

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

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Present: Shri B.K. Das, Chairperson  
Shri K.C. Badu, Member  
Shri B.K. Misra, Member

**Case No.15/2011**

**M/s. Jindal Steel and Power Limited (JSPL) ..... Petitioner**

**Vrs.**

**WESCO ..... Respondent**

**In the matter of :** Billing Dispute during load Regulation Period.

For the Petitioner : Sri R.P.Mahapatra authorized representative of M/s JSPL,  
Jharsuguda..

For the Respondent : Sri S.K.Nanda A.M (Legal), WESCO

**Date of Hearing: 07.07.2011**

**Date of Order: 06.09.2011**

**ORDER**

1. M/s Jain Steel and Power Ltd. the petitioner in this case is a consumer of WESCO and has filed a petition against WESCO for non compliance to the load Regulation Order (Protocol) dated 14.01.2010, subsequent review order dated 17.04.2010 and RST order dated 20.03.201.
2. To bridge the gap between demand and supply Commission had imposed Regulation of power in the state of Odisha vide case No. 1/2010 dated 14.01.2010 & Case No. 16/2010 dated 17.04.2010 under Section 23 of the Electricity Act, 2003. The Commission had issued guidelines for Load shedding, load restoration in terms of demand & drawl, penalty to be levied in case of over drawl by an industry. M/s JSPL has alleged that WESCO had violated the Order protocol issued by the Commission and prepared the Bill for the month of April 2010 in contravention of the Order.
3. That as per the direction of the Commission dated 14.01.2010 there will be 15% & 25% load restriction for EHT & HT industries respectively. The demand charges and load factor would be calculated on the basis of restricted contract demand only. EHT

industries those would opt out of the RTC demand restriction should approach DISCOMs concerned & they would be billed at an additional energy charges of 10 paise/kwh on their total drawl of energy. Similarly HT industries who would like to opt out of the restriction be billed at additional 15 paise/kwh while those agreed for 10% restriction be billed at additional 10 paise/kwh on the total energy drawl by the industry. The additional bill amount would be transferred to GRIDCO after deducting 2% service charge.

Further the Commission while reviewing its own load restriction protocol orders on dated 17.04.2010 vide Case No. 16/2010 directed that energy entitlement of HT & EHT industries for the purpose of restricting 15% for EHT and 25% for HT industries, the average monthly drawl of energy during the period of January to December, 2009 should be taken as reference figure.

The penal amount was further increased to 60 paise/kwh, 100 paise/kwh for EHT and HT industries respectively on the excess drawl over entitled energy. However for industry voluntarily opting for 10 % power Regulation be billed at an additional 40 paise/kwh on the total Energy drawl by that industry.

4. That, WESCO raised the bill for the month of April where in the penal demand charges raised was 5,37,000/- & excess energy charges raised as Rs 2,21,456/- as per the guidelines issued by the Commission vide Para-20 & 21 of Order dated 17.04.2010 & letter No. DIR (T)-324/08/V-III/4490 dated 24.07.2010.
5. The petitioner vide its petition dated 19.01.2011 has prayed to impose penalty against WESCO for raising erroneous bill in contravention to the power regulation Orders (Protocol) issued by the Commission. Sri R P Mohapatra on behalf of the petitioner submitted that in spite of repeated approach by M/s JSPL from top to bottom level officers of the licensee, the licensee was reluctant to rectify and has shown its adamant attitude in rectifying the erroneous bills.
6. WESCO in its submission dated 19.02.2011 admitted that the energy charges raised on the bills was erroneous. Instead of Rs 2,71,920/- WESCO had raised Rs 5,37,000/- as energy charges resulting in excess charges of Rs 2,65,800/-. However the excess amount has already been refunded to the consumer on the energy bill for the month of June-2010. Regarding calculation of excess energy charges WESCO has computed on the basis of guidelines issued by the Commission vide Case No.

16/21 & subsequent clarification letter No. 324/08/V-III/4490 dated 24.7.210 in defining average energy drawl.

7. That as per the submission of the petitioner on dated 29.06.2011 a meeting was held with WESCO on dated 25.06.2011 & as per its minutes of the meeting there is no dispute on the calculation of over drawl penalty. However as regard to the imposition of excess energy charges, there is a dispute on calculation of average energy which remained unsolved.
8. The petitioner requested to compute average energy by averaging the consumption of three months from March, 09 to May, 09 since their plant was utilizing the power supply for lighting load only for rest of the period during FY 2009-10. However, WESCO did not agree to this proposal, since the excess energy charges has been calculated on the basis of guideline issued by the Commission vide DIR (T)-324/08/V-III/4490 dated 24.07.2010, which is the basis of computation of Energy Charges for all HT consumers of the licensee.
9. That, while issuing order in case No. 16/21, Commission has categorically issued guidelines for computation of Energy Charges in Para-20 which is reproduced as bellow:-

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*Therefore, Commission approves and directs that for the purpose of restricting 15% for EHT industries and 25% for HT industries, the average monthly drawal of energy during the period January-December, 2009 shall be taken as reference figure to workout the restriction of 15% and 25% for EHT and HT industries respectively.*

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10. The petitioner vide its petition dated 12.7.2011 prayed for redefining the computation of average energy drawl in view of the following:
  - a) That the petitioner availed power in the month of March, 2009 and operated with lower efficiency on account of initial teething problems during the month of March, April & May, 2009. Thereafter the industry faced operational problem & consumption was low mostly for repairs and lighting. In the clarification order dated 24.7.2010 the Commission has directed that the averaging of Energy indicates normal drawl of the industry. In the said letter Commission had allowed the increase in average drawl of an industry

due to increase in the contract demand in January, 2010 onwards by the licensee.

Thus as per the petitioner the normal drawl by the petitioner can not be the average of energy drawl by the industry between January, 2009 to December, 2009. Therefore the periods when the industry has not been drawing normal requirement of power due to various reasons should be deleted for calculating the average drawl during January to December, 2009.

- b) Further the petitioner submitted that Hon'ble Commission in its Order dated 17.04.2010 in Case No. 16/2010 has stipulated in Para-24 of the Order as follows:-

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*The HT and EHT industries exercising option in writing to opt out of round the clock restriction of 25% and 15% of the Contract Demand or the highest energy drawl during the month of January to December, 2009, whichever is higher shall have to enter into an Agreement with GRIDCO.*

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On the same analogy, the maximum monthly drawl of an industry during the period January, 2009 to December, 2009 should be taken as the reference figure to work out the entitlement of energy during the load restriction.

**Commission's Observation:-**

- 11. After going through the submissions made by the petitioner & WESCO the Commission observes as follows:-

- (a) The penal demand charges & Energy Charges are nothing but an extension of tariff order of the Commission. Nowhere in the supply code issued by the Commission has any special consideration for seasonal consumer. By introducing any sort of seasonal concession will open a flood gate for other industries to ask for the same. The objective of the tariff policy is to spread the load of the plant to find a higher load factor for the industry. As per the preamble of the Electricity Act, 2003, Electricity Tariff has to be rationalized. That means consumers of a particular voltage level say LT, HT & EHT pay similar tariff irrespective of nature of supply. Thus the Commission has limitations in categorizing the consumers. Keeping all this

in mind Commission can not allow averaging of energy during seasonal drawl of an industry.

- (b) The order of protocol on power regulation brought in to force in order to avoid purchase of power at a higher cost from open market as far as possible and to recover the cost incurred there in. Finding average drawl by limiting the consumption of electricity for a particular period ranging few month may lead to reduced cost for consumers but equally it will burden the liabilities of DISCOMs. Thus normal drawl implies drawl by the consumers over a specified period applicable to all industries. While doing this we have to keep in mind the prime objective of tariff setting that is to recover the cost of supply from the consumers.
- (c) It is the national & international concept to find average relating to annual average for all statistical purpose. Thus unless otherwise specified, normally annual average consumption is to be accepted. Further by limiting average to some months on case to case basis will be improper since the logic of limiting the number of months & finding reasoning behind that number must be suitable to all concerned.
- (d) In the Order dated 17.04.2010 we have also capped the contract demand. While passing the ARR of DISCOMs for FY 2010-11 we have directed to compute the Demand Charges basing on 80% of Contract Demand or Maximum Demand in the said month whichever is higher. In analogy to the tariff order we have directed in the load regulation order to cap and compute the demand charges during load regulation period with 15 % or 25 % as applicable of the computed Contract Demand (80 % of CD or Max CD) in a year. After directing to compute Contract Demand on annual basis it is illogical to direct computation of average Demand limiting it to few months to suit a particular industry.
- (e) While considering the proposal mooted by SLDC to restrict the energy drawl by an industry along with restriction of demand, GRIDCO had proposed to consider the average drawl of October, November, December 2009, which was opposed by representatives of the industries. The relevant portion of para 20 of the order dated 14.04. 2010 is as reproduced bellow:

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*“GRIDCO proposes that average of October, November & December, 2009 (unrestricted period) energy drawl be taken as normal energy consumption of any particular industry and statutory restriction be imposed on this permitted figure. The above argument of GRIDCO & SLDC has a force in it. The industry representatives are also in general agreement to co-operate with State in this difficult period of power deficit. However, they argue that permitted drawl of any industry be calculated on the basis of a longer duration say for one year. Due to various restriction the actual drawl of energy during October–December, 2009 has been far below the normal drawl as per the Contract Demand under a power deficit situation. Therefore, Commission approves and directs that for the purpose of restricting 15% for EHT industries and 25% for HT industries, the average monthly drawl of energy during the period January–December, 2009 shall be taken as reference figure to workout the restriction of 15% and 25% for EHT and HT industries respectively.”*

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- (f) The letter No. DIR(T)-324/08/V-III/4490 dated 24.07.2010 of the Commission was issued to clarify certain doubts from the minds of the consumers. We do not find any merit to change our orders to compute entitled energy of the petitioner industry by averaging the consumption of three months i.e. from March, 2009 to May, 2009 only.

12. Accordingly, the matter is disposed of.

**Sd/-  
B.K. Misra  
Member**

**Sd/-  
K.C. Badu  
Member**

**Sd/-  
B.K. Das  
Chairperson**