

Jharkhand State Electricity Regulatory Commission
Ranchi

Form of Proceedings
Case No. 16 of 2019

All Jharkhand Furnace Association

..... Petitioner

Versus

Jharkhand Bijli Vitran Nigam Limited & Ors.....Respondent

CORAM: HON'BLE SHRI R.N. SINGH, MEMBER (ENGINEERING)
HON'BLE SHRI P.K. SINGH, MEMBER (LEGAL)

For the Petitioner : Mr. Dhananjay Pathak, Advocates

For Respondent : Mr. Navin Kumar, Mr. Dheeraj Kumar, Advocates

Sl.No	Date of Proceeding	Proceeding of the Commission with signature	Office action taken with date
1	2	3	4
8	28.07.2020	<p>Heard the Learned Counsel for both the parties.</p> <p>Perused the records.</p> <p>The Petitioner- All Jharkhand Furnace Association has filed this petition for following reliefs:</p> <p>For commanding upon the respondent Distribution Licensee to forthwith comply the directives issued under Tariff order 2011-12, 2012-13, 2015-16 and onwards upto Tariff order 2018-19 so far it relates Load Factor Rebate as contained / prescribed under terms and conditions of supply.</p> <p style="text-align: center;">And/or</p> <p>To show cause the respondent Distribution Licensee as to why and what under circumstances it has flouted the clear and specific directives of this Hon'ble Commission w.r.t. grant of Load Factor Rebate which has been provided in a plain & simple manner, but the respondents while interpreting the same in their</p>	

own ways, have substantially curtailed the benefits of said rebate granted by this Commission, and for that why not stern action be taken against them for non-compliance of the directions issued by this Hon'ble Commission vide different Tariff order as mentioned above.

And/or

For commanding upon the respondents to calculate the excess amount realized by them on account of non-grant of payable Load Factor Rebate right from the date of applicability of Tariff order 2011-12, 2012-13, 2015- 16 and onwards upto completion of Tariff order 2018-19 and adjust / returned the same with payable interest as provided under Supply Code Regulation.

And/or

The petitioner prays for passing of such other order/orders as your Honours may deem fit and proper in the interest of justice and in the facts & circumstances of the case.

Submission of the Petitioner:

Learned Counsel for the Petitioner submitted that this Commission in the Tariff Order for FY 2011-12, 2012-13, 2015-16, FY 2017-18 & FY 2018-19 under chapter "Terms and Conditions of Supply" Load Factor Rebate has been prescribed with a note in the following manner:-

Load Factor Rebate

Load Factor Rebate will be applicable on Energy charges as given below:-

Load Factor	Load Factor Rebate
40-60%	Nil
60-70%	7.50%
70-100%	10.00%

Note:- The above rebate will be available only on monthly basis and the consumers with arrears shall not be eligible for the above rebate. However, the applicable rebate shall be allowed to consumers with outstanding dues, wherein such dues have been stayed by the appropriate authority/courts.

Learned Counsel while quoting the above clause explained that if the Load Factor of a consumer remains in between 40% to 60% then no rebate shall be given, whereas 7.50% rebate on energy charge be given when LF remains 60% to 70% and 10% rebate be given if the Load Factor remains over 70%.

Learned Counsel pointed out that the Respondents while giving Load Factor Rebate have at first instance ousted 60% of the energy charge from the purview of Load Factor Rebate, on the remaining energy charge from 60% upto 70%, 7.5% rebate has been provided and thereafter on rest energy charge which remains very marginal, the Respondents provided 10% Load Factor Rebate, in a situation when a consumer has maintained its Load Factor above 70%.

It was further pointed out that this Commission has uniformly provided the same provisions of Load Factor Rebate to another licensee i.e. DVC, and the DVC has followed the provisions of Load Factor Rebate as prescribed in their Tariff Order and accordingly if a consumer of DVC has maintained its Load Factor above 70%, then straightway 10% rebate in energy charge has been provided to the concerned consumer by the DVC.

Learned Counsel further submitted that the provisions of tariff in a clear manner provided as to how the Distribution licensee shall give Load Factor Rebate to the eligible consumers, however, the respondent curtailed the Load Factor Rebate while interpreting against the mandate of the Tariff orders amounting to contravention of the Tariff Orders issued

by this Commission for FY 2011-12 and onwards upto FY 2018-19, as such, the Petitioner has submitted this petition for aforesaid

Submission of the Respondent

Learned Counsel for the Respondent contested the submission of the petitioner and pointed out that this Commission vide its no. JSERC/01/385 dated 25th August, 2006 has clarified that the Load Factor Rebate shall be provided on energy charges corresponding to energy consumption in excess of the 40% of the Load Factor i.e. 5% rebate on energy charges corresponding to consumption in excess of 40% and upto 60%, 7.5% rebate for consumption greater than 60% and upto 70% and 10% on consumption above 70% and subsequently the Respondent issued a Circular with memo no. 797 dated 15th September, 2006.

Learned Counsel further submitted that the direction of this Commission given in Tariff Order for load Factor Rebate are to be read in conjunction with the above said letter of the Commission and the Respondents followed the principles laid down in the said letter dated 25th August, 2006 of the Commission wherein this Commission has categorically mentioned that the Load Factor Rebate to the eligible consumers shall be given only on the energy charges corresponding to the units consumed above 40% of the Load Factor, as such the Respondents calculated the rebate for Load Factor as per the above said clarification.

It was further pointed that the conjoint reading of the Tariff order and the clarification provided by this Commission vide its letter dated 25th August, 2006 makes it clear that any contravention of direction by this Commission for giving Load Factor Rebate to eligible consumers has been made and as such the petition of the Petitioner is devoid of merit.

		<p style="text-align: center;"><u>Commission's observation& findings</u></p> <p>The Commission observed that the petitioner of the case- <i>All Jharkhand Furnace Association</i> is not a juridical person and it has not been recognised as such by this commission under A.42 of JSERC (Conduct of Business) Regulations, 2016. It appears that proprietorship firm M/S Ganjan Ferro Pvt Ltd is pursuing its plea under guise of a consumer association.</p> <p>We have examined in the interest of justice, as to whether any further direction by the commission is warranted? The Commission observed that crux of the issue is regarding manner of calculation/quantum of load Factor Rebate as provided in the Tariff orders for FY 2011-12, FY 2012-13, FY 2015-16, FY 2016-17, FY 2017-18 & 2018-19. In this regard, the Commission has already clarified vide its letter dated 25th August, 2006 that the Load Factor Rebate will be calculated on the consumption in excess of the defined percentage/slabs as mentioned under Load Factor Rebate Table of the respective Tariff Orders. The Load Factor Rebate to the eligible consumers shall be given only on the energy charges corresponding to the units consumed above the respective slab. We reiterate the earlier directions elaborated by example for Tariff of FY 2003-04 applicable from January 1, 2004 till issue of further Tariff Order of JSEB i.e. <i>"for load factor between 40-60%, 5% rebate is admissible on the energy charge in excess of 40% of the load factor up to 60 %. If the load factor is between 60 to 70%, the load factor rebate is 5% for consumption between 40% to 60% and 7.5% beyond 60% upto 70% and 10% for consumption beyond load factor of 70%."</i></p> <p>In the result, it is ordered as</p> <p style="text-align: center;"><u>ORDER</u></p> <p>The prayers of the petitioner are rejected on both counts. The petition as framed is not maintainable being not brought by a juridical person and further any further directions of the commission is not required in view of the earlier directions issued.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="text-align: center;"> Sd/- Member (L) </div> <div style="text-align: center;"> Sd/- Member (E) </div> </div>	
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