

HARYANA ELECTRICITY REGULATORY COMMISSION  
BAYS No. 33-36, SECTOR-4, PANCHKULA- 134113, HARYANA

Date of hearing : 30.03.2011

Date of order : 03.05.2011

IN THE MATTER OF:

Haryana Power Generation Corporation Limited, Urja Bhawan, Sector – 6, Panchkula filing petition under section 10 (i) (h) of Haryana Electricity Reform Act, 1997 read with Section regulations 78 of HERC (Conduct of Business) Regulations, 2004 seeking review and / or clarification of the order dated April 16, 2010 passed by the Commission in case of Determination of HPGCL's Generation Tariff for FY 2010-11.

Present

Shri Bhaskar Chatterjee, Chairman

Shri Rohtash Dahiya, Member

Shri Ram Pal, Member

ORDER

Haryana Power Generation Corporation Limited, Urja Bhawan, Sector – 6, Panchkula has vide letter HPGC / FIN / Reg – 352 / 389 dated 21<sup>st</sup> May, 2010 filed a petition under section 10 (i) (h) of Haryana Electricity Reform Act, 1997 read with regulation 78 of HERC (Conduct of Business) Regulations, 2004 seeking review and / or clarification of the order dated April 16, 2010 passed by the Commission in case of "Determination of HPGCL's Generation Tariff for the FY 2010-11. Before going into merit of the case it would be appropriate to refer to the legal position relating to the review petition. The relevant provisions of Haryana Electricity Reforms Act, 1997 and HERC (Conduct of Business) Regulations, 2004 are as follows:

Section 10 (1) (h) of the Haryana Electricity Reforms Act, 1997 provides that *"The Commission shall, for the purposes of any inquiry or*

*proceedings under this Act have the powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 Of 1908), while trying a suit in respect of the following matters namely..... (h) the review of its decisions, direction and orders.”*

Regulations 78 (1) and (2) of HERC (Conduct of Business) Regulations, 2004 provides as under:

*78 (1) Within 30 days after making any decision, direction or order, the Commission may on its own motion or on the application of any party or person concerned review any decision, direction or order against which an appeal has been referred for the reasons set forth in sub – regulations (2) below.*

*(2) The Commission may review its order or decision if:*

*(a) there exists an error apparent on the face of the record; or*

*(b) any new and important matter of evidence was discovered which after the exercise of due diligence, was not within the knowledge of or could not be produced by the party concerned at the time when the order or decision was made; or*

*(c) for any other sufficient reason.*

The petitioner in the review petition has submitted as under:

<b>Observations made by the petitioner</b>	<b>Prayers made by the petitioner</b>
<p>While determining generation tariff for HPGCL generating units for the year 2010-11 the Commission has:</p> <ol style="list-style-type: none"> <li>Not followed its own Tariff Regulations (HERC Regulations for determination of generation tariff 2008)</li> </ol>	<p>HPGCL has made the following prayers in its petition:</p> <ol style="list-style-type: none"> <li>HERC Tariff Regulations (HERC Regulations for determination of generation tariff 2008) be followed</li> </ol>

<ol style="list-style-type: none"> <li>2. Not followed the provisions of the Electricity Act, 2003 in section 61.</li> <li>3. Not followed the provisions of the Tariff Policy as notified by the Government of India</li> <li>4. Not followed the CERC methodology</li> <li>5. Not agreed to the request of the HPGCL for fixing of MYT for the years upto 2013-14 with provision of truing up at the yearend or once in between in line with CERC Regulations</li> <li>6. Fixed performance benchmarks in respect of Unit No. 1 to 6 of PTPS Panipat, which are not achievable</li> <li>7. Not allowed transformation losses for HPGCL hydro units</li> <li>8. Not allowed O&amp;M expenses as per actual, subject to prudence check by the Hon'ble Commission</li> <li>9. Not allowed arrears of pay revision as per actual and whatever the amount has been allowed the same has been allowed in such a way that HPGCL has to recover the same in 12 months during the year 2010-11 thereby bearing the holding costs</li> <li>10. Allowed recovery of FSA on six monthly basis as against</li> </ol>	<ol style="list-style-type: none"> <li>2. The provisions of the Electricity Act, 2003 in section 61 with respect to allowing of MYT, truing up at the end of control period of MYT or once in between, following of Tariff Policy Provisions, following of CERC methodology, etc. be followed.</li> <li>3. Relaxed norms as requested in the tariff application are fixed based on CERC methodology of three years average of 2005-06 and 2007-08 are fixed.</li> <li>4. Transformation loss @ 0.50% be allowed in respect of HPGCL hydro units.</li> <li>5. O&amp;M expenses are allowed on CERC methodology of average of three years, the calculations of which have been supplied with the tariff application. It may also be allowed that the same shall be allowed as per actual subject to prudence check by the Hon'ble Commission</li> <li>6. Arrears of pay revision be allowed to be recovered as per actual as have been filed in the petition. Further its recovery be allowed in one installment with holding costs at SBI PLR rate from the date of actual case outgo till the date of actual</li> </ol>
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<p>CERC methodology of monthly basis thereby forcing HPGCL to bear its holding cost besides facing liquidity crunch</p> <ol style="list-style-type: none"> <li>11. Not allowed holding costs on employees pay revision arrears and FSA</li> <li>12. Not passed any order on the request of HPGCL to allow holding costs on FSA and to amend the terms of payment in such a way that FSA is paid on the date of billing and the late payment surcharge starts from the date of billing instead of allowing any rebate on the same.</li> <li>13. Fixed loss of coal in transit at a level which is not achievable</li> <li>14. Fixed provisional performance parameters in respect of 2 x 300 MW DCRTTP which are against its own Tariff Regulations 2008 and even CERC Tariff Regulations 2009 – 14</li> <li>15. Allowed HPGCL to recover UI charges for the infirm power generated from 2 x 300 MW DCRTTP Yamuna Nagar, which as per request of HPGCL was till PTO. However, specific mention of the same is requested as a clarification.</li> </ol>	<p>billing. Thereafter late payment surcharge should be allowed to start.</p> <ol style="list-style-type: none"> <li>7. The recovery of FSA be allowed on monthly basis on CERC methodology.</li> <li>8. Holding costs on the average period of FSA plus one month for billing be allowed.</li> <li>9. The terms of payment be amended to the extent that no rebate is allowed on FSA payments, the same is paid on the date of billing and late payment surcharge starts from the date of billing in case the payment is not released on the date of the billing.</li> <li>10. Recovery of arrears of pay revision be allowed to be recovered on actual basis, as per amount requested in the petition, in one installment</li> <li>11. Holding cost be allowed on employees cost pay revision arrears from the date of actual payment by HPGCL to the date of its recovery.</li> <li>12. Loss of coal in transit be fixed on previous three year average subject to adjustment at the yearend as per actual.</li> <li>13. A clarification be issued that power generated till PTO in respect of 2 x 300 MW DCRTTP</li> </ol>
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	<p>is infirm power</p> <p>14. Performance benchmarks in respect of DCRTPP be fixed as per HERC Generation regulations, 2008.</p>
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The Commission has considered the pleas of the petitioner in the light of the provisions of the regulation 78 (1) and (2) of HERC (Conduct of Business) Regulations, 2004. It is found that the petitioner has neither pointed out any error apparent on the face of it in the order under review nor pointed out any new and important matter of evidence which could not be produced at the time when the order was passed. All the issues raised by the petitioner have been carefully considered and duly addressed by the Commission in its order dated 16<sup>th</sup> April, 2010 on generation tariff for HPGCL for FY 2010-11. In the light of the above the Commission has considered it appropriate to review its order under the provisions of regulation 78 (2) (c) of HERC (Conduct of Business) Regulations, 2004 which provides that the Commission may review its order for any other sufficient reason.

Before considering the review sought on merit, the Commission considered it appropriate to provide an opportunity of being heard to HPGCL to enable them to explain the reasons for seeking the instant review. The Commission scheduled a hearing on 30<sup>th</sup> March, 2011 in its Court Room. Notice of hearing was also issued to the transmission and distribution licensees as they are impacted by any change in generation as their cost of power purchase for onward distribution undergoes alteration.

The hearing was held on the scheduled date i.e. 30<sup>th</sup> March, 2011 and was attended by representatives of HPGCL and the licensees. In the hearing the representative of HPGCL reiterated the issues raised by them in their petition. They however did not provide any additional / new document or information in support of their claim.

The representative of the distribution licensees requested the Commission not to allow the relief sought by HPGCL in their review petition since they are not justified and that the distribution licensees are not aggrieved in any manner with the generation tariff determined by the Commission for FY 2010-11 against which HPGCL has filed the review petition.

The issues raised by the petitioner in the review petition under consideration have been examined in light of the justification and explanation given in the hearing as well as their written submission available in the records of the Commission. The observations of the Commission against each issue are as under:

1. The contention of HPGCL was that provisions of the Electricity Act, 2003, HERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2008, Tariff Policy, CERC methodology and MYT principals have not been followed by the Commission while issuing the generation tariff order for FY 2010-11 is not based on facts. The Commission felt it proper to point out for the reference of the petitioner that proviso below regulations 7 (2) of HERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2008 provides that the Commission can deviate from the norms specified by CERC. The said proviso is reproduced below:

*“Provided that the Commission for the purpose of determination of tariff may, for sufficient reasons and after taking into consideration factors, as it may deem fit, decide to differ from the approved capital expenditure and deviate from the terms and conditions for determination of tariff notified by the CERC.”*

Further as per regulation 33 of the HERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2008, the Commission may vary any of the provisions of the said regulations. The provisions of regulation 33 are reproduced below:

*“33. Power to Relax. – The commission, for reasons to be recorded in writing, may vary any of the provisions of these regulations on its own motion or on an application made before it by an interested person.”*

It needs to be noted that the norms specified by the central Commission as per the Act, are for all intents and purposes to be considered as the guiding factor. Besides this there could be a host of other guiding factors i.e. balancing the interest of different stakeholders, prevailing situation obtaining in the State etc. It is up to the Commission based on its analysis as to how much weightage to attach to each of the factors including views of the members of the State Advisory Committee who are also consulted before arriving at the final decision. The Commission is well aware of its obligations under the Act and policies framed under it as well as giving due weightage to the consultation process. The petitioners need to note that they cannot seek CERC norms or any other norms which suits them and HERC norms where the former do not suit them. They cannot be selective in their approach.

2. Non application of MYT principles: The Commission has clearly mentioned in its generation tariff order for FY 2010-11 that MYT principles shall be made applicable only after notification of MYT regulations. The relevant portion of the order is reproduced below:

*“It is observed that the pre-condition for introduction of MYT are currently not met with or only partially met. Consequently the Commission is constrained to continue with the annual determination of generation tariff in FY 2010-11. The Commission is in an advanced stage of finalizing the framework and guiding principles on MYT including the regulations and after holding consultation with the stakeholders and obtaining feedback from the power utilities including the petitioner the same shall be notified. This would then form the basis of MYT order.”*

The order of the Commission is clear and elaborate on this issue. Hence there should not have been any need to raise this issue in the review petition.

3. Station heat rate (SHR): HPGCL has submitted in its review petition that Hon’ble APTEL has, in its judgment on appeal No. 42 &43 of

2008, 86 & 87 of 2007 and 129 of 2006, allowed the SHR as is achievable. The Commission has examined the issue in light of the judgment of Hon'ble APTEL in appeal No. 42 &43 of 2008. The operative part of the judgment is reproduced below:

*“Station wise study be got conducted and if the variations are substantial (more than 2-3%) than the norms should be allowed after adjustment for reasonable deterioration due to lapse of time”*

It is evident from the above that the Hon'ble APTEL has not given blanket approval for allowing achievable SHR as claimed by the petitioner but certain conditions have been provided to be fulfilled for determination of SHR. Although the Hon'ble APTEL has ordered to allow SHR on the basis of study conducted, the Commission in its order dated 31<sup>st</sup> March, 2011 for implementation of Hon'ble APTEL judgment in appeal No. 42 &43 of 2008 and 72 & 141 of 2009 allowed SHR as per revised claim of HPGCL for financial year 2009-10. The main reason for this approach of the Commission was that the energy audit conducted for FTPS -3 was not relevant for FTPS 1 & 2 and no energy audit was undertaken for PTPS – 1. Further, the Commission is of the considered view that results of a few days study may not form basis for determination of SHR for entire year. The SHR claimed by HPGCL in FY 2010-11 and that allowed by the Commission is given in the table below:

Particulars	PTPS 1-4	PTPS 5-6	PTPS 7-8	DCRTPP 1-2	RGTPP 1-2
HPGCL proposal	3116.76	2600	2500	2500	2450
HERC approval	3100	2600	2450	2368	2422

SHR in respect of PTPS 5-6 is the same as proposed by HPGCL while in respect of other generating units / stations the SHR allowed is marginally lower. The Commission has in detail explained the reasons for allowing lower SHR in respect of PTPS 1-4 including R&M expenses allowed by the Commission for these units. PTPS 7-8 units being of a later date, the Commission expected them to perform close to design value, therefore, allowed SHR as per CERC norms. Similarly in case of

DCRTPP the Commission observed that these units are of very recent vintage and SHR should be 2223 Kcal / kWh i.e. the design heat rate, but the actually allowed SHR of 2368 Kcal / kWh after considering a margin of 6.5% in line with CERC regulations. In respect of RGTPP also the Commission allowed SHR higher than the design heat rate as per CERC regulations despite the fact that RGTPP was recently commissioned. As the Commission has already revised SHR for the FYs 2007-08, 2008-09 and 2009-10 vide its order dated 31<sup>st</sup> March, 2011 in pursuance of the Hon'ble APTEL's judgment, therefore, after taking into account the submissions made in the instant review petition, the explanation given by HPGCL in the hearing and the judgment of Hon'ble APTEL, the Commission reconsidered the issue relating to SHR in respect of PTPS 7 & 8 and allows the same as 2500 Kcal / kWh for FY 2010-11 as claimed by HPGCL. However, the Commission makes it very clear that HPGCL shall make all out efforts to bring SHR as close as possible to the design rates especially in respect of newer stations / units.

4. O&M expenses: HPGCL has in its petition submitted that Hon'ble APTEL has adjudicated to allow O&M expenses as per actual subject to prudence check by the Appropriate Commission in appeal No. 129 of 2006 (GSEB Vs GERC) and 81 of 2007 (IPGCL Vs DERC). The Commission has examined the request of HPGCL in light of Hon'ble APTEL judgment dated 26<sup>th</sup> April, 2010 in appeal No. 72 & 141 of 2009 (HPGCL Vs HERC). The relevant portion of the judgment is reproduced below:

*“ ..... Even in the present order tariff order passed by the State Commission, the expenditure as claimed by the Appellant, has been approved by the State Commission. There has been no reduction whatsoever by the State Commission in approving the O&M expenditure claimed by the Appellant. The allowance of O&M expenses on actual basis is subject to prudence check by the State Commission.”*

The O&M expenses proposed by HPGCL in their petition for FY 2010-11 and approval given by the Commission are as shown in the following table:

(Rs. mln)									
Particulars	PTPS					DCR TPP 1 & 2	RG TPP 1 & 2	WYC & Kakori	Total
	Unit 1-4	Unit 5	Unit 6	Unit 7	Unit 8				
HPGCL Proposal	1127.3	528.7	528.7	629.3	629.3	1015.2	1484.4	219.92	6162.78
HERC Approval	1536.6	477.5	477.5	568.5	568.5	1225.12	1484.4	219.92	6558.01

The total O&M expenses proposed by HPGCL for FY 2010-11 was ₹ 6163 millions where as the approval given by the Commission was for ₹ 6558 millions. Thus the Commission actually allowed about ₹ 395 millions more than what was claimed by HPGCL. The O&M expenses for FY 2010-11 was allowed by the Commission on basis of the CERC norms i.e. ₹ / MW. The excess O&M expenses was allowed for meeting the arrears on account of implementation of report of sixth pay Commission. The Commission while allowing higher O&M expenses clearly mentioned in the order that the amount shall be trued up on the basis of audited annual accounts of the relevant years. Therefore, seeking review on this account at this stage is not appropriate as the O&M expenses as per Commission's order will be trued up in due course of time on the basis of audited accounts of HPGCL.

5. Plant Load Factor: The PLF proposed by HPGCL and allowed by the Commission for FY 2010-11 is shown in the following table :

Stations	PTPS 1 - 4	PTPS - 5	PTPS -6	PTPS - 7	PTPS -8	DCR TPP 1-2	RG TPP 1-2	WYC & Kakroi
<b>HPGCL's proposal</b>	69.17	80	80	80	80	80	80	50
<b>HERC's Approval</b>	75	80	80	85	85	80	80	50

It is evident from the above table that except PTPS 1-4 and 7 & 8 the PLF was allowed as per HPGCL's proposal while marginally higher PLF was allowed by the Commission in respect of PTPS 1-4 and 7 & 8 on the basis of their performance during 2009-10 (up to December,

2009) and the R&M expenditure was allowed accordingly. HPGCL had gone into an appeal against Commission's orders for FY 2009-10 on the grounds that PLF allowed by the Commission is not achievable due to technical reasons, which despite spending huge amounts on R&M are beyond their control. However the Hon'ble APTEL has in its judgment dated 26<sup>th</sup> April, 2010 ordered that the findings given in the order of the Commission in determining of PLF do not call for interference. Therefore, the plea of the HPGCL that no improvement in operations of generating units despite spending huge amounts of capital expenditure is beyond their control is not convincing. Further the Commission has allowed lower PLF in respect of PTPS units 5, 6, 7 & 8 in which case the actual performance was 90 – 98%. The Commission adopted a balancing approach by determining slightly higher PLF in respect of poorly performing units, so that HPGCL could strive for better performance particularly when huge R&M expenses have been incurred on such units, and lower PLF in respect of better performing units to compensate the loss which HPGCL may suffer due to higher PLF of poorly performing units. The intention of the Commission was also made clear to HPGCL during hearing. HPGCL insisted only for allowing lower PLF for poorly performing units without revising PLF of better performing units. After taking note of all the above circumstances, the Commission reiterates that spending of huge capital expenditure including R&M which the electricity consumers are made to pay without any benefits and operational improvement of the concerned generating units ought not to be allowed to be passed on to the consumers. Thus the PLF as approved by the Commission for FY 2010-11 shall remain unchanged.

6. Auxiliary consumption: The following table presents the HPGCL proposal and HERC approval of auxiliary consumption for FY 2010-11.

Stations	PTPS 1 - 4	PTPS - 5	PTPS -6	PTPS - 7	PTPS - 8	RG TPP 1-2	DCR TPP 1-2
HPGCL's Proposal for (FY 2010-11)	11.27	9	9	9	9	9	9
HERC's Approval (FY 2010-11)	11	9	9	9	9	7.5	9

It is observed that in most of the cases the auxiliary consumption allowed by the Commission is same as claimed by the petitioner. However, in case of RGTPP and PTPS units 1-4 it is slightly less than the claim of the petitioner. In generation tariff order for 2010-11 the Commission has pointed out that auxiliary power consumption at national level is much lower than what has been achieved by HPGCL. CERC (Terms and Conditions of Tariff) Regulations, 2009 provides for auxiliary consumption @ 6% for generating stations of 500 MW & above capacity with Natural Draft Cooling Tower (NDCT) or without cooling tower and having stem driven boiler feed pumps whereas the Commission has allowed much relaxed norms of 7.5% in respect of RGTPP 1-2. In respect of other generating stations also the auxiliary consumption allowed by the Commission is higher than the CERC norms. It was pointed in the aforesaid order that auxiliary power consumption in excess of 8.5% for 200 MW and above units and in excess of 11% for units less than 200 MW with NDCTs is not justified and ought to be brought down in line with the HERC norms. The Hon'ble APTEL has also upheld the norms fixed by the Commission in its judgment dated 26<sup>th</sup> April, 2010 in appeal No 72 & 141 filed by HGPCL against Commission's generation tariff order for FY 2009-10. The relevant portion of judgment is reproduced below:

“.....As a matter of fact the State Commission had repeatedly directed the appellant to implement the recommendations of Energy Audit Reports to reduce the auxiliary power consumption to national norms applicable. These directions have not been complied with by the appellant. Therefore, we are of the view that there is no merit in the claim of the appellant for higher auxiliary power consumption....”

HPGCL should make all out efforts to bring down auxiliary consumption as is being pointed out time and again by the Commission and duly approved by the Hon'ble APTEL.

7. Specific oil consumption: The table below shows the specific oil consumption proposed by HPGCL and approved by the Commission for FY 2010-11.

Stations	PTPS 1 - 4	PTPS 5	PTPS 6	PTPS 7	PTPS 8	DCR TPP 1-2	RG TPP 1-2
HPGCL's Proposal	2.89	2	2	2	2	2	2
HERC Norms	2	2	2	2	2	2	-
HERC's Approval	2	2	2	1	1	1	1

The specific oil consumption has been allowed by the Commission for 2010-11 in accordance with HERC / revised CERC norms. The contention of HPGCL that HERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2008 provides that the Commission can fix relaxed norms cannot be denied. But the submission of the petitioner that the stringent norm cannot be fixed when the provision is for fixing of relaxed norms is not acceptable. The Commission observes that the provision has been made in the regulations to give the Commission some flexibility in determination of tariffs based on the performance of the petitioner and other related circumstances. Consequently the norms could be liberal or stringent than those provided in the regulations on case to case basis. The Commission is of the considered view that specific oil consumption is controllable by reducing the frequent starts / stops and forced outages by better O&M. HPGCL should strive for achieving better results specifically when the Commission liberally allows R&M expenses.

8. Transit loss of coal: This is a contentious issue and is being deliberated by the Commission in all the generation tariff orders. The Commission has repeatedly been pointing out that transit loss of coal of HPGCL is much higher than the national norms. The Commission has also determined a trajectory for reducing the norms of transit loss of coal to bring it down at par with national level. Even the Hon'ble APTEL has in appeal No. 42 & 43 of 2008 and 72 & 141 of 2009 filed by HPGCL against the generation tariff orders of the commission for FYs 2007-08, 208-09 and 2009-10 observed and ordered as under:

*“.....Every item of cost, other than those which are statutory levies, that is to be recovered from the consumers would require scrutiny at some stage. If we accept that coal transportation losses be allowed at levels sought for by the appellant, on the premise that such losses are not within the control of the appellant, we are effectively agreeing that such costs are beyond scrutiny by the State Commission or rather beyond scrutiny by any agency. How will the consumer participate in the due diligence process to determine the justness of such losses. The consumer does not have resources to approach the Railways and Coal companies directly for determination of the justness of the losses incurred. It is only the appellant who is in a position to take up the matter with the Railways and the Coal companies for more efficient transportation of coal. If need be, it has all options to take up the matter at highest level as advised by the State Commission also.*

*In view of the above we do not agree with the contention of the appellant in this regard.”*

In light of the above order of the Hon’ble APTEL and the directives earlier given by the Commission in this regard, HPGCL is again advised to take all necessary steps to bring down the transit loss of coal to an acceptable level.

9. Rebate on payment of FSA: FSA or FPA are part of tariff and recovery of the same from the end consumers can be done by the distribution licensees as per normal billing cycle. Therefore, billing and payment of FSA or FPA shall be governed by the same terms and conditions as applicable to normal approved tariff.
10. Recovery of FPA / FSA claim on monthly basis: Regulation 17 (3) of HERC (Terms and conditions for determination of Generation tariff) Regulations, 2008 provides for recovery of FPA on monthly basis. Similarly HERC (Terms and conditions for determination of wheeling tariff and distribution and retail supply tariff) (1<sup>st</sup> Amendment) Regulations, 2010 provide for recovery of FSA by the distribution licensee on monthly basis.

HPGCL shall refer to these regulations and recover FPA / FSA according to the relevant provisions.

11. Amount on account of salary arrears: The Commission has already ordered that any difference in employee cost due to implementation of the recommendations of the Sixth Pay Commission shall be tried up as per actual. The Commission may consider allowing holding cost if complete details alongwith proper justification are provided. Simply submitting that the petitioner had to bear holding cost does not make any convincing case. The petitioner should submit proof of hiring loans only for payment of salary arrears so as to enable the Commission to take a decision in this regard.

12. Return on equity: The HPGCL has submitted in the review petition that the Commission has not allowed RoE @ 14% net of tax despite the same having been provided in HERC regulations. Since the Commission has allowed RoE @ of 14% to HPGCL for the FYs 2008-09 and 2009-10 in compliance of judgment of the Hon'ble APTEL, the return on equity @14% is allowed for FY 2010-11 as well. Any taxes and statutory levies on RoE shall be allowed on actual basis as pass through in the next ARR order. Thus, the Commission will revisit the issue on submission of the requisite documents regarding payment of taxes and other statutory levies.

13. Transformation loss: Regulation 24 (3) of HERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2008 provides as under:

*"Transformation losses from generation voltage to transmission voltage shall be 0.5% of energy generated."*

The Commission has considered the submissions of HPGCL in view of the above provision of the regulations and allows transformation loss @ 0.5% on generation from its hydro generating stations for the FY 2010-11.

14. Treatment of infirm power: The petitioner has sought clarification whether power generated till provisional take over (PTO) is to be

treated as infirm power or otherwise. Commission observes that there should have been no need for seeking clarification on this issue as the words 'infirm power' have duly been defined in regulations 3 (s) of HERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2008 and should be treated accordingly. However, for ready reference the definition is reproduced below:

*'Infirm Power' means electricity generated prior to commercial operation of the unit of a generating station.*

In case the date of PTO is the commercial operation date then power generated by a unit of generating station till PTO should be billed at UI rates but in case the commercial operation date is either prior or after PTO, then billing of power generated till commercial operation date should be at UI rates.

HPGCL is directed to provide details of infirm power and the manner in which the same has been accounted for in case of PTPS units No. 7 & 8 and the quantum of infirm power in case of DCRTPP Yamuna Nagar upto its commercial operation date / provisional takeover date (PTO).

16. The Commission directs HPGCL to submit detailed calculation of the financial impact in respect of the requests of HPGCL allowed in this order so that revised generation tariff could be approved for FY 2010-11.

The Commission disposes of the above review petition accordingly

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 03.05.2011.

Date: - 03.05.2011

Place: - Panchkula

**(Ram Pal)**  
Member

**(Rohtash Dahiya)**  
Member

**(Bhaskar Chatterjee)**  
Chairman