

**Jharkhand State Electricity Regulatory Commission  
Ranchi**

**(Case No. 21 of 2012)**

Jharkhand State Electricity Board & Ors ..... Petitioner

**Quorum:** (1) T.MUNIKRISHNAIAH, Member (Engineering)  
(2) Sunil Verma, Member (Finance)

**Present:** Learned Lawyer Mr. Saket Upadhyay- JSEB  
Shri Ritesh Yadav (Consultant) Deloitte-JSEB

**(ORDER)**  
**(06.05.2014)**

The present review petition has been accepted under the provisions of Section 94 (1) (f) of the Electricity Act 2003 and Regulation 36 of the Jharkhand State Electricity Regulatory Commission (Conduct of Business) Regulations, 2011. The relevant portions of the aforementioned Act and Regulations have been reproduced below:

**Electricity Act 2003**

Quote:

*“94. (1) The Appropriate Commission shall, for the purposes of any inquiry or proceedings under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely: -  
(f) reviewing its decisions, directions and orders;”*. Unquote

**JSERC’s (Conduct of Business) Regulations 2011**

Quote:

*“36. Review of the decisions, directions and orders*

*(1) The Commission may at any time, on its own motion, or on an application of any of the person(s) or parties concerned, within 30 days of the making of such decision, directions or order, review such decision, directions or orders and pass such appropriate orders as the Commission deem fit;*

***Provided that power to review by the Commission on its own motion under this clause may be exercised only for correction of clerical or arithmetical mistakes arising from any accidental slip or omission.***

*(2) An application for such review shall be filed in the same manner as a petition under Chapter II of these Regulations. ”*. Unquote – **Emphasis added**

Accordingly, the Commission would consider the review petition only in case of correction of clerical or arithmetical mistakes arising from any accidental slip or omission and in case JSEB produces any new evidence/fact which was overlooked at the time of issuing the Order dated August 2, 2012.

After going through the review petition submitted by JSEB against the Tariff Order dated 02.08.2012 passed by Hon'ble Commission in ARR Petition for FY 2012-13 & True up for FY 2003-04 to FY 2010-11, following are the responses against the specific issues raised.

#### **A. Disincentive on account of non-achievement of T&D Losses**

##### **JSEB's Submission**

JSEB submitted that the T&D Loss trajectory has been applied without considering the actual position of JSEB and that the disallowance on account of non-achievement of T&D Losses is the single largest disallowance by the Hon'ble Commission. The difference between approved loss levels and actual loss levels has been summarized below:

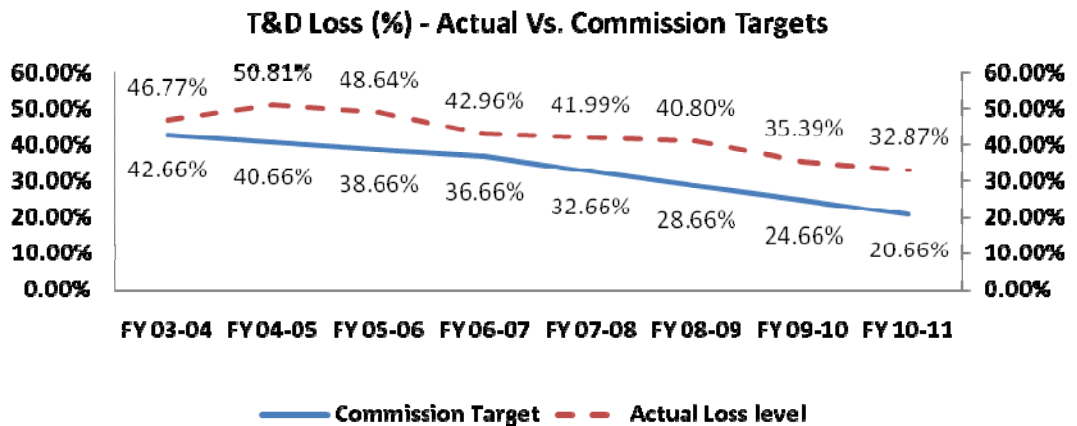
<b>FY</b>	<b>Approved by JSERC</b>	<b>Actual Losses</b>	<b>Disallowance</b>
2003-04	43%	47%	4.1%
2004-05	41%	51%	10.2%
2005-06	39%	49%	10.0%
2006-07	37%	43%	6.3%
2007-08	33%	42%	9.3%
2008-09	29%	41%	12.1%
2009-10	25%	35%	10.7%
2010-11	21%	33%	12.2%

The gap between approved and actual level of T&D loss has consistently increased over the years despite considerable reduction of over 14% achieved by JSEB. JSEB further submitted that, even though the Commission has disallowed the power purchase cost so as not to pass inefficiency of JSEB to consumers, such high disallowance results in worsening of the financial position of JSEB leading to poor service to the end consumers itself. Thus JSEB requested the Commission to give time bound realistic targets for loss reduction and redefine the existing trajectory.

##### **Views of the Commission**

The Commission provided detailed reasoning for disallowing the T&D loss levels over and above the targeted T&D loss level of the Petitioner in its Order dated August 2, 2012. The relevant extract of the Order has been reproduced below:

*The Commission notes with concern that the actual T&D losses are much more than the allowed targets as per the norms set by the Commission in its Previous Tariff Orders as depicted in figure below.*



As can be seen from the above chart, even though there was not much difference in the Commission's target and the actual losses during FY 2003-04, the Petitioner has failed to bring down losses substantially over the years. Infact its losses increased in FY 2004-05 over the previous year. This clearly suggests that the Petitioner has not made sincere efforts to reduce the losses over the past years. Moreover, the Petitioner has not provided any justifiable reasons for higher T&D losses.

Further, the Hon'ble APTEL in its Direction no.10 of Appeal no.129/2007 had also expressed concern on the excessive T&D losses of the licensee and had directed the Commission to lay down time bound targets for reduction of T&D losses and norms for improvement of the power stations and increasing the overall efficiency of the Board. The relevant extract of the aforesaid order is reproduced below.

*Quote:*

***Excessive T&D Losses and inefficiencies of JSEB***

***Analysis and decision:***

*50. Prevalent inefficiencies in the Board, excessive Transmission and Distribution losses are a matter of grave concern and are extremely detrimental to the interest of the consumers. We deprecate the current affairs of the Board and direct that immediate steps will be taken to improve the working of the Board. We direct that the Commission lays down time bound targets for reduction of T&D losses and norms for improvement of the Power Stations and increasing the overall efficiency of the Board." Unquote*

*In compliance with the direction given by the Hon'ble APTEL in the aforesaid Order, the Commission, in its Tariff Order for FY 2010-11, provided the Petitioner the opportunity to work out a logical trajectory to reduce its T&D losses on the basis of its actual loss levels and submit the same to the Commission for consideration. However, the Petitioner failed to file the T&D loss trajectory. Thus, the Commission in line with the Hon'ble APTEL's Direction no.10 and after exercising due diligence on its part, had set a time bound T&D loss reduction trajectory for the Petitioner so that the Petitioner is able to achieve the benchmark T&D loss level of 15% by the end of FY 2016-17.*

*In view of the above, the Commission finds no reason to change the targets given to the Petitioner and therefore approves the T&D losses as per the trajectory set by the Commission in its previous Tariff Orders.”*

Further, the JSEB has failed to place any new facts for consideration with the Commission for allowing actual T&D loss, there is no merit in the review petition made by JSEB for revising the T&D loss trajectory, when it was already given the opportunity to provide its own trajectory and it failed to do so.

## **B. Non-Tariff Income**

### **JSEB’s Submission**

JSEB has prayed to the Commission to consider Delayed Payment Surcharge @ 10% of total DPS recovered as per audited accounts for the period FY 2003-04 to FY 2010-11.

### **Views of the Commission**

Again, JSEB has not placed any new facts for consideration by the Commission in relation to the issue of DPS. In the Tariff Order dated August 2, 2012, the Commission has clearly stated that DPS forms part of income over and above the revenue which is unpaid and is treated separately as per accounting principles. Thus it is correct to consider the revenue and DPS as separate heads in ARR. The relevant extract of the Order has been reproduced below:

*The delayed payment surcharge (DPS) is levied in case a consumer defaults in payment of its electricity bill within the stipulated time. For example, in case a consumer, having a billed amount of Rs.100, fails to pay within the stipulated time he will have to pay DPS of Rs.1.50 (1.50% of 100) over and above the billed amount of Rs.100.*

*Further in the audited accounts, the amount realised from the revenue from tariff is booked under separate heads i.e. revenue from tariff is booked under revenue from sale of power in Schedule 1 and revenue realised from DPS is booked as non-tariff income in Schedule 5. Thus, in accordance with the generally accepted accounting principles, the revenue from tariff and income from DPS are considered in ARR separately.*

*With respect to the own admission by the Petitioner that it is unable to collect the entire amount of revenue billed, the Commission is of the view that such inefficiencies on part of the Petitioner cannot be allowed to be passed on to the consumers who are paying their bills on time.*

*In view of above, the Commission allows the actual non-tariff income as reflected in the audited annual accounts for FY 2003-04 to FY 2010-11.”*

## **C. Interest on working capital for the period 2003-04 to 2010-11**

### **JSEB’s Submission**

JSEB has prayed to the Commission to suitably allow higher working capital for all three functions for the period 2003-04 to 2010-11 as was claimed in the ARR & Tariff Petition.

### **Views of the Commission**

While determining the normative interest on working capital, the Commission is guided by the regulations framed by it for Tariff Determination from time to time. Further, it must be made clear that the regulations defining the terms & conditions for tariff determination framed by the Commission, is passed through a detailed public consultation process and views of every stakeholder & public at large is heard and considered while finalizing the said regulations. Thus, the JSERC is not bound to follow any other approach other than that specified in its regulations formulated from time to time.

Further, the Commission had also clarified in its Order dated August 2, 2012, that for determination of interest on working capital at the time of Final true up for the period FY 2003-04 to FY 2010-11, the Commission had followed the same approach as was done by it while undertaking the provisional true up for said years in its Tariff Orders for FY 2010-11 and FY 2011-12.

For the period FY 2003-04 to FY 2006-07, the Commission was guided by the approach followed by it in the Tariff Order for FY 2010-11 and same was reiterated by it in the Tariff Order dated August 2, 2012. The relevant extract of the said Order has been reproduced below:

*Further, in the Tariff Order for FY 2010-11, while undertaking the provisional true up for FY 2003-04 to FY 2006-07, the Commission had approved the interest on working capital loans on the basis of the provisional annual accounts for the respective years subject to final true up on the basis of audited annual accounts. The Commission had not allowed normative interest on working capital loans during FY 2003-04 to FY 2006-07, as the actual interest on working capital paid by the Petitioner during the aforesaid years was negligible.*

*In view of above, while doing the final true up for FY 2003-04 to FY 2006-07, the Commission now approves the interest on working capital as per actual based on the audited annual accounts of respective years.”*

For the period FY 2007-08 to FY 2010-11, the Commission had followed the same methodology as adopted by it in its Tariff Order for FY 2011-12, while undertaking provisional true up for FY 2007-08 to FY 2009-10 and review of FY 2010-11. The relevant extract of the Tariff Order dated August 2, 2012 has been reproduced below:

*In the previous Tariff Order for FY 2011-12, for estimating the interest on working capital for FY 2007-08 to FY 2010-11, the Commission had considered the interest on working capital as per the norms specified in the following regulations:*

- 1 CERC, (Terms and conditions of Tariff Regulations), 2004 for computing the interest on working for Sikidri hydel power station;*
- 2 JSERC, Generation Tariff Regulation, 2004 for computing the interest on working capital for the Patratu Thermal power station; and*
- 3 JSERC, Distribution Tariff Regulations, 2004 for computing the interest on working capital for the distribution function.*

*Accordingly, the Commission has followed the aforesaid regulations for estimating the interest on working capital loans for FY 2007-08 to FY 2010-11 as summarised below.”*

Further the Petitioner's claim that the Commission has approved more interest on working capital for generation function as compared to distribution function holds no merit as it is only a functional segregation for the purposes of ARR and as such the board is functioning as one single entity only.

#### **D. Penalty for non-compliance with SoP**

##### **JSEB's Submission**

JSEB has requested the Commission to revisit and reconsider the imposition of the penalty for non-compliance of SoP regulations in light of the fact that JSEB has been ensuring compliance from FY 2010-11 onwards and that any penalty impacts its financial position adversely.

##### **Views of the Commission**

As JSEB has been submitting compliance to the SoP from FY 2010-11, the Commission has not imposed any penalty from FY 2010-11 onwards. However, as the Commission has already imposed penalty for previous years in its previous Tariff Order for FY 2010-11, the Commission cannot go back on its past stand. The Commission has clarified its stand on this issue in its Tariff Order dated August 2, 2012. The relevant extract of the said order has been reproduced as follows:

*In the Tariff Order of FY 2006-07, the Commission directed the Petitioner to implement JSERC (Distribution Licensees' Standards of Performance), Regulations, 2005 by 1<sup>st</sup> January, 2008 and to submit a compliance reports to the Commission, failing which the energy charges for all consumer categories will be reduced by 2.5% from 1<sup>st</sup> January, 2008 as penalty for non-compliance.*

*In compliance of the directive given in the Tariff Order for FY 2006-07, the Petitioner did not submit any compliance report on SoP till the issuance of the Tariff Order for FY 2010-11, therefore, the Commission was compelled to impose penalty for non-compliance during FY 2007-08, FY 2008-09 and FY 2009-10 in the Tariff Order for FY 2010-11. The Petitioner neither filed a review petition before the Commission nor filed an appeal before the Hon'ble APTEL. So the Tariff Order for FY 2010-11 has attained finality and cannot be re-opened at this stage.*

#### **E. R&M Costs**

##### **JSEB's Submission**

JSEB has requested the Commission to revise the basis of estimating the R&M costs and approve the same based on the proposal submitted by the Board.

##### **Views of the Commission**

The Commission has estimated the R&M costs for ensuing years on the basis of methodology approved by it in previous Tariff Orders. However, the Commission would review the actual R&M costs at the time of true up and approve prudent and justifiable expense of the Board in subsequent tariff orders.

## **F. Generation from SHPS**

### **JSEB's Submission**

JSEB has prayed to the Commission to reduce the generation from SHPS as levels proposed by it in the Tariff petition.

### **Views of the Commission**

In case of FY 2011-12, JSEB proposed gross generation of 287.55 MU from SHPS keeping in mind the actual position for first half of the year and likely generation in the balance year. The Commission approved the gross generation from SHPS in FY 2011-12 as 287.55 MU as proposed by JSEB itself. Accordingly, for the Control Period i.e. FY 2012-13 to FY 2015-16, the Commission estimated the gross generation from SHPS keeping in mind the projected generation for FY 2011-12 i.e. 287.55 MU.

## **G. Voltage Rebate, Load factor rebate and Power factor rebate**

### **JSEB's Submission**

JSEB has prayed to the Commission to apply voltage rebate, load factor rebate and power factor rebate only on energy charges and not on both energy and demand charges in order to protect the revenue of the Board.

### **Views of the Commission**

The voltage and power factor rebate has been applied on both energy and demand charges as has been allowed to other licensees in the state. Similar approach is also followed by BERC & PSERC.

In case of Load factor rebate, the rebate will be considered on Energy and the suggestions of the Licnesees will be considered in the coming Tariff.

## **H. Penalty for exceeding contract demand**

### **JSEB's Submission**

JSEB has prayed to the Commission to define different tolerance levels based on the contract demand of the consumers and also the penalty should be recoverable on the demand exceeded over and above contract demand and not above 110% of the contract demand as per the provisions made by the Commission to ensure grid discipline and improve system parameters.

### **Views of the Commission**

To maintain uniformity across other distribution licensees in the state, the Commission has provided the above provision for penalizing consumers exceeding contract demand. The proposal of JSEB for reviewing the provisions of the penalty clause can be considered by the Commission with the next tariff petition.

## **I. Treatment of Rs. 1000 Crores resource gap funding from GoJ**

### **JSEB's Submission**

JSEB has prayed to the Commission for not considering the resource gap funding of Rs. 1000 Crores received from GoJ as part of revenues of the Board.

**Views of the Commission**

Funds received by JSEB for meeting its revenue requirement have to be treated as revenue as has been considered by the Commission in its Order dated August 2, 2012. Thus there is no merit in the prayer of JSEB for not considering such funds as revenue and should be dismissed.

**J. Review the provisions of the HT agreement as detailed out**

**JSEB's Submission**

JSEB prayed to the Commission for removal of Clause 13 of the HT agreement as it adversely impacts the financial position of the Board.

**Views of the Commission**

The Commission has dealt with this issue in detail in the Order dated August 2, 2012, the relevant extract has been reproduced below:

*During the course of public hearings, the Petitioner made a presentation of their ARR & Tariff Petition including additional terms and conditions of supply. In their presentation, they requested that Clause 13 of the HT Agreement to which the consumers have referred to above, be deleted. The consumers vehemently objected to it and said that the HT agreement, after consultation with all stakeholders, have been approved by the Commission and there is no reason to delete the said clause now through this Tariff Order. The Commission agrees with the views of the consumers and do not see any reason to delete the said Clause 13 of HT agreement, which basically protects the interest of the consumers."*

In view of the interests of the consumers, the Commission retains the clause 13 of the HT agreement.

Sd/-  
Member (Engg.)

Sd/-  
Member (Fin)