

CHAPTER 1

INTRODUCTION

1.1 Constitution of the Commission

The Jharkhand State Electricity Regulatory Commission (herein referred to as the JSERC or the Commission) has been constituted by the Government of Jharkhand under Section 17 of the Electricity Regulatory Commission Act 1998 (herein referred to as the ERC Act), vide the Department of Energy's notification No. 1763 dated August 22, 2002. The Commission became operational on April 24, 2003 with the Chairman being administered the oath of office. The Government notified the functions and the duties of the Commission as per Section 22 (1) and (2) of the ERC Act.

1.2 Functions of the JSERC

The Commission has been mandated to discharge the following functions listed under section 22(I) of the ERC Act. This section is reproduced below:

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- (a) To determine the tariff for electricity, wholesale, bulk, grid or retail, as the case may be in the manner provided in Section 29.
- (b) To determine the tariff payable for the use of the transmission facilities in the manner provided in Section 29.
- (c) To regulate power purchase and procurement process of the transmission utilities and distribution utilities including the prices at which power shall be procured from the generating companies, generating stations, or from other sources for transmission, sale, distribution and supply in the state.
- (d) To promote competition efficiency and economy in the activities of electricity industry to achieve the objects and purposes of the Act.”

1.3 Tariff determination by the State Electricity Regulatory Commission (SERC)

The Commission is guided by Section 29 of the ERC Act, which enunciates the principles to be followed for the determination of tariff.

The Electricity Act, 2003 (herein referred to as the Act) has come into force with effect from June 10, 2003 is the governing legislation for electricity sector repealing the Indian Electricity Act, 1910; the Electricity (Supply) Act, 1948 and the ERC Act. Among the tariff-related provisions, the SERC has to be guided by the National Electricity Policy, National Electricity Plan and Tariff Policy. The generation, transmission and distribution tariff has to be determined separately, and the SERC has to take into account the principles and methodologies that would be specified by the Central Commission for generation and transmission tariff. However, the relevant provisions as per the Electricity (Supply) Act, 1948 and the ERC Act shall continue to be applicable for a period of one year after the enactment of the Act or until the terms and conditions related to tariff are specified under the Act are finalized, whichever is earlier.

The Act provides the functions of an SERC in its Section 86, which are enumerated as below:

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(1) The State Commission shall discharge the following functions, namely:-

(a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be within the State:

Provided that where open access has been permitted to a category of consumers under Section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;

(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;

(c) facilitate intra-state transmission and wheeling of electricity;

(d) issue licenses to persons seeking to act as transmission licensees, distribution licensees and electricity traders with respect to their operations within the State;

(e) promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;

(f) adjudicate upon the disputes between the licensees, and generating companies and to refer any dispute for arbitration;

(g) levy fee for the purposes of this Act;

(h) specify State Grid Code consistent with the Grid Code specified under clause (h) of sub-section (1) of section 79;

(i) specify or enforce standards with respect to quality, continuity and reliability of service by licensees;

(j) fix the trading margin in the intra-State trading of electricity, if considered, necessary and

(k) discharge such other functions as may be assigned to it under this Act.

(2) The State Commission shall advise the State Government on all or any of the following matters, namely:-

(i) promotion of competition, efficiency and economy in activities of the electricity industry;

(ii) promotion of investment in electricity industry;

(iii) reorganization and restructuring of electricity industry in the State;

(iv) matters concerning generation, transmission, distribution and trading of electricity or any other matter referred to the State Commission by that Government.”

The Commission has kept in mind the above provisions of the Act while determining the tariff for TVNL. The Commission in future will like to encourage tariff based competitive bidding for new plants. Since the National Electricity Plan, National Electricity Policy and Tariff Policy are not finalized, which might have some bearing on the tariff methodology, the Commission has considered the view of Task force. The Commission had followed the principles laid down in the JSERC (Terms and Conditions for Determining Generation Tariff), Regulation 2004.

1.4 Task Force Recommendations on Electricity Generation

(A Task Force on "Power Sector Investments and Reforms" was constituted to recommend National Electricity and Tariff Policy)

Traditionally, power sector in India has been characterized by inadequate generation capacity. The Task Force recognizes that the revised policy framework would need to address this aspect comprehensively. Accelerated development of the generation sector is essential for meeting the GDP growth target of 8% set for the economy, for achieving the goal of "Power for all by 2012" and for the efficient functioning of competitive power markets. "Electricity Act 2003" has several features to address this issue. Accordingly, the Task Force has analyzed various issues pertaining to generation, after giving due consideration to the provisions of the Electricity Act, 2003 and some of the **key recommendations** have been presented as follows:

Procurement and approval processes for new capacity –

The overarching philosophy of the Electricity Act, 2003 is the promotion of competition. The generation sector is generally acknowledged to be largely amenable to competition and hence the procurement of energy should be carried out through competitive means to the extent feasible. The committee recommended, for procurement for newer energy sources in particular the procurement should be undertaken through competitive methods as long as the market conditions are conducive to competition. However, the Task Force is cognizant of the fact that complete migration to a tariff bid based regime may not be possible universally in the short and medium term due to lack of depth and absence of other conditions facilitating competition. Hence, where ever tariff based bids are not possible, bidding on the capital cost of the project with the overall two-part tariff structure should be followed and O&M, depreciation, working capital and other costs should be admissible at normative levels.

Tariff structuring and associated issues –

The Committee recommended, the existing norm of Debt: Equity ratio of 70:30 should be adopted. Promoters would be free to have higher quantum of equity investments. The excess equity should be treated as loans advanced at the weighted average rate of interest and for a weighted average tenor of the long-term debt component of the project. In case of equity below the normative level, the actual equity (share capital and free reserves, including share premium) would be used for determination of Return on Equity in tariff computations. The original equity of any plant would be eligible for returns through the life of the plant;

The return on equity should continue to be post-tax. Based on an assessment of the overall risks and the prevailing cost of capital, the committee recommended a post-tax return of 14 percent on equity (share capital and free reserves, including share premium). While the rate of return on equity should not be varied, the states may provide fiscal incentives or other facilities to generators, if required, for attracting investments in this sector;

The operating parameters in tariffs should be at “normative levels” only and not at “lower of normative and actual”. This would apply for new as well as old plants for which the Task Force recommends the development of separate norms. This is essential to encourage better operating performance. Further, while norms can serve as benchmarks, any effort in the direction of standardization and simplification must be balanced with practical realities. The Task Force is of the opinion that the existing practices on norms need review and amended as necessary taking into consideration the latest technological advancements.

In generation projects the potential savings in interest during construction (IDC) can be substantial if the project is completed ahead of schedule. The Task Force recommended that a part of such IDC savings should be allowed for retention by the generating companies while the remaining can be passed on in the form of lower tariffs.

1.5 Tariff filing by the TVNL

The Tenughat Vidyut Nigam Limited (TVNL) is a thermal generation plant located in the state of Jharkhand. Prior to the bifurcation of erstwhile Bihar, the TVNL catered to the BSEB. However, post bifurcation, TVNL has come under the ownership of the Government of Jharkhand and thereon it has been supplying power to the JSEB only. It has an installed capacity of 420 MW with two units of 210 MW each. In FY 2003-04, the PLF of the two units (420MW) was 36.62% with generation of 1347 MU. According to the TVNL, the low PLF is primarily because both the thermal power generation units are not operating simultaneously. The second unit is presently under Capital Maintenance due to problems in its turbine and generator. This unit is expected to be brought back into operation by December 2004. Another reason for low PLF has been attributed to high auxiliary consumption since the single unit had to be operated.

The TVNL had filed a petition (Petition No.2/2003-'04) for determining an appropriate generation tariff for the year 2004-05 on March 31, 2004. The Commission undertook an examination of the filing and found that there were major information gaps in the petition. The Commission conveyed its observations on the petition and had asked the TVNL to revise its petition incorporating the additional information required vide the Commission's letter No. JSERC/Tariff/170 dated 17.06.2004. Thereupon, the TVNL submitted the required clarification on June 25, 2004. The Commission scrutinized the petition in the light of TVNL's comments and the guidelines that had been issued.

1.6 Submission of Objections and conduct of public hearing

The Commission issued a public notice on May 25, 2004 inviting objections on the tariff petition filed by TVNL. This notice was issued in the following newspapers:

Name of the daily	Date of Publication
(i) Aaj	May 25, 2004
(ii) Prabhat Khabar	May 25, 2004
(iii) Hindustan	May 25, 2004
(iv) Hindustan Times	May 25, 2004
(v) Ranchi Express	May 25, 2004

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| (vi) | Dainik Jagran | May 25, 2004 |
| (vii) | Uditbani, Jamshedpur | May 25, 2004 |

The Commission received comments from M/s TISCO (Power Business Division) and M/s TATA Power, Jamshedpur. These have been considered by the Commission and are discussed in a later part of this order. The Commission conducted a public hearing on June 26, 2004 at Ranchi.

1.7 Communication with TVNL's Staff

The Commission communicated regularly with the officers of the TVNL in order to validate the information submitted by them and to consider their views on different aspects of the tariff petition. The Commission had also visited the Tenughat Thermal Power Station, the generation plant being run by TVNL, on June 24, 2004, to take stock of the situation against the backdrop of abysmally low Plant Load Factor (PLF) coupled with a very high degree of auxiliary consumption.