

The Enron Story :

Controversial issues and the struggle

PRAYAS Monograph Series

Dr. Subodh Wagle

The
ENRON
STORY

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The Enron Story

(PRAYAS Monograph Series)

**The Enron Story:
Controversial Issues and People's Struggle**

Dr. Subodh Wagle

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Preface

The Enron controversy has at least four major categories of issues: techno-economic, environmental, social, and legal or procedural. In the past, the Prayas Energy Group has concentrated its efforts mainly on the techno-economic issues. Many researchers and activists have worked on the other issues in the controversy and have published their analyses. Equally important is the struggle waged by local communities affected by the project. The Enron controversy--comprising the debate on these controversial issues and the struggle by various organizations--has tracked such a convoluted path, thanks to Indian politicians of all hues, that common public has immense difficulty in remembering the specific turns and twists and in understanding their implications. This monograph intends to paint a brief but comprehensive picture of the entire Enron controversy covering all these aspects. It is hoped that such a comprehensive approach will be helpful to the public to judge the prevailing situation.

To set a proper context for the monograph, it is necessary to mention that the Enron project is not an isolated event but one of the first manifestation of the ongoing process of privatization of the power sector in India. This process is marked by excessive political interference, abject neglect of the interests of tax-payers and consumers, bypassing procedural and legal checks and balances, and overriding existing regulatory institutions. It is feared that such a process will result in skimming-off operations by the nexus of corrupt politicians and bureaucrats as well as in profiteering by unscrupulous businesses. Tracing the history of the Indian power sector and situating this disastrous process in a proper context are the topics which will be dealt in the forthcoming monograph by the Prayas Energy Group.

I have drawn heavily from work of my colleagues in Prayas--Girish Sant and Shantanu Dixit--especially in the techno-economic matters. To cover the other controversial issues, I have relied on works of many researchers and activists. It is difficult to cite every source on every occasion in such a brief monograph.

But I am indebted for the direct and indirect help from many individuals (and their works) including, Sulbha Brahme, Winin Pereira and his INDRANET group, Samaj Vidnyan Academy, Abhay Mehta, and many activists especially, Yeshwant Bait, Ashok Kadam, and Arun and Vijay Joglekar.

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* The opinions expressed in this monograph are author's individual opinions.

I. The Project and the First Power Purchase Agreement

The Enron project is a product of the new economic policy (NEP) and concomitant liberalization and privatization of the power sector which was initiated by the Government of India in October 1991. The Enron project is the largest of the first batch of eight "fast-track" power projects with foreign private capital that have been cleared by the Government of India (GOI). The respective state governments provided guarantees to foreign investors assuring them to pay up all outstanding dues in case the respective state electricity boards (SEBs) fail to pay. In addition, GOI extended counter-guarantee to the Enron project against non-payment of the dues related only to Phase-I.

Enron Development Corporation, an American multinational corporation, signed a Memorandum of Understanding (MOU) with the Government of Maharashtra (GOM) on June 20, 1992 for construction and operation of a thermal power project. The planned capacity of this single plant--2000 megawatts (MW)--was about one fifth of the entire installed capacity in the state of Maharashtra at that time. In April 1993, two other American multinational corporations (MNCs)--Bechtel Enterprises and General Electric Company (GE)--joined hands with Enron Corporation to form a company called Dabhol Power Company (DPC) that was registered under the 1956 Indian Company Law.¹ The shares of Enron, Bechtel, and GE in the equity of Dabhol Power Company (DPC) are in the proportion of 80%, 10%, and 10% respectively. On December 8, 1993, Dabhol Power Company entered into the power purchase agreement (PPA-I) with Maharashtra State Electricity Board (MSEB).

¹ DPC and Enron are used interchangeably in this booklet functionally, they are a single company as officials of the US multinational corporation, Enron still conduct affairs of DPC. Apart from the legal advantages, the separate name (i.e. DPC) is often used by Enron just to portray that DPC is an Indian company and dissociate from the negative image of MNCs in the mind of the Indian public.

According to the Power Purchase Agreement (PPA-I), DPC would build a thermal power plant using combined cycle gas turbine (CCGT) technology. The project, according to PPA-I, was to have a total installed capacity of 2015 megawatts (MW) divided into two phases of 695 MW and 1320 MW respectively. However, only first phase was finalized and the government had option to accept, renegotiate, or reject the second phase. In the initial two-year period (Phase-I), the project was to rely on distillate oil until facilities for utilizing liquefied natural gas (LNG) are ready. The natural gas was to be imported from Qatar where Enron Corporation had developed gas fields. It would be brought in liquefied form by sea route using special tankers. The total capital cost of the project was estimated at about 90.5 billion Indian Rupees (Rs) (i.e., \$ 2.83 billion) or about \$1.4 million per MW. The respective share of Phase I and Phase II capital cost were estimated as 29.12 billion Rs (\$ 0.91 billion) and 61.44 billion Rs (\$ 1.92 billion).

The plant was to be erected at a site about 250 kilometers south of Bombay on the western coast of India. The actual site is near the port of Dabhol, but on the other side of the estuary formed by the river Vashishthi meeting the Arabian Sea. The villages that would be directly affected by the project are Anjanvel (especially the hamlets of Katalwadi and Borbhatlewadi), Veldur, and Ranvi. These villages come under the administrative jurisdiction of *taluka* (sub-district administrative unit) Guhagar and district Ratnagiri. About 700 hectares of land was to be acquired from these three villages. According to the Environmental Impact Assessment (EIA) report submitted by Enron, about 2000 persons would be displaced.

The Power Purchase Agreement (PPA-I) between MSEB and DPC is a critical document which defines many important details of the project. It was kept secret for about fifteen months by both Enron and the state government despite persistent demands to make it public. Finally, a national daily newspaper managed to get a copy of the PPA-I and published selected portions. At the same time, political parties opposing the deal won

the elections for the Legislative Assembly in the state and formed the new government. In this situation, Enron found it prudent to publish the PPA-I officially.

The salient features of the agreement are:

- A "Build, Own, and Operate (BOO)" type agreement.
- MSEB would buy power from Enron at a negotiated tariff for 20 years.
- Enron would construct the Phase I plant with a capacity of 695 MW (625 MW base load and 70 MW peak load) in 33 months after financial closure is effected.
- Enron assured 90% (time) availability of the plant.
- A two-part tariff method would be used to calculate the payments to Enron. The two components would be: energy charges (cost of fuel and other related costs) and capacity charges (capital recovery charge, operation and maintenance cost, insurance, and other related costs).
- The tariff would be calculated on the basis of 44.9% efficiency for base load operation and 28.1% efficiency for peak load operation.
- Cost of the fuel would be passed on to MSEB. However, responsibility of securing least cost supply of fuel rests with an Enron subsidiary against the payment of \$2.5 million per year.
- Government of India's new policy directions (restricting return on equity to 16%) would not be applicable to this project. Hence, the profitability of the project is entirely governed by the (secretly) negotiated tariff.

II. Techno-economic and Environmental Objections

The PPA-I was a target of serious objections from the experts with a variety of backgrounds and representing a range of organizations and interests. These objections could roughly be classified in the following categories: techno-economic (technical, economic, financial, legal, procedural, etc.), environmental (ecological, safety-related, etc.), and social (displacement and subsequent resettlement and rehabilitation [R & R]).

In addition, there were allegations of favoritism and corruption against the decision-makers in the government and bureaucracy. These allegations were rooted in the lack of transparency in the procedures, secrecy over the negotiation process and documents, the extraordinarily rapid pace with which various government clearances were granted for the project, and the nature and number of extra-ordinary incentives and exemptions offered to Enron.

Techno-economic Objections

The objective of this section is to provide the reader with a brief introduction to major techno-economic objections. It is not possible to discuss these objections and the debate they engendered in detail mainly due to the space constraint. However, some of these objections are discussed in detail in Appendix I.

- Capital Cost: The project's capital cost was said to be very high compared with that of the other new power projects including Enron's own Tee Side project in the UK
- Capacity Concerns: A project with such a large capacity for base-load operations was found to be problematic considering the pattern of the demand for electricity in the state.
- Fuel Issues: Considering the fact that there are alternative fuels available, importing such large

quantities of natural gas at high costs was said to be imprudent.

- Profit Allowance: Enron was allowed an exceptionally high profit rate. It was estimated to be as high as a 28% internal rate of return (IRR) which was equivalent to a little over 40% per annum of return on equity in US\$.
- Electricity Pricing Issues: The negotiated tariff was claimed to be very high when compared with the cost of electricity from similar projects in the country.
- Foreign Exchange Impact: The project involved a high outflow of foreign exchange estimated to be between \$400 million to \$650 million per annum only for Phase-I. This would add to India's already growing balance of payments problem.
- Risk Distribution: The PPA stipulated a skewed risk distribution in which MSEB bore risk for everything except timely construction and supply of fuel.
- Special Incentives: Enron received many incentives in terms of exemptions from taxes and duties from the state as well as central governments.
- Involvement of Multinational Corporations: All three American multinational corporations involved in the project were alleged to have adopted unfair business practices and to have ignored environmental impacts in previous projects.
- Procedural Irregularities: The government was castigated for avoiding the procedure of competitive bidding, for maintaining secrecy during the negotiation process, and for treating various agreements and related documents as secret.
- Technological Dependency: The choice of technology in this case raised important problems. The turbines to be supplied by GE had not been adequately field-tested, whereas a competitive alternative to this technology was available from within India.

- Enron's Power Sector Experience: Enron is primarily an oil and gas selling company and did not have an established track-record of constructing and operating such a massive (2015 MW) power plant. Enron reportedly had operated about six power plants in the world ranging from 28 MW to 450 MW range. Its new plant at Tee Side, UK (1875 MW) had just been completed only in 1993.
- Corruption: Enron was also subjected to allegations of bribery which were based on the revelations by a high-ranking Enron official in the testimony before a committee of the U.S. House of Representatives. According to testimony, Enron spent about \$ 20 million (Rs. 60 crore) toward "educational expenses" of Indian officials.
- Sovereignty Concerns: Sovereignty of the country and credibility of the Indian judiciary was said to be sacrificed by government's acceptance of the clause in PPA-I which stipulated that all disputes between Enron and MSEB (or Government of Maharashtra) were to be arbitrated in courts outside this country (in London).

These objections against the project were raised by environmental groups, consumer organizations, labor unions, cultural organizations, political organizations, lawyers' groups, and research institutions. However, depending upon the concerns specific to the particular organization, the focus and emphasis of objections and criticisms raised by the organization were different.²

² For example, Mumbai Grahak Panchayat (Bombay Consumers' Council), a consumer rights organization, was primarily interested in protecting interests of electricity consumers in the state. Naturally, its criticism of the deal, rooted in its specific concern, was focused on the techno-economic issues and issues of procedural and legal propriety. By focusing on these issues, it aimed at securing a fair deal for power consumers in the state without directly and expressly

Environmental Objections

The debate on environmental objections involved detailed arguments and counter arguments over chemical and thermal pollution of air and water in an ecologically fragile zone like Konkan. In brief, the critics claimed that the flue gases coming from such a large power plant would affect not only the health of people (especially in high rain-fall season) but would also pose serious threat to the delicate horticultural plantations of mango, betel-nut (*supari*) and other fruits spread in the entire *taluka* (sub-district). Further, the hot water released from the plant would be hazardous for the marine life.

Enron, MSEB, and the Government of Maharashtra (GOM) came out with their responses to these objections. The main substance of the rejoinders from pro-project agencies could be summed up as follows: According to the authorities, the project was perfectly sound on environmental grounds. The fuel, natural gas, is the most clean fuel available. Further, Enron would create a green zone around the plant in order to contain the pollution created within. A comprehensive Environmental Impact Assessment (EIA) report had been submitted by Enron to the Ministry of Environment and Forests (MOEF) of Government of India based on which MOEF had already granted environmental clearance.

The critics of the project provided detailed counter-arguments to these responses from the pro-project agencies. These could be summarized as follows: First of all, in Phase I of the project the plant was going to use distillate oil and not natural gas. The effects of pollution generated due to distillate oil were not discussed and accounted for. Secondly, natural gas is not an entirely pollution-free fuel as portrayed. It produces less amounts of pollution for every unit of electricity generated when compared

questioning the necessity of such big projects or raising objections over the destruction of livelihoods of local people.

to the other fuels used in thermal power plants. But, the power plant using natural gas would certainly create some thermal as well as chemical pollution. The huge capacity of the Enron plant would become a matter of concern as the huge amount of total pollution generated by the plant at one place would threaten the fragile environment in the region. Emitting a large amount of harmful gases at one location was expected to have adverse effects on flora and fauna in the area surrounding the plant, especially the delicate horticulture plantations of mango, coconut, and betel-nut. Finally, similar concerns were expressed about the thermal pollution from release of about 60 million liters of hot water per hour in the Vashishthi estuary. Such a large amount of heat was expected to have adverse impacts on the marine eco-system in the area and on traditional fishing communities who are dependent on sustainable harvesting of these marine resources.

According to the procedure, the Environmental Impact Assessment (EIA) report is to be submitted by the concerned industry to Ministry of Environment and Forests (MOEF), and MOEF grants its clearance with the assumption (but without any cross-checking) that the EIA is based on correct and adequate data, proper methodology, and honest conclusions. However, Enron and government agencies treated the EIA report as a secret document and refused to reveal its contents even to the people affected by the plant. Researchers from INDRANET group presented a detailed analysis of the EIA report exposing many incorrect statements, faulty interpretations, and biased conclusions. They have demonstrated how the allegedly scientific EIA studies were manipulated to justify the project.

III. Local People's Concerns and Objections

The Locale, the People, and their Lifestyles

The narrow strip of coastline of the state of Maharashtra sandwiched between the mountain ranges of the Western Ghats and the Arabian Sea is called Konkan. Konkan is blessed with fertile, mineral-rich soil, ample rainfall, large numbers of streams and rivers, close proximity to the sea, and good climatic conditions throughout the year. As a result, the local ecosystem is endowed with a diversity of crops, horticultural plants, forest species, as well as wildlife. The marine eco-system on the coast of Konkan is similarly abundant and diverse in life-forms upon which fishing communities in the coastal areas have subsisted for centuries.

The people of Konkan have lived austere but enriched lives for centuries using the gifts of nature in a prudent manner. They have not adopted intensive agriculture as the main source of their livelihood because the local eco-system is not suited for it. Instead, they have relied on a variety of sources for satisfying their livelihood needs including horticulture, and a wide range of forest and marine products along with agriculture. Their immense knowledge of the local ecological system, accumulated over generations, has taught them how to make use of these gifts without endangering the natural system itself. For example, for centuries, local people have been relying on manure and ash from burning twigs and branches as the major sources of nutrition for their agricultural crops. For the last two decades, there have been efforts by the government and other establishments to convince them to substitute these sustainable practices with chemical fertilizers and pesticides in order to increase "productivity" of their crops. Though local people are using chemical fertilizer to a small extent, according to them, there are valid reasons for limiting the use of chemical fertilizers and pesticides. The mineral-enriched soil in the region and the porous laterite stone layers underneath have very high water draining capability which enables the soil to grow crops even during the season of heavy rains. However, with such soil conditions, intensive use of chemical fertilizers and

pesticides--as prescribed by the protagonists of "modern" agriculture--is an invitation for ecological disaster. Many farmers in the area are afraid that the toxic and hazardous chemicals in fertilizers and pesticides applied in this geological situation would seep down through the porous soil and stone layers. This, in turn, would cause chemical contamination of large land-areas, streams, underground water bodies, sea coast, and the sea water, endangering the entire land and marine eco-system.

But this traditional wisdom and prudence is regarded by mainstream officials and experts as "stubbornness" and "backwardness" of the "lazy" and "ignorant" Konkani farmer. Their austere lifestyle involving sustainable use of soil, water, forests, trees, and marine resources is termed as underdevelopment. The state and central governments, academics, bureaucrats, industrialists, and even media representatives subscribing to the conventional development model, have supported the calls for "developing" Konkani and are joined by the sons and daughters of Konkani who have migrated to the cities and have been "successfully integrated" into the mainstream.³ With these sources of support, the government has now decided to "industrialize" the entire region by making maximum use of its locational advantages and utilize its natural resources, especially land and water. The investment in industries in Konkani in the near future is estimated as Rs 600 billion according to the state government's statistics.

Until very recently (about 3 years ago), the state government officially and actively promoted massive horticulture schemes and programs to develop Konkani, and particularly the

³ About one-fifth of the male populations from villages in Konkani is estimated to have migrated in search of jobs. These migrated male workers have great influence on village affairs. However, in contrast to the impression created by the term--remittance economy--often used to describe the economy of Konkani region, only about one tenth of the village income is estimated to be coming from these migrated villagers.

districts of Ratnagiri and Sindhudurg, on the basis of the "California model." This recent shift to the idea of "development through industrialization" can be traced to the fact that there is no scope for further industrialization of the two districts (Thane and Raigad) adjacent to Bombay. The land, water, and air in these two districts have been totally devastated due to the uncontrolled industrialization of the area. Now the industries are targeting the district of Ratnagiri for its land, water-sources, and mainly its locational advantages, and, hence, the government's emphasis on industrialization of this area. This push for industrialization of Konkan is further strengthened by the massive inflow of foreign capital towards Bombay triggered by the new economic policies that are liberal to industries. The recent completion of the long-awaited rail-link between Konkan and Bombay was also an important factor as it provided a dependable communication channel which was a bane in this mountainous region with heavy rainfall.

Concerns and Objections of People in the Affected Communities

Ironically, contrary to the debate among experts, local people had no categorization of their objections as mentioned in the earlier section. They were simply concerned about the effects of the project on their daily lives, their livelihood needs, and their future generations. They had been quite articulate about how the project would destroy almost everything they had and valued. Local people, in letters and petitions to the state government and DPC as well as in interviews with the media, often pointed out that their daily lives and livelihoods depended upon private, public and common lands in the vicinity of their villages in very complex ways. As against this, the compensation policy of the Government of Maharashtra took a very narrow and typically urban-industrial attitude. It envisaged that acquisition of lands would affect only agricultural income of the land-owning families from acquired lands. The local people explained that they were critically dependent on the land and other land-based natural resources for their material needs (like food, fuel, fodder, fertilizer, and fiber), for their daily activities like washing clothes and answering

nature's call (as there are no public or private latrines in the village, village women were very concerned about this), and for their emotional needs (as their deities and cremation grounds are in the same land tracts). They also pointed out that many families who do not own land--including those from fishing communities--also depended for their livelihoods and daily needs on the commonly shared resources from private, public, and common lands. Hence, without access to these land-based resources, sources of livelihoods of landless and fishing families would be as severely constrained as in the case of land-owning families. Further, in the case of the fishing families, the appropriation of the estuary by the project as a waterway for large tankers and as a sink for discharge of effluents and hot water from the plant would result in serious threats to their livelihoods.

The villagers also stated in their petition that people in the local area were not prepared to relocate or migrate as their lives were rooted in communal solidarity. Because their land is home to their ancestors, it would be a violation of responsibility to their family and community to give up their land. According to the petition, "[the villagers] have always experienced [a sense of security in the] solidarity that emerges from the close social, cultural, and emotional bonds among the members of the extended family, hamlet, community, and village." Further, the villagers were apprehensive that the project and secondary economic activities would cause an influx of uprooted from other parts of the country, mainly males, into their areas, destroying the peace, tranquillity, and security currently experienced by the local communities.

Payment of one-time cash compensation even to all villagers, according to local people would not compensate their losses and help them to continue their present, local resource-based rural livelihoods and lifestyles. Neither would the cash compensation be adequate for shifting to cash-based urban livelihoods and lifestyles. The transformation to urban lifestyles, in any case, would require a totally different material, psychological,

and capability bases which cannot be created merely by a compensation scheme or a vocational school.

According to local people, most of the livelihood earners in the villages lack the knowledge base, enterprise, or skills necessary for competing for the service-sector jobs or self-employment opportunities created by the project. Hence, it was clear to them that, as far as they are concerned, most new jobs would be of handymen, unskilled workers, gardeners, security guards, and housemaids. Even for these menial jobs, which will be small in numbers, they would have to engage in a cut-throat competition with a large number of poor people coming to this area from other parts of the country. Thus, the real issue is why should local people be expected to sacrifice their current dignified and (though austere) secure livelihoods and accept small numbers of menial, insecure, and low-paying jobs? Local people were quite clear about this danger and had expressed in a very articulate manner that they were happy with their current lifestyles and they prefer them even over the large cash compensation.

Thus, resistance of local people to the project was not aimed at demands such as ensuring adequate and proper environmental safeguards or fair compensation which are meaningless demands as far as they are concerned. For them, the project would certainly be a disaster for their livelihoods, their lives, and future generations. They were convinced that if the project were commissioned, any amount of compensation in cash or alternative in-kind arrangements would not ameliorate the disaster. In short, for local people, no correction in the project design or compensation package can be an alternative to cancellation of the project.

IV. Grassroots Resistance, Cancellation of the Project, and It's Revival

Local Peoples' Protest

On October 30, 1993, a public meeting of all villagers who had migrated from the three threatened villages was arranged in Bombay. At the end of the meeting, a committee was formed to initiate joint actions--"Veldur, Anjanvel, Ranvi Vidyut Prkalp Lok-Hakka Samiti" or the Committee for the Rights of People (threatened by) the Veldur, Anjanvel, Ranvi Power Project. On November 6, 1993, this Bombay-based committee sent a detailed petition to DPC as a reply to its public notice. In the following months, three village level *dakshata* (vigilance) committees were formed in the three threatened villages. While the migrated villagers had taken the first step, local villagers and their leaders in the vigilance committees quickly became involved in various political activities undertaken to challenge the Enron project. The vigilance committees also monitored the activities of DPC, government agencies, and their supporters at the project site.

The first initiative came from the MSEB Workers' Federation which declared the first protest action against the project on 2nd October 1993 which, unfortunately, had to be canceled due to the devastating earthquake in September 1993. On June 5, 1994, the Federation took lead in organizing a conference at the nearby village of Shringartali in collaboration with the local action committees, trade unions (of MSEB, BHEL, banks, State Transport Corporation, as well as GOM employees) and many other organizations such as Lok Vidnyan Sanghatana and Konkan Sangharsha Samiti. In July 1994, these organizations formed a joint front called Enron Virodhi Sangharsh Samiti (EVSS) and organized protest actions in Bombay and Pune. A similar conference was organized at Veldur on October 15, 1994 to protest the proposed land acquisition. The initial efforts by the government to acquire land using draconian laws such as MIDC Act failed as local people successfully resisted the government's efforts to push the project with repressive tactics. On 29th

October, 1994, using large police force, government officials crushed the resistance of the local people and made the mockery of legal provisions by unilaterally declaring that mandatory legal procedures to transfer the land had been completed. On that day, 144 women and 55 men were arrested. People continued to resist this forced acquisition of their lands. Again on 8th and 10th of November, 1994, a large number of women protesters and local men were arrested. Police used all sorts of tactics to harass the arrested protesters in order to break their morale. BJP and Shivsena, then in opposition, also joined the fray.

On December 8, 1994, the elections for the state Legislative Assembly were officially announced. The BJP-Shiv Sena made an electoral issue out of the Enron project. Their leader Mr Gopinath Munde promised to 'throw the project in the Arabian Sea' in a public meeting at Guhagar on 6th March 1995. At the state level, the BJP- Shivsena alliance won the highest number of legislative seats, and formed a coalition government in early March 1995. The new BJP-Shivsena government announced that the Enron deal would be thoroughly reviewed. Many of the organizations and local people resisting the project celebrated their victory.

Cancellation of the Project

On April 3, 1995, a high-level Cabinet sub-committee was appointed by the state government under the chairmanship of Mr. Munde, the minister in-charge of the energy department. The Munde Committee was asked to review the Enron project and the entire deal in detail and submit its report to the state Cabinet. The committee invited representation from all those involved, as well as the from public.

However, when the new state government appointed the Cabinet sub-committee and actually started moving toward cancellation, the pro-Enron lobbies became alarmed. Many organizations and institutions within the establishment rushed to the defense of the project. These included national and

international media, academia, GOI as well as the governments of the USA and UK, and the World Bank. In fact, a wide array of mainstream institutions within India voiced strong support for the project at that time. The mainstream media and its lead writers launched a blistering attack on the new government and all opponents of the project. The former Chief Minister Mr. Sharad Pawar, himself, penned down a series of articles defending the project. Many in academia also joined the pro-project side.⁴ When the new government still remained adamant, the international linkages of the mainstream establishment were activated. There were official warnings from the US Departments of Energy and Commerce. On behalf of the UK Government, the Chancellor of Exchequer, Mr. Kenneth Clarke, issued a warning. Even the officials of the World Bank tried to persuade the Indian government to rescue the project.

In the meanwhile, when local people found the new Government dithering over its promise to cancel the project, they themselves, led by local women and using non-violence, stopped the work of the Enron project on 12th May, 1995. About 400 local protesters were arrested and put through the similar harassment by the new government headed by BJP and Shivsena.

⁴ Some faculty members from Tata Institute of Social Sciences initiated a research project studying the socio-economic impact of the project on local population which was reportedly commissioned by Enron. When local people came to know about this, they confronted the researchers saying: "You did not bother about us for forty-five years [after independence], and now when a foreign company like Enron has paid you, you suddenly got interested in our problems".

Finally, the Cabinet sub-committee submitted its report to the state Cabinet on July 18, 1995. Based on this report, the state Cabinet made the decision to scrap both the phases of the project on August 3, 1995. The decision created ripples in the state, the country, and was even promptly reported in the USA. The construction work at the project site was stopped on August 8th, 1995. In the following weeks, Enron initiated arbitration procedures in London against MSEB and the Government of Maharashtra, demanding compensation to the amount of \$300 million. On September 6, 1995, the Government of Maharashtra sued DPC in the High Court at Bombay for engaging in fraudulent business practices and enticing government officials via corrupt practices to get the project sanctioned.

Renegotiations and Revival of the Project

Despite all these developments, intense back-door activities were ongoing to patch up differences between the new government and Enron. The decision to cancel the project was made and announced with a lot of bravado and jingoism. However, right from the beginning, there was clear disagreement over the issue of cancellation of the project between the two parties in the ruling coalition and even within each party. The counter-initiative came from Mr. Thakre (the supreme of Shivsena) who prevailed over his party to insist on renegotiations with Enron, the BJP leadership at the state level found itself under severe pressure from its central leadership not to persist with its earlier tough anti-Enron line. With the support of the more-than-willing Chief Minister and the largely pro-Enron bureaucracy, Mr. Thakre's wish to invite back Enron was accepted as a government decision without any resistance from BJP.

Finally, on November 8, 1995, the state government announced the appointment of an expert committee to renegotiate the deal with Enron (*Times of India* November 9, 1995). The Expert Committee, with pro-project and pro-privatization academics and bureaucrats in majority, was appointed to expand the deal to include both the phases and to finalize the other details

of the new deal and devise a set of face-saving measures. Appointment of the renegotiation committee sparked another round of protest at local level. On November 8, 1995, local village committees organized a *morcha* (protest march) in which local women participated in large numbers. In the first week of December, the three village committees, the EVSS, another front formed by the left political parties called Enron Hatao Kriti Samiti (EHKS), and other organizations organized a three-day hunger-strike in front of the main gate of the project site. The expert committee submitted its recommendations to the state government in late December 1995. The state government announced its decision to invite back Enron on new terms on January 8, 1996.

V. The Renegotiated Enron Deal and Resurgence of Grassroots Resistance

The salient features of the renegotiated Enron deal according to the state government's announcement are: (a) sanction for both Phase I and Phase II of the project with the total capacity of 2450 MW; (b) reduction in capital cost by 35%; (c) reduction in the tariff rate from Rs 2.4 /kwh to Rs 1.89 /kwh; (d) reduction in the foreign exchange component of payments to Enron by Rs 400 billion; (e) MSEB to get 30% equity in the project; (f) use of indigenous naphtha as fuel in Phase I; and (g) increased and continuous monitoring of environmental effects. The renegotiated deal and its subsequent acceptance by Enron were hailed by the government as a victory.

As the new deal involved changes only in some technoeconomic aspects, earlier objections other than those related to cost, tariff, and foreign exchange remain unaddressed and unanswered. Though the announcement mentioned environmental issues, it merely involved some increase in the control measures without addressing the crux of environmental objections. As before, the renegotiation process itself, as well as the details of the renegotiated deal were kept secret by the new state government. It was pointed out by many that the new

government used tactics similar to those employed by the earlier government to push the deal through. The announcement of the decision created another round of analyses, objections, and allegations, this time against the new government.

Criticisms of the PPA-II

Girish Sant and Shantanu Dixit of Prayas, an independent research organization from Pune, have carried out a detailed analysis of the renegotiated deal. In an unpublished but widely circulated note, the Prayas researchers pointed out that the BJP-Shivsena combine had made a complete change in its position during the period of three months between the announcement of the decision to cancel the project and appointment of the renegotiation committee⁵. During this period, the BJP-Shivsena leadership, once in the government, seems to have unilaterally resolved many contentious issues and satisfied itself on most of the objections it itself had raised at the time of canceling the original deal. This was done without engaging in any serious analysis or without any interaction with experts or local people.

Stating this sudden and complete change of mind to be inexplicable, the researchers refer to the official "Terms of Reference (TORs)" of the renegotiating expert committee. The TORs include: reduction in capital costs, tariff, and foreign exchange fluctuation risk; shifting to alternative fuels; and ensuring environmental "safe-guards." This limited list of issues demonstrates that the government had made decisions by default on many techno-economic issues as well as other objections that are not included in the TORs. Following is the list of technical and political decisions that had already been made by the BJP-Shivsena leadership running the new government before the

⁵ Both the notes mentioned in the text could be obtained from PRAYAS, Amrita Clinic, Athavale Corner, Karve Road, Deccan Gymkhana, Pune 411004, INDIA ph: (91) - 212 - 341230.

appointment of the expert committee, and without taking public in confidence.

- To reenter into a deal with a company which it accused of, according to its own submissions in the High Court at Bombay, having engaged into fraudulent and corrupt business practices and having hurt the interests of the state and its people.
- To adopt the route of secret negotiations rather than the competitive bidding route for the project, despite its own earlier objections against such a practice.
- To accept that such a large project at one location is desirable/needed.
- To accept that the financial implications of importing such a large quantity of fuel and the resultant economic and political vulnerability were not objectionable issues.
- To commit to Phase II of the Enron project, which even the earlier Government had refrained from deciding upon.

The researchers raised specific and strong objections against two major aspects of the renegotiated deal. First, according to them, the commitment to the Phase II of the project for base-load operation with such a large capacity and at such a high cost was premature, if not unwarranted. In their opinion, Phase II might prove a crushing liability for the power sector of the state. Secondly, they also demonstrated that, if the route of competitive bidding were adopted, additional saving of Rs 8 to 10 billion could have been realized.

In an accompanying note, the researchers presented results of their detailed calculations based on the formulae in PPA-II (amended by the BJP-Shivsena Government). Following are the relevant findings of the study.

- The BJP-Shivsena government claimed that the tariff is reduced from Rs. 2.4 per unit to Rs. 1.9 per unit in PPA II. Such a comparison between tariff announced by the two

governments is absolutely wrong. The tariff quoted by the Congress government (Rs. 2.4 per unit) was the first year value for the back-loaded tariff, whereas, the tariff quoted by the BJP-Shivsena Government is a levelized tariff.

- There is absolutely no reduction in Phase I capital cost in PPA-II, while the capital cost of Phase II is reduced to some extent ⁶. But, here again, it must be remembered that the term "reduction" is a wrong choice of the term. To be fair to the earlier government, it had not negotiated the final figures of capital cost and tariff for the Phase II and the figures quoted from earlier PPA-I were merely first estimates which were open for renegotiation or rejection. As against this, the new government has negotiated the final figures for various parameters for phase II in the PPA-II.
- Coming to the tariff, according to the announcement of the BJP-Shivsena government, the levelized tariff for the project period would be Rs. 1.89 per unit but according to Prayas team, it could rise to around Rs 3.00.⁷ Further, according to

⁶ This "reduction" in capital cost is on two counts. One portion of this reduction is due to the separation of the regassification plant. The regassification plant is no more treated as a part of the project. However, the cost of the regassification will not go away, but will be levied as part of the fuel cost. The other portion of reduction in capital cost is due to reduction in the prices of power equipment in the international market. However, the Renegotiation Committee appointed by the BJP-SS Government simply forgot to reduce the cost of equipment while negotiating the Phase-I cost.

⁷ The results of the calculations presented in the report of renegotiation committee are also deceptive. The final value of the levelized tariff depends upon the assumed values of various parameters and the rate of discount applied. These assumptions include: a) constant rupee-dollar exchange rate (assumed as Rs. 32 per dollar), b) constant oil/LNG/naphtha prices in rupee currency, c) inflation in the USA (0 %) and d) constant LNG price (at \$3.46 per MBTU). Values of these four parameters are assumed to be constant for next twenty years. As all of us know, the rupee dollar exchange rate has touched Rs. 36 per dollar even though the project is yet to start (it had already touched Rs. 35/- mark when the Renegotiation Committee was pondering over the PPA-

calculations made by the researchers, tariff for the first year would be between Rs. 3.32 to Rs 3.45 per unit for various scenarios, whereas, the figure according to government is Rs 2.22. To illustrate the impact of assumed values of certain parameters such as dollar-rupee exchange rate and fuel prices, the Prayas team has worked out tariff for 20th year. For different scenarios, the tariff for the 20th year can be as high as Rs. 11.0 to Rs. 19.99 per unit. But, instead of showing such sensitivity analysis, the government portrays a simplistic picture of a constant tariff of just Rs. 2.32 per unit for the next 20 years by using unrealistic assumptions and by employing economic tools in deceptive manners.

The researchers also point at the under-estimation of the total payments to Enron from the MSEB. The total payment to Enron would vary in the range of 2,20,000 to 3,24,000 crore of rupees depending upon the chosen scenario in the next twenty years as against the official figure of 77,000 crore.

Local People Strike Back

Local people reacted to the rapid developments that led to the revival of the project with shock and anguish. Leaders of the grassroots resistance were themselves in a state of shock and disbelief. The new government, following the footsteps of the old government, had issued prohibitory orders against any political or

II). The assumptions about the other parameters are said to be equally deceptive as they help create the impression that tariff is low and would remain fairly constant for next 20 years. Instead, based on the historical data, the Prayas researchers used following values for these parameters: a) 6% rate of rupees depreciation starting from the current rupees value (the historical rate is 7%), b) US inflation at the rate of 3.5 per cent per annum, c) LNG price according to the CEA estimate (\$4.36 per MBTU), d) increase in LNG/Oil prices at the rate of 1.5 per cent per annum. With these assumed values, the two researchers have created a detailed picture of tariff for next twenty years.

protect activity in the project area from two days before the announcement of the revival of the project to avoid any possible "disturbances." The new government also tried to intimidate local people into submission. Mr. Baba Bhalekar, leader of the fishing community in the threatened villages was arrested and detained in jail by police without bail for more than a week. The BJP-Shivsena government did not release him despite repeated demands from many organizations which had helped them win the elections. He was finally released by the court.

Local people and activists took some time to regroup and restart their resistance activities. A new committee was formed at the local level. The new action committee of local people with the help from Enron Virodhi Sangharsh Samiti (EVSS) and National Alliance of Peoples' Movements (NAPM) continued to organize protest activities at the local level. However, on 2nd December, 1996, the CITU petition was dismissed by the High Court. Enron restarted the project work immediately.

The next phase of the local protest began with the dismissal of the CITU case. Between 12th and 17th January, 1997, local people affected by the project organized Satyagraha (protest by courting arrest) to protest the project work. Later, the local action committee, EVSS, and NAPM announced to carry out a large-scale Ishara (warning) Satyagraha on 30th January, 1997, the Martyrs' Day and the death anniversary of Mahatma Gandhi. The government made elaborate arrangements to foil this program. On 29th January, 1997, all local leaders and the main activists were asked to leave the district. All entry points into Guhagar Taluka were sealed. All activists coming from outside were arrested. Police parties went around in the villages terrorizing local people. Top police and government officials were patrolling the area from above using a helicopter provided by Enron. Despite all these efforts, about 10,000 protesters gathered at the four pre-determined locations to protest the project and supportive government. Police resorted to caning and tear-gassing them. More than 1200 protesters were arrested. Such a fierce resistance compelled Enron to declare stoppage of work. On 7th February, 1997, residents of

Arey village forced entry into the pump house and discontinued water supply to the Enron project from their own source of water. More government and police machinery was brought in to quell the protest and re-start the project work.

From 28th April, 1997, again the local action Committee, EVSS, and NAPM organized demonstrations in batches. On 17th May 1997, about 4000 villagers from the affected and neighboring villages participated in a protest demonstration. The protest demonstrations continued till end of May, 1997, in which activists from around the country participated. All these protesters were given cruel treatment and harassed by the police. Unfortunately, local judicial system failed to protect the rights of the arrested protesters.

From 26th to 28th May, 1997, a "Konkan Vikas Yatra" was organized in the three coastal districts of Maharashtra. The Yatra visited all the sites where villages and communities have revolted against the destructive development projects. During the Yatra, trouble erupted when the government prohibited entry of leaders of the struggle into two coastal districts. The participants of Yatra courted arrest in the protest. The arrested protesters were taken into the police custody and put into the buses. These protesters were later assaulted and beaten up mercilessly by police and some unidentified persons. Even women protesters, including NAPM leader Ms. Medha Patkar, were not spared and were subjected to indecent treatment.

On June 2, 1997, some villagers, mostly women confronted a group of construction workers of Enron who tried to use a jetty in the village Veldur. This led to what is described as a "minor skirmish". In the early hours of June 3, 1997, a posse comprising personnel from state reserve police (SRPs) and local police swooped on the village when most of the menfolks were away for fishing. The police stormed in the houses by breaking doors and dragged men and women (including juvenile girls) to the police vehicles. Twenty-six women and juvenile girls, who were arrested and detained in the magistrate custody for a week,

sustained various injuries on different parts of the body. This is the latest reported incidence of police atrocities which seem to be continuing despite similar reports from various human rights organizations including the Amnesty International.

VI. Battle in the Court

In the debates over the Enron project, pro-Enron elements often raise an apparently unassailable argument that even the courts have repeatedly dismissed all petitions against the Enron project. This often misleads common people and even the so-called experts to believe that, because the courts have not given a single verdict in favor of the suits against Enron, there is nothing wrong in the Enron deal and all the hue and cry against the project is baseless and politically motivated. As a result, the common people remain undecided and silent over such a critical controversy of national interest.

That the courts have dismissed all the suits filed by the opponents of the project, is, unfortunately, a fact. Prima-facie, it is perplexing why anti-Enron petitioners have consistently failed to elicit any response from the courts despite the ample evidence indicating at corruption involved in the deal as well as at adverse effects of the project on the health of the power sector and interests of tax-payers and the public. A brief review of history of the legal aspect of the Enron controversy might be helpful.

The first court case against the Enron deal was filed by late Mr. Ramdas Nayak, a BJP activist from Bombay as early as 8th December 1993 on three major grounds: absence of competitive bidding procedures, secrecy over the deal, and possible harm to the public-interest. In August 1994, Justice Saraf and Justice Dudhat of the Bombay High Court dismissed the petition. The two main components of the judgment were: (a) the agreement (PPA-I) can not be judged void just because the bidding procedures were not followed and (b) courts have no jurisdiction to judge the appropriateness or merit of government's

decision unless it is unreasonable and against public interest. However, the Justices did not discuss the facts of the matter (available then) or the other legal issues raised by the petitioners to decide whether the government's decision is reasonable and is in the public interest.

This was followed by another petition in the Delhi High Court against the clearance given to the project by the Central Electricity Authority (CEA) and the guarantee and counter-guarantee provided to the project by the state and central governments. However, the petition was dismissed by the court as it felt that the petition raised the same issues which had already been decided in the case of the Nayak petition. Later, another political activist, Mr. P. B. Samant, filed a suit in the Bombay High Court raising additional issues and citing the new evidence which had become available after the dismissal of Nayak's petition. However, this petition was also dismissed by the Court on the grounds that the issues raised in the petition are similar to those decided in the Nayak case. Samant's petition was not the only petition against the Enron which was dismissed on this ground. Organizations of people affected by the project, consumers' organizations, independent researchers, environmental organizations filed petitions raising different issues and presenting new evidence all of which, however, met a similar fate.

When the Shivsena-BJP government decided to cancel the Enron deal entered by the earlier Congress government, it filed a suit in the Bombay High Court requesting it to declare the PPA-I null and void. In the petition, the new government had claimed that Enron had resorted to fraudulent and corrupt means to get the deal cleared. It also claimed that the PPA-I violated many legal provision (including those in the Indian Electricity Act) and principles of public policy and was against interests of the government, consumers, and public in general. However, after a lot of back-door activity the BJP-Shivsena government backtracked and renegotiated the PPA-II with Enron. The government subsequently withdrew the petition despite the serious

charges leveled against the Enron company and the deal in the petition.

The next important legal event was the petition filed by an activist Abhay Mehta and CITU (Centre for Indian Trade Unions) on 26th April 1996. Learning from the earlier experiences, CITU and Abhay Mehta had done a lot of ground work before filing the suit. In the course of the case, they presented 2500 pages of classified government documents as evidence to support their arguments. The suit put both Enron and the new government in the dock. The petitioners argued that the details provided by the government demonstrated that the PPA-II (entered by the new government) was not substantially different from the PPA-I. It also argued that, as a result, many objections raised in the government's own petition against the PPA-I are applicable to the PPA-II and, hence, it should be declared null and void. While admitting the suit, Justice Shrikrishna observed that the suit raised new grounds and presented new evidence. In the course of proceedings, the government pleader tried to wriggle out of the self-created legal morass by arguing that his government was misled and acted in an incompetent manner in making such allegations against Enron. When forced, the Chief Minister filed an affidavit in which he pleaded that the government filed suit only as a tactical move. In short, the government could not get out of the awkward legal situation. However, despite such a strong case put by petitioners for review of the government decision by the Court, the Court decided that the issues raised in the CITU petition have been decided earlier and declined to dwell on the merits of the PPA-II or its implications for the public interest. It, however, passed the strictures against the state government and the manner in which Enron won back the project.

This detailed chronology of legal failures of Enron opponents is presented here in order to demonstrate that the consistent failure of opponents of the project is not rooted in any deficiency in their case or their efforts as many tend to believe. It is rather rooted in the surprisingly consistent tendency on the part of the courts to offer the same technical excuse which fails to stand

the test of reason. In the Nayak petition, based on the available information, the court ruled that there is nothing illegal on the part of the government to resort to direct negotiations instead of adopting competitive bidding procedures. However, it did not comment on the merits of the PPA-I or its implications to public interest. The subsequent petitions by Samant and other aggrieved individuals and organizations were dismissed by the Courts by citing the principle of "*res judicata*." The principle of "*res judicata*" is a public policy principle which is invoked to dismiss petitions raising the issues which have been heard and decided by the Court in the past. This is aimed at saving precious time of the Courts by discouraging repeated petitioning by litigious individuals involved in private disputes. As retired Justice H. Suresh has demonstrated in his article in Times of India (dated February 3, 1997), the Supreme Court had clearly directed earlier that in the case of public-interest litigations, the government agencies should not be allowed to escape public accountability due to application of the principle of "*res judicata*."

It must be noted that these subsequent petitions were filed with utmost care raising new issues and providing new evidence. In fact, the most recent petition by CITU contained massive evidence and new information (including the PPA-I which was a secret document at the time of Nayak case and was made available to public by the government only in March 1995). However, the Court still preferred to take recourse of an essentially technical excuse of "*res judicata*." Secondly, in the course of the CITU case, the new government indirectly agreed that the PPA it signed is the same PPA which it had called anti-government and anti-public in its earlier petition to the same court. Thus, if government was taking such a contradictory stand and failed to convince that it is capable of protecting public interest, then, in order to protect public interest, the Court should have looked in the merit of the PPA.

When the CITU appealed to the Supreme Court, the Supreme Court again refused to look into the merits of the case and to go into the issue whether the new Enron deal is in the public

interest or not. However, it decided to look into the conduct of the new state government in the entire episode and to judge whether it is against the public interest or not. The activists who moved the Court and their supporters are still hopeful that while looking into the appropriateness of government actions the court will have to look into the merits of the PPA-II.

To sum up, the courts have consistently refused to go into the merits of government's decision on the Enron deal and have consistently taken the recourse of technical excuse of "res-judicata" while refusing to dwell on legality of government's conduct. Thus, it should be noted that the courts have not given any clean chit to Enron or the Enron deal, it simply have refused to comment on its merits. However, it is sad that these unfortunate decisions by the higher courts have unwittingly aided the unholy alliance of corrupt politicians, incompetent and corrupt bureaucrats, big media running after green dollars, unscrupulous industrialists, and decadent elite in repressing the justifiable grievances of local people affected by the project and other aggrieved sections.

VII. Alternative to the Enron Project

The issue of alternative to the Enron project has been addressed at three levels. At the first level, focus is on the present version of the Enron project. It could be said that both the PPAs and the decision to bring in Enron are fraught with so many techno-economic inconsistencies and blatant procedural violations that an alternative could easily be envisioned simply by correcting these short-comings. For example, one such alternative could be evolved by correcting wrong decisions made in the case of three critical parameters (corrections suggested by the researchers are provided in the parentheses): (a) capacity (commensurate with the realistic projection of demand); (b) choice of fuel and technology (appropriate according to the usual planning criteria which were flouted while sanctioning the project including the nature of the demand i.e. peak or base load, fuel availability, available

technological capability, economic cost, etc.); and (c) choice of site (suitable according to the regional optimization plans prepared by the CEA). At the second level, it is argued that the projects planned by MSEB were commensurate with the realistic projections of electricity demand in the state of Maharashtra, and, hence, no private project was necessary. The booklet published by MSEB Workers' Federation lists 10 projects proposals which were submitted by MSEB to the central government for clearance between 1980 to 1991 with the total capacity of about 7420 MW. It is argued that, had the central government shown the same enthusiasm to clear these projects as it showed in the case of the Enron project, there would be no need of Enron or any other private power project.

At the third level, experts have provided a series of alternatives to not just Enron but to any large, centralized power project using conventional fuel. Girish Sant and Shantanu Dixit in their detailed research report on an alternative power plan for Maharashtra have discussed sixteen types of alternatives to make additional power available in the state of Maharashtra. These are not futuristic, concept-level options based on economically unviable or technologically fanciful gadgetry. Rather, these are immediately implementable and techno-economically sound proposals involving efficiency improvements measures and decentralized generation based on fossil fuels and renewable sources. A. D. Golandaz, in the above-mentioned booklet by MSEB Workers' Federation has also discussed various practical alternatives.

Some major options pointed out in these two studies are as follows:

- Co-generation: The industries which generate steam for their process requirements can also produce electricity with some additional investment and in an economically viable way. The industry may sell electricity (excess of its own consumption) to MSEB. The total potential of co-generation in the state is estimated to be over 1,000 MW.

- Pumped Storage: In Maharashtra, the major problem in power sector is to satisfy the peak demand because 86 % of Maharashtra's power comes from thermal stations which are suitable for base load operations. The alternative of pumped storage seems very attractive because it is an effective way to convert base-load capacity into peak-load capacity. During the period of low demand, the excess energy available in the grid is used by pumped storage plants to pump water from a lower reservoir to another reservoir at an upper level. At the time of peak demand, water stored in the upper reservoir is released to generate electricity. Though there is some loss of energy, this measure is found to be economical compared with the option of erecting new power plants.
- Improvements in MSEB Operations: This includes improvement in the maintenance and repairs of electricity meters, metering of irrigation pump sets, and improvements in billing procedures. It is estimated that about 1200 MW could be saved through these measures by the year 2002.
- Improvements in MSEB Equipment: This include improvement in T and D network as well as generation equipment. Though MSEB claims that T and D losses are currently in the range of 17%, this is not an exact measurement but an indirect estimate. Experts argue that actual T and D losses are far more. A proper system of energy accounting within MSEB would indicate the exact trouble spots and problem areas and would help save lot of energy. Similarly, there is immense scope for improvement in efficiency of power generation plants. The old plants could be re-modeled and modernized so that their productivity could be increased. This would help to improve the power situation in the state at the fraction of the cost of new power plants.
- Captive Generation by Bulk Consumers: It is also suggested that some bulk consumers of electricity may collaborate to produce their own power. In fact, there are industrial captive plants which remain under-utilized. The MSEB should assure off-take of excess electricity at appropriate price. This would generate another 500 MW of capacity in the state.

- Appliance Efficiency Improvements: Improvements in efficiency of appliances used by commercial, domestic, agricultural and industrial consumers might save about 15 to 20 per cent of their present consumption.

In short, there are ample and diverse opportunities to increase availability of electricity to satisfy the growing needs of the state without bringing in large and costly projects like the Enron project.

Conclusions

Thus, five years after the project was conceived, the Enron controversy is far from resolved. In fact, it has proven to be a precursor to another controversy (viz. a controversy over privatization of the power sector) of wider dimensions. The state government has consistently declined to make public the details of the project and the deal between MSEB and Enron. The Chief Minister and the Deputy Chief Minister had agreed to provide all information and documents desired by protesters and to engage in a public debate with them over the merit of the project. But the scheduled debate was postponed four times and, finally, the exasperated protesters had to present their case unilaterally to the public. Thus, the issue of the merit of the project and the deal still stands unresolved. Even the judiciary has consistently refused to discuss the issue of merit. The CITU petition challenging the Bombay High Court's decision is put on the backburners by the Supreme Court, though the petitioners and their supporters are still hopeful that while examining the conduct of the state government the Court will have to look into the issue of merit.

At the grassroots level, the controversy is far from over. On the one side, Enron -- snugly ensconced inside the high fence and fervently protected by its private security force, the state

police, and the state reserve police -- is working with a feverish speed to complete the project work in time. On the other side, local people affected by the project braving the intimidation, harassment, and repression by police, refuse to budge from their stiff opposition. Outside organizations and joint fronts such as EVSS and NAPM continue to support the struggle of the people. After the unilateral debate on 26th July, 1997, the local resistance committee vowed to engage into another round of protest activity to stop the project work. While this stand-off continues, the state government is announcing entry of more and more industries and hinting at proposals to acquire more and more land (from 700 ha. For Enron to about 20,000 ha) in the same taluka. This may lead to revolt by people in the entire taluka against their forced displacement.

At the state level, threatened by the cancellation of the World Bank loan, the state government had appointed Rajadhyaksha committee to suggest ways to make MSEB viable. The committee made 34 recommendations out of which 30 deal with the conduct of state government. They include bringing in complete transparency, establishing accountability, and elimination of political interference in the working of MSEB as well as encouraging public participation in the debate over power sector reforms. Instead of correcting its own act by implementing these regulations, the government is trying to falsely portray that the report essentially recommends privatization. Further, under the pretext of implementing the report, the state Energy Minister announced a proposal of privatizing distribution in the theft-ridden areas of Malegaon and Bhiwandi. The Chairman, MSEB, recently announced that, to fulfill the liabilities which includes the bills of Enron and the other two private power producers, the government will have to privatize MSEB. These announcements have spurred various MSEB unions into action. Thus, while the Enron controversy continues to rage, a new controversy is already shaping. But, as the government refuses to learn any lessons and continues to be non-transparent, secretive, insensitive, repressive, and autocratic, the future of local people, power consumers, tax payers, and MSEB is coming under increasingly severe threat.

Appendix-I: Debate on Techno-Economic Objections

The appendix is aimed at providing a brief idea of the debate on some important techno-economic objectives. Many of the details pertain to the first power purchase agreement, however, most of the objections remain valid even for the second renegotiated agreement.

Unwarranted Capacity Addition

Objection: Considering the present demand in the state of Maharashtra, project with such a huge capacity (2015 MW) is unwarranted.

Rejoinder: There is already some shortage of power in the state. Further, due to the ongoing economic liberalization process in the country, a large number of industries are expected to start their operations in Maharashtra in the near future. This will result in a steep growth in demand for electricity in the state in next two decades.

Counter-argument: The critics accept that there is some shortfall in supply currently, but it is mainly for peak demand. By expediting work on the power plants appropriate for the peak-load (especially pumped-storage plants and Koyna Hydro) that are currently in pipeline, this problem of shortage in peak power could be successfully addressed. Moreover, the Enron plant will be utilized mainly as a base load plant, and, hence, can not be justified using the excuse of current shortage in peak demand.

Regarding increased demand in the future, critics point out that the demand projections by all state electricity boards (SEBs), including MSEB, have historically been exaggerated as these projections have been used as bargaining tools in gaining increasing financial allocations for the sector. Further, critics also point out that the current demand projections by MSEB assume 20% per annum growth in industrial consumption of electricity (as against the past trend of 7 % per annum). This, according to

critics, appears overly optimistic in the context of the facts that Maharashtra is the state with the largest industrial base and that it is no more considered the most attractive state for future investments according to the recent studies. Critics also allege that the current demand projections -- which are based on such unsound assumptions and, hence, are grossly overestimated -- are created in order to justify the Enron project. It is also argued that the otherwise planned growth in installed capacity in the state according to the earlier plans (i.e., without the Enron project) is adequate to satisfy the growing demand in the state, and a project with such a huge capacity is unwarranted. These arguments are largely echoed by the World Bank in its letters to GoM.

Choice of Fuel

Objection: Considering the fact that there are alternative fuels available, importing such a huge quantity of natural gas from Qatar as a fuel for this project is entirely unwarranted.

Rejoinder: The fuel situation in India has already been worsening to the extent that the power generation in many states is seriously affected. First, coal from Indian sources is of bad quality with a high ash content. Besides, there are immense and complex logistic and transportation problems affecting regular supply of coal. Second, there are considerable difficulties in developing the remaining hydro-electric potential because of the environmental and social impacts involved. Finally, supply of natural gas from Indian sources is inadequate and unreliable. Thus, imported natural gas is a rational choice. Moreover, it is an environmentally harmless fuel and its supply is assured.

Counter-argument: First of all, it is not correct to say that natural gas is a completely harmless fuel on environmental grounds. It is a better fuel when compared to other fuels (coal or oil) used for thermal power plants as it creates less pollution per unit of electricity generated. However, a huge plant using equally huge amount of natural gas creating a massive pollution at one place can certainly have adverse impact on ecological systems in

the vicinity. (This issue is covered in the discussion on environmental objections.) Second, regarding the hydro-power sources, it is also pointed out that only 21 % of the total hydro-electric potential has been utilized till date. Utility of small hydro-electric and pumped storage projects for satisfying peak demand is indisputable. They have little environmental and social impacts. However, they are almost completely neglected by the planners.

Third, in the case of coal, there are economically viable technological solutions for the problem of high ash content. Regarding the transportation and logistic problems affecting coal supply, it is advisable to try to solve these problems rather than not utilizing the abundant deposits of coal in India. The suggested solutions include political solutions (such as dealing sternly with the coal mafia and politicians supporting them), technological solutions (such as coal slurry transportation through pipe lines), or policy solutions (such as importing coal from Australia as an intermediate arrangement and developing coal-based plants near the coast).

All these approaches are certainly preferable to the option of relying on imported natural gas. Imported natural gas is expensive, it involves squandering of precious foreign exchange, and it breeds dependence on sources of energy located in the foreign countries rendering the economy vulnerable to political developments outside the country. Even the World Bank had advised against using imported natural gas as fuel on technical and economic grounds. It is argued that the cost of natural gas as a fuel for generating electricity is quite high (Rs 1.25 /kwh) when compared with other fuels. The respective costs of fuel in case of Indian coal and imported oil based thermal plants are about Rs 0.55 and Rs 1.00 per kwh.

High Tariff

Objection: The negotiated tariff (i.e. cost of electricity from the Enron plant) is very high when compared to the cost of

electricity in other similar projects recently completed or currently under construction.

Rejoinder: The cost of electricity from Enron plant -- 7.5 cents/kwh (i.e. Rs 2.4 /kwh @ 32 Rs a dollar) -- is comparable to that from the other similar natural gas based plants, for example from Kawas plant in Gujarat owned by National Thermal Power Corporation (NTPC).

Counter-argument: The negotiated tariff is stipulated in the PPA in terms of complex formulae. The formulae involve an in-built 4% per annum increase in tariff (called back-loading) which is in addition to the increase due to changes in gas price and changes in dollar rupee exchange rates. In contrast, the costs of electricity from the other Indian plants are flat (i.e. not back or front loaded) and not dependent on dollar-rupee exchange rates or fluctuations in international price of natural gas. Further, as the analysis of the PPA suggests, the oft-quoted cost of electricity from Enron plant -- Rs 2.4 /kwh -- is only for the first year (i.e. 1997-98) and is based on assumed dollar-rupees rate of Rs 32 per dollar. This first year cost of electricity in case of the Enron project can not be compared to the levelized costs of electricity from other Indian plants.

Sant et al. made detailed calculations for arriving at the cost of electricity from the Enron plant and its sensitivity to the values of dollar-rupee exchange rate and plant load factor (PLF). The tariff varies from Rs 2.4 /kwh in the first year to between Rs 8.75 /kwh and Rs 12 /kwh for the last year depending upon the underlying assumptions. Further, their calculations indicate that the cost of electricity from Enron plant, levelized over 20 years of project-life, varies between Rs 3.44 / kwh and Rs 4.68 / kwh depending upon the exchange rates and PLF.

Lack of Transparency and Avoiding Competitive Bidding Procedures

Objection: Critics raised objections against the decision of the government to avoid competitive bidding procedures, to maintain secrecy during the negotiations, and to treat various agreements and documents as secret.

Rejoinder: Competitive bidding procedures are avoided first because Government of Maharashtra or MSEB do not have capability to evaluate the complex bids for such a huge power project, and second because the delay involved in competitive bidding procedures would have been disastrous considering the urgency of situation. Hence, a faster route of direct negotiation was adopted. Secrecy over negotiations and agreements was necessary in order to safe-guard the business interests of Enron.

Counter-argument: Critics argue that the absence of capability to evaluate and judge the bids is a lame excuse, as similar capabilities and knowledge-base are required for negotiating the equally complex details of the PPA. In fact, the competitive bidding procedure would have ensured that the cost of the project and the tariff remain competitive. Regarding secrecy, the critics point out that, in order to safe-guard the interests of power consumers in particular and those of people of Maharashtra in general, it was essential that the deal was made public and that an open and public discussion on the costs and benefits be initiated before committing to the final decision. Critics also allege that certain ulterior motives and other extraneous considerations prompted the secrecy and lack of transparency. They argue that protecting business interests of Enron would require maintaining secrecy for a limited period. However, as they point out, according to Article 21.2 of PPA-I, the secrecy over all aspects of this deal is to be maintained for three years after the agreement period of 20 years is over.

Appendix-II: The Merits of the Renegotiated Deal

(Excerpts from a note prepared by Girish Sant
and Shantanu Dixit of PRAYAS)

There have been criticisms of various aspects of the Enron (DPC) project, i.e., the need for the Enron project, its foreign exchange implications, technically and economically viable and better alternatives to the Enron project, etc. However, this note is restricted to demonstrating that this project in its present form (i.e. after renegotiation) is highly unjustifiable and damaging primarily because it forces an additional burden of at least Rs. 500 crore per year on MSEB and consumers in Maharashtra that could have been avoided through a better contract for the same project. This burden is the result of the utter failure on the part of the state government to protect public interest by properly negotiating the terms of the project that involves annual payments of about Rs. 4,500 crore.

In this context, in the following paragraphs we will illustrate three important points: (i) the additional burden the consumers in Maharashtra have to shoulder just because of a "bad" contract that allows extra-ordinarily high profits to Enron; (ii) efforts on the part of the government / MSEB to hide these facts; and (iii) implications of this "bad" contract for consumers in Maharashtra.

The Extra Burden Due to a "Bad" Contract

Enron is a negotiated project. This means that the decision, on tariff (payments to Enron) was not arrived at by inviting tenders from parties competing with each other. Instead, the tariff was decided by direct and secret negotiations between Government of Maharashtra and Enron. Hence, in the absence of detailed information on various aspects of negotiations, the reasonableness of tariff can only be established by investigating the reasonableness of various components of the tariff. The tariff, in this case, mainly depends on (a) the capital cost of the project, (b) the quantum of loan and the interest rate of loan, (c) profits on equity (d) fuel costs.

Capital cost of the project : One of the major justification provided by the renegotiation committee in its Summary Report for accepting Enron's costs is the comparison between the cost of the Tee Side plant in U. K. erected in 1993 (the only power plant of comparable size erected by Enron) with the cost of Enron plant at Dabhol to be completed in 1998. In the report, the committee tried to prove that the revised Enron cost is comparable to that of the Tee Side project after accounting for the cost differentials specific to the Enron project. The methodology and calculations employed to support this comparison are plagued with many inconsistencies and logical problems. As the first step in the calculations, the entire cost of the Tee Side project was raised by 16 % to account for inflation in the five years separating the two projects. This increase also included a 16 % rise in the turn-key cost or EPC (engineering, procurement, and commissioning) cost. However, in reality, due to market slump, the actual EPC cost for the Enron project was lower than that of the Tee Side project. The renegotiation committee conveniently forgot to subtract this actual reduction while making the comparison. As against this, the committee treated the 'soft' costs (costs other than EPC cost, i.e., infrastructure development cost, insurance cost, higher financing, consultancy and legal fees, etc.) in a different manner. The soft (cost) items in the Enron cost-sheet whose actual costs were higher than the revised costs (inflated by 16 %) of the Tee-Side plant were identified. This cost differential in each of such items was added to the revised (inflated by 16 %) figures of the Tee Side costs. Further, the renegotiation committee conveniently forgot to validate the soft cost figures quoted by Enron. Such an one-sided comparison is not just faulty but dishonest.

Whatever the government may claim, in reality, the renegotiation committee has achieved a reduction in capital cost of only 10% over the "first quote" from Enron. From the comparison given in the renegotiation committee's report itself, by accounting for difference in equipment costs amongst other things, it can be concluded that the project cost could have been

reduced at least by another 10% over and above the reductions achieved by the renegotiation committee.

Financing costs : The interest rate for loans is another issue where Enron has refused to give any details. The World Bank loans are available at the interest rate of 6% p.a. For private loans in US \$, the interest rate is expected to be around 7% p.a. But, without producing the loan documents or providing any other justification, Enron asked the government and CEA to assume interest rate of 12%. The government did not bother to check reasonableness of this. This unsubstantiated inflating of the interest rate will fetch Enron a hidden benefit of Rs. 150 crore per year.

Profitability of Enron's promoters : Official estimates ignore all such issues while allowing profits to Enron on its equity over 30% in \$ terms. However, in practice, the promoters of Enron will get much higher profits. First, due to inflated capital costs, the actual investments by the promoters will be far less and, second, the actual payments to promoters will be higher due to higher interest rates quoted. Moreover, Enron also expects to get additional payments such as heat rate bonus, fuel management fees, etc. Hence, including all these, Enron's real return on equity is over 50% in \$ terms.

For a project with all conceivable guarantees and entire risk-coverage by MSEB and the state as well as central government, return on equity of 50% in \$ terms, is simply too high. Even if a profit of 25% in \$ terms is considered reasonable, the consumers in Maharashtra would be paying Rs. 500 crore extra annually. (It is important to note that private electricity companies in the US are allowed a rate of return in the range of 11-12 % .) This excessive payment could have been avoided if a proper contract were negotiated for the project of same size at same location and using same fuel !

Fuel Costs: Finally, though about half of the tariff amount is linked to the price of fuel (the LNG), the government has still

not declared whether LNG purchase contract has been signed, leave aside disclosing the actual costs or making a copy of this contract available to the public. Hence, all tariff figures being talked about are nothing but sheer guesstimates. Moreover, in the 1992 Annual Report of Enron it is clearly stated that the primary goal of Enron's involvement in power sector was to "simply create a market for gas". Hence, one can easily imagine that Enron's profit margin is higher through the sale of gas than from the generation of power !

Thus, the reasonableness of all the four major components of the Enron tariff is open to questioning. In this circumstances, the only way the government can justify Enron tariff is by making the entire deal explicit and open to the scrutiny by independent experts and institutions.

The Cover-Up

The government has lied, misrepresented facts and numbers, and misled the public to hide the high cost and high profitability of Enron. Following are some examples :

The renegotiation committee claimed that levelized Enron tariff will be Rs. 1.89 / unit. Levelization is an accepted tool to compare tariffs of two different projects. But the committee simply avoided calculating levelized tariff of the original deal and, thus, avoided a fair comparison. As against the figure quoted by the renegotiation committee, the real tariff in year 2001 is expected to be Rs. 2.5 or more depending on \$-Rs. exchange rate and LNG price. (which is yet to be decided but is expected to be linked to oil price).

The tariff calculated by the committee assumed dollar to remain at 32 Rs. even though the dollar was already costing Rs. 35 at the time of renegotiations. Similarly, the lower naphtha prices of 1994 were used in tariff calculations which were conducted at the end of 1995. The tariff is calculated in US dollar and that too after removing the US inflation. The committee used such accounting

gimmicks to hide the high cost of power and to contrive a low and stable figure for tariff.

The renegotiation committee also talks about securing many other benefits such as: equity to MSEB, multi-fuel facility, use of Naphtha for Phase I, separating LNG regasification facility, more environmental safeguards (tree plantation, monitoring stations etc.), benefits for local community (such as hospital and school), etc. Here again the committee has misled the public by pretending that they have been successful in forcing unwilling Enron to concede these substantial benefits. But the facts of the matter are very different. Enron was demanding use of naphtha since 1993. It had also offered equity to MSEB and was seeking a separate venture for LNG regasification in MOU signed on 20 June 1992. Similarly, the Ministry of Environment and Forest had directed Enron to plant 100,000 trees through its order dated August 5, 1993. Benefits for the local communities that the committee claimed to have achieved, were actually ordered by the Bombay High Court in 1994 in a judgment over a land acquisition suit.

Thus, in short, after renegotiation, Enron has obtained what it had not been able to obtain earlier, and has promised to do things which would cost very little and which it was expected to do any way.

Implications for the Consumers in Maharashtra

Since 1980, many committees, including the Rajadhyaksha committee, have suggested various measures to improve MSEB's performance and financial situation. However, over past few years, the state government did not implement these suggestions and allowed the situation to deteriorate further. As a result, nearly half of electricity available for sale is not metered and MSEB does not know where it goes ! Thus, on the one hand, the government has not allowed MSEB to grow in a healthy manner, on the other hand, ministers have been declaring waivers to influential persons having huge arrears. Moreover, such persons

are rewarded by giving important positions in the government, while, honest MSEB officials trying to stop this loot of public money are pressurized and made to keep quiet.

Though it was mandatory on MSEB, the government has not allowed MSEB to earn required profits. But, MSEB is used to assure windfall profits to multinational companies. Would this protect public interest ? In fact, due to the unjustifiably high bills of the private projects such as Enron, Reliance, and Bhadrawati, MSEB will soon be in tremendous financial difficulty. We had requested MSEB to give us its future financial projections. For reasons one can guess, MSEB officials have not made these available. In our opinion, to pay off these private projects, the MSEB will be forced to sell off its assets under the pretext of privatization. MSEB with assets worth Rs. 20,000 crore will be privatized, in the same spurious manner in which the Enron project was brought in. The government is already planning this and the MSEB chairman has already said this publicly . After privatization only those who can afford to pay Rs. 5 or so per unit will get power. The farmers and rural people will not afford this. And, thus, it will be a total erosion of what we have achieved on social fronts over decades in just five years.

Appendix-III: Excerpts from the Report of the Amnesty International

The "Enron Project" In Maharashtra -- Protests Suppressed In The Name Of Development

Amnesty International is concerned about the suppression by state authorities in Maharashtra of peaceful protests against the construction of a power plant by the Dabhol Power Company. The DPC is a joint venture between three US based multinational corporations. The project has met with opposition from local people and activists from elsewhere in India on the grounds of its social, economic and environmental impact, as well as political controversy around its inception.

Reports from the Ratnagiri district of Maharashtra detail a succession of incidents which have occurred in recent months in which protesters and activists have been subjected to harassment, arbitrary arrest, preventive detention under the ordinary criminal law, and ill-treatment. Amnesty International considers those who have been subjected to arrest and temporary periods of imprisonment as a result of undertaking peaceful protest to be prisoners of conscience, imprisoned solely for exercising their right to freedom of expression.

A fact-finding team of the All India Peoples Resistance Forum (AIPRF), headed by Justice S M Daud, a former judge of the Bombay High Court, examined police harassment of villagers protesting against the DPC, known as the "Enron project". Its findings have highlighted the human rights concerns surrounding the construction of the project. The team found that:

"In the name of maintaining law and order they [police] have... prevented all forms of peaceful and democratic protest, used force and violence while dealing with all forms of non-violent protest, and resorted to a number of other subtle methods of harassment of the agitators".

Women, who have been at the forefront of local agitation, appear to have been a particular target. A People's Union for Civil Liberties (PUCL) fact-finding team that investigated the arrest of 26 women and 13 men on 3 June, 1997, concluded:

"The police targeted mainly women, some of whom were minors and the arrests were made violently, in violation of the legal, constitutional and humanitarian principles"

A battalion of the State Reserve Police, stationed on the site of the power plant, the local police and company security guards have all been implicated in the violations. Amnesty International is concerned at the collusion of the police with those supporting the construction of the project, which has increased the vulnerability of the protesters to human rights violations.

In a report released on 4 July 1997 by the Committee for the Protection of Democratic Rights (CPDR) noted the increase in violations by the police reported by the villagers despite "the continued emphasis on constitutional and non-violent means of protest".

The Government of Maharashtra's response to the protests is in contravention of Article 19(1) of India's Constitution, which guarantees freedom of speech, assembly and movement, and also of the international standards to which India is a party.

Amnesty International is calling on the Government of India and the Government of Maharashtra to ensure the right of human rights defenders throughout India to peacefully protest without fear of ill-treatment, arbitrary arrest, preventive detention or other forms of harassment. In particular, the organization is calling for a review of legislation which limits the rights to freedom of expression and peaceful assembly, for a full investigation into the reported violations and to ensure that the perpetrators are brought to justice

Ill-treatment of protesters and villagers by police

The police, including the Special Reserve Police on the site of the company, have routinely used excessive force to suppress the protests and whilst arresting villagers and protesters, and those arrested have been held in conditions amounting to cruel, inhuman and degrading treatment. Some of these incidents are detailed here.

During the arrests that took place on 3 June 1997, after the arrival of 135 police and SRP personnel in the village, a 23 year-old woman in the late stages of pregnancy, Dhanashree Janardhaan Padval, was beaten. Others who sustained injuries did not seek medical help because of the fear of police reprisals. Another woman, Sugandha Vasudev Bhalekar -- a 24 year old housewife who was three months pregnant at the time of her arrest on 3 June -- testified to the Judicial Magistrate, on 9 June:

"at around 5 in the morning when I was in the bathroom, several male police with batons in their hands forcibly entered the house and started beating members of (my) family who were asleep. Being terrified, I told them from inside the bathroom that I was taking a bath and that I would come out after wearing my clothes. I asked them to call for women police in the meantime and to ask them to wait near the door. But without paying any attention to my requests, the policemen forcibly opened the door and dragged me out of the house into the police van parked on the road. (While dragging me) the police kept beating me on my back with batons. The humiliation meted out to the other members of my family was similar to the way I was humiliated. ... my one and a half year old daughter held on to me but the police kicked her away."

Of the 26 women arrested, 25 were held in one room of 150 square feet with a washing area and toilet at one end and steel mesh at the other, overlooked by a constable. According to the PUCL team who visited the police lock-up on 7 June: "There was no light or fan The entire room stank". Amnesty International believes that the conditions in the Chiplun police station lock-up amount to cruel, inhuman and degrading treatment.

During the protests which took place on 15 May, the police, including the SRP used excessive force against the protesters:

"The police and SRP personnel stationed at the project site lathi-charged and dragged women protesters by their hair into waiting police vans. Many women protesters also reported that they were roughed up and manhandled by the police and their dresses and sarees were torn in the process"

Amnesty International is concerned that the use of force in the context of the Enron protests has not been in proportion to the seriousness of the crime, and that excessive force has been used, in a routine manner. The organization is not aware of injury to any law enforcement official, nor of any medical treatment received by such an official, in contrast to the pattern of injuries received by the protesters.

Article 7 of the ICCPR, to which India is a signatory, prohibits the use of torture or cruel, inhuman or degrading treatment or punishment. This prohibition is further reinforced by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which India has made a commitment to ratify.

The targeting of women and children, contravenes the special protections afforded to them in the ICCPR, the Women's Convention and the CRC.

Amnesty International urges the Government of Maharashtra:

- to ensure the right of people to peacefully protest;
- to order prompt and impartial investigations into all allegations of ill-treatment of protesters, and to ensure the perpetrators are brought to justice;
- to order a prompt and impartial investigation into allegations that police in the Ratnagiri region have systematically failed to register complaints by villagers.

Appendix-IV: Chronology of Events

<u>Date/Year</u>	<u>Important Events</u>
June 18 & 19, 1992	Enron team visits possible sites on Maharashtra's coastline.
June 20, 1992	An MOU is signed between Enron and MSEB.
August, 1992	Enron submits its project proposal.
February 3, 1993	Government of India (GOI) gives its clearance.
March 12, 1993	GOI requests loan from the World Bank.
April 29, 1993	DPC is registered under Indian Company Laws.

April 30, 1993	The World Bank declines to fund the project.
September 14, 1993	GOM grants its clearance.
September 21, 1993	DPC publishes the mandatory public notice.
October 2, 1993	First resistance: agitation is announced by MSEB unions.
November 26, 1993	CEA grants its clearance (only on technical grounds).
December 8, 1993	PPA is signed between MSEB and DPC.
February 10, 1994	Government of Maharashtra furnishes its guarantee to DPC offering to pay all out-standing payments in case of default by MSEB.
February 18, 1994	A Citizen's Committee is formed to probe into various implications of the project.
April 27, 1994	Protest march is organized at the district headquarters.
June 5, 1994	A large conference to register protest against the project is organized jointly on project site by various trade unions, environmental, local, other organizations.
June 9, 1994	Various federations of trade-unions and other organizations form a joint front (EVSS) to oppose the project.

- June 24, 1994** GOM and DPC sign the "State Support Agreement."
- July 25, 1994** The High Court rejects an appeal by the Bombay-based Committee of the villagers against the forced acquisition.
- July 30, 1994** The Minister for Energy refuses to make the PPA public in the State Legislative Assembly.
- August 18, 1994** Public protest meeting at Bombay.
- August 20, 1994** The High Court rejects the writ petition by late Mr. Ramdas Nayak (BJP) against GOM and Enron.
- September 21, 1994** GOI signs a counter-guarantee for the project.
- October 1, 1994** The High Court appoints a 23-member committee of experts to look into various aspects of the project.
- October 5, 1994** Public protest meeting near the site of the project.
- October 28, 1994** First attempt by government agencies to complete the procedure of acquiring land, foiled by local villagers.
- October 29, 1994** Second attempt by government agencies to complete the procedure of land acquisition with the aid of a large police force. Police arrest 189 villagers including 144 women who were resisting the acquisition of their land.
- October 30, 1994** The Expert Committee appointed by the High Court gives the green signal to the project except on safety aspects. The NGO representatives register their dissenting opinion.

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| November 1, 1994 | In a public meeting in the affected village, villagers vow to fight back repression by government. |
| November 8, 1994 | The second round of repression; police arrest 233 villagers including 152 women. |
| November 10, 1994 | The third round of repression; police crack-down and arrest of 105 villagers including 88 women. |
| November 11, 1994 | Strict prohibitory orders are clamped in the entire taluka banning all kinds of political activities. |
| November 25, 1994 | MOEF gives green signal without compliance on many environmental aspects of the project by DPC. |
| December 8, 1994 | Elections for the State Legislative Assembly are announced. |
| December 11, 1994 | Protest procession is organized in Chiplun. |
| January 18, 1995 | A state-wide protest program of dharana (sit-ins) in front of government offices by outside supporters. |
| February 23, 1995 | The "State Consent Agreement" is signed. |
| February 25, 1995 | The "Fuel Management Agreement" is signed. |
| March 1, 1995 | Financial Closure is brought into effect. |
| March 6, 1995 | Mr. Munde, who later became Deputy Chief Minister and Minister for Energy in the new government, visits the project site and assures his full support to the struggle of local villagers. |

He publicly vows to dump the project in the Arabian Sea if he wins election.

**March 12,
1995**

New government led by BJP-Shivsena assumes power.

**April 3,
1995**

A Cabinet Sub-Committee under the Chairmanship of Mr. Munde is appointed to review the project.

**April 21-30,
1995**

People from all over Maharashtra join local villagers in the program of courting arrest to protest against the project.

May 12, 1995

About 400 villagers clash with outside labor being used by contractors, destroy offices of contractors. Work is suspended for 2 weeks.

**June 5,
1995**

United States Department of Energy warns Indian governments about cancellation of the project.

**June 6,
1995**

British Chancellor of Exchequer warns Indian governments about the cancellation of the project.

**July 5,
1995**

Opposition left parties organize a daily dharana (sit-in protest) in front of the State Legislative Assembly during its session.

**July 18,
1995**

The Munde Committee (Cabinet Sub-Committee) submits its report to the Chief Minister.

**August 3,
1995**

GOM announces its decision to cancel the project in the State Legislative Assembly on the basis of recommendations of the Munde Committee.

Aug. 8, 1995

Enron stops project work

**September 6,
1995**

GOM sues DPC in the Bombay High Court for engaging in fraudulent and corrupt business practices.

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|--------------------------|---|
| October 6, 1995 | Ms. Rebecca Mark, CEO of Enron declares that a new agreement will be entered within three months. |
| November 8, 1995 | About 3000 villagers march on the local government office. |
| November 11, 1995 | GOM issues orders to appoint a Committee of experts to renegotiate the deal on its behalf. |
| December 2, 1995 | Fast by people affected by the project to protest against the proposed revival of the project |
| January 8, 1996 | The State cabinet decides to revive the project on the basis of report of the expert committee. |
| January 9, 1996 | Mr. Bhalekar, leader of the local fishing community, is arrested for issuing a statement against the decision, released by the District Court a week later. |
| March 25, 1996 | A writ petition challenging the renegotiated deal is rejected by the High Court |
| April 26, 1996 | CITU files a suit questioning the renegotiated project in the Bombay High Court. |
| April 28, 1996 | "Ishara Parishad" (warning conference) organized by various committees at the project site. |
| May 1996 | Visits by various groups of NAPM activists from outside the state to express solidarity. |
| December 2, 1996 | The Bombay High Court dismisses CITU petition. Enron restarts project work which was stopped on August 8, 1995. |

- January 12 to 17, 1997** Satyagraha by local protesters and their supporters in batches. Assessment of arrested protesters.
- January 30, 1997** Massive Ishara Satyagraha by activists of local action committee, EVSS, NAPM, and other supporting organization police let loose terror. 1200 protesters arrested.
- February 7, 1997** Residents of Arey village forced government to stop water supply to Enron from their village.
- April 9, 1997** Protesters sit in-front of State Legislative Assembly in Bombay
- April 28 to May 26, 1997** Satyagraha in batches by activists of EVSS, NAPM and other supporting organizations coming from all over the country.
- May 29, 1997** Protesters in the police custody assaulted by unidentified persons. Ladies were beaten up and treated in indecent manner.

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Glossary

AIPRF	All India Peoples Resistance Forum
BHEL	Bharat Heavy Electrical Limited
CEA	Central Electricity Authority
CITU	Centre for Indian Trade Unions
DPC	Dabhol Power Company
EHKS	Enron Hatao Kriti Samiti
EIA	Environmental Impact Assessment
EVSS	Enron Virodhi Sangharsh Samiti
GOI	Government of India
GOM	Government of Maharashtra
IRR	Internal Rate of Return
MIDC	Maharashtra Industrial Development Corporation
MOEF	Ministry of Environment and Forests
MOU	Memorandum of Understanding
NAPM	National Alliance of Peoples' Movements
NTPC	National Thermal Power Corporation
PLF	Plant Load Factor
PPA	Power Purchase Agreement
PUCL	People's Union for Civil Liberties
RC	Renegotiation Committee
SEB	State Electricity Boards
SRP	State Reserve Police

Selected Prayas Publications

Health Cell

1. "We Should Know this About AIDS" in Marathi
2. "Children and AIDS"
3. A Slide and Poster Set, Flip Charts for AIDS Awareness Programs.
4. "Handbook for Animators" to conduct AIDS Awareness Programs.

Energy Cell

5. "Least Cost Power Plan for the state of Maharashtra"
6. "The Enron Controversy : Techno-economic Analysis and Policy Implications"
7. "Power from Sardar Sarovar : An in-efficient plan"
8. "Beneficiaries of IPS Subsidy and Impact of Tariff Hike"

PRAYAS

Initiatives in Health, Energy, Learning and Parenthood

Prayas is a registered charitable trust, a non-profit organisation. Prayas's main interest areas are Health, Energy, Learning and Parenthood. The **Health Cell** is mainly dealing with problem of AIDS. It conducts awareness programs for different groups; train animators to conduct awareness programs; publish articles, booklets for spreading the message; provide counselling services to HIV infected individuals and their families; provide care and treatment for the sick. It also co-operate with and conduct research in sexual behaviour, and therefore contribute to better planning of effective intervention strategies. We are also a part of different advocacy groups striving to create an environment conducive to better strategies to contain the epidemic. **Energy Cell**, mainly works on power policy issues. It aims at developing credible, techno-economically viable and socially desirable policy alternatives for power sector. It's work started with development of least cost, integrated resource plan for Maharashtra. The group has prepared detailed techno-economic critique of controversial projects such as Enron and Sardar Sarover. It has also carried out in-depth analysis of claimed subsidy of nearly 1200 crore Rs. given to farmers of Maharashtra in the form of subsidised electricity. Currently, the group is working on power sector reforms and privatisation policies being pursued by central and various state governments. **Learning and Parenthood Cell**, is experimenting about making education more enjoyable and meaningful. It aims at creating awareness to make education and parenthood more conscious and socially responsible. It has helped a sister organisation "Palakniti Pariwar" in setting up a resource centre and a playgroup for children from disadvantaged communities. A list of selected Prayas publications is given inside.

The Enron Story : Controversial Issues and The Struggle

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