

BEFORE THE
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th floor, Cuffe Parade, Colaba, Mumbai 400 005.

Case No.17 of 2003

IN THE MATTER OF
State Government Subsidy on account of tariff for agricultural and powerloom consumers,
and certain agricultural consumers in drought affected areas.

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

INTERIM ORDER

Dated – August 26, 2003

Govt. of Maharashtra (GoM), in their Application dated 30.5.2003, have sought that the Commission:

- i) give its approval to the proposal for subsidy to be given to Maharashtra State Electricity Board (MSEB) against the tariff determined by the Commission for agricultural and powerloom consumers for the year 2002-03 in the manner mentioned at para 4 of the Application.
- ii) allow Govt. to give standing orders to MSEB that, whenever Government declares drought-affected areas, MSEB should indicate the amount of subsidy and give the bill of the balance to the concerned agricultural consumers in that area.

The Application was heard on 12.8.2003.

2. In their Application and in oral submissions through Shri Jayant Kawale, Secretary (Energy), GoM stated that the Cabinet has taken the following decision on 7.5.2003:

- i) To give subsidy for the financial year 2002-03 to agricultural and powerloom consumers in the tariff determined by the Commission as mentioned in Exhibits 'A-1 and A-2'. ((i.e. to the same extent as in 2001-02), which are annexed to the Application.
- ii) To grant 33.33% subsidy in the electricity bills for 2002-03 in respect of small and marginal agricultural consumers in drought affected areas as mentioned in Exhibit 'B'.

- iii) To release the grant to MSEB equal to the amount of revenue loss on account of GOM's decision mentioned above, and the difference between the billing due to levy of electricity bill on meter basis instead of horse power basis in respect of Powerloom consumers as mentioned in Exhibit 'C' (for 2002-03).
- iv) In line with the above decision, MSEB shall specifically indicate the amount of subsidy declared by the Govt. and the balance as arrears in the electricity bills.

3. GoM have submitted that Rs 833 crores would be required to finance the level of subsidy approved by the State Govt. against the tariff to agricultural and powerloom consumers, and 1/3rd subsidy for small / marginal agricultural consumers in drought affected areas for the year 2002-03. This comprises Rs 587.72 crore for agricultural subsidy; Rs 123.86 crore for powerloom subsidy; Rs 64.41 crore for subsidy to farmers in drought-affected areas, and Rs 57 crore being the difference between metered tariff and HP tariff to powerloom consumers. This amount is to be met by book adjustment of dues from MSEB to GoM on account of Electricity Duty (Rs 550.73 crore), inspection fees (Rs 8.29 crore), guarantee fees (Rs 130.83 crore) and interest on Govt. loan (Rs 143.15 crore). Such book adjustment obviates the process of actual payment by MSEB to GoM, followed by releases from the latter. Secretary (Energy) submitted that, under G.R. dated 31.3.2003, Rs 711.59 crores out of the total estimated requirement had already been adjusted in this manner, leaving a balance of around Rs 122 crores for further book adjustment. He also pointed out that MSEB had with them substantial amounts on account of over-payments of subsidy for powerloom consumers for 2001-02. However, Shri Kulkarni, Technical Director, MSEB intervened to say that, taking into account various other commitments, the liability of GoM towards MSEB exceeded the payments due from the latter.

4. In their written submission dated 4.7.2003 and through Shri Kulkarni at the hearing, MSEB have stated that the amount of subsidy for 2002-03 has been estimated as Rs 832.99 crore on the basis explained at Annexure 'B' of their letter. The actual amount payable may vary depending on the actual billing, considering billing cycles (which are six-monthly in the case of agricultural consumers). In case the actual subsidy payable by GoM turns out to be higher, it should be permitted.

5. To a query from the Commission regarding compliance with certain earlier directions, Secretary (Energy) submitted that orders have been issued under the Chief Secretary's signature on 24.6.2003 that there can be no interference in MSEB's power to disconnect for non-payment of dues, except to the extent of allowing instalments for arrears. This had been accepted by the High Court (Nagpur Bench). These directions had also been tested recently in the case of Aurangabad Municipal Corporation, when GoM did not intervene.

6. Secretary (Energy) stated that GoM had a standing policy under G.R. dated 4.3.1989 regarding the dispensation in times of scarcity, viz. not to disconnect agricultural pump sets for arrears, and the grant of 1/3rd subsidy against the electricity tariff for small and marginal agriculturists. Referring to the second aspect, viz. 1/3rd

subsidy against the electricity tariff, he urged the Commission to allow a standing dispensation so long as GoM pays or adjusts the amount in advance. GoM's concern is to avoid the time lag between the announcement of subsidy and the issue of individual Orders by the Commission approving the modalities. MSEB have submitted that GoM should undertake to compensate them, and that they would pass on the subsidy to eligible consumers only after such compensation is received by MSEB.

7. According to Exhibits A-1, A-2, B and C annexed to GoM's Application, the subsidy against the electricity tariff to agricultural and powerloom consumers is proposed to be given to the same extent as in 2001-02, and to eligible small and marginal farmers to the extent of 33.33% in line with GoM Policy since 1989, both in respect of the financial year 2002-03. The total amount of subsidy required is estimated to be Rs.832.99 crores, the break up of which has been indicated at para 3 above. GoM have also stated that, by GR dated 31.3.2003, Rs.711 crores due to GoM from MSEB against Electricity Duty, inspection fees, guarantee fees, and interest on government loan have been adjusted, leaving a shortfall of around Rs.122 crores. GoM have not indicated the time frame for adjustment of the remaining amount. Most of the book adjustment is of Electricity Duty. Particularly in respect of the latter, the computation of dues from MSEB for the purposes of adjustment has been done on an accrual basis, as was clarified during the hearing. In other words, these amounts do not necessarily reflect in cash in hand with MSEB since shortfalls in bill recovery would also affect the quantum of Electricity Duty actually collected. (This problem does not arise in the case of guarantee fees, interest on Govt. loans, etc.). Although, under the provisions of the Electricity Regulatory Commissions (ERC) Act, 1998, GoM are entitled to give subsidy, the manner of payment has to be determined by the Commission. Moreover, the Electricity Act, 2003, which came into force in June, 2003, during the pendency of these proceedings, requires payment to be made in advance. Taking these considerations into account, the Commission directs as follows in so far as the subsidy proposed to be given by GoM for agricultural and powerloom consumers, and for eligible small and marginal farmers in drought-affected areas for the financial year 2002-03 is concerned:

- i) To the extent to which the subsidy is or will be provided by book adjustment of various dues payable by MSEB to GoM, such adjustment shall be done on the basis of cash in hand with MSEB and not on accrual basis. Thus, in the case of Electricity Duty, for example, the actual amount collected by MSEB rather than the amount recoverable should be the basis of the dues considered as being available with MSEB for adjustment. The total requirement should be adjusted on this basis before the subsidy can be operationalised and reflected in the bills issued by MSEB to the eligible consumers.
- ii) In case there is a shortfall in such adjustment and/or actual release of grants, either because of errors in estimation or because of the difference between earlier computations on accrual rather than cash basis, or any other reason, it should be reflected in the billing, and the shortfall distributed on a pro-rata basis as between the different categories of consumers until such time as it is reduced or eliminated. In other words, the subsidy would be passed on to eligible consumers only in proportion to the extent to which the total

requirement is paid by GoM to MSEB by book adjustment or financial releases.

- iii) MSEB should refund the subsidy amount (proportionate to the extent actually received/ adjusted as above) to all eligible consumers in the subsidised categories who have already paid their bills.
- iv) MSEB should clearly indicate in the bill proformae (a) the tariff determined by the Commission, (b) the amount of State Government subsidy and the rate and period thereof, (c) the net amount payable.

8. GoM have also sought permission to give standing orders to MSEB that, whenever drought-affected areas are declared, the amount of subsidy at 33.33% to small and marginal farmers as per GoM's continuing policy should be indicated by MSEB, and only the balance should be billed to the eligible agricultural consumers in such areas. This is intended to obviate the need for approaching the Commission each time, resulting in delays. During the hearing, Secretary (Energy) suggested certain possible modalities, as minuted in the Record of Proceedings. Under Section 65 of the Electricity Act, 2003, GoM are required to pay the amount of compensation to MSEB on account of such subsidy "in advance and in such manner as may be specified." Thus, under Section 65 read with Sections 181 and 2 (62), the manner of such payment has to be laid down by Regulations under the Act. The Commission has initiated the process of formulating the Regulations, and would consider how best to address GoM's concerns in this regard while finalising them. Thereafter, a final Order would be passed on GoM's Application insofar as the plea for a standing dispensation is concerned.

Sd/-
(Dr Pramod Deo)
Member

Sd/-
(P. Subrahmanyam)
Chairman, MERC

Sd/-
(A.M. Khan)
Secretary, MERC