

**Minutes of the Seventeenth Meeting of the State Advisory Committee (SAC) held on Friday, 25<sup>th</sup> March, 2011 at 11.00 hrs**

The Seventeenth Meeting of the State Advisory Committee of the MERC was held on Friday, 25<sup>th</sup> March, 2011. Shri V.P. Raja, Chairman presided over the meeting. The Chairman informed that Shri V.L. Sonavane, Member could not attend the meeting as he was away on tour abroad to present a Paper in an International Conference. The meeting commenced with a warm welcome by the Commission to all attending Members/ Special Invitees and other officials. Leave of absence was granted to those who could not attend the meeting.

The Chairman informed that three new persons, (i) Shri Harry Dhaul of IPPAI, (ii) Shri Jayant Deo, of Indian Energy Exchange, and (iii) Smt Rupa Devi Singh of Power Exchange of India have been invited for this meeting, and they will be the permanent Special Invitee for the SAC Meetings.

**Agenda Item No. 1 : Preliminary remarks of the Chairman**

A sustained annual rate of Growth of GDP of atleast 9% is required to cut through the vicious cycle of poverty. There is a strong correlation between GDP Growth and Electricity Growth. If GDP has to grow annually at 9%, Electricity Generation Capacity needs to grow at 9-10% annually. This requires a lot of Investment and such a large investment cannot be done by only Government, and hence the private sector has to come for investment. This has happened already and many new private sector companies, such as Adani Power, JSW have been making investments in the power sector. Most new generation capacities are created through the Project Finance Route and financial closure of projects is achieved through Revenue Streams created through Power Purchase Agreements (PPAs) and merchant sales. To ensure that these Revenue Streams actually materialize, "Open Access" is a must, since the "Wire Business" is a "natural Monopoly". Denying "Open Access" or creating hurdles to "Open Access" is abuse of "Monopoly Power", against the larger public interest. Hence, "Open Access Regulations" also needs to be considered from the point of view of "new generation assets", and "Bankers and Project Financiers who have funded power projects".

Taking into consideration the need and role of private sector investments and future of electricity market as envisaged in the Electricity Act, 2003, the Commission has decided to invite these Institutions viz. IPPAI and 2 existing power exchanges.

The challenge in the reform agenda is the implementation of Open Access and gradual reduction of Cross Subsidies. "Open Access" is linked to "Progressive Cross Subsidy Reduction". This is not happening. Maharashtra has around 32 lakh Agricultural Pump Sets. About 16 lakh (50%) do not have meters and the Horse Power (HP) communicated to MSEDCL by the owner of the Pump is often wrong (what is communicated 3 HP will often be a pump of 12 HP which is coming from BEE Study on Mangalweda Taluka of Sholapur District). MERC has been constantly directing MSEDCL to achieve 100% metering, since 2000. There is insufficient progress during the last 11 years, leading to exorbitant tariffs for the Industrial and Commercial Sectors. This in turn is having an adverse effect on investments, new projects and employment generation in Maharashtra, which has serious consequences for the future.

As far as Open Access is concerned there is no policy vacuum. There is an Order of the Commission and also two Regulations are in place. The ultimate aim is that the tariff will be determined separately for wire business, and for retail supply, which will operate on market principles. The Commission has decided to study the separation of wire and retail supply licence from the integrated distribution licensee business. The Commission has also decided to set up a 'Market Monitoring Unit' in the Commission's office.

Regarding the cross subsidy, out of the total ARR of MSEDCL, about 20% amount is coming from the direct subsidy or cross subsidy.

The Commission initiated discussion on the agenda items already circulated earlier.

**Agenda Item No.2 : Confirmation of Minutes of the last meeting held on 31<sup>st</sup> December, 2010.**

Shri R.B. Goenka of Vidarbha Industries Association stated that the Minutes of the 16<sup>th</sup> SAC held on 31<sup>st</sup> December, 2010 does not cover submissions of VIA on important issues and written submission on issues like transparency on selection of appointment of consumer representatives included, but only passing remarks is mentioned in the Minutes..

It was decided that copies of presentations made during the meetings invariably be circulated to all Members / Special Invitees of the SAC and the Minutes were approved unanimously.

**Agenda Item No.3 : Action Taken Report of the earlier meetings.**

Shri Goenka stated that the matter of SoP Regulations for transmission licensees was discussed during the 11<sup>th</sup> meeting and thereafter in the status report and ATR, this item appeared in the 12<sup>th</sup> Meeting. However, this issue is missing from the ATR in all subsequent meeting and also is not tabulated in the pendency of compliances of Minutes of the SAC.

The Commission decided to include all the pending issues in the Action Taken Report till the issues are finalized.

The above was noted and the Minutes of the 30<sup>th</sup> December, 2010 were approved unanimously.

Before proceeding further with the Agenda Items, the Chairman requested Shri Harry Dhaul, Director General of Independent Power Producers Association (IPPAI) to make a presentation for the benefit of all.

**Agenda Item No. 4 : Discussion on Open Access**

**Presentation of IPPAI**

Shri Harry Dhaul, Director General IPPAI made a detailed presentation (Annexure-1), copies of which were circulated to all present. He briefly explained on the following issues:

- In the present context, Open Access is unviable in the present context because of the multiple and pancaking charges such as wheeling, transmission, operating, administrative, cross subsidy, electricity duty, tax on sale of electricity, standby charges, demand charges, etc.
- Benefits of Open Access
- Consumers & Regulatory issues in the transition phase
- Investor concerns
- Discom concerns
- IPPAI's recommendation

### **Presentation on Draft Open Access Regulation:**

Shri Kale, ICRA appointed by the Commission for framing the Open Access Regulations made a presentation (Annexure-2) on Study on 'Expediting Open Access above 1 MW in Maharashtra'. Based on the discussions and suggestions received from the Committee Members, two draft Regulations viz. Transmission and Distribution Open Access 2011 have been framed and published and put up to the Commission's website for inviting suggestions/ objections and comments from the stakeholders. The presentations gave the summary of the suggestions/ objections on the draft Open Access Regulations. Copies of presentation were circulated to all.

The presentation was followed by a detailed discussion. The Chairman invited attention of the Principal Secretary (Energy) regarding the MSEB Holding Company's resolution stating that the SLDC will continue as an independent arm of MSETCL and required to be ring fenced as per the provisions of Electricity Act, 2003..

Shri Subrat Ratho, PS (Energy) informed that the continuation of the present set up of SLDC is necessary for staffing issues, which are now being met from MSETCL. Just by creating a separate company, it would be difficult to recruit the qualified and experienced staff to manage the SLDC functions. Another important urgent requirement is for development of adequate infrastructure, for which additional Capex is essential which is being approved presently through SLDC Budget by the Commission separately. Therefore, the Government of Maharashtra took a conscious decision to continue the present set up of SLDC being an arm of MSETCL, and assured it's functioning as independent.

### **Agenda Item No. 5 : Discussion on Cross Subsidy:**

A presentation (Annexure-3) was made by Shri Anirban Banerjee, PwC, the Consulting firm appointed by the Commission, on the progress made after the last SAC Meeting on Cross Subsidy Reduction and Roadmap. A copy of the presentation was circulated to all present. This was followed by a detailed discussion.

The concerns echoed and the suggestions made by BEST, Reliance Infrastructure, Tata Power have been recorded and noted.

Regarding Open Access and Cross Subsidy, the Principal Secretary (Energy) opined that there is a need for an engagement between GoM-MERC-Utilities / Licensees before taking forward the provisions of the Act, as well as Regulations. The Commission should play a

leading role in this matter to arrive at a way-forward for implementation of Open Access and Cross Subsidy matters smoothly.

Shri Sethi of Tata Power opined that there should be more investments in power sector, for which the issue of risk taking should be identified and addressed. If required, relevant Regulations should be revisited or the same should be revised frequently.

Shri Jayant Deo, MD of Indian Energy Exchange stated that he agrees with the views of IPPAI. There should be wholesale sector and retail sector consumers. The retail sector consumers should be identified and developed first and tariff for such consumers should be defined accordingly. The ARR of the licensees and its recovery should be for retail consumers, and the basic tariff for the bulk consumers are concerned, the same should be determined by the market as this is not a regulated tariff.

The Chairman drew the attention of earlier meetings wherein the issue of problems of agricultural consumers raised by Prof N.D. Patil and Shri Pratap Hogade. The Commission was thinking creating of a separate category for cash-crop consumers in the State of Maharashtra, so that the benefit of cross subsidy would be passed on to the deserved agricultural consumers. The matter would be taken up with the State Government. **The matter would be discussed in the next SAC meeting.**

**Agenda Item No. 6 : Selection/Appointment of Consultants/Consumer Representatives.**

A presentation was made by Shri K.B. Lal, MERC officials on the authorisation to Person(s) (Organisations & Individuals) to represent the interests of the consumers in the proceedings before the Commission. A copy of the presentation was circulated to all.

Shri R.R. Mehta of RInfra suggested that the MERC may explore the possibilities of appointing individuals, who were earlier Members / Chairman and have retired from the Consumer Grievance Redressal Forums.

Regarding the suggestions made by Shri Goenka for funding of CRs for attending the hearings at the Appellate Tribunal of Electricity, New Delhi and/or Supreme Court, the Chairman suggested that the matter could be taken up with the Secretary, Food & Civil Supplies and Consumer Protection Department of Govt. of Maharashtra.

Shri Ashok Sethi of TPC stated that the technically outstanding persons worked in the field, than the academicians and professionals, may be considered.

The suggestions / comments made during the meeting were noted and corrections would be effected accordingly.

**Agenda Item No. 7 : Proposal for setting up a dedicated school / institute for technocrats required for regulatory functions.**

The Chairman stated that as per the 17<sup>th</sup> Electricity Power Survey of India Report 2007, the requirement of electricity in the year 2021-22 is likely to be around 1914508 GWh in India. This quantum jump from 968659 GWh in installed capacity would require a multipronged

increase in manufacturing capabilities would need for qualified technocrats well versed with the nuances of the power sector.

The idea was to introduce multiplicity of players for the provisions of various goods and services and to appoint a regulator who acts as an umpire/referee. The job of a regulator in any field is to ensure a level playing field to existing and new entrants to protect the consumers' interest. Since the Regulators have to review, analyse and judge the documents created by knowledgeable persons in the field, it is necessary that right-mix of techno-commercial, economic, finance and legal and managerial personnel are available to the Regulators. At present, there is a demand-supply gap right-mix of techno-commercial, economic, finance and legal and managerial personnel.

With this background, earlier the MERC has appointed Regulatory Officers (RO) and Stipendiary Regulatory Analysts (SRA) to bridge this gap. Further, it had undertaken (i) 3-day workshop on Concepts and Processes in Electricity Regulation with World Trade Institute, Mumbai, YASHDA, Pune and KJ Somaiya Institute of Management, (ii) Six months Post-Graduate Diploma in Electricity Regulation, (iii) 20 weeks Certificate Course in the Economics of Energy Sector, (iv) MBA programme on Energy & Environment (a capsule on Electricity Regulation) with Symbiosis Institute of International Business.

To consolidate these efforts towards establishing a multi-disciplinary course on the lines of induction courses at IAS / IRS academies, initially with a batch of 25-30 candidates, the Commission has placed the above proposal for information and comments/suggestions before the SAC.

The Chairman stated that possibility of funding of this proposal could be explored through FOR and Government of India.

Shri S.D. Mathur, MERC's consultant, has made a brief presentation, followed by a discussion which will be circulated to all the Members/ Special Invitees..

Dr Rajvanshi of Nimbkar Agricultural Research Institute (NARI), Phaltan opined that this is a welcome step and offered his full support. He further stated that a similar course may be conducted in rural areas since the major consumers of electricity are in rural areas, which will facilitate addressing the problems of rural consumers. The infrastructure, including faculties, research facilities, lodging, library, etc, available at NARI could be utilized for this purpose.

Shri Ashok Sethi of TPC has offered to send details of faculty members at Tata Management Training Centre (TMTTC) would help the MERC to formulate a proper syllabus and faculty members.

Shri R.R. Mehta of RInfra suggested that Shri Deepak Chawla at Reliance Energy Management Institute (REMI) would help the MERC to develop the contents of the syllabus and all possible other help.

Shri Kelkar of Institution of Engineers stated that IEA offered to help the MERC in technical issues.

## **Agenda Item No. 8 : Any other item with the permission of the Chair**

### **a) Sugarcane Purchase Tax exemption to Bagasse based Cogeneration Units selling power to MSEDCL.**

RInfra vide its letter dated 24<sup>th</sup> March, 2011 has suggested to include the above item in the agenda for discussion during the 17<sup>th</sup> SAC meeting.

Shri Kapil Sharma of RInfra stated that a recent Cabinet decision of the GoM has allowed tax exemption to those Bagasse based Cogeneration Units in Maharashtra who supply power only to MSEDCL. All the Licensees in the State are guided by a single common Regulation of MERC for fulfilling their Renewable Power Obligation (RPO) targets. They have to procure renewable energy at MERC determined tariff to get the energy being recognized for RPO. It would therefore be desirable to extend the benefit of exemption of sugarcane purchase tax to all the bagasse based cogeneration units in Maharashtra for sale of power to other Licensees in the State as well. The Commission may take up the matter with the GoM by way of an Order or Advice to the State Government under the Act.

### **b) Inclusion of space for sub-station building in FSI**

RInfra submitted that they have recently come across the news article of BMC Commissioner for inclusion of spare of electric sub-station in FSI. The Chairman directed to put up the matter for discussion with the State Co-Ordination Committee.

### **c) Transmission Availability**

Shri Sethi of TPC drew attention of the MERC's Tariff Regulations guidelines and submitted that -

“Transmission Availability of a transmission licensee should not get adversely impacted as long as the transmission licensee has been able to wheel the entire power demanded on the transmission system. Transmission systems have an inherent redundancy for providing high reliability. However, if any equipment has been taken out without impacting the reliability of the transmission system (N-1 condition), the same should not be considered for computing the transmission availability. This is especially relevant as private licensees have smaller systems and any outage of an equipment which, although may not impact system reliability can result in a significant drop in the availability as computed currently. Hence, in his submissions, the formula for computing Transmission availability may be appropriately modified in the Tariff Regulations.”

### **d) Amendment in Clauses of Load Sanction Letter and Agreement being entered into with the consumers of MSEDCL**

Shri Goenka of Vidarbha Industries Association raised the issues that MSEDCL is issuing Load Sanction letters wherein some of the clauses are contrary to the provisions of Act and SoP Regulations. Similarly, the some of the clauses in the Agreement entered into with the consumers before release of power or enhancement of demand are also contrary to the EA and SoP Regulations.

The Chairman requested the representatives of MSEDCL to look into the matter and make appropriate corrections accordingly. He further requested Shri Goenka to send all details to the SE (TRC), MSEDCL for appropriate action.

**List of enclosures: Copy of Presentations by:**

- (a) IPPAI
- (b) MERC consultant on Open Access
- (c) MERC consultant on Intra-State Open Access above 1 MW
- (d) MERC consultant on Cross Subsidy Reduction Roadmap for the State of Maharashtra.
- (e) MERC presentation on enlistment/empanelling of consumer representatives
- (f) VIA on Benefits of Open Access
- (g) VIA on Mechanism of Internal Grievance Redressal Cell
- (h) VIA on Clauses of Load Sanction and Agreement entered with consumers of MSEDCL.

**List of Members and Special Invitees who attended the 17<sup>th</sup> SAC Meeting**

**Members**

- 1 Representative of Central Railway
- 2 Shri R.B. Goenka, Vidarbha Industries Association
- 3 Shri Kelkar, Institution of Engineers (India) Pune Local Centre
- 4 Dr Anil Rajvanshi, Director, Nimbkar Agricultural Research Institute
- 5 Shri Subrat Ratho, Principal Secretary (Energy), GoM

**Special Invitees:**

- 6 Shri Ajoy Mehta, Managing Director, MSEDCL
- 7 Shri Arvind Singh, Managing Director, MSETCL
- 8 Shri Ashok Sethi, VP (MO), Tata Power Co Ltd.
- 9 Shri R.R. Mehta, Reliance Infrastructure Ltd.
- 10 Shri A.G. Patil, AGM (Electric Supply), BEST Undertaking.
- 11 Shri Harry Dhaul, Director General, Independent Power Producers Association
- 12 Shri Jayant Deo, CEO & MD, Indian Energy Exchanges Ltd.