

HARYANA ELECTRICITY REGULATORY COMMISSION
BAYS NO. 33-36, SECTOR – 4, PANCHKULA

Case No. HERC/RA – 2 of 2008
Case No. HERC/RA - 3 of 2008

Date of Hearing: 18/08/2008
Date of Order: 1/10/2008

In the matter of

Distribution and Retail Supply Tariff petition filed by the distribution licensee(s) i.e. Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL) vide memo no. Ch-47/GM/RA/N/F-25/Vol. XVIII dated 10/07/2008 and Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL) vide memo no. Ch-57/SE/RA/282/III dated 10/07/2008 to bridge the revenue gap of Rs. 5221.52 Million.

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

The Commission, after analyzing the annual revenue requirement of the Distribution licensee for FY 2008-09, informed the licensee(s) vide memo no. 145-146 / HERC/2008 dated 25/04/2008, that the revenue gap at the existing tariff is Rs. 27663.94 million (Rs. 17047.15 million UHBVNL and Rs. 10616.79 million DHBVNL). The agriculture subsidy in this amounts to Rs. 23,686 million in order to retain the agriculture tube – well supply tariff at the existing level. The net deficit, after accounting for the surplus available, in other categories is Rs. 3978 million. In addition to the above mentioned revenue gap, an amount of Rs. 1243.52 million is also due on account of the relief granted by the Commission vide its order dated 26/09/2007 on review petitions filed by HVPNL for their Transmission and SLDC business, HPGCL for their generation and trading business and UHBVNL for their distribution & retail supply business for FY 2007-08. Resultantly, a revenue gap of Rs. 5221.52 million needs to be addressed as against no revenue gap projected by the Distribution licensee(s).

Statement of Difference & tariff filing:

Clause 5 of the HERC ARR filing guidelines on 'Statement of Difference' provides that if divergence between the aggregate revenue requirement and the expected revenue (at the current tariff) for the ensuing year is significant the ARR shall include a statement of how the licensee proposes to deal with the divergence. Further, regulation 3(1) of HERC (Tariff) Regulations 1999 provides that if the

Commission determines that a licensee expected revenue differs significantly from the revenue it is permitted to recover under its license, it may order the licensee to file an application within 90 days to amend its tariff appropriately. Consequently, the Commission directed the Distribution licensee(s) vide its memo dated 25/04/2008 to file a proposal to bridge the revenue gap.

Agriculture Subsidy:

As per past practice, the State Government has been providing subsidy support to the agriculture tube well consumers. Thus, the Commission vide memo no. 2940/HERC dated 14/03/2008 and memo no. 135/HERC dated 24/04/2008 sought commitment of the State Government for providing Rs. 23,686 million as RE Subsidy to maintain the agriculture tube – well tariff at the existing level. The State Government vide memo no. 2/21/2006-1 Power dated 7/07/2008 intimated that the State Government has already made budget provision of RE Subsidy of Rs. 23700.9 million for FY 2008-09 against the requirement of Rs. 23,686 million. Further, it was also intimated that the State Government is examining additional requirement of deferred RE Subsidy of Rs. 1030 million claimed by UHBVNL. Subsequently, the State Government vide memo no. 2/21/2006-1 Power dated 10/07/2008 reiterated that the Government has already provided a sum of Rs. 23700.9 million in the Budget Estimates for FY 2008-09 and the State Government hereby commits to pay the required subsidy for FY 2008-09 to Power Utilities as required by the Commission. In addition the Government also agreed to pay only the principal of deferred RE Subsidy to UHBVNL against Rs. 1030 million of principal and interest. Out of Rs. 1243.5 million relief granted to HVPNL, HPGCL and UHBVNL as per Commission’s order on review petitions filed by them for FY 2007-08, the State Government agreed to bear the share of agriculture consumers amounting to Rs. 354.4 million.

As per the provisions of Section 65 of the Electricity Act 2003, the state government is required to pay subsidy in advance to the distribution licensees. The Commission accepts the subsidy committed by the Government as intimated to the Commission and expects the same shall be paid in advance as required under the provisions of the Electricity Act 2003.

Salient Features / Rationale of UHBVNL & DHBVNL Tariff Proposal for FY 2008-09:

The distribution licensee(s) i.e. Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL) vide memo no. Ch-47/GM/RA/N/F-25/Vol. XVIII dated 10/07/2008 and Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL) vide memo no. Ch-57/SE/RA/282/III dated 10/07/2008 filed a proposal to meet the revenue gap of Rs. 5221.52 million through revision in tariff & slabs in various consumer categories and also by changing the method of billing by switching over from telescopic to non – telescopic system. A snapshot of the tariffs proposed by UHBVNL & DHBVNL uniformly is reproduced hereunder:

Consumer category	Existing monthly slab of tariff (Rs./Kwh)	Proposed monthly slab of tariff (Rs./Kwh)
Domestic	0 – 40 units 2.63 41- 300 units 3.63 Above 300 units 4.28	*0 – 60 units 2.50 *61 – 300 units 3.65 *Above 300 units 4.55
Non-domestic /	4.19	*0–100 units 4.00

commercial		*101-250 units 4.40 *Above 250 units 5.60 Standalone hoardings 7.50
LT industry	4.28	0 – 500 units 4.35 Above 500 units 4.75
HT industry	4.09	4.75
Agriculture Tube Wells	NO CHANGE	
MITC/Societies	NO CHANGE	
Lift irrigation	4.00	4.50
Public water works	4.00	4.50
Railway traction (at 66/132 KV)	3.85	5.00
Bulk supply (at LT)	4.19	4.50
Public Street Lighting	NO CHANGE	

The Commission in order to have the benefit of the views of the electricity consumers of Haryana as well as any other interested parties invited objections / suggestions on the above proposal of UHBVNL & DHBVNL by way of a public notice inserted in the newspapers with wide circulation in Haryana. The details are as under:

Name of the Newspaper	Edition / Language	Date of publication
The Tribune	Chandigarh / English	18/07/2008
Hindustan Times	Delhi / English	18/07/2008
Amar Ujala	Haryana / Hindi	18/07/2008
Dainik Bhaskar	Haryana / Hindi	18/07/2008

The last date for filing objection was 1700 hrs. of 14th August 2008 and public hearing was scheduled for 18th August at 11.30 A.M in Commission's court room at Bays No. 33 – 36, Sector – 4, Panchkula. The Commission further directed UHBVNL and DHBVNL to give wide publicity to their tariff proposal through their field offices so as to elicit maximum response from the general public. The public hearing was held as per schedule. Given the large number of response received from the public / stakeholders the venue of the hearing was shifted from the court room of the Commission to the nearby Indradhanush Auditorium.

Public Objections / comments:

In response to the public notice issued by the Commission objections / comments were filed by a large number of individuals and organisations. During the public hearing Shri Sampat Singh, Shri G.C. Narang (on behalf of Confederation of Indian Industry), Shri. Rampal Majra, Shri Barar (on behalf of Faridabad Industries Association), Shri. Kadian, Shri Mallik, Shri Gehlot, Shri Indora, Shri jagjit Singh, Shri Mann and Shri Gaurav Singh made oral submissions before the Commission. A summary of the objections / comments under broad category are reproduced below:

Legal & Procedural Issues:

The interveners submitted that Section 87 of the Electricity Act 2003 requires that the Commission shall constitute State Advisory Committee (SAC), whose advice to the Commission is mandatory on the issue of revision of tariff. As the Commission has not constituted SAC the public hearing on 18/08/2008 is illegal. Some of the consumers also stated that public notice inviting objections / suggestions should have been given in widely circulating newspapers on pages that relate to Haryana. The public notice issued in the newspapers did not high light the major shift in domestic tariff design from existing telescopic structure to non – telescopic structure which would put large financial burden on the domestic consumers. The tariff proposal should have been brought to the notice of the rural consumers through public address system and pamphlets. Even the Guaranteed Standard of Performance that the Discoms must adhere to with meager monetary compensation on failure to meet the Guaranteed Standards was never brought to the notice of the consumers. Despite the poor standards of performance of the Distribution licensees there is not even a single instance of compensation paid in line with the Standards of Performance for the Distribution licensee notified by the Commission. It was also submitted that the revenue collection efficiency of the Discoms is only about 80% , resultantly 20% revenue running into thousands of Crores accumulated over the years remain uncollected which if collected would have resulted in excess of revenue over expenditure. Consequently, the demand for tariff hike is unjustified and ought to be rejected.

Distribution Losses / Feeder wise Losses:

Almost all consumers / organisations in their written as well as oral submissions highlighted the issue that the Distribution companies despite being allowed massive capital investments as well as O & M expenses have failed to rein in losses which is still hovering around 28% level against a benchmark of 13 to 15%. They reiterated that 1% reduction in the loss level results in a saving of Rs. 90 to 100 Crore. Consequently, a reasonable loss reduction of around 5% is sufficient to erase any revenue gap obviating the need for tariff hike which in fact should come down.

Tariff Related Issues:

The consumers, at the outset, objected to change in tariff structure of the Domestic Consumers from 'telescopic' to 'non – telescopic'. They submitted that 'non – telescopic' domestic tariff proposed by the Discoms "is the death knell of consumers' interest" wherein no consumer of any category of three slabs would be benefited if he is out of that slab by even a single unit. The proposed tariff was also objected by the consumers on the ground that no efforts have been made towards reducing the cross – subsidy from the tariffs of HT/LT/Railways and Bulk Supply category. As per the National Tariff policy the element of cross subsidy should be (+)/(-) 20% to be gradually reduced. Contrary to the National policy the proposed tariff envisages an increase in the cross – subsidy in the retail tariff structure. Finally, the proposed tariff category makes no mention of bulk domestic category of consumers billed @ 3.50/kWh. Since the category was recently introduced the Discoms should have provided sales volume and revenue realisation from this category of consumers as well.

It was also pointed out by the interveners that the proposed HT and LT Industry tariff is defective. Logically, due to lower losses caused by HT Industrial consumers taking supply at higher voltage and hence causing much lesser cost to serve and also better revenue collection efficiency from this category, the tariff ought to be lower than the tariff applicable to the LT Industry category. As against this the proposed HT Industrial tariff is higher than the proposed LT Industrial category. Further, no economic justification has been provided for proposing 'tariff slabs' in LT Industry as well as Commercial category.

The consumers also submitted that power intensive big commercial malls, PVR Cinemas and multiplexes are charged same tariff as those charged to small shopkeepers which is iniquitous and the anomalies ought to be corrected.

Cost of Service:

It was submitted by the consumers that despite Commission's direction the Discoms have not submitted any cost of service (COS) study since 1999. As per tariff regulations of the Commission it is mandatory for the Discoms to file a COS along with its ARR/Tariff petition. Thus, the Discoms have not complied with the statutory requirement. The proposed tariff is not supported by any consumer category wise cost estimates. In the absence of COS which is mandatory, the tariff petition ought to be rejected.

Agriculture Consumption & Subsidy:

The interveners also questioned the mechanism to calculate the electricity supplied to the agriculture tube – wells, especially in case of un – metered tube –wells comprising about 80% of the tube – wells in the state, whose tariff is calculated on a flat rate (Rs/BHP/Month) basis. It was submitted by the consumers that in the current year the power utilities have demanded more than Rs. 2400 Crores as subsidy from the Government which is totally absurd. A proper mechanism to verify the power consumed in agriculture sector can itself bring down the subsidy requirement by Rs. 700 – 800 Crore.

Other Issues:

The Consumers commented on the failure of the Discoms to conduct energy audit despite repeated directions from the Commission during last several years. The electricity consumers who are being burdened with the cost of theft and unbilled energy have right to know how much electricity have been supplied to a feeder and in turn how much have been supplied to the consumers and further how much have been billed to know the exact loss of energy in the process.

It was also submitted that at times electricity supply is suspended for even 24 hours without any prior notice as against the provision of advance notice to the consumers. Further, placing of meters outside the premises of the consumers without providing any real time display system (as directed by the Commission) to the consumers is adding to the confusion, harassment as well as wrong billing. Electricity dues waiver schemes add to the financial burden because the consumers who are determined not to pay anyway do not pay and ultimately their dues are waived off.

Intervenors also commented on non – availability of actual data for the financial year 2007-08 to establish prudence of projections made for FY 2008-09. On the issue of depreciation they submitted that

it has been charged wrongly. Depreciation ought to be allowed only on the capitalisation of assets and the same being put to use by the utilities for their distribution business any excess depreciation allowed ought to be duly adjusted in FY 2008-09.

UHBVNL RESPONSE TO THE OBJECTIONS:

UHBVNL and DHBVNL vide memo no. Ch-22/GM/RA/N/F/25/Vol – XIX dated 29/08/2008 filed comments / reply to the public comments on their tariff application. On legal & procedural issues including consultation with SAC, Power Sale Agreement (Amarkantak), wide publication of public notice of tariff and strict action by the Commission against the distribution licensee(s), UHBVNL and DHBVNL offered no comments on the plea that they do not pertain to the Nigams. They also submitted that the impact of tariff proposal on the typical consumers has also been submitted by Nigam. On tariff and other issues raised by the consumers the Discoms submitted as under:

The final study in respect of cost of supply is expected to be submitted within two months. The proposed tariff is linked with the indicative average cost of supply and is in line with the National Tariff policy. However, due to social considerations the proposed first two slabs of domestic category, agriculture category and horticulture is lower than 80%. While based on capacity to pay the proposed tariff(s) of some categories i.e. HT Industries, Railways and Bulk Supply are higher than 120% of the cost to serve. Further, the Discoms submitted that the proposed non – telescopic tariff model and introduction of new ‘tariff blocks’ has been done with an eye on capacity to pay and demand side management.

On the issue of distribution losses the Discoms submitted that they have reduced the distribution losses from 35.7% in FY 2001-02 to 28.5% in FY 2007-08. Further, as against consumers submission that 1% loss reduction is equal to Rs. 90 to 100 Crore revenue the Discoms estimated the same in the range of Rs. 24.6 Crore to 49.86 Crore depending on the sales mix. Steps are being taken to reduce AT & C loss to 16% by FY 2011-12. Collection efficiency as per the Discoms in FY 2008 is 93.36% and not 80% and they have no impact on the tariff as such. They also submitted that in the absence of consumer indexing they are not able to carry out consumer level energy audit. The Discoms also submitted their response to consumer grievances related issues such as illegal charging, corruption, theft, consumers’ dissatisfaction etc. They appreciated the suggestion of opening of consumer grievances redressal forum in every district headquarter and agreed to take steps towards these. On the issue of RE Subsidy and theft in the Agriculture Un metered category, the Discoms submitted that the supply hours for un metered agriculture consumption is determined on the basis of metered agriculture consumption, so there is no possibility of theft or over – booking. The Discoms also submitted that the Standard of Performance Regulation notified by the Commission is available on the official web site of UHBVNL.

Commission’s Analysis and Order:

The Commission has considered the objections/suggestions of the consumers and the reply submitted by the Distribution licensee thereto. As far as SAC is concerned Section 87 (1) of the Electricity Act 2003 provides “The State Commission may, by notification, establish with effect from such date as it may specify in such notification, a Committee to be known as the State Advisory Committee”. The

Commission notified the Establishment of State Advisory Committee, 2004 Regulations on 12/04/2004. Regulation 3(5) of the SAC regulations provide that the “Members of the State Advisory Committee shall be appointed for a term of three years”. As the term of the existing SAC members are over, the Commission is in the process of appointing new members to the SAC. However, in no way this has any reflections on the tariff proceeding of the Commission conducted in accordance with Section 62 & 64 and all other relevant sections and regulations framed under various provisions of the Electricity Act 2003. The details of public notice issued by the Commission have already been provided. The fact that over 800 objections / comments were filed by the consumers is sufficient to drive home the fact that wide publicity was given to the tariff proposals of the Discoms under consideration.

A lot of issues in the nature of consumer grievances were raised by the consumers. As they do not directly relate to the tariff proposal under consideration, the Commission has not gone into details of the same as far as instant order is concerned. However, the Commission has taken note of the feedback on quality, quantity of supply, as well as the level of service including metering, billing, fault rectification etc.

There is no denying the fact that the financial position of both the Discoms who operate in the government sector present a dismal picture which has partly affected their functional efficiency. It would be relevant to note in this context that the existing tariff structure was last revised in the year 2001 and thereafter not undergone any further change whereas the cost of service has gone up appreciably during the intervening period. Though the cost of power purchase which is one of the main component of expenditure for the distribution licensees are being reimbursed to them from time to time through FSA, other expenditure relating to manpower cost, R&M cost, cost of borrowing etc. which are steadily going up have not been duly reflected in the tariff calculation. Hence there is a need to rationalize the existing tariff structure to induct fresh funds into the distribution utilities at the earliest. While the Commission is legally bound to protect the consumer interest, it has also to keep in mind the commercial viability of the distribution licensees. The Commission has to take a judicious view of the revenue requirement of the Discoms to enable them to perform efficiently and at the same time to save the consumers from any possible tariff shock. It is a delicate job to perform because one has to keep in mind the conflicting interest of different stakeholders.

Before taking any decision on the proposal received from the Discoms and passing a tariff order, it would be appropriate to refer to the relevant section of the Electricity Act, 2003. As per sub section(3) of Section 64 of the said Act , “ The Appropriate Commission shall, within one hundred and twenty days from receipt of an application under sub-section (1) and after considering all suggestions and objections received from the public:-

- (a) Issue a tariff order accepting the application with such modifications or such conditions as may be specified in that order;

- (b) Reject the application for reasons to be recorded in writing if such application is not in accordance with the provisions of this Act and the rules and regulations made thereunder or the provisions of any other law for the time being in force
- (c) Provided that an applicant shall be given a reasonable opportunity of being heard before rejecting his application.”

In the light of the mandate given by the Act, we have carefully examined the tariff revision proposal, the objections, both oral and in writing filed by different section of consumers and the comments thereon given by the Discoms. On the basis of available information in the file, we are, however, of the considered view that more information/clarification are needed from the distribution licensees as detailed below before a tariff order as envisaged in sub-section (3) of Section 64 of the Act *ibid* could be issued. The very fact that the Commission received more than eight hundred written objections and more than one thousand interveners from different districts turned out during the time of public hearing adequately prove that the tariff revision proposal had got adequate publicity all over the state.

There are no statutory provision or policy guidelines for telescopic/non-telescopic tariff design. Practice in this regard varies from state to state. In the first tariff order effective from 1.1.2001, our Commission did not view favourably the tariff base on non telescopic design on the objections of the consumers based on the extremely high marginal cost of one unit falling outside a particular slab. Keeping in view the present state of meter reading, change of defective meters etc. and the number of complaints emanating out of that, we are of the view that Haryana may not be ready at present to switch over from telescopic to non telescopic tariff. The Discoms in their reply pointed out that it is likely to help them in their demands side management and energy conservation. While appreciating the efforts on the part of the Discoms, the Commission still has apprehensions for the consumers especially for those who marginally fall outside a particular slab since their tariff would drastically increase and the consumer will lose the benefit of the tariff meant for the lower slab. The Commission is of the view that unless appropriate step is taken to protect their interest, switching over to the new system of tariff is likely to generate more complaints and harassment to the consumers.

It may be relevant to point out in this context that the domestic consumers, taking all the categories as a whole, contribute approximately 68% of the cost of service as per the calculation done by the Commission. Since it is not possible to take care of this category from the revenue surplus generated by other categories of consumers, the Distribution companies have to give a roadmap of gradually increasing their recovery of cost of service vis-à-vis the domestic consumer over a period of time so that as per the Govt. of India Tariff Policy, cross subsidy could be reduced + - 20% of the cost of service by the year 2010-11. The Distribution companies may have suggested switching over to non telescopic system of tariff primarily to enhance revenue collection from the domestic consumers. However, in view of the apprehension of the Commission, Discoms need to study their proposal in greater detail and satisfy the Commissions that sufficient measures have been taken to safeguard the interest of all the domestic consumers specially those falling in second and upper slabs.

When proposed tariff is introduced for a part of the year, the licensee is required to file Form No. 1.3 in the tariff application submitted to the Commission which the licensee has not filed. The licensee was also required to provide data on proportion of full year sales applicable to the part year and corresponding revenue. In the absence of this information, it is not possible to calculate the actual impact of proposed tariff revision and whether the proposed tariff is adequate to cover the revenue gap or not. In case of domestic consumers the existing tariff is telescopic whereas the filing has assumed that the same is non-telescopic resulting in a substantial deviation.

The proposed slabs in Domestic, Non Domestic and LT Industry need to be supported by adequate consumer level data and should be in the line with the National Tariff Policy as far as extent and eligibility of the weaker sections of domestic consumers to receive subsidized/cross-subsidized rate is concerned. The number of consumers for each category and sub category are different in two filings dated 6.8.2008. This has resulted in serious discrepancy in calculating average sales per consumer per month.

The licensee in its filing dated 6.8.2008 has stated that it has appointed M/s ICRA Management Consultancy Services as a Consultant for conducting the study in respect of cost of supply. Final study in respect of cost of supply will take time for submission with HERC. The cost of supply used by the licensee to work out the tariff and the resultant cross subsidy has not been justified or supported by any data/details and thus it is not possible to take a view on the same.

In addition to the above mentioned facts, the proposed tariff is absolutely divergent from the Cost of Service indicated by the Distribution licensees. LT industry tariff is proposed to be lower than the HT industry tariff. The HT tariff is traditionally lower than the LT tariff because LT involve higher losses at lower voltage level supply. The 'paying capacity' argument put forward in order to justify higher proposed tariffs in higher slabs, HT Industry, etc. is not tenable and against the tariff philosophy laid down in the Electricity Act 2003 and the National Tariff Policy framed under it. Moreover no tariff proposal can be considered in isolation of distribution losses. In view of very liberal CAPEX being allowed in the ARRs in the recent years, the Discoms may put up yearly loss reduction trajectory to enable the Commission to take a view on the future requirement of funds and a reasonable tariff revision.

The present tariff revision proposal is being examined in the light of the perceived revenue gap in the ARR of the Discoms for the year 2008-09 even after the State Government agreeing to provide subsidy for the entire deficit for the agriculture consumers. Since the present proposals are incomplete, additional in formations/clarifications as mentioned in the preceding paragraph are being sought, for issuing a tariff order in accordance with Section 64 of the Indian Electricity Act 2003.

Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL) and Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL) vide their memo No. Ch.47/GM/RA/N/F-25/Vol.XVIII dated 10.7.2008 and memo No. Ch.57/SE/RA/282/III dated 10.7.2008 respectively filed proposal for revision of tariff and slabs for various categories of consumers and, also, by changing the method of billing by switching over from

telescopic to non-telescopic system in response to Commission's memo No. 145/HERC/2008 dated 25.4.2008 (to MD, UHBVNL) and memo No. 146/HERC/2008 dated 25.4.2008 (to MD, DHBVNL). Further, UHBVNL and DHBVNL responded to the Commission's communication(s) seeking clarification on the above proposal by submitting their detailed response vide their memo No. Ch.05/GM/RA/N/F-25/Vol.XIX dated 7.8.2008 and memo No.Ch.10/SE/RA-324 dated 6.8.2008 respectively.

The filings for proposed tariff received from UHBVNL & DHBVNL are identical and the table hereunder shows the existing and proposed tariff for different categories of consumer:-

Consumer category	Existing monthly slab of tariff (Rs./Kwh)	Proposed monthly slab of tariff (Rs./Kwh)
Domestic	0 – 40 units 2.63 41- 300 units 3.63 Above 300 units 4.28	*0 – 60 units 2.50 *61 – 300 units 3.65 *Above 300 units 4.55
Non-domestic / commercial	4.19	*0–100 units 4.00 *101-250 units 4.40 *Above 250 units 5.60 Standalone hoardings 7.50
LT industry	4.28	0 – 500 units 4.35 Above 500 units 4.75
HT industry	4.09	4.75
Lift irrigation	4.00	4.50
Public water works	4.00	4.50
Railway traction (at 66/132 KV)	3.85	5.00
Balk supply (at LT)	4.19	4.50

*Billing on non-telescopic system.

NB: The tariff for remaining categories of consumers remains unchanged.

The licensees have submitted their joint response to the comments / reply to the public comments on their tariff proposal vide UHBVNL's memo No. Ch. 22/GM/RA/N/F-25/Vol.XIX dated 29.8.2008.

After having gone through the above documents carefully, it is concluded that it is necessary to obtain the following information / clarification duly supported with relevant document for rational pricing of electricity in Haryana:-

1. Domestic category:

The proposed tariff for this category of consumers is characterised by the following:-

- (i) Change of first slab from 0 – 40 units to 0 – 60 units and consequent commencement of second slab from 61 units compared to present 41 units as a demand side management and energy conservation measure.
- (ii) The proposed tariff for first slab (0 – 60 units) is Rs. 2.50 per Kwh as compared to existing tariff of Rs. 2.63 per KWh (0 – 40 units).

- (iii) The proposed tariff for second slab (61 – 300 units) is Rs. 3.65 per Kwh as compared to existing tariff of Rs. 3.63 per Kwh (41 – 300 units).
- (iv) Proposed reversion to non-telescopic system as against telescopic system for raising electricity bills ordered vide Commission's order dated 22.12.2000 again as a demand side management and energy conservation measure.

The Electricity Act 2003 as well as the National Electricity Policy and the National Tariff Policy subsequently issued by Govt of India in pursuance of Section 3 of the Act calls for recovery of cost of service from consumers to make the power sector sustainable. The said policy(ies) do envisage a minimum level of support to make the electricity affordable for consumers of very poor category and provides that the consumers below poverty line who consumes 30 units per month may receive special support in terms of tariff which are cross-subsidised. Keeping in view the foregoing position, **the licensees are directed to elaborate and explain their rationale to change the first slab from 0 – 40 units to 0 – 60 units and consequent commencement of second slab from 61 units (instead of 41 units at present).**

The Commission introduced telescopic system for domestic category of consumers vide its order dated 22.12.2000 keeping in view that non-telescopic system often results in distortion of consumption pattern to the detriment of licensees' revenue. The licensees have proposed to revert to non-telescopic system as a demand side management and energy conservation measure. It is close to eight years that the existing tariff has been in force in the State and sufficient electricity sales data for various slabs for pre and post-telescopic system of billing is available with the licensees. **The licensees are therefore directed to analyse the relevant sales data and justify their plea for proposed reversion to non-telescopic tariff in the State.**

2. Non-domestic (commercial) category:

The proposed tariff for this category of consumers is characterised by the following-

- (i) Introduction of three slabs namely 0 – 100 units, 101 – 250 units and above 250 units.
- (ii) Introduction of standalone hoarding tariff.

The Commission recognises that the tariff ordered vide its order dated 22.12.2000 but for some changes done vide its order dated 11.8.2001 has been in force in Haryana and appreciates that there is a need to rationally review it in light of increase in bulk supply tariff. That is why the Commission conveyed its observation on the revised terms of reference for COS study by the licensees about two years ago with a stipulation that the study be completed in one year and the report submitted to the Commission for its consideration at the time of ARR for FY 2008-09. In our considered opinion, the COS study report is a pre-requisite for rational and economic pricing of electricity apart from laying a road-map with a target to bring the tariff within (+)/(-) 20% of the average cost of supply by the end of 2010-2011 which is long overdue at the Commission's end. The licensees have submitted in their filing dated 29.8.2008 that the requisite field data has already been collected for COS study and the report would be submitted to the Commission within two months. **Thus, it can be inferred that the exercise is at an**

advanced stage of completion and need to be made use of by the licensees for a rational review of the electricity tariff.

Further, the licensees have submitted in their filing for proposed tariff that their proposal for non-domestic category of consumers is based on 'perceived capacity of the consumer to pay' which runs contrary to Electricity Act 2003 / National Electricity Policy / National Tariff Policy.

It may be stated that this category of consumers has not been the recipient of cross-subsidy till date.

In light of the above, the licensees are directed to:-

- (i) Submit the rationale of introducing slabs and introduction of non-telescopic system for non-domestic category of consumers and justify the corresponding rates keeping in view the Electricity Act 2003, National Electricity Policy and National Tariff Policy.**
- (ii) Elaborate their implementation strategy including fool-proof metering arrangement for standalone hoarding.**

3. LT industry:

The proposed tariff for this category of consumers is characterised by the following:-

- (i) Introduction of two slabs namely 0 – 500 units and above 500 units.
- (ii) Lower tariff (Rs.4.35 per Kwh) compared to HT industry tariff (Rs. 4.75 per Kwh).

The licensees have reiterated in their filing for proposed tariff that their proposal for LT industry category of consumers is based on 'perceived capacity of consumers to pay' which runs contrary to Electricity Act 2003 / National Electricity Policy /National Tariff Policy.

Further, the tariff proposed for this category of consumers (Rs.4.35 per Kwh) is lower when compared to HT industry tariff (Rs.4.75 per Kwh) which is against the cost causation principle of rate making. **The COS report needs to be referred to for a rational rate making exercise.**

In view of the foregoing, the licensees are directed to submit the rationale of introducing slabs for LT industry category of consumers and justify the corresponding rate keeping in view the Electricity Act 2003 / National Electricity Policy /National Tariff Policy.

4. Railway traction:

The proposed Railway traction tariff is about 30% higher than the existing tariff for this category. It is the only category which has a two-part tariff in Haryana and significantly contributes to the cross-subsidy even in the existing tariff. The Commission notes that the railway traction has been subjected to the highest increase in the instant filings under consideration.

Keeping the foregoing position in view, the licensees are directed to submit the rationale and justification for such a sharp increase in the railway traction tariff.

The Commission vide its order dated 13.10.2006 introduced bulk domestic supply category approving its tariff @ Rs. 3.50 per Kwh. The Commission refrained from commenting upon the revenue neutrality of the proposal of the licensee in the absence of necessary data and directed the licensees to collect data up to February, 2007 and submit the analysis thereafter establishing revenue neutrality or otherwise. It is over a year and a half that the requisite analysis has not been submitted. The licensees in their latest reference dated 29.8.2008 containing their joint response to the comments / reply to the public comments have stated that the required sales and revenue data will be separately submitted. Such inordinate delay in complying with the Commission's directive speaks volumes about the licensees' apathy to the regulatory process in the State. **The licensees are directed to swing into action at once and supply the required data and analysis establishing the revenue neutrality of their proposal disposed off vide Commission's order dated 13.10.2006 too without delay.**

It is noted that the element of cross subsidy in the proposed tariff is increasing as compared to existing tariff. It is against the Electricity Act 2003 according to which the element of cross subsidy is required to be reduced. **The licensees are therefore directed to keep this aspect in view while reviewing their tariff proposal.**

UHBVNL & DHBVNL shall provide details / additional data etc. as per the above observations within one month from the date of this order.

Date: 1st October 2008

Place: Panchkula

**T. R. Dhaka
(Member)**

**Bhaskar Chatterjee
(Chairman)**

In regard to seeking additional data/information and hence remanding the rate case back to the Distribution licensees (UHBVNL & DHBVNL), I express difference of opinion as under:-

The Distribution and Retail Supply ARR FY 2008-09 filed by the Discoms (UHBVNL & DHBVNL) for approval of the Commission were examined. The revenue balance that emerges for the two Discoms based on the review of their filings and additional data / information provided by them from time to time, are presented below:

REVENUE BALANCE FY 2008-09	
Revenue Requirement - A	86613.17
Revenue at Current Tariff - B	59786.99
Gap – C = (A-B)	26826.19

Agriculture Deficit - D	23502
Deficit Others – E = (C-D)	8864
Cross Subsidy Available - F	5540
Net Deficit (Others) – G = (F-G)	3325
Add Relief Granted to HVPNL, HPGCL generation , trading and UHBVNL in respect of their review petition for FY 2007-08 ARR. - H	1243.5
(Revenue Gap net of additional subsidy of 354.4 mln committed by the State Government) – I	889.1
Total Deficit – J = (G+I)	4214.1

Thus the total ARR for both the Discoms works out to Rs. 86613.17 Million as against Rs. 93660 Million proposed by them. The revenue at the existing tariff as per my estimates is Rs. 59786.99 Million as against Rs. 49439.37 Million estimated by the Discoms. The Discoms proposed to meet the entire revenue gap i.e. Rs. 27404 Million (UHBVNL) and Rs. 16819.76 Million DHBVNL) as Subsidy from the State Government. **Thus, in effect, no revenue gap was envisaged by the Distribution licensees for FY 2008-09.**

The Commission informed the State Government about the revenue gap (on a tentative basis) in the Agriculture tube well category amounting to Rs. 23686 Million and revenue gap of Rs. 5220 Million (including review petition) in other consumer category and sought State Government's commitment for subsidy for the agriculture category as well as their willingness to provide subsidy for other consumer category as well. The State Government agreed to provide RE Subsidy of Rs. 23700.9 Million and also agreed to take over the additional liability of Rs. 354.4 Million out of Rs. 1243.5 Million relief granted to HVPNL, HPGCL & UHBVNL, as a result of their review petition for FY 2007-08 ARR, being the share of Agriculture.

In light of the State Government's commitment the deficit in the Agriculture category has been entirely taken care of. Consequently, a revenue gap of Rs. 522 Crore net of available cross subsidy (Rs. 486 Crore after taking into account the additional Rs. 35.44 Crore subsidy commitment) remained to be addressed. The Discoms vide Commission's letter dated 25/07/2008 were directed them to file a proposal to bridge the revenue gap. The Discoms, in response to the Commission's letter, filed application(s) dated 7/08/2008 (UHBVNL) and dated 6/08/2008 (DHBVNL) proposing a tariff revision to meet the revenue gap as intimated by the Commission. Both the Discoms filed a uniform tariff revision proposal.

The licensees in response to Commission's memo no. 1078-79/HERC dated 25/07/2008 filed additional data / information sought by the Commission. The information provided also included consumer category wise cost based unit rate. **Thus having completed the procedural requirements the Commission issued a public notice inviting stakeholders comments on the tariff proposals of the Distribution licensee(s) to bridge the revenue gap of Rs. 522 Crore.** In response to which over 850 objections were filed by the electricity consumers of the state. The Commission followed it up with a public hearing on 18/07/2008 where over 1500 electricity consumers were present to object the

proposed tariff hike. **They also brought to the notice of the Commission the inefficient, irresponsible and corrupt ways in which UHBVNL & DHBVNL were functioning including non – compliance of the Commission’s order and demanded suspension of the distribution license issued by the Commission to UHBVNL & DHBVNL.**

The distribution licensees submitted their reply justifying their tariff proposal and various efforts taken by them to reduce losses and provide better quality of service to the electricity consumers. **Thus the Commission completed the entire ARR and Tariff review process and reserved its order. Resultantly, the Commission should have passed an order in line with the procedure of tariff order lucidly spelt out in Section 64 of the Electricity Act 2003. The relevant Sections are reproduced below:-**

1. *Section 64 (2) of the Electricity Act 2003 provides, “Every applicant shall publish the application, in such abridged form and manner as may be specified by the Appropriate Commission”. The Haryana Electricity Regulatory Commission has specified as per HERC tariff regulations amendment notification dated 30.7.2002, the licensee is required that “within seven days after making the application for change in current tariff the licensee shall arrange for publication of a notice containing brief summary of its proposed tariff application at least in 2 daily newspapers having wide circulation in the area of supply. The notice shall include summary of the proposed tariff amendment along with its effect on a typical small, average and large consumer in each tariff class and an invitation to consumers and other interested organizations to file written comments and objections on the proposed tariff application to the Commission”.*

The licensee has failed to comply with this requirement of the tariff regulation and appropriately inform the widely dispersed electricity consumers of the state about the impending financial burden on them due to the proposed tariff hike as well as change in the methodology of billing from telescopic to non - telescopic so as to enable them to file their objections and plead before the Commission against the proposal. This is an anti – thesis of the transparency which the regulators are under obligation to ensure while passing a tariff order. However, it was not to be. Consequently, the entire process smacks of biased view, adhoc decisions. Consequently, I reject the tariff proposal on this ground.

Further, Subsection 3 of Section 64 provides, *“The appropriate commission shall, within one hundred and twenty days from receipt of an application under sub – section (1) and after considering all suggestions and objections received from the public:-*

(a) Issue a tariff accepting the application with such modification or such conditions as may be specified in that order;

(b) Reject the application for reasons to be recorded in writing if such application is not in accordance with the provisions of the Act and rules and regulations made there under or the

provisions of any other law for the time being in force. Provided that an applicant shall be given a reasonable opportunity of being heard before rejecting his application”.

A simple perusal of the above legal provisions (requires no legal insights) is sufficient to drive home the fact that the Commission has only two options i.e. either it should accept the applications with modifications or reject it. Any other interpretation to the above provisions is in the domain of superior courts i.e. Hon’ble Tribunal for Electricity or the Hon’ble Supreme Court of India. Consequently, the decision of Sarvashri Bhaskar Chatterjee, Chairman and T.R. Dhaka, Member taken in the 70th meeting of the Commission held on 16/08/2008 i.e. “Case should be remanded back to the Distribution companies” runs contrary to the provisions of the Act and hence is illegal, null and void. I hasten to add that the Distribution licensee filed a tariff proposal for approval of the Commission. If they are not satisfied by the decisions of the Commission they have the option to prefer a review petition with the Commission or go in appeal to the Appellate Tribunal designated for the purpose, still if they are not convinced they are free to knock the doors of the apex court of the country. Therefore the apex court or the Appellate Tribunal may remand the case back to the Commission for reconsideration of its decision in the light of the observations recorded in the order of the superior courts. Consequently, it is against all canons of law that the first court i.e. the regulatory commission after proceeding in the matter for almost nine months now (ARR was filed in November 2007) decides to remand the case.

In light of the above I reject the aforesaid majority decision of the Commission as illegal and ultra – virus. Seeking more clarification / information at this stage, when the financial year to which the ARR and Tariff proposal relates is almost half over, is also not appropriate. The ARR proposed by the Discoms is on the basis of full year sales and expenditure the revenue gap worked out by the Commission is also based on 12 months sales volume. No part year implications have either proposed by the Discoms or worked out by the Commission. As per standard practice any order with financial impact cannot not be implemented retrospectively, while the revenue gap cannot be recovered in the remaining months of the financial year lest it provides tariff shock to the un – suspecting electricity consumers of the state which may spur public resentment. **Thus, the proposal is technically flawed and ought to be rejected. In addition to the above, I reject the tariff proposal on the following grounds as well:-**

- i. Section 62(3) of the Electricity Act 2003 provides that, *“The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may differentiate according to the consumers load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position any area, the nature of supply and the purpose for which supply is required”.* Notwithstanding the statutory provisions the licensees have proposed an increase in tariff and change in tariff structure including introduction of tariff blocks in Domestic (1st tariff block), LT Industry category and Non Domestic (Commercial) based on socio economic considerations and ‘paying capacity’. The proposed HT tariff, Bulk Supply Tariff

as well as Railway traction tariff is higher than tariffs applicable to the consumers taking supply at lower voltage. Such as approach not only increases the cross – subsidy burden on these consumers who are already paying more than 20% above the average cost to serve but also goes against the principles of ‘cost causation’. It is universal fact and needs to elaborations that cost of supply which also includes distribution losses (and also theft) which in Haryana is as high as 28% is not caused by the HT consumers. Consequently, there tariffs should have be lower as compared to consumers connected at LT voltage.

- ii. The ‘paying capacity argument of the Discoms is also an anti – thesis of Section 61(b), and Section 61(g) of the Electricity Act 2003. These provisions as reproduced below are self explanatory:-

Section 61(b) “The generation, transmission, distribution and supply of electricity are conducted on commercial principle”.

Section 61(g) “That the tariff progressively reflects the cost of supply of electricity, and also reduces and eliminate (this provision changed to +-20% of cost of service by 2010-11) cross – subsidies within the period to be specified by the appropriate commission”

A look at the tariff proposal is sufficient to establish the fact that the tariff proposal submitted by the Discoms are in violation of all the aforementioned provisions of the Electricity Act 2003. The proposed tariff has no correlation whatsoever to the cost of service (which has been filed without any supporting data / details on a provisional basis as stated by the Discoms they may be able to file the final COS in two months time). A few examples are reproduced below in support of my contention:

Consumer Category	UHBVNL Cost of Service (Rs/kWh)	DHBVNL Cost of Service (Rs/kWh)	Tariff Proposed (Rs/kWh)
Domestic	5.56	5.59	0.60 units: 2.50 61-300 units:3.65 Above 300: 4.55 (non telescopic)
Non Domestic (commercial)	4.95	4.98	0-100: 4.0 101-250:4.40 Above 250: 5.60 (non telescopic)
HT Industry	3.45	3.47	4.75
Railways	3.18	3.20	5.00
Bulk Supply	3.22	3.24	4.50

The details filed by the Discoms are erroneous, incomplete as well as misleading. A few serious flaws in the filing based on which it is impossible to take any view are listed below. It needs to be noted that without accurate data tinkering with the tariff structure should better be avoided.

In the tariff application submitted to the Commission, the licensee has omitted to file Form No. 1.3 wherein it is required when proposed is introduced for a part of the year. The licensee was required to provide data on proportion of full year sales applicable to the part year and corresponding revenue. In the absence of this information it will not be possible to calculate the actual impact of proposed tariff revision and whether the proposed tariff is adequate to cover the revenue gap or not. In the remaining six months only half of the proposed gap would be covered so what happens to the balance. The Commission as well as the Consumers ought to know the actual monetary burden that the proposal would impose on them.

Form No. 1.5 calculates the annual tariff revenue change for typical consumer which has been defined in the HERC Tariff Regulations as average, small and large consumer. In case of domestic consumers the existing tariff is telescopic whereas the filing has assumed that the same is non-telescopic resulting in a substantial deviation and misrepresentation by the licensee.

The licensee in its filing dated 6.8.2008 has stated that it has appointed M/s ICRA Management Consultancy Services as a Consultant for conducting the study in respect of cost of supply. Final study in respect of Cost of supply will take time for submission with HERC. The cost of supply used by the licensee to work out the tariff and the resultant cross subsidy has not been justified or supported by any details and thus it is not possible to comment on its accuracy.

Apart from the fact that the proposed tariff is absolutely divergent from the Cost of Service, the LT industry tariff is proposed to be lower than the HT industry tariff. The HT tariff is traditionally lower than the LT tariff because of issues involving higher losses at lower voltage level supply.

The tariff for Railways has always been aligned to the HT industry tariff with relaxation for voltage level supply. The proposed tariff for railways is higher than for HT industry even though the voltage at which railways are supplied is much higher. This again goes against the cost causation principle.

No mention of Bulk Domestic category i.e. sales, revenue or Cost of service. A separate tariff @ 7.50/unit is proposed for standalone hoardings without providing the details of sales volume, cost, revenue realization etc. Tariff Blocks changed in Domestic category and introduced in Non Domestic as well as LT Industry without any basis or justification. This can only be possible if the licensees undertake detailed analysis of consumer category wise billing data. The licensee has not applied any scientific tools while creating consumer categories. Average sale per consumer per month in non domestic category of 101 units - 250 units is 345 - 505 units. The proposed slabs in Domestic, Non Domestic & LT Industry need to be supported by adequate consumer level data and should be not in line with the National Tariff Policy. The proposed shift from the existing telescopic Domestic tariff structure to non – telescopic structure on the plea of demand side management is also not tenable and would impose avoidable burden on the electricity consumers. The number of consumers for each category and sub category are different in two filings dated 6.8.2008. This has resulted in serious discrepancy in calculating average sales per consumer per month e.g. sales per consumer per month in non domestic category of 101 units to 250 units is 345 units as per tariff filing and 505 units as per details provided along with the reply vide memo CH-11/SE/RS-327 and CH-04/GM/RA/N/F-25/ VXIX. The average connected load per consumer

across all consumer categories is shown as uniform at 2.646 KW by UHBVNL in its memo CH-04/GM/RA/N/F-25/ VXIX dated 6.8.2008. It is not possible that connected load for an average domestic consumer will be the same as for a HT consumer. This again shows the casual / cavalier approach of the licensee in providing information supported by an affidavit to the Commission.

The licensee in its first review case on which the Commission passed order dated 22 December 2000, proposed to retain the existing non – telescopic nature of Domestic Tariff. The Commission, however, introduced telescopic tariff structure for the Domestic consumers. The rationale was that non – telescopic tariff for domestic consumers’ results in distortion of consumption pattern and has an adverse impact on the revenue of the licensee. In addition, the Commission believed that a telescopic tariff will extend the benefit of lower rates to other consumers as well which will not be available under non - telescopic tariff structure. Further, the introduction of three block structure with telescopic tariff was expected to reduce the energy bills of those consuming between 50 to 70 units per month, which covered a large number of lower middle class consumers. The rationale has not changed so far, thus the proposed non – telescopic tariff design of the distribution licensee is defective and un – scientific.

Given the fact that the Commission has allowed the Discoms over Rs. 3000 Crore since December 2000 i.e. indirectly compensating the distribution licensee for their failure to file a retail tariff revision petition as well as a massive rise in RE Subsidy paid by the State Government. More so all the previous ARR orders passed by the Commission have been fully compensatory. Thus the problem of liquidity at the Discoms end including poor supply quality are their own doings. In my view the Commission saddled with the responsibilities of introducing market rigors and financial discipline in the sector should not close its eyes to the inefficiencies of the Discoms and become a party by allowing tariff hike for bridging their losses, if any. The Discoms at their end should approach the State Government for subvention and should not pass on the burden to the electricity consumers who are dissatisfied and disgruntled lot as evident during the public hearing.

In my considered opinion the background and urgency for a tariff hike put forward by the Discoms that historically the tariff in Haryana were fixed on **socio economic considerations rather than sound economic principles is not correct**. Since the formation of UHBVNL and DHBVNL in 1999 only one tariff application has been filed which was scrutinized by the Commission based on its own cost of service estimates and despite severe data constraints given a rational and economic basis. The Discoms never conducted any cost of service nor created any modern system of data management or Load Survey as directed by the Commission and did not care to file a tariff rationalization petition since 2001 leave aside two part tariff as required under national electricity and tariff policy. Having defaulted on all these accounts the Discoms have no business to make such statement that tariff is not based on sound economic principles.

It is again half truth to say that the Discoms suffered due to un-remunerative tariff and hence suffered cash shortage and financial crisis. More than Rs. 3000 Crore has been allowed to the Discoms as FSA and other charges i.e. Rs. 129 Crore for FY 1999-2000, Rs. 642 Crore upto FY 2003, Rs. 1900 Crore from FY 2003 to FY 2006-07 and now Rs. 588 Crore for FY 2007-08 (Rs. 300 Crore FSA is pending with the Commission). If you add these to the base tariff the **tariffs in Haryana becomes amongst the highest in**

the country. Thus, the table in tariff application comparing Haryana tariff with Delhi, Punjab, Andhra Pradesh, Maharashtra and Gujarat are misleading. Such motivated comparisons should be better avoided. One need not be an expert to do a diagnostic on the financial losses of the Nigams. Everyone is aware that the Discoms have failed to contain transmission and distribution losses, improve collection efficiency to optimum levels, short term expensive power purchases from private traders as well as expensive UI drawls for which it invited adverse comments from NRLDC for endangering Northern Region grid stability. Thus, adhoc decisions rather than proper planning and execution of plans is what Discoms seem to be doing.

The Discoms have again made a contradictory and misleading statement by submitting that **unplanned and un-regulated growth led to increase in technical and non – technical distribution losses.** Whereas in the ARR as well as tariff petition a declining trend from about 35% in FY 2001 to 26% in 2007 have been shown. **The Discoms need to acknowledge and take corrective action for its inability to execute capital works approved by the Commission for which depreciation and interest on loan fund is paid by the electricity consumers of Haryana.** The works are not executed, delayed or diverted and consumers made to pay for Distribution Transformers for LT non – dedicated supply.

Further **loss of customer support as mentioned by the Discoms** is again its own doing – **poor quality of supply and service and arrogant field staff and issue of illegal circulars** with financial impact without Commission's approval and scant regard for the directions and regulations passed by the Commission with respect to consumers as well as in the interest of the Discoms have eroded consumers confidence in the utilities. **Which needs to be set right at once. Otherwise I am afraid that Discoms will end up as a failed organization and alternatives will have to be devised by the Commission.**

The Discoms again misrepresented the fact in table providing data on higher percentage of power purchase cost to revenue. It should account for the fact that about 20% of its revenue always remains uncollected because of poor collection efficiency. If the Nigams liquidate the receivable that is in excess of Rs. 1000 Crore than the tariff would actually come down. Then the waiver of Rs. 1600 Crore allowed by the Discoms by its own choice has also to be accounted. **Consequently, for commercial indiscipline the Discoms should blame itself and not anybody else.**

As stated by Discoms the power purchase cost directly affects the financial position of Discoms. The Commission would like to know that from FY 2001 to now what efforts did it make **to augment power availability to the tune of 10% to 15% of known shortage.** If they would have planned in FY 2001 the situation of buying a unit of power at **Rs. 6 to Rs. 8 from private traders** would not have arisen. Putting burden on honest and paying consumers is in – appropriate. Despite Commission's directive nothing has been done to better manage power purchase activity.

It is again wrong on part of Discoms to say that Agriculture consumption is the major factor effecting financial position of Nigam. It needs to be appreciated that the Agriculture tariff is just about 6% of the cost which is collected from the farmers rest is paid by the Govt. Thus, the collection efficiency from this category would be over 98% as subsidy is paid well in time to the tune of 94% of the revenue. The amount of subsidy has shot up from Rs. 400 Crore in 1999 to Rs. 2370 Crore presently.

The cash flow statement provided upto FY 2005-06 is outdated and faulty and presents the Discoms own inefficiency. On an average the provisions for unbilled revenue per year itself exceeds Rs. 50 Crore. This unbilled revenue is nothing but theft. Despite Commission's directives no energy audit is conducted on an ongoing basis to identify and plug such leakages.

Tariff hike has been suggested by the Discoms as optimal solution. I would say that Discoms **want the easiest available option by exploiting its monopoly position. Liquidating receivables**, 4-5% reduction in distribution losses and better management of short term power purchase itself will generate over Rs. 1000 Crore putting downward pressure on tariffs. If you add income from MMC and other Schedule of General and Miscellaneous charges, there will be no need for seeking any tariff hike.

The Discoms have suggested a change in tariff blocks in domestic category and introduction of slabs in commercial and LT Industry. Has the Discoms **analyzed the billing data** to take a view on slabs. If yes the same should be submitted to the Commission immediately. Without this it would be impossible to take any view on the revenue that would be generated.

The tariff for Railways has always been aligned to the HT industry tariff with relaxation for voltage level supply. The proposed tariff for railways is higher than for HT industry even though the voltage at which railways are supplied is much higher. This again goes against the cost causation principle.

The number of consumers for each category and sub category are different in two filings dated 6.8.2008. This has resulted in serious discrepancy in calculating average sales per consumer per month e.g. sales per consumer per month in non domestic category of 101 units to 250 units is 345 units as per tariff filing and 505 units as per details provided along with the reply vide memo CH-11/SE/RS-327 and CH-04/GM/RA/N/F-25/ VXXIX.

The average connected load per consumer across all consumer categories is shown as uniform at 2.646 KW by UHBVNL in its memo CH-04/GM/RA/N/F-25/ VXXIX dated 6.8.2008. It is not possible to assume that connected load for an average domestic consumer will be the same as for a HT consumer.

The feeder wise loss pointed out by the consumers at the time of the public hearing which is also known to the Commission is extremely serious. It is amazing to note from the details of feeder wise line losses in both the Discoms that there are 1341 feeders with line losses in excess of 25%, 289 feeders with line losses of more than 50%, 48 feeders with line losses of more than 70% and 14 feeders with line losses more than 90% which includes feeders such as Faridabad Sector 18, Mewlampur (Faridabad), Sisai (Hisar), Mokhra (Rohtak) with line losses of about 98%. **Despite repeated directives of the Commission no effort with visible results seems to have been taken by the Discoms. I direct the Discoms to assess the revenue loss and fix responsibility for the same for any feeder reporting loss of more than 25%. The Discoms ought not to be compensated by way of additional revenue with such blatant failure which for quite a few years has been the kingpin of power sector reforms including APDRP scheme of Government of India.**

It is also relevant to point out here that the public notice issued by the Commission inviting objections / suggestions from the stakeholders on the tariff proposal elicited maximum response i.e more than 873

objections were filed on affidavit and more than 2000 consumers were present on the day of public hearing to voice their concern regarding the all round failure of the Discoms to meet their obligations as per the terms and conditions of license granted to them as well as the Standard of Performance Regulations of the Commission. The Discoms reply to the objections / comments are far from satisfactory. In effect they are holding the consumers to ransom and harming the welfare of the State i.e. students, farmers as well as the Industries by not supplying adequate and quality power. It is unfortunate that with a loss level in excess of 28% the Discoms have proposed a tariff hike which ought to be rejected. Had the Discoms adhered to the directives of the Commission the retail tariff would have gone down. **The list of non – compliance is fairly long. A few of them as pointed out by the consumers during the public hearing are reproduced below:**

1. The Commission directed that the investment plan for reduction of losses should be taken on priority and should be evaluated on completion of the same. A report on such schemes should be sent to the Commission on quarterly basis. (HERC order dated 11.8.2001)
2. DISCOM was directed to submit a proposal for two-part tariff with the next tariff filing supported by reliable and authentic data. The licensee should also submit detailed data relating to consumers billed on MMC basis for all categories of consumers and slabs. (of HERC order dated 11.8.2001)
3. The Commission directed DISCOM :
 - (a) to prepare the plan for strengthening energy audit specific to feeder or an area and ultimately upto the division level (of HERC order dated 11.8.2001)
 - (b) to finalise and submit a comprehensive metering plan for achieving 100% metering in the state, including its implementation schedule encompassing both the aspects namely provision of meters at the consumers' premises and energy audit. Complete 100% metering at the earliest. A quarterly progress report to achieve the goal should be regularly submitted to the Commission by 20th of April / July / October / January respectively. (of HERC orders dated 16.8.2002, 29.1.2004 and 18.4.2005)
 - (c) to put MDI meters, which also record energy, on all the agriculture pump sets which are currently being billed at flat rate, so that billing continues to be on flat rate but based on the contract demand / connected load, or the actual maximum demand as recorded by the meter, whichever is higher, and the energy reading can be used for correctly assessing the energy consumption by these consumers for energy audit, preparation of bills for subsidy and calculation of actual distribution losses etc. (of HERC order dated 16.8.2002)
 - (d) to submit status report on account of replacement of defective meters including steps taken to tackle this endemic problem within one month of issue of this order. (Direction given in 18.4.2005 order)

- (e) to fully comply with the direction of the Commission regarding MDI meters in order to effectively redress its long-standing grievance about the Commission's approach of arriving at the estimated energy consumption for AP flat-rate consumers. It will conclusively prove the load put on the system by a given flat-rate AP consumer vis-a-vis the sanctioned load and help the licensee to recover its legitimate dues. (of HERC order dated 18.4.2005)
- (f) to submit a comprehensive metering plan including its implementation schedule covering consumers' premises as well as the energy audit scheme for proper accounting of energy in the licensee's sub-transmission and distribution system forthwith. (Direction given in 23.08.2006 order).

4. The Commission directed DISCOM:

- (a) to computerize all receivable accounts at the earliest. This will help in ascertaining the precise amount of consumer category-wise and age-wise receivable position separately for sale of power, delayed payment surcharge, municipal tax and electricity duty. The period-wise recovery against current arrears as well as old arrears should also be known correctly.
- (b) to undertake detailed receivable audit, preferably from an independent agency. The receivable audit should be undertaken consumer category-wise.
- (c) to submit a report providing details of action taken in each case to recover arrears from the consumers having arrears in excess of Rs. 1 lakh and the reasons as to why supply in all such cases (if any) have not been disconnected so far.
- (d) To show separately the amount realised from sale of power (SOP) and delayed payment surcharge in the consumers' bills.

(Directions given in 11.8.2001, 20.8.2003 and 18.4.2005 orders)

- 5.** DISCOM was directed to obtain the necessary ISO 9000 / 14000 or higher certification at the earliest. (Direction given in 20.8.2003 order)
- 6.** The Commission directed the licensee to follow prudent financial practices and take advantage of technological advancements in the banking sector to minimise the need for maintaining heavy cash and bank balances. The licensee is also directed to take positive measures to reduce the funds blocked in stores. (Direction given in 18.4.2005 order)
- 7.** The Commission directed DISCOM to submit status report and take all steps for implementation of the Regulations on standard of performance for the Distribution licensee and Electricity Supply Code. (Direction given in 18.4.2005 order)
- 8.** The Commission directed DISCOM to act upon the establishment of computerized State-of-the-art Area Load Dispatch Centre stipulation of the license in time-bound manner and

submit quarterly progress reports to the Commission. DISCOM has requested for extension of time for establishing ALDC up to June 2007. (Direction given in 18.4.2005 and 9.11.2005 orders).

- 9.** The Commission directed the licensee that project for computerisation, consumer indexing and Geographical Information System (GIS) mapping should be well integrated into a policy and implement the same in all circles. (Direction given in 18.4.2005 and 9.11.2005 orders).
- 10.** (a) The Commission directed the licensee to undertake a detailed analysis of its human resources, assess its medium to long-term needs and submit a Human Resource Management Plan for consideration of the Commission. (Directions given in 20.8.2003 and 18.4.2005 orders)

(b) The licensee is directed to investigate the causes of high damage rate of distribution transformers. The licensee should take concrete steps to ensure purchase of qualitatively better distribution transformers/qualitatively better repair of damaged distribution transformers accompanied with rigorous implementation of preventive maintenance drill by the field offices. Appropriate action be taken to reduce the damage rate to achieve the levels set in the Standard of Performance Regulations, 2004 (i.e. 5% in urban area and 10 % in rural area). The licensee is further directed to submit the above information separately for urban and rural areas (Direction given in 20.8.2003, 18.4.2005 and 9.11.2005 orders).
- 11.** The licensee is directed to supply in future, the data of transformer failure due to various causes separately for urban and rural areas, as supplied for FY 2005-06. Moreover, while presenting the data of failure of transformers during warranty period, the total number of transformers within warranty period, as on the last day of the financial year must also be given. The Commission further directs the licensee to supply circle-wise transformer failure data due to various causes, as stated above for FY 2003-04 and FY 2004-05 within two months of the issue of this order. (Direction given in 23.08.2006 order).
- 12.** (a) The Commission directed the licensee to review its entire safety drill to ensure that the workmen in the field perform and execute the job as per relevant standards to minimise the accidents involving human beings and live stocks. (Direction given in 18.4.2005 order).
 - (i) To submit a summary of field investigation report in respect of 61 fatal accidents involving human beings & the action taken thereon by the management case by case.
 - (ii) To entrust 25% of the accidents involving fatality to human beings to a 3rd party for independent investigation into causes of such accidents and thereafter submit a

comparative analysis of above report vis-à-vis the corresponding departmental investigation report with management's comments thereon.

- (iii) The licensee to review its on-job training programme for workmen/supervisory staff and officers to make it more focused in light of the reports referred to at (i) & (ii) above.
 - (iv) To induct fresh blood in the work force duly trained and trimmed for the assignment.
- 13. (a)** To take care of the impact of the sales circulars (issued by the licensee) till the date of this order, the Commission directed the licensee to calculate the impact of these sales circulars and request the State Government to compensate it under intimation to the Commission. In case the State Government is unable to adhere to the time schedule as given above, the licensee is directed to revert to the Commission's approved schedule of tariff. (Direction given in 9.11.2005 order).
- 14.** The Commission directed the licensee to expedite the requisite action so that a smooth transition to ABT regime takes place in Haryana and submit the status report immediately. (Direction given in 9.11.2005 order and 23.08.2006 order).
- 15.** The Commission directs the licensee to examine the issue and submit a detailed proposal about its preparedness to implement the multi-year tariff (initially for three years period) with its next ARR filing. The multi-year tariff proposal should incorporate loss reduction, reduction in working capital loans and receivables trajectory during the control period. To achieve this the licensee will require to first identify the controllable and uncontrollable costs. The uncontrollable cost can then be linked to some benchmark or escalation index, if required. While controllable cost including technical / commercial losses can be set on a reduction trajectory. (Direction given in 23.08.2006 order).
- 16.** The licensee has reported that the terms and conditions for MYT are to be notified by the Commission. M/S IMACS have been awarded the work of CoS study which is expected to be completed by the end of the year.
- 17.** The Commission directs the licensee to confirm availability of feeder-wise ledgers in all its operation sub-divisions. (Direction given in 23.08.2006 order).
- 18.** The Commission directs DISCOM to submit detailed justification for the increasing trend in agricultural load factor in respect of metered agricultural pump-sets, within one month of the issue of the order. (Direction given in 23.08.2006 order).

19. The Commission directs that causes for long durations of low / high voltage periods be investigated and expeditious action taken to ensure voltage levels within the prescribed parameters. (Chapter 3, Para 3.7.4)
20. DISCOM is directed to identify the feeders with high levels of interruptions and take corrective maintenance action on urgent basis in order to reduce tripping/ interruptions. (Chapter 3, Para 3.7.5)
21. The Commission directs DISCOM to engage a third party to carry out a sample survey of metered agriculture pump set consumers (say 30% of the installation) under guidance of the Commission:-
22. (a) to determine and comment upon proper installation of energy meter vis-à-vis the licensee's standard on the subject.

(b) to determine the working and accuracy of meter at site by a standard method used for site testing of consumer meter.

(c) to ascertain and report the treatment meted out to the metered agriculture pump set consumer in case his meter is defective/ damaged for raising his energy bills and working out the corresponding quantum of his consumption included in the sales data transmitted to head-quarters.

The report along with the licensee's analysis be submitted before submitting the ARR for FY 2008-09 so that the actual position to use the sales data for metered agriculture pump set consumers is clear to the Commission.(Chapter 3, Para 3.10.1).

Despite repeated directions from the Commission the Distribution licensee failed to give wide publicity to the Standard of performance of the Distribution companies Regulations approved by the Commission. This was evident from the submissions of the consumers during public hearing. More so, even the field officers / officials of the Discoms are not aware of this vital regulation.

In the light of the above I consider the tariff proposal submitted by the Distribution licensees as half-baked with serious data and conceptual flaws as well as not in line with the Electricity Act 2003, National Electricity Policy and National Tariff Policy.

Resultantly, in accordance with Section 64 (2) (b) I reject the tariff proposal of the Distribution licensee. The existing tariff along with the revenue that the Discoms have not accounted for i.e revenue from monthly minimum charges, realization of billed but uncollected revenue from the Government departments, truing up of depreciation allowed by the Commission over loan repayments in the past are more than sufficient to bridge the revenue gap indicated by the Commission. Over and above this given the massive capital expenditure allowed by the

Commission for augmentation, expansion and modernization of the distribution system as well as funds availed by the Distribution licensees for the purpose of reduction of distribution losses under APDRP scheme of Government of India, the Discoms should achieve at least 2% loss reduction in FY 2008-09. Consequently, the retail tariffs should soften instead of the proposed hike. I would like to conclude with the observation that regulatory reform is a process whose impact ought to be quickly visible in terms of affordable tariff and service to the consumers otherwise it is bound to lose steam and stakeholders support undermining the objectives of regulation in the absence of market rigors and competition in the sector. The power utilities should not expect an escape route from the Commission for their inefficiencies by burdening the poor/honest/paying consumers by way of increase in electricity rates. The power utilities need to improve their performances commensurate with the fast changing technical/financial and business environment and should quickly come out of the 'stone age' mentality in their own interest. They cannot be permitted to put the general public to ransom by taking advantage of their monopoly in the distribution and retail supply business.

T.S. Tewatia
Member, HERC

ORDER

In terms of Section 92 (3 & 4) of the Electricity Act 2003 (Act 36 of 2003), the majority view of Sh. Bhaskar Chatterjee, Chairman and Sh. T.R. Dhaka, Member, will be the order of the Commission.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 1st of October 2008.

Date: 1/10/2008

Place: Panchkula

T. S. Tewatia
(Member)

T.R.Dhaka
(Member)

Bhaskar Chatterjee
(Chairman)