

**HARYANA ELECTRICITY REGULATORY COMMISSION  
BAYS NO. 33-36, SECTOR -4, PANCHKULA – 134113, HARYANA**

**CASE NO. : HERC / RA – 05 OF 2011  
DATE OF HEARING : 15.9.2011  
DATE OF ORDER : 03.11.2011**

IN THE MATTER OF:

Uttar Haryana Bijli Vitran Nigam Limited, C-16, Vidyut Sadan, Sector-6, Panchkula

Dakshin Haryana Bijli Vitran Nigam Limited, Vidyut Nagar, Hissar

..... Petitioners

Seeking review and / or modification and / or clarification of the Commission's order dated 27<sup>th</sup> May, 2011 in Case No. HERC/PRO-3 and HERC/PRO-4 of 2011 on the Annual Revenue Requirement petition of Uttar Haryana Bijli Vitran Nigam Limited and Dakshin Haryana Bijli Vitran Limited for its Distribution and Retail Supply Business and Retail Supply Tariff for FY 2011-12.

**Present:**

- |    |                     |          |
|----|---------------------|----------|
| 1. | Shri Rohtash Dahiya | Chairman |
| 2. | Shri Rampal         | Member   |

**On behalf of the Petitioners**

1.	Sh. Kapil K. Marwah	CGM (F), DHBVNL
2.	K.K. Goel	CGM (Comml), UHBVN
3.	R.K. Gupta	GM/RA, UHBVN
4.	Manoj Kumar	Xen/Comml, UHBVN
5.	Amit Dewan	FA/HQ, UHBVNL

## ORDER

1. UHBVNL vide its Memo No. Ch-40/GM/RA/N/F-25/Vol. XXXV (35) dated 27.6.2011 and DHBVNL vide Memo No. Ch-09/SE/RA-418 dated 28.6.2011 have filed petitions under clause 78(2) of chapter VI of "Conduct of Business Regulations 2004" ["HERC Regulations"] seeking review and / or modification and / or clarification of the order dated 27.5.2011 passed by the Commission in Case No. HERC/PRO-3 and HERC/PRO-4 of 2011 with respect to Annual Revenue Requirement filing by Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL) and Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL) for their Distribution and Retail Supply Business and Retail Supply Tariff for FY 2011-12.
2. As the Commission had passed a common order in respect of the ARR petitions of UHBVNL and DHBVNL for FY 2011-12, the Commission considers it appropriate to pass a common order in respect of the instant review petitions.
3. After perusal of the submissions made in the review petitions, it is felt that following are the main issues which need to be considered by the Commission for appropriate orders.
  - 1) Requirement of additional information
  - 2) Review of expenditure allowed by the Commission
  - 3) Review of consumer category wise sales approved by the Commission
  - 4) Clarification of Tariff Schedule

The above issues have been discussed and analyzed by the Commission in the following paragraphs and appropriate orders have been passed.

4. Requirement of additional information: The discoms requested for additional information as under:-
  - a) UHBVNL has requested that the category wise revenue from sale of power estimated by the Commission may be provided to them.

- b) UHBVNL has requested that the calculation for approved subsidy amount may be provided to them along with details of how the subsidy amount has been allocated between UHBVNL and DHBVNL.
- c) DHBVNL has requested that details of revenue estimation from sales to each consumer category may be provided.

The Commission has considered the requests of the Discoms for providing additional information and has decided that the requisite information may be supplied to the Discoms. Accordingly information in respect of estimation of sales & revenue and calculation and allocation of subsidy has been provided to the petitioners vide HERC memo no. 2196-97 dated 4.10.2011.

## 5. Review of expenditure allowed by the Commission

### 5.1 Interest on borrowings:

In the light of the review seeking additional expenditure by the petitioner(s), it is observed that the Commission has, in its order dated 27.5.2011, allowed interest on borrowings for capital expenditure and working capital, on Advance Consumption Deposit (ACD) and borrowings for uncovered revenue gap of previous years. A comparison of projections made by the licensees and corresponding amount allowed by the Commission is given below:

Rs. million

Interest on Loans	Proposal of distribution licensees		HERC Approval	
	UHBVNL	DHBVNL	UHBVNL	DHBVNL
Gross Interest on Capital Expenditure Loans	3139.20	1773.80	1977.91	1352.53
Less: Interest Capitalised	844.30	1387.40	492.19	307.06
Net Interest on Capital Expenditure Loans	2294.90	386.40	1485.73	1045.47
Interest on Working Capital Loans	9361.30	5314.50	687.50	800.00
Interest on consumers' security deposits	297.60	113.40	240.12	113.40
Interest on financing regulatory gap	3943.70	-	1941.56	697.00
Total	15897.50	5814.30	4354.91	2655.87

The Commission observes that working capital has been allowed to UHBVNL equivalent to one month ARR i.e. Rs. 5500 million in line with the judgments by the Hon'ble Appellate Tribunal for Electricity which has been dealt at length in the Commission's order dated 27.5.2011 and interest thereon has been allowed accordingly. It needs to be noted that one month ARR also includes non cash expenses such as depreciation etc. In addition, the Commission had also allowed interest on ACD. The ACD amount is estimated to be Rs.4670 million which is an additional one month ARR. The corresponding working capital amount and ACD amount in case of DHBVNL is Rs.6400 million and Rs.6000 million respectively.

The Commission has allowed the Distribution licensees to recover ACD ranging from two to four months of billing from the consumers. The ACD is available to the licensees as working capital against which the electricity is to be supplied and the payment is received in advance. It is observed that as per the audited accounts of the licensees, the ACD available with UHBVNL is about one month of billing and in the case of DHBVNL it is about one and a half month of billing. Therefore it would be appropriate for the petitioner to implement the Regulation notified by the commission in 2005 and recover from the consumers the balance amount of ACD. It is observed that the ACD has the dual advantage of security being made available to the licensees against non payment of electricity bills by the consumers and given the fact that interest rate on ACD payable to the consumers is nominal amount i.e. the risk free interest rate, it amounts to availability of low cost funds to the petitioners when compared to the rate of interest paid by them for raising short term funds.

The large revenue gap appearing in the balance sheet of the licensees and the excessive borrowings for which the licensees are now demanding additional interest cost is mainly due to inefficient fund management by them. It needs to be noted that since inception, the Commission has never left any revenue gap unaddressed. Either there has been a tariff revision or additional borrowings have been allowed to meet the uncovered revenue gap. In FY 2011-12 the

additional borrowings to fund the uncovered revenue gap was Rs.15532.46 million for UHBVNL and Rs.5576 million for DHBVNL.

The additional cost on account of unrealized revenue is addressed by way of late payment surcharge. The revenue from Monthly Minimum Charges (MMC), which is in addition to the ARR approved by the Commission is also available to the petitioners to manage any uncovered revenue gap.

The Commission is of the considered view that the consumers of the State cannot be expected to bear the brunt of the inefficiencies of excessive losses, inefficient billings and inefficient revenue collections which are the reasons behind the high financial losses for which the DISCOMS are demanding additional borrowings. Normative basis for calculating expenditure is considered by the Commission so that any gain on account of efficiency in management of such expenses are retained by the utility and conversely it will have to bear the losses on account of inefficiencies. Thus the Commission, after in depth analysis of the submissions made by the petitioners for additional interest on borrowings, is not inclined to accept the same and hence the review sought on this issue is rejected being devoid of merit.

## 5.2 Employee Cost:

DHBVNL has submitted that the employee cost allowed by the Commission does not take into account the additional recruitment done by them during FY 2010-11. Hence it has been submitted that the cost on account of salary allowed by the Commission may be revised appropriately.

The Commission has considered the submission of the petitioner on the issue of employee cost allowed to them and is of the view that the Commission has estimated the employee cost based on the audited accounts for FY 2009-10 as has been stated in the ARR order. The cost incurred by DHBVNL on basic salary during FY 2009-10 is Rs.2416.01 million. However, as per notes to accounts no. 17, attached to audited accounts this amount includes Rs.697.5 million on account of arrears for previous years accounted for in FY 2009-10. Thus, the

basic employee salary cost of Rs. 1718.51 millions considered for the purpose of calculating cost per employee. This is then increased by 3% p.a. for normal increments. The number of employees considered for calculating total cost for FY 2011-12 is 10197 which is same as proposed by DHBVNL. Therefore the Commission finds that the petitioner has not made out any case which may merit review of employee cost allowed in the ARR / tariff order dated 27.05.2011..

### 5.3 Depreciation:

- a) DHBVNL has stated that difference between the Commission's approved average Gross Fixed Assets (GFA) and that calculated by the petitioner since FY 2008-09 has been increasing. GFA is a crucial factor in estimating the total expenditure that is allowed to the petitioner.
- b) DHBVNL has further stated that the average rate of depreciation allowed by the Commission at 2.74% is less than the 5.03% as per their Audited Accounts for FY 2009-10 which has been considered as a base by the Commission. It has therefore prayed that the depreciation may be allowed by the Commission in accordance with the HERC Tariff Regulations.

The Commission after careful consideration of the above submission observes that the GFA estimations by the Commission in each of its orders is based on a careful analysis of the proposed capital investment plan and funding projections proposed by the petitioners in their ARR applications. The starting point for the calculation is the GFA as per latest available audited accounts. The methodology has been clearly explained by the Commission in each of its orders. Any difference in the approved capital expenditure of current year and the ensuing year is reflected as difference in the proposed and approved GFA and is a statement of fact. In case the licensee is able to point out any inaccuracies in the calculations of the approved capital expenditure and the resultant GFA, it has an option to seek a review of the same.

The Commission has analyzed the issue of GFA and depreciation raised by the petitioner in the review petition and finds that as per audited accounts for FY 2009-2010, the depreciation charged on opening balance of assets of Rs. 22923.8 million as on 1.4.2009 amounts to Rs. 627.4 million which is 2.74% of the assets value. The same rate has been utilized for calculating depreciation for FY 2010-11. In comparison to this, the rate used for calculating depreciation in the case of UHBVNL is 3.43% being the rate of depreciating proposed by UHBVNL based on the revised rates as per tariff regulation notified by the Commission.

As clarified by DHBVNL, the sharp drop in rate of depreciation is on account of depreciation written back in FY 2009-10 due to lower depreciation on assets added after 1.4.2005 in accordance with the revised tariff policy. The Commission directs DHBVNL and UHBVNL to file details of depreciation allowed by the Commission and depreciation charged to the Profit and loss account by them since inception. This will enable the Commission to assess the impact of revision of rates of depreciation and order accordingly. Accordingly on the issue of depreciation the Commission decides that the petitioner may approach the Commission with additional information. The Commission thereafter shall pass an appropriate order.

## **6. Review of consumer category wise sales approved by the Commission**

6.1 Agriculture consumption: It has been stated by UHBVNL as under:-

- a) The Commission has allowed AP sales on the basis of 7% growth in connected load from FY 2010-11 to FY 2011-12. However, as per UHBVNL, the actual growth in AP category connected load in the past few years has been significantly higher than 7%. As per details provided the load growth has ranged from 13.29% to 19.07% with the three year CAGR being 15.56%.
- b) The Commission, for the purpose of projections, has considered running hours for FY 2011-12 to be same as that of FY 2010-11. However, AP

sales in FY 2010-11 were uncharacteristically low on account of unusually good monsoon which cannot be expected for FY 2011-12.

- c) Underestimation in projection of AP sales would have an adverse impact on projections of power purchase as well as RE subsidy. Such disallowance would be needlessly add to petitioners financial predicament.

UHBVNL has accordingly prayed that the Commission may either review the AP connected load approved for FY 2011-12 or may allow for a true up of AP sales and subsidy requirement thereon once the actual figure for FY 2011-12 are available.

Given the significance of AP sales estimate and its impact on distribution losses as well as RE subsidy payable by the State Government, the Commission has revisited the entire issue of AP sales estimation as appearing in its order against which the instant review has been preferred by UHBVNL.

At the outset it needs to be noted that tube-well running hour's and/or the AP sales load factor appearing in the order are mere back – end calculations based on the metering data supplied by petitioners emanating from the AP segregated feeders and the same, unlike in the past when no reliable data was available to the Commission for taking a view on the consumption of AP unmetered consumers, has not been used for projecting AP sales in FY 2011-12. In fact AP sales have been assessed on the basis of data supplied by Discoms in respect of segregated feeders. Thus the review plea sought by UHBVNL on the basis of past trend of connected load, deficient rainfall, running hours of tube-well etc. is not tenable. Having observed as above the Commission proceeded to examine the issue of understated AP sales as submitted by UHBVNL. The point of reference considered by the Commission for reexamining AP sales is the undisputed AP connected load i.e. this being the data submitted by UHBVNL for FY 2010-11. Accordingly the average annual AP connected load in FY 2010-11 was 2864.437 MW and the

corresponding AP consumption based on segregated feeders data was 3599.01 MUs. As against this admitted position, UHBVNL proposed to add about 350 MW load in the AP category in FY 2011-12. As the release of AP connection is staggered throughout the financial year i.e FY 2010-11, the effective incremental annual average AP connected load would be about 175 MW. Further the load factor of 14.69% as calculated on the basis of actual AP consumption and connected load for FY 2010-11 as provided by the petitioner (ref. Table 2.1 – AP consumption data for FY 2010-11, UHBVNL) appearing in the Commission's order dated 27.5.2011 has been reckoned with while projecting AP sales. Accordingly the additional AP sales that may reasonable materialize would not exceed 225 MU ( $175 \times 0.1469 \times 8760 / 1000$ ). Thus this incremental sales as a percentage of actual FY 2010-11 AP sales of 3599.01 MU would translate into about 6.25% growth. As against this the additional AP sales growth as per Commission's order dated 27.5.2011 has been taken as 7% which the Commission finds is reasonable and hence requires no further interference at this stage. However, as directed by us in our order dated 27.5.2011 and as per prayer of UHBVNL the Commission shall revisit the matter as and when the Discoms submits analysis of full year data of agriculture sales based on the input energy recorded by the meters installed at 11 KV AP segregated feeders (Ref. page no. 95 of HERC order dated 27.5.2011).

6.2 Sales, Revenue and subsidy estimation and restatement of T&D losses:  
The submissions in this regard have been made as under:

UHBVNL has stated that:

- a) The sales approved in FY 2011-12 for domestic category is much lower than expected and HT industry sale is estimated to be drastically higher than witnessed in the past two years.

- b) Actual sales growth scenario be taken into account and has asked for review of sales approved by the Commission.
- c) The Commission has allowed subsidy to DHBVNL at Rs. 4.84 which is higher than the average cost of supply of Rs. 4.69 per unit whereas in case of UHBVNL, subsidy has been allowed @ Rs. 5.19 per unit against average cost of supply of Rs. 5.54 per unit determined by the Commission.
- d) The Commission to approve the additional subsidy on the basis of average cost of supply and accordingly re-appropriate the subsidy amongst the distribution licensees.

DHBVNL has stated as under:

- a) The sales approved by the Commission bear no relation to the actual growth in sales. The Commission may therefore revise the sales estimation in line with the actual sales trend.
- b) The Commission is requested to reconsider the distribution loss evaluation as on one side the Commission has reduced the consumption of AP category, there has been no consideration given to distribution losses on this account. Rather the difference has been adjusted by way of increase in metered sales.

The Commission has considered the submissions of the petitioner and is of the view that a re-estimation of AP sales in the light of full year data would have a cascading impact on distribution losses, power purchase estimates of sales of consumer categories other than AP as well as estimation of subsidy. The Commission, therefore, feels that at this stage it would be pre-mature to proceed with the review sought by the petitioner on the issue of sales and revenue estimation. After the requisite data is made available to the Commission the review of sales and revenue etc. could be considered by the Commission at the time of processing the ARR petitions for FY 2012-13

7.0 Tariff Schedule:

7.1 The petitioners, UHBVNL and DHBVNL, have requested the Commission to clarify the following points in the tariff schedule notified vide the ARR and tariff order for FY 2011-12 dated 27 May, 2011:

- a) For supply to independent hoardings / decorative lighting, the text of the order mentions introduction of fixed charges at Rs.120/kW/month while the tariff schedule specifies fixed charges of Rs.130/kW/month. The Hon'ble Commission is requested to clarify on this.
- b) The text of the Commission's order on D&RS ARR & tariff of UHBVNL and DHBVNL for FY 2011-12 and tariff schedule of the Commission's order on D&RS ARR & tariff of UHBVNL and DHBVNL for FY 2010-11 mentions that the MMC charges are applicable on "per kW or part thereof of the connected load". However, in the Table 4.3 of the Commission's order on D&RS ARR & tariff of UHBVNL and DHBVNL for FY 2011-12, the MMC charges are applicable on "per kW of the connected load" which may be corrected
- c) The Commission to verify the introduction of energy charges of Rs.415 per kWh common for all arc/steel furnaces irrespective of the supply voltage as the Hon'ble Commission has already modified the tariff structure for the arc/steel furnaces vide judgment order dated 3 December 2010 in the matter of "Petitions filed by M/s JSL Limited, OP Jindal Marg, Hisar seeking clarification regarding tariff applicable to steel rolling mills and arc furnaces under HT category and PHD Chamber of Commerce and Industry, New Delhi and Bhiwani Chamber of Commerce and Industry, Bhiwani seeking clarification regarding Peak Load Exemption Charges". The said order says:

"..... the words "and the applicable tariff would be 415 Paisa per kWh" appearing in the last sentence of the note (b) below clause 5 of the schedule of tariff for supply of energy to the Commission's tariff order dated 13<sup>th</sup> September, 2010 stands deleted, thereby making

higher voltage concessional tariff applicable in the case of steel rolling mills/electric arc furnaces”.

7.2 The petitioners have also requested the Commission to clarify the following points with respect to the earlier tariff schedule issued vide tariff order for the FY 2010-11 dated 13.9.2010 by way of releasing afresh tariff schedule for the FY 2011-12:

- i) The levy of tariff to pumps (other than irrigation) including sewerage disposal/treatment plants etc. installed by the government, government undertakings, municipalities, panchayats and religious institutions upto 50 KW under Public Water Works supply category needs to be clarified for the tariff to be charged in case the load exceeds 50 KW.
- ii) Regarding levy of excess load surcharge for LT industrial consumers in case of change of category, the revised tariff schedule for FY 2010-11 did not specify the penalty mechanism for LT industrial consumers whose actual load is found more than 50 KW. Earlier, there was a provision of LT surcharge along with the applicable MMC charges which would be applicable to the consumer as penalty for unauthorized load. They have submitted that the same schedule may be continued since the above case falls unauthorized use of electricity/theft of electricity and hence the consumer should be penalized for the same.

The petitioners have requested the Hon'ble Commission to specify the levy of such excess load surcharge or any other penal mechanism that the Hon'ble Commission may feel convenient in this regard in order to prevent any further financial loss to the petitioner since the Hon'ble Commission had directed the petitioner (vide order dated 4 October 2010; clarification no. 14) not to bother the consumer on the said matter till the next ARR order is passed.

7.3 UHBVNL has further submitted as under:

- (i) According to tariff order for the FY 2010-11 dated 13.09.2010, the excess connected load surcharge is only applicable only for LT industry, HT industry & Public Water Works. The Commission has not specified excess load surcharge for other consumer categories

and hence it is prayed to the Commission to notify the charges for the excess connected load in respect of following categories.

- a) Domestic supply (DS)
- b) Non domestic supply
- c) Independent Hoarding/Decorative Lighting
- d) Bulk Supply (NDS)
- e) Bulk Domestic Supply
- f) Street Lighting Supply
- g) Railway Traction and DMRC
- h) Temporary Metered Supply (T.M)

- (ii) In the tariff schedule issued vide tariff order for FY 2010-11, Hospitals and Educational institutes have been included in both Non-Domestic and Bulk Supply consumer categories. The Commission is requested to clarify the consumer category applicable for Hospital and Educational institutes.

7.4 DHBVNL has submitted that regarding the charges to be recovered from open access consumers, the licensee has faced certain issues which are mentioned below:

- i. As per tariff schedule approved by HERC for retail supply business, there is a provision of power factor rebate/penalty on HT industrial consumers. The power factor rebate/penalty is to be given on the Sale of Power (SOP) charges. However, if a HT Industry consumer is also drawing power through open access, then it needs to be clarified whether the power factor rebate/penalty would be given on the quantum of power drawn through open access or not.
- ii. In the approved tariff schedule for HT Industry, there is also a provision of charging surcharge of 15 paise per unit (kWh) over and above the applicable retail supply tariff on all arc furnaces, mixed load of arc furnaces and steel rolling mills, all other steel furnaces (including cold rolling/re-rolling, steel/stainless steel mills), mixed load of such steel furnaces and steel rolling mills, which are being given supply on 11 kV. However, if the applicable consumer opts to draw power through open access, then the only charges payable by such consumer is wheeling and cross subsidy surcharge which is same for all HT Industrial consumers. As such, no additional

surcharge of 15 Paise is being charged currently, which would have been levied from the consumer, had he not opted for open access. Hence, it may be clarified that the additional surcharge of 15 Paise per unit would also be applicable on the power drawn by the applicable consumer through open access or not.

- iii. Currently, the licensee is not charging FSA on the open access consumers and the same is being levied only from the general retail supply consumers against the power supply by the petitioner. However, for sake of clarity, it may be clarified whether the FSA charges (Rs. Per unit) is to be levied on the power draw through open access or not.

The issues relating to tariff schedule have been considered by the Commission and are clarified as under:

- 7.1 (a) The fixed charges in respect of independent hoardings / decorative lighting shall be levied @ Rs. 130/- per kW or part thereof per month. The figure of Rs. 120/- appearing in the fourth last line at page 113 of the Commission's order on distribution & retail supply ARR & tariff of UHBVNL & DHBVNL for FY 2011-12 shall be read as Rs. 130/-
- 7.1 (b) The Heading of the column 6 of table No. 4.3 at P-118 in the ARR and tariff order in respect of UHBVNL and DHBVNL for the FY 2011-12 shall be read as "MMC (per kW or part thereof of the connected load per month")
- 7.1 (c) It is clarified that the Commission's order dated 3<sup>rd</sup> December, 2010 in respect of M/S JSL is applicable to all the consumers falling under that category.
- 7.2 (i) The words "up to 50 kW" appearing in the last line of item No. 11 (i) of schedule of Tariff for Public Water Works supply for the FY 2011-12 to be treated as deleted.

- 7.2 (ii) The petitioner may take up the issue regarding levy of LT surcharge alongwith applicable MMC charges in its ARR filing for FY 2012-13 as this being a fresh issue cannot be dealt at review stage.
- 7.3 (i) The petitioner may take up the issue regarding levy of excess connected load surcharge to all other consumer categories in line with LT and HT industrial consumers in its ARR filing for FY 2012-13 as the Commission is not inclined to open up any fresh issue at the review stage.
- 7.3 (ii) The tariff shall be applicable to Hospital and educational institute in accordance with their type of consumer category. For example if they have applied for commercial connection they will be charged NDS tariff and if they have applied for Bulk Supply connection they will be charged tariff applicable to that consumer category.
- 7.4 (i) & (ii) The Issues raised under these points have already been clarified vide letter No. HERC/ D (Tariff) / ARR- 11-12/1325-26 dated 28.07.2011.
- 7.4 (iii) In respect of the issue raised under this point, regarding applicability of FSA to open access consumers, it is clarified that open access consumers are liable to pay cross subsidy surcharge and additional surcharge as determined by the Commission from time to time. FSA is not leviable over and above these charges.

The review petition (s) is accordingly disposed of.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 3<sup>rd</sup> November, 2011.

Dated: 03.11.2011

Place: Panchkula

(Ram Pal)  
Member

(Rohtash Dahiya)  
Member