

**BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW**

Review Petition No.228/2005

IN THE MATTER OF: Review of Tariff Order dt.10.11.04 in respect to equity, return on equity, rate of return, PLF, incentive, fuel price variation and taxes & duties

AND

IN THE MATTER OF: UP Rajya Vidyut Utpadan Nigam Ltd.
14th Floor, Shakti Bhawan Extn.,
14, Ashok Marg,
Lucknow :Petitioner

Versus

1. U.P. Power Corporation Ltd., 7th Floor, Shakti Bhawan, 14,Ashok Marg, Lucknow.
2. Madhyanchal Vidyut Vitaran Nigam Ltd., Prag Narain Road, Lucknow.
3. Poorvanchal Vidyut Vitaran Nigam Ltd., 132 KV S/s, Bhikari Vidyut Nagar, Varanasi.
4. Paschimanchal Vidyut Vitaran Nigam Ltd., Victoria Park, Meerut.
5. Dakshanchal Vidyut Vitaran Nigam Ltd.,Vidyut Bhawan, Gailana Road, Agra
6. Kanpur Electric Supply Co. Ltd., KESA House, Kanpur.
7. Noida Power Company Ltd., Commercial Complex, H-Block, Alpha-II Sector, Greater Noida City.

:Respondents

The following were present:

1. Sri. Mahendra Kumar, CE(Comm.), UPRVUNL
2. Sri. U.S Gupta, EE(Comm.), UPRVUNL
3. Sri. Haroon Aslam, Sr. AE(Comm.), UPRVUNL
4. Sri. Manoj Sharma for UPRVUNL
5. Sri. Naveen Kumar for UPRUNL

ORDER

(Date of Hearing 17.7.07)

- (1) Heard the Petitioner. Respondents are neither present nor filed replies despite notice to that effect.
- (2) The Petition is seeking review of Tariff Order dt.10.11.04, so far as it concerns with tariff determination of its generating stations, passed in Petition of ARR and tariff for FY-2004-05 filed by UP Power Corporation Ltd. (UPPCL). The Petitioner has made the following issues:

- (i) Rs.334.35 Cr. may be considered as equity for the purpose of return on equity & incentive.
- (ii) 14% return on equity (RoE) may be allowed for all the stations as uniformly applied by CERC.
- (iii) Benchmark PLF for Obra A & B may be revised to 30% and 58% respectively for FY-2004-05 for the purpose of RoE in place of 50% & 65% considered in Para 7.72 of Order dt.19.11.04.
- (iv) Benchmark PLF may be set at a level, which offers reasonable opportunity to earn incentive.
- (v) Fuel cost variation on account of rise in the cost of coal and secondary oil from 15.6.04 be allowed.
- (vi) Fuel cost variation from 1.4.02 to 31.8.03 be allowed
- (vii) Rs.32 Cr. to be paid to UP State Pollution Control Board for the period from 15.1.2000 to 31.3.2004 be approved.

(3) The issues made under Para 2 above are dealt as below:

- (i) Equity: The Petitioner has submitted that Rs.334.35 Cr. released by State Govt. as equity to liquidate use of coal companies be considered as equity and return on the same be allowed. This issue came for consideration of the Commission in the ARR and Tariff Petition no.183/04 filed by UPPCL and the Commission did not accept the contention of UPRVUNL that the said amount should be considered as equity on the ground that this amount was not incurred for capital expenditure vide Para 7.67 and 7.68 of order dt.10.11.04. The same issue has been re-agitated by the Petitioner in Pet no.264/05(Revised), 365/06 & 435/07 seeking approval of tariff for FY-2005-06,06-07 & 07-08. The Commission has rejected to accept the said amount as an equity infusion by GOUP vide Para 4.1 of Order dt.26.3.07. Therefore, we hold the decision taken in above mentioned petitions in this regard in this review petition also. The Petitioner should take appropriate measures to realize huge receivables due on UPPCL for recovery of the said amount.

(ii) RoE for generating stations:

- (a) In light of CERC deciding RoE at 14% at normative availability of 80% and above and proportionate if availability is lower than 80%, the normative PLF 68.49% considered earlier by UPERC for the purpose of RoE was revised at the rate of return on equity to 14% for stations operating at PLF higher than UPERC benchmark or 80%, whichever was higher, and RoE at 8% if they were operating at PLF higher than UPERC benchmark but lower than 80% vide Order dt.10.11.04 passed in ARR and tariff petition no.183/04 for FY 04-05 filed by UPPCL. Steep increase in normative PLF, from 68.49% to 80% for FY 04-05, as well as linking the RoE not on performance but at two different levels one at benchmark PLF and above and other below benchmark PLF, deserves reconsideration.
- (b) S.61 of the Electricity Act,2003(the Act) requires the State Commission to specify the terms and conditions for determination of tariff and in doing so it shall be guided by the principles and methodologies specified by the Central Commission for determination of the tariff applicable to generating companies and transmission licensees. The Commission had not specified the terms & conditions required under the Act till time the Order dt.10.11.04 was passed. UPERC had been benchmarking the norms of performance of the generating stations of the Petitioner in its Orders since FY 01-02.

While considering the review of the tariff of the Petitioner for FY 04-05 the actual performance of the generating stations could only be compared with benchmarks considered by the Commission in tariff Order dt.10.11.04. Since, there was no concept of availability at that time, the actual PLF may be considered as actual availability of the plants.

- (c) In view of above and the intent of the Act, we decide to allow full RoE to generating stations of the Petitioner if they had reached the benchmark level fixed for FY 04-05 and if not, the RoE shall be prorated at actual PLF achieved during 04-05.

(d) Based on above decisions, RoE is allowed as below:

Name	Actual PLF (%) 04-05	Benchmark PLF (%) Considered for tariff of 04-05	Equity (Rs.Cr.) as per PPA	RoE %	RoE (Rs.Cr) at benchmark PLF	RoE prorated at actual 04-05 PLF (Rs.Cr.)	RoE already allowed (Rs.Cr.)	Extra RoE allowed (Rs.Cr.) on review
Harduaganj	19.21	25.0	71.78	14	10.05	7.72	0	7.72
Panki	49.21	49.0	40.1	14	5.61	5.64	3.21	2.43
Paricha	50.19	53.0	53.04	14	7.43	7.03	4.24	2.79
Obra A	14.08	50.0	30.16	14	4.22	1.19	0	1.19
Obra B	51.17	65.0	114.16	14	15.98	12.58	0	12.58
Anpara A	75.45	80.0	220.72	14	30.90	29.14	0	29.14
Anpara B	83.85	80.0	1268.59	14	177.60	177.60	177.6	0.00
Total			1798.55		251.80	240.91	185.05	55.86

(iii) Revision of benchmark PLF for Obra A & B: As discussed in Para 4 above, the RoE was linked to operational efficiency by the Commission since FY 01-02 in an effort to plough back such earning into capacity addition and R&M but on the contrary it was found in review of performance that no plant had been able to achieve benchmark PLF during last four years as per Para 2.44 of Tariff Order 10.11.04. Acceptance of prayer to revise PLF of Obra A & B, to 30% and 58% in place of 50% & 65% respectively in Para 7.72 of Order dt.10.11.04 for the purpose of RoE, shall amount to sacrificing efficiency. As such we are unable to concede to the same.

(iv) Benchmark PLF for incentive: The Petitioner has prayed that Benchmark PLF may be fixed at such a level, which affords an opportunity to him to earn incentive. The Petitioner should note that incentive is a matter of good performance and it should endeavour to effect efficiency in operation and claim incentive rather desiring it.

(v) Adjustment for fuel cost variation: The Petitioner has also filed another Petition no.425/06 seeking approval of fuel cost variation from FY 02-03 to FY 05-06. Therefore, fuel cost variation on account of rise in the cost of coal and secondary oil from 15.6.04 shall be considered in the said petition.

(vi) Fuel cost variation from 1.4.02 to 31.8.03: Since the Petitioner has filed Petition no.425/06, as said in Para (7), this issue shall be dealt therewith.

(vii)Payment to UP State Pollution Control Board: Rs.32 Cr. to be paid to UP State Pollution Control Board is approved provided the liability was not incurred due to violation of environmental norms. This Order shall however not prejudice the decision of the Commission in Order dt.26.3.07 that such expenses are part of O&M expenses and the expenditure of Rs.32 Cr. shall be accounted for in tariff subsequent to its actual payment.

(4) The amount actually paid by the Respondents, under this Order, to the Petitioner shall be allowed in the ARR of subsequent year.

(5) The Petition is disposed of.

(R.D. Gupta)
Member

(P.N Pathak)
Member

Lucknow; Dated : 20th Aug,2007