

**Order Dt 26th September 2002 passed by the Commission
on Joint application of Ferro Alloy Units and others in
I.A.No.10/2002 in O.P.No.29-33 of 2002**



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

HYDERABAD

**AMENDEMENT ORDER TO THE ORDER PASSED
IN I.A.No.10/2002 in O.P.No.29-33 OF 2002**

Dated : 30-10-2002

ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

HYDERABAD

I.A.NO.10 / 2002

O.P.NO.29 - 33 OF 2002

**Present : Sri G.P.Rao, Chairman
Sri K.Sreerama Murthy, Member**

Joint Petition of Andhra Ferro Alloys Limited, GMR Technologies and Industries Limited, FACOR and VBC Ferro Alloys Ltd.,

And

**Transmission Corporation of Andhra Pradesh Limited (APTRANSCO)
in association with**

**Eastern Power Distribution Company of Andhra Pradesh Limited (APEPDCL)
Central Power Distribution Company of Andhra Pradesh Limited (APCPDCL)
Northern Power Distribution Company of Andhra Pradesh Limited (APNPDCL)**

applicants

1.Andhra Ferro Alloys Limited, GMR Technologies and Industries Limited, FACOR and VBC Ferro Alloys Ltd., have represented on 01.04.2002 that the tariff announced by the Andhra Pradesh Electricity Regulatory Commission (APERC) enhancing wheeling charges to 28.4% from the existing 15% in kind and imposing additional 50 ps. per unit in cash has dealt a death blow to the industry and this will result in closure of all the six ferro alloy units in the State and requested for the orders of APERC on wheeling charges not to be made applicable to the ferro alloy units consuming NTPC power as power is a major input for ferro alloys unlike for other industrial units in the state. Alternatively, they have requested for supply of power at a lower tariff of 180 ps. per unit, and reduction of CSD @ 1% as available in Orissa to provide a level play field.

2. Vide their letter dt:29.04.02, VBC Ferro Alloys Limited, FACOR, GMR Technologies and Industries Limited and Andhra Ferro Alloys Limited have submitted a petition stating that the ferro alloy units are prepared to switch over their power totally from NTPC to APTRANSCO once and for all if power is supplied at bulk supply rate of 180 ps/kwh with a load factor of over 40% with incentive for maintenance of higher power factor @ 0.5% for every 1% rise above 90% upto and including 100% on the monthly demand charges and energy charges as is being given to ferro alloy industry in Orissa state. They have requested that the ferro alloys industry may be classified as "Power Intensive Category" and power supplied at bulk supply tariff to the ferro alloys industry. The industry has stated that the six ferro alloy units in Andhra Pradesh drawing at present 75Mw of NTPC power are contributing to the State and

Central government about 190 crores of foreign exchange earnings through exports and 66 cr. towards taxes/duties/wheeling charges.

3. All the six ferro alloy units in Andhra Pradesh submitted petitions to the APERC on 17.04.2002 to restore wheeling charges as prevailed prior to revision or alternatively allow power intensive ferro alloy units to avail power from APTRANSCO at bulk supply tariff.

4. The comments of the CMD, APTRANSCO/ APEPDCL/APCPDCL were called for on these petitions. APCPDCL vide their letter No.236 dt:23.04.02 have opposed the proposal. However, vide their letter dt:09.08.2002, APTRANSCO have submitted that the six ferro alloy units which were earlier getting power supply from NTPC may have a separate tariff rate @211 ps. / unit (average bulk supply rate, 208 ps. / unit + 3 ps. / unit as DISCOMS margin towards taking readings and service rendered), that APTRANSCO is agreeable to the rate of 211 ps. / unit without demand and minimum charges, that this supply is however subject to the condition that ferro alloys draw the entire power required by them from the APTRANSCO only without any drawal from any other sources and also subject to the withdrawal of pending court cases by these units on wheeling charges. They have stated that the colony consumption shall be categorized under HT Cat.VI, billing and collection shall be made at DISCOM level under their quota and the proposal for special bulk supply rate shall be applicable only to the consumption concerned to the production of six ferro alloy units which were originally drawing power from NTPC. APTRANSCO requested APERC to accord approval for special bulk supply tariff rate @ 211 ps. / unit for the six ferro alloy units as per the conditions stated above.

5. APTRANSCO vide their letter dt:04.09.2002 have further stated that there is an additional power availability from unallocated share of NTPC (SR) which is 124.86 MW with an average daily energy of 300 MU totaling to 1095 MU/year. The surplus power is about the 1295 MU excluding Kaiga availability as the allocation from Kaiga Power Station was withdrawn w.e.f. 08.07.02. The requirement of ferro alloy units can be met from this surplus power. They have stated that due to withdrawal of Kaiga power, the average cost of power purchased from central generating stations is around 165 ps. / unit w.e.f. August, 2002. On this basis, they have worked out the total bulk supply cost as 209 ps. / unit after taking transmission losses at 8.5% and establishment and other charges. This rate is excluding fuel surcharge with 3 ps. / unit towards DISCOMS margin. The unit rate will be 212 ps. / unit after including 3 ps. as margin of DISCOM.

6. APTRANSCO have also stated that 500 MW Unit II of Simhadri was synchronized on 27.06.02 and they are expected to draw about 500 MU during the balance period of the financial year. APTRANSCO have stated that after April, 2002, except Nav Bharat Ferro Alloys all other 5 ferro alloy units have stopped production and are not drawing any power from NTPC against specific allocations. As such, minimum tariff was being billed in respect of these ferro alloy units. Based on the minimum billing, and with the separation of colony consumption charged at HT Category VI by DISCOMS (including 3 ps. margin), the revenues of DISCOMS calculated at 80% load factor, the net excess amount in respect of APEPDCL (4 units) is 2.4 lakhs / month. In respect of other DISCOM also, excess revenue will be achieved except in the case of M/s.Nav Bharat Ferro Alloys. They have also stated that as the load factor increases, the revenues of DISCOMS will also increase. In view of this, APTRANSCO requested to accord approval for special bulk supply tariff @ 212 ps. / unit.

7. A copy of the letter of the Prl. Secretary to Government of Andhra Pradesh, Industries and Commerce Department dt:26.07.02 addressed to the Chairman & Managing Director, APTRANSCO was made available to the Commission. In this letter, the Prl.Secretary pointed out that the current increase in the wheeling charges of APTRANSCO has increased, the

effective cost of power for ferro alloy units by 57.6%. With this increase, the cost of power would perhaps rise to about 46% of the value of the output in the case of ferro alloy units. With this, the operations of ferro alloy units using NTPC power have become unviable. All the six ferro alloy manufacturing units have declared lay off from 01.04.02 due to increase in wheeling charges and the increase in the cost of power. M/s.Nav Bharat Ferro Alloys Ltd., Palvancha, is able to operate because of captive power generation. He stated that the turnover of these ferro alloy units is about Rs.603.60 cr. / annum, the foreign exchange earnings are Rs.186 cr. / annum and the sales tax on domestic sales would be Rs.17 crores per annum. The contribution made by units includes excise duty of Rs.40 cr. / annum and wheeling charges of Rs.7 cr. / annum and electricity duty of about Rs.2 crores to the state government. The ferro alloy units are contributing substantial revenues to the central and state governments in the form of duties and taxes. He stated that if these units cannot resume operations due to the increase in wheeling charges both state and central governments will loose revenue. He stated that these industries are providing direct employment opportunities to about 10,500 families in different categories of work force. He further stated that the proposal is to make available power from APTRANSCO to the six ferro alloy units at the average bulk supply tariff i.e. 208 ps. / kwh. He also pointed out that these units were not paying demand charges when they were getting power from NTPC and hence, it will be appropriate that no demand charges are levied on these units. He also stated that the ferro alloy units may be supplied power in bulk with the condition that their total power purchase will be from APTRANSCO and the tariff will be charged at Rs.2.08 ps. per unit + Re.0.03 ps. per unit as DISCOM margin, with waiver of electricity duty. He stated that the basic question is that the six ferro alloy units were earlier being given power supply by NTPC at concessional tariff rate and the change in wheeling charges has imposed an unbearable burden on them. These units which have a high load factor, a very high cost of power as a proportion to the value of the output and which were given special dispensation of NTPC power at concessional tariffs should now be given the average bulk supply tariff.

8. Following the above, the Commission has admitted the joint petition of the ferro alloy units as well as that of APTRANSCO as inter-locutory application on the orders passed in OP Nos.29-33 of 2002 (Tariff Order FY 2002-03) dispensing with the requirement to file the petition in standard format by the petitioner. The petition was numbered IA No.10 of 2002 in OP Nos. 29 - 33 of 2002. A notice was given to all the six ferro alloy units, APTRANSCO, APCPDCL, APNPDCL, APEPDCL and Government of Andhra Pradesh on 18.09.2002 for hearing on 25.09.2002 at 10.30 hrs.

9. During the hearing, the Director (Comml. & Co-ord.), APTRANSCO has deposed that the six ferro alloy units were generally power intensive units as power shared major portion of the inputs of their produce. Based on the request made by these units, the erstwhile APSEB charged 11 ps. / unit as energy charges without any demand charges from November, 1975 and increased the energy charges from time to time until the creation of a separate HT category III for these units at 83 ps/unit in 1987. In 1990, demand charges have been introduced @ Rs.55/KVA besides energy charges @ 115 ps. /unit under HT Category III. Following release of power by Government of India from out of 15% unallocated quota of power from NTPC, Ramagundam to these ferro alloy units w.e.f. 01.11.1994 APSEB has deleted HT Category III and merged it into HT Category I w.e.f.01.01.99. He stated that all the six ferro alloy units were utilizing the NTPC power upto 31.03.02 at an average rate of 177 ps./unit without demand charges. He stated that following an increase in the wheeling charges, the unit cost for the ferro alloy units has gone up by 102 ps. / unit bringing the cost of power / unit to 279 ps. As a result, out of six units, except M/s.Nav Bharat Ferro Alloys all

the units were closed from April, 2002. M/s.Nav Bharat Ferro Alloys was not closed as it was running mainly on captive generation.

10. Following the request of the ferro alloy units to supply power at average bulk supply rate to enable them to compete with other ferro alloy units in the national and international market, APTRANSCO submitted the proposal for consideration of the Commission to have a separate tariff for these six units @ 209 ps. per unit (average bulk supply rate + 3 ps. / unit as DISCOM margin) for the service rendered by them totaling to 212 ps. / unit without any demand charges subject to the condition that these units draw the entire power required by them from APTRANSCO only and also subject to withdrawal of all pending court cases on wheeling charges. This rate excludes fuel surcharge. Fuel surcharge is leviable as applicable to other consumers. He stated that the proposed total CMD (Contracted Minimum Demand) of these six units is 159.2 MVA whereas the existing CMD is only 9.7 MVA. The excess CMD of about 150 MVA would require about 300 MUs for the balance six months for supply by APTRANSCO grid. He stated that this requirement can be made from the surplus power available to APTRANSCO from unallocated quota of 15% from Central Generating Stations (631.5 MU) and expected additional generation from 500 MW NTPC Simhadri II (1080 MU) totaling surplus energy of 1711.25 MU. This surplus power is arrived at after taking into account the failure of NLC and availability of Simhadri second unit of 500 MW at 50% load factor for the balance six months period at 90 ps. / unit. He gave detailed working of pooled cost of central generating stations as 165 ps. / unit without power from Kaiga. As the ferro alloy units were closed without availing NTPC power from April, 02 onwards, wheeling charges to the extent of Rs.16.53 cr. could not be billed. The present situation will lead to a permanent closure of the unit as they are not in a position to run the industry by purchasing NTPC power. He therefore requested for consideration of the proposal made by APTRANSCO. He also stated that at this rate, they did not incur any loss.

11. During the proceedings on 25.09.2002, the representatives of APCPDCL, APEPDCL and APNPDCL agreed with the proposals made by APTRANSCO, though at an earlier stage APCPDCL had opposed the proposal of the ferro alloy units.

12. Sri Jainder Singh, Prl. Secretary & Commr., Government of Andhra Pradesh, for Industrial Promotion who appeared before the Commission reiterated the contents of his letter dt:26th July, 2002 addressed to the CMD, APTRANSCO. He stated that the government had agreed to exempt these units from electricity duty. He specially mentioned about serious concern about 10,500 persons going out of employment and also loss of exports. He said that they would like the units to be revived so that the industrial production in the State does not go down.

13. Representing all the six ferro alloy units, Sri K.Narayan Rao, MD, GMR Technologies and Industries Limited contended that ferro alloy industry is highly power intensive with more than 35% in the manufacturing cost. The industry has to face international competition from South Africa where the power is available at 45 ps. and other countries such as CIS and Iran where the power is available below 100 ps. per unit. He stated that for most of the ferro alloy units situated in the states of Orissa, West Bengal and Meghalaya power is available in the range of 180 - 200 ps. per unit besides other advantages like low sales tax at 1 - 2 %, transport subsidy, excise duty benefit, interest subsidy etc. The ferro alloy units were drawing NTPC power at 145 ps. / unit and including the wheeling charges and duty, the total cost was coming to only 177 ps. / unit till 31.03.02. With the increase of wheeling charges by 408% all the ferro alloy units except M/s.Nav Bharat Ferro Alloys were forced to shut down their units from 01.04.02 as they were left with no option as operating the units was not any more viable. He stated that a working group of mineral exploration of development constituted for examining the ferro alloy industry has recommended to Government of India to supply NTPC power at

5% wheeling charges, to increase DEPB benefit from the present 10% to 20%, to reduce excise duty from present 16%, to remove the levy of anti-dumping duty on the imported coke residues, customs duty to 5% and bring down the railway freight and transportation of inputs as well as finished product. He therefore stated that they have requested the State Government, APTRANSCO and APERC for supply of power at bulk supply tariff of 180 ps. / unit as the previous electricity cost was 177 ps. / unit through NTPC sources as a level play measure to face the competition from domestic and international markets. However, APTRANSCO has recommended to APERC a tariff of 212 ps. / unit involving increase of 30 ps. / unit causing an additional burden of Rs.1400/metric tonne of finished product. Any further burden cannot be borne by ferro alloy units in AP if they have to carry on their operations. A.P.Government was kind enough to exempt from levy of 6 ps. / unit electricity duty to ferro alloy units in Andhra Pradesh. He therefore appealed that APERC may take a pragmatic view on their request and approve the proposals of APTRANSCO.

14. The application made by the Ferro Alloy Units and also the proposal of APTRANSCO for amending the Tariff Order for FY 2002-03 was discussed in the Commission Advisory Committee (CAC) Meeting held on 26.09.2002 and the CAC unanimously recommended approval for amendment as proposed by APTRANSCO.

COMMISSION ANALYSIS

15. The proposal of the APTRANSCO is to permit supply of power to Ferro Alloys Units at a special Tariff of Rs.2.12 per unit which covers the average Bulk Supply Rate plus the DISCOM margin. The issue before the Commission is whether it would be appropriate to supply at Bulk Supply Rate to end user Ferro Alloy Units. The Bulk Supply Rate is applied only to the Distribution Companies who are the Licencees to distribute. Any sale of electricity to Ferro Alloy Units cannot be equated with the sale of electricity to the Distribution Companies. The most important deficiency in the two types is that the sale to Ferro Alloy Units is the sale to end User / Consumers, whereas the sale to Distribution Companies is to Licencees for onward sale to end user / consumer. In other words the Bulk Supply Rate can be made applicable only to a Licencee and not the end user. The Commission, therefore is of the view that it would not be appropriate for an end user to get the same Bulk Supply Tariff as in the case of Licencees.

16. There are however certain implications which require consideration by the APERC. As a result of the increase in Wheeling Charges ordered by the APERC, the Ferro Alloys Units who have been getting power from NTPC directly by paying 15% Wheeling Charges to APTRANSCO, were faced with higher Wheeling Charges increasing the cost of power for Ferro Alloys Units to near about Rs.2.79 as submitted by APTRANSCO and the ferro alloy units as against the prevailing 177 paise. That is, the power cost has increased by 57.6%. With this increase, the cost of power constitutes about 46% of the value of the output and the operation of the ferro alloy units as a category at the above rate of power are not viable. This has resulted in the closure of five out of the six Ferro Alloys Units in Andhra Pradesh. The only Unit which has not been closed is Navabharat Ferro Alloys, which is drawing its power from captive generation. Navabharat Ferro Alloys Unit has also stopped drawing power from NTPC because of the increase in Wheeling Charges. The closure of five Ferro Alloys Units has resulted in lay-off of 10,500 persons from employment from 01.04.2002.

17. It has been brought out that Ferro Alloys Units have traditionally been provided with a separate Tariff even by APSEB from 1975 to 1994. In 1994, the Government of India has allocated power from NTPC to the Ferro Alloys Units from out of the 15% unallocated quota of power from NTPC Ramagundam. In other words, beginning from 1975 till 31st March, 2002

the Ferro Alloys Units enjoyed a separate rate as compared to other industrial consumers. This concession was basically extended to make the Ferro Alloys Units competitive both in the domestic and international markets. Similarly special rates have also been extended to the Ferro Alloys Industries in other States like Orissa and West Bengal. In fact, the Ferro Alloys Units pleaded for extending them the same benefits as are being extended in Orissa and West Bengal to the Ferro Alloys Units located in those States. These special concessions were also the result of the fact that the industries were power intensive with more than 35% being the cost of the power in the product. In fact, it has been stated that the power cost is more than that of the raw material. The Industry also has a load factor of about 85%.

ORDER

18. In the facts and circumstances mentioned above, Ferro Alloy Units as a whole constitute a special and distinct category of consumers. Section 26(7) of the Andhra Pradesh Electricity Reform Act, 1999 inter-alia reads as under:

"Any tariff implemented under this section, -

(a). shall not show undue preference to any consumer of electricity, but may differentiate according to the consumer's load factor or power factor, the consumer's total consumption of energy during any specified period, or the time at which supply is required' or paying capacity of category of consumers and need for cross-subsidisation"

19. The distinct features of the above category of consumers can be summarized as under:

- (a). Power Intensive Industry
(b). Since 1975 Ferro Alloy Units have been the beneficiaries of concessional tariff for electricity under declared policies of the Central and State Governments and also by the State Electricity Board in the State. Similar concessional tariffs have been extended by other States which are prevalent to-day.
(c). Load factor of the Ferro Alloy Units is high (85%).
(d). NTPC has been supplying electricity at a concessional tariff directly to the ferro alloy units.
(e). Because of tariff enforced at a higher level, the units have been closed causing revenue loss to the State and also creating unemployment.

20. In the premise, the Commission holds that the ferro alloy units as a category (not merely any particular unit) does not have the paying capacity because of higher tariff and there is a need for cross subsidization within the meaning of Section 26(7) (a) of the Reform Act.

21. Ferro Alloys Units being non viable at the prevailing rate of Tariff, the Industry can be deemed that it has no paying capacity if the normal tariff is levied and accordingly a lower tariff should be fixed for the Ferro Alloys Units.

22. The Commission, therefore holds that Ferro Alloys Units be treated as an industry, which needs to be provided with a lower Tariff than the normal tariff as the industry considered as a category does not have the paying capacity for the normal tariff, and classified as such.

23. The Commission, would therefore agree to fixing a separate tariff for Ferro Alloys Units depending upon the viability of the Industry. As the APTRANSCO and the Ferro Alloys Units have confirmed that at Rs.2.12 per unit the Ferro Alloys Units will be viable, a separate tariff

at that rate can be fixed without reference to Bulk Supply Tariff. APTRANSCO and DISCOMS have confirmed that there may not be any loss that would arise on account of supply at Rs.2.12 on account of the fact that the rate at which APTRANSCO buys power from Central Generating Station has come down on account of withdrawal of Kaiga Plant which was withdrawn from supply. APTRANSCO have also confirmed availability of surplus power from out of the unallocated quota of 15% from Central Generating Station and the expected additional generation from the second Simhadri Unit of 500 MW for the balance period of FY 2002-03 Tariff Year. APTRANSCO in fact stated that the power from 2nd unit of Simhadri will be available at 90 paise per unit during this period. The APTRANSCO / DISCOMS have therefore stated that it would not incur any loss on account of supply of power at Rs.2.12 to Ferro Alloys Units during the balance period of the current Tariff Order. However, in case, there is any shortfall it would be open to DISCOMS to come before the APERC with a proposal for any such appropriation at the time of making the Tariff proposal for the FY 2003-04. As the present proposed Tariff is based on surplus available from unallocated quota of NTPC and 2nd Unit of NTPC, DISCOMS may come forward with fresh proposal for Tariff for Ferro Alloys Units for the FY 2003-04 at the time of filing of Annual Revenue Requirement proposals for FY 2003-04.

24. The APERC therefore approves the proposal for amendment of the tariffs for Ferro Alloy Units and directs supply of power to ferro alloy units at 212 ps. / unit without demand and minimum charges subject to the condition that the ferro alloy units draw their entire requirement of power from DISCOMS only and maintain on an annual basis a load factor of 85%. In case the annual load factor is less than 85%, the deemed consumption charges amounting to the shortfall shall be paid to the DISCOM. To the above extent, the APERC directs the modification of the tariff notified for the FY 2002-03 and directs that DISCOMS concerned viz., APCPDCL, APEPDCL and APNPDCL shall change tariffs for ferro alloy units in the State as mentioned above with immediate effect.

This Order is issued by the A. P. Electricity Regulatory Commission on the 26th September, 2002.

**Sd/-
(K.SREERAMA MURTHY)
MEMBER**

**Sd/-
(G.P.RAO)
CHAIRMAN**

