

**JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION
RANCHI**

Case No. **01** of **2007-08**

CORAM

Shri S.K.F. KUJUR, Chairman

Shri P.C. Verma, Member (Tech)

Smt. Shakuntala Sinha, Member (Legal)

IN THE MATTER OF

DVC Tariff Petition dated 21-06-2007

An application for determination of tariff for retail supply of electricity for the year 2006-07 by Damodar Valley Corporation in the area falling within the territory of State of Jharkhand.

**ORDER
(5.7.2007)**

The reply dated 21.6.2007 filed by the Chief Engineer (Commercial), DVC, Kolkata in response to the order dated 6.6.2007 was put up on the same day and it was decided that it should be discussed in a meeting of the Commission. Accordingly, the reply in question has been put up along with the relevant records of the case.

Perused the petition and discussed the matter.

M/s DVC had filed the initial petition for the retail Tariff on 24/05/2007 supported by an affidavit dated 21.5.2007 for its consumers in DVC area in Jharkhand. The Commission heard the case on 01.06.2007 and passed the order on 06.06.2007. The Commission in its order dated 06.06.2007 had directed the applicant M/s DVC to submit the ARR and required details in the manner and in the form prescribed in the Regulation of the Commission for determination of the tariff for distribution and retail sale of electricity in the area of supply of DVC in the State of Jharkhand. In the said order the Commission had also expressed its displeasure and had taken exception to the language used in the petition and it had further directed that the Chief Engineer (Commercial) should file a petition seeking unconditional and unqualified apology.

Against the said order of the Commission dated 6.6.2007, M/s DVC has filed a petition on 21.6.2007. In this petition DVC has stated that they are duty bound and shall submit information, particular details and clarification as the Commission may direct from time to time related to the determination of the retail supply of electricity. DVC have submitted the details of revenue from trading, average cost of supply and details of loss along with the affidavit.

DVC has raised the issue that it was supplying the electricity to the consumer's at voltage of not less than 30,000 Volt, in term of Section 18 of DVC Act 1948 and it was not allowed to supply electricity of less than 30,000 Volt. The petitioner has stated that they are aggrieved by the order dated 06.06.2007 including the matters concerning Universal Service Obligation (USO). The petitioner has also stated that no where it is provided in the Electricity Act 2003 that Universal Service Obligations in terms of Section 43 of Electricity Act 2003 is applicable to DVC. Further stated that it is not clear whether in absence of any specific clarification in Section 14 of Electricity Act 2003, which declared it a deemed licensee, USO is binding upon it and Section 18 of the DVC Act 1948 can be said to have been repealed.

There was a clear vivid direction to petitioner D.V.C., which is a deemed licensee as per the Electricity Act 2003 to submit the ARR in the format prescribed in the Regulation of the Commission giving the required details. The Act mandates that every licensee (including a deemed licensee) have Universal Service Obligation. The D.V.C. cannot escape that obligation taking shelter of Section 18 of the D.V.C. Act 1948 as stated in Paragraph 5 of the petition because proviso IV of Section 14 of the Electricity Act 2003 clearly says that D.V.C. shall be deemed to be a licensee under the Act (Electricity Act 2003) "and the provisions of the Damodar Valley Corporation Act, 1948, in so far as they are not inconsistent with the provisions of this Act, shall continue to apply to that Corporation".

Section 42(1) of the Electricity Act 2003 (hereinafter mentioned as the Act) says:-

"It shall be the duty of a distribution licensee to develop and maintain an efficient, coordinated and economical distribution system in his area of supply and to supply electricity in accordance with provisions contained in the Act.

Section 43(1) of the Electricity Act 2003 says:-

"Every distribution licensee, shall, on an application by the owner or occupier of any premises give supply of electricity to such premises, within one month after receipt of the application requiring such supply".

The D.V.C. was again given time to comply with the direction of the Commission and not to reiterate the same thing that they cannot do or are unable to do. Further, they should not express their grievance before this Commission against the order of the Commission as they have expressed in Para 8 of the petition. This has been done intending to undermine the prestige of this Commission. In Para 10 of the petition the language used is as such "I would like to submit that if the wordings in the petition have hurt the feelings of Hon'ble Commission, I deeply regret that, there was absolutely no intention in petition to hurt any ones' feelings let alone the Hon'ble JSERC."

Here we would like to make it clear that there was no question of hurting feeling of the Commission. A wrong & false allegation was leveled against the Commission by the D.V.C. stating that the Commission had incorrectly recorded the submissions of their counsel though their counsel had neither filed any affidavit to deny that nor denied verbally even though he was present in the Court which has been clearly written in our order dated 06.06.2007. This is nothing but clear contempt of the Commission and for that the D.V.C. must seek unconditional and unqualified apology otherwise contempt proceeding may be initiated against the applicant.

The D.V.C. is not complying with the direction of the Commission so far submitting of ARR is concerned which is essential for determination of the distribution tariff. However, the DVC is again allowed time of 15 days for compliance of the Commission's direction given in its earlier and today's order and if the orders are not complied with within 15 days from today a proceeding will be initiated against the petitioner for non-compliance of the Commission's order and action will be taken under Section 142 of the Electricity Act 2003.

Let a copy of the order be sent to the applicant and put up on **23.7.2007** awaiting compliance.

Sd/-
(S. Sinha)
Member (Legal)

Sd/-
(P.C. Verma)
Member (Tech)

Sd/-
(S.K.F. Kujur)
Chairman