HARYANA ELECTRICITY REGULATORY COMMISSION

Bays No. 33-36, Sector – 4 , Panchkula - 134112

Date of Hearing: 09.03.2010

Date of Order: 22/03/2010

Review Petition of UHBVNL No. :1 of 2010

Review Petition of DHVBNL No. :2 of 2010

In the matter of

1. Review of order dated 4th December, 2009 in Petition No. HERC / PRO / 3 of 2009 pertaining to approval of ARR and Tariff filing by UHBVNL for its Distribution and Retail Supply Business for the Financial Year 2009-10.

2. Review of order dated 4th December, 2009 in Petition No. HERC / PRO / 4 of 2009 pertaining to approval of ARR and Tariff filing by DHBVNL for its Distribution and Retail Supply Business for the Financial Year 2009-10.

And in the matter of

1. Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL)
   Shakti Bhawan, Sector – 6, Panchkula. ……Petitioner
2. Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL
   Vidyut Sadan, Vidyut Nagar, Hisar - 125005 ……Petitioner

PRESENT:	Shri Bhaskar Chatterjee, Chairman
	Shri Rohtash Dahiya, Member
On behalf of UHBVNL	Shri A. K. Jain, Director
	Shri K. K. Goel, CGM (PD&C)
On behalf of DHBVNL	Shri Kapil K Marwaha CGM (Finance)
	Shri Y.K.B. Sharma SE / RA

ORDER

The Petitioners, UHBVNL and DHBVNL filed separate petitions, both dated 4th January, 2010, under regulation 78 (2) of the HERC (Conduct of Business) Regulations, 2004 seeking review and/or modification and/or clarification on Commission's orders dated 4th December, 2009 in Petitions No. HERC / PRO / 3 of 2009 and HERC / PRO / 4 of 2009 pertaining to approval of ARR and Tariff filing by UHBVNL and DHBVNL respectively for their Distribution and Retail Supply Business for the Financial Year 2009-10.

The Commission scheduled a hearing on 9th March, 2010 and the notice of hearing was issued to the petitioners vide Memo No. 3798-99 dated 25th February, 2010. The Commission heard the petitioner's contention on each issue on the scheduled date. Since the issues raised and the relief sought in their respective review petitions by DHBVNL and UHBVNL are similar except for calculations error pointed out by DHBVNL, therefore both the petitions are disposed of as under:

1. **Calculation of Total Expenditure**:

   In its review petition DHBVNL has submitted that at page 58 of the order of the Commission dated 4th December, 2009 for their distribution and retail supply business for FY 2009-10 & retail supply tariff, the total expenditure allowed is shown as Rs. 45044.28. There is a mistake in summing up of the expenditure allowed under each head and the correct figure is Rs. 45133.98 millions. The difference between the two figures would increase the revenue gap by Rs. 89.70 millions which may be allowed.

   The calculations have been re-checked and the Commission finds that the totaling mistake has rightly been pointed out by the distribution licensee. **As the grounds of review as per Commission's conduct of business regulations include 'error apparent', the Commission approves the total expenditure of Rs. 45133.35 millions instead of Rs. 45044.28 millions and allows the difference of Rs. 89.07 millions as additional uncovered revenue gap for the FY 2009-10.** Thus the total un-recovered revenue gap against which regulatory assets were allowed shall now be Rs. 1454.31 millions (Rs. 1355.24 millions + 89.07 millions).

2. **Employee Cost:-**

a) The Licensees have submitted that they have adopted the recommendations of VI Pay Commission w.e.f. April 2009 and 40% arrears of salary have already been paid during FY 2008-09. Further, 30% arrears are expected to be paid during the FY 2009-10 and balance 30% shall be paid in FY 2010-11 in accordance with the directions of the State Government. UHBVNL has submitted that the additional financial liability on this account during 2009-10 shall be to Rs. 553.55 millions. While DHBVNL has sought an additional amount of Rs. 356.07 millions on this account for FY 2009-10.

b) Additionally UHBVNL has submitted that besides the arrears of salary, the cost on account of Basic Salary, DA and Other allowances Rs. 2266.39 million allowed by the Commission for FY 2009-10 is lower than the corresponding cost as per 2008-09 audited accounts i.e. Rs. 2507.34 million. Hence UHBVNL has submitted that the Commission may recalculate the amount and allow the difference.

The Commission has examined at length the submissions of both the distribution licensees on the issues of treatment of arrears of salary due to implementation of the recommendations of the 6th Pay Commission as well directions of the State Government. The issues raised by UHBVNL with respect to other component of salary i.e. basic pay, DA and other allowances were also considered. The licensee(s) needs to note that the ARR for a particular financial year is determined by the Commission on a projected basis by taking into consideration data / record / information made available to the Commission by the licensees in support of the figures estimated by them. Consequently, the actual figures would be at variance with amount proposed by the licensee as well as the amount allowed by the Commission after prudence check. Therefore in order to arrive at additional employee costs on account of implementation of 6th Pay Commission Recommendations for FY2009-10, actual payout on this account is required. **As no new basis has been submitted by the licensee i..e that was not known to the Commission at the time of passing of**

the order under review, the issue warrants no review and hence the submission of the licensees is rejected. The Commission directs the distribution licensees to submit the actual expenditure under this head for the year 2009-10 by 31st March, 2010 so that the difference, if any, considered be allowed in the subsequent ARR and tariff orders for distribution and retail supply business.

3. Repairs and Maintenance Expenses (R&M):

DHBVNL and UHBVNL,on the issue of R&M expenses, submitted that they proposed R&M expenses @ 3.00% of GFA for FY 2009-10 amounting to Rs.1015.92 million each in view of HERC order on the ARR for FY 2008-09. However, the Commission in its FY 2009-10 ARR order allowed R&M expenses @ 1.65% of average GFA on the basis of audited accounts for the FY 2008-09. The distribution licensees while seeking review on the issue of R&M expenses have submitted that HERC should allow at least 2.00% if not 3.00% of average GFA as R&M expenses for FY 2009-10. The licensees have justified the additional cost by submitting that it will be undertaking lot of system strengthening works of capital nature during the year but the benefits of the same shall accrue in later years only and as such the amount of R&M expense may be allowed as proposed by them.

The grounds of review advanced by the licensees on the issue of R&M expenses i.e. 'capital expenditure for system strengthening', is a fact well known to the Commission. Hence without going into further details the Commission reiterates its observations made in the ARR and tariff orders of the licensees for FY 2009-10, "It is unfortunate that despite allowing Rs. 651.40 million to UHBVNL and Rs. 593.78 millions to DHBVNL as R&M expenditure for FY 2008-09 they were able to spend only Rs 354.04 millions and Rs. 333.86 million respectively. This works out to 1.60% of the average GFA as acknowledged by the licensees themselves. Both the licensees i.e. UHBVNL and DHBVNL were able to spend less than 50% of the amount allowed by the Commission for the purposes of R&M. They ought to realize that the expenditure allowed to them is recovered from the consumers and if the same remains unspent that leads not only holding up of expensive funds but also results in poor maintenance of the assets". **As no new basis has been submitted by the licensees i.e. that were not known to the Commission at the time of passing the order**

review this issue warrants no review and hence the submission of the licensee(s) is accordingly rejected. The licensees instead of complying with the directives of the Commission have again proposed R&M expenses @3%. They have also not provided any details about of the unspent amount of R&M expenses allowed in FY 2008-09. As the licensees were allowed higher R&M expenses during 2008-09 subject to compliance of directives, which they have failed to comply with and in view of the fact that more than 50% of the amount allowed to them during FY 2008-09 remained unspent, the Commission finds no justification in allowing the request of the licensees to deviate from the normative expenses allowed by it.

The Commission directs UHBVNL and DHBVNL to comply with the directive on the issue of R&M expenses within 3 months from the date of the instant order.

4. Interest on Loans:

a) While seeking review and hence enhancement of the amount of interest on loan allowed, the distribution licensees have submitted that the power trading / bulk supply business has been transferred to them w.e.f. April 2008 as a result of which the actual power purchase cost has to be borne by the licensees. It is a well known fact that there exists substantial lag between incurrence of additional power purchase cost and its recovery through FSA mechanism entailing holding cost till the entire amount is recovered. Thus the licensees have to borrow additional working capital in order to fund the revenue gap of Rs.3118.84 million (UHBNL) and Rs. 320.54 millions (DHBVNL) for FY 2008-09 as approved by the Commission.

   The Commission has carefully considered the submissions of the distribution licensees on this issue and observes that even when the trading and bulk supply business was being carried out by HVPNL / HPGCL all the costs relating to this business including trading margin were ultimately borne by the distribution licensees in the form of cost of bulk power. The situation has not changed after transfer of the trading and bulk supply business to the distribution licensees as cost of power remains the same for them. On the contrary there is no trading margin added to the power purchase cost hence cost to that extent is lower than what should have been if the earlier arrangements of bulk supply / trading were to continue. The methodology for calculation of working capital requirement at one month of ARR for the Distribution licensees does not also undergo change due to change in the trading / bulk supply functions as this previously as well as in the present business structure includes the cost of power. **Thus the Commission finds no justification in the plea of the distribution licensees for allowing higher working capital and higher rate of interest as the same was allowed at the normative rate i.e. SBI PLR and hence rejects the review sought on the issue.** It is also pertinent to mention here that Commission has allowed interest on working capital at normative basis i.e. @ 12.75% whereas during the hearing on the instant petition UHBVNL had submitted that actual average interest on short term borrowing for the FY 2009-10 was only 10.5% i.e. much lower than the normative rate. The Commission leaves the cushion available by negotiating loans at sub – prime rate with the licensees as efficiency gains.

b) The distribution licensees in the instant review petition have sought additional working capital to fund revenue gap allowed by the Commission for FY 2008-09. However, while seeking additional working capital requirements, the licensees have not submitted any details for the consideration of the Commission as directed in the said order. **Therefore in the absence of details of the institutional loans raised by the licensees specifically for the purpose of funding the revenue gap to the extent required, the Commission finds no justification for the review of its order on this issue.** However, in case details of borrowings to fund the permitted revenue gap to the extent required are provided the Commission may consider the same and pass an appropriate order at that time.

5. Capital Expenditure:

While seeking review of Capital Expenditure allowed by the Commission UHBVNL and DHBVNL have submitted that the Commission has reduced their capital expenditure proposed for FY 2009-10 by about Rs.93.6 Crores (proposed figure – Rs.702 crores and HERC approved figures – Rs.608.4 crores) and Rs. 85 Crores (filed figure – Rs. 706.25 and HERC approved figures – Rs. 621.88 crores) respectively. Additionally they submitted that in the past the Commission had observed that the utilities are not incurring requisite capital expenditure and should strengthen their system for long term efficiency gains. During this year they made ambitious capex plans but the same have been curtailed by the HERC. The capital expenditure for FY 2009-10 is expected to be more than the amount which was initially filed with HERC. UHBVNL has submitted that the increased capital expenditure is due to the fact that they intend to complete most of the allotted HVDS works on the segregated feeders in FY 2009-10 and also due to more equity infusion from State Government during FY 2009-10 which could be leveraged for raising additional resources for capital works. The total cost of schemes for the HVDS works has been found to be significantly more than expected after the allotment of the tenders. Therefore, the licensee will file a revised CAPEX petition separately indicating the status and cost of schemes for the HVDS works. On the issue the current rate of progress, DHBVNL has submitted that they have already spent a sum of Rs. 387.02 crores on various schemes and they expect to achieve the planned expenditure of Rs. 706.25 crores during the current Financial Year. Hence the capex proposed by them in their ARR filings may be allowed.

The Commission has been seized with the issue of capital expenditure for quite some time now. It is of the considered view that the distribution licensees do not pay adequate attention to the capital expenditure proposed by them. Experience leads to us to believe that no serious efforts are being made to assess the requirements as per system study and to vigorously monitor financial and physical progress of whatever capital works that are being undertaken and correlate the same with efficiency gains or improvements in quality of supply. The Commission has dwelt at length on the issue of capital expenditure in its orders on ARR and tariff filings for FY 2009-10 as well as during the hearing held on 9th March, 2009. The Commission minced no words in pointing out that the licensees do not provide proper data relating to the schemes to be covered under capex, the amount sanctioned for a particular scheme is re-appropriated to unapproved schemes arbitrarily and huge amounts remain unspent at the year end. It was also pointed out that although the review petition was filed in January, 2010 yet the details of capital expenditure shown in DHBVNL's petition are for the period ending September, 2009 only. **The distribution licensees are directed to provide additional / updated details required by the Commission and the actual amount spent upto December, 2009 / February, 2010 in order to enable**

the Commission to take a view on the submissions of the licensees. In the absence of adequate information the Commission finds no reason to allow the review sought on this issue.

6. Distribution Losses:

On the issues of distribution losses considered by the Commission, DHBVNL and UHBVNL have submitted that they had projected a distribution loss level of 24.00% for FY 2009-10 keeping in view the massive system improvement initiatives planned by them during the FY 2008-09. It needs to be appreciated that as the line losses reduce the incremental reduction is more and more difficult to achieve. Notwithstanding the above the Utilities proposed to make all out efforts to reduce the losses to a level of 24.00% during FY 2009-10. The Commission has made the calculations at a loss level of 24.00% as mentioned in the order but finally allowed a loss level of 23% only. This means that the entire ARR calculations done at 24.00% would have undergone a change. Further owing to drought like condition during most of part of paddy seasons in order to ensure adequate water availability to paddy crops they supplied 8 hrs/day power to the agriculture consumers as per the directions of the State Government. It is relevant to mention here that the T&D losses in this segment of supply have been comparatively higher. Consequently, the proposed T&D loss levels of 24% for FY 2009-10 are just and realistic and any further reduction in T&D loss is highly optimistic and not practically achievable. Hence it is submitted that a loss level of 24.00% as proposed by them may be allowed.

The Commission deliberated at length on the review pleas of the licenses with respect to distribution loss target and calculation of ARR / tariffs. The Commission allowed additional 1% loss reduction on the basis of submissions of the interveners and on its own analysis based on the fact that the distribution licensees have been allowed massive capital expenditure targeting at load growth, system improvement and loss reduction. Further, UHBVNL and DHVBNL have been undertaking schemes like HVDS, segregation of agriculture load from rural domestic load and improvement in recording energy sales by replacing electro – mechanical meters with more accurate electronic meters and other such loss reducing measures for the past many years, which should be leading to further loss reduction. The licensees have been directed time and again to provide cost benefit analysis of proposed investments so as to ascertain the actual benefit of the capital investment, but in vain. In view of the large capital expenditure allowed by the Commission during the past few years, the actual loss reduction should have been much more than the additional 1% loss reduction allowed by the Commission. Thus the Commission is fully justified in correlating allowed capex and distribution loss reduction trajectory and hence after calculating the power sales volume and revenue at 24% distribution loss level gave an additional 1% reduction as efficiency gain target. **The Commission believes that as a large portion of the reported distribution losses are commercial losses including theft, pilferage, defective / dead meters etc, it is possible for the distribution licensee to achieve much higher loss reduction than 1% considered by the Commission. Consequently, the Commission does not find any merit in the review plea of the distribution licensee and hence rejects the same.**

7. Consumption Estimates and additional Revenue calculation for 1% loss reduction:

On the issue of additional revenue due to 1% loss reduction target, DHVBNL has submitted that the additional revenue generated as per the Commission's order is Rs.490.84 millions however, no details/calculations have been provided. As per DHBVNL's calculations, the additional revenue generated due to 1% loss reduction works out out as Rs.285.66 millions as against Rs.490.84 millions considered by the Commission. Similarly UHBVNL has submitted that actual revenue generated due to 1% loss reduction as per their calculation is Rs. 384 millions against Rs. 548.04 millions considered by the Commission.

The Commission has considered the review sought on the issue of additional revenue due to 1% reduction losses. At the outset the Commission observes that no fresh grounds / data or information has been provided by the licensees that may merit any review. The Commission has in its order dated 18th June, 2009 on the review petition of UHBVNL for FY 2008-09, in which similar issues were raised, clarified that additional energy available for sale due to 1% reduction in loss will not affect the Agriculture Category of consumers because sales projection of this category is based on projected Annual Load Factor of the metered AP consumers and connected load and hence the quantum of sales is separately determined and frozen. Therefore any excess availability of power will go to all other categories of consumers. Therefore, the additional power available due to reduction of 1% loss is allocated to non-agriculture categories in proportion to their approved sales volume. The revenue from the additional sales volume allocated to all other categories of consumers is calculated by multiplying the additional sales volume with the approved tariff(s) of the respective consumer category and hence the average revenue per unit is comparatively higher for the additional units as this does not include AP sales / revenue. **In the light of the above the Commissions rejects the review sought on the issue of calculation of additional revenue due to 1% loss reduction target.**

8. **Agriculture Sales Estimate:**

While seeking review of the AP sales UHBVN had projected the consumption for FY 2009-10 based on 5.69 hours/day and 7.09 hours/day of running of metered and un-metered agriculture tube wells respectively. The same was based on the actual running hours recorded during FY 2008-09 on an average basis. On the basis of above average running hours and projected connected load, the consumption of metered and un-metered agricultural categories works out to be 1389.96 and 3857.26 MUs respectively. However, the consumption allowed by HERC is 1418 and 2984 MUs for metered and un-metered categories respectively. Further due to drought conditions the agriculture consumers have been supplied power for 8 hours per day during paddy season as mandated by the Government. Therefore, the original quantum of 5244.22 MUs proposed by UH may be allowed.

Similarly, DHBVNL has also submitted that against their proposal for allowing 1803 MUs for metered and 1675 MUs for unmetered agricultural category the Commission has allowed 1745 MUs and 1327 MUs respectively for FY 2009-10. This has resulted in reduction in amount of subsidy. Since unmetered consumers are billed on flat rate there is a tendency for higher running hours as they don’t have to pay extra charges for extra usage.

Both the licensees have requested that higher running hours may be allowed for the unmetered tube wells.

The Commission has considered the submission of the licensees on allowing higher tube well running hours for estimating sales volume to AP tube well consumers. It is observed that the Commission in all its previous orders has dealt with this issue at length. More recently at para 4.4 of its orders dated 4th December, 2009 on ARR and tariff filings of UHBVNL and DHBVNL, the Commission has provided the methodology for agriculture consumption estimates which has been in vogue since many years. It is unfortunate to note the lackadaisical attitude of the licensees even when it comes to protecting their own interest. Despite reportedly having completed segregation of 11 kV agriculture feeders both the licensees have failed to submit any data emanating from the segregated feeder which could have formed a scientific basis for revision of estimated consumption by agriculture pump set consumers. The licensees despite being directed failed to supply any data even from a few feeders that must have been initially segregated and energized. **The distribution licensee could not provide data of energy flow to agriculture category from the segregated agriculture feeders their request for additional hours and hence additional volume of sales to the AP consumers is devoid of any documentary support. Consequently, the Commission rejects the review sought on this issue.**

9. Subsidy Calculation:

On the issue of subsidy UHBVNL has submitted that the calculation for the approved subsidy amount of Rs.16759.54 millions to be paid by the government for sale of power to agriculture consumes is not provided in the Commission's order. The per unit subsidy on approved sales of 4402 MUs to agriculture consumers works out to Rs.3.807/unit.

The recent Cost of Supply (CoS) study conducted by ICRA for and on behalf of the distribution licensees indicates that the agriculture consumer category has the highest CoS of Rs.6.67/unit among all the consumer categories. Further, the average CoS calculated as per the approved ARR for FY 2009-10 works out Rs.4.32/unit. Therefore the subsidy per unit of Rs.3.807 calculated by Commission is on the lower side and hence the subsidy payable by the State Government to the distribution licensees is also on the lower side.

The Commission has calculated the total gap between the revenue from the agriculture pump set consumers and the total cost allocated to them based consumer category wise cost of service estimated by it based on approved data for FY 2009-10. The CoS submitted by the distribution licenses after considerable delay, is being examined and after due deliberations a view shall be taken on the same. **Consequently, at this stage the Commission finds no reason to deviate from its CoS estimates for FY 2009-10 and hence reject the review sought on this issue.**

10. Depreciation:

On the issue of depreciation DHBVN has submitted that the Commission has approved Rs.909.69 million as depreciation @ 5.27% on GFA as on 1.4.2009 based on DHBVNL's audited accounts for FY 2008-09. As per the audited accounts for the FY 2008-09, the opening GFA as on 1.4.2009 amounts to Rs.22923.77 Mln. Depreciation on this amount @ 5.27% works out to Rs.1208.08 millions. Therefore, they may be allowed depreciation of Rs.1208.08 millions as sought by them.

The Commission has examined the above submission and is of the view that depreciation has been allowed by the Commission on opening balance of GFA as on 01.04.2009 minus the value of assets funded by consumer contribution as per Annual Accounts of FY 2008-09. **The Commission has allowed depreciation on similar basis in the past as well and the reasons for difference in opening balance of GFA have been clarified in its order dated 20th November, 2008 on ARR and tariff filing of DHBVN for FY 2008-09. Hence the Commission does not feel the need for going into the details all over again. Review sought by the licensee is disposed of accordingly.**

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 22nd March 2010.

Place: Panchkula

Dated: 22/03/2010

Rohtash Dahiya	**Bhaskar Chatterjee**
(Member)	(Chairman)