Rajasthan Electricity Regulatory Commission, Jaipur

Petition No. RERC/2055/2022

Petition filed under section 142 of the Electricity Act, 2003 for contravention of directions contained RERC Order for Multi Year Aggregate Revenue Requirement, Tariff Petition and Investment Plan of JVVNL, AVVNL & JdVVNL for FY 2020-21 to 2023-24.

Coram:

Dr. B.N. Sharma, Chairman

Shri Hemant Kumar Jain, Member

Dr. Rajesh Sharma, Member

Petitioner	:	M/s Shree Cement Limited
Respondents	:	Jaipur Vidyut Vitran Nigam Limited
Date of hearing	:	29.11.2022 & 03.01.2023
Present	:	1. Mr. Amarjit Singh, Representative for petitioner
		2. Mr. Bipin Gupta, Advocate for Respondent
Order Date:	:	**17.01.2023**

Order

1. M/s Shree Cement Limited (hereinafter also referred to as "Petitioner") had filed a petition No. 2055/2022 on dated 07.10.2022 under section 142 of the Electricity Act, 2003 for contravention of directions contained RERC Order for Multi Year Aggregate Revenue Requirement, Tariff Petition and Investment Plan of JVVNL, AVVNL & JdVVNL for FY 2020-21 to 2023-24.
2. Jaipur Vidyut Vitran Nigam Limited (hereinafter also referred to as "Respondent" or "Discom") is the licensee in the area for distribution of electricity.
3. The matter was heard on 29.11.2022. Mr. Amarjit Singh, Authorized representative appeared for Petitioner and Sh. Bipin Gupta, Advocate appeared on behalf of Respondent. The Respondent requested the Commission for granting two weeks time to file their reply. The Commission granted two weeks time to the Respondent to file their reply with direction to deliver the advance copy to the Petitioner.
4. The Matter was finally heard on dated 03.01.2023. After hearing all the parties, order was reserved.

Petitioner's Submission:

The Petitioner in its petition, written submissions and during the course of hearing(s) submitted as under:

5. The Petitioner is a Public Limited Company incorporated and registered under the provisions of the Companies Act, 1956 and having its registered office at Bangar Nagar, Post Box No. 33, Beawer-305901, Distt-Ajmer, Rajasthan.

6. Petitioner is engaged in the business of cement manufacturing and generation of power. The cement manufacturing facilities of the company among other places located at Ras, Beawer, Khushkhera, Suratgarh and Jobner in Rajasthan.

7. Petitioner is having grinding units located at Jobner and Khushkhera which are consumers of JVVNL having K.No. 210543000302 and 210131046685 and having contract demand of 9.0 MVA and 18 MVA respectively.

8. The Commission vide its Tariff Order dated 24.11.2021 for FY 2021-22 had approved the TOD rebate and surcharge applicable on Large Industrial consumers for FY 2021-22. The para 4.1.25 of the tariff order in which the Commission had approved TOD rebate and surcharge is reproduced hereunder:

"4.1.25 In view of above the Commission has approved the following ToD rebate and surcharge for FY 2021-22:

Table 95: Approved ToD rebate and surcharge for FY 2021-22

Off Peak hours	***Rebate on EC***
12 am - 6 am (6 hours)	*15%*
Peak hours	***Surcharge on EC***
6 am to 10 am (4 hours)	*5%*

4.1.26 The above TOD rebate/surcharge shall be applicable on Large Industrial consumers (HT-5) and Electric Vehicle charging station (LT-8 and HT-6")."

9. The above para provides for rebate on Energy Charges @ 15% on energy consumption during off peak hours i.e. 12.00 AM to 06.00 AM and Surcharge on Energy Charges @ 5% on energy consumed during peak hours i.e. 6.00 AM to 10.00 AM by an industrial consumer.

10. In the above mentioned tariff order, Commission had approved power factor rebate if a consumer is able to maintain power factor above 0.95. As per the tariff order, power factor rebate shall be calculated on energy charges arrived at after availing all rebate/Surcharge. For purpose of ease the para 32 of directives is provided hereunder:

> *"32. The Commission directs that for the categories where rebates/surcharge are offered the power factor rebate/ surcharge shall be worked out on energy charges arrived at after availing all rebates/surcharge except power factor rebate/surcharge."*

11. In the above para it is clearly provided that power factor rebate will be given after considering all rebate and surcharge on energy charges which includes TOD rebate and surcharge applicable on an industrial consumer.

12. The Electricity bills raised by JVVNL for December 2021 to August 2022 for Jobner and Khushkhera unit, power factor rebate has been provided by the Discom. However, power factor rebate has been calculated after discounting the energy charges with TOD rebate applicable on petitioner. But while calculating power factor rebate, surcharge on energy charges (for consumption of energy in peak hours) has not been taken into account by the Discom.

13. This has resulted in disbursement of lesser power factor rebate as against what is envisaged in the order of the Commission.

14. From the above calculation it is evident that JVVNL did not disburse the correct amount of power factor rebate and therefore the petitioner was forced to bear a financial loss of Rs. 98038/- and Rs. 27856/- for its Khushkhera and Jobner unit for the period December 2021 to April 2022.

15. Petitioner vide its letter dated 29.03.2022 had represented before the officials of JVVNL on the above issue and informed them regarding wrong methodology adopted by JVVNL for calculation of power factor rebate.

16. JVVNL vide its letter dated 07.04.2022 had intimated the Petitioner that it has been decided that PF incentive/surcharge is to be calculated without considering TOD surcharge and therefore PF incentive given to the Petitioner is correct.

17. In view of above fact, it is evident that a wrong methodology has been adopted by JVVNL for calculating power factor rebate which is not in line with the directions of the Commission, which had resulted in disbursement of lesser power factor rebate to the Petitioner. Though the

matter was represented to JVVNL, citing violation of directions of the Commission, no compliance of the same was made by JVVNL. In such a situation the petitioner is left with no option but to file this petition before the Commission under section 142 of the Electricity Act, 2003.

Respondent's submission:

Respondent Discom in their reply submitted as under:

18. From the prayers, the petition could only be maintainable under 86(1)(f) of the Electricity Act, 2003 *(hereinafter **'Act, 2003'**)* and not 142 of the Act, 2003 and therefore on sole that count the present petition is not maintainable and deserves to be rejected.

19. Paragraph 4.6.1. of the Commission's order dated 24.11.2021 and 4.6.2 is produced as under for kind perusal:-

> *"4.6.1 During previous tariff orders the Commission introduced various rebates for certain categories of consumers which resulted into realization of lower energy charges from these consumers to Discoms.*
>
> *4.6.2 There is a provision of power factor rebate and surcharge in tariff for various categories which is worked out in terms of percentage of energy charges. There is a possibility that a consumer is availing all rebates and effectively paying lower energy charges as compared to determined tariff. If the energy charges as per tariff are considered for calculation of power factor rebate and surcharge an anomalous situation will be created in which the consumer is effectively paying lower energy charges but claiming power factor rebate or paying surcharge on higher energy charges. As such to avoid the anomalous situation, the Commission directs that for the categories where rebates/surcharge are offered the power factor rebate/ surcharge shall be worked out on energy charges arrived at after availing all rebates/surcharge except power factor rebate/surcharge."*

20. From bare reading of the above paragraph it transpires that the commission was of the view that the power factor rebate is to be calculated on the energy charges if the person is getting benefit of other rebates and paying energy charges less than the determined tariff however in case if a consumer is paying higher charges than the determined tariff, the consumer cannot be granted power factor rebate

on such surcharge because in a manner, it would amount to giving rebate on a surcharge.

21. Therefore, considering this in this manner, the Discoms have not granted any power factor rebate on the surcharge levied through TOD as this will amount to a rebate on a penalty/surcharge which cannot be the intention of the Hon'ble Commission.

Commission view:

22. Commission has considered the submissions, reply and oral arguments on behalf of the Petitioner and Respondent.

23. The Petitioner in its petition has mainly prayed for :

    i. Impart directions to JVVNL to consider surcharge levied during peak hours as part of energy charges to work out power factor rebate.

    ii. Give directions to JVVNL to refund an amount of Rs. 98038/- and Rs. 27856/- charged in excess from Khushkhera and Jobner unit respectively.

    iii. Pass such other order/s and directions as this Commission deem fit in the circumstance of the case.

24. In their submission and during the hearing, the Petitioner submitted that a wrong methodology has been adopted by JVVNL for calculating power factor rebate which is not in line with the directions of the Commission given vide Tariff Order dated 24.11.2021, which had resulted in disbursement of lesser power factor rebate to the Petitioner. The petitioner also submitted that ToD surcharge cannot be considered as a penalty as it is a part of the Tariff.

25. Per contra, the Respondent submitted that the Discoms have not granted any power factor rebate on the surcharge levied through TOD as this will amount to a rebate on a penalty/surcharge which cannot be the intention of the Hon'ble Commission.

26. The relevant para of the Commission's order dated 24.11.2021 is reproduced hereunder:

"*32. The Commission directs that for the categories where rebates/surcharge are offered the power factor rebate/ surcharge shall be* *worked out on energy charges arrived at after availing all rebates/surcharge except power factor rebate/surcharge*."

27. After careful consideration of the arguments of the Respondent, the Commission observed that Discoms have not granted any power factor rebate on the surcharge levied through TOD assuming that a rebate on a penalty/surcharge cannot be the intention of the Commission.

28. In Commission's view the ToD mechanism, though called by various names in essence is, a price signal to the consumers to shift their load from/to particular time blocks and the ToD mechanism finally affects the energy charges to be paid by the consumer. Accordingly argument of the respondent that for the purpose of allowing power factor rebate one part of ToD mechanism (ToD surcharge) is a penalty and other part of ToD mechanism (ToD rebate) is a part of tariff, does not hold water.

29. In view of the foregoing discussions, the Commission orders that the intent and direction of the Commission given vide tariff Order dated 24.11.2021 is clear and should be followed in letter and spirit and power factor rebate/surcharge shall be calculated by the Discom in the manner provided in para 32 of the tariff order dated 24.11.2021 i.e. on the energy charges arrived at after availing all rebate/surcharge and bill of the consumer, be revised accordingly.

30. Petition stands disposed of accordingly. No order as to cost.

(Dr. Rajesh Sharma) Member	(Sh. Hemant Kumar Jain) Member	(Dr. B. N. Sharma) Chairman