THE UTTAR PRADESH ELECTRICITY REGULATYORY COMMISSION LUCKNOW

Petition No. 482, 483, 484, 485, 486, 504, 505, 506, 507 & 508 of 2007

Petitioners:

Uttar Pradesh Power Corporation Ltd
Madhyanchal Vidyut Vitran Nigam Ltd
Poorvanchal Vidyut Vitran Nigam Ltd
Pashchimanchal Vidyut Vitran Nigam Ltd
Dakshinanchal Vidyut Vitran Nigam Ltd

IN THE MATTER OF:

Application for determination of Annual Revenue Requirement and Tariffs for the FY 2007-08 and FY 2008-09 under section 64 of the Electricity Act 2003.

Order

Uttar Pradesh Power Transmission Corporation Limited and the four distribution companies viz Pashchimanchal Vidyut Vitran Nigam Ltd., Poorvanchal Vidyut Vitran Nigam Limited, Madhyanchal Vidyut Vitran Nigam Limited and Dakshinanchal Vidyut Vitran Nigam Limited (hereinafter referred to as "Licensee(s)) submitted their ARR/tariff petition for FY 2008-09 on 19th December, 2007 under section 64 of the Electricity Act, 2003. In this context, it would be in order to briefly outline the views of the Commission expressed in the Order dated 19th October, 2007 in the matter of Application for determination of Annual Revenue Requirement and Tariffs for the FY 2007-08 under section 64 of the Electricity Act 2003.

The Licensees had submitted their ARR/Tariff petition for FY 2007-08 on 4th October 2007 under section 64 of the Electricity Act, 2003. In view of such delayed submission of ARR/Tariff petitions for the FY 2007-08 by the licensees and pending review (before the Commission) and appeal (before the Appellate Tribunal of Electricity), against the tariff order for the FY 2006-07 the Commission, citing the relevant section of the UPERC (Terms and Conditions for determination of Distribution Tariff) Regulations 2006, which requires the licensees to submit the ARR/Tariff petitions latest by 30th November each year had commented that:

"*The delay in tariff submission and request for repeated time extensions has become a way of life in UP's power sector, which clearly suggests that the licensees in UP are not responding positively to the regulatory requirements thereby putting the statutory functions like tariff determination totally off mark.*

……Accordingly, the tariff order for FY 2006-07 issued on 10th May, 2007, which has been implemented w.e.f. 14th August, 2007, is partially under challenge before both this Commission as well as Appellate Tribunal of Electricity thereby by leaving the tariff structure as well as the revenue stream in a state of flux with no certainty in arriving at the gap for next year in particular and a sense of disorganization in the sector in general. Therefore, the tariff structure, as prevalent, in the State of Uttar Pradesh can hardly be termed as an integrated and composite structure since on section of categories rates of tariff order 2004-05 are in vogue in form of transitional

tariff (against items for which review has been held as maintainable), for a large number of categories/sub-categories rates are already pegged at 2004-05 level as no change was desired vide tariff application for 2006-07 and for some categories the rates are still hanging in balance of the Appellate Tribunal of Electricity. In view of such a situation and when the ARR/tariff applications for 2008-09 is due in just a months time i.e. by 30th November, 2007, the submission of an ARR application for 2007-08 will add to insurmountable confusion."

The Commission on macro level examination of the proposals further observed that the ARR/Tariff submissions for the FY 2007-08 were not strictly in accordance with the provisions of the Terms and Conditions for determination of Tariff (Transmission and Distribution) Regulations 2006 notified on 6th October 2006 and were not supported by audited accounts. Further, absence of documents pertaining government's commitment for additional subsidy and raising of loans against government guarantee in addition to pending review and appeal against the Tariff Order for the FY 2006-07, warranted a more cautious and systematic handling of Tariff Petitions for the FY 2007-08. It is with this objective in mind and also due to inordinate delay in filing the ARR/tariff petition for the FY 2007-08, when the new tariffs may not have come much before the expiry of financial year 2007-08 due to statutory requirements involved, the Commission, vide order dated 19th October, 2007, to restore regulatory synchronism, directed the licensees to submit the ARR/Tariff application for the FY 2008-09 by 30th November, 2007 along with the data/information for the FY 2007-08.

Accordingly, the licensees filed their ARR/Tariff filing for FY 2008-09 on 19th December, 2007. The licensee have mentioned that the filing have been done in accordance with the methodology adopted in previous Tariff Order and the provisions of the UPERC (Terms & Conditions for determination of Distribution Tariff) Regulation 2006. The filing also included the information for FY 2007-08.

After receipt of the ARR/Tariff Petitions for the FY 2008-09 from the licensees, a preliminary scrutiny of the Petitions was carried out by the officers of the Commission and a detailed deficiency note was served on to the Licensees vide letter No. UPERC/Secy./ D(SKS)/08 - Lucknow dated 4th January 2008 which directed them to provide the required information by 15th January, 2007. Prior to issuing the deficiency

note, the Commission had a meeting with the officials/representatives of the licensees with regards to various issues relating to the ARR/Tariff filings for FY 2008-09 submitted by the Licensees. During the above meeting, the licensees, as in the past, were represented by officials from UPPCL with no direct representation from the individual licensees. The Commission had raised concerns about the same in the past, as the same makes a mockery of the entire reform and re-structuring exercise. However, the licensees have chosen to overlook the issue.

The most critical issue raised during the above meeting pertained to the manner in which the revenue gap in FY 2007-08 was proposed to be bridged in absence of any firm commitment by the State Government. On query the representatives for the licensees expressed their inability to provide any documents indicating firm commitment of the Govt towards additional subsidy and to raise loans against government guarantee.

Subsequently, the licensees submitted a revised methodology for bridging the revenue gap for the FY 2007-08 vide letter no. 68/RAU/ARR FY 07-08 dated 15th January, 2008 on which the Commission is again seeking clarification from the licensees. Further, the Licensees have not provided any Tariff Proposal for bridging the envisaged revenue gap in FY 2008-09. In view of the same the licensees had been directed to submit the Tariff Proposal for FY 2008-09 to comply with the requirement of the Tariff Regulations.

With regard to other information/ data gaps as pointed out by the Commission in letter dated 4th January 2008 the licensees have vide above letter dated 15th January 2007, submitted that they would be submitting the information shortly .

Considering all the data infirmities and information gaps it is very difficult for the Commission to admit the petitions in the present form. The Commission simply fails to understand the reasons behind the licenses inability to submit even the basic data such as latest audited/provisional accounts, documents pertaining to committed Government subsidy as well as suitable tariff proposals for bridging the revenue gap in accordance with the regulatory provisions. Nonetheless, to carryout the statutory responsibility cast upon it by the Electricity Act 2003, which empowers the Commission

to carryout even suo-motto determination of ARR/tariff, the Commission conditionally admits the petition with the direction to the licensees that they shall be submitting the information as required by the Commission vide letter dated 4th January 2008 by 10th of February 2008. The Commission had in fact sought the information vide its order dated 4th January, 2008 by 15th January 2008. If the licensees fail to comply with the above direction of the Commission by the appointed date, the Commission will make suitable assumption and issue such orders as it feel appropriate under the condition.

With the above comments, to initiate the process of tariff determination, the Commission accordingly directs the licensees to publish the Public Notice as enclosed inviting the comments of the general public including electricity consumers on the ARR / Tariff Proposals for FY 2007-08 and FY 2008-09 in the leading Hindi and English language newspapers.

(R. D. Gupta) **Member**	**(P. N. Pathak)** **Member**	**(Vijoy Kumar)** **Chairman**

Dated : 25th January, 2008

Lucknow