

Territorial Jurisdiction : State of Jharkhand

AUTHORITY OF THE ELECTRICITY OMBUDSMAN : JHARKHAND

Present: Gopal Kumar Roy
Electricity Ombudsman
2nd Floor, Rajendra Jawan Bhawan
Main Road, Ranchi- 834001.

Dated - Ranchi, the 15th day of June 2023

Appeal No. EOJ / 01 of 2021

(Arising out of judgment passed in case no. 7 of 2021 by the CGRF, Maithon)

Saluja Steel & Power Ltd.

(through its Director Mr. Satvinder Singh Saluja)

Mahtodih, Tundi Road,

Giridih : 815302

-----Appellant

Versus.

The Chief Engineer (Commercial)

Damodar Valley Corporation,

VIP Road, Kolkata-700054

-----Respondent

Counsel/Representative

On behalf of Appellant : Mr. Shashi Kumar Singh (General Manager)

On behalf of Respondent : Mr. Pramod Kumar, SDE (Electricity)

JUDGEMENT

(1) The present appeal has arisen out of the Judgement/Order passed by the learned Consumer Grievance Redressal Forum (hereinafter shall refer as CGRF), D.V.C Maithon on 29.06.2021 in Case Number-07/2021.

(2) The appellant M/S Saluja Steel & Power Pvt. Ltd. (through its Director Shri Satvinder Singh Saluja) has preferred this appeal under Regulation-14 of the Jharkhand State Electricity Regulatory Commission (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers and Electricity Ombudsman) Regulation, 2011.

(3) The appellant has sought for the following reliefs :

(i) issuance of an appropriate order/direction(s) or an appeal nature of certiorari for quashing the order date 29.6.2021 passed by the learned Chairman, Consumer Grievance, Redressal Forum, Jharkhand.

(ii) issuance of an appropriate order/direction upon the respondent to revise the energy bill for the month of February,2020 as per the JSERC section A13 Term & Conditions supply related to load factor rebate, and/or

(iii) issuance of an appropriate order/direction as may deem fit and proper in the facts and circumstance of the case and in the interest of justice.

(4) The operative portion of the impugned Order of the learned CGRF, D.V.C-Maithon reads as follows:-

“After going into the merit of the case and hearing the parties, we find that the petitioner himself admitted that the consumption unit is 7874800 KVAH and load factor is 80.001%. Hence prayed to give the benefit of 10% rebate. In this regard,

we find force in the arguments placed on behalf of the respondent that the general accounting practice is to consider up to two digits after decimal. On considering the two digits after decimal the load factor comes 80.00% and it can not be said to be more than 80%. It means it comes in the preview of load factor bracketed under 65% - 80% and the same was considered and benefit was given to the petitioner”.

(5) Grounds taken in appeal by appellant:

Satvinder Singh Saluja is the one of the directors of Saluja Steel & Power (P) Ltd. and he is authorized to file this appeal. The above-named appellant is a consumer of DVC located in the District of Giridih, Jharkhand at 33KV with a contract demand of 13200 (KVA). The appellant matter was brought to the notice of commercial department, DVC, Kolkata vide letter no. SSPL-II/19-20/DVC/254 dated 03.03.2020 followed by letter no. SSPL-II/19-20/DVC/266 dated 19.03.2020 but no response was received from the end of respondent. The appellant filed a complaint before the Consumer Grievance Redressal Forum, DVC, Maithan, Jharkhand and the same was rejected by the Chairman by the order dated 29-06-2021. The appellant also filed a letter before the Chairman, Consumer Grievance Redressal Forum, Maithan, Jharkhand on 09.02.2021 for consideration of the load factor rebate 10% instead of 5%. In terms of JSERC tariff order of DVC on true up for F.Y.2016-17, annual performance review for F.Y. 2017-18 & 2018-19 and ARR & tariff for F.Y. 2019-20 for Damodar Valley Corporation (DVC) Ranchi 28th, may 2020, Relevant section A13 Terms & Conditions of supply related to load factor rebate is appended below:

Load factor rebate will be applicable on energy charge only as given below:

Load Factor	Rebate
Below 65%	Nil
65% to 80%	5%
80% to 100%	10%

The KVAH unit consumption is 7874800 which is higher by 102.4 for computation of load factor of 80% Plus. The appellant stated and submitted that from the above that domain 80% is applicable for both the range of 65% to 80% as well as 80% to 100%. The Commercial department DVC considered 65% to 80% passing benefit of 5% instead of considering domain 80% to 100% though in order to apply principle of nature justice the appellant computed load factor and same worked out to 80.001% which means it is 80% plus.

6. Reply in counter affidavit by respondent :

(i) It is the case of the respondent that the load factor has been calculated as per provision of JSERC Supply Code Regulation 2015 SI.No.2.3 (rr), page No-8 which has pronounced the following:

“Load factor” is the ratio of the total number of units consumed during a given period to the total number of units which have been consumed had the load been maintained throughout the same period and shall usually be expressed as the following :

Load factor in percentage =

$$\frac{\text{Actual units consumed in a given period (in kWh / kVah, as applicable)} \times 100}{\text{Contracted load or actual demand (in kW/kVa, as applicable)} \times \text{No. of hours in the period}}$$

Thus accordingly, Load factor percentage of the consumer for the cons February 2020 Consumption month was calculated.

(ii) The respondent in its counter affidavit has brought into light the figures of the bill of February 2020 to find out the load factor. According to the respondent, Load Factor (in Percentage) =

$$\frac{\text{Actual units consumed in a given period (in kWh/kVah, as applicable)} \times 100}{\text{CD or MD} \times \text{No. of hours in the period}}$$

February-2020 Bill

kVah	7874800
CD(KVA)	13200
MD(KVA)	14204
Total Supply Hours	696
Total Schedule and Unscheduled Interruption Hrs.	3
Effective Supply Hour	693

$$LF(\%) = \frac{7874800 \times 100}{14204 \times 693}$$

LF(%) = 80.001044 @ 80.00 % Rounding to two digit after decimal in all energy bill of all consumer

(iii) As per the JSERC tariff Order FY 19-20 for DVC dated 28.05.2019 SI. No. A13- Term & Conditions of tariff Clause No.IV page No.-138 following has been mentioned about the Load factor Rebate.

Load Factor	Rebate
Below 65%	Nil
65%-80%	5%
80%-100%	10%

As per the above JSERC Tariff order, there is no clarification in which slab 80.00% will lie.

(iv) It is stated that JSERC Tariff Order for FY 20-21 for DVC dated 30.09.2020 SI.No.A13- Terms & Conditions of tariff Clause No.-V, page No.130 has provided the following illustration related to Load Factor rebate where Load factor percentage has been taken up to two decimal places.

Illustration: If a consumer's load factor for a given billing month is 78.50% then the percentage thus calculated (13.50%) shall be multiplied with the total energy charges corresponding to the entire energy consumption of the consumers and the

rebate amount shall be allowed. Thus, JSERC Tariff Order dated 30.09.2020 clarified to consider up to two digits after decimal.

(v) It is also stated that as per the normal accounting practice a percentage is defined as two digits after normal decimal.

It is the case of the respondent that the bill raised for the consumption month of February 2020 is appropriate and as per the JSERC Tariff Order and the consumer demand for revision of the said energy bill is liable to be rejected.

FINDINGS

7. What is Load Factor (in Electrical Engineering)

In electrical engineering the load factor is defined as the average load divided by the peak load for a specified time period. It is a measure of the utilization rate or efficiency of electrical energy usage. A high load factor indicates that load is using the electric system more efficiently, whereas consumers or generators that underutilize the electric distribution will have a low load factor.

The load factor is an indicator of how efficiently energy is being utilized. Power is expensive during peak periods. Customers who use electricity in a way that reduces or smoothes out those peaks, help put less strain on the power infrastructure. That translates to the possibility for lower rates for those customers.

In order to encourage consumption at higher load factor, the Hon'ble Jharkhand State Electricity Regulatory Commission (JSERC) has been pleased to adopt Load Factor Rebate Mechanism .The applicable Load Factor rebate, in the instant case, for DVC- True up for FY.2016-17, APR for FY 2017-18 & FY 2018-19 and ARR & Tariff FY 2019-20 was as under:

Load Factor	Rebate
Below 65%	NIL
65% - 80%	5%
80% - 100%	10%

8. Admitted/Undisputed Facts:

(i) As per JSERC Tariff dated 28.5.2019 for Financial Year 2019-20 under Clause-iv load factor Rebate, The following rebate on energy charges are applicable.

Load Factor	Rebate
Below 65 %	NIL
65 % - 80 %	5 %
80 % - 100 %	10 %

(ii) The Load Factor (in percentage) of the appellant Saluja Steel & Power Pvt. Ltd February 2020 bill was 80.001 %

9. Disputed Matter:

According to the appellant's case, the load factor for the February 2020 bill was more than 80% and hence the appellant is entitled to 10% of rebate on energy charges in place of 5% of rebate.

According to the respondent case, the Load Factor for the month of February 2020 bill was 80.001044 percent and by rounding to two digit after decimal in all energy bill of all consumers comes to 80% and for that reason the appellant is entitled for 5% of rebate on energy charges, which has already been provided.

10. Emphasis supplied during argument:

(A) Mr. Pramod Kumar, S.D.E. (Electricity) on behalf of the respondent has argued that **after decimal two digits** have been considered to find out the percentage of

load factor. It is submitted that in the instant case, the Load Factor for the bill February 2021 was 80.001044 % and after rounded it to two digits after decimal it comes to 80.00 %.

Mr. Kumar has drawn my attention towards JSERC Tariff order for the Financial Year 2020-21 for DVC dated 30.9.2020 Sl. No. A13- Terms & Condition of Tariff clause No.-V, Page No.-130 Illustration portion, where Hon'ble JSERC has considered two digits after decimal.

In reply to the argument advanced on behalf of the respondent, Mr. Shashi Kumar Sinha the General Manager of Saluja Steel Power Pvt. Ltd. has submitted that instant matter is for the Financial Year of 2019-20 and the tariff order for the F.Y 2020-21 is not applicable in this case.

(B) The appellant has not raised any point regarding 'Interruption Hours' in its representation / memo of appeal. Through the above matter has not been raised in appeal but Mr. Shashi Kumar Sinha, the General Manager of Saluja Steel Power Pvt. Ltd. has drawn my attention towards the monthly bill for the month of February,2020 (Annexure-II) submitted by the appellant and the bill (Annexure-II) submitted by the respondent along with its counter affidavit.

In annexure –II of appellant Total Unscheduled Interruption Hours has been figured as 3 while in annexure-II of respondent the same figure-3 has been shown for Total Scheduled and unscheduled Interruption Hours.

Mr. Pramod Kumar, S.D.E. (electricity) present before this authority on behalf of the respondent and had got an opportunity to go through the annexures for comparison but preferred to maintain stoic silence.

11. Ratiocination

I have gone through the three slabs of rebate on load factor. The first slab is for below 65% of load factor. The second slab starts from 65% to 80% and the third slab starts from 80% to 100%. The 80% load factor is available in both the second and third slab. If I concentrate myself in second slab, to my dogma, 80% load factor in this slab reflects : -

- (i) below 80 % (as applicable in slab one i.e. below 65 %)
- (ii) approximate 80 % or
- (iii) exact 80 % of load factor

Load factor rebate mechanism has been adopted by the Hon'ble JSERC to encourage the consumer for consumption of electricity at higher load factor. The respondent has got no explanation as to why the **“80% Exact”** load factor should not be considered for the third slab when the figure 80% is available in the third slab also. Since the third slab starts from 80% of load factor and 80% load factor is also available in the second slab, the formula of considering “two digits after decimal” should not be applicable for this purpose. In such a peculiar situation, we have to follow **percentage accuracy** in a strict sense.

What is Percentage Accuracy?

Percentage accuracy is a ratio used to describe how close a measured or observed value of a measurement or test is to the theoretical value.

Tv- True value or Theoretical Value

Ov- Observed or measured Value

To calculate a percentage accuracy, subtract the observed value from the true value, divide by the true value, multiply by 100, then subtract this result from 100. For example, if Tv is 5 and Ov is 4, the percentage accuracy (% Accuracy) shall be :-

$$\% \text{ Accuracy} = 100 - \{(Tv - Ov) \div Tv \times 100\}$$

$$\% \text{ Accuracy} = 100 - \{(5 - 4) \div 5 \times 100\}$$

$$\% \text{ Accuracy} = 100 - (1 \div 5 \times 100)$$

$$\% \text{ Accuracy} = 100 - 20$$

$$\% \text{ Accuracy} = 80\%$$

In the instant case the highest percentage of load factor for the second slab is 80 % (True Value) and the actual percentage of load factor is 80.001044 % (Observed Value).

If I adopt the figure 80.001044 as 80 in round figure, the percentage accuracy shall be as follows

$$\begin{aligned} \% \text{ Accuracy} &= 100 - \{(Tv - Ov) \div Tv \times 100\} \\ &= 100 - \{(80 - 80.001044) \div 80 \times 100\} \\ &= 100 - 0.02088 \\ &= 99.97912 \% \end{aligned}$$

I find that in such circumstances, the percentage accuracy shall be 99.9712 % and not 100 %. The deficit accuracy in calculation is (-) 0.02088 %.

I find and hold that to consider 80.001044 as 80%, as considered by respondent and confirmed by the learned CGRF DVC Maithon, reflects inaccuracy. The percentage accuracy remains 99.97912% and not 100%. There is a deficit by (-) 0.02088% inaccuracy.

Since the respondent has admitted that the load factor of February 2020 was 80.001044% and the respondent had considered it as 80% rounded, I find that the respondent has left 0.0208% inaccuracy.

I find and hold that the learned CGRF DVC Maithon has committed an error in holding that 80.001% of load factor shall fall under the bracketed slab of 65% to 80%. In a strict sence , as discussed above, I find that the figure has crossed the bracket of 65% to 80% of load factor. The appellant is entitled to rebate, as prescribed in third slab, on this load factor. The impugned judgement of the learned CGRF DVC Maithon is liable to be set aside.

I find and hold that the consumer appellant is entitled to 10% of rebate on its 80.001044% of load factor for the bill of February 2020.

12. In view of my findings and comments made above, it is therefore

ORDERED

that the appeal be and the same is

ALLOWED

on contest in favour of the appellant and against the respondant. The impugned order / judgement of the learned CGRF DVC Maithon is hereby set aside. The respondent is directed to generate a fresh energy bill for the month of February 2020 by providing 10% of load factor rebate. There shall be no order of cost. The parties shall bear their own cost.

Let a copy of this judgement be supplied to the parties.

(Dictated & Corrected by me)

Pronounced by me

(G. K. ROY)

(GOPAL KUMAR ROY)

Electricity Ombudsman