

**HARYANA ELECTRICITY REGULATORY COMMISSION SCO NO. 180,
SECTOR 5, PANCHKULA – 134109, HARYANA**

Date of Order: 5.12.2006

PRESENT:	Shri Bhaskar Chatterjee, Chairman
	Shri T.R. Dhaka, Member
	Shri T.S. Tewatia, Member

The Commission has examined the Fuel Surcharge Adjustment (FSA) claim filed by HPGCL upto 2nd quarter 2006-07 with corresponding claim filed by two distribution company (UHBVNL & DHBVNL) As against the claim by the power utilities, the Commission finds claim of Rs. 11,549.64 millions as reasonable as per the attached order, which can be considered for recovery. According to the regulations governing the filing of claims relating to FSA, the utilities are required to file claims for FSA recovery at the end of each quarter. However, the Commission is dismayed to observe that since 2003 no FSA claim has been filed by the utilities and the entire accumulated claims of 2003-04 ((-) Rs. 1162.6 millions), 2004-05 (Rs. 3573.6 millions), 2005-06 (Rs. 8291.41 millions) and first two quarters of 2006-07 (Rs. 5231.44 millions) have been filed recently. This has led to accumulation of claims, which are supposed to be recovered in the course of the current financial year. However, it would be impracticable to allow recovery of the accumulated amounts of four years in a period of remaining four months of the current year. The Commission,

therefore, has adopted a pragmatic approach and has tried to strike a balance between the consumers' interest and the need for financial liability of the Utilities. As this is a creation primarily due to the omission of the utilities to file their claims in time, the Commission appropriately decides not to allow any holding costs to the Utilities given this staggered period of recovery and would expect the Utilities to absorb this holding cost by suitable improvement in its operational efficiency beyond the normative parameters to be given by the Commission in relevant year's ARR orders.

2. The Commission has considered the review petition filed by HVPNL for FY 2006-07 and UHBVNL and DHBVNL for FY 2006-07. While deciding the review petitions, the Commission has also taken into consideration the orders of the Hon'ble Appellate Tribunal dated 07.07.2006, 12.09.2006 and 10.11.2006 on the orders passed by this Commission. As a result of detailed examination, the Commission is of the view that an amount of Rs. 2059.6 millions (Rs. 2018.42 million for HVPNL and Rs.41.18 million for UHBVNL) could be considered to be given over and above the ARR amount already allowed by the Commission by its earlier order dated 26.07.2006 and 23.08.2006 keeping in view the observation given by the Hon'ble Appellate Tribunal as per the order attached herewith.

3. The Commission has also considered the petition filed by HVPNL for revision of its tariff orders related to FY 2002-03, FY 2003-04, FY 2004-05, FY 2005-06 as a consequence of the orders of the Hon'ble Appellate Tribunal dated 07.07.2006 and 12.09.2006. On consideration of the issues decided by the Hon'ble Appellate Tribunal and on account of truing up of the years prior to 31.3.2006, the Commission decides to allow the licensee to recover Rs. 1620.2 million as a combined amount for the two

orders of the Tribunal. With this the total recoverable amount comes to Rs. 19,761 millions as per details given below:

Table 1: FSA & Other Charges (Rs. Crores)

		TOTAL
1	Impact of orders of the Appellate Tribunal related to HVPNL Tariff Orders for FY 2002-03, 2003-04, 2004-05, 2005-06	162.02
2	Fuel Surcharge Adjustment	1546.51
	Less: FSA taken by GOH (to be adjusted against Agriculture Pumpset Consumers)	-391.55
3	Review Petition filed by HVPNL and HVPNL and UHBVNL related to ARR orders for FY 2006-07	205.96
4	Revenue Gap as per ARR Order for Distribution and Retail Supply Business for FY 2006-07	453.13
	TOTAL	1976.07

The Commission has deliberated in great detail regarding the mode of recovery of the amount mentioned above which has become due as a result of filing of FSA/review order of HVPNL and UHBVNL and DHBVNL. The Commission is conscious that while the financial health of the stake-holders (i.e. HPGCL, HVPNL, UHBVNL and DHBVNL) is of extreme importance, the consumer interest cannot be neglected either. In fact the Commission is very conscious of the different consumers' capacity to pay and feels that they should not be burdened unnecessarily with any additionality without proper scrutiny and examination. The Commission is, therefore, of the view that the recovery of the entire due amount should be phased out in such a manner that it does not lead to a tariff shock to the consumers. In this context a request has been received from UHBVNL and DHBVNL vide their letter No. CH-18/SE/RA/N/F-54/Vol III dated 13.10.2006 that the proposed recovery relating to Fuel Surcharge Adjustment (FSA) should not be passed on to the agriculture. To ascertain the views of the State Government on the subject, the Commission made a reference to

the State Government vide letter No. 1727/HERC dated 4.12.2006 to intimate whether it would like to compensate the Distribution Licensees in the shape of subsidy amounting to Rs. 715.43 crores over a period of 36 months starting from 1st December, 2006 in the event of non recovery of the proposed FSA and other charges from the agriculture sector. The State Government vide memo no. 2/11/2006 – I Power dated 5/12/2006 agreed to provide additional support as indicated in the said Commission's letter. Consequently, the Commission does not impose any additional burden in the form of FSA and other charges so far as agriculture pump –set consumers are concerned.

4. With regard to other consumers the Commission is of the view that since the amount relates to earlier orders dating from FY 2002-03 onwards both with regard to FSA and the Hon'ble Appellate Tribunal, it would be proper to spread it over a reasonable period of time rather than completing the process by the end of the current financial year (March 2007). **Consequently the Commission orders that the due amount from consumers except agriculture component of Rs. 7154.31 millions, is to be recovered as FSA and other charges in the following scale (per unit) upto a period of 36 months starting from 1st December, 2006.** The Commission expects that the amount would be possible to be recovered keeping in view the present supply of power with the reasonable increase of 12% of the same on yearly basis for the next three years (next 36 months). The scale for recovery is given as under: -

Table 2: Scale of recovery

Category	Current Tariff [Paisa/unit]	Approved sales for FY 2006-07	36 months sale taking 12% Year on Year increase	Impact per unit (KWH)of energy sale	Revenue to be collected over 36 months
		MU	MU	Paisa	Rs. Million
DOMESTIC					
Up to 40 units/mth	263	1067	3889	13	505.60
41-300 units	363	1701	6199	30	1859.60
Above 300 units	428	567	2066	40	826.47
NON-DOMESTIC	419	969	3531	39	1367.20
L.T. INDUSTRY	428	1076	3921	40	1550.78
AGRICULTURE *					
Metered	25	1872	6822		2332.84
Unmetered	25	3869	14100		4821.46
MITC	400	2	7	37	2.69
LIFT IRRIGATION	400	190	693	37	255.92
STREET LIGHTING SUPPLY	415	51	186	38	71.27
PUBLIC WATER WORKS	400	379	1381	37	510.50
H.T. INDUSTRY	409	3287	11979	38	4527.07
RAILWAY TRACTION	399	292	1064	37	392.46
BULK SUPPLY	409	535	1950	38	736.84
Total					
Agriculture		5741	20922		7154.31
Domestic		3335	12154		3191.67
Others		6781	24713		9414.72
Total		15857	57789		19760.70

*To be borne by the State Government as per their memo no. 2/11/2006-I Power dated 05/12/2006

5. The Commission's decision to approve collection of above amount is likely to inject additional funds to the Power Utilities whose financial position at present, because of the non increase of tariff of different consumers since 2001-02 is not very satisfactory. Since this is likely to improve the financial health of the power utilities, the Commission would like to take this opportunity to advise them to bring down their T&D losses and also to bring in more efficiency in collection of their dues. It

goes without saying that they should install meters at every consumer's inter-face so as to properly quantify supply of power and recovery of dues thereof.

6. 12% increase of power supply on yearly basis has been presumed by the Commission keeping in view the past historical trend and the projection given by the two distribution companies (around 14%). The Commission took a reasonable view of the future scenario keeping in mind the likely availability of power with the commissioning of Yamuna Nagar Thermal Plant (600 MW) (end of December 2007), synchronization of Powergrid transmission lines from eastern surplus states with northern states thereby increasing availability of comparatively cheaper power with larger volume and likely availability of power from other sources as already contracted/finalised by HPGCL including the share allowed to Haryana in the CPSU's. The Commission is of the view that with proper prudence and tact on the part of the Power Utilities, 12% increase in the quantum of yearly power supply would be reasonable to achieve.

7. As per The Electricity Act, 2003, it would be the endeavour of the Commission to gradually reduce cross subsidization of tariff amongst different consumer categories. The relevant provision is reproduced below:-

“61. Tariff Regulations: (g) that the tariff progressively, reflects the cost of supply of electricity, and also, reduces and eliminates cross-subsidies within the period to be specified by the Appropriate Commission.”

At present there is some amount of cross subsidization in the existing tariff structure in Haryana which over a period of time has been considerably reduced because of the increase in cost of power and non commensurate increase in tariff. The Commission is of the considered view that since such system has been existing for a long period of time, it would not be possible to substantially reduce the same all of a sudden in a particular year. Consequently the Commission has taken care to ensure that in the present order cross subsidization is limited to the bare minimum. Whatever is the additional amount due has been reasonably distributed amongst all the categories of consumers. Para 5.5.2 of the National Electricity Policy states that a minimum level of support may be required to make the electricity affordable for consumers of very poor category. The Commission has been extremely careful about the poorer sections of the society whose paying capacity is limited and consequently has passed the least possible burden on them. Since the domestic consumer of the highest category with monthly consumption 300 units and above will also be getting the advantage of subsidized rates for first 1-40 and from 41 to 300 units, the proposed increase would not come as a tariff shock to them. The Commission would like to emphasise at this point that at present state of our development, it is neither possible nor feasible to totally eliminate cross subsidies while finalizing the tariff policy. It has to be a gradual process to adequately safeguard the financial interest of the poorer sections of the society. For the rest of the categories of consumers (non domestic, industrial, LT & HT etc.) the Commission has taken extreme care to ensure that no category is unduly over-burdened. Moreover, the impact has been tried to be softened by spreading the recovery over a long period of time. The Commission

recently has ordered conducting a cost of service study by the Distribution Companies to find out the exact cost of providing power to the different categories. After the study report is available the picture will emerge clear and would help the Commission in fixing an appropriate tariff structure.

8. The Commission does not consider it necessary at this stage to go for a public hearing for the proposed apportionment amongst the different categories primarily because the major percentage of the amount offered to be received on account of FSA (Rs 11549.64 millions), which is basically a pass through. The relevant provision of the Electricity Act, 2003 reads as under: -

“62. Determination of tariff: (4) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified.”

The above would indicate that public hearing is not mandatory in such a situation. Since this is to be passed on to the consumers, the Commission has made an effort to ensure that only a reasonable amount as per Commission's calculation is passed on over a period of time. The Commission also has impressed upon the power utilities that in future such due is to be claimed every quarter and no multi period accumulated amount is to be sent to the Commission for consideration after a considerable period of time. It would be relevant to mention here that Commission vide its order dated 27.07.2000 on FSA and after detailed hearing has mentioned that FSA would be submitted quarterly for recovery. This has been done after due public hearing and

making the consumer aware of the possibility of FSA to be recovered on quarterly basis. The other recoverable amount has been worked out to comply with the orders of the Hon'ble Appellate Tribunal and the review petitions filed by HVPNL, UHBVNL, DHBVNL on ARR orders for FY 2006-07 passed by the Commission after proper public hearing. Consequently no public hearing is considered necessary at this stage. However, to soften the impact of recovery amount, the Commission has staggered the recovery over a period of 36 months starting from 1st December 2006 onwards. If the recovery is completed before the end of 36 months for any category of consumers as has been stipulated in the earlier paras, it would be treated as closed so far as this order is concerned. On the contrary if there is any shortfall in recovery even after 36 months, the Commission would examine the position at that point of time and pass appropriate orders.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 5th day of December 2006.

Date: 5th December, 2006

Place: Panchkula

(Bhaskar Chatterjee)
Chairman

(T.R. Dhaka)
Member

(T.S. Tewatia)
Member