

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

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

Case No.73/2011

In the matter of:

M/s. Shree Salasar Castings Pvt. Ltd. Petitioner
Vrs.
WESCO, Burla,Sambalpur Respondent

AND

Case No.74/2011

In the matter of:

M/s. Shreeram Sponge & Steel (P) Ltd. Petitioner
Vrs.
WESCO, Burla,Sambalpur Respondent

AND

Case No.75/2011

In the matter of:

M/s. Sri Jagannath Alloys (P) Ltd. Petitioner
Vrs.
WESCO, Burla,Sambalpur Respondent

AND

Case No.76/2011

In the matter of:

M/s. Top Tech Steels (P) Ltd. Petitioner
Vrs.
WESCO, Burla,Sambalpur Respondent

AND

Case No.77/2011

In the matter of:

M/s. Jayshree Chemicals Ltd. Petitioner
Vrs.
WESCO, Burla,Sambalpur Respondent

AND

In the matter of: An application for amendment of the Special Category Tariff for Power Intensive Industries/ Mini Steel Plants.

For the Petitioners: Shri R.P.Mohapatra, Authorized Representative
Shri S.S.Kalya, Jayshree Chemicals Ltd.,
For the Respondent: Shri A.K.Bohra (CEO), CSO, WESCO
Shri G.B.Swain (GM), CSO, WESCO
Shri S.C.Mohanty (Legal Consultant) DoE, GoO,
Shri Lingaraj Padhi (DGM), CESU.

Date of Hearing: 30.09.2011

Date of Order: 15.11.2011

1. The case came up before us on 30.09.2011. As the issues involved in all these cases are similar in nature accordingly the Commission decided to hear and dispose of all after a analogous hearing. The petitioners except M/s. Jayshree Chemicals Ltd. are having induction furnace with varying contract demand taking power through 33 KV feeder of WESCO. They come under Large Industry category. The petitioner further submitted that due to Retail Supply Tariff hike in Orissa for the year 2011-12 their industries have become financially sick and unviable. They prayed before the Commission to amend the tariff order for induction furnaces/ Mini Steel Plant categories as follows:
 - (i) The minimum load factor for application of the Special Category Tariff should be less than 75%.
 - (ii) The load factor may be determined based on OERC Regulation and also maximum demand shall be recorded during periods other than off peak hours. While calculating load factor the actual hours in a month during which power supply is available should be taken into account.
 - (iii) The concession allowed for "Take or Pay" tariff be enhanced at least to 20%.
 - (iv) The demand charges should also be pro-rated if the interruption of power supply to the petitioner exceeds 30 hours in a month.
2. Mr. S. S. Kalya appearing on behalf of M/s JCL which is a power intensive industries under SOUTHCO drawing power at 132 KV submits before Commission that
 - (i) SOUTHCO should be advised to consider Special tariff to M/s JCL as in the past for mutual interest.
 - (ii) In "Take or Pay" tariff for power intensive industries load factor should be as per Regulation 2 (y) of OERC Distribution (Conditions of Supply) Code, 2004 and the maximum demand shall be that recorded during periods other than off peak hours.
 - (iii) In 'Take or Pay" tariff the concession should be at least 20%.

- (iv) DISCOMs should take into consideration the power interruption hours while calculating load factor.
3. Mr. A K Bohra appearing on behalf of WESCO submitted that fixing retail tariff for different category of consumers to meet the Annual Revenue Requirement as determined by the Commission is prerogative of the Commission and prayed that if any relaxation under "Take or Pay" in any manner is considered which affects the revenue of WESCO the same may be factored in the ARR of WESCO and WESCO should be duly compensated for the loss in revenue by allowing recovery in the balance period of current year appropriately. He further submitted that WESCO is currently reeling under severe cash flow problem and is not able to meet out the expense towards power purchase even @ 97% BST bills. Due to large addition of BPL consumers in RGGVY and BGJY schemes WESCO still finds it difficult to make payment of BST bills.
4. Sr. GM, SOUTHCO submitted that the Commission has allowed special concession of 5% on total electricity bills to Power Intensive and Mini Steel Plant consumers subject to the condition that the industry shall pay minimum on the basis of 75% load factor calculated on contract demand and actual power factor basis. M/s JCL had submitted its willingness in writing for "Take or Pay" tariff by taking such risk. Now, M/s JCL has claimed to get the benefit of graded slab tariff and calculation of load factor as per Regulation 2 (y) of OERC Distribution (Conditions of Supply) Code, 2004. He further submitted that graded slab tariff where no special concession has been given should not be mixed up with "Take or Pay" tariff. The consumer can't avail two benefits simultaneously.

Commission's observations and Directions

5. The prayer of the consumers basically relates to Retail Supply Tariff Order of the Commission for FY 2011-12 and the petition appears to be a review of it in disguise. It must be remembered that this Tariff Order is also under judicial scrutiny in different Courts of India. The review period of the Order has also elapsed. However, for interest of the justice and better understanding we may discuss the submission issue-wise.
6. "Take or Pay" tariff was allowed to consumers so that it would be a WIN-WIN situation for both consumers and DISCOMs. While allowing this tariff the Commission has looked into the trade off between the revenue loss of DISCOMs and commensurate benefit to them. It has been designed in such a way that it would bring benefit both to the consumers and so also to the DISCOMs. Any tilt in the balance would result in undue benefit to any one of the sides. In the meantime, more than five months have already elapsed and the subject tariff order of the Commission is under judicial scrutiny. Therefore, any concession beyond 75% of load factor of

contract demand under "Take or Pay" tariff or any interference in the Tariff Order is not possible.

7. As per the submission of WESCO it is found that most of the petitioners' plants have been disconnected w.e.f. August, 2011 due to non-payment of revised energy charges. This is a loss both to the petitioners and DISCOMs. HT and EHT industries ensure sufficient cash flow to the DISCOMs for payment of BST bills. There are seven Mini Steel Plants drawing power at HT in WESCO area having induction furnaces. The projected drawal for them by WESCO is 130 MU for 2011-12. The Commission analyzed the drawal pattern and consequent billing for four industries of Mini Steel Plant category upto the month of July, 2011 in the current financial year in WESCO area such as M/s Shreeram Sponge and Steel (P) Ltd., M/s Shree Salasar Castings (P) Ltd., M/s Top Tech Steels Pvt. Ltd. and M/s Sri Jagannath Alloys Pvt. Ltd. In the month of July 2011 they had been drawing at a load factor of more or less 75% except M/s. Shreeram Sponge and Steel Ltd. The average billing to those four industries is Rs.5.23 per unit by WESCO. If that level of consumption and billing is made applicable to all the seven industries in that category WESCO is expected to earn a revenue of around Rs.68 crore from them in the FY 2011-12 considering sales of 130 MU to them projected by WESCO. Leaving aside the power purchase cost and transmission and other cost for the said sale, WESCO would have earned a surplus of around Rs.15 crore which would have gone basically towards meeting cross-subsidy and making up the loss in LT business. Therefore, it is advisable to reach a settlement so that the industries in distress can survive and simultaneously WESCO would get a financial support from them. The above finding is based on the calculation given in the table shown below:

| Name of the Industry | Shreeram | Salasar | Top Tech | Jagannath |
|--|----------|---------|----------|-----------|
| Units Consumed from April to July, 2011 (In MU) | 7.87329 | 5.79516 | 6.27426 | 5.06334 |
| Load Factor in July, 2011 (in %) | 35.42 | 74.46 | 85.23 | 88.57 |
| Bill Amount (Rs. Per unit) | 5.44 | 5.15 | 5.18 | 5.04 |
| Avg. billing for four Industries (in Rs. Per Unit) | 5.23 | | | |
| Expected Sales Revenue from all the seven MSP (in HT) of WESCO (In Rs. Cr.) in 2011-12 | 67.94 | | | |
| Avg. Cost to serve 130 MU (In Rs. Cr.)@ Rs.4.08 per unit for the State | 53.04 | | | |
| Benefit to WESCO (In Rs. Cr.) | 14.90 | | | |

8. As per Regulation 81 of OERC Distribution (Conditions of Supply) Code, 2004 licensee may having regard to the nature of supply and purpose for which supply is required fix special tariff and the Conditions of Supply for the consumers. Therefore, it is expected that the consumers

and DISCOMs must sit down together and discuss this commercial scenario and decide to enter into agreement with regard to levels of load factor and concession to implement "Take or Pay" tariff. There would have been no need for coming to the Commission for its approval again. The Commission is aware of the fact that M/s Jayshree Chemicals, a power intensive industry in SOUTHCO area, was enjoying special tariff from 2007-08 to 2009-10. Earlier the Commission in its Retail Supply Tariff order dtd.22.03.2005 in Para 8.26 to 8.30 and in the order dtd. 23.06.2006 in Para 6.44 had also approved a special tariff for power intensive industries. Now also under the compelling circumstances both SOUTHCO and M/s JCL may enter into a fresh agreement for special "Take or Pay" tariff through mutually agreed load factor and concession level. In this tariff the Commission will not generally allow any revenue loss to the DISCOMs in the ARR as the agreement shall be signed to protect the commercial interests of both the parties.

9. If the industrial consumption goes down, the Distribution companies will incur losses and face cash crunch. Their overall distribution losses will also increase in view of the fact that losses at LT level are quite high. Taking all these factors into consideration the Commission in principle is of the opinion that the distribution companies can offer a special tariff through a separate agreement not only to power intensive industry but to any industry in HT and EHT category. The industries should ensure a minimum load factor of 70% which will mean that whether they draw power or not, they will have to pay minimum charges based on the load factor billing for consumption of 70% load factor. A special rebate of not exceeding 20% per month on total billing may be allowed by the distribution companies in the present tariff structure for those industries. The above condition is suggestive only and the Commission reiterates that this agreement has to be between the distribution companies and the respective industries, which may lead to a Win-Win situation where both will stand to gain. The DISCOMs may also set any other level of load factor and rebate as per field conditions and suitability. We further clarify that no loss notional or otherwise projected by the distribution companies on account of such agreement will be entertained. CEO, CESU has also brought to our notice the problem being faced by industries in their license area after new tariff order came into force. Therefore, we direct that the special tariff as suggested by us now shall be applicable to all the HT and EHT industries situated in all the DISCOMs of the State.
10. The question is what is gain in running the industry and what is loss in not running the industries? If the industries do not operate they incur loss in various ways and the distribution companies lose the gain which otherwise would have accrued had the industries run in normal way. Hence, loss apprehended by the distribution companies is notional only and in practice

there would be no loss. Therefore, question of recognizing the loss of revenue of the distribution companies by the Commission does not arise. Any of the industries including mini steel plant and power intensive industries and the concerned distribution companies may enter into special agreements keeping their business interest in view and for getting concessional tariff as indicated in the preceding paragraph.

11. It needs to be clarified here that existing method of billing the consumers for the demand charge on the basis of the maximum demand recorded or 80% of the contract demand, whichever is higher would continue to apply even to industries entering into Special Agreement with DISCOMs.
12. The load factor for those industries interested for tariff under Special Agreement shall be calculated as per Regulation 2 (y) of OERC Distribution (Conditions of Supply) Code, 2004. For the purpose of determination of load factor maximum demand shall be based on the highest demand recorded in hours other than off peak hours. However, for calculation of load factor the actual power factor of the consumer during billing period shall be taken into consideration.
13. A copy of this order may be sent to CEO, CESU and MDs of NESCO, WESCO & SOUTHCO to take appropriate action at their end in terms of the observations and guidelines contained in this Order.
14. Accordingly the Case is disposed of.

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

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