

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

CASE NO: HERC RA – 3 of 2006

And

CASE NO: HERC RA – 4 of 2006

Date of Hearing: 15.11.2006

Date of Order: 01.12.2006

In the matter of

1. Petition filed by the Uttar Haryana Bijli Vitran Nigam Limited vide its Memo No. Ch-65/SE/RA/N/F-25/Vol XI dated 18.09.2006 seeking review and / or modification and / or clarification of the order dated August 23, 2006 passed by the Commission in case No. HERC/Pro – 15 of 2005 with respect to the annual Revenue Requirement filed by Uttar Haryana Bijli Vitran Nigam Limited for its Distribution and Retail Supply Business for FY 2006 – 07.
2. Petition filed by the Dakshin Haryana Bijli Vitran Nigam Limited vide its Memo No. Ch-55/SE/RA-248 dated 20.09.2006 seeking review of the order dated August 23, 2006 passed by the Commission in with respect to the annual Revenue Requirement filed by Dakshin Haryana Bijli Vitran Nigam Limited for its Distribution and Retail Supply Business for FY 2006 – 07.

PRESENT:	Shri Bhaskar Chatterjee, Chairman
	Shri T.R. Dhaka, Member
	Shri T.S. Tewatia, Member
On behalf of UHBVNL	Shri Apoorva K. Singh, Managing Director
	Shri Mahender Singh, Director (Finance)
	Shri B.B. S. Chauhan , Director (Operation)

	Shri. A.K. Gupta, SE/RA
On behalf of DHBVNL	Shri Apoorva K. Singh, Managing Director, UHBVNL

ORDER

Through the petition filed under clause No. 78 (2) of Chapter VI of HERC Conduct of Business Regulation, 2004, the Uttar Haryana Bijli Vitran Nigam Limited and Dakshin Haryana Bijli Vitran Nigam Limited have sought review and / or modification and / or clarification of the Commission's order dated 23 August 2006 relating to determination of ARR for its Distribution and Retail Supply Business for FY 2006 – 07.

The Commission vide its Memo No.HERC/RA-3 of 2006/1529 and Memo No.HERC/RA-4 of 2006/1530 dated 9.11.2006 issued notice UHBVNL and DHBVNL (the petitioners) communicating to them that a hearing on their review petition has been scheduled for 15/11/2006 at 11.00 A.M. in the conference hall of the HERC. The hearing on the issues raised by UHBVNL vide its review petition was held as per schedule. DHBVNL could not be represented in person due to miscommunication. The Managing Director of UHBVNL, Sh Apoorva k. Singh, I.A.S. sought permission to represent DHBVNL, which was granted by the Commission. 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.

The factual background of the order under review and Commission's observations & order on the same is stated, hereunder.

Issues raised in the review petition filed by UHBVNL:

1. **Repair & maintenance expenses:**
 - a) **Rate of R&M expenses:** the licensee has claimed R&M expenses @3% of average GFA in its ARR filing for FY 2006-07. The

Commission, in its order dated 23.8.2006, allowed the R&M expenses @ 2% of average GFA. The licensee has already submitted R&M norms for its equipment vide its filing no. CH-06/SE/RA/N/F-63/Vol-III dated 24.10.2005, on the basis of which R&M expenses at 3% of GFA was proposed. A perusal of the norms reveals that material cost (which comprises the R&M expenses) of normative maintenance of equipment is only 0.75 % of the book value of assets. The existing expenditure based on 2% of average GFA is much in excess of the normative expenditure of 0.75%. Therefore the Commission disallows enhanced R&M expenses proposed by the licensee on the basis of R&M norms.

b) Exclusion of rent earning assets for allowing R&M expenses:

The Commission disallowed expenses incurred by the licensee on maintenance of guest houses and staff quarters since FY 2003-04. The Commission observed that establishment of guesthouses and staff quarters are not part of the licensed business and as such the consumers for electricity are not to subsidise these activities through tariff.

However, the Hon'ble Appellate Tribunal in its order dated 10.11.2006 has ordered that " as owner of those buildings which are being used for the purpose of the licensee and its activities, the licensee has to maintain and undertake repairs in the interest of the licensee irrespective of the fact that the income is only at a minimum level."

In accordance with the orders of the Hon'ble Appellate Tribunal dated 10.11.2006 in appeal nos. 181 of 2005, 207 of 2005 and 59 of 2006, the Commission allows the licensee to claim R&M expenses on maintenance of guest houses and staff quarters on actual basis. The Commission allows Rs. 4.48 million at 2% of book value of these assets.

2. **Interest on loans:** In its ARR order, the Commission has allowed Interest on working capital equivalent to one month of ARR. The licensee sought review on the basis of order of Hon'ble Appellate Tribunal dated 7th July 2006 on the ARR of HVPNL for FY 2004-05 and FY 2005-06 since the petition of UHBVNL was still pending with the Hon'ble Appellate Tribunal.

Now that the Hon'ble Appellate Tribunal in its order dated 10.11.2006 has upheld the order of the Commission, the issue is decided accordingly and the working capital as allowed by the Commission vide its order dated 23.8.2006 is retained.

3. **Other expenditure:**

- a) **Regulatory asset written off:** The regulatory asset was allowed to the licensee vide Commission's orders for FY 2000-01 and FY 2001-02. In the subsequent years, the projected revenue of the licensee was higher than the approved revenue requirement and therefore, the Commission reduced the regulatory asset as per amounts available by including it in the Annual Revenue Requirement. This was done in accordance with the methodology laid down by the Commission in its order for FY 2000-01 while allowing the regulatory asset. The balance outstanding after adjustment was eligible for interest. The entire outstanding regulatory asset was wiped out in the ARR order for FY 2005-06 and therefore no adjustment was required in the ARR for FY 2006-07. As per earlier orders of the Commission, the licensee has already recovered the full amount of regulatory asset through its Tariff and therefore the same amount cannot be allowed to be recovered again.
- b) **In the ARR filing for FY 2006-07, the licensee has claimed Rs. 24.54 million as expenditure on account of injury death and damage, loss on obsolescence of asset etc.** These expenses

cannot be allowed on projected basis, since these are not in nature of recurring expenses. The Commission decides to allow the actual expenditure incurred on account of compensation for injury, death and damage as per latest available audited accounts. Consequently the Commission allows Rs. 2.79 million as other expenditure as per audited accounts for FY 2004-05 on actual expenditure basis.

4. Depreciation:

- a) The Commission has adjusted the excess of depreciation over capital loan repayment towards reducing the revenue gap (revenue gap is the difference between the annual revenue requirement and the revenue from projected sales). The treatment of depreciation was prescribed by the Commission vide its order dated 13.11.2003.

The licensee has stated that the Commission did not adjust the excess of depreciation over capital loan repayment in its order for FY 2005-06 but has done so in the order for FY 2006-07 therefore not following a consistent approach.

As there was no revenue gap in the ARR for FY 2005-06, the Commission in the order for FY 2005-06 had stated that this amount of unadjusted depreciation would be available for adjustment in the next ARR. In the order dated 23.8.2006, the Commission has adjusted the unadjusted depreciation amount of FY 2005-06. Therefore, there has been no inconsistency in the Commission's approach.

The licensee has stated that utilization of depreciation amounts to set off the revenue gap results in non allowance of full amount of depreciation as expenditure. The licensee has challenged the above treatment of depreciation in the Appellate Tribunal.

The order of the Hon'ble Appellate Tribunal dated 10.11.2006 has not reversed the approach of the Commission. Thus the review petition on this account is not maintainable.

5. **Reasonable return:** The licensee had claimed return @0.5% of loan amount. The Commission had disallowed 0.5% return since all expenses of the licensee for raising and managing its loans have already been allowed.

The Hon'ble Appellate Tribunal in its verdict dated 10.11.2006 has quoted from its order on an appeal by HVPNL on the same issue maintaining that " in all fairness, entity in business operations should be allowed some kind of minimum return and consequential income tax payable on the amount of reasonable return as legitimate business expenditure".

In accordance with the decision of the Hon'ble Appellate as above, return of 0.5% on approved loans for FY 2006-07 amounting to Rs. 33.91 million is allowed.

6. **Agriculture Sales Estimates:** The licensee has claimed that the running hours of unmetered tubewells are more than the metered tubewells. The Hon'ble Appellate Tribunal in its order has observed that the licensee has deliberately failed to implement the directions issued by the Commission regarding metering of agriculture consumers and therefore declined to interfere with the order of the Commission on this issue. Consequently, no further comment is warranted on this.

As a consequence of the discussion in the preceding paragraphs on the revised expenditure and return allowed to UHBVNL as part of this order (Rs. 41.18 million), the ARR of UHBVNL for FY 2006-07 stands revised to Rs. 30059.70 million.

7. **Tariff for agriculture pumpset consumers:**

7.1 UHBVNL

- a) UHBVNL has submitted that since the Commission's order dated 23.8.2006 was neither passed with majority, nor was it a consensus one and hence it was void and non implementable in its present form.
- b) The licensee has stated that the Commission has adopted a different methodology of allocation of cross subsidy in its orders for FY 2000-01 and FY 2001-02 as compared to the orders for FY 2004-05, 2005-06 and FY 2006-07. The licensee has prayed that due to increase in cost to serve of all categories, the cross subsidy per unit generated by the cross subsidizing consumer categories has gone down since FY 2001-02. The licensee has proposed that the level of cross subsidy should have been maintained at the level as in FY 2001-02 and consequently the tariff for these consumer categories should have been increased.

7.2 DHBVNL

- a) The order of the Commission was issued by ignoring the submission of DHBVNL vide office memo No. 44/SE/RA-248 dated 22.8.2006 wherein the licensee had requested the Commission to defer the order on the ARR in view of the State Government's request for time to decide on commitment of additional subsidy.
- b) The tariff hike is in excess of 400%, which is impractical and unimplementable. The licensee also states that tariff shock of this magnitude can lead to resistance among consumers and may derail the process of regulatory reforms.
- c) The licensee has prayed for deferring the revision of agriculture tariff as per ARR order dated 23.8.2006 till final commitment/decision on additional subsidy by the State Government

Keeping in view the apprehensions of the licensee, the Commission has revised the allocation of total ARR for FY 2006-07. The Commission has now allocated the resultant revenue gap in the ratio of sales for FY 2006-07 and the rate of recovery is based on the consumer category wise tariff rates. Therefore the issue of cross subsidy has also been adequately addressed.

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

Date: 1st December 2006

Place: Panchkula

T. S. Tewatia
(Member)

T. R. Dhaka
(Member)

Bhaskar Chatterjee
(Chairman)