

**ORISSA ELECTRICITY REGULATORY COMMISSION  
BIDYUT NIYAMAK BHAWAN  
UNIT-VIII, BHUBANESWAR – 751 012**

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Present : Shri D.C.Sahoo, Chairperson  
Shri B.C. Jena, Member  
Shri S. K. Jena, Member

**Case No.10 of 2005**

1. M/s. Tata Sponge Iron Ltd.,  
Joda, Kenojhar. .... **Petitioner**

- Vrs –

M/s NESCO  
Januganj, Balasore ..... **Respondent**

For the petitioner - Shri Ashok K. Parija, Sr. Advocate

For the respondent - Shri J. M. Vashishat, E.D. NESCO

Date of hearing - 10.01.2006

Date of Order - 13.02.2006

**ORDER**

1. This petitioner being aggrieved by the decision of M/s NESCO in respect of purchase of surplus power from applicant's 7.5 MW captive co-generation plant has filed the petition. This case refers to the order of the Commission dt.11.02.2003 in case No.1 of 2003 where M/s NESCO had approached the Commission to permit them to purchase surplus power of around 18 MU from M/s TSIL co-generation plant @ 80 paise per KWH and also provide annual banking facilities to M/s TSIL to meet its emergency power requirement to the extent of 3 MU per annum. The Commission had permitted the said arrangement proposed by M/s NESCO for a period of one year. Accordingly, the agreement was drawn

between M/s TSIL and M/s NESCO for a period from 16.02.03 to 15.02.04. Thereafter, a 2<sup>nd</sup> agreement was also executed between the parties for a further period of one year on 16.02.04 where M/s NESCO offered better terms and conditions for the surplus power to be purchased from M/s TSIL. The relevant portion is quoted as under:-

1. *Vide order No.321 dated 13.02.03 (Case No.1/2003) of OERC, NESCO is allowed to purchase the surplus power of TSIL at the mutually agreed rate of Rs.1.00 per KWH only.*
2. *NESCO will provide banking facilities to TSIL for their annual emergency power requirement to up to 1/3<sup>rd</sup> of power sold to NESCO.*
3. *The banking arrangement will be accounted for on a yearly basis. TSIL will draw power from NESCO's 33 KV Feeder Grid as per its requirement at any time throughout the year. TSIL's surplus power will be transmitted into the NESCO grid through the same 33 KV feeder with a parallel operation throughout the year. The calculation for accounting will be done at the end of the 12 month period to assess the amount of net excess power delivered by TSIL into the NESCO Grid. It would be the net power utilized by NESCO at the end of the 12 month banking period. Banking Commission as envisaged in draft guidelines would not apply in this case as it has already been built in the negotiated rate.*

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12. *This agreement will come into force with effect from 16.02.04 and will remain in force for one year.*

2. The 2<sup>nd</sup> agreement was for a period from 16.02.05 to 15.02.04. Thereafter, M/s NESCO approached M/s TSIL to execute a 3<sup>rd</sup> agreement after expiry of the 2<sup>nd</sup> agreement with the following terms and conditions:-

- a) No banking facility will be available. On the other hand, M/s TSIL would draw emergency power at the existing tariff.
- b) The surplus power injected by M/s TSIL to M/s NESCO will be @ Rs.86 paise per KWH.

3. Having been jolted by this letter of M/s NESCO, M/s TSIL have approached the Commission for redressal of the grievance with a prayer to permit continuance of banking facilities as was envisaged in the Commission's order dated 11.02.03 in case No.1/2003.

4. M/s NESCO in their rejoinder stated that by providing banking facility they have suffered financial loss to the tune of Rs.3.81 crore. As such, the banking facility should not be extended.

5. M/s TSIL vehemently opposed the contention of M/s NESCO and have put forward a calculation sheet indicated that by this arrangement they (NESCO) have gained around 4.68 crore. In an additional rejoinder M/s TSIL further stated that the benefit to M/s NESCO has been accelerated to 6.27 crore, as M/s NESCO has sold surplus power injected by M/s TSIL @ Rs.3 to the retail supply consumers. This is further corroborated by the fact that M/s NESCO in the 2<sup>nd</sup> agreement allowed banking facility up to 1/3<sup>rd</sup> of the power injected by M/s NESCO as against 1/6<sup>th</sup> of power originally permitted by the Commission.

6. The purchase of surplus power and provision of banking facility were permitted by the Commission in its order dated 11.02.03 in case No.1 of 2003. In this petition, M/s NESCO had stated that it was win-win situation both for NESCO and TSIL. In the 2<sup>nd</sup> agreement for the period from 16.02.04 to 15.02.05, M/s NESCO even permitted 1/3<sup>rd</sup> of the power as banking facility which clearly indicated that the arrangement was beneficial to the utility.

7. It further transpired during the course of hearing that the arrangement for injection of power to M/s NESCO by M/s TSIL is still continuing beyond 15.2.05 i.e. after expiry of the second agreement.

8. In the meantime, National Tariff Policy has already been notified by the GOI which envisages harnessing of captive generation. Price could be differentiated for peak and off peak supply that should include variable cost of generation at actuals and a reasonable compensation for capacity change. Alternatively, a frequency based real time mechanism can be used for injection to the grid by a CPP. The National Tariff Policy does not provide for banking of energy. The Commission in its order dt.29.10.05 had directed the concerned parties to keep the above concept in view while condescending to banking of energy.

9. With the national objective of harnessing captive generation, the Commission directs that the terms and conditions of the 2<sup>nd</sup> agreement entered between the parties shall be deemed to have continued up to 31.3.06, as the arrangement is still continuing. The commercial arrangement may have to be suitably modified in the light of the National Tariff Policy in vogue.

10. From 1.4.06, both the parties are free to deal with this issue independently. M/s TSIL may explore avenues for export of the surplus power either to M/s GRIDCO or any other trading company or NESCO keeping in view the objectives set forth in National Tariff Policy.

Sd/-  
**(S. K. JENA)**  
**MEMBER**

Sd/-  
**(B. C. JENA)**  
**MEMBER**

Sd/-  
**(D. C. SAHOO)**  
**CHAIRPERSON**