

**HARYANA ELECTRICITY REGULATORY COMMISSION**  
**SCO – 180, SECTOR – 5, PANCHKULA**

CASE NO: HERC RA – 2 of 2005

Date of Hearing: 26/05/2005

Date of Order: 06/06/2005

In the matter of

Petition filed by Haryana Vidyut Prasaran Nigam Limited (HVPNL) seeking review and / or modification of the order dated 7<sup>th</sup> March 2005 passed by the Commission in case no. HERC / PRO – 15 of 2004 in respect of Revised Annual Revenue Requirement (ARR) for Transmission & Bulk Supply Business for FY 2004-05 and Bulk Supply & Transmission Tariff (BST).

**PRESENT:** **Lt.Col.(Retd.) Raghbir Singh, Chairman**  
**Er. T.R. Dhaka, Member**  
**Shri T.S. Tawatia, Member**

On behalf of HVPNL      Shri Samir Mathur, Managing Director  
Shri A.K. Sood, Director / Projects  
Shri A.S. Chugh, Director/C&A  
Shri M.K. Mittal, CS & CAO

On behalf of UHBVNL      Mrs. Jyoti Arora, Managing Director  
Shri Mohinder Singh, Director/Finance  
Shri T.C. Gupta, Director / Projects

On behalf of DHBVNL      Shri R.K. Aggarwal, SE/RA  
Shri K.S. Bahl, SE / SO

**ORDER**

1. Through the petitions filed under Section 10 (1) (h) of Haryana Electricity Reform Act 1997, read with clause 78, 80, 85 to 91 of the Haryana Electricity Regulatory Commission (conduct of business) Regulations 2004, vide its Memo No.Ch-95 / SE / RAU / F- 61 dated 5/04/2005 and supplementary filing vide Memo No.Ch-14 / SE / RAU / F – 52 Vol IV dated 26/04/2005, the petitioner, namely Haryana Vidyut Prasaran Nigam Limited (HVPNL) seeks review and / or modification and / or clarification of the Commission's order dated 7<sup>th</sup> March 2005 in respect of Revised Annual Revenue Report for Transmission & Bulk Supply Business for FY 2004-05 & Bulk Supply and Transmission Tariffs (the impugned order) in Case No. HERC / PRO – 15 of 2004.
2. The factual background of the order under review is stated in brief hereunder.
3. HVPNL, the transmission and bulk supply licensee, filed its Annual Revenue Report (ARR) for the Financial Year (FY) 2004-05 (Case No.HERC/PRO-5 of 2003) on its due date i.e. 31st December 2003. The ARR was accompanied with Bulk Supply & transmission tariff (BST) application for its Transmission and Bulk Supply Business (T&BS).

The Commission carried out a preliminary review of the ARR and BST filings and held a hearing on 3rd March, 2004 at 03.00 P.M. in the conference room of the Haryana Electricity Regulatory Commission in pursuance of Section 64(3) (b) of the Electricity Act 2003. The Commission passed its order on 8<sup>th</sup> March 2004. The order referred to the Government of Haryana notification No. 1/10/2003-1 Power dated 9/12/2003 vide which HVPNL was declared Haryana State Transmission Utility (STU) under Section 39(1) of the Electricity Act 2003 (Which meant that HVPNL could not engage in the business of trading in electricity w.e.f 9/12/2003) & the fact that the Government of Haryana was yet to decide the manner and shape in which the bulk supply / trading in electricity will be handled and ordered that "In view of the above mentioned uncertainties and subjectivities, the Commission rejected the ARR for FY 2004-05 and Bulk Supply and Transmission Tariffs application filed by HVPNL for its Transmission and Bulk Supply business and directed the licensee to submit a fresh Tariff Petition supported by revenue requirement pertaining to Transmission / Wheeling business only".

The Government of India, Ministry of Power vide its notification dated 9<sup>th</sup> June 2004 authorized the STUs to engage in the activity of bulk purchase and sale of electricity to distribution companies for a further period of one year on and from 10th day of June 2004. In view of the said notification, the Commission vide its letter dated 6th July 2004 directed the licensee to submit the ARR for FY 2004-05. HVPNL filed its Revised Annual Revenue Report for the Transmission and Bulk Supply Business for FY 2004-05 and proposed Transmission and Bulk Supply Tariffs on 8<sup>th</sup> November

2004. The revised filing projected Aggregate Revenue Requirement at Rs. 46,743.70 million.

After following the procedure as per the HERC (Conduct of Business Regulations) 2004 read with the relevant provisions of the Electricity Act 2003, the Commission passed its order on 7<sup>th</sup> March 2005 i.e. the order under review. Feeling aggrieved, the petitioner i.e. HVPNL has filed the present application for review of the impugned order.

#### **4. ISSUES UNDER REVIEW:**

In all eight issues have been raised by HVPNL in its petitions for review of the impugned Order relating to Transmission and Bulk Supply business. These issues are as under:

- Volume of Power Purchase.
  - Power Purchase Cost.
  - Interest on Loans.
  - Depreciation.
  - Administrative & General Expenses.
  - Return on Capital Base.
  - Income Tax
  - Transmission Losses.
  - Bulk Supply Tariff to Include FPA allowed to HPGCL.
5. The Commission vide its Memo No. 633 / HERC dated 24/05/2005 scheduled a hearing on the above mentioned review petition, including the supplementary filing, for admittance under Regulation 78 of the HERC (conduct of business) Regulations, 2004. The hearing was held on 26 / 05 / 2005 as per the schedule.
6. In accordance with Regulation 78 of the HERC (Conduct of Business) Regulations 2004, a person considering himself aggrieved by an Order may apply, within 30 days from the date of passing of an order, for review under circumstances mentioned hereunder:
- there exists an error apparent on the face of the record; or
  - 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
  - for other sufficient reasons.
7. HVPNL's plea for review is being considered in the light of the 'grounds of review' as stipulated in Regulation 78 of the HERC (conduct of business) Regulations 2004.

8. The petitioner viz. HVPNL has raised a number of issues. The Commission does not consider it necessary to examine all the issues in detail since the petition can be disposed of on the point of 'admissibility' itself. However, in order to appreciate the scope of the instant petition in proper perspective, the Commission has preferred to briefly recapitulate the settled principles on the issues raised by HVPNL.
9. **Volume & Cost of Power Purchase (including FPA allowed to HPGCL):**

In its order dated 12<sup>th</sup> August 2003 in respect of ARR for Transmission & Bulk Supply business for FY 2003 – 04 & Bulk Supply and Transmission Tariffs (cf. para D page no. 58), the Commission had clearly stated that, "The cost of power (volume is implied) approved by the Commission is based on the best possible estimation. Consequently, to keep the price (tariff) aligned with the cost the Commission directs HVPNL to file FSA quarterly, within one month of the completion of the quarter for which FSA is being claimed". Despite this clear-cut directive, HVPNL never filed an FSA. Thus, the Commission considers inappropriate on the part of the licensee to make post facto 'power purchase cost / volume' a subject matter of review rather than following the FSA route which is a settled principle as per the HERC (Tariff) Regulations, 1999. **The Commission rejects the plea of the licensee and directs it to file FSA without any further loss of time.**

The licensee has again requested the Commission to allow reactive energy charges paid by it to the Reactive Energy Pool Account of NREB without submitting an appropriate proposal as stated in the order under review. During the course of public hearing on the ARR for T&BS Business for FY 2004-05, it was brought to the notice of the Commission that, the NREB had decided on the modalities of utilisation of accumulated charges in Reactive Energy Pool Account and had asked HVPNL to submit the proposal to NREB Secretariat. The requisite proposal has since been submitted by HVPNL. The licensee may, therefore, take into consideration the above position while submitting its proposal to the Commission. **In view of the above, the Commission finds no ground to accept the request for allowing Rs. 66 million towards reactive energy charges paid to NREB (by the licensee) and, hence, rejects the same.**

10. **Interest on Loans:**

The licensee has sought review on Capitalization of Interest During Construction (IDC) claiming that the Commission has calculated the amount of interest capitalized on the higher side thereby reducing the interest on capital borrowing and, hence, reducing the ARR & BST.

The method adopted by the Commission is in uniformity with its earlier order(s). To recapitulate the methodology a reference is made to the Commission's order dated 14<sup>th</sup> December 2000 in respect of ARR for Transmission & Bulk Supply Business for FY 2000-01 & BST (cf. para 5.2.1 page no. 70), "The estimation of IDC assumes that loans are taken mid – year and interest is payable for the half year and that the investment will be capitalized over a period of three years at a rate of 30%, 60% and 10%". There is no deviation from this in the order under review. **Thus the Commission finds no grounds to accept the request for review on this issue and, hence, rejects the same.**

#### **11. Depreciation:**

HVPNL has sought review on the ground that the Commission has applied the average rate of depreciation i.e. 6.59% on Gross Fixed Assets (GFA) as on 1/04/2003 while computing the depreciation for FY 2004-05. The average rate of depreciation on the GFA as on 1/04/2004 works out to 6.726%. Thus, the petitioner has requested the Commission to allow an additional depreciation of Rs. 15.49 million.

In line with all its previous order(s) the rate of depreciation considered by the Commission for the purpose of the order under review is the rate as per the latest available audited accounts of HVPNL for FY 2003-04. **Thus, the petitioner, to merit a review on this issue, has stated no new fact or fallacy. The Commission, therefore, rejects the review plea of the petitioner.**

#### **12. Administration & General Expenses:**

HVPNL has sought review for not being allowed in its ARR & BST for FY 2004-05 for the depreciation / diminution in BBMB & IP Station assets / investments amounting to Rs.107.04 million.

The order of the Commission is very clear on this issue, hence needs no further elaboration. The contention of the petitioner that they inherited these generation assets; depreciation being a legitimate cost and the provision of the Electricity Act 2003 referred to, were well known to the Commission while passing the order under review. The Commission reiterates that the ARR order(s) takes into consideration the prudent cost (expenditure) incurred by the licensee for its Transmission & Bulk Supply Business. The power purchase cost (expenditure) incurred / to be incurred by the licensee on sourcing power from BBMB / IP Station is duly provided for by the Commission. Depreciation / diminution referred to above is not being paid by the licensee to BBMB / IP Station over and above the power purchase rate / cost allowed by the Commission. This issue has also been dealt with by the Commission in its order-dated 29.5.2000. **Thus the plea**

**of the petitioner is not tenable and, hence, the Commission rejects the plea for review.**

### **13. Return on Capital Base & Income Tax:**

HVPNL has sought review of the Commission's order disallowing 'reasonable return' and Income Tax.

The grounds for disallowing the above have been clearly spelt out in the order under review. HVPNL in its review petition has not put forth any new facts / arguments. **Thus, the Commission finds no ground to accept the submission of the petitioner and, hence, rejects the same.**

### **14. Transmission Losses:**

HVPNL has sought review of the Commission's order allowing 4.62% transmission losses as against 5.5% claimed by it. In its review petition the petitioner has requested to be allowed 5.35% transmission losses for FY 2004-05.

In para 3.1.2 (page no. 40 to 46) of the order, the Commission while allowing transmission losses for FY 2004-05 has carefully examined and dwelt at length on the issue of transmission losses, which need not be repeated. However, the Commission reiterates its directive on the aforesaid issue which has not been complied by the petitioner (cf. page no 45 of the order under review), "The Commission directs HVPNL to carry out a comprehensive study on the subject of transmission losses (both inter-state & intra-state) based on the power system applicable to FY 2004-05 conditions and analyze the output vis-à-vis the actual inter-state and intra-state transmission loss data available with it (the weekly reactive energy account detail issued by NREB in regard to inter-state points of Haryana and the reactive energy data available from intra-state interface points vis-à-vis corresponding active draws too call for an analysis by the licensee). Such an in-depth analysis including the measures proposed to bring down the transmission losses further down be submitted to the Commission with two months". It is wrong on the part of the licensee to seek a review on this issue instead of analyzing the entire gamut of things at its end. Moreover, the argument(s) used in the review petition has been adequately dealt with at para 3.1.2 of the Commission's order dated 10/05/2005 on ARR for T&BS Business for FY 2005-06. **Thus, the Commission finds no reason for accepting the review plea of HVPNL on the issue of transmission losses and, hence, rejects the same.**

15. In the light of the above decisions taken by the Commission, the review petition is not maintainable and, hence, the question of revising the ARR

and BST as per its order dated 7<sup>th</sup> March 2005 in Case No. HERC / PRO – 15 of 2004 does not arise. Consequently, the review petition is accordingly dismissed.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on this 6<sup>th</sup> day of June 2005.

Date : - 6<sup>th</sup> June 2005

Place: - Panchkula

**T.S. Tewatia**  
Member

**T.R. Dhaka**  
Member

**Lt.Col. (Retd.) Raghbir Singh**  
Chairman