

**Jharkhand State Electricity Regulatory Commission  
Ranchi**

**FORM OF PROCEEDING**

**Case No. 14 of 2012**

Tenughat Vidyut Nigam Limited (TVNL). ..... Petitioner

<b>Sl.No.</b>	<b>Date of proceeding</b>	<b>Proceedings of the Commission with signature</b>	<b>Office action taken with date</b>
1	2	3	4
05.	05.11.2012	<p style="text-align: center;"><b><u>ORDER</u></b></p> <p>A review petition, under Sec. 94 of the Electricity Act, 2003 has been filed by the petitioner Tenughat Vidyut Nigam Limited (TVNL) seeking relief on the following counts :</p> <ol style="list-style-type: none"><li><b>1. Disallowance of cost for inefficiency.</b></li><li><b>2. Relaxation of secondary fuel oil consumption norms.</b></li><li><b>3. Transit Loss.</b></li></ol> <p>The petition was registered and notices were issued to all concerned. The licensee - JSEB, who purchases the entire power from the petitioner, despite notices, not has appeared.</p> <p>The petitioner was heard. The petitioner has filed written submission also which have been considered.</p> <p>The Commission, issued the Multi Year Tariff (MYT) Order for the petitioner on 30<sup>th</sup> May 2012 determining the generation tariff for the petitioner for the first control period i.e FY 2012 -13 to FY 2015 -16.</p> <p>Let us discuss the three issues raised by the petitioner :</p>	

**1. Disallowance of cost for inefficiency :**

The petitioner has submitted that neither JSERC ( Terms and Conditions for Determination of Thermal Generation Tariff ) Regulations, 2004 nor JSERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2010 have any provisions for disincentivizing generation utility on account of inefficiency.

The Commission feels that plea of the petitioner is not correct because in the JSERC (Terms and Conditions for Determination of Thermal Generation Tariff) Regulations, 2004, the operational norms on different parameters are laid down in the format annexed to the said regulations. If the Generating station does not fulfill or achieve the prescribed norms, then naturally the generating station is not managed efficiently and obviously the cost of inefficiency, without any reasonable explanation, can not be passed on to the beneficiaries. If this mechanism is not adhere to then the whole exercise of fixation of operational parameters will become redundant. In view of above, the Commission feels that there are enough provisions in the regulations not to allow inefficiencies of the generating stations. Furthermore, the Commission would like to refer to Regulations No. 11 of the JSERC ( Terms and condition for determination of thermal generation tariff) Regulations 2004 which reads as under :

***“11. Deviation from norms:***

***Tariff for sale of electricity by a generating company may also be determined in deviation of the norms specified in these regulations subject to the conditions that:***

- (a) The overall per unit tariff of electricity over the entire life of the asset, calculated on the basis of the norms in deviation does not exceed the per unit tariff calculated on the basis of the norms specified in these regulations; and***
- (b) Any such deviation shall come into effect only after approval by the Commission”.***

A perusal of the aforesaid Regulations makes it clear that if there are any deviations vis-a-vis prescribed norms then the generating companies have to get those deviations approved by the Commission. In

this case, the petitioner has not taken the approval of the Commission for the deviation mentioned in the review petition.

Not only this, there is a provisions in these Regulations which speaks about powers to relax. The said Regulations No. 13 of the aforesaid Regulations is read as under :

***“13. Power to Relax:***

***The Commission, for reasons to be recorded in writing, may vary any of the provisions of these regulations on its own motion or on an application made before it by an interested person”.***

The aforesaid Regulation No. 13 empowers the Commission to vary any of the provisions of these Regulations on its own motion or on an application made before it by an interested person. But the condition is the Commission has to record reasons in writing, for such a relaxation.

Whether, it be a provisions regarding deviation in norms or power to relax, the Commission is required to exercise utmost caution in exercising these powers. The Commission is fully conscious that before exercising such extra ordinary powers, the Commission has to hear all the stakeholders and then only pass a reasoned and speaking order. In a review petition , the Commission feels , the power to relax or power to deviate from norms can not be exercised. These powers can be exercised prior to taking up the petition for fixation of the tariff.

The Commission does not agree with the petitioner that while failing to achieve the approved operational norms like Station Heat Rate (SHR), Gross Calorific Value (GCV), Auxiliary Consumption and Specific Oil Consumption, the Commission is penalizing the petitioner twice. For example for the FY 2010-11 and 2011-12, the Commission has approved SHR whatever was proposed by the petitioner. For the FY 2012-13 to 2015-16, the JSERC ( Terms and Condition for determination of Generation Tariff ) Regulations, 2010 have been followed. The operational norms of a generating station have been fixed in the aforesaid Regulations after prior consultation with all the stakeholders and after considering all the relevant material and

information available including the operational parameters of the similarly situated generating plants.

In the written submission, the petitioner has stated that the fixed cost amounting to Rs. 18.06 Crs. may be allowed because CCL had stopped coal supply for non payment of their bills, and the supply of coal was of poor quality. The Commission is of the view that timely payment of coal supplied is the duty of the petitioner and they must do that. Moreover, when they pay for quality coal they should not accept the poor quality of coal. In view of the Commission, such reasons can not be accepted to pass on the inefficiency of the petitioner to the beneficiaries.

In view of the above discussion, the Commission does not find any merit in the plea of the petitioner on disallowance of cost of inefficiency, hence the plea on this count is rejected.

**2. Relaxation of secondary fuel oil consumption norms:**

The petitioner states that the JSERC ( Terms and Condition for Determination of Thermal Generation Tariff) Regulations, 2004 as specified 2.0 ml/Kwh as normative specific oil consumption which was applicable till FY 2010-11. The petitioner adds that the JSERC ( Terms and condition for determination of Generation Tariff) Regulations, 2010 prescribed 1.0 ml/Kwh as normative specific oil consumption and requested that the Commission should allow 2.0 ml/Kwh as was provided in the relevant Regulations of 2004.

As stated earlier the JSERC ( Terms and Condition for Determination of Generation Tariff) Regulations, 2010 have been framed after following the procedure of prior publication including consultation with all stakeholders. There is no reason to deviate or relax the said Regulations. The petitioner submits that the plant is more than 15 years old and for various reasons secondary oil consumption is high.

The Commission feels that the norms laid down in the relevant Regulations remind the generating station to take remedial measures to improve their operational parameters, so that the cost of generation of electricity is reasonable and within the reach of the consumers. Moreover, as stated earlier, the provisions of deviation for norms or

power to relax the Regulations can not be exercised in a review petition.

In the written submission the petitioner has stated that their consumption of auxiliary fuel is higher because of frequent tripping and grid break down by JSEB. And has also added that ageing of equipments and poor repair and maintenance work is another reason for higher secondary fuel consumption. The Commission feels that the plea taken by the petitioner only speaks about their inefficiencies. The petitioner must carry out quality repair and maintenance works, and should study frequent tripping and take remedial measures. Same is the case of grid break down of the JSEB. The petitioner must cooperate properly with the JSEB to avoid such situation. In view of the above, the second plea is also rejected being without any merit.

### **3. Transit Loss :**

The petitioner has submitted that the JSERC ( Terms and Condition for determination of Generation Tariff ) Regulations, 2004 provided for 0.3% as the Transit Loss applicable in FY 2010-11 . But the JSERC (Terms and Condition for Determination of Generation Tariff) Regulations, 2010, it has been reduced 0.20%. The Petitioner submits that they are receiving coal through road transportation and hence the transit loss is more in comparison to rail transport.

The generating station of the petitioner a pit head generating station and transit loss as per the aforesaid Regulations is 0.2% of the quantity of coal dispatched by the coal supplier in case of pit head generating station. Here it would be appropriate to reproduce 8.19 of the said Regulations :

***“8.19 The landed cost of coal shall include:***

- (a) Base cost of coal;***
- (b) Royalty;***
- (c) Taxes and duties;***
- (d) Transport cost by rail / ocean / road / pipeline or any other means; and***
- (e) Clean energy cess as per Ministry of Coal, Govt. of India Notification.***

***For the purpose of computing energy charges, landed cost of coal shall be arrived at after considering normative transit and***

***handling loss of 0.8% on the quantity of coal dispatched by the coal supplier in case of non-pit-head generating stations and 0.2% on the quantity of coal dispatched by the coal supplier in case of pit-head generating stations”.***

A perusal of the aforesaid regulation makes it clear that whether the coal is transport by rail or road or by any other means, it does not make any difference. In view of the aforesaid provisions, the plea, that since the petitioner is transporting the coal by road they should be allowed higher transit loss, does not hold good and the plea rejected.

Though, at the cost of repetition, the Commission wants to make it very clear that the power for deviation in norms or power to relax the Regulations can not be exercised by the Commission in the review petition. It can, at best, be exercised before the tariff petition for fixation of tariff is taken up.

In view of the above, the review petitioner is rejected being without merit.

Sd/-  
Member (E)

Sd/-  
Chairperson