

Before the Rajasthan Electricity Regulatory Commission

Petition No. RERC/1909/21, 1913/21, 1915/21 and 1916/21

Petitions filed by M/s Transtech Green Power Pvt. Ltd. & Ors. under Section 94 (1) (f) of the Electricity Act, 2003 for Review of Commission's order dated 23.03.2021 passed in the matter of determination of generic tariff for Biomass based power plants for FY 2020-21 & 2021 -22.

Coram:

Dr. B.N. Sharma,	Chairman
Sh. S. C. Dinkar,	Member
Sh. Prithvi Raj,	Member

Petitioners:

M/s Transtech Green Power Pvt. Ltd
M/s Sathyam Green Power Projects Ltd.
M/s Orient Green Power Company Rajasthan Pvt. Ltd.
M/s Sanjog Sugars and Eco-Power Pvt. Ltd.

Respondents:

Rajasthan Urja Vikas Nigam Ltd. & Ors.

Date of hearings:

17.06.2021 and 24.06.2021

Present:

Sh. Amitabh Tandon, Director for M/s Transtech Green.
Sh. Anand K Ganesan, Advocate for M/s Sathyam Green.
Sh. Punit Singhvi, Advocate for M/s Orient Green.
Sh. Prahlad Singh, Managing Director for M/s Sanjog Sugars.
Sh. Bipin Gupta, Advocate for Respondents.

Order date:

07.07.2021

ORDER

1. M/s Transtech Green Power Plant Pvt. Ltd having 12 MW biomass-based power plant at Sanchhore Distt. Jalore has filed the petition No. RERC/1909/21 under Section 94 (1) (f) of the Electricity Act, 2003 for Review of Commission's Order dated 23.03.2021 passed in the matter of determination of generic tariff for Biomass based power plants for FY 2020-21 & 2021-22 on 09.04.2021.
2. Subsequently, M/s Sathyam Green Power Projects Ltd. (Petition No. RERC/1913/21), M/s Orient Green Power Company (Rajasthan) Pvt. Ltd.,(Petition No. RERC/1915/21) and M/s Sanjog Sugars and Eco-Power Pvt. Ltd. (Petition No. RERC/1916/21) having their biomass power plants also filed the petitions on dates 14.05.2021,01.06.2021 and 05.06.2021 respectively.
3. Respondent RUVNL filed their replies in the matter of M/s Transtech Green Power Plant Pvt. Ltd on 15.06.2021 and in other three matters on 23.06.2021.M/s Transtech Green Power Plant Pvt. Ltd filed their rejoinder to replies on 22.06.2021, M/s Orient Green Power Company (Rajasthan) Pvt. Ltd filed their rejoinder to replies on 24.06.2021, M/s Sathyam Green Power Projects Ltd. and M/s Sanjog Sugars and Eco-Power Private Limited filed their rejoinders on 28.06.2021. M/s Transtech Green Power Plant Pvt. Ltd. And M/s Sathyam Green Power Projects Ltd. also filed the Interlocutory Application (IA) - I.A. No.1/1909/2021 and I.A. No. 1 /1913/2021 for early hearing in the matter.
4. The matter was listed for hearing through video conferencing on 17.06.2021. Sh. Bipin Gupta, the Counsel of Respondents submitted that he has filed reply to the petition filed by M/s Transtech Green Power Ltd. and requested for time to file reply for other three petitions. The

Commission directed Respondents to file reply within seven days and post the matter on 24.06.2021 for final hearing. Both IAs filed for early listing were also disposed of accordingly.

5. The matter was finally listed on 24.06.2021 and the matter was heard through video conferencing.

6. As the issues involved in all four petitions are common, therefore, these are being disposed of through this common order.

7. Petitioners in their petitions, rejoinders to reply and during hearing submitted as under:

7.1. As per Clause 9 to 19 of the Generic Tariff Order dated 23.03.2021 issued by the Commission, Generic Tariff approved is applicable only on the Biomass power new plants to be commissioned in the State during FY 2020-21 & FY 2021-22 and only factor which would change in fixing the variable cost of the old plant is the fuel cost as decided by the State Level Committee. This is evident from Para 11 and 13 of the order which read as under:

"11. However, the Fuel cost has been kept same for old as well as new plants as the fuel price is approved based on recommendation of the state level Committee constituted by the Commission consisting of representatives of Nodal agency, State government, Distribution licenses and any other organization as decided by the Commission."

"13. Hence the Generic Tariff order determined in this Order shall be applicable for projects getting commissioned in the first year and second year of control period."

7.2. The norms laid down in the Order dated 23.03.2021 will apply only to the new plants, which will be set up in the State in the respective control periods in accordance with the para 50 of the Order which reads as under:

"50. The tariff determined through this Order shall be in force from 1.04.2020 and 1.04.2021 for plants getting commissioned during FY 2020-21 and FY 2021- 22. The variable cost determined for FY 2021-22 shall also remain applicable as interim till a further Order is issued in this respect. The Fixed charges determined for FY 2021-22 in this order shall also remain applicable for FY 2022-23 till the same are determined.

7.3. The fuel cost as provided in Regulation 43 of RE Tariff Regulations, 2020 is one of the inputs for the computation of the variable charges along with the other variables for these charges such as Station Heat Rate, Gross Calorific Value and Auxiliary Consumption Factor as per Regulation 46 which are as follows:

"46 Variable Charges

46.1 The variable charges for the relevant year shall be determined as under:

VC = [Station Heat Rate (SHR)/Gross Calorific Value (GCV)] x [1/(1 - Aux

Consum. Factor)] x (P/ 1000)

P = Fuel price in Rs. per Metric Tonne applicable for the relevant year and as determined as per Regulation 43."

7.4. It is evident from the above, the variable charges involve the Station Heat Rate (SHR), Gross Calorific Value (GCV), Auxiliary Power Consumption (APC) and the fuel price of the biomass fuel determined as per Regulation 43. Therefore, while the fuel price for old projects and new projects in terms of Regulation 43 remains constant, the variable charges computed in terms of Regulation 46 would be applicable only

for the new projects that get commissioned post coming into force of the Regulations. In the present case, the order dated 23.03.2021 is applicable for projects that are commissioned in the FY 2020-21 and FY 2021-22.

- 7.5. Further, Para 49 of the order mentions about the provisions of Regulations 43 of the RE Tariff Regulations, 2020, which further clarifies that the variable charge has been changed only to the extent of fuel cost. Regulation 43 is reproduced as under:

"43 Fuel Price

43.1 Biomass fuel price shall be Rs. 2,958.25/MT for FY 2020-21. This price shall be subject to revision prospectively during the course of the year through a separate order based on recommendation of the State Level Committee constituted by the Commission consisting of representatives of Nodal Agency, State Government, Distribution Licensee and any other organisation as decided by the Commission. The Committee shall recommend biomass fuel price once in every two years based on the fuel study conducted by RRECL. The State Level Committee shall also recommend the annual escalation in the Biomass fuel price for the year immediately following the year for which the fuel price has been recommended by it based on the fuel study conducted by RRECL. Thereafter, the fuel cost including annual escalation would again be revisited by the Committee taking into account the prevailing market conditions, and the cycle would continue till the end of the Control Period:

Provided that the fuel cost arrived at as above shall be applicable to the Biomass power plants commissioned during the current Control Period (s) and also during the earlier Control Period FY 2009-15 and FY 2015-20."

7.6. It is evident from the above, that the Hon'ble Commission has referred to Regulation 43 to hold that the biomass fuel price of Rs. 2958.25/MT is also applicable for Biomass Power Plants commissioned during the earlier control period of FY 2009-15 and 2015-20. However, in the next sentence, the Hon'ble Commission has inadvertently used the expression 'variable charge', which has been made applicable to the Biomass Power Plant commissioned during the earlier control periods, with the fixed cost remaining the same. The last sentence of the para also mentions the other terms and conditions stipulated during the relevant year being applicable to plants commissioned during the earlier control periods of FY 2009-15 and 2015-20. Further, para 50 emphasises and makes it clear that the Order is applicable to plants getting commissioned during FY 2020-21 and FY 2021-22. Further, the expression 'variable charge' used in Clause 49 appears to be an inadvertent error as it is evident from the reference to Regulation 43 in the immediate proceedings sentence.

7.7. Despite there being clear mandate in the Order that it is applicable only to the new plants, Rajasthan Urja Vikas Nigam Limited ('RUVNL') has been applying the said Order to the old plants also particularly in view of Clause 49 of the said Order which reads as under:

"49. In terms of the provisions of the Regulation 43 of the RE Tariff Regulations 2020, the Biomass fuel price of Rs. 2958.25/MT is also applicable to the Biomass power plants commissioned during the earlier periods of FY 2009-15 and FY 2015-20. Hence, the variable charge determined under this Order for FY 2020-21 and FY 2021-22 shall also be applicable for the Biomass power plants commissioned during the earlier periods with fixed charges remaining the same as determined earlier through the respective tariff order(s) for the Biomass based power plants commissioned in

the relevant year with other terms and conditions stipulated therein being applicable."

- 7.8. In view of the above, clarification is needed in Clause 49, which is being interpreted wrongly by Rajasthan Urja Vikas Nigam Limited (RUVNL) that the variable cost of old plants would be also fixed on lower SHR values as per Order dated 23.03.2021 and this would be applicable on old plants also, whereas, the Order clearly mentions that the generic tariff is for plants, which would be set up in future control period i.e., FY 2020-21 and FY 2021-22. It is submitted that the entire Order is to be read as a whole. Clause 49 cannot be read in isolation and given effect independently, it is also required to be read in conjunction with other clauses of the Order more particularly Clause 50 of the said Order.
- 7.9. The fuel price is yet to be revised by the State Level Committee and the old Fuel price of Rs. 2958 per Ton as decided by the State Level Committee in 2019 is continuing for old plants, hence the variable cost also remains the same as fixed earlier for old plants. It is, therefore, requested to clarify that there is no change in the tariff of old plants fixed under earlier Regulations. Once the fuel cost is decided by the State Level Committee, the variable cost would be revised as per the fuel cost decided and fixed.
- 7.10. Station Heat Rate (SHR) is one of the factors for fixing the variable cost along with fuel cost as decided by the State Level Committee. SHR of old plants would be same as fixed in the applicable Regulations of 2009 and 2015, when the plants were commissioned. Similarly, the SHR for the petitioner's plants would be the same as was existing in the Regulations when the plant has been set up. SHR is a purely technical parameter which depends upon the technology and the type of plant and

machinery available and the time when the plant has been set up. In these circumstances, the new SHR norms cannot be imposed on earlier plants and only parameter, which would change in fixing variable cost for Old plants would be the fuel cost as decided by the State Level Committee. This has also been clearly mentioned by the Hon'ble Commission under Clause 11 of the Order.

7.11. Further, Air Cooled Condenser (ACC) technology of the Biomass power plant utilizes more power, and its efficiency is less as compared to Water Cooled Condenser (WCC), however, generates less vacuum than WCC. Higher the vacuum the generation of electricity would be more and because of these reasons the SHR of ACC plants have always been kept higher than WCC plants. It is, thus, requested to clarify that plants using ACC in the State would be allowed higher SHR as fixed in the earlier Regulation, else in the future power developers would switch again to WCC, which for the State perspective is not very encouraging as saving water is essential requirement for Rajasthan. By not mentioning SHR for ACC separately, it would discourage developers to use ACC in the future.

7.12. The impact of change in SHR norms in the variable cost of the existing and new plants are as follows:

Sl. No.	Description	Old Tariff (Installed before FY 2020-21)	New Tariff (Installed after FY 2020-21)
For ACC based plants			
1	Variable Cost Rs.	4.39	4.15
2	Station Heat Rate (SHR)	4440	4200
For WCC based plants			
1	Variable Cost Rs.	4.06	4.06

Sl. No.	Description	Old Tariff (Installed before FY 2020-21)	New Tariff (Installed after FY 2020-21)
2	Station Heat Rate (SHR)	4200	4200

7.13. M/s Orient Green Power Company (Rajasthan) Private Limited submitted that Appellate Tribunal for Electricity in its judgement dated 23.11.2006 had held that the Vintage Generating Stations cannot have same Station Heat Rate. The relevant extracts of the judgement are as follows:

"24. Point C: Whether the claim of station heat rate should be allowed uniformly? Nextly, the learned Counsel for the Appellant advanced arguments and contended that the first Respondent Commission ought not to have fixed the station heat rate for the vintage generating stations at the same level as applicable to a newer generating station. The older generating stations, by the passage of time, station heat rate of such old generating stations would further fall and deteriorate. The same cannot be held to be a deficiency on the part of the Appellant. The problem of higher station heat rate is common to all the generating stations throughout India, which factor has been taken note of by various Regulatory Commissions and the CEA, where the generators have been permitted realistic norms. In fact the CERC has allowed higher station heat rates, so also other regulatory Commissions approved higher station heat parameters. That being a decision, it is contended that there is neither reason nor rhyme for the first Respondent to have acted differently."

7.14. The Petition in fact is primarily for clarification of the order dated 23.03.2021 passed by the Commission, as more fully detailed in the Petition. The Commission has also the power to review its order, apart

from the power to clarify and rectify mistakes in its orders. Therefore, Petition is maintainable and deserve to be allowed.

- 7.15. In the above circumstances and in view of the position taken by RUVNL that the operating parameters and the resultant computation of variable charges would also be made applicable to the existing projects of the Petitioners, the Petitioners have been constrained to prefer the present petitions before the Hon'ble Commission seeking clarification/review of the order dated 23.03.2021, as regards the applicability of variable charges determined in the order to the existing plant of the Petitioners and applicability of higher SHR for ACC based biomass power plants as has been done in the past Regulations.
- 7.16. In view of the above, it is prayed in the Petitions as under:
 - 7.16.1. To allow the present petition and to clarify/review the Order dated 23.03.2021 as per the submission made in the petition.
 - 7.16.2. Clarify that it is only the fuel cost determine in the order dated 23.03.2021 which would be applicable to the projects commissioned prior to 01.04.2020 in accordance with Regulation 43 of the RE Regulations and not the variable charges as determine under Regulation 46.
 - 7.16.3. To clarify that only norms for changing the variable cost for old plants commissioned during the validity of Regulations 2009 and 2015; prior to issuance of Regulation 2020 would be the fuel cost as decided by the State Level Committee.

- 7.16.4. To clarify that since the fuel cost of old plants is the same as was existing last year and therefore the variable cost remains the same as per last year and there is no change in the variable cost for Old plants in the State till the fuel price is received from State Level Committee.
- 7.16.5. To clarify that the SHR for both Air-cooled Condensing plants and Water-Cooled condensing plant for old plants would be as per the values fixed in the Regulations when the plant has come up. New SHR Norms for future plant are not applicable to old plants set up in earlier Regulation having different SHR norms as per technology and plant and equipment existing at that time.
- 7.16.6. To further clarify that for new plants the higher SHR for ACC plants as decided and fixed in the earlier Regulations would be applicable. Further prescribe the SHR for ACC plants separately.
- 7.16.7. To declare any action of deductions from Bills of old plant as recovery of variable cost paid in FY 2020-21 by Rajasthan Urja Vikas Nigam Limited as illegal and invalid.
- 7.16.8. To direct RUVNL to pay the variable charges to the petitioner by applying only the fuel cost of Rs 2958.25/MT to the operating parameters of the Petitioner's Project.
- 7.16.9. To direct Rajasthan Urja Vikas Nigam Limited to continue to make future payment to old plants as per the old variable cost till the time the new fuel price is recommended by the State Level Committee.
8. Respondents in their reply submitted as under:
 - 8.1. The present petition is filed under Section 94(1)(f) of the Electricity Act,

2003 which is maintainable only if there is an error apparent on the face of record and as per provisions of Order 47 Rule 1 CPC, none of the grounds exists or pleaded by the petitioner for getting the Order reviewed and in absence of the grounds as provided under Order 47 Rule 1 CPC, present petition calling upon for review is not maintainable and deserves to be rejected.

- 8.2. The heading of the Order dated 23.03.2021 itself provides that it is "in the matter of determination of generic tariff for sale of electricity to distribution licensee from Biomass, Biogas and Biomass Gasifier based power plant getting commissioned in the State during FY 2020-21 and FY 2021-22 and revised variable charges of the Biomass Power Plant commissioned during the period 2009-2015 and 2015-20". Bare reading of the above heading is sufficient to show that the Commission vide order dated 23.3.2021 has not only determined the generic tariff but had also considered the revising of the variable charges of the Biomass Power Plant commissioned during the period 2009-2015 and 2015-2020. Thus, the Hon'ble Commission vide Order dated 23.3.2021 had passed two orders simultaneously.
- 8.3. Para Nos. 9 to 13 of the Order dated 23.03.2021 relied by the petitioner talk only about generic tariff order not to be applicable on plants set up under 2009 and 2015 Regulations. The Commission vide Order dated 23.03.2021 under its power of revision of variable charges of Biomass Power Plant commissioned during the period 2009- 2015 and 2015-2020 have revised the variable charges under para 49 of the Order.
- 8.4. In terms of the Para 49 of the Order, the Commission in its wisdom have revised the variable charges of the power plant commissioned from 2009 to 2015 and 2015 to 2020 and have determined the variable

charges same as that of FY 2020-21 and FY 2021-2022 and fixed charges have been kept same for such plants as determined in respective tariff orders of the relevant years. There is no ambiguity under the Order passed by the Commission in Para No.9 to 13 and Para No.49 for the reasons that under Para No.9 to 13, it talks about generic tariff order whereas Para No.49 only talks about revised variable charges and therefore, the review petition is liable to be rejected.

- 8.5. The petitioner has not pleaded any of the grounds as provided under Order 47 Rule 1 CPC and in absence of any of the grounds provided under Order 47 Rule 1 CPC, the present petition is not maintainable and is liable to be rejected.
- 8.6. The regulation 46 in the formula does not provide SHR of the relevant year, therefore, while computing variable charges, the regulation provides SHR and therefore, also the revision of variable charges in terms of regulation 43 and 46 of the Regulations 2020 under para 49 of the tariff order dated 23.03.2021 is justified.
- 8.7. The Respondents have not applied the generic tariff determined for the year FY 2020-21 which has been determined by the commission vide Order dated 23.03.2021. The answering respondents are applying Clause 49 which clearly mandates that the variable charge of the plant commissioned in the years 2009-15 and 2015-20 will be same as variable charges determined under the Order dated 23.03.2021.
- 8.8. The SHR is fixed by Regulation and therefore regulation cannot be challenged in a petition under Section 94(l)(f) and therefore, the petition is liable to be rejected.

Commission's view

9. We have considered all the submissions, documents made by the parties and arguments made during the course of hearings.

10. In their submission, Petitioners have vehemently submitted that it is only the fuel cost in terms of Regulation 43 which is applicable to all the power plants old as well new power plant not the variable charges, which are to be computed for the old power plants in accordance with parameter/norms specified in the Regulations applicable, when the respective plant was commissioned except fuel cost, which is to be governed in terms of Regulation 43 of the RERC RE Tariff Regulations 2020. It was submitted that in para 49 words "variable charges" have been inadvertently mentioned instead of words "fuel cost". In view of this Commission clarification/review of para 49 of order dated 23.03.2021 is required.

11. Respondent in their rival contentions have submitted that the Commission vide its order dated 23.03.2021 has not only determined the generic tariff but also considered the revising of the variable charges of the Biomass power plants commissioned during the period 2009-2015 and 2015-2020. Thus, Commission vide order dated 23.03.2021 had passed two orders simultaneously, Para 49 of the order dated 23.03.2021 clearly mandates that variable charges of the plants commissioned in the year 2009-15 and 2015-20 will be the same as variable charges determined in the order. They are applying para 49 of the order, which clearly mandates that the variable charges of the plant commissioned in the year 2009-15 and 2015-20 will be same as variable charges determined under the order dated 23.03.2021. Thus, no review is required.

12. Respondents also submitted that the present petition is maintainable only if there is an error apparent on the face of record and as per provisions of Order 47 Rule 1 CPC, none of the grounds exists or pleaded by the petitioner for getting the Order reviewed and in absence of the grounds as provided under Order 47 Rule 1 CPC, present petition for review is not maintainable and deserves to be rejected. Per contra the petitioners submitted that inadvertent error or omission is apparent on the face of record, and it is fit case for review.
13. After going through arguments of the petitioners and respondents the following two issues raised in respect of the Generic Tariff Order dated 23.03.2021 needs our consideration

Issue 1 – Variable Charges of Biomass Power Plants commissioned during FY 2009-15 and FY 2015- 20

14. The Commission vide its order dated 23.03.2021 at para 10 to 13 dealing with suggestion of applicability of generic tariff order for old plants already set up under 2009 & 2015 Regulations has observed as under:

"10. Regulation 3.3 of RERC RE Tariff Regulations, 2020 already provides that the tariff and other terms and conditions applicable to existing RE Projects supplying power to Distribution Licensee(s) shall be governed by the provisions of the applicable Regulations or Tariff Orders issued by the Commission from time to time.

11. However, the Fuel Cost has been kept same for old as well as new plants as the fuel price is approved based on recommendation of the State Level Committee constituted by the Commission consisting of representatives of Nodal Agency, State Government, Distribution Licensee, and any other organisation as decided by the Commission.

12. Further, the Draft Generic Tariff Order clearly mentions that the tariff determined will be applicable for projects commissioned during this period as follows:

“Accordingly, the tariff proposed to be determined for the first year of the control period, shall be applicable for the Projects commissioned during the period from April 1, 2020 till March 31, 2021 and for the second year of the control period, shall be applicable for the Projects commissioned during the period from April 1, 2021 till March 31, 2022. The tariff so determined shall continue to be applicable for the entire duration of the Tariff Period. “

13. Hence, the Generic Tariff Order determined in this Order shall be applicable for Projects getting Commissioned in first and second year of the control period.”

15. It is observed that Regulation 3.3 of RE Tariff Regulations, 2020 stipulates as follows:

“The tariff and other terms and conditions applicable to existing RE projects supplying power to Distribution Licensee(s) shall be governed by the provisions of the applicable Regulations or Tariff Orders issued by the Commission from time to time.”

Hence, it is clarified that the Station Heat Rate and Auxiliary Consumption norms for existing Biomass based power projects commissioned during FY 2009-15 and FY 2015-20 shall be governed by the provisions of applicable Regulations or Tariff Orders issued by the Commission from time to time.

16. It is further observed that Regulation 43 of RE Tariff Regulations, 2020 stipulates as follows:

“43. Fuel Price

Biomass fuel price shall be Rs. 2,958.25/MT for FY 2020-21. This price shall be subject to revision prospectively during the course of the year through a separate order based on recommendation of the State Level Committee constituted by the Commission consisting of representatives of Nodal Agency, State Government, Distribution Licensee and any other organisation as decided by the Commission. The Committee shall recommend biomass fuel price once in every two years based on the fuel study conducted by RRECL. The State Level Committee shall also recommend the annual escalation in the Biomass fuel price for the year immediately following the year for which the fuel price has been recommended by it based on the fuel study conducted by RRECL. Thereafter, the fuel cost including annual escalation would again

be revisited by the Committee taking into account the prevailing market conditions, and the cycle would continue till the end of the Control Period:

Provided that the fuel cost arrived at as above shall be applicable to the Biomass power plants commissioned during the current Control Period (s) and also during the earlier Control Period FY 2009-15 and FY 2015-20."

17. On perusal of the provision of Regulations and relevant paras of the order dated 23.03.2021 reproduced above, it is abundantly clear that intention of the order was that the fuel cost shall be same for both sets of biomass power plants- old as well as new i.e., those getting commissioned after coming into effect of the RERC RE Tariff Regulations. In the past the Commission has been determining the variable charges for the Biomass Power plants commissioned during the earlier periods of FY 2009-15 and FY 2015-20 considering the fuel price as applicable for the year and considering the performance parameters such as Station Heat Rate (SHR) and Auxiliary Consumption as per the provisions of the applicable Regulations during the period in which such plants were commissioned. The intention of the Regulation as well as order dated 23.03.2021 is to allow SHR of plants as per the Regulation prevailing at the time of their Commissioning.
18. It is, however, observed that the applicability of variable charges for the above category of the plants vide para 49 of the order dated 23.03.2019 has been contested. The para 49 of the order dated 23.03.2021 reads as under:

"49. In terms of the provisions of the Regulation 43 of the RE Tariff Regulations 2020, the Biomass fuel price of Rs. 2958.25/MT is also applicable to the Biomass power plants commissioned during the earlier periods of FY 2009-15 and FY 2015-20. Hence, the variable charge determined under this Order for FY 2020-21 and FY 2021-22 shall also be applicable for the Biomass power plants commissioned during the earlier periods with fixed charges remaining the same as determined earlier through the respective tariff order(s) for the Biomass

based power plants commissioned in the relevant year with other terms and conditions stipulated therein being applicable."

19. Further, when the Regulation 43 and para 49 as above are read together, it is observed that in the second sentence it is inadvertently mentioned that *"hence, the variable charge determined under this Order for FY 2020-21 and FY 2021-22 shall also be applicable for the Biomass power plants commissioned during the earlier periods"*. Hence, the Commission agrees with the Petitioner that there is an inadvertent error in Para 49 of the Generic Tariff Order and hence the Review Petition filed by the Petitioner is admissible on this issue.
20. As per the provisions of regulation 43 of the RE Tariff Regulations 2020, the fuel price for new biomass power plants and biomass power plants commissioned during the earlier periods will remain same and not the variable charge. This has to be given effect accordingly for which there is a requirement of clarity.
21. It is observed that Commission vide order dated 15.01.2020 has determined the variable charges applicable for FY 2019-20 for the Biomass power plants commissioned earlier [during the periods FY 2009-15 to FY 2015-20]. Further, as per the framework provided for determination of biomass fuel price under the Regulations, the State Level Committee has not proposed any escalation in the fuel price for FY 2020-21 and the Fuel price for FY 2020-21 will be the same as for FY 2019-20, therefore, the variable charges determined for FY 2019-20 shall also remain applicable for FY 2020-21. Further, the same variable charges will remain applicable for FY 2021-22 as interim till the fuel price is determined by the Commission based on the recommendations of the State Level Committee.

22. In view of the foregoing discussion, the para 49 of the order dated 23.03.2021 shall be read as under:

"49. In terms of the provisions of the Regulation 43 of the RE Tariff Regulations 2020, the Biomass fuel price of Rs. 2958.25/MT is also applicable to the Biomass power plants commissioned during the earlier periods of FY 2009-15 and FY 2015-20 for FY2020-21. Hence, the variable charge for FY 2020-21 shall remain the same as applicable for FY 2019-20 for these plants. The same variable charges shall also remain applicable for FY 2021-22 as interim till a further Order is issued based on the biomass fuel price recommended by the State Level Committee in this respect. The fixed charges will remain the same as determined earlier through the respective tariff order(s) for the Biomass based power plants commissioned in the relevant year with other terms and conditions stipulated therein being applicable."

23. Hence, in terms of the above it is clarified that the variable charges determined for FY 2019-20 vide the Generic Tariff Order dated 15.01.2020 will be applicable for the Biomass power plants commissioned during the earlier periods of FY 2009-15 and FY 2015-20 for the FY 2020-21. The same shall also remain applicable for FY 2021-22 as interim till the change in fuel cost, which shall be subject to revision based on the recommendations of the State Level Committee.

Issue 2 – Revision in SHR for Air Cooled Condensing Plants:

24. With regards to specifying higher SHR norms for new Biomass power plant using Air-cooled Condenser in the State separately, the Commission is of the view that in the RERC RE Tariff Regulations, 2020, the Commission has fixed SHR norms in line with CERC RE Tariff Regulations, 2020, after considering all aspects. Further, the norms have been framed after following due consultation process. The same cannot be changed through the present petitions. Further, the norms as per RE Tariff Regulation, 2020 will be applicable for Project commissioned during the Control Period defined in RE Tariff Regulations,

2020. Therefore, the issue of revision of SHR norms for new Biomass based power plants in the State does not qualify for review and therefore, needs to be rejected.

25. Rajasthan Urja Vikas Nigam Limited (RUVNL) is directed to make payment for variable charges for FY 2020-21 to the old plants at the same rate approved in Generic Tariff Order dated 15.01.2020 for FY 2019-20 and not to recover the variable charges already paid for the FY 2020-21. If recovery has already been made, the same may be refunded within one month from the date of this order. Further, the same variable charges as above shall also be applicable FY 2021-22 till the time the Commission issues a revised order based on the new fuel price recommended by the State Level Committee.

26. The petitions stand disposed of in the above terms.

(Prithvi Raj)
Member

(S.C. Dinkar)
Member

(Dr. B.N. Sharma)
Chairman