

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

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

Dated the 17th day of May, 2005

Case No.15, 16 & 17 of 2005

M/s.Ferro Alloys Corporation Limited,
M/s.Balasore Alloys Limited &
M/s.Tata Iron and Steel Co. Ltd.
- Vrs. –

....

Petitioners

Chief Executive Officer,
M/s. North-Eastern Electricity Supply
Company of Orissa Ltd. (NESCO)

....

Respondent

For the Petitioners	-	Shri A.K. Parija, Sr. Advocate
For the Respondent	-	Shri N.C. Dash, CEO & Shri S.K. Sahu, GM (Finance)

ORDER

This case arises out of applications filed by three power intensive industries namely, M/s.Tata Iron and Steel Company Ltd.,(2) Balasore Alloys Ltd. (3) M/s. Ferro Alloys Corporation Limited challenging the inaction of NESCO in implementing/complying the direction of the Commission. The complaints being analogues in nature the same are being disposed through this common order.

2. The petitioners are consumers of NESCO and were availing power at special rate from NESCO upto 09.12.2004. NESCO enclosed a copy of the draft agreement to be signed between the petitioners and NESCO for

supply of power to avail the special tariff as approved by the Commission at para 8.26.3 of the RST order dt.22.03.2005.

3. Extracts of tariff order dt.22.03.05 are quoted below: -

(a) 8.26... *“the Commission concurred with the proposal of NESCO to allow a special tariff to those industries which had enacted agreements to avail power at a special rate from NESCO upto 09.12.2004 irrespective of the contract demand.”*

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(b) 8.26.3 *to avail of this benefit these industries covered under the arrangement shall execute an agreement with the licensee for drawl of power for a period of three years with a monthly guaranteed minimum take off at load factor of 80%.”*

4. They submit that the following clauses of the draft agreement of NESCO are inconsistent with the RST order dt.22.03.05 and other codes and regulations

1. Commitment of the consumer : The consumer agrees to draw power with effect from 01.04.05 for a minimum period of three years. However, NESCO shall have the right to disconnect the power supply in case the consumer fails to make payments by the due date.

3(b) The consumer shall enter into a separate agreement with NESCO for supply of power to the colony for use by himself or his employees.

4. Type of Supply : The aforesaid supply shall be from a three phase 50 HZ alternating current system at a normal pressure of 132000/33000 volts. The quantum of supply be measured by a suitable metering equipment of 132/33 KV/110 volts.

6(c)(ii) The minimum monthly load factor for availing special tariff/incentive tariff shall be calculated with reference to the contract demand or maximum demand whichever is higher as mentioned hereunder:

e.g contract demand or recorded maximum demand whichever is higher X actual power factor recorded in the meter X no. of hours in a month.

6(c)(iii) Actual power factor shall be multiplied in place of the standard 0.90 for conversion of the KVA to KW.

6(f) The benefit of special tariff to be available to the consumer provided all monthly bills are paid by the due date.

5. The petitioners have prayed that NESCO may be directed not to insist on execution of the draft agreement with the aforesaid clauses and further to stipulate a clause in the agreement whereby NESCO would be under obligation to supply uninterrupted quality power failing which the petitioner could not be disentitled to the benefit of special tariff for not drawing normally guaranteed minimum take off at load factor of 80%.

6. In response to this petition NESCO submitted that in accordance with para 8.26.3 of the RST order dt.22.03.05, NESCO issued a letter to the petitioners forwarding therewith a copy of the draft supplementary agreement thereby by giving an opportunity for their suggestions/modifications in the draft supplementary agreement before execution of the final agreement for drawl of power at a special rate. The respondent denied any violation of the provision of either the code or order as submitted by the petitioner and requested the Commission to direct the petitioners to execute the agreement as submitted in the draft agreement with NESCO along with payment of full additional security deposit prior to signing of agreement for drawl of power at special rate with effect from the date of execution of the agreement.

7. The Commission having heard the petitioners and the licensee in open hearing observed that the Conditions of Supply Code governs the distribution and supply of electricity and procedure thereof such as system of billing, modality of payment of bills, the powers, functions and obligation of the distribution licensees/the suppliers and the right and obligation of the consumers. The agreement between a consumer and the licensee with regard to the charge to be paid by the consumer as prescribed in the standard agreement for supply of electricity is as follows :

“ the consumer shall pay to the Engineer for power demanded and the electrical energy supplied under this agreementin accordance with the provisions of OERC (Conditions of supply) Code, 2004 and as notified in the tariff notification from time to time.”

Therefore, the tariff as notified by this commission vide order dtd.22.03.2005 and dtd.02.04.2005 should automatically apply as the power supply continues by virtue of an agreement entered between the parties with the licensee provided the parties fulfill the conditions stipulated in para 8.26.3.

8. According to para 8.26.3 the industries entitled to the benefit only have to enter into an agreement
- (1) to give a commitment for drawl of power for a period of three years
 - (2) to draw power with a monthly guaranteed minimum take of at load factor of 80%.
9. Even under identical circumstances an undertaking given by all those consumers availing incentive tariff constitute an agreement between the consumers and the licensee to avail the benefit of incentive tariff. As such, several conditions imposed by the licensee for availing of this benefit is not in conformity with the Commission's order as indicated above.

Similarly, the issues raised by the consumer with regard to minimum drawl due to non-availability of power is not within the scope of tariff order.

10. NESCO is therefore directed to restrict the terms and conditions in the agreement to the extent as envisaged in tariff order for the year 2005-06.

This disposes the petition filed by the parties.

Sd/-
(S.K. Jena)
Member

I agree

I agree

Sd/-
(B.C. Jena)
Member

Sd/-
(D.C. Sahoo)
Chairperson