

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

DATE OF HEARING: 4.12.2008

DATE OF ORDER: 14/01/2009

In the matter of Review Petition filed by UHBVNL vide Memo No. Ch-26/GM/RA/N/F-25/Vol-XVIII dated 5.6.2008 against the Commission's order dated 21.4.2008 in case No. HERC/PRO-6 of 2008 approving the Annual Revenue Requirement for Bulk supply Business for FY 2008-09.

The above petition has been filed under clause 78 (2) of Chapter VI of "Conduct of Business Regulations 2004" seeking review and/or modification and/or clarification of the Commission's order dated 21.4.2008.

PRESENT	Sh. Bhaskar Chatterjee, Chairman
	Sh. T.S. Tewatia, Member
On behalf of HPGCL	Sh. J.C.Kinra, COO HPGCL
	Sh. D.C. Arya, FA/HQ HPGCL
On behalf of UHBVNL	Sh., K.S.Sangwan, FA/HQ UHBVNL
	Sh. S.K.Jain, GM/ HPCC UHBVNL
On behalf of DHBVNL	D.S. Rathee SE/RA DHBVNL
	Sh. Kapil K. Marwaha CGM Finance DHBVNL

This order of the Haryana Electricity Regulatory Commission (hereinafter referred to as the Commission) disposes of the Review Petition filed by UHBVNL on 5th June 2008 against HERC order dated 21.4.2008 for ARR for Bulk Supply Business and determination of Bulk Supply Tariff and Trading Margin for FY 2008-09.

Section 94(1) of the Electricity Act 2003 provides that, "the Appropriate Commission shall, for the purpose of any inquiry or proceedings under this Act, have the same powers as are vested in a civil court under Code of Civil Procedure 1908 (5 of 1908)". The matters listed also includes at 94(f), "reviewing its decisions, directions and orders". The relevant provision of the Code of Civil Procedure provides that a review can be entertained only if the conditions listed in Order XLVII Rule 1 of the Code are fulfilled". As per this provision, review is allowed only on three specific grounds namely:-

a) grounds arising from the discovery of new and important matter or evidence, which after the exercise of due diligence, was not within the applicant's knowledge or could not be produced by him at the time when the order was passed: or

b) on account of some mistake or error apparent on the face of record; or

c) for any sufficient reason.

Further, Regulation 78(2) of the Haryana Electricity Regulatory Commission (Conduct of Business) Regulations 2004 also provides for the same grounds for filing review as mentioned in Order XLVII Rule 1 of the Code of Civil Procedure.

In the light of the above provisions the Commission has examined the issues on which review has been sought by the petitioner.

Relief sought by the petitioner vides the instant review petition and Commission's order thereof is presented hereunder:

1. Volume and Rate of Power Purchase from HPGCL, FGPP, shared utilities (BBMB), NPC and CPSU's: Vide Paras 7-13 of the Review Petition the licensee has sought review of the Commission's order with respect to the Volume and Cost of Power purchased from HPGCL, FGPP, shared utilities (BBMB), NPC and CPSU's.

The Commission has considered the review sought by the petitioner and observes that the volume and cost of power purchase is allowed on best estimate basis at the beginning of each year and therefore there are possibilities that the actual availability from different sources, drawl and cost may vary. To take care of such exigencies the HERC Tariff Regulations provide for Fuel Surcharge Adjustment mechanism (FSA) wherein inaccuracies in forecasting, both volumes including change in hydel/thermal mix and cost is trued up on a quarterly basis based on invoices supporting the claimed volume and cost from the generator. **Consequently as a mechanism exists to address such issues, the**

Commission is of the view that power purchase volume and cost allowed by it on a projected basis in the ARR is not a subject matter of review. Resultantly, the Commission rejects the review sought by UHBVNL on this issue.

2. **Transmission Losses:** On transmission losses the petitioner has contended that the Commission has restricted the transmission losses at 3.85% for inter-state and 2.1% as intra-state for FY 2008-09. The petitioner has stated that “as the interstate and intrastate losses are not under the control of the petitioner, no such ceiling for interstate and intrastate losses should be provided in the tariff orders.

The transmission losses both inter – state and intra -state allowed by the Commission has been discussed at length in Para 2.22 of HERC order dated 23.4.2008 while determining the ARR for Transmission business and SLDC for FY 2008-09. Also, the inter-state losses are allowed by the Commission on actual basis as a part of FSA order as and when the same are available in view of the orders of the Hon’ble Appellate Tribunal in Appeal No. 33 of 2005 and Appeal No. 74 of 2005 dated 7th July, 2006. **As no new facts or computational errors have been put before the Commission the issue does not merit consideration and hence the review sought on this issue is rejected.**

3. **Expenditure for HPPC:** The licensee has requested that as the power purchase business has been transferred to Discoms from HPGCL w.e.f. 1.4.2008, the expenditure on Haryana Power Purchase Centre (HPPC) is required to be incurred by the Discoms. Thus the same should be allowed as additional expenditure to the petitioner.

The Commission has considered the submissions of UHBVNL while seeking additional expenditure on account of HPPC. The Commission observes that UHBVNL has not provided details of any additional infrastructure created to meet the additional workload on account of power procurement business being handled by the licensee. **In case any additional expenditure is incurred on account of power procurement activity over and above that allowed in the ARR for Distribution and Retail Business, the Commission may allow such expenditure in the next ARR on submission of**

adequate details of the additional expenditure incurred along with necessary documentation.

The licensee by way of review petition has also sought working capital for power trading business amounting to Rs.20391.2 million and interest thereon of Rs.511.5 million. The Commission observes that power purchase cost of the petitioner has not changed on account of transfer of power trading business to it. Therefore, the question of additional working capital requirement over and above the working capital allowed for Distribution and Retail Supply which includes purchase of power for onward sales to various consumer categories does not arise. **Resultantly, the Commission finds no merit in the submission of UHBVNL seeking additional working capital and hence rejects the review petition seeking additional working capital and interest thereto.**

This order is signed, dated and issued by Haryana Electricity Regulatory Commission on 14th January 2009.

Date:

Place:

T.S. Tewatia
Member

Bhaskar Chatterjee
Chairman