence is necessary to ensure proper decision for the Expression of Interest submitted by the parties for grant of new licence effective 1st February 2011 for distribution and retail supply of electricity in the specified area.



10. Accordingly, notice is hereby given to Mula Pravara Electric Cooperative Society Limited and its management to show cause as to why the licence granted to Mula Pravara on 28th January 1971 and extended till 31st January 2011 be not immediately suspended and an Administrator appointed, in terms of the provisions of Section 24 of the Electricity Act, , pending decision on the petition filed by MSEDCL for revocation of licence and other proceedings before the Commission including the decision on the Expression of Interest invited for grant of new licence upon expiry of the licence of Mula Pravara on 31st January 2011. The reply to the show cause notice in writing be submitted to the Commission on or before 4-1-2011. A hearing in the matter will be held on 7-1-2011 at 3.00 PM. Mula Pravara is directed to appear either through its management and/or its authorized representative including Advocates, Consultants and other persons as Mula Pravara may decide at the hearing to enable the Commission to hear them and decide the matter. The hearing will be held at 3.00 PM on 7-1-2011 at the Office of the Commission at 13th Floor, World Trade Centre, Cuffe Parade, Mumbai-400 005.

11. In the circumstances mentioned in the above show cause notice, the Commission will be taking immediate and urgent decision on the aspects mentioned in the show cause notice and, therefore, no adjournment request will be entertained by the Commission.

By Order of the Commission
Secretary, MERC

