

**JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION
RANCHI**

Case No. 31 of 2011

Shri **MUKHTIAR SINGH**, Chairperson
Shri **T. MUNIKRISHNAIAH**, Member (E)

Date: **26th November 2011**

ORDER

M/s Tata Steel Limited

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Petitioner

For the Petitioner:

Shri M.S. Mittal, Sr. Advocate
Ms. Anubha Rawat Choudhary, Advocate with
Shri Sharad Kumar, General Manager (PSD)
Shri Gautam Kr. Sinha, Head, Corporate matter
& Legal Services of Tata Steel Limited.

1. The petitioner-Tata Steel Limited (hereinafter referred to as “petitioner-TSL) has filed the petition under consideration under Section 94 of the Electricity Act 2003 read with Clause 36 of the JSERC (Conduct of Business) Regulations, 2011 for review on certain points mentioned in the Tariff Order for FY 2011-12 of the petitioner-TSL.

2. The petitioner-TSL was heard at length and have filed written submission as well.

3. The petitioner-TSL has filed the present petition for review under Section 94 of the Electricity Act 2003 as well as Clause 36 of the JSERC (Conduct of Business) Regulations, 2011. Undisputedly, scope of the review as well as power of the Commission to review the decision, direction and order is very limited and restricted to the extent of apparent error on the face of record. Since the petitioner has failed to point out any apparent error on the face of the order for review in their petition, as required under law, therefore, the Commission can reject this review petition outrightly. But as a detailed

argument was made and written submission was also filed on behalf of the petitioner-TSL, the Commission proceeded to decide the case on its merit.

4. From the review petition and submission made, in writing, the petitioner-TSL has asked for review on the following issues:-

- i) Applicability of voltage rebate to HT consumers;
- ii) Applicability of power factor rebate/penalty;
- iii) Computation of normative loan and interest thereon; and
- iv) Rate of Power purchase by petitioner-TSL from Tata Steel Works.

5. The petitioner-TSL has submitted that the petitioner, a distribution licensee, neither mentioned nor requested for any voltage rebate to be given to its consumers, but the Commission, on its own, perhaps to be in uniformity with other licensees, dealt with the issues of voltage rebate and put the voltage rebate to HT consumers into four categories. The petitioner-TSL has reproduced Clause-VI pertaining to voltage rebate mentioned at p/72 of the Tariff Order for FY 2011-12 which is reproduced as under:

Clause VI: (Voltage Rebate)
Voltage rebate to the High Tension consumers will be applicable as given below:

Consumer Category	Voltage Rebate
HTS – 33 kV	3.00%
HTS – 132 kV	5.00%
HTS – 220 kV	5.50%
HTS – 400 kV	6.00%

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

This Rebate shall not be applicable to ‘Steel Works of Tata Steel’.

6. There are five distribution licensees in the State of Jharkhand for which the tariff is determined by this Commission. These distribution licensees are (i) Jharkhand State Electricity Board (ii) Damodar Valley Corporation (iii) Steel Authority of India Limited (iv) Jamshedpur Utilities & Services Company

Limited and (v) Tata Steel Limited. The effort of the Commission has been to bring uniformity in the Terms and Conditions of supply for all the distribution licensees.

True, the petitioner-TSL has not asked for voltage rebate to its consumers, but the Commission has allowed this rebate to the consumers of other distribution licensees in their respective Tariff Orders for FY 2010-11 and 2011-12. M/s Jamshedpur Services & Utilities Company Limited (JUSCO) is a company of Tata group and this rebate has been made applicable to their consumers as well. In order to bring uniformity in the Terms & Conditions of supply, this rebate has been introduced in the Tariff Order for FY 2011-12 of the petitioner-TSL also. Even if the petitioner-TSL has not asked for voltage rebate, as said earlier, to have uniform Terms & Conditions of supply to the consumers of all the distribution licensees, the Commission has made provision for voltage rebates to the consumers of the petitioner-TSL.

7. It is also submitted that if at all the voltage rebate was to be introduced by the Commission, then it should have been extended to the “Steel Works of Tata Steel” as well otherwise the “Steel Works of Tata Steel” is put to a disadvantage. It is pertinent to mention that earlier the “Steel Works of Tata Steel” was not a consumer. In the tariff petition for FY 2010-11, the petitioner-TSL has requested for creation of a separate category of consumer for “Steel Works of Tata Steel” and also undertook in the petition that such an arrangement would not have any adverse impact on any category of consumers. The relevant portion of the petitioner-TSL’s letter No. PBD/461/59/05 dated 6th September 2005 is reproduced below:

“With the enactment of Electricity Act, 2003 we agree that Steel works will have to be considered as a consumer for its electricity needs over and above captive sources.

Accordingly, a scheme is being formulated to meet the above scenario with a prime condition that “there should not be any adverse impact on any category of consumers”. With this as a background, the scheme will be put up for the Commission’s concurrence and implemented hereafter.”

8. Obviously, any rebate results in less revenue generation. Ultimately, it is adjusted in the ARR and tariff has to be determined accordingly. Any rebate to the “Steel Works of Tata Steel” is bound to have its adverse impact on other categories of consumers. Since the petitioner-TSL themselves have mentioned in their tariff petition for FY 2010-11 that a separate category of consumer be created for Tata Steel Works on the condition that there would not be any adverse impact on any category of consumers, hence, after careful consideration, the voltage rebate has not been extended by the Commission to the new category “Steel Works of Tata Steel”. The Commission is of the considered view that this issue for review is not tenable and hence rejected.

9. The second issue of Power factor rebate/penalty is co-related with the first issue. On this the petitioner-TSL has raised the issue why the Commission has lowered the Power factor rebate percentage from 95% to 85%. The Commission has lowered the percentage only to bring in the uniformity in respect of consumers of all the distribution licensees and to have the same Terms & Conditions for supply of power. Here also the power factor rebate/penalty has not been extended to the “Steel Works of Tata Steel” for the reasons explained in the earlier paragraphs. Thus this issue is also held to be untenable for review and as such the Commission rejects this contention of the petitioner-TSL as well.

10. As regards the Computation of Normative Loan and interest thereon is concerned, the Commission has accepted whatever figures/data were furnished by the petitioner-TSL. Though the Accounts were not segregated as required under law, still the Commission issued the Tariff Order for FY 2010-11 taking into account the figures/data submitted by the petitioner-TSL. While submitting the tariff petition for FY 2011-12, the petitioner-TSL made an effort to segregate the Accounts and got them audited as well. Taking the figures as they were in the audited Accounts, the depreciation for 2009-10 was worked out as under:

Table - 1

Sl. No.	Particulars	FY 09-10	
		Petition	Approved
1	Gross Fixed Assets	139.04	139.04
2	Less: Accumulated Depreciation(Net of CC)	55.09	56.24
3	Net Fixed Asset	83.95	82.79
4	Sources of GFA		
5	Consumer Contribution	16.73	16.73
6	Normative Equity	36.69	36.69
7	Normative Loans	30.52	29.37
8	Computation of Interest on Loan		
9	Opening Balance of Normative Loan	22.30	22.30
10	Deemed Repayments (Depreciation during the year)	4.70	4.70
11	Closing Balance of Normative Loan (as per Sl. no. 7)	30.52	29.37
12	Deemed Additions (11 + 10- 9)	12.92	11.77
13	Average Normative Loan [(9 +11)/2]	26.41	25.84
14	Interest on Normative Loan @ 10.25% (Sl.No.13 * 10.25%)	2.71	2.65

Table - 2

Depreciation (2009-10)				
Sl. No.	Depreciations	At the beginning of the year	Addition/Deductions	At the end of the year
1	Land	0	0	0
2	Building	0.41	0.02	0.43
3	Plant & Machinery	50.85	5.29	56.15
4	Furniture	0.19	0.02	0.21
5	Computer IT	0.08	0.01	0.09
	Gross Depreciation	51.53	5.34	56.88
	Less consumers contributions		0.64	0.64
	Net Depreciation		4.7	56.24

11. A perusal of Table-1 and Table-2, the “Deemed Additions” amounting to Rs.12.92 crores were mentioned in the petition and earlier approved also in the Tariff Order for FY 2010-11 of the petitioner-TSL as per provisional Accounts. Now, while considering the tariff petition for FY 2011-12, the audited Accounts for FY 2009-10 were submitted by the petitioner-TSL as additional information and taking the figures of audited Accounts, this “Deemed Additions” comes to Rs.11.77 crores instead of Rs.12.92 crores as evident from Table-1 itself. When the normative loan is reduced, as a result, the interest thereon is also reduced from Rs. 2.71 crores to Rs.2.65 crores. So the plea that the normative loan and interest thereon be recomputed does not have any merit and cannot be held to be a ground for review and hence rejected.

12. As regards the rate of Power purchase by the petitioner-TSL from Tata Steel Works, the petitioner-TSL has submitted that besides their captive units, they purchase power from Tata Power Company Limited and Damodar Valley Corporation and as such the petitioner-TSL has requested for weighted average rate of Power Purchase rather than the rate on which the petitioner-TSL purchases power from Tata Power Company Limited. This issue was raised by the petitioner-TSL earlier also by filing a petition in the Commission and the Commission has decided this issue by its order dated 1st June 2011 passed in Case No. 17 of 2011, which is reproduced below:-

Order dated 1.6.2011 in Case No. 17 of 2011:

“Heard the petitioner.

M/s Tata Steel Limited has filed a petition for drawal from Tata Steel Works (TSL- works) captive unit by Tata Steel Limited for its licensed area on temporary basis. It has also been stated in the petition that the petitioner proposes to purchase the captive power at a price equivalent to the weighted average price of

purchase of long term sources of power of the licensee during the same period. It is also been stated in the petition that Tata Steel Limited is presently under going expansion of its Tata Steel plant and will require additional power for the steel plant to get its increasing power requirement. Tata Steel works have put additional generating units and has commissioned a new 120 MW generating unit. It is added in the petition for the new captive unit has been installed by joint venture Company of Tata Steel as a SPV. The petitioner further added that there will be some surplus captive power during the period when all its old and new captive units will be fully operational. The deficit of the Tata Steel Licensee at Jamshedpur can be partially met for the interim period with the surplus captive generation pool available with the Tata Steel works. Taking into consideration the entire scenario, which has been made out by the petitioner the Commission agrees to the proposal of purchase of short term power from Tata Steel – works at rates to be determined by the Commission.

The petition of the petitioner-TSL is disposed of accordingly.”

13. Before dealing with the submission of the petitioner-TSL on this count, it is pertinent to mention that the Commission has already considered this issue specifically in Case No. 17 of 2011 and by order dated 1.6.2011, the Commission gave the finding that the purchase rate of short term power from TSL Works will be determined by the Commission. That impliedly means that the plea of the weighted average rate was rejected. Since this order has attained its finality, the petitioner cannot be allowed to raise the similar issue again and that too as a ground for review.

14. However, while working out the Tariff Order of the petitioner-TSL for FY 2011-12, the Commission has allowed the rates of power purchase from DVC as claimed by them in their tariff petition. The rates for rest of power which they either purchased from Tata Power Company Limited (TPCL) or got from their captive units has been allowed as determined by the Commission in the Tariff Order for FY 2011-12 of TPCL. The Commission holds the view that the power purchased by a Discom from captive unit should be equal to the cheapest power

available instead of weighted average rate of power purchase from long term sources, as it has direct impact on the consumers at large. Since the Commission is duty bound to protect the interest of the consumers, it has preferred for cheaper sources of power. Hence the prayer for higher rate as a ground for review is also rejected.

15. The petitioner-TSL, though not argued, but has mentioned in their petition that the Commission has not taken into account the guiding principles enshrined in the National Tariff Policy (NTP) and National Electricity Policy (NEP) while determining the cumulative gap till FY 2011-12 and has clearly under estimated the revenue gap of the petitioner-TSL ignoring the justifications being submitted by the petitioner-TSL in the petition. The Commission reiterates para 1.13 of the Tariff Order for FY 2011-12 of the petitioner-TSL, which is reproduced below:

Scope of the present Order

1.13- While determining tariff for FY 2011-12 for the licensed area of Jamshedpur town under the petitioner, the Commission has taken into consideration the following:

- a) Provisions of Section 86 of the Act;*
- b) Provisions of the National Electricity Policy;*
- c) Provisions of the National Tariff Policy;*
- d) Principles laid down in the Distribution Tariff Regulations, 2004; and*
- e) Principles laid down in the 'Distribution Tariff Regulations, 2010' for transition period for April 2011 to March 2013.*

16. In view of the above it is abundantly clear that the Commission has not only taken the provisions of the National Electricity Policy and National Tariff Policy into consideration but also considered the relevant provisions of the Act and the principles laid down in the relevant Regulations. So the plea of not following the guiding principles in determining the tariff as stated above is not borne out on facts and hence not accepted.

17. In the light of the discussions and the reasons mentioned hereinabove, the Commission is of the considered view that the issues raised on behalf of the petitioner-TSL were duly deliberated and considered by the Commission while determining the tariff of petitioner-TSL for FY 2011-12. Therefore, this review petition is not maintainable under law and devoid of any merit as well and is rejected.

Sd/-
(T. Munikrishnaiah)
Member (E)

Sd/-
(Mukhtiar Singh)
Chairperson