

Section - 3

OBJECTIONS

As mentioned in Section 1 of this tariff order, the Commission had invited objections on the ARR and tariff petition filed by the JSEB. The Commission received a total of 104 objections. The Commission had conducted two public hearings, the first in the state capital of Ranchi on December 7, 2003 and the second in Deoghar on December 9, 2003. The objections received have been carefully examined by the Commission and been taken into account as an integral part of the overall process of tariff determination. The major objections including the ones raised in the public hearings have been grouped together according to the nature of the objection and been summarised in this section. The list of objectors is enclosed as Annexure 3.1.

3.1 Tariff determination process

A few consumers have objected the tariff determination process that has been followed. As per Section 64(2) of the Act, the publication of tariff proposal has to be done by the Board and not by the Commission. Section 64 (3) of the Act does not refer to any provision of a revised filing, which was done by the Board upon the Commission's intervention. The publication as drafted by the JSEB is inadequately abridged and merely shows comparison of existing and proposed rates. The existing energy charge as mentioned in the publication is incorrect and is far lower than the amount mentioned.

3.1.1 The JSEB's rejoinder

The Board did not provide any reply to this objection

3.1.2 The Commission's views

The Commission recognizes that the notice of tariff proposal has to be published by the Board. However, the same was carried out by the Commission in the interest of completing the due process of tariff determination in time, as the Board was delaying the publication. It is true that there is no explicit mention of a revised filing in the tariff determination process specified in the Act, however a revised filing by the Board was utmost necessitated given the high level of data inadequacy and data inconsistency found in the first filing.

3.2 Inadequate information and inconsistency in the tariff filing

The consumers have highlighted the inadequacy of information in the tariff filing submitted by the Board. The necessary cost break-up and the basis for these costs have not been provided. These inadequacy have constrained the consumers in undertaking a proper analysis of the proposal. It has also been stated by some consumers that the tariff petition is largely inconsistent. For instance, whereas at one place the Board has mentioned Rs.13.69 Crores against the statutory return, it has mentioned Rs.13.82 Crores against the same item at a different place in the same tariff petition. Similarly, the depreciation amount has been mentioned as Rs. 75 crores and Rs.80 crores for the FY 2003-04. Likewise, there have been numerous inconsistencies with respect to other items of the tariff petition.

3.2.1 The JSEB's rejoinder

The Board did not provide any reply to this objection.

3.2.2 The Commission's views

The Commission recognises that the data provided by the Board has largely been inadequate and inconsistent, which has constrained not only the consumers but also the Commission in undertaking an appropriate examination of the situation. However, the Commission views that creating an optimal level of database would

take time, and in this regard it has issued a number of directives in this order for the Board to improve its information availability.

3.3 Unaudited accounts

Some consumers have objected that unless the revenue account of the Board for FY 2001-02 and FY 2002-03 are audited, it is not possible to accurately compare the existing and the proposed tariff. In this context, reference has been made to sub-section (4) of Section 69 of the Electricity (Supply) Act, 1948 that mandates the Board to forward the duly audited accounts to the CEA and the State Government within 6 months of the close of the year to which such accounts pertain.

3.3.1 The JSEB's rejoinder

The accounts of the Board have not been audited so far because the Board is yet to obtain the operating balance from the BSEB. The figures are, however, as per the records of the Board. The Board has further stated that it will take time for the accounts to get audited and if it waits then at a time it will have to take into account all pending accounts resulting in even higher tariff.

3.3.2 The Commission's views

The provisional account statement for FY2001-02 prepared by the Board has not been audited due to the unresolved issue of division of assets and liabilities between the JSEB and the BSEB. The Commission has carefully examined the provisional accounts and has validated them with relevant sources. The Commission has directed the Board to get its accounts for FY2001-02 and FY2002-03 duly audited at the earliest.

3.4 Fixed charge proposed as miscellaneous charge

Some consumers have questioned the nomenclature being used by the Board for fixed charge as miscellaneous charge. It has been highlighted that the Board is presently charging on two accounts for certain assured minimum payment - one in the form of fixed charge i.e. miscellaneous charge, and the other in the form of minimum monthly charge (MMC). Further, the basis and components of miscellaneous charge was not found to be clear.

3.4.1 The JSEB's rejoinder

The Board did not provide any reply to this objection.

3.4.2 The Commission's views

The existing and the proposed tariff structure of the JSEB and issues related herewith have been discussed in detail in Section 5.

3.5 Proposed increase in tariff

All the consumer categories, especially domestic and industry have objected to the increase in tariff and have held it unwarranted. It was pointed out that the share of domestic consumers in the total electricity consumption is very less, therefore any tariff hike for domestic consumers would not result in substantial revenues for the Board. Industrial consumers have compared the prevailing power tariffs in Jharkhand with that in the neighbouring states like West Bengal, Orissa and Chattisgarh stating that industries have been migrating to these states due to lower tariffs, and trend could not be contained if tariffs are not rationalised properly. Consumers have also stated that higher costs are due to inefficiencies of the Board and therefore, should not be passed through to the consumers. The hike has also been objected on account of the declining quality of supply. Some consumers have objected that while there is a substantial increase proposed in energy charge, there is no reason to increase the miscellaneous charge. Further, since consumers have to bear the cost of meter due to non-availability of meters with the Board,

there should not be any levy of miscellaneous charge by the Board.

3.5.1 The JSEB's rejoinder

In the last ten years, in addition to the tariff as per 1993 notification, only the fuel surcharge, which is based on the increase or decrease in the fuel cost and power purchase cost only, has been levied on some categories. However, during this period, fixed cost and overhead cost including O&M Cost, employee Cost, administrative cost, depreciation etc has increased substantially and these costs form a major part of the revenue costs. With regard to objections on proposed increase in miscellaneous charge, it is submitted that this has been charged to recover the fixed charges and overhead cost, which form a substantial proportion of the total revenue expenditure. After the creation JSEB, it has taken up the programme of system improvement and up gradation which has resulted in a phenomenal increase in power availability when compared to the situation before the creation of Jharkhand.

3.5.2 The Commission's views

The Commission has examined the tariff hike sought by the JSEB in the light of its costs and views that inefficient costs would not be passed on to the consumers. The Commission notes that the costs proposed by the Board are on a higher side and the same costs have been analysed determining a prudent level against each component. A few costs have not been allowed due to inadequate data taking into account their impact on the cash flow of the Board. A detailed analysis of these costs has been dealt in Section 4. While the ARR approved by the Commission is lower than what was sought by the Board, it is to be appreciated that tariff for some categories have to be increased ten years have elapsed since the tariff was last revised. The Commission would like to mention here that rationalisation of tariff is not a one-shot exercise and it is a gradual process wherein the tariff for each consumer category would move towards the average cost of supply.

3.6 HT Special (HTSS) - Induction furnace Tariff

HTSS (Induction Furnace) category has severely objected to the tariff hike proposed. It was stated that since the prevailing HTSS tariff had come into effect after consultations with consumers, for the proposed tariff also, the same procedure of consultation should have been followed. It was highlighted that when the BSEB revised its tariff in 2001, the JSEB followed suit only for induction furnace whereas tariff for all other categories were left untouched. Therefore, tariff for this category has already been revised upwards whereas other categories of consumers continue to enjoy the same tariff since the last ten years. The proposed demand charge for HTSS has been regarded as the highest in the country. The basis of minimum assured hours of supply and the formula for remission if these minimum hours are not supplied has also been objected. This was reinforced through a calculation according to which a consumer with a 1000 KVA of demand, if consumes only a single unit in a month, he would still be coughing up over Rs 7 lakhs a month. The penal charge for defective meter has been proposed only in the case of HTSS category, which is discriminatory. The power factor surcharge has also been opposed on the ground that in the current working condition of the Board's substation, it is difficult to maintain a power factor of 0.80-0.85 therefore penalizing the consumer whenever power factor falls below 0.90 is unjustified.

3.6.1 The JSEB's rejoinder

It is to be noted that HTSS is meant for a specific category of consumers, and is highly power intensive and its tariff takes into account the tonnage capacity also. The existing tariff of induction furnace was decided at the request of Induction Furnace Association by the BSEB. However, this tariff is being proposed for consideration and approval of the Commission. The Commission has invited objections from everybody and the process is fully transparent so there is no question of any discussion with Induction Furnace Association. The existing tariff of Induction Furnace came into force w.e.f. April 2001, i.e., after a lapse of more than two years, therefore there is bound to be some increase in tariff due to increase in costs. The proposed increase in Induction Furnace tariff has been nominal.

3.6.2 The Commission's views

The Commission holds that in the present set up, post constitution of the SERC, consultations with consumers is an integral part of tariff determination, wherein the consumers are allowed to express their concerns in writing as well as through the process of public hearings. These are duly considered while approving the tariff. A detailed analysis of the determination of tariff for this category has been discussed in Section 5 of this tariff order.

3.7 Proposed increase in costs

The increase proposed by the Board in employee costs, O&M costs etc., especially the 23.5% increase in employee costs has been objected by consumers. The proposed increase in O&M cost by 11% is on a higher side given the prevailing economic indicators of WPI and CPI. It has been highlighted that SEBs are allowed a bad debt provision of maximum 1% of their total revenue whereas the JSEB has proposed 15% in this regard. The statutory return of 3% should be allowed only if the Board is functioning efficiently. Another objection raised with regard to the statutory return is that while calculating the capital base, the Board has not deducted the consumers' contribution, which is a substantial amount, from the net block. Such inefficiencies of the Board should not be passed on to the consumers in terms of higher tariff.

3.7.1 The JSEB's rejoinder

A number of employees have joined the JSEB after they were relieved from the BSEB on account of cadre division. Huge arrears of pay revision are to be paid to the employees of the JSEB, which have not been paid by the erstwhile BSEB. The amount of arrear to be paid per employee is more than Rs. 1 lakh on an average. The O&M expenditure is higher because the existing plant and machinery lines and substations have outlived their technical lives and these are being replaced /upgraded in phases. There is provision for charging minimum 3% rate of return in the Indian Electricity (Supply) Act, 1948. This is very low and there cannot be more efficient return than this in any business.

3.7.2 The Commission's views

The Commission views that the proposed hike in employee costs, which is 48%, is on a higher side especially when the Board has failed to mention any corresponding improvement in the productivity level of its employees. The Commission agrees with the objectors that provision amount for bad debts, which is about 15% of the Board's revenues is very high and is clearly unwarranted unless the Board has been writing off its outstanding dues. A detailed analysis of the proposed costs by the Board is dealt in Section 4.

3.8 Generation by the Board

The Board is producing electricity at a very high cost, as the PLF of Patratu Thermal Power Station (PTPS) is very low. High cost of generation was also objected given that the PTPS is situated very near to the source of fuel i.e. coal. The Board has proposed a fuel cost of Rs.1.42 per unit, which is very high even after taking into account the oil consumption. It was highlighted that the data appended in tariff petition gives a cost of Rs.0.72 per unit against the proposed cost of Rs.1.42 per unit. It was suggested that the Board's efficiency should be benchmarked with that of NTPC plants in terms of average fuel consumption, spare parts consumption etc.

3.8.1 The JSEB's rejoinder

All the units in PTPS have lived their technical life. However they are being run to have in-house generation to provide stability in power supply to the consumers. Though few units have been permanently shut down for more than one year, the PLF is calculated after taking into account the generation capacity of the shut down units also, as per technical guideline of CEA. However, if we calculate PLF on the basis of operational plants only, the PLF will be much higher. The cost of generation in Patratu including depreciation is 222 P/kwh whereas the JSEB is purchasing power from NTPC at an average rate of 230 P/kwh and from DVC at 255 P/kwh.

3.8.2 The Commission's views

The Commission agrees with the objectors that the PLF of the Board's thermal plant is very low, which is impacting its generation cost adversely. It is imperative for the Board to undertake an assessment of the existing situation and draw up a plan of action to enhance its generation. The Commission has directed the Board to submit its action plan in this regard. The Commission holds that the PTPS is an old plant and many of its units have outlived their total technical working hours, therefore its performance would have to be benchmarked with similar plants of its size and age.

3.9 Collection inefficiencies of the Board

Some consumers stated that bills from government organisations have not been collected regularly and according to a news report, there is a huge amount to the tune of Rs.557 Crores outstanding against these organisations. This has constrained the cash flow of the Board leading to higher cost of supply. It was expressed that nowhere in the petition, the Board has mentioned the status of its collection efficiency and has not calculated its Aggregate Technical and Commercial (AT&C) losses, which gives an exact perspective of operating efficiency.

3.9.1 The JSEB's rejoinder

The Board clarified that the outstanding dues against government organisations have been taken as revenue in the proposal and it did not affect the tariff setting.

3.9.2 The Commission's views

The Board has submitted its collection figures for FY 2002-03, according to which the collection efficiency of the Board is 89%. However, the 89% collection is inclusive of the amount due from government organisations, and the Board has not been able to provide the details of this. The Commission agrees with the objectors that huge arrears lead to additional cost. The Commission has disallowed the proposed amount of Rs.186 Crores against provision for bad debts, and directs the Board to step up its collection including those remaining outstanding against the government organisations.

3.10 Fuel surcharge

Objections have been raised that while the Board is claiming that tariff has not been revised in the last ten years, the fact is that the Board has been imposing fuel surcharge on industry and commercial categories from time to time. Many consumers commented upon the prevailing rate of fuel surcharge. It was stated that whereas the Board has levied a fuel surcharge of Rs.2.44 per unit the actual increase in power purchase cost from NTPC and DVC is relatively lower. In fact, some consumers objected that since they have been receiving power that is generated by DVC and distributed by the JSEB, unless DVC raises its rate, there is no justification for the JSEB to increase the fuel surcharge. The prevailing rate has also been objected on the ground that this rate was approved by the BSEB before bifurcation of the state, and as the sources of generation and power purchase are different for both the Boards now, the current levy of fuel surcharge should be different. It was further suggested that the current practice of charging the fuel surcharge only on consumed units and not on unconsumed units should be applicable in the proposed tariff also, which the Board has deliberately avoided to mention in the petition. Some consumers have proposed that cost base of FY 2002-03, and the generation and power purchase cost of FY 2003-04 should be taken into account for finalisation of fuel surcharge. It has been highlighted that the Board's Fuel and Power Purchase Cost Adjustment (FPPCA) formula, which is due to be approved by the Commission should not permit any cross subsidy and should be charged only on the units consumed.

3.10.1 The JSEB's rejoinder

FPPCA formula will be submitted to the Commission at appropriate time and will be charged only after approval of the same by the Commission, as has been submitted in the tariff petition. This FPPCA is related to the further increase or decrease of fuel cost and power purchase cost as compared to the present cost and has

nothing to do with the fixation of tariff, which is based on present costs.

3.10.2 The Commission's views

The JSEB's tariff proposal has been scrutinised taking into account the entire set of costs that are related to generation, power purchase, transmission and distribution of electricity. The Commission, based on its assessment, has approved the cost of fuel and the cost of power purchase, and these costs have been taken account of in the approved Annual Revenue Requirement (ARR) for FY 2003-04. There would therefore, be no levy of fuel surcharge for this period. With regard to the FPPCA formula to be proposed by the Board, the Commission would undertake due assessment of the methodology adopted by the Board before the formula is approved.

3.11 Minimum Monthly Consumption

The consumers especially industry and commercial have strongly objected the minimum monthly consumption (MMC) charge being levied by the Board. MMC has been described as unfair because the consumers are not being able to consume the minimum specified limit for a variety of factors including inability of the Board to supply the required minimum number of hours. Some consumers opined that MMC leads to inefficient consumption and they should be charged on the basis of actual consumption only. Against the Board's proposed hike in the MMC, it was highlighted that the existing MMC is already very high especially for LT industry and commercial consumers, therefore instead of an increase it should ideally be reduced. HT consumers have also appealed to stop the levy of Annual Minimum Guarantee (AMG) charge. The MMC charge proposed for the domestic sub categories DS-III and DS-IV being introduced for the first time has been objected by domestic consumers, and it was stated that this would lead to more theft. Some consumers highlighted that the MMC proposed in the revised tariff schedule is irrational, as it exceeds the generation and power purchase of the Board by three times. The consumers lamented that multiplicity of charges have led to very high effective tariff per unit of electricity. Overall, the existing tariff design has been described as complicated to understand and consumers have appealed for a simplified tariff structure. In this context, many consumers have even suggested to load the entire costs on to energy charge dismantling other sundry charges.

3.11.1 The JSEB's rejoinder

The miscellaneous charges are imposed to recover the fixed cost and overhead cost and whereas MMC is levied because the Board is bound with agreement with each and every consumer to supply power upto the extent of agreed quantity at the moment, and as and when required by them. Therefore, the Board has to maintain spare capacity to that extent and therefore MMC is required. Without this the power supply business shall not be viable. The Board has submitted that depending upon the demand of consumers, schedule of drawl has to be given to Central sectors generators and to DVC. If consumers do not consume even a single unit (kwh) of energy in that case also the Board will have to pay for 100% units of energy charges (variable charge) as per schedule demand (or 100% load factor) to central sector generator and have to pay for 45% units of energy charge (variable charge) as per schedule demand (45% load factor) to DVC. Similarly in case of generation, even if the consumers are not consuming a single unit, the plant has to be run and the Board has to incur variable cost of fuel rather at a higher rate because at low level of generation, the plant has to be run on oil fuel only i.e. without coal feeding. In view of these factors, if certain minimum units of consumption are not levied as a part of tariff the power supply business will not viable. Moreover, all the SEBs are charging minimum guarantee in terms of units or in terms of lump-sum rupees for most of the categories.

3.11.2 The Commission's views

The Commission has made an attempt to simplify the tariff structure by merging some categories and some slabs in this tariff order. The issue of MMC and AMG has been analysed in detail by the Commission in this tariff order and the Commission's views on these are given in Section 5.

3.12 T&D losses

The consumers have objected the high Transmission and Distribution (T & D) losses of the Board that includes mass pilferage occurring in the state with connivance of the Board employees, which has led to the high cost of electricity. Drawing comparison with Bihar, it was stated that the T&D losses should not be more than 20 % of total energy input, the norm fixed for BSEB by the Government of Bihar, and any loss above this norm has to be absorbed by the BSEB. It was suggested that this norm should be applied for the JSEB also. Some consumers have also benchmarked the JSEB's losses with the norm fixed by the Central Electricity Authority (CEA). Since containing these losses is the responsibility of the JSEB it is unfair to pass on the burden of this inefficiency to the consumers, especially the honest consumers. It has been pointed out that unless these losses are controlled revision of tariff would not provide a permanent solution to the present situation. Further, if the Board reduces the T&D losses to 38% as proposed, there would be no need to revise the tariff. A few consumers have regarded the Board's loss reduction target of 11% as ambitious. It was suggested that the Commission should review the T&D loss reduction measures being undertaken by the Board and the performance in this regard for the first eight months of FY 2003-04 should be taken into account. Unless a realistic target is set for calculating ARR, the Board's finances would be stretched leading to higher tariff in future.

3.12.1 The JSEB's rejoinder

The T&D losses have been calculated on the basis of actual energy generated and purchase, and actual energy sold. Accordingly, the T&D loss for FY 2002-03 has been estimated at 47.66%. It is proposed that the T&D losses would be reduced drastically to 38%, and proposed tariff has been based on the same. Further, it is to be noted that many states are having T&D losses more than this level.

3.12.2 The Commission's views

The Commission agrees that the T&D losses of the Board are very high, especially when the sales mix of the Board is extremely favourable and inefficiencies on this account do impact the cost of supply and thereon the tariff. However, in the prevailing institutional set up, these losses could not be brought down suddenly, for instance to the level of 15% or 20%, as has been pointed out by few objectors. The losses could be reduced only gradually and with the help of consumers. While approving the T&D loss level for FY 2003-04, due consideration has been given to all the factors, including the T&D loss reduction measures being undertaken by the Board. The approved reduction target and its implication on the costs are further dealt with in Section 4.

3.13 Violation of the provisions of Industrial Policy

Industrial consumers have objected that the proposed tariff is not in conformity with the Jharkhand Industrial Policy 2001. According to this policy, tariff for industrial consumers should be based on maximum demand and not on connected load. The policy allows NSC/fixed deposit against the security deposit to be submitted by a consumer whereas the JSEB has proposed to accept this amount in cash only. The policy grants exemption from payment of Minimum Guarantee Charge (MGC) for new industrial units having connected load up to 500 KVA or equivalent HP as per billing norms. This provision has not been incorporated in the revised tariff. The policy allows the security deposit to be calculated on the basis of MGC and not on the basis of average consumption, as has been proposed by the Board. Moreover, whereas the Board has proposed surcharge for exceeding contract demand by 110% the policy allows it by 115%. This is especially so when the Board has already accepted the 115% vide its own notification bearing no.5058, dated August 29,2002.

3.13.1 The JSEB's rejoinder

Industrial policy of Jharkhand will be considered by the JSEB on direction from the government and thereon a separate notification will be issued by the JSEB in this regard. The issue is not connected with the tariff proposal. The objection of the consumers related to surcharge is being accepted and been complied with after due considerations and the Clause 17.5 of 'Terms and Conditions of Supply' has been modified to "115%".

3.13.2 The Commission's views

The Commission has considered the provisions of the Industrial Policy 2001 in respect of electricity, and the approved tariff structure has incorporated some of them in the interest of efficiency and growth of industry. These are discussed further in Section 5.

3.14 Legal Objections

It has been objected by few consumers that the JSEB has not notified the prevailing tariff. It is by an administrative instruction that the JSEB has adopted the BSEB tariff, which could not be a substitute to tariff notification mandated by the Electricity (Supply) Act, 1948. The fuel surcharge component of Rs.2.44 per unit, which has been included in the existing energy charge, has been disputed by some categories of consumers and the matter is sub judice in the Supreme Court. Till such time the Court passes its verdict, the prevailing energy charge should be considered independent of the fuel surcharge. It was suggested that the tariff should ideally be revised post the Court's verdict. Since the fuel surcharge is included in it, the existing energy charge is incorrect. This is so as the BSEB tariff makes a clear distinction between the energy charge and the fuel surcharge, and the former could be revised only with an amendment to the tariff notification. Some consumer pointed out that the minimum monthly consumption charge could not be levied for domestic categories, as the Patna High Court had struck down such impositions in the past.

3.14.1 The JSEB's rejoinder

In the existing rate (energy charge per kwh), fuel surcharge of Rs.2.44 per kwh has been added for comparison because fuel surcharge is part of energy charge and is being paid by the consumers of specified categories. The fuel surcharge has nothing to do with the proposed tariff fixation, which is based on the cost of supply plus 3% minimum return as per legal provisions.

3.14.2 The Commission's views

The Commission has been empowered under the ERC Act, 1998 to determine tariff for the state of Jharkhand. The "JSERC (Conduct of Business) Regulations, 2003" and "JSERC (Tariff) Regulations, 2003", which has also been referred to in Chapter 1 of this order, provides the methodology and terms and conditions for fixation of tariff. The Commission has also issued guidelines, which prescribe the methodologies and procedures to be followed by a utility for calculating its Revenue Requirement and the Expected Revenue from the current and the proposed tariff. The various regulations including the aforementioned have been published in the official gazette and are available for public review. The tariff setting process now lies with the Commission and the Commission's actions have been transparent and in conformity with the provisions of the ERC Act. Further, the Commission has determined tariff by considering appropriate and most prudent cost that could be passed on to the consumers.

3.15 Proposed tariff not in conformity with the Act

A few consumers pointed out that the proposed tariff flouts and has not been filed in accordance with the provisions of the Electricity Act, 2003. If approved, it would be implemented only till June, 2004, post which the grace period of one year for old laws gets over. Therefore, it is not desirable to revise tariff for a short period of 5 months, as the approved tariff would quite likely be implemented from January 2004. The Board should be asked to re-submit its tariff petition in light of the Act, and accordingly the Commission should take a decision.

3.15.1 The JSEB's rejoinder

The Board submits that the Electricity Supply Act, 1948 is still in operation. And in any case, the revenue requirement on which the tariff fixation has been based would remain the same.

3.15.2 The Commission's views

The Commission has taken into account the provisions of the Electricity Act, 2003 that have been referred to at

various points in this tariff order. The Commission notes that various regulations required with respect to tariff determination in the new scenario are being prepared across different Commissions in India, and the JSERC too has initiated steps in this direction.

3.16 Revised Tariff with retrospective effect

Most of the consumers have opposed the revision of tariff in retrospection. It was highlighted that in the past when tariff was revised, it came into effect only from the date of its publication in the Official Gazette. Industry consumers pointed out that since they have sold out their produce, they would not be able to recover their costs in terms of increased power tariff if it is allowed with retrospection. It was cited by some consumers that there have been several decisions of the High Courts and the Supreme Court ruling out revision of tariff in retrospection.

3.16.1 The JSEB's rejoinder

The tariff has been framed on the basis of revenue requirement for the FY 2003-04, it is therefore submitted that this tariff may be made effective from April 1, 2003 only.

3.16.2 The Commission's views

The Commission has neither approved retrospective applicability of the new tariff nor the applicability of proposed tariff till March 31, 2005. The reasons for this are discussed in detail Section 5.

3.17 Peak/off peak tariff

A few consumers have objected to the proposed peak & off peak hours and their respective tariffs, and have suggested differently in this context. The Board's proposal to keep 6pm to 10pm as peak hours has been objected, for this is the period when domestic consumption is made. The off peak rate proposed by the Board is higher than what is being charged in other states. It was also suggested that the number of off peak hours should be more than the proposed limit.

3.17.1 The JSEB's rejoinder

The off peak hours have been taken for those hours of the day in which the total energy demand is below normal. The off peak rate could not be applied to peak hours or normal hours of the day.

3.17.2 The Commission's views

This is discussed in Chapter 5.

3.18 Off-season tariff

The farmers have objected to the proposed tariff hike for irrigation category. It was stated that farmers have been using electricity only during the agriculture season beginning from the month of October to April whereas they are being billed for the entire 12 months. Further, it has been suggested that the proposed hike should be implemented only subject to some relief during the off-season period.

3.18.1 The JSEB's rejoinder

The Board did not provide any reply to this objection.

3.18.2 The Commission's views

The Commission notes that tariff for each category has to be viewed against the cost of supply, and the

prevailing tariff for agriculture is far below the cost of supply. Since the cross subsidy has to be eliminated gradually a reasonable hike has been approved for this category to align its tariff towards cost of supply. As per the Act, the Commission could not determine tariff showing any undue preference to a particular category unless there is a difference in terms of load factor, power factor etc. these issues have been taken up in Section 5 of the order.

3.19 Delayed Payment Surcharge (DPS)

The prevailing DPS rate of 2% per month has been objected by several consumers in the light of falling interest rates that have declined from a high of 18% to 11-12%. The DPS rate should be aligned with this phenomenon and fixed at 1.25% per month. Further, the Industrial Policy of Jharkhand has mandated DPS on per week basis, accordingly the DPS should be 0.3% per week, which is also the rate in the neighbouring state of West Bengal. The Board vide its notification no.5058 dated August 29,2002 has fixed DPS at 1/2% per week while it has proposed 2% per month.

3.19.1 The JSEB's rejoinder

DPS is a penal charge for the non-payment of energy dues in time by due date and this has nothing to do with interest rate. The DPS rate is high because the number of defaulting consumers not paying in time is very high, approximately 40%. It is submitted that the Clause 17.2 of general terms and conditions of supply has been modified as per the notification No. 5058 dated August 29,2002 to comply with the objections of the consumers.

3.19.2 The Commission's views

The Commission has dealt with this issue in Section 5.

3.20 Terms and conditions of supply

Consumers have made a number of suggestions on the terms and conditions of supply. The industrial consumers have objected the proposed increase in the power factor to 0.90, as it is almost difficult for a consumer to achieve the present stipulation of 0.85 power factor given the existing quality (low voltages) and quantity of power supply. Therefore, instead of an increase the power factor should be reduced to 0.80. Similarly, the load factor considered by the Board for fixation of Minimum Guarantee is very high and could not be achieved by most of the consumers. The increase proposed in the security deposit has also been objected. Apart from reacting to the proposals of the JSEB in this regard, there have been a number of other suggestions made suo moto by the consumers.

3.20.1 The JSEB's rejoinder

For reduction of T&D losses and for optimum and efficient use of assets (lines and substation) it is essential to keep the power factor of the system as high as possible and near to unity. The power factor of the system depends on the loads of individual consumers. Therefore, condition has been laid down to maintain power factor at 0.9 and above by the consumers, and this is the norm followed by almost all the SEBs. This is essential for efficient operation and stability of system and hence justified. It is further to add that the power factor has nothing to do with low voltage. The power factor depends on the type of loads (appliance and machinery) used by the consumers and it is technically essential to lay conditions for desirable limits to power factor by the consumers for efficient operation and stable power supply to all consumers.

3.20.2 The Commission's views

The Commission has closely looked into the clauses of the "Terms and Conditions of supply" including power factor surcharge. Some of these have been dealt with in this tariff order. These are discussed in Section 5 of the tariff order.

3.21 Computation of Connected load

Some consumers have objected the introduction of HP as a unit of load measurement to the prevailing BHP, and have held that there is a major difference between both of them. Some consumers objected the current practice of levying fixed charge on the total connected load found at the time of inspection on the basis that all the machines involving various operations in a mill/factory are not operated simultaneously. Therefore, fixed charge should be levied only on 50% of the connected load found and not on 100%. Further, according to the JSEB's notification issued recently the concept of connected load for LT industry consumers has been changed to the concept of maximum demand load, and the industrial units having load up to 100 KVA or equivalent will be treated as LT industry consumers. These two provision have however, not been incorporated in the proposed tariff.

3.21.1 The JSEB's rejoinder

In the existing tariff, BHP has been used in the strict technical sense to denote British horsepower. In strict technical sense, there are two types of horsepower and these are British Horse Power and Metric Horse Power. However, in India, BHP is used as a measurement of load and the standard notation is simply Horse Power. So, HorsePower has been used in the proposed tariff as per standard notation.

3.21.2 The Commission's views

The Commission is in agreement with the reply of the Board.

3.22 Applicability of tariff

Some commercial consumers have objected the Board's proposal to reduce the upper limit in 1 Phase 230 Volt for rural areas from 2KW to 1KW. It has been highlighted that the highest load permissible in the commercial category is 75 KW, and since HT tariff starts from a load of 100 KVA, there is practically no tariff category for load between 75 KW and 100 KVA.

3.22.1 The JSEB's rejoinder

The Board did not provide any reply to this objection.

3.22.2 The Commission's views

The highest load permissible in the existing tariff for commercial consumers is 60 kW, the JSEB has proposed to increase this to 75 kW and the Commission has approved this. The HT tariff starts from 100 kVA in the proposed tariff as the applicability of the LT industrial tariff has been extended to 107 HP in view of the Industrial Policy 2001. Thus, consumers with all load have been covered in these three categories.

3.23 Cross subsidy and subsidy

Some consumers have objected that whereas one category of consumers is being charged higher than the cost, the other is charged much lower than the cost, which is leading to cross subsidisation. It has been stated that cross subsidy should be totally eliminated and if the Government wants to subsidise some categories, it should provide budgetary support. In this context, Section 61(g) of the Act has been referred to, which mandates progressive elimination of cross subsidies. Some consumers have also highlighted that post bifurcation the number of subsidized consumers in Jharkhand has come down but its impact on tariff is not apparent.

3.23.1 The JSEB's rejoinder

As per direction of the Commission and as a matter of principle every consumer should pay as per the cost of supply but historically the domestic and agriculture consumers have been paying much less as compared to

other categories of consumers. This gap has to be reduced gradually and be totally wiped out in due course. With this view, the increase in the domestic and commercial categories has been proposed more as compared to other categories.

3.23.2 The Commission's views

The Commission recognises that a high level of cross subsidisation does exist in the existing tariff structure of the JSEB. The Commission has thus tried to reduce this gap between various categories and bring their tariff closer to the average cost of supply. It is an accepted fact that high tariffs for some categories and low for others has to be given up and tariffs for all categories have to merge towards the average cost of supply. However, this cannot be achieved in one step and has to be a gradual process.

3.24 Quantity and Quality of Service

Several objectors have commented upon the poor quality of electricity being supplied. Most of the objections in this regard are frequent breakdowns leading to interrupted power supply, low voltage and billing services. There have been numerous cases pending in the Court with regard to billing disputes. It was pointed out by few consumers that despite their willingness to pay the bill in time, the Board doesn't co-operate. Meter reading is very irregular and consumers are being billed arbitrarily. Industrial consumers highlighted that poor quality of service is affecting the growth of industries in Jharkhand. The increase in tariff, especially the fixed charge, has been objected also on the ground that there has not been any improvement in power supply. The objectors lamented that poor supply situation has led to increased dependence on generators. Some consumers have even calculated the total financial loss being incurred by them owing to power breakdowns.

3.24.1 The JSEB's rejoinder

The Board did not provide any reply to this objection.

3.24.2 The Commission's views

The Commission agrees that the quantity and quality of service has to be improved in the state. The SERCs in various states have been issuing 'Quality of Service' regulations, and some of them have even fixed a penalty charge in case of violation of these regulations. Since this process has to be initiated in the state of Jharkhand also the Commission directs the JSEB to submit a proposal on improving the QoS identifying various performance indicators in this regard.

3.25 Bulk Supply to Military Engineering Services (MES)

The MES/Defence services have objected to current practice of the JSEB charging them at a commercial/industrial rate. It has been stated by the MES that it purchases bulk power from the Board, and the entire take over points, stepping down arrangements and distribution has been created and is being maintained by the MES from their own funds. Most of the defence consumption is domestic, the remaining, though being consumed in activities like running educational institutions, hospitals, water supply installations etc. these are run purely on not-for-profit basis. Therefore, it is unfair to treat MES as a commercial consumer. Like many other consumers, the MES have also objected to the monthly minimum charge being imposed by the Board on the ground that their consumption varies due to deployment of troops etc. The MES have appealed for a separate category and a rationalised tariff structure or an independent license to distribute electricity.

3.25.1 The JSEB's rejoinder

The Board has clarified that this has been taken care in the proposed new DS HT category.

3.25.2 The Commission's views

The Commission agrees that where there is a mixed load and it is possible to distinguish these loads by providing separate connections, this should be done. The Commission has thus determined a separate tariff for this category. This is discussed in greater detail in Section 5.

3.26 Un-metered consumption

Some consumers have questioned the methodology of the Board for estimating the unmetered consumption by various sub categories in domestic, commercial and agriculture segment. Objections have been raised as to how the Board would account for the losses arising due to lower tariff for these categories and how would it meet these losses.

3.26.1 The JSEB's rejoinder

The categories DS-I, DS-II, NDS-I, and IAS are meant for rural consumers and for making the tariff simple and stable, un-metered tariff is levied on these categories. However, the increase proposed in these categories is more than that in other categories.

3.26.2 The Commission's views

The Commission has directed the Board to undertake a study to measure unmetered consumption.

3.27 Division of assets and liabilities

Some consumers have questioned the bases of tariff filing by the Board, as

the division of assets and liabilities between the BSEB and the JSEB has not been finalised yet.

3.27.1 The JSEB's rejoinder

The division of liabilities between the BSEB and the JSEB will be done as per decision of the Government of India and as per Bihar reorganization act, and the JSEB has to abide by the same. At present, as per provisional order of the Government of India, the liabilities between the JSEB and the BSEB have to be divided in the ratio of 46:54 subject to confirmation. The JSEB has objected to the allocation of 46% of liabilities to the JSEB, and has been pressing for allocation of 25% liabilities of erstwhile BSEB. The proposed tariff has been fixed on 25% liabilities and it may go up after the final decision.

3.27.2 The Commission's views

The Commission has taken into account the entire set of legal proceedings with regard to this issue including the JSEB's stand on bifurcation and the Government of Jharkhand's response to the Ministry of Power in this regard.

3.28 Provision of electricity by private undertakings

Some industrial consumers have proposed to the Commission to consider the provision of electricity at lower tariffs by few independent power traders.

3.28.1 The JSEB's rejoinder

The Board did not provide any reply to this objection.

3.28.2 The Commission's views

With the Act legalising open access, the private undertakings are free to supply to any consumer. These private undertakings however, have to procure a license before they can supply.

Annexure 3.1: List of Objectors

S. No.	Name
1	Singhbhum Chamber of Commerce & Industry, Jamshedpur
2	Chotanagpur Small Scale Industries Asso., Ranchi.
3	Adityapur Small Industries Asso., Jamshedpur
4	Bokaro Chamber of Industries, Bokaro
5	Gopal Ram, Ranchi
6	Associated Plates & Vends Pvt. Ltd., Bokaro
7	Suresh Kr. & others, Brigoon, Dhanbad
8	K.N. Sinha, Advocate, Ranchi
9	A.N. Ram, Ranchi
10	Dr. Devendra Singh, Ranchi
11	Associates Plates & Vessels Pvt. Ltd., Bokaro
12	Prameshwar Pd., Ranchi
13	Gautam Mishra & Others
14	Rec-Welb Engineers, Tatisilwai, Ranchi
15	All India Chamber of Commerce, Jamshedpur
16	Secretary, Satyam Apartment North Office Para
17	Jharkhand Trade Industrial Welfare Committee, Putki Bazar, Dhanbad
18	Raj Kishore Pd & Others
19	Lohardaga Chamber of Commerce, Upper Bazar, Lohardaga
20	Sinigdha Sen & others
21	Jharkhand Pensioners Welfare Society, Ranchi
22	Confederation of Indian Industry, Jamshedpur
23	Gautam Rakesh, Hesal, Ranchi
24	Banshi Lal Agarwal, North Office Para
25	Lalit Kr. Bajla, Gopal Complex, Ranchi
26	N.C. Agarwal, B.I.T. Mesra, Ranchi
27	Military Engineer Services, Garrison Engineer, Dipatoli, Ranchi
28	Laghu Udyog Bharati, Jamshedpur
29	Babulal Modi & others, Upper Bazar, Ranchi
30	Md. Agarwal & others, Dhanbad
31	B.N. Prasad, Jiwan Vikash Kendra, Bokaro
32	Monum Kindo, Ranchi
33	A.K. Kujur, Bari Toli, Ranchi
34	Ramgarh Chamber of Commerce & Industries, Ramgarh
35	Adityapur Small Industries Asso., Jamshedpur
36	Chotagpur Small Scale Industries Asso. Kokar, Ranchi
37	Federation of Jharkhand Chamber of Commerce, Ranchi
38	P.G.B. Pvt. Ltd., Mesra

39	Progressive Chemical Industries, BIT Mesra, Ranchi
40	Yukrent, Cheter Path, Gumla
41	Usha Rani, Siram Toli, Ranchi
42	TISCO, Jamshedpur
43	Tayo Rolls Ltd., Jamshedpur
44	Dhanbad Cold Storage, Dhanbad
45	Jharkhand Industries Furnace Asso., Ranchi
46	Shiv Kumar & others, Hesal, Ranchi.
47	S.K. Mishra, Ranchi
48	Singhbhum Chamber of Commerce, Jamshedpur
49	M.K. Agarwal, Nirsa, Dhanbad
50	Raghuwar Pd., Jamtara
51	Ramgarh Chamber of Commerce & Industries, Ramgarh
52	Singhbhum Industries Asso., Jamshedpur
53	Bokaro Chamber of Commerce, Bokaro
54	Jharkhand Small & Tiny Industries Assoc., Deoghar
55	Mahandra Pd., Tara Sadan North Office Para, Ranchi
56	Social Welfare Org. Hazaribagh
57	Dhanbad Zila Floor Mill Assn., Dhanbad
58	B.M.C. Metal Cast Ltd., Jamshedpur
59	Santhal Pargana Chamber of Commerce, Deogarh
60	Braj Mohan Mahto & others, Kadma, Jamshedpur
61	S. Kumar & others, Dhanbad
62	Raj Nath Mahto & others, Mahua Tungri
63	M.K. Mitra & others, Kanke Road, Ranchi
64	Narayan News Print & Papers Ltd., Upper Bazar, Ranchi
65	M.D. Agarwal & others
66	Sumita Kumari, Doranda
67	Arjchana Kumari, Mecon
68	A.K. Sinha, Hinoo
69	A. Pd. Singh, Saket Nagar
70	B. Ram, Hinoo
71	Ranjit Kumar, Hinoo
72	Singhbhum Chamber of Comm & Industries, Bistupur, Jamshedpur
73	Marsda Khakha, Pathalkudwa
74	Sisilia Lakra
75	Jyoti Benha, Mahila Mandal, Lalpur
76	M. Ekka, Fatima Nagar
77	Bhushan Sahu, Argora
78	Sharif Ansari, Prastoli, Doranda
79	C. Kispota, Dibdih.
80	Balram Bhagat, Hinoo
81	M. Kujur, Shyamali, Doranda
82	Mangal Minz, Doranda
83	Kalam Bandira, Sector - II

84	M.A. Ansari, Rahmat Colony
85	A.K. Biswas, Mecon
86	P.K. Nanda, Shyamali, Doranda
87	Laxman Sao, Hinoo
88	Sohan Toppo, Bariatu, Ranchi
89	Rajendra Goswami, Doranda
90	S.N. Ram, Bhawanipur, Doranda
91	Dhanbad Cold Storage, Dhanbad
92	Raj Kishore Pd, Barwadih, Latehar
93	N.K. Jain, Petarwar, Bokaro
94	Bhuneshwar Mahto, Kutchery Chowk, Ranchi
95	Gyanendra Pratap, Gumla
96	Baidyanath Singh, Bahragora
97	S. Gorai & others, Gamharia, Saraikela, Kharsawa
98	A.K. Paul, Middle School, Road, Behragora
99	H.N. Dikchit, Chandoli, Gumla
100	S. Mukherjee, Ghatshila, E.Singhbhum
101	Jharkhand Rajya Pensionser Samaj Hehal, Ranchi
102	K.B. Pd & others, Sangrahe Panchayat Anchal, Garhwa
103	All India Chamber of Consumers, Baghera, Jamshedpur
104	Sahebganj Chamber of Commerce & Industries, Sahebganj.