

Case No.28/06

In the matter of:-

Dispute between Uttranchal Jal Vidyut Nigam Ltd.,(UJVNL) and Himachal Pradesh State Electricity Board (HPSEB), relating to the payment of arrears towards energy supplies w.e.f. 1.4.2004 to 15.12.2004.

Present for:	UJVNL:	Shri C.P. Madan,DGM(Comm.), UJVNL
	HPSEB:	None
	Consumer Representative (Under section 94(3) of the Electricity Act, 2003)	Shri PN Bhardwaj

ORDER

Brief facts of the case, as disclosed in the petition are that pursuant to the agreement between Uttranchal Jal Vidyut Nigam Ltd., Ujjawal Dehradun (in short UJVNL) and the Himachal Pradesh State Electricity Board (in short HPSEB) dated 21.11.1972, the HPSEB continued to make payment to UJVNL towards energy supplies to the HPSEB @ 30 paise/Kwh w.e.f. 9.11.2001. The HPERC passed Tariff Order on ARR of the HPSEB for the financial year 2004-05, whereby the Commission approved per unit rate of 35 paise/ Kwh in case of Yamuna share. The UJVNL raised demand for the rate difference of 5 paise/ Kwh for the financial year 2004-05.

2. UJVNL filed, before this Commission five petitions under sections 64, 62 and 84 of the Electricity Act, 2003 for determination for inter-state supply for HP share in five hydro-generating stations at Dhakrani, Dhalipur, Chibro, Khodri and Kulhal Hydel stations for the financial year 2004-05. The UJVNL also filed a petition before the Uttranchal Electricity Regulatory Commission (UERC) for the determination of generation tariff for nine generating stations (including aforementioned 5 shared stations). The UERC issued a tariff order on 16th December, 2004, determining the

generation tariff for nine stations, which was challenged by way of writ petition before the Uttranchal High Court. Since the UERC determined the generation tariff and the UJVNL challenged the same by way of writ before the High Court of Uttranchal, this Commission deemed it inappropriate to formulate any views on the various issues arising out of the petitions and vide its interim order dated 25.5.2005 decided that the final order on UJVNL's petitions shall be passed after the Hon'ble High Court has disposed off the writ petition filed by UJVNL against the UERC Tariff Order. Subsequently on 3rd October, 2005 this Commission clarified that the provisional rate of 37 paise shall be applicable from 16.12.2004, until the final decision of the case. Now on the constitution of the Appellate Tribunal for Electricity, the High Court of Uttranchal has transferred the petitions filed by UJVNL to the said Appellate Tribunal.

3. By virtue of the tariff order and subsequent clarificatory orders dated 25.5.2005 and 3.10.2005, the HPSEB were to make payment from 1.4.2004 to 15.12.2004 @ 35 paise/ Kwh and from 16.12.2004 onwards @37paise/ Kwh. The bills raised by the UJVNL on the basis of the tariff determined @ 35 paise/ Kwh were returned by the HPSEB and till date no payment has been made. Now this dispute has come up for adjudication before this Commission.

4. The UJVNL, has filed petition in the matter of dispute between the UJVNL and the HPSEB relating to payment of arrears towards energy supplies @ 35/- paise/KWh w.e.f. 1.4.2004 to 15.12.2004, in line with the HPERC's order on ARR of the HPSEB for the financial year 2004-05. On admission of this petition, the Commission ordered the respondent Board to file within 3 weeks by 18.03.2006, and the UJVNL to file rejoinder, if any, by 1st April, 2006. On 22.4.2006, when the matter was listed for hearing, the respondent Board did not file the reply but stated that the UJVNL, have gone to the Appellate Tribunal for Electricity and the copies of the petition moved by the UJVNL have not been supplied to them. In reply to this, the UJVNL, indicated that the case referred to by the respondent Board was pending before the Hon'ble High Court of Uttranchal, which has now been transferred to the Appellate Tribunal for Electricity. In view of this the UJVNL were asked to provide an affidavit giving status report on the

case pending in the Appellate Tribunal for Electricity, alongwith its nexus with the present petition to the HPSEB and to the Commission by 20th May,2006. As a sequel to this, the UJVNL furnished all details alongwith the copies of the relevant orders passed thereon to the respondent Board, vide its letter dated 1st May,2006 and by way of MA No.118/06 filed in this Commission on 18.5.2006 and made it clear that the issue pending disposal before the ATE and the current issue under consideration by this Commission is totally different in terms of the period under consideration and the two issues do not have any nexus. Till date when the matter was again listed for hearing on 17.6.2006, the respondent Board has not filed any reply to the petition.

5. This Commission, after affording ample time to the respondent Board which failed to file reply and consideration of the pleadings made and arguments advanced by the petitioner, concludes that the petition moved by the UJVNL merits to be allowed and the HPSEB respondent, therefore, is ordered to release payment of Rs.1,32,52,395/- to the petitioner being the arrear amount on the basis of 35 paise/ per unit tariff for the period from 1.4.2004 to 15.12.2004 in line with the tariff order of this Commission on the ARR of the HPSEB for the financial year,2004-05, on the undertaking to be given by the UJVNL that it will pay the difference of the amount, if any, which would be payable on the determination of tariff in relation to the hydro-generating stations at Dhakrani, Dhalipur, Chibro, Khodri and Kulhal.

Announced in the open court.

(Yogesh Khanna)
Chairman.

Dated:17.6.2006