

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 268/2009

Coram

- 1. Dr. Pramod Deo, Chairperson**
- 2. Shri S. Jayaraman, Member**
- 3. Shri V. S. Verma, Member**

DATE OF HEARING: 17.12.2009

DATE OF ORDER: 11.1.2010

In the matter of

Review and modification of Central Electricity Regulatory Commission (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2009

And in the matter of

Indian Sugar Mills Association, New Delhi

.. Petitioner

The following were present:

1. Shri. K. V. Balakrishnan, Advocate, ISMA
2. Shri M N Rao, ISMA
3. Shri Durga Prasad, ISMA
4. Shri K N Ranasaria ISMA
5. Shri Anil Gupta ISMA

ORDER

The petitioner has sought the following reliefs through this petition:

(a) The CDM revenue sharing with the distribution utility should not be allowed.

(b) The bagasse price need to be determined on the basis of weighted average of bagasse price during the season & off season

2. Briefly, the background of the case is as under:

(a) The Commission had published a draft notification of the Central Electricity Regulatory Commission (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2009 (the regulations) vide notification dated 15.5.2009.

(b) Subsequently, the draft regulation was amended by incorporating therein the norms for Solar PV and Solar Thermal technology and the amended regulation was published vide notification dated 1.7.2009 seeking comments/suggestions/objections.

(c) A public hearing was held on 22.7.2009 for considering the views of the stakeholders.

(d) The regulations were finalized taking into consideration the comments/suggestions/objections received in response to the public notice and in the public hearing and notified on 16.9.2009.

(e) The petitioner has sought amendment of the regulations on the provisions relating to CDM benefit sharing mechanism and bagasse price determination mechanism.

3. According to the petitioner, CDM benefit to a project developer is one of the main criteria while conceiving planning and implementing the project and the developers accordingly have proceeded on the assumption that the benefits of CDM in its entirety would accrue to them. It has been submitted that the provisions relating to sharing of the above benefit with Distribution Company, would lead to dislocation of the investment already made.

4. The petitioner has further alleged that the Commission has not accepted the options given by it for determination of bagasse price and has arbitrarily reduced the price of bagasse by evaluating it on cost of calorific value of coal by considering pit head located power generation units.

5. Learner counsel for the petitioner submitted that the material submitted by the petitioner was not considered at the time of finalizing the regulations.

6. Having heard the Petitioner and after considering the materials available on record, we find that the above contention is not supported by the materials available on record. Submissions by the stakeholders on both the issues raised in the petition were duly considered by the Commission before finalizing the regulations.

7. As regards the mechanism for sharing of CDM benefit, the Commission has observed as under in the Statement of Reasons dated 7.10.2009-

“25. Sharing of CDM Benefits

25.1 In the draft regulations it has been proposed to share the CDM benefits availed if any, by RE projects between generating company and the off-takers. In the first year 100% will be retained by the project developer and from second year onwards the share of the beneficiaries shall be 10% which shall be progressively increased by 10% every year till it reaches 50%, where after the proceeds shall be shared in equal proportion, by the generating company and the beneficiaries.

25.2 A number of stakeholders have submitted that the CDM benefit should not be shared as entire risk is borne by the project developers. Further some stakeholders have suggested that minimum RoE from the power generation should be ensured to the project developers before sharing the CDM benefits.

25.3 As regards sharing of CDM benefits, the Commission has taken due consideration to the stipulations made under the tariff policy, recommendations by Forum of Regulators (FOR) under its Report on Policies for Renewable Energy and the similar provision in the tariff regulations for conventional power. The same has been incorporated under the final Regulations.”

8. The Commission has clarified the following reasoning for the methodology adopted in the regulations for determination of Bagasse price:

“53. Fuel Cost

53.1 The comments received by various stakeholders in this regard are as under:

- To consider the fuel cost for Bagasse based Cogeneration Power Projects as Rs950/MT.*
- To consider the price of bagasse to be Rs1378/MT considering 6% escalation.*
- Fuel price should be actually around 20% higher than the prices achieved by the large thermal power plants and the fuel price escalation should be linked with the price of coal.*

- To consider a fuel rate of Rs25/ltr with heat value of 8750kCal/ltr against Rs1/kg with heat value of 2250kCal/kg.
- To review the prices of bagasse as it does not reflect the market price.
- Cost of bagasse in some states such as M.P., A.P., and U.P. etc. appears to be on lower side.

53.2 The Commission would like to clarify that in order to compute the fuel price of bagasse for respective States the Commission has adopted 'equivalent heat value' approach for landed cost of coal for thermal Stations for respective States. For this purpose, the Commission has considered the landed cost and calorific values of coal as approved by the respective State Electricity Regulatory Commission while determining the generation tariff of the respective State Utility. As the approved fuel prices pertain to FY 2008-09 in most States, the bagasse prices so derived has been escalated based on fuel price indexation mechanism stipulated under the Regulation to derive fuel prices during first year of the Control Period (i.e. for FY 2009-10).

53.3 As suggested by the stakeholders, the Commission has reviewed the price of cogeneration for the respective States on the basis of available facts and the same has been reflected in the final regulations.”

9. From the foregoing, it is evident that the contention as raised that the issues raised in the present petition were not considered while finalizing the regulations is not true. In view of the above, the Commission is not inclined to review or modify its subject regulations particularly when the issues raised in the present petition have been considered by the Commission and a conscious and reasoned decision has been arrived thereon. The petition, therefore requires to be and is hereby dismissed as not maintainable.

10. Petition No. 268/2009 is disposed of in terms of the above.

sd/-
(V.S. VERMA)
MEMBER

sd/-
(S. JAYARAMAN)
MEMBER

sd/-
(Dr. PRAMOD DEO)
CHAIRPERSON