

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

CASE NO: HERC RA – 1 of 2005

Date of Hearing: 26/05/2005

Date of Order: 6-06-2005

In the matter of

Petitions filed by the Distribution & Retail Supply licensee UHBVNL seeking review and / or modification of the order dated March 7th 2005 passed by the Commission in case no. HERC / PRO – 15 of 2004 in respect of Revised Annual Revenue Requirement for Transmission & Bulk Supply Business for FY 2004-05 and Bulk Supply & Transmission Tariff.

<b>PRESENT:</b>	<b>Lt.Col.(retd.)Ragbir Singh, Chairman</b>
	<b>Er. T.R. Dhaka, Member</b>
	<b>Shri. T.S. Tewatia, Member</b>
<b>On behalf of UHBVNL</b>	<b>Mrs. Jyoti Arora, Managing Director</b>
	<b>Shri. Mohinder Singh, Director/Finance</b>
	<b>Shri.T.C. Gupta, Director / Projects</b>
<b>On behalf of DHBVNL</b>	<b>Shri. R.K. Aggarwal SE / RA</b>
	<b>Shri. K.S. Bahl SE / SO</b>
<b>On behalf of HVPNL</b>	<b>Shri. Samir Mathur, Managing Director</b>
	<b>Shri. A.K. Sood, Director / Projects</b>
	<b>Shri. A.S. Chugh, Director / C&amp;A</b>
	<b>Shri. M.K. Mittal, CS &amp; CAO</b>

**ORDER**

1. Through the petition filed under clause 78 (2) (c) of Chapter VI of HERC (Conduct of Business) Regulations 2004, the petitioner namely Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL), seek review 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 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 and Bulk Supply and Transmission Tariff application for FY 2004-05 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, MoP 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 letters dated 6th July 2004 directed the licensee to submit the ARR for FY 2004-05. However, HVPNL filed its Revised Annual Revenue Report for the Transmission and Bulk Supply Business

for FY 2004-05 and proposed Transmission and Bulk Supply Tariff 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.

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

In all three issues have been raised by UHBVNL in its petition for review of the impugned order relating to Transmission and Bulk Supply business. These issues are as under:

- Retrospective date of implementation of the order dated 7/03/2005.
- Steep hike in average bulk supply & transmission tariff.
- Two - part tariff design

5. The Commission vide its memo no. 514/HERC/SV-rev 2005 dated 17.05.2005 asked HVPNL to file a reply to the issue raised by UHBVNL in its review petition by 23<sup>rd</sup> May 2005 as the same has been scheduled to be heard on 26/05/2005. HVPNL vide their memo no. Ch-14/SE/RAU/F-61/ vol-I-II dated 23.05.2005 submitted the requisite reply. The hearing was held in the conference hall of the Commission on 26<sup>th</sup> May 2005, as per schedule.
6. The petitioner has sought review of Commission's order that stipulates that as a special case (as the entire financial year is almost over), the licensee shall bill the differential to the Distribution companies i.e. UHBVNL & DHBVNL, either way (+/-), in accordance with the tariffs allowed by the Commission as per its order dated 12<sup>th</sup> August 2003 (based on approved ARR for FY 2003-04) and the present order (the order under review), in its March 2005 billing.

#### *Petitioner's View Point.*

The above proviso means that the new tariff shall be applicable from March 01,2005 instead of March 15, 2005. This would lead to the order

being implemented retrospectively, which is contrary to natural justice and detrimental to the financial health of the petitioners. Further never before in the past the orders have been implemented with retrospective effect.

*HVPNL's View Point:*

On this issue HVPNL vide its Memo No. Ch-14/SE/RAU/F-61/Vol I – II dated 23<sup>rd</sup> May 2005 submitted that the inference made by the petitioners that the tariffs would be applicable from 1/03/2005 is not in line with the HERC order dated 7<sup>th</sup> March 2005. The said order of the Hon'ble Commission does not state anywhere that the new Transmission and Bulk Supply Tariff for FY 2004-05 would be applicable with effect from 1/03/2005.

HVPNL, further submitted that in most of the cases the tariff orders issued by the Central Electricity Regulatory Commission (CERC) are made applicable retrospectively.

As far as adverse financial impact is concerned, HVPNL submitted, in its reply, that the subsequent to the order passed on 7<sup>th</sup> March 2005, the Hon'ble Commission passed its order dated 18<sup>th</sup> April 2005 & 20<sup>th</sup> April 2005 on the ARR for FY 2004-05 of UHBVNL & DHBVNL respectively. In these orders the Hon'ble Commission has taken into account the HVPNL's full year approved ARR as the Power Purchase Cost of the UHBVNL & DHBVNL. In view of this, UHBVNL and DHBVNL have fully been compensated in lieu of the retrospective applicability of the Transmission and Bulk Supply Tariff that were made applicable from 1/04/2004. Had the Transmission and Bulk Supply Tariff been made applicable from 15<sup>th</sup> March 2005, the power purchase cost of UHBVNL & DHBVNL would have been correspondingly lower and their revenue gap / surplus would have been worked out accordingly. Thus there is no loss of revenue to UHBVNL or DHBVNL because of retrospective applicability of Transmission & Bulk Supply Tariff.

**Commission's Observation and Decision:**

The broad issue raised by the petitioner and the DHBVNL pertains to 'order with retrospective effect'. The Commission, as documented in its order dated 7<sup>th</sup> March 2005, has stated that retrospective effect to the order under review, was given as a 'special case'. The licensees i.e. HVPNL, UHBVNL & DHBVNL, for one reason or the other, kept delaying the statutory filings (in this case the ARR for FY 2004-05) to the displeasure of the Commission. Consequently, despite the Commission passing its order within 120 days (of the filing) as required by the Electricity Act 2003, the entire financial year 2004-05 was almost over. On

the date of passing of the order under review, the ARR of the petitioners i.e. UHBVNL and DHBVNL were still under consideration of the Commission. Thus, the Commission considered it appropriate to make its order applicable from 1/04/2004, as a special case.

After considering the written as well as oral submissions of the petitioner, DHBVNL and HVPNL, the Commission is of the view that the question of revenue loss to the petitioner and DHBVNL does not arise. This is because while allowing the power purchase cost to the petitioner and DHBVNL (in their respective ARRs for FY 2004-05), the Commission took into account the additional costs as an upshot from giving retrospective effect to its order dated 7<sup>th</sup> March 2005. **Thus, the plea of the petitioner is unacceptable, and hence, rejected.**

**However, the Commission, considering the tardy 'cash flow' situation of the petitioner & DHBVNL in the recent months (which again needs a diagnostic study and corrective measures by UHBVNL & DHBVNL), in partial modification to its order stipulating billing of the entire differential by HVPNL in its March 2005 billing, allows HVPNL to recover the differential over a period of twelve months beginning April 2005. HVPNL shall not claim any 'interest cost' on the amount to be so recovered from the petitioner & DHBVNL.**

#### **7. Steep hike in average bulk supply & transmission tariff.**

The average Transmission & Bulk Supply Tariffs have increased from Rs.1.90 per unit to Rs 2.05 per unit.

##### *Petitioner's View Point:*

The average rate per unit, based on the Commission's determined tariff, in the case of the petitioner works out to Rs.2.05 per unit (and in case of DHBVNL the same works out to Rs 2.02 per unit) which is very high and a steep hike from the previous rate of Rs 1.90 per unit for the petitioner (and Rs.1.91 as contended by DHBVNL in the hearing). Such a steep hike has never been granted earlier by the Hon'ble Commission.

##### *HVPNL's View Point:*

On this issue, HVPNL replied that the petitioner have not taken into account the impact of Fuel Surcharge Adjustments (FSA) while comparing the year to year variations in the bulk supply and transmission tariff. After adjusting for FSA, the transmission and bulk supply tariffs are more or less comparable during the last five years except FY 2003-04. The aberration during FY 2003-04 was because of the fact that the average cost of power purchase (per unit) was on the lower side due to (a) higher availability

from cheaper hydel sources (b) cheaper power available under Unscheduled Interchanges (UI).

### **Commission's Observation and Decision:**

The power purchase cost and volume constituting over 90% of the Transmission & Bulk Supply Tariff, is allowed by the Commission on best possible estimates based on data / information, including CEA generation schedule & invoices raised by the generators, available to the Commission at the time of passing the order. While allowing power purchase cost, the effort is to keep 'cost & price (tariff)' aligned. Any deviations due to change in power purchase mix / cost is to be adjusted by way of FSA. Consequently, the Commission does not find any merit in the contention of the petitioner based on comparative statement on BST (without considering the impact of FSA) that the Commission has allowed a steep hike in the Bulk Supply and Transmission Tariffs in its order under review. **Hence, the Commission finds no reasons to allow the submission of the petitioner &, hence, rejects the same.**

### **8. Two-part Tariff Design:**

#### *Petitioner's View Point:*

UHBVNL has contented that it is at the receiving end on account of two-part tariff. Based on the two part bulk supply and transmission tariff the average cost to UHBVNL works out to about Rs.0.02 per unit higher than the other distribution utility in the State. Considering the distribution and retail supply tariff in the State is common, UHBVNL incurs this additional cost also which is unfair and unjustified. It has also been mentioned that SLDC is currently functioning under HVPNL which is also involved in the trading function. Thus UHBVNL has no control over load management and scheduling of the available power. The readings used by HVPNL for billing to the distribution companies are also not very reliable and there is a difference in the reading of the energy centre (used for billing) and the readings of the SLDC. UHBVNL is in the process of establishing ALDC so that better load management and accurate billing is possible. As such having a two part tariff at this stage is leading to a higher power purchase cost for UHBVNL and it is requested that till the SLDC becomes an independent utility and the ALDC of UHBVNL are set up the tariff should be applied in such manner that the average power purchase cost for the two distribution licensees remains the same.

#### *HVPNL's View Point:*

On the above issue, HVPNL submitted that it is filing two-part tariff as per directions of the Hon'ble Commission. Transmission & bulk supply tariff

approved by the Hon'ble Commission is uniform for UHBVNL & DHBVNL. There is no tariff differential in T&BS tariff as pointed out by UHBVNL. On the question of accuracy of the metering system and the reading used for billing, HVPNL submitted that the reading of 0.2 accuracy class metering system is reliable and the existing metering system is best in its class. It was further submitted that a dispute resolution committee has been constituted which is duly represented by UHBVNL and DHBVNL for sorting out any dispute regarding billing. The meeting of this committee is held every month and there is no pending point of dispute as on date.

### **Commission's Observation and Decision:**

The Commission, in all its previous Orders on Transmission and Bulk Supply Tariff beginning its order dated 16<sup>th</sup> August 2002 and including the one under review has approved two-part tariff wherein the 'Fixed Charge' has been based on simultaneous maximum demand of the distribution companies.

In the orders prior to 16<sup>th</sup> August 2002, the 'Fixed Charge' was based on the total connected load of the respective distribution licensees. The Commission allowed the same, despite its limitations, as HVPNL lacked Special Energy Meters (SEMs) at the interface points to measure the simultaneous maximum demand of the Distribution companies. The Commission has been insisting on completion of Interface Metering scheme since its Order on ARR and Tariff, 2000. HVPNL was able to Commission SEMs on 383 interface points by 31<sup>st</sup> March 2002. As three months' SEM data was available to the Commission while passing its order on T&BS ARR FY 2002-03 and Transmission and Bulk Supply Tariff, and the fact that 'Fixed Charge' based on coincidental peak is more scientific and efficient method of sharing fixed cost and it also provides price signals for Demand Side Management, the Commission adopted the same since then.

The Commission shares UHBVNLs concern about non – availability of SEMs on about 25% interface points (between HVPNL & Discoms) and consequent estimation of coincidental peak by making use of energy data from conventional energy meters on these locations. The Managing Director of HVPNL chose not to comment / elaborate on this issue.

The Commission once again reiterates its direction to wipe out the backlog of installation / commissioning of SEMs by 31/07/2005. The licensee shall also recall the discussion on the issue held with the Chairman & MDs HVPNL, UHBVNL & DHBVNL on 9/11/2004 wherein the Commission asked HVPNL to ensure commissioning of special energy meters at the time of commissioning a grid station (for new works) & a

high voltage power transformers (augmentation job at an existing grid sub station). The minutes of the above meeting stands issued vide Commission's memo no 1778-1782/HERC dated 29.11.2004. Compliance to the foregoing direction will prevent creation of backlog on this otherwise important count.

The Commission determines a uniform transmission and bulk supply tariff rates applicable to both the distribution companies. In the case of UHBVNL a 'prudent load management' only can turn the comparative impact of fixed charges vis-à-vis DHBVNL to its advantage. **The Commission finds no merit in the contention of the petitioner for allowing the same average power purchase cost to both the distribution companies, and hence, rejects the same.**

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

Place: - Panchkula

**(T.S. Tewatia)**  
Member

**(T.R.Dhaka)**  
Member

**(Lt.Col {retd} Raghbir Singh)**  
Chairman