

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005.
Tel. 022 22163964/65/69 Fax 22163976
Email: mercindia@mercindia.org.in
Website: www.mercindia.org.in

Case No. 28 of 2011

In the matter of
Petition of MSEDCL for non- compliance of the Order dated 27.01.2011 passed by the
Commission in Case No. 85 of 2010 and 87 of 2010.

Shri V. P. Raja, Chairman
Shri Vijay L. Sonavane, Member

Maharashtra State Electricity Distribution Company Limited Petitioner

V/s

Mula Pravara Electric Co-Operative Society Limited Respondent

ORDER

Dated: 30th November, 2011

Maharashtra State Electricity Distribution Company Limited (*hereinafter referred to as "MSEDCL"*) filed a Petition on 11.02.2011 alleging that the Mula Pravara Electric Co-Operative Society Ltd (*hereinafter referred to as "MPECS"*), has failed to comply with the Commission's Order dated 27th January, 2011 in Case No. 85 of 2010 & 87 of 2010.

2. The prayers of MSEDCL are as follows:

- “
1. *Direct MPECS to handover to MSEDCL the billing data and the Security Deposit within two days.*
 2. *Comply with all the necessary direction of the MERC Order dated 27.01.2011.*
 3. *In case of failure of MPECS to comply with (1) & (2) above the Commission is requested to proceed against MPECS under section 142 Read with 149 of the EA 2003.*
 4. *Any other direction which the Hon'ble Commission deems fit to be issued.”*

3. The Petitioner in its Petition submitted as follows:-

- i. The Commission in its Order dated 27th January 2011 in the matter of MSEDCL & MPECS application for grant of Distribution License for MPECS Area of Supply (Case No. 85 & 87 of 2010) decided to grant distribution license to MSEDCL under Section 15 of the EA 2003 to distribute the electricity in the area of supply of MPECS with effect from 1st February 2011.
- ii. Vide the said Order dated 27th January 2011, the Commission has included the erstwhile MPECS area as the merged area in the MSEDCL License.
- iii. As per the Commission's Order, MSEDCL on 30th January 2011 has requested MPECS to put MSEDCL in the position to supply electricity and discharge legal duties and obligations in the area of erstwhile MPECS to comply statutory directions as per Commission.
- iv. As per the Commission's aforesaid Order dated 27th January 2011, MPECS was required to give permission to MSEDCL to use all the assets and distribution network which were hithertofore belonging to MPECS without any wheeling charges for the same.
- v. Further as per the said Order dated 27th January 2011, MPECS was required to handover the billing database of all its consumers to MSEDCL in hard as well as soft format in order to enable MSEDCL to issue energy bills and to carry out the functions and obligations of a distribution licensee. In accordance with the said Order dated 27th January 2011, MPECS was directed to hand over the security deposits paid by its consumers to MSEDCL.
- vi. MSEDCL vide various letters requested MPECS to transfer its billing database and Security Deposit, however, MPECS did not give any data. As a result, MSEDCL has filed this Petition with the prayers as mentioned above.

4. The Commission vide Notice dated 11th March 2011, scheduled a hearing in the matter on April 06, 2011 and directed MSEDCL to serve a copy of the Petition and annexures to MPECS and to the Authorised Consumer Representatives. MPECS was directed to file its reply, if any, with a copy served to MSEDCL and the Authorised Consumer Representatives.

5. MPECS vide letter dated 5th April 2011 submitted para-wise preliminary replies to the Commission. The preliminary replies are as follows:

- 1) MPECS submitted that it may consider preferring an appeal under Section 111 of EA 2003 from the said Order dated 27th January 2011 compliance of which has been sought by MSEDCL in the present proceedings.
- 2) MPECS submitted that if an Appeal is filed and if MPECS succeed in its Appeal, the present Petition will not be maintainable and will become infructuous.
- 3) MPECS submitted that it has handed over the billing data and details of its consumers to enable MSEDCL to supply energy and to raise their Bills and MSEDCL has already raised energy bills. MPECS hence submitted that the

proceedings in the present Petition be stayed in light of the appeal being filed and until its final disposal.

6. MSEDCL vide letter dated 19th March 2011 *inter alia* reminded MPECS that it has handed over the billing data of Jan. 2011 billed in Feb. 2011 in soft form on dt. 26.02.2011, but as per Commission's Order dated 27th January 2011 in Case No. 85 & 87 of 2010, MPECS is under obligation to handover billing & metering data of each of the consumers (up-to-date) to MSEDCL. Also MPECS has handed over monthly billing data but the previous billing history of five years is still awaited and also the consumer's collection details and new connection released consumers data is yet not received. MSEDCL further in the letter stated that as per the legal provisions MSEDCL is entitled to have deposit from each of the consumer so the transfer of security deposit amount held by MPECS in respect of each of the consumer along with all necessary details should be provided to MSEDCL.

7. MSEDCL sent further letter dated 19th March 2011, where it *inter alia* stated that it has directed MPECS to hand over peaceful possession of the distribution assets and the other things connected there to MSEDCL and with reference to the letter dated 29.01.2011 it was requested to hand over the asset register maintained by MPECS in respect of assets relating to distribution of electricity for further smooth working.

8. During the hearing held on 6th April, 2011, MPECS submitted about the pendency of its Appeal No. 39 of 2011 challenging the Commission's Order dated 27th January 2011 in Case No. 85 & 87 of 2010, before the Hon'ble Appellate Tribunal.

9. During the hearing held on 11th July 2011, MSEDCL stated that it has sent a letter dated 9th June 2011 to MPECS regarding the billing difficulties faced by MSEDCL and to provide data in hard as well as soft copy. It was also stated that MPECS has not given the security deposit amount to MSEDCL. However MPECS stated that it has not received the said letter. MPECS stated that a copy of the letter may also be sent to its Advocates. A copy of the letter was handed over by MSEDCL to MPECS during the hearing.

10. During the hearing held on 11th August 2011, MPECS stated that it has sent a letter dated 10th August 2011 in regard to making available billing data. MPECS stated that in case of any difficulties or if any clarifications were required, MSEDCL may convey the same and contact the local officers of MPECS and may depute a concerned officer to resolve the issue.

11. During the hearing held on 2nd September, 2011, MPECS stated that MPECS has already submitted the required data to MSEDCL. MSEDCL has issued a letter asking for new information like billing methods, arrears, interest rates, etc. MPECS stated that a meeting shall be arranged with MSEDCL on 7th September 2011 to sort out any clarifications. MPECS vide letter dated 5th September 2011 *inter alia* requested MSEDCL to depute concerned officer for the scheduled meeting. As regards security deposits, MPECS stated that the issues relating to the right if any to Security deposit is *sub judice* before the Hon'ble APTEL.

12. MPECS vide letter dated 14th September 2011 *inter alia* requested for the format for summary of the requisite data from MSEDCL.

13. During the hearing held on 15th September 2011, MSEDCL stated that the requisite data is received, however the Summary of the billing data in the specific format is required. MSEDCL handed over the format of the required data for further necessary compliance.

14. MPECS vide letter dated 30th September 2011 *inter alia* intimated that the summary for the updated billing position in the prescribed format and documentation of the database structure has been submitted in soft form.

15. During the hearing held on 3rd October, 2011, MSEDCL stated that the received data is required to be checked. MSEDCL further stated that the issue of security deposit is *sub judice* before the Hon'ble APTEL and requested for one more date for hearing.

16. During the hearing held on 9th November 2011, MPECS stated that it has already submitted the necessary data and there is no reason for keeping the case pending. MSEDCL stated that as per the prayer the security deposit is not yet received. MPECS stated that the security deposit is not an asset and hence it is irrelevant. Also the issue of security deposit is *sub judice* before the Hon'ble APTEL.

17. Heard the parties. The Commission is of the view that the said Order dated 27th January 2011 compliance of which is sought for by MSEDCL in the present petition is pending in Appeal before the Hon'ble APTEL. Moreover, Hon'ble APTEL has reserved the judgement in the said Appeal by its order dated 12th October 2011. In accordance with the norms of judicial propriety and out of deference to the pendency of the proceedings before the Hon'ble Tribunal this Commission would not like to pass any order which may even be seen as overreaching the Hon'ble Tribunal. In the present circumstances, the matter is adjourned *sine die* till the final outcome of the said Appeal before the Hon'ble Tribunal.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman