

**HARYANA ELECTRICITY REGULATORY COMMISSION
SCO – 180, SECTOR – 5, PANCHKULA**

CASE NO: HERC RA – 5 of 2006

Date of Hearing: 23.11.2006

Date of Order: 01.12.2006

Petition filed by the Haryana Vidyut Prasaran Nigam Limited (HVPNL) vide Memo No. Ch-32/SE/RAU/F-65/Vol-I dated 27.07.2006 and Ch-39/SE/RAU/F-54/Vol-1 dated 24.9.2006, seeking revision of tariff relating to FY 2002-03, FY 2003-04, FY 2004-05, and FY 2005-06 in view of the decisions of the Hon'ble Appellate Tribunal.

PRESENT:	Shri Bhaskar Chatterjee, Chairman
	Shri T.R. Dhaka, Member
	Shri T.S. Tewatia, Member
On behalf of HVPNL	Shri P.K. Das, Managing Director
	Shri A.S. Chugh, Director (P)
	Shri S.K. Singal, Director (T)
	Shri D.P. Tiwari, FA/HQ

ORDER

Haryana Vidyut Prasaran Nigam Limited, vide Memo No. Ch-32/SE/RAU/F-65/Vol-I dated 27.07.2006 and Ch-39/SE/RAU/F-54/Vol-1 dated 24.9.2006, has sought revision of tariff relating to FY 2002-03, FY 2003-04, FY 2004-05, FY 2005-06 in view of the decisions of the Hon'ble Appellate Tribunal for Electricity in case no. 24 of 2006 dated 12.9.2006, 33 of 2005 and 74 of 2005 dated 7.7.2006.

The Commission vide its Memo No.HERC/RA-5 of 2006/1621 dated 17.11.2006 issued notice to HVPNL (the petitioner) communicating to them that a hearing on its petition has been scheduled for 23.11.2006 at 10.30 A.M. in the conference hall of the HERC. The hearing on the issues raised by HVPNL was held as per schedule. The Commission heard the petitioner's contention on each issue at length and reserved its order. The said petition is now disposed of vide the instant order:

1. Terminal benefits on accrual basis:

It has been brought to the notice of the Commission that the Accounting Standard (AS-15) came into effect in respect of accounting periods w.e.f. April 1, 1995 and is mandatory in nature. Still further, Section-209 of the Companies Act, 1956 makes it mandatory to account for the terminal benefits on accrual basis. The Commission is of the view that a corpus is required to be created for discharging the liabilities on account of terminal benefits of the employees. Previously, the erstwhile Haryana State Electricity Board was a statutory body constituted under the Electricity (Supply) Act, 1948 and it was not required to maintain its accounts according to the provisions of the Companies Act, 1956. However, as the HVPNL is now a Company incorporated under the Companies Act, it is mandatory to make the accounts on actuarial valuation basis.

In view of above, the Commission directs that the licensee shall work out the terminal benefits on actuarial valuation basis as per accounting standards-15.

In this context, the Commission has studied the audited accounts of HVPNL upto the financial year 2005-06 as supplied by the licensee to the Commission. It is observed that the liability on this account calculated on the basis of actuarial valuation upto FY 2005-06 is already reflected in the balance sheet. Consequently, the Commission is of the view that though we agree in principle with the observation of the Hon'ble Appellate Tribunal, there is no need to add any financial benefit in the ARR of HVPNL in the corresponding year.

2. Working Capital Loans:

The Licensee has been excessively borrowing to meet its working capital requirements and it has been noticed that the increase in such borrowings has no co-relation with the size of

the business operations of the licensees. The electricity consumers cannot be burdened with huge interest cost of the excessive borrowings made by the licensee once it is established that the borrowings are due to the poor financial management, lack of cost control and operational inefficiencies of the licensees. There is a need to keep the working capital borrowing at the minimum level.

Keeping in view the above facts and also keeping in mind the Hon'ble Appellate Tribunal's Order on the subject dated 12/9/2006, the Commission orders that the working capital requirement of the licensee for the Financial Year 2003 & FY 2004 shall be fixed to its average requirement for 3 months and for future years, the same shall be fixed to its average of 2 months requirements. However, as the audited accounts of the licensee till the year 2005-06 stands submitted to the Commission, which incorporates the entire borrowings for working capital purposes and hence interest on the same cannot exceed the amount already reflected in the audited accounts. Consequently, the same has been considered by the Commission and approved.

3. Allowance on interest on PF bonds:

Keeping in view the fact that the audited accounts till the year 2005-06 in respect of the licensee have now been made available to the Commission, it is ordered that interest on PF bonds already form part of the finances of the licensee as reflected in their audited accounts. Thus, in accordance with the orders of the Hon'ble Appellate Tribunal dated 12/09/2006, the Commission approves the same.

4. Date of applicability of Tariff order for FY 2003-04:

The Commission had ordered that the new tariff for the Financial Year 2003-04 shall be effective w.e.f. 1.9.2003. The contention

of the licensee to make it effective from 1.4.2003 has been considered by the Commission. It is observed that the licensee has billed its consumers on the basis of tariff approved by the Commission. Therefore, the licensee has billed its power @ Rs.1.85/unit from April 2003 to August 2003 and at an average tariff of Rs.1.91/unit from September 2003 to March 2004, the enhanced unit rate reflects the increase in tariff allowed by the Commission w.e.f 1/9/2003. Thus, the revenue as per the audited accounts for FY 2003-04 will reflect the financial losses suffered on account of delayed order i.e between 1st April to 31st August 2003 when billing was done as per the old (lower) rates, which has been considered and approved by the Commission.

5. Reactive energy charges:

The reactive energy draws cannot be estimated and predicted as the power system behaves as per loading, voltage conditions and load generation balance in real time and thus the only method for making the possession is based on past experience. It has also been observed by the Commission that reactive energy charges are not paid back from the NREB pool. The Commission is of the view that the reactive energy charges have to be shared by the Distribution Companies as well as by the licensee and the share of licensee shall be limited to the extent it draws the reactive energy. With the SEMs already installed the total drawl by the licensee as also drawl by respective Distribution Company can be worked out. It is, therefore, ordered that the licensee shall be entitled to recover the reactive energy charges as per the amount paid by it on actual basis, which is also in accordance with the Orders of the Appellate Tribunal dated 7/7/2006. Since this expenditure has been allowed on actual expenditure basis, it would form part of expenditure as per the audited accounts submitted by the licensee, which is approved by the Commission.

6. **Interest on capital expenditure loans:**

On the basis of data supplied to the Commission, the weighted average interest on the loans comes to 9.40% in the Financial Year 2005 and 8.97% in the Financial Year 2006.

The licensee is allowed the benefit of difference in capitalization Schedule as claimed by it which is also in accordance with the Orders of the Hon'ble Appellate Tribunal dated 7/7/2006. However, as the expenditure on this account already forms part of audited accounts of the licensee financial benefits due to any difference in capitalization schedule adopted by the Commission vis-à-vis the capitalization schedule proposed by the licensee is overcome by the actual expenditure on new capital works and its subsequent capitalization, the expenditure as per audited accounts is considered and approved by the Commission.

7. **Additional depreciation:**

The Commission allowed depreciation based on average rate as per FY 2003-04 audited accounts in the absence of FY 2004-05 audited accounts. Since the audited accounts of the licensee for FY 2004-05 have now been supplied, it is ordered that the depreciation amount shall be provided based on audited reports, which is also in line with the order of the Hon'ble Appellate Tribunal dated 7th July 2006.

8. **Depreciation on BBMB assets:**

The licensee has contended that the BBMB, although is an inter-State Project, but the licensee has inherited these projects from the erstwhile Haryana State Electricity Board and thus diminution value of investment in BBMB amounting to Rs.107.04 Millions should be allowed to it. The licensee has pleaded that it has ownership interest in BBMB and, therefore, the generation assets of these Projects need to be depreciated like any other Generation Projects.

The Commission after consideration of the entire issue has come to a conclusion that since this involves inter-State sharing of power and water, hence the matter be referred to the Government of Haryana to get the benefit of their stand on various issues pertaining to BBMB in the light of State Re-organization Act, 1966. The Commission shall pass its orders after receiving the comments of the Haryana Government.

9. Return on approved loans and Income tax thereon:

The Commission allows the licensee to claim 0.5% return on approved loans being part of the earnings of the owner and income tax thereon in view of the fact that the Commission has so far not revised or modified the relevant provision of its Tariff Regulations based on schedule VI of the Electricity (Supply) Act, 1948.

The Commission allows this claim based on the loans approved by the Commission and also as per the orders of the Hon'ble Appellate Tribunal dated 7th July 2006. This is an expenditure, which does not form part of the audited accounts of the licensee and therefore is provided additionally.

10. Transmission losses:

The plea of the licensee that it has very little control over inter-State losses is accepted and accordingly the Commission decides that the inter-State losses on actual basis are allowed to the licensee. In as far as intra-State transmission losses are concerned, it is observed that there is only a marginal increase in the intra-State losses from 3.15% in the Financial Year 2003-04 to 3.27% in Financial Year 2004-05, which is on account of increase in the quantum of energy handled.

It is observed from the audited financial accounts submitted to the Commission that the licensee has paid for the actual power

billed to it for inter-State and intra-State purchases. Therefore, inter state transmission losses have been actually billed to it and are therefore forming part of power purchase cost in the audited accounts of the licensee.

11. Exclusion of cash discount from other income:

As per the CERC norms, the receivables are allowed for two months and the Commission also allows to the licensee the same margin.

However, actual discount and other non tariff incomes that have been earned by the licensee for the relevant years are also part of its audited accounts and therefore any calculations for the financial impact on account of the orders of the Hon'ble Appellate Tribunal for Electricity will need to take in to account actual non tariff income earned by the licensee.

The Hon'ble Appellate Tribunal has decided vide its order dated 12th September 2006 that the Commission shall compensate the licensee through 'truing up' exercise. It is a fact that all these issues have had an impact on the finances of the licensee hence form part of its audited accounts for the relevant year. The Commission has examined the audited accounts submitted by the licensee and found that the complete financial impact because of the above issues is reflected in the audited accounts. The accumulated losses of the licensee as on 31.03.2006 would incorporate all the financial losses incurred by the licensee on the issues decided by the Appellate Tribunal for Electricity. Consequently, instead of working out financial impact of each item separately, the Commission has decided to consider the financial impact as reflected in the audited accounts and allows the licensee to recover Rs. 2015.76 million being the accumulated losses upto 31.03.2006 as per the audited accounts for FY 2005 – 06 submitted by HVPNL vide its Memo No. Ch-1/SE/RAU/TB-4/Vol-V dated 20.09.2006.

The Hon'ble Appellate Tribunal has upheld the right of the licensee to earn reasonable return on the basis of the above guidelines. As per the ARR

and Tariff guidelines issued by the Commission, the licensee is entitled only for reasonable return which means that no unreasonable profit can be earned by it. In case any amount over and above the accumulated losses and reasonable return is allowed this would amount to earning unreasonable profit and will therefore need to be returned to the consumer. Therefore it is eminently reasonable to limit the impact of amounts conceptually allowed by the Hon'ble Appellate Tribunal as per the accumulated losses of the relevant years.

The accumulated losses of Rs.2015.78 million include Rs.58.523 million depreciation on BBMB and IP station assets. Reasonable return of 0.5 % of approved loans is to be provided over and above the accumulated losses. This amounts to Rs.189.68 million. Consequently, the net impact to be allowed to HVPNL works out to Rs.1620.21 million. The computational details are provided in the table below:

		Rs. Million	Rs. Million
1	Accumulated losses of HVPNL as on 31.3.2006 (as per audited accounts)		2015.76
2	Less losses on account of diminution in value of asset		
	FY 2005-06	107.73	
	FY 2004-05	107.04	
	FY 2003-04	104.70	
	FY 2002-03	265.75	585.23
			1430.53
3	Add return @ 0.5% on allowed borrowings		
	FY 2004-05	93.29	
	FY 2005-06	96.39	189.68
4	Total		1620.21

The manner in which Rs.1620.21 million is to be recovered by HVPNL shall be set-out in a separate order to be passed by the Commission incorporating FSA and additional revenue requirement as per review petitions under consideration of the Commission.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 1st December 2006.

Date: 1st December, 2006
Place: Panchkula

(T. S. Tewatia)
Member

(T. R. Dhaka)
Member

(Bhaskar Chatterjee)
Chairman