

**ORISSA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
UNIT – VIII, BHUBANESWAR – 751012**

**Present : Shri K.C. Badu, Member
Shri B.K. Misra, Member**

Case No.40 /2010

M/s Jayashree Chemicals Ltd.	.....	Petitioner
Vrs.		
OPTCL & Ors.	.....	Respondents

Case No.41 /2010

M/s Tata Steel Ltd.	....	Petitioner
Vrs.		
GRIDCO & Ors.	.....	Respondents

Case No.42 /2010

M/s Ferro Alloys Corp. Ltd.	....	Petitioner
Vrs.		
GRIDCO & Ors.	.....	Respondents

Case No.44/2010

Rourkela Chamber of Commerce & Industry	....	Petitioner
Vrs.		
OPTCL & Ors.	.....	Respondents

In the matter of: Application under Section 142 of the Electricity Act, 2003.

Date of Hearing: 25.05.2010

Date of Order : 21.06.2010

ORDER

The petitioners in all the above noted cases have filed petitions u/s 142 of the Electricity Act, 2003 for non-compliance of Commission Order dated 14.01.2010 of the OERC passed in Case No.01/2010 Order (Protocol) on Power Regulation in the State. The petitioners have impleaded GRIDCO, OPTCL, SLDC, NESCO, SOUTHCO, WESCO & DoE, GoO as respondents. As the nature of the above mentioned petitions are similar in nature they are heard together and disposed of by this common order.

2. In Case No. 40/2010, the representative of M/s Jayashree Chemicals Ltd. stated that the petitioner's industry is a continuous process industry. Stoppage of production of the plant due to power interruption badly affects the process and after resumption of power, it takes minimum 4 to 5 hours to stabilize plant operation for production. As the product Caustic Soda, Chlorine and Hydrochloric acid are hazardous chemicals, due to sudden interruption of power supply there is possibility of nuisances and also damage of heavy equipments, which adversely affects the industry. The petitioner's industry after receiving the weekly restriction, made a representation on 08.03.2010 to the V.P., SOUTHCO stating that the petitioner is not in a position to close the industry for one day every week and suggested for average drawl of 10MW can be allocated in 7 days and the industry can reduce its drawl by 1.428MW every day. The industry has suffered the production loss of 2433MT which is about 12% from April, 2009 to Feb, 2010 due to non-availability of the required power because of hand tripping and other reasons. The licensee-SOUTHCO has raised the energy bill for the month of Feb, 2010 alongwith an additional electricity charges @ 15 paise per unit demanding a sum of Rs.8,36,055/- and also the petitioner's industry has been advised to restrict 25% of demand round the clock considering last 3 months average drawl which is contrary to para 23.4 of order of the Commission dtd. 14.01.2010 in Case No. 01/2010.
3. Shri R.P. Mohapatra, the authorized representative of the petitioners in Case Nos. 41, 42 and 44 of 2010 has stated that even though the petitioners industries in the said cases are not availing power supply through dedicated feeders and area load restriction is imposed by tripping of 32KV feeders for 4hours a day by the licensees, the restricted contract demand has been again calculated as 75% of the unrestricted contract demand of the petitioners industries. The area of power cut of 4hours each day amounts to restriction of 16.67%, therefore, restriction for the period other than the period of power cut should not exceed 8.33%. He also stated that for the month of Feb, 2010 the licensees have billed additional energy charges @ 15 paise per unit on the total consumption of the petitioners industries, who had agreed to opt. out of the load restriction, even though no dedicated feeder to supply power to

such industries. The licensees, WESCO NESCO & SOUTHCO imposed scheduled power cut of 4 hours per day in the shared feeder through which power is being supplied to these industries. As these industries were not allowed to avail unrestricted power supply, imposition of additional energy charge @15 paise per unit are not justified.

4. Mr. Mahapatra relied upon the following portion of the Commission Order passed in Case No.16/10 and Case No.1/10.

Case No.16/10

“In case of HT industries where along with the industrial other consumers also draw power, prior written consent with such other consumers is also needed before opting out of 25% restriction of round the clock (RTC)”

Case No.01/10)

“All HT industries be subjected to load restriction of 25% of its contract demand, keeping in view the survival load level of individual industries”

He stated that the licensees have determined the over drawl of demand for the purpose of payment of penalty, sum of the over drawl during off peak hours and other than off peak hours and are calculating penalty on the above basis, which are against the orders of this Commission. The licensees are not allowing 20% excess drawl over the permissible demand as per the order dtd. 14.01.2010. The Commission in its order dated 14.01.2010 in Case No. 01/2010 has directed as follows:-

The petitioners industries, operate single induction furnaces for their production, therefore, it is not possible to operate on a RTC basis with reduced demand. The contract demands are therefore the survival load for these industries. There is thus no justification to determine any charges on the basis of assumed restricted demand, for the periods after scheduled power in the area. So he prayed the Commission to direct the licensees not to billed excess energy charges @ 15 paise or 10 paise per Kwh and there should be no additional charges for over drawl if the maximum demand remains within

the contract demand in other than the off peak hours or 120% of the C.D in off peak hours.

6. The authorized representative of WESCO, NESCO & SOUTHCO stated that on power regulation the Distribution licensees are at the tail end and receiving instruction on the matter from the Commission, Govt. of Orissa, SLDC and OPTCL which led them to utter confusion in implementation of power regulation order of the Commission. There is no intentional omission or commission on their part for true implementation of Commission's order but they became helpless due to unilateral decision of GRIDCO, OPTCL & SLDC. The DISCOMs suffered a lot by way of loss of huge revenue due to power regulation which ultimately resulted in severe impact on their liquidity crunch.
7. Shri J.P. Das on behalf of OPTCL stated that due to some difficulties the respondent-GRIDCO moved the Commission seeking review of the Commission's order dtd. 14.01.2010 passed in Case No.1/10. The Commission after hearing the parties issued modified order on 17.04.2010 (Case No.16/10). In the present circumstance and due to subsequent development of the situation, petitioner's claims have no relevance at this stage and the Commission may not proceed further in these matters any further.
8. Shri P.K. Behura, Sr. G.M.(PS), OPTCL stated that the issues raised by the petitioners in Case Nos. 40,41,42 & 44/10 have been sorted out vide order dtd. 17.4.10 passed in Case No.16/2010 by the Commission. As per the decision in the meeting dated 04.03.2010 taken up by CMD, OPTCL with all the DISCOMs and representative of CII and UCCI, SLDC had communicated to all the DISCOMs to implement 25% load restriction to the HT and EHT industries considering last three months average drawl. Raising of energy charges is the matter of commercial issues between the petitioners and the DISCOMs. Regarding interruption of power supply, the respondent submitted that the interruptions was due to system disturbance in the transmission network. However, SLDC has given instructions for hand tripping 132KV feeders from the system security point of view. He also stated that as agreed in the meeting taken up by CMD, OPTCL with the representative of Industries and DISCOMs, SLDC had intimated to all the DISCOMs to implement the

decision. He also submitted that as the said power regulation to all category consumers has already been withdrawn, the petitions filed by the petitioners have no relevance at present and is liable to be dismissed.

9. Shri J.K. Dash, Sr. GM(PP), GRIDCO stated that the allegation regarding violation of order dtd. 14.1.10 passed in Case No. 1/10 by the Commission u/s 23 of the Electricity Act, 2003 is not correct as GRIDCO has communicated to all the DISCOMs for implementation of power regulation as per OERC order. The respondent-GRIDCO submitted that the Commission has directed DISCOMs in para 23 of the aforesaid order to implement load regulation in the State and at para 23(4) all process industries and EHT industries were required to voluntarily declare to restrict their non-essential load to 10-15% of their demand. Neither the DISCOMs nor the industries executed the order as directed by OERC. There was no specific direction to the respondent for execution of load regulation but as the bulk supplier the Respondent –GRIDCO has taken many initiatives for implementation of power regulation in the State. GRIDCO has also convened meeting with DISCOMs, OPTCL and SLDC on 18.02.2010, and 23.02.2010 for implementation of the said order. The respondent again on 04.03.2010 convened another meeting with DISCOMs, OPTCL, SLDC and representatives of industries (UCCI & CII) for implementation of the order of Commission on Power Regulation.
10. Shri Dash further stated that GRIDCO has expressed its difficulty in arranging uninterrupted power supply and prayed to the Commission (a) to increase the quantum of regulation for EHT to 25% as there was shortage, (b) GRIDCO needed compensation to buy power at higher cost as it was billing to DISCOMs at 122.15 P/Kwh while the pool cost of procurement was about 200 P/Kwh. At present the petitioner's allegations have no relevance as the Commission has already issued order on 11.05.10 by which the previous orders of the Commission on power regulations have been modified and sufficiently clarified the issues raised by various stakeholders.
11. The representative of DoE, GoO stated that there is no ground to issue any stay on the order dtd. 04.03.10 as by order dtd. 07.05.2010 it instructed to SLDC not to impose any power restriction henceforth. The aforesaid order dated 4.3.10 issued by the DoE, GoO directing SLDC to enforce weekly

holidays in exercise of the powers conferred u/s 37 of the Electricity Act, 2003. The said order was issued in accordance with the concept of observance of weekly holidays by industries contained in the order dated 14.01.2010 passed in Case No. 1/10 by the Commission. Therefore the allegations made by the petitioners regarding violation of the order of the Commission are liable to be rejected as devoid of any merit.

12. Heard the parties and carefully examined the submissions made by the petitioners and by the respondents. It is observed that, after long interval, the State faced power deficiency situation and it became imminent to issue order dated 14.01. 2010 under S.23 of the Electricity Act, 2003 for efficient supply and securing equitable distribution of electricity. But due to lack of proper acquaintance of situation and inadequate experience in power crisis management, the concerned agencies could not be able to find an effective mechanism for proper implementation of power (Protocol) Regulation. At the same time instructions from many authorities like DoE, GoO, SLDC added to confusion and uncertainties. Perhaps, due to the above prevailing situation the proper implementation of power (Protocol) Regulation could not be made as stipulated. The Commission is highly concerned about lack of proper understandings by the concerned authorities, who are responsible for implementation of Power (Protocol) Regulation. The Commission, therefore, again has to clarify the load regulation protocol in its Order dated 17.04.2010 for proper understandings by all the stake holders. The Commission in its Order dated 11.05.2010 has suspended the power restriction, as the power position started improving trend. In this nascent stage it appears that the Jan.2010 order of the Commission was implemented as a learning curve and the concerned agencies have taken valuable lessons from their own experience. The sufferers of this exercise were, no doubt, the HT & EHT industries who faced loss of production and a lot of inconvenience even subjected to avoidable hand tripping of dedicated feeder to the Industries by OPTCL. This is undoubtedly a national wastage which could have been avoided by efficient management of power supply in an equitable manner. Hence, we caution the licensees to be more vigilant and careful for equitable and efficient supply of power in a power crisis situation. At the same time necessary Govt.

support is required for law and order situation and the licensees have to sensitize the affected consumers for proper adjustment to overcome the power crisis. While appreciating the concern and anxieties of the State Govt. about the consequential fall out of power regulation, we except them to consult the Commission before issuing any instruction regarding power regulation purportedly in pursuance of the order of the Commission which is very often taken as a separate and parallel order aimed at nullifying the order of the Commission. This should be avoided in future in order to ensure harmonious implementation of the power regulation

13. Regarding the specific cases of billing dispute between industries and licensees during the period of load restriction i.e., for the months of Jan, 2010 to May, 2010, we advise that the licensees may examine the disputed bill once again in line with the clarificatory letter (with sample case studies), since issued by the Commission. In case dispute persists the matter may be resolved through Grievance Redressal Forums.
14. Accordingly the cases are disposed of.

Sd/-
(B.K. Misra)
Member

Sd/-
(K.C. Badu)
Member