



## Chhattisgarh State Electricity Regulatory Commission

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**Petition No. 06 of 2006 (M)**

**In the matter of petition for review of order dated 06/02/06  
passed in petition No. 17 of 2005 (M)**

Bharat Aluminium Co.Ltd.,  
Korba

- Petitioner

Vs.

Chhattisgarh State Electricity Board,  
Raipur

- Respondent

**Present: S.K. Misra, Chairman  
Sarat Chandra, Member**

### **ORDER**

(Passed on 27/12/2006)

This is an application under Regulation 43 of the CSERC (Conduct of Business) Regulations, 2004 read with Section 94 (1) (f) of the Electricity Act, 2003 (the Act, for short) submitted by Bharat Aluminium Company Limited (BALCO) for review of the Commission's orders dated 06-02-2006 passed in petition No.17 of 2005(M). The impugned order dealt with the matter of power purchase and related dispensation in respect of captive generating plants. Para 17 of this order reads: "The Commission has granted certain special dispensation in favour of two EHT consumers, namely M/s BALCO and M/s Jayaswals Neco on the ground of their being captive power plants. With this order, the need of such dispensation in favour of these consumers will lose justification. Hence the Commission directs that with this order all such special dispensation whether in the above two cases or others shall be treated as withdrawn. With effect from 01-03-2006 all CPPs shall be governed by this order only". It is against this part of the impugned order that this review application is directed.

2. The facts of this case are that BALCO has an aluminium plant at Korba in this state. Aluminium is a highly power-intensive industry. In the first tariff order passed by this Commission, for the year 2005-06, for Chhattisgarh State Electricity Board (CSEB/Board) on 15-06-2005 in Petition No.5 of 2005, BALCO was placed in the tariff category (HV-4) applicable to heavy industries. In an application for review of this order (registered as petition No. 16 of 2005), BALCO had pleaded that it faced tariff shock and that the new tariff was very much higher than the tariff applicable to the industry hitherto. It also pleaded that it had been wrongly placed with the only other heavy industry in the state, namely Bhilai Steel Plant. As a result apart from demand charge and energy charge, a monthly minimum energy charge equivalent to

40% load factor on contract demand was imposed in this tariff while BALCO which has its own captive generation plant never had a load factor of more than 20%. We examined BALCO's contention and came to the conclusion that there was indeed a tariff shock and reviewed our tariff order of 15-06-2005 in so far as BALCO as a single consumer is concerned and passed orders on 17-10-2005 partially admitting the petition and reduced the monthly minimum energy charge applicable to him at 20% load factor as requested. However, since even with that the tariff was high in his case, we reduced the applicable demand charge (Rs.380/- per KVA per month) by 50%. We had taken note of the load factor of the industry and the nature of supply availed by him in giving him a special tariff which came closer to what was intended by the Commission in the tariff order. The respondent CSEB approached the Appellate Tribunal for Electricity through an appeal against this order. The Hon'ble Appellate Tribunal vide their judgment dated 17-11-2006 passed in appeal No.40 of 2006, upheld the above order of this Commission and rejected the appeal. However, in the meantime, the impugned order was passed which also covered BALCO, being a captive consumer of his own captive power plant (CPP). By the impugned order for captive consumers like BALCO the monthly minimum energy consumption charges were totally waived subject to certain conditions which BALCO fulfilled. We, therefore, by the impugned order directed that with the extension of this facility there was no justification to continue with the special dispensation as above which was specifically granted to BALCO on the main ground of a tariff shock. Vide para 17 of the impugned order (quoted above) we have, therefore, withdrawn the special dispensation granted to BALCO and another industry. The review application pleads for retention of the special dispensation granted earlier, at least the reduction in demand charge, and modification of the directions in the impugned order.

3. This review application has been preferred on the following grounds: -
- (i) That the impugned order was passed on an application which sought certain relief for captive power plants and their consumers keeping in view the liberal provisions in the Act for CPPs and the mandate of the National Electricity Policy. The petitioner was a party to this petition. His tariff was not an issue in the petition and therefore, the tariff as decided by the Commission in order dated 17-10-2005 aforementioned should be maintained. In other words, there is no ground for interference in the tariff specifically fixed for BALCO on the basis of the relief extended to CPPs and their consumers in the impugned order.
  - (ii) The demand charge in the tariff applicable to BALCO was reduced to 50% because of the low load factor of the industry as also the significant increase in the financial burden on him. The differentiation in the tariff of the petitioner was done in accordance with law. Now because of para 17 of the impugned order the relief granted in the demand charge to the tune of 50% has been withdrawn. This order has resulted in the increase in tariff by 22.26%. Therefore, withdrawal of relief in demand charge will in a way nullify the relief in tariff granted to the petitioner.
  - (iii) The impugned order is also violative of section 62(4) of the Act which provides that no tariff or part of any tariff may ordinarily be amended more frequently than once in a financial year.

- (iv) BALCO also has a captive power plant and should be treated at par with other CPPs. Modification of BALCO's special tariff, because of certain relief to the CPPs in general is not warranted.

The respondent CSEB in its reply has contented that the petitioner impleaded himself as a party to the proceedings of case No.17 of 2005 as a CPP and hence he is bound by the order in this case, as are other CPPs with effect from 01-03-2006. There is no ground now to differentiate him from other CPPs and to give him reduction in demand charge. It has also been pleaded that after the relief granted to CPPs in the impugned order, there is no reason for continuance of the special dispensation granted earlier to the petitioner in his tariff. Continuance of this special dispensation to the petitioner shall be discriminatory. The respondent CSEB also pleaded that the matter regarding revision of tariff for BALCO was under consideration of the Hon'ble Appellate Tribunal and hence the Commission should await the decision of the Tribunal in the case. As mentioned above, the case has already been decided.

4. We have considered the pleadings of both sides and also heard them at length. The tariff review order in favour of the petitioner of 17-10-2005 passed in Petition No. 16 of 2005 (M) is the tariff applicable to him. The special facilities granted by the impugned order is applicable to all CPPs and their captive consumers. So far as captive consumers are concerned, a major relief granted by this Commission is total waiver of monthly minimum energy consumption charges in the tariff applicable to them as per the tariff orders of the Commission. Logically therefore, the tariff applicable to BALCO should stand while the additional facility of waiver of monthly minimum energy charges should also be available to him as a captive consumer like any other. We are in agreement that this should normally be the case. However, this logic does not stand scrutiny in respect of BALCO in view of the fact that the tariff applicable to him as per the tariff order for the year 2005-06 was specifically reviewed for him. His main ground in the review application was that his load factor was generally below 20% because of the captive power plant he had. Justification for reducing his demand charge based on 40% load factor to 20% load factor was only on the ground that he had his captive power plant and hence although aluminium industry is a highly power-intensive one, his demand generally remained low. In his petition in that case BALCO had submitted that the bank of 8 generating units he had, with a total of 810 MW capacity, was sufficient to meet his full power requirement. However, it being a process industry requiring continuity of supply he had to maintain some load with the Board. The whole exercise was carried out to mitigate the tariff shock to the petitioner which was the result of bracketing him with an industry (Bhilai Steel Plant) which generally maintained a high load factor. After reducing the load factor for monthly minimum energy charges from 40% to 20%, we had observed that the tariff applicable to him still remained high (para 8 and 9 of order of 17-10-2005). It is only because the average unit cost still remained higher at more than 25% that the applicable demand charge was reduced by half. If before we passed the review order, the impugned order extending benefits to captive power plants had been passed, the petitioner could not have pleaded tariff shock and the Commission might not have granted a special relief to him. With the above, we found no reason to continue with the reduction in demand charge after the relief granted to him as a CPP consumer in the impugned order. That was, therefore, decided to be withdrawn.

5. The petitioner's contention that because of withdrawal of relief granted to him in the demand charge and restoration of full demand charge of Rs.380/- per KVA, his tariff shock has been restored and his tariff has again increased by 22.26%. We had asked CSEB to furnish the data of the actual bills for the months of March to September 2006, i.e. the period during which the full demand charge was restored. After October 2006, a new tariff is applicable to BALCO as per the tariff order of this Commission for 2006-07 and therefore the relevant period for which relief has been sought is from 01-03-06, when the CPP order becomes effective, till 30-09-06 when new tariff order comes into effect. As per the details of the actual billing amount furnished by the CSEB, there is no increase in the tariff of the petitioner on restoration of full demand charge after the impugned order was passed. The total amount towards the energy and demand charges for the period from March 2006 to September 2006 in respect of BALCO as per the review order dated 17-10-05 comes to Rs. 48.09 Cr. whereas as per the impugned CPP order the total amount for the same period works out to Rs. 41.33 Cr. The detailed calculations are annexed to this order. It is thus obvious that in the months of March to July '06, it has been substantially lower than what his energy bill would have been as per the order dated 17-10-2005. We may mention here that the Hon'ble Appellate Tribunal has also noted in para 20 of their judgment of 17-11-2006, referred to earlier, that it is clear from the CPP order that the demand charge for BALCO stands revised with effect from 01-03-2006. In fact the Hon'ble Appellate Tribunal has observed that "as a result of such dispensation (to CPPs) the resultant position being the review order, stands withdrawn, has been rendered otiose."

6. We do not agree with the petitioner that withdrawal of the relief granted to him in demand charge and resultant change in tariff applicable to him is a violation of section 62 of the Act. The provision in Section 62 (4) of the Act is that the "tariff may not ordinarily be amended more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified". Thus, there may be a modification during the year. The circumstance under which modification has become necessary has been described in previous paras. In any case, the resultant tariff is not higher than what it was earlier. We are hence not persuaded that the impugned order is violative of any provision of the Act.

On the basis of above discussion the review application is rejected.

Sd/-  
**Member**

Sd/-  
**Chairman**

**True Copy**

**(N.K. Rupwani)**  
**Secretary**

**Annexure to order dated 27.12.06(Refers to Para 5)**

**Comparative Chart of Tariff Minimum charges and Energy bill during March 06 to Sep 06 under three different Tariffs for BALCO**

SN	Month	RMD (KVA)	Units (Kwh)	As per order dated 15.06.05			As per review order dated 17.10.2005			As per order dated 06.02.2006				
				Demand charges 380 per kva, Energy Charge Rs 3.15/U and TMG on 40% LF			Demand charges 190 per kva, Energy Charge Rs 3.15/U and TMG on 20% LF			Demand charges 380 per kva, Energy Charge Rs 3.15/U and No TMG on EC				
				Demand charges: 120000x380x0.75 =3.42 Cr TMG Energy charges: 120000x0.9x720x0.4x3.15 =9.79776 Cr  TMG Units = 31104000			Demand charges:120000x190x0.75 =1.71 Cr TMG Energy charges: 120000x0.9x720x0.2x3.15 =4.8988800 Cr  TMG Units = 15552000			Minimum charges: 120000x380 =4.56 Crore  Total = 4.56 Crore				
				Energy charges (Rs)	Demand charges (Rs)	Total (Rs)	Billing energy charges (Rs)	Billing demand charges (Rs)	Total (Rs)	Energy charges (Rs)	Demand charges (Rs)	Total(Rs)	Total Billing amount(Rs)	
1	MAR-06	84680	3394000	97977600	34200000	132177600	48988800	17100000	66088800	10691100	34200000	44891100	45600000	
2	APR-06	78720	2890000	97977600	34200000	132177600	48988800	17100000	66088800	9103500	34200000	43303500	45600000	
3	MAY-06	84320	3825000	97977600	34200000	132177600	48988800	17100000	66088800	12048750	34200000	46248750	46248750	
4	JUN-06	116320	5979000	97977600	44201600	142179200	48988800	22100800	71089600	18833850	44201600	63035450	63035450	
5	JUL-06	107840	1341000	97977600	40979200	138956800	48988800	20489600	69478400	4224150	40979200	45203350	45600000	
6	AUG-06	118320	12596000	97977600	44961600	142939200	48988800	22480800	71469600	39677400	44961600	84639000	84639000	
7	SEP-06	114000	12463000	97977600	43320000	141297600	48988800	21660000	70648800	39258450	43320000	82578450	82578450	
<b>Total : For period March' 06 to Sept '06</b>						961905600				480952800				413301650