

**Before the Appellate Tribunal for Electricity  
(Appellate Jurisdiction)**

**Review Petition No. 3 of 2008  
in Appeal No. 82 of 2007**

**Dated: May 9, 2008**

**Present: Hon'ble Mr. A.A. Khan, Technical Member  
Hon'ble Mrs. Justice Manju Goel, Judicial Member**

**Pragati Power Generation Co. Ltd. -Review Petitioner(s)**

**Versus**

**Delhi Electricity Regulatory Commission & Ors. -Respondent(s)**

Counsel for the Review Petitioner(s) : Mr. M.G. Ramachandran with  
Mr. Anand K. Ganesan and  
Ms. Swapna Seshadri

Counsel for the Respondent(s) : Mr. Mohit Jolly for NDPL  
Mr. R.K. Mehta with Mr. Mragank for  
DERC  
Mr. V.P. Singh and Mr. Anuj Berry for  
BRPL &BYPL  
Ms. Shradha Jain for DTL

**ORDER**

1. The petitioner, who is the appellant in the appeal no. 82 of 2007, has filed an application under section 122(2) of the Electricity Act, 2003 seeking to review and rectify order dated 10.1.08 passed by this Tribunal in respect of the following:

(a) In the operative part of the order at paragraph 5 concerning station heat rate and in paragraph 6 relating to rebate for timely payment are to be made applicable not only for the FY 2006-07 but also to FY 2005-06 and all earlier years.

2. We have heard the learned counsel on behalf of petitioner and the respondents. In respect of issue 1(a) stated above, it is clarified that the appeal has challenged the impugned order dated 22.9.06 vide which the Commission had decided the ARR and tariff applicable to the appellant (the present petitioner) for generation and sale of electricity from its three power plants for the FY 2006-07. The petitioner had also filed a review petition before the Commission being no. 54 of 2006 which was dismissed vide the impugned order dated 30.3.2007. It is made clear here that the appeal was confined to the tariff for the FY 2006-07 and truing up of the financial for the previous year i.e. 2005-06. The impugned order approving the Annual Review Requirements (ARR) and approval of tariff for the period 2006-07 by the Commission necessarily involved truing up exercise of the tariff order for the previous year. The Commission has the truing up undertaken using the provisional accounts for the year 2005-06 and in various technical sessions with the petitioner had validated the data submitted.

3. The analysis of ARR against the tariff petition 03 of 2006 for FY 2006-07 was carried out by the Commission. The Commission stated to have held various technical sessions with the petitioner to validate the data submitted and was asked to submit the actual data for FY 2005-06 based on audited account. The Petitioner had submitted actual for FY 2005-06 based on provisional accounts of 1<sup>st</sup> April, 2005 to September, 2005. The six month's data was taken as the basis for working out the revised estimate for the FY 2005-06. The truing up exercise involved reviewing the revised estimates with prudence check by the Commission and would lead to re-fixation of some of the expenses and revenue for FY 2005-06. The appeal is related to the tariff order for FY 2006-07. The Tariff Order for

2005-06 had already attained finality as it was not challenged by the Petitioner and only the truing up of the revenue and the expenses based on the actual data as well as its scrutiny by the Commission remained to be done.

4. In view of the above in our judgment and order dated 10.01.2008 the consideration of issues concerning the Heat Rate and Rebate on timely payment was limited only the tariff order for FY 2006-07 and not for 2005-06 or earlier years. The judgment and order may have made reference to 2005-06 only for analyzing the issues raised for 2006-07. We therefore, reject the contentions of the petitioner for applicability of our decision on station heat rate and rebate for timely payment for FY 2005-06 or for earlier years.

5. In view of the above, the Review Petition 3 of 2008 is disposed of.

**(Manju Goel)**  
Judicial Member

**(A.A. Khan)**  
Technical Member