

**BEFORE THE  
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION  
World Trade Centre, Centre No.1, 13<sup>th</sup> Floor, Cuffe Parade, Mumbai- 400 005**

**IN THE MATTER OF  
Application filed by M/s Mula Pravara Electric Co-operative Society,  
Shrirampur, District Ahmednagar,  
for its Tariff Revision proposal for the year 2002-03.**

**Shri P. Subrahmanyam, Chairman  
Shri Jayant Deo, Member  
Dr Pramod Deo, Member**

**Date of Order: July 18, 2002**

**INTERIM ORDER**

The Maharashtra Electricity Regulatory Commission, in exercise of the powers vested in it under section 22 (1) (c), 22 (2) (b), (e) and (j) of the Electricity Regulatory Commissions (ERC) Act, 1998 and all other powers enabling it in this behalf, has, vide its Order dated 16<sup>th</sup> July 2002, regulates the working of the licensee i.e. M/s Mula Pravara Electric Co-op. Society Limited, Shrirampur 413 709, District Ahmednagar and prescribes the guidelines to aid the State Government in the formulation of State Policy in this matter, as under.

**BACKGROUND**

2. The Applicant, earlier, submitted an application [dated 11<sup>th</sup> June 2001], under section 22(1)(a) of the ERC Act 1998, for Determination of its retail Tariff to its consumers to be effective from 1<sup>st</sup> May, 2000. In this respect, a Technical Validation Session, in presence of consumer representatives' u/s 26 of the ERC Act, 1998, was held on 20<sup>th</sup> July 2001. During the Technical Validation Session the Commission observed "*the current proposal submitted by the Petitioner does not validate its claim for any downward revision of tariff in line with the objectives of Section 29(2)(c) of the ERC Act, 1998, as the present tariff itself is significantly subsidised. ... If the licensee requires any further subsidy to be granted to make up for its revenue loss, the appropriate forum / authority would be the Government of Maharashtra.*" After the Technical Validation Session the Petitioner voluntarily opted for the withdrawal of its petition dated 11<sup>th</sup> June 2001. The Commission observed that the Petitioner has only two options, either

to run on 'no profit-no loss' basis or to run on a commercial basis. The Commission suggested that it would be in its own interest to rework its tariff proposal for 2001-02, which satisfies the criterion of the ERC Act, 1998. The Commission also opined that the Petitioner should install meters for all its consumers and release only meter based connections.

3. Subsequently, the Applicant submitted its proposal for Tariff Revision for the year 2002-2003 to its consumers, under affidavit, through its letter No.13067 dated 26<sup>th</sup> March, 2002, , with the following prayer:

- (i) *“The Hon’ble Commission be pleased to make applicable the rates to Societies consumers as is fixed & ordered by Hon’ble Commission to the Consumers of the Board w.e.from 1<sup>st</sup> January 2002,*
- (ii) *Even though the Hon’ble Commission has treated the GR of GoM dated 21/5/99 invalid, society submits that there is No Solutions No Formula other than the formula cover under the GR. So it is requested that the Hon’ble Commission may please consider the formula of the said GR.*
- (iii) *Taking into consideration the Union Government’s policy, State Govt Policy, Puri Committee, Mathur Committee, Rajyadhaksha Committee’s Reports, REC & Dr. Godbole’s view & the order passed by Hon’ble Andhra Pradesh E.R.C. it is requested that the Hon’ble Commission pleased to fix a viable purchased rate for the applicant society.”*

4. Before taking up the proposal for Technical validation, the Commission wanted the Applicant to comply with the directives / guidelines issued during Technical Validation Session of previous year’s proposal held on 20<sup>th</sup> July 2001. On being reminded the Applicant submitted its compliance vide its letter No. MPECS/MERC/2038/2002 dated 4<sup>th</sup> June 2002 submitting the following:

- A) *“The meeting of the Board of Directors of the Society is held on 03.06.2002 and the decision is taken to instal the meters to the agricultural consumers, the resolution in this respect is attached herewith.*
- B) *However being ours is a co.operative society, it has to get the sanction for the same in the general body meeting and thereafter it would be implemented.*
- C) *Society has submitted a detailed proposal to the Government of Maharashtra for the subsidy. Society is following up constantly and the decision of the Government of Maharashtra is awaited. As soon as the Government of Maharashtra takes decision in this regard it would be communicated to the Commission.”*

5. A Technical Validation Session for the current proposal, in presence of consumer representatives recognised under Section 26 of the ERC Act, 1998, was held on 5<sup>th</sup> July 2002.

6. During the Technical Validation Session, dated 5<sup>th</sup> July 2002, the Applicant submitted that, on its earlier proposal, the Commission had directed them to file a separate tariff revision proposal for approval of the Commission, and, accordingly the Society has filed the present proposal for adoption and implementation of the MSEB Tariff Revision as per the MERC Order dated 10<sup>th</sup> January 2002 in its area of operation, for approval of the Commission. He submitted that the Society, since its inception, was adopting the MSEB tariff to its consumers. The Society was running profitably upto 1979. However, since then due to change in policy (i.e. adoption of flat rate tariff for agriculture consumers) of the GoM / MSEB, its financial position started deteriorating. The matter was brought to the notice of the GoM / MSEB from time to time. However, the matter is still pending with the Government for a final decision. He further submitted that the imbalance between the cost of purchase of energy (i.e. the rate determined by the Commission) from the MSEB and the revenue receivable (as per MSEB retail tariff to be applicable to its consumers) may be reimbursed by the Government of Maharashtra as subsidy / grant in aid through budgetary provisions for which the society has already submitted its plea vide its letter Mula Pravara/Govt/Subsidy/1633/2002 dated 22<sup>nd</sup> May 2002 (a copy of which was submitted to the MERC vide its No. MPECS/MERC/2038/2002 dated 4<sup>th</sup> June 2002). He requested the Commission to direct the Government of Maharashtra for granting the subsidy.

7. The Applicant further submitted that they are before the Commission for mandatory tariff approval before applying the same to its consumers. But in case the proposal stands rejected u/s 29 of the ERC Act, 1998, it will cause irreparable damage to the working of the Society, since it will result in continuing loss of approximately Rs.60 lakhs/month.

8. The Commission observed that the Government's proposal, for granting subsidy to agricultural and powerloom consumers of the MSEB only, has been given post-facto approval, which will be applicable for the entire State. However, there cannot be a separate subsidy structure for the Applicant's consumers. In case, the Applicant desires to have additional subsidy, then it should move the Government accordingly. The Commission further observed that, though it is a quasi-judicial body, it cannot give any direction to the Government in the matter of granting subsidy, etc., for which the Government representative may offer GoM's remarks.

9. The Joint Secretary (Energy), GoM submitted that the matter of granting subsidy to the Applicant (Mula Pravara), pertaining to the period of May 2000 to March 2001 is under consideration of the Government. The decision of the Government will be intimated to the Commission as soon as it is taken.

10. However, on the Commission's queries, "(i) *whether the issue of filling the gap between the Society's purchase price and the revenue earned through tariff, by granting subsidy is placed before the Cabinet, and (ii) what is viable tariff*", the Joint Secretary (Energy) expressed ignorance and merely reiterated that as regards arrear pertaining to period prior to May 1, 2000, based on the viable tariff calculation would have to be collected from the Society. The GoM was considering a subsidy for the difference in tariff and between the viable tariff and the tariffs determined by the Commission after May 2000.

11. On a query from the Commission, the MSEB representative submitted that they have no objection if the MSEB tariff is implemented in the area of operation of the Mula Pravara, provided the Board gets its due amount, which as on date amounts to approximately **Rs.451 crore**.

12. The Commission queried about GoM's acceptance and action on point No.25 of the summary of Recommendations from the Rajadhyaksha Committee Report submitted in December 1996, namely "*The State Government should take an urgent decision regarding the tariff to be charged to the Mula Pravara Co-operative Society. This rate must be viable for the Board and should not constitute an awkward precedent in the other future cases.*" The Joint Secretary (Energy) submitted in affirmative and on the action, stated that the proposal of subsidy is before the Cabinet Committee and further to the GR dated 21.5.1999, no decision on tariff to be charged to the Society has been taken.

13. The Commission observed that if the application is to be treated under Section 29 of the ERC Act, 1998, then it stands the chance of getting rejected outright, but felt that the Commission cannot ignore the Applicant's submission that their financial health will suffer irreversible damage. The Commission further observed that Section 22(2)(e) empowers the Commission "*to regulate the working of the licensees and other persons authorised or permitted to engage in the electricity industry in the State and to promote their working in an efficient, economical and equitable manner*". Therefore, the Commission may invoke the power under this clause [u/s 22(2)(e)] to facilitate the working of the Society towards an efficient and economical operation,

in view of the GoM's dilemma in taking a quick decision as envisaged in the Rajadhyaksha Committee Recommendations.

14. In view of the deliberations (as recorded in the Record of the Technical Validation Session) the Applicant opted to withdraw the following from its application:

- a) Points at serial No.5 & 6 of the "brief facts of the case"
- b) Second para of the covering letter of their application dated 22<sup>nd</sup> March 2002
- c) Points at serial No.14, 15 and 16 of "salient features" (page 6) of the application.

15. The Commission noted with deep concern that while on the one hand due to delay in GoM's decision to implement Rajadhyaksha Committee Recommendation as referred in para 12 above, the Society is bleeding, suffering a monthly revenue loss of Rs.60 lakhs, on the other hand the State owned utility MSEB, who is already in dire financial straits, is suffering from mounting arrears on account of the Society. The Commission felt that it is duty bound to improve the working of the electricity industry in the State and, therefore, cannot assume a role of silent spectator without remedying the situation.

16. The Commission observed that the Society's desire to implement the MSEB tariff as prescribed by the Commission, pending grant of subsidy from GoM, in itself is a welcome change. Further, Commission observed that in today's contest of power sector reforms decentralized rural energy supply could be one of the approaches to deal with the MSEB's problems. Although such entities will have to be subsidised in the beginning by the State Government, it is expected that as their performance improve in terms of metering, billing, recovery and tariff settings, they will be able to recover full user charges. Therefore, the Commission felt that it must create enabling conditions for the Applicant to come back to its original position as envisaged during its establishment and as existed till 1977.

17. Therefore, in pursuance of the power conferred on the Commission under Section 22(2)(e) of the ERC Act, 1998 it directs that the Society, while working towards an efficient and economical operation, shall **adopt the MSEB tariff order dated 10<sup>th</sup> January 2002 for its retail consumers with effect from 1<sup>st</sup> January 2002.** The Commission further feels it necessary to advise the Government of Maharashtra under Section 22(2)(j) of the ERC Act, 1998 that **it shall require to take urgent action in line with the acceptance of the Rajadhyaksha Committee recommendation** so as to facilitate the working of the Society in an objective manner and compensate the MSEB to tide over its financial crisis arising out of this case alone.

18. The Commission further directs the following:

- (a) The Applicant Society shall release all new connections under Metered Tariff only,
- (b) The Applicant shall complete the metering programme for its agricultural consumers above 10 HP on or before 31<sup>st</sup> December 2002.
- (c) The Applicant shall take scientific evaluation of agricultural consumption in its area of operation and accordingly submit the proposal for transmission and distribution loss reduction to the Commission by 30<sup>th</sup> September 2002.
- (d) The Applicant shall conduct detailed Energy Auditing and Accounting and submit its report for each quarter starting from first quarter of the financial year 2002-03.
- (e) The Applicant shall submit its total receivables and consumer category-wise break-up of arrears with an action plan, to recover the same on or before 31<sup>st</sup> March 2003.
- (f) The Applicant shall submit its present collection efficiency by end of September 2002 and a plan to improve the collection efficiency upto the level of 95% on or before 31<sup>st</sup> March 2003.
- (g) The Applicant shall submit tariff proposal for the year 2003-2004 before 31<sup>st</sup> December 2002, in accordance with the ERC Act, 1998.

Sd/-  
(Jayant Deo)  
Member

Sd/-  
(Dr Pramod Deo)  
Member

Sd/  
(P. Subrahmanyam)  
Chairman, MERC

(Sanjay Kumar)  
Secretary, MERC