

**BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION
BAYS No. 33-36, SECTOR-4, PANCHKULA- 134112, HARYANA**

Case No. HERC/RA-20 of 2019

**Date of Hearing : 19.02.2020
Date of Order : 19.02.2020**

In the Matter of

Application under Section 94(1)(f) of the Electricity Act, 2003 read with Regulations 57 and 65 of the Haryana Electricity Regulatory Commission (Conduct of Business) Regulations, 2009 for review/ modification of the order dated 25.06.2019 passed by this Hon'ble Commission in Case No. HERC/PRO-33 of 2019 in Petition filed by Haryana Cooperative Sugar Mills Ltd seeking revision of the unit rate of power exported to Uttar Haryana Bijli Vitran Nigam, as being given to one M/s Naraingarh Sugar Mills Ltd., along with arrears of the revised unit rate w.r.t. the power supplied since 01.04.2012 along with interest @ 8% P.A.

Petitioner: Haryana Power Purchase Centre (HPPC)
V/s

Respondent: Haryana Cooperative Sugar Mills Ltd, Bhali Anandpur, Rohtak

Present On behalf of the Review Petitioner 1. Smt. Sonia Madan, Advocate
2. Shri Vikas Kadian, Xen, HPPC

Present On behalf of the Respondent 1. Shri Kuldeep Sheoran, Advocate

Quorum

**Shri D.S. Dhesi,
Shri Pravindra Singh Chauhan,
Shri Naresh Sardana,**

**Chairman
Member
Member**

ORDER

Brief Background of the Case

1. The present Petition has been filed by Haryana Power Purchase Centre (HPPC), seeking review of the Commission Order dated 25.06.2019 (Case no. HERC/PRO-33 of 2019).
2. HPPC has submitted as under: -
 - i) That the Applicant is filing the present application for review of the order dated 25.06.2019 passed by this Commission in HERC/PRO-33 of 2019, titled Haryana Cooperative Sugar Mills Ltd. v. Haryana Power Purchase Centre, wherein the petitioner i.e. Haryana Cooperative Sugar Mills Ltd. (HCSM) had sought revision

of the unit rate of power exported to Uttar Haryana Bijli Vitram Nigam (UHBVN), as being given to one M/s Naraingarh Sugar Mills Ltd., along with arrears of the revised unit rate with regard to the power supplied to UHBVN since 01.04.2012 along with interest @ 8% P.A.

- ii) That HPPC had entered into a Power Purchase Agreement (PPA) dated 18.06.2009 with the Petitioner/ HCSM. The Applicant had been paying tariff to HCSM in terms of the said PPA. It is submitted that in consonance with the Clause 1.1 of the PPA which provides for the energy purchase and sale between the parties, the Applicant had been granting the escalation @ 2% every year on the tariff of Rs. 3.74 per kWh up to year 2011-12 and the rates thus increased to Rs.4.03 per kWh as in FY 2011-12.
- iii) That for the first time HCSM have raised the issue of revision of tariff by way of filing of the petition HERC/PRO-33 of 2019 before this Commission. The sole basis, as stated by HCSM, for filing the said petition was that higher tariff was being paid to one M/s Naraingarh Sugar Mills Ltd and HCSM had sought parity of tariff with the said Sugar Mill.
- iv) That the Commission vide its order dated 25.06.2019 had allowed the petition filed by HCSM in the following terms:-
... Accordingly, the Commission orders that the Petitioner shall be paid tariff of Rs.6.17/kWh w.e.f. 01.07.2019 and annual escalation of 5% in fuel cost from FY 2020-21 shall be applicable till the life of the project as per concluded PPA. The escalated tariff shall be applicable from 1st day of April of each year."
- v) That the Commission has ordered escalation of tariff prospectively considering that the fuel cost, being the major factor of tariff escalates over the period of time. The Applicant duly accepts the order of this Commission passed with larger objective to compensate HCSM keeping in view escalation of fuel cost. However, the Applicant is aggrieved by the methodology adopted by the Commission in re-determining the tariff resulting into the exorbitant tariff and is thereby, unduly enriching HCSM at the cost of the consumers of the State.
- vi) That the Applicant is aggrieved by the order to the effect that there is an error apparent on the face of record i.e. there is an error in the methodology adopted by the Commission for the re-determination of the tariff and its computation thereof. Thus, the present application has been filed seeking review in terms of Regulation

78 of the Haryana Electricity Regulatory Commission (Conduct of Business) Regulations, 2004.

Ground of the relief:-

vii) That the tariff allowed by the Commission vide the impugned order is erroneous and incorrect, the modification of which is justified in view of the grounds stated herein below:-

a) The Commission at the time of the passing of the order dated 25.06.2019, for the purpose of redetermination of tariff, has escalated both fixed and variable cost of the plant by 2% from FY 2007-08 to 2011-12; thereby arriving at the total cost of Rs. 4.05 per kWh in 2011-2012. Thereafter, for computation of current tariff, the Commission substituted the variable cost at par with other baggase based power project with one annual escalation of 5%. The total cost, accordingly, has been assessed with Variable cost of Rs. 4.44 per kWh and Fixed cost of Rs. 1.73 per kWh.

The relevant extract of the order dated 25.06.2019, is reproduced below:

“..... The Commission observes that tariff of Rs. 3.74/kWh was determined for the FY 2007-08 with the fuel cost of Rs. 2.14/kWh (Rs. 0.90/kg x 2.38 kg/kWh) at normative specific fuel consumption and balance of Rs. 1.60/kWh (Rs. 3.74 minus Rs. 2.14) being the fixed cost. The same has been escalated @ 2% p.a. upto FY 2011-12, with the tariff of Rs. 4.05/kWh (Fixed cost Rs. 1.73/kWh and Variable cost Rs. 2.32/kWh), determined w.e.f. 01.04.2012, as tabulated below:-

<i>FY</i>	<i>Fixed cost (Rs/kWh)</i>	<i>Variable cost (Rs/kWh)</i>	<i>Total cost (Rs/kWh)</i>
<i>2007-08</i>	<i>1.60</i>	<i>2.14</i>	<i>3.74</i>
<i>2008-09</i>	<i>1.63</i>	<i>2.18</i>	<i>3.81</i>
<i>2009-10</i>	<i>1.66</i>	<i>2.23</i>	<i>3.89</i>
<i>2010-11</i>	<i>1.70</i>	<i>2.27</i>	<i>3.97</i>
<i>2011-12</i>	<i>1.73</i>	<i>2.32</i>	<i>4.05</i>

The Commission further observes that fuel cost of baggase based power projects for the FY 2017-18 has been determined in the HERC RE Regulations, 2017 as Rs. 4.03/kWh with annual escalation of 5%, which comes to Rs. 4.44/kWh for the FY 2019-20. Thus, substituting variable cost of Rs. 2.32/kWh with Rs. 4.44/kWh, will give the tariff of Rs. 6.17/kWh (Fixed

cost Rs. 1.73/kWh and Variable cost Rs. 4.44/kWh) for the FY 2019-20. Accordingly, the Commission orders that the Petitioner shall be paid tariff of Rs. 6.17/kWh w.e.f. 01.07.2019 and annual escalation of 5% in the fuel cost from the FY 2020-21 shall be applicable till the life of the project as per concluded PPA. The escalated tariff shall be applicable from 1st day of April of each year.”

- b) The fixed cost has been increased from Rs. 1.60/kWh to Rs.1.73/kWh and the escalated fixed cost of Rs.1.73/kWh has been considered for the balance life of the plant. HCSM has already recovered 70% of the admissible depreciation and major portion of the debt must have been repaid by now, the fixed cost has in effect come down. Thus, the escalation on the fixed cost allowed by the Commission is not justified and is contrary to the general principles of tariff determination.
- c) The Commission did not take into account that the tariff rates applicable to HCSM were fixed in terms of the order dated 15.05.2007. The Commission had determined the generic tariff vide its order dated 15.05.2007, wherein tariff sheets were not annexed. As such, the trend of fixed and variable cost for the life cycle of the Project is not available. It is the case of the Applicant that on extrapolating the fixed cost, as it varies in the generic tariff for RE based Co-generation plants as determined by the Commission for control period from the FY 2017-18 to FY 2020-21 and taking the actual value of the first year of the Project for FY-2007-08, as 1.60/kWh, the value of fixed cost for FY 2019-20 works out to Rs. 1.19/kWh. Thus, the assessment made by the Commission taking the fixed cost at Rs. 1.73/kWh is erroneous.
- d) The Commission vide its Order dated 20.11.2013 in PRO-15 of 2013 had observed as under:

“The Commission reiterates that bagasse is available on site for co-generation. Hence no additional expenses are incurred in collection, storing, handling etc. The Commission had considered Rs. 662 / MT as cost of bagasse for FY 2012-13. Hence after considering an escalation factor of 5% as per regulation 52 of RE regulations, 2010, the bagasse cost for FY 2013-14 has been pegged at Rs. 695 / MT for the purpose of tariff determination for the projects to be commissioned in FY 2013-14.”

The Commission had notified generic tariff for bagasse based project alongside other RE projects. Generic tariff for bagasse based projects, as notified by the Hon'ble Commission for FY 2014-15 and 2015-16, varies from Rs. 4.27 to Rs. 5.35 per kWh during the entire life of the project. In that view of the matter, had HCSM filed the petition at the appropriate time, i.e. in the year 2012-13, the applicable tariff would have been to the tune of Rs. 4.04 per kWh, which is at par with the tariff already paid to the HCSM.

- e) The Commission has considered variable cost equivalent to the current levels. Accordingly, the fuel cost has been allowed to the tune of Rs. 2307/MT used for determination of generic tariff for control period from the FY 2017-18 to FY 2020-21 by the HERC in its RE Regulations. However, on examination of report for the FY 2017-2018, published by the Haryana State Federation of Cooperative Sugar Mills Ltd, Panchkula which has been annexed with the present application (available on www.haryanasugarfed.com), it has been gathered that the bagasse at an average rate of Rs. 1297.74/MT has been sold by the Haryana Corporative Sugar Mill, Rohtak whereas the bagasse has been sold by all sugar mills under the umbrella of Haryana State of Coop Sugar Mill Ltd., Panchkula at an average rate of Rs. 1395.23/MT during the FY-2017-18. Therefore, allowing more than the actual cost of fuel amounts to undue enrichment of HCSM in terms of the variable cost.
- f) The Commission did not take into account the factual aspect that HCSM was commercially operated way back in the year 2009 and all the fixed cost would have been duly recovered till now. Further, HCSM had signed the PPA out of its free will without any reservations. As per the Electricity Act, 2003, the power generation is a regulated business, as such, the generator is not supposed to make profit in excess to the allowable limits. Due to the grant of such escalation, against the terms of PPA, the same has amounted to undue enrichment of HCSM at the costs of the consumers of the State.
- g) The Commission erred in overlooking that HCSM had filed the Petition on the sole ground that the higher tariff was granted to one M/s Naraingarh Sugar Mills Ltd. which is not valid and is without any basis. It is submitted that even to claim parity, HCSM had to establish that it was in absolutely similar position as that of Nariangarh Sugar Mills Ltd. The classification had to be based on intelligible differentia and the differentia must have rational relation to the

object. It is reiterated that in the present case, the plant of HCSM was commercially operated in year 2009 whereas the plant of M/s Nariangarh Sugar Mills was commercially operated in the year 2018. The cost of setting of the plant in the year 2018 cannot be compared to the cost incurred for the setting up of mill in the year 2009.

- h) The Commission had taken into account the fact that HCSM came before the Commission seeking revision after passage of 7 years and thus had granted prospective revision of tariff and had also not granted arrears. However, the fact that HCSM had kept mum all these years and had suddenly woken up to raise the present claim goes on to show that the cost had already been recovered. In case any loss was being caused to HCSM on account of non-revision of the tariff, it ought to have filed at least a single representation/application etc. in all these years.
- i) No evidence was placed on record by HCSM, nor any comments were sought from the Applicant regarding determination of revised tariff and to show that loss was being suffered by HCSM or that revision of tariff was required. The present order is liable to be modified as no opportunity was given to the Applicant to make suggestions for correct determination of tariff.
- j) As per Regulation 7(2)(a) of Haryana Electricity Regulatory Commission (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulation, 2017, a petition for determination of tariff shall be accompanied by information in forms 1.1, 1.2, 2.1, 2.2 as the case may be. Such forms provide the details of the project essential for tariff determination. In absence of any such details on record before the Commission, and in light of the fact that no information was called for either from the Applicant or HCSM, the order dated 25.06.2019 is liable to be reviewed.
- k) If the HCSM would have approached this Commission for revision in tariff, at any point of time after FY 2011-12, then at the most it would have been revised/re-determined as per the HERC, RE Regulation, 2010 and amendments thereof whereby the Commission vide its Order dated 20.11.2013 in PRO-15 of 2013 (Suo Motu) had considered Rs. 662 / MT as cost of bagasse for FY 2012-13 and after considering an escalation factor of 5% as per regulation 52 of RE regulations, 2010, the bagasse cost for FY

2013-14 has been pegged at Rs. 695 / MT for the purpose of tariff determination for the projects to be commissioned in FY 2013-14. Therefore, in any case the tariff allowed to HCSM should not be more than the generic tariff as per the HERC, RE Regulations 2010 applicable to HCSM. Therefore, there exist sufficient reasons for the indulgence of the Commission to modify the tariff granted to HCSM, in interest of justice.

Relief Sought

- viii) The following prayers have been made :-
- (a) Pass an appropriate order to the effect that the tariff allowed by this Commission at Rs. 6.17 per kwh be suitably reviewed/ modified; and
 - (b) Pass any such other or further directions as this Commission may deem fit and proper.

Proceedings in the Case

3. The case was heard by the Commission on 03.12.2019, 14.01.2020 and finally scheduled for hearing on 19.02.2020, wherein the counsel appearing on behalf of the Review Petitioner mainly reiterated the contents of their petition which for sake of brevity not reproduced herein. Per-contra, Ld. Counsel appearing on behalf of the Respondent Cooperative Sugar Mill, produced copies of certain bills in proof bagasse purchased on certain dates, which is higher than the bagasse rate of Rs. 2307/MT considered by the Commission while determining generic tariff of bagasse-based power plants for the FY 2017-18.

Commission's Analysis and Order

4. The Commission heard the arguments of the parties at length as well as perused the reply filed in the matter. At the onset it is observed that economic viability of any power plant using any type of fuel including bagasse depends on the fact that the actual fuel cost is recovered. Hence, in conventional fuel-based power plants, as the fuel market is established / structured, the fuel escalation clause is either in-built or the difference between the normative fuel cost and actual fuel cost is recovered through Fuel Price Adjustment (FPA) the issue of fuel cost becomes more complex in case the fuel involved is biomass / bagasse where no structured market exists. Hence the SERCs including CERC, after due deliberations, specifies the fuel cost as well as the escalation factor and GCV of such fuel upfront by way of RE Regulations.

5. In Order to examine the scope of review jurisdiction, the Commission has perused the provision of Regulation 78(2) of the HERC (Conduct of Business) Regulations, 2004 including its subsequent amendments, which empowers the Commission to exercise review jurisdiction. The relevant regulation is reproduced below:-

78 (2) "REVIEW OF THE DECISIONS, DIRECTIONS, AND ORDERS:

The Commission may review its Orders or decisions if:-

- a) *There exists an error apparent on the face of the record, or*
- b) *Any new and important matter of evidence was discovered which after the exercise of due diligence, was not within the knowledge of or could not be produced by the party concerned at the time when the Order or decision was made, or*
- c) *For any other sufficient reasons".*

Further, the Commission has also perused the judgment of Hon'ble Supreme Court in judgment dated 8th August, 2013 under Writ Petition (CRL.) 135 of 2008 with respect to scope of Review under law, cited by the Respondent (HPPC). The relevant part of the said judgement is reproduced below:-

"This Court has repeatedly held in various judgements that the jurisdiction and scope of review is not that of an appeal and it can be entertained only if there is an error apparent on the face of the record. A mere repetition through different counsel, of old and overruled arguments, a second trip over ineffectually covered grounds or minor mistakes of inconsequential import are obviously insufficient. "

Also in *Sow Chandra Kante & Anr. Vs. Sheikh Habib* (1975) 1 SCC 674, Apex Court held as under:-

"Mr. Daphtary, learned counsel for the petitioners, has argued at length all the points which were urged at the earlier stage when we refused special leave thus making out that a review proceeding virtually amounts to a re-hearing. May be, we were not right in (sic.) refusing special leave in the first round; but, once an order has been passed by this Court, a review thereof must be subject to the rule of the game and cannot be lightly entertained"

6. The Commission has examined the review sought, issue wise, by the petitioner on including maintainability tested on the anvil of the aforesaid Regulations / Case Laws as under:-

a) Whether the Commission was right in escalating the tariff by 2% to arrive at base year tariff for FY 2011-12?

The Commission observes that Clause 1.1 of the Power Purchase Agreement dated 18.06.2009 signed between HPPC and the Generator, was reproduced in the Impugned Order dated 25.06.2019, which provides as under: -

“1.1 The HPPC shall purchase and accept all such electrical energy up to 12 MW, with PLF 0.75 only during the crushing season, generated by the society as co-generation and made available at the interconnection point, from the Society's facility pursuant to the terms and conditions of this agreement at the interim rate of Rs. 3.74 per kWh subject to the final outcome of case presently pending before HERC w.e.f. 2007-08 (power export from 2007-08) with escalation of 2% every year from financial year 2008-09 upto 2011-12 i.e upto 31-03-2012 and thereafter for the remaining duration of agreement with the approval of Haryana Electricity Regulatory Commission (hereinafter referred to as "The Commission"). The escalated tariff will be applicable from 1st day of April of each year. This rate would be uniform throughout the day for the entire year. No additional payment, what-so-ever, may be on any account, shall be payable by HPPC.

*The above interim rate of Rs. 3.74/- per unit is applicable for the agreed normative sale of 38.88 MU (12 X1000 X24X 180X0.75*10/6) to the HPPC during the crushing season and for any generation more than this normative generation. the Society shall be paid only for the fuel cost @ Rs. 0.86 unit plus incentive of Rs. 0.20 per unit for the first year with annual escalation at the rate of 5% only on the cost of fuel for the subsequent years upto five years”.*

The Commission observes that the aforesaid rate of Rs. 3.74/- per unit, was a generic tariff and not specific to any project as such, derived from the Order of the Commission dated 15.05.2007 on 'Renewable Energy Tariff & Other Issues', wherein it was specified that tariff for base year i.e. FY 2007-08, for Bagasse (cogeneration) shall be Rs. 3.74/- per unit with escalation from FY 2008-09 onwards @ 2%. In the ibid Order of the Commission dated 15.05.2007, certain financial parameters & assumptions were also specified, including the parameters

for determining the fuel cost i.e. fuel cost (Rs. 0.90/- kg) & Specific Fuel Consumption (2.38 kg/kWh). Before filing of the original petition (HERC/PRO-33 of 2019) by M/s. Haryana Cooperative Sugar Mills, HPPC was paying the tariff of Rs. 4.05/- per unit i.e. Rs. 3.74/- per unit determined for the FY 2007-08 escalated by 2% p.a. upto base year i.e. FY 2011-12, on the basis of Order of the Commission dated 15.05.2007 & clause 1.1 of the PPA dated 25.06.2009. If the intention at the time of signing of PPA would have been to escalate fuel cost only and not the fixed cost, then the escalation @ 2% would not have been applied to the total tariff of Rs. 3.74/ per unit, which includes both fixed as well as variable cost. The Commission, in its RE Regulations notified subsequent to the Generic Tariff Order of 15.05. 2007, provided for annual escalation in the O&M expenses (5.72%), RoE remains constant, the interest on working capital also increases while depreciation and interest on term loan decreases over the entire life of the project. Besides these components of Fixed Cost, the fuel cost escalation of 5% per annum is also allowed over the life of the project. In the present case the tariff was determined for five years only as against the project life of 20 years so that the Commission, while re-visiting the tariff will have the benefit of actual data emanating from various RE Projects including bagasse based co-generation projects commissioned in Haryana so that realistic RE Regulations could be framed for the purpose of tariff determination of RE Projects. Hence, in order to balance equity on both sides modest escalation of 2% was considered and allowed in the Order dated 15.05.2007.

The Commission observed the following in its impugned order dated 25.06.2019:-

“The Commission observes that the fuel cost is the major factor of tariff which escalates over the period of time. However, it is also noted that the escalation @ 2% was provided for co-generation (bagasse) also on entire tariff and not limited to fuel cost up to 2012.”

The Commission, having observed the above, allowed the petitioner the benefit of escalated fuel cost, by replacing the fuel cost component included in the based year generic tariff of Rs. 4.05/- per unit already paid by HPPC to the generator since FY 2011-12, with the fuel cost determined by the Commission while determining the generic tariff for the FY 2017-18.

Accordingly, the Commission observed the following in the impugned Order dated 25.06.2019: -

“The Commission observes that tariff of Rs. 3.74/kWh was determined for the FY 2007-08 with the fuel cost of Rs. 2.14/kWh (Rs. 0.90/kg x 2.38 kg/kWh) at normative specific fuel consumption and balance of Rs. 1.60/kWh (Rs. 3.74 minus Rs. 2.14) being the fixed cost. The same has been escalated @ 2% p.a. up to FY 2011-12, with the tariff of Rs. 4.05/kWh (Fixed cost Rs. 1.73/kWh and Variable cost Rs. 2.32/kWh), determined w.e.f. 01.04.2012, as tabulated below: -

<i>FY</i>	<i>Fixed cost (Rs/kWh)</i>	<i>Variable cost (Rs/kWh)</i>	<i>Total cost (Rs/kWh)</i>
<i>2007-08</i>	<i>1.60</i>	<i>2.14</i>	<i>3.74</i>
<i>2008-09</i>	<i>1.63</i>	<i>2.18</i>	<i>3.81</i>
<i>2009-10</i>	<i>1.66</i>	<i>2.23</i>	<i>3.89</i>
<i>2010-11</i>	<i>1.70</i>	<i>2.27</i>	<i>3.97</i>
<i>2011-12</i>	<i>1.73</i>	<i>2.32</i>	<i>4.05</i>

In view of the above discussions, the Commission answers the issue framed in affirmative i.e. the tariff determined for FY 2007-08 was rightly escalated by 2% to arrive at base year tariff for FY 2011-12, in accordance with the Order of the Commission applicable at the relevant time & clause 1.1 of the PPA dated 18.06.2009.

b) Whether fuel cost was rightly computed and allowed prospectively to the generator?

The Commission observes that the generator was granted generic tariff of the FY 2007-08 & not project specific tariff. Generally generic tariff applicable in the year of Commissioning of power plant is applicable through out the life of the project. However, in the present case, such generic tariff was made applicable only up to 31.03.2012 for the reasons previously mentioned in the present Order. Thereafter, neither any escalation in tariff was allowed, nor any of the parties approached the Commission seeking revision in tariff. M/s. Haryana Cooperative Sugar Mills filed the petition (HERC/PRO-33 of 2019) seeking revision in tariff at

par with the rate allowed to M/s Naraingarh Sugar Mills Ltd., in the year 2019 i.e. after a gap of 7 years.

In this context, the Commission in the impugned Order dated 25.06.2019 observed that the fuel cost is the major factor of tariff which escalates over the period of time and parity in tariff cannot be allowed with M/s Naraingarh Sugar Mills Ltd., due to differences in the date of commissioning of both the power plants.

In these circumstances, the only option available with the Commission was to replace the fuel cost component of generic tariff already granted to the generator with the fuel cost component of generic tariff determined by the Commission in its Order dated 03.10.2017 passed while framing Haryana Electricity Regulatory Commission (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2017. The Commission also observes that the fuel cost of Bagasse Based power projects for the FY 2017-18 was determined in the HERC RE Regulations, 2017 as Rs. 4.03/kWh with annual escalation of 5%. During the hearing, it was confirmed by the Officers of the Commission that this Regulation had been finalized after following the due process and consulting all the stake holders. Till date nobody had challenged this Regulation or sought review of the same. The Ld. Counsel for Review Petitioner also acknowledged the above-mentioned position.

In view of the above submissions & discussions, the Commission answers the issue framed in affirmative i.e. fuel cost was rightly allowed prospectively relying on the fuel cost as per the provisions of the HERC RE Regulations, 2017 which has attained finality.

c) Whether project specific issues are relevant in such case?

The Commission observes that the generator was granted generic tariff of the FY 2007-08 & not project specific tariff. Further, the fuel cost forming part of generic tariff for the FY 2017-18 has only been replaced with the fuel cost being paid since FY 2011-12. The Commission is also of the considered view that in such projects, where generic tariff has been allowed for some part of the project life and thereafter there is gap in determination of tariff for considerable period of the project, project specific parameters including cost of bagasse sold / purchased or the actual project cost are not relevant. Doing so will defeat the very purpose of RE Regulations and generic tariff determined thereunder.

In view of the above, the Commission decides that the project specific issues raised by the Review Petitioner is not relevant in the present case.

Before parting with the Order, the Commission observes that under the garb of seeking a review, a Petitioner cannot seek re-determination of the case on merits and project specific parameters which was not before the Commission while determining generic tariff. A manifest illegality must be shown to exist or a patent error must be shown in an order to review a judgement. No such grounds or patent error has been shown by the Review Petitioner. Hence, even on the said score, the petition deserves to be dismissed.

7. The petition is accordingly disposed of as dismissed.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 19.02.2020.

Date: 19.02.2020	(Naresh Sardana)	(Pravindra Singh Chauhan)	(D.S. Dhesi)
Place: Panchkula	Member	Member	Chairman