

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
World Trade Center, Centre No. 1, 13<sup>th</sup> Floor, Cuffe Parade, Mumbai – 400 005.

**Case Nos. 27 of 2001**

**IN THE MATTER OF APPLICATION FILED by M/s Rani Sati Rice Mill, Gondia,**  
**on**  
**Optional Treatment proposed by the Commission in case of LTPG Consumers**  
**and not to force on them the MD based tariff,**  
**as provided for in the original Tariff Order dated 5<sup>th</sup> May 2000.**

**Shri P. Subrahmanyam, Chairman**  
**Shri Venkat Chary, Member**  
**Shri Jayant Deo, Member**

**ORDER**

**Dated – April 03, 2002**

The Maharashtra Electricity Regulatory Commission (MERC), in exercise of the powers vested in it under Section 29 of the electricity Regulatory Commissions Act, 1998 and all other powers enabling it in this behalf, has, vide its Order dated May 05, 2000 in Case No.1 of 1999, determined the tariff for supply of electricity after considering the proposal submitted by the Maharashtra State Electricity Board (MSEB).

2. The MSEB has filed an application on 9<sup>th</sup> August 2000 under Regulation 87 of the MERC (Conduct of Business) regulations, 1999 for a review of the Order dated 5<sup>th</sup> May 2000. After completion of the Public Hearing procedures, the Commission delivered its Review Order on 13<sup>th</sup> December 2000 in Case No.1 of 1999.

3. Further, on the Applications of (i) M/s Maharashtra Chamber of Commerce & Industries, Mumbai [Case No.10] and (ii) Akhil Bharatiya Grahak Panchayat, Pune [Case No.11], in the matter of validity of the Commercial Circulars and the Clauses of Conditions & Miscellaneous Charges for Supply of Electrical Energy issued by the MSEB without prior approval of the MERC, the Commission also passed its Order dated 14<sup>th</sup> February 2001.

4. The MERC received applications dated 24<sup>th</sup> December 2001 from M/s Rani Sati Rice Mill, Gondia requesting the MERC to intervene and direct the MSEB to supply electricity to them as per the guidelines and rates prescribed by the MERC vide its tariff order dated 5<sup>th</sup> May 2000 and also the Terms and Conditions of Supply of the MSEB.

5. Meanwhile, while the above application was under process, the Applicant submitted his further affidavit dated 30.1.2002 under Regulation 83 of the MERC (Conduct of Businesses) Regulations, 1999 to protest against the notice served by the Respondent on 14th January 2002 and requesting for speedy disposal of the earlier suit filed before the Commission.

6. The Commission, before admitting the application for hearing, obtained parawise remarks from the MSEB [*MSEB letter No.PR-3/Tariff/MERC/2042 dated 16<sup>th</sup> January, 2002*], a copy of which was forwarded to the Applicant for its rejoinders, if any. Accordingly, the Applicant submitted his rejoinder to the MSEB's reply during the hearing held on 20<sup>th</sup> February 2002.

7. Shri Pramod Kumar H. Agarwal, proprietor, M/s Rani Sati Rice Mill, Gondia, Applicant himself presented the Case before the Commission on 20<sup>th</sup> February 2002. During the hearing he submitted a copy of his written notes of arguments in context with the '*Conditions of Supply*' of the MSEB. The Applicant submitted that they are from the Rice Milling Industry with a sanctioned load of 67 HP / 50 KVA under LT Consumer Category.

8. During the proceedings, the Applicant submitted that his application has been made under Regulation 83 of the MERC (Conduct of Business) Regulations, 1999 with the following prayers:

- (i) Not to apply MD based tariff on LT consumers in the absence of an option for the same from the consumer as per the MERC Order in Case No. 10 and 11 and the Tariff Order dated 5.5.2000.
- (ii) To correct all the bills issued on the basis of MD based tariff and to restore the earlier billing pattern.
- (iii) To bring uniformity in the application of tariffs to the same category of consumers, common meters should be installed and thereafter the common and uniform tariff should be applied to all the LT consumers
- (iv) To apply LT tariff on consumers with L.T. supply, and
- (v) Not to apply HTP-II tariff application to LTPG consumers.

9. The Applicant further submitted that, till 16<sup>th</sup> August 2001, the MSEB was billing the consumer under the Consumer Category of LTPG based on the sanctioned load. After that, the MSEB installed the new MD Meter and allotted a new Consumer No. 430019051890 to it and had started billing accordingly. The Applicant has objected to this change and submitted that the MSEB has changed its category without the applicant's permission. The applicant has strongly protested against the installation of the MD Meter. The Applicant further submitted that it has clearly informed the MSEB, vide its letter dated 16.08.2001, that it is satisfied with the originally installed meter and is not interested in the MD Meter & MD based tariff.

10. The Applicant further submitted that:

[a] The MSEB sent the notice No. SEBHR/TECH/1-1/260 dated 14<sup>th</sup> January 2002, during the pendency of the said application, to the Applicants for the payment of Rs.2,32,850/- towards Service Connection charges, Service Line Charges, Additional Security Deposits for availing the Electric Supply on 11 KV, which is in violation of the directives of the Commission. He further submitted that the Rice Mill industries are in the small-scale category and are now in a difficult situation; hence, they cannot pay such a high tariff. He further submitted that if the consumer exceeds 50 KVA of demand even for the first time, the respondent is applying HTP tariff on the LT consumers. The MSEB is also arbitrarily charging penalty on fixed charges whereas, according to its own Commercial Circular No.636, the same can't be charged without intimating the consumer beforehand through a legal notice.

[b] The Applicant submitted that *as per clause 28 of the Condition of Supply, the L.T. general motive power consumer can avail a L.T. supply upto 100 HP and as per clause 28(2)(iii) upto 50 KVA demand, the consumer will have to pay the energy bill as per the LT tariff applicable from time to time and, in case he exceeds 50 KVA, then, for the excess MD recorded over and above 50 KVA, the prevailing penalty oriented demand charges will be recovered.*

The issuance of Departmental Circular No.636 dated 20.01.2001 is in contravention with the 'Conditions of Supply'. He pointed out that as per Condition No.28 (2) and 31 (f) (I) (II) of the Conditions of Supply, the Respondent already has the authority to collect the penal charges from the consumer for the unauthorised connected load and, therefore, insertion of Circular No.636 dated 20.1.2001 can be treated as an 'amendment to the existing provisions of the supply'. He further submitted that this circular No.636 is a part of the tariff application and, therefore, implementation of this circular without the prior approval of the Commission is a violation of the

Commission's directives. He cited the Commission's Order dated February 14, 2001 in Case Nos.10 and 11. He further submitted that the said circular No.636 is also in contravention of the Commission's Order dated 10<sup>th</sup> January 2002.

The Board is attempting to misinterpret the provisions of its own commercial circular in light of the Commission's Order and forcefully applying MD based tariff to LTPG consumers without giving the liberty to the consumer to opt for MD based tariff as envisaged in the Tariff Order.

[c] The Applicant brought to the notice of the Commission that the Board's submission on withdrawal of Commercial Circular No.636 and instruction of withdrawal vide Commercial Circular 666 dated 2.1.2002, is misleading, as even after 2.1.2002, the Respondent through the Supdt Engineer, Bhandara, has resorted to serve notice, which is illegal, as referred to earlier in point No.[a] above. He further mentioned that most of the consumers for whom LTMD meters have been put up without giving them the opportunity to exercise option are presently receiving bills as per HTP-II tariff application.

[d] The Applicant submitted that it has objected to the installation of the MD meter and also not demanded extension of load above 50KVA/KW nor the MD based tariff. The Board has also failed to provide any calibration certificate, test report, meter specification, etc., to the Applicant while replacing the meter. The Board has attempted to forcefully apply MD based Tariff to LT-Consumers without obtaining any option for the same from the consumers. The Applicant further submitted that the field staff of the MSEB is also not aware of the details of the MD meters, PF, Incentives, etc., and appropriate training has to be imparted to the field staff for better implementation of the scheme / orders / directives of the Commission and/or the MSEB itself.

[e] With reference to the para 16 of the MSEB's reply No.PR-3/Tariff/MERC/2042 dated 16.1.2002, the Applicant has strongly protested against the false submission by the Respondent that the meter was installed on 16.08.2000. He submitted that the meter was installed on 16.08.2001 only.

[f] The MD meter was installed in the Applicant's premises after the pronouncement of the above-referred order. The MD based tariff application is made applicable immediately after the installation of the meter. They objected to the application of MD based tariff as being violative of

the above referred order. It is needless to change the billing format in the absence of the option for the MD based tariff application. He cited the Commission's Order dated 14.2.2001 in Case No. 10 and 11 of 2000 wherein this Commission directed that *"MSEB must not force MD based tariff on LTPG consumers but treat it as optional as provided for in the original tariff order dated 5.5.2000"*.

[g] He further submitted with reference to the Para-17 of the reply of the MSEB, the Board's decision to treat a consumer, as deemed HT consumer even if the demand exceeds by 0.50 KVA is not a justified submission made by the Board. There is no such provision of giving the deemed status of HT consumer to LTPG consumers in the Board's Conditions of Supply.

[h] Billing format for H.T. Consumer is used for billing to LT Consumers. The consumer number is changed and the connection is treated as a fresh connection. Earlier, the billing defects were rectified at the Divisional Office and, with the application of the MD based tariff the billing defects are rectified at the Circle office and same is causing inconvenience to them and to other consumers also. *"The power factor penalty and the demand penalty were recovered which is not as per the Tariff Order dated 5.5.2000"*.

11. During the Proceedings on 20<sup>th</sup> February 2002, the MSEB Counsel submitted that, with respect of prayers (i), (ii), (iv) and (v) of the Applicant, it is not contesting the arguments put forward by the Applicant. Further, his submissions should be viewed as merely stating the factual position vis-à-vis the MSEB's corrective action already initiated in this matter. However, on prayer (iii) of the Applicant, he submitted that, without any prejudice to his client's right to contest in front of appropriate authorities, it would not be logistically and financially viable to remove the already replaced meters from the consumers' premises belonging to the LTPG category as that will result in financial loss to the Board.

12. With regard to the Commercial Circular No.636, the Counsel further clarified that the Board had earlier proposed to withdraw this particular Commercial Circular, for which permission was sought from the Commission vide letter No.PR-3/COS/4058 dated 1<sup>st</sup> February 2002. This was mentioned during the explanatory meeting on the above subject called by the Commission on 4<sup>th</sup> February 2002.

13. On a query from the Commission as to why the MD meters have been installed at all when such consumers have not opted for it, the MSEB Counsel submitted that the Board has submitted a proposal before the Commission for permission to withdraw the circular No.636 and 666.

14. The Commission observed that the question of giving permission to withdraw an illegal circular does not arise at all. What is happening in the field is that the consumers are harassed on account of wrong interpretation and improper implementation of the directives contained in its various circulars of the Board itself. The best course of action is to maintain the status- quo in the matter till the High Court decision in the matter of the MSEB's appeal No.218 and 106 is delivered. The MSEB may remove the new MD meters wherever installed at its own cost.

15. The Commission also observed that, as directed earlier, the Board should immediately initiate an action plan to update its own booklet containing Terms & Conditions of Supply ensuring that it is properly worded, including legal aspects under the IE Act, 1910 / E (S) Act 1948 r/w ERC Act 1998 and various Departmental Commercial Circulars and make it available to all its field level offices and interested consumers to avoid recurrence of such type of complaints.

16. The Commission directed the MSEB that to submit an undertaking in line with the above to the Commission for its approval. In conclusion, the Commission observed that the Respondent has acted in contravention of the Commission's directives from time to time and, hence, the prayers of the Petitioner are granted, with MSEB submitting no contest except prayer No.(iii).

17. The Counsel of the Respondent submitted that, with respect to prayer No.(iii), he will seek his client's advice and, accordingly, keep informed the Commission for appropriate direction.

18. Keeping the above in mind, the Commission hereby directs that:

- (i) All prayers of the Applicant be granted except prayer No.(iii)

- (ii) The MSEB to maintain the status-quo in respect of LTMD meters pertaining to the Applicant.
- (iii) The MSEB will strictly apply the provisions of the MERC Tariff Orders including the latest Order dated 10<sup>th</sup> January 2002, directing that “*the MSEB should bill all consumers supplied at LT level in this category as per LTPG or LTMD tariff as applicable*” [Refer section 49 / page 14 of the Tariff Order dated 10<sup>th</sup> Jan. 2002].
- (iv) The MSEB shall clearly address all its LTPG consumers, while sending its next bill, offering the option of LTPG or LTMD tariff with a deadline for the consumer to intimate its option on or before May 31, 2002.

Sd/-  
(Venkat Chary)  
Member

Sd/-  
(Jayant Deo)  
Member

Sd/-  
(P. Subrahmanyam)  
Chairman, MERC

Sd/-  
(Sanjay Kumar)  
Secretary, MERC

Note:

Reference: Remarks of the commission at 7/N and 9/N

The final Order in the matter Application by M/s Rani Sati Rice Mill, Gondia, on *Optional Treatment proposed by the Commission in case of LTPG Consumers and not to force on them the MD based tariff, as provided for in the original Tariff Order dated 5<sup>th</sup> May 2000*, is put up for signature.

(M.K. Kundu)  
1.4.2002

Secretary, MERC

Member (Shri D)

Member (Shri C)

Chairman, MERC