

**REJOINDER ON BEHALF OF DAMODAR VALLEY CORPORATION TO THE  
OBJECTIONS FILED BY BHASKAR SHRACHI ALLOYS LIMITED AND OTHERS**

- Para 1:** The contents of Para 1 calls for no reply.
- Para 2:** The contents of Para 2 are not denied.
- Para 3:** With regard to Para 3, Damodar Valley Corporation (DVC) would crave leave to refer to the provisions of the Electricity Act, 2003 at the time of the hearing for the true scope and meaning. The allegations to the contrary are wrong and are denied.
- Para 4 (a):** The contents of Para 4 (a) of the Objections are baseless and are denied. It is denied that the petition filed by DVC is either misconceived or otherwise DVC has suppressed any material facts or figures or has window dressed any submissions to mislead this Hon'ble Commission or otherwise to circumvent the provision of the Electricity Act, 2003 as alleged. It is denied that DVC has unauthorisedly enhanced the equity capital as alleged or otherwise. DVC has acted in accordance with the provisions of the DVC Act, 1948 in dealing with capital base. The retained earnings have been rightly treated as the capital contributed by the participating Governments. The allegations to the contrary are wrong and are denied. It is relevant to point out that the result would have been the same even if DVC had remitted the earnings to the participating Governments and in turn the participating Governments had deposited the amount so remitted to DVC towards the equity capital. The objections raised in this regard by the Objector are hyper-technical and without any substance.
- Para 4 (b):** With regard to Para 4 (b), DVC would crave leave to refer to the petition filed and the aspects mentioned therein which justify the fixation of tariff for DVC as prayed for in the petition.
- Para 4 (c):** With regard to Para 4 (c), DVC submits that the expenses of power related activities and other statutory functions as provided in the DVC Act have to be taken into account while determining the tariff for DVC. The allegations to the contrary are wrong and are denied.

**Para 4 (d):** With regard to Para 4 (d), DVC submits that the depreciation has been charged by DVC as per the regulations of the Comptroller and Auditor General. It is wrong and denied that the capital structure of DVC has been inflated for the purposes of depreciation. It is wrong and denied that there have been any excessive profits to DVC as alleged. The retained earnings have been invested in the assets of DVC and in the improvement of performance of the plant. The book value of the generating stations of DVC with a total de-rated installed capacity of 2761.5 MW with transmission and distribution assets works out to less than Rs 1.3 crores per MW which is reasonable. The allegations that the capital structure is inflated or the depreciation is otherwise calculated without taking into account the life extension or any excess depreciation is charged, generating excess profits are all without any substance.

**Para 4 (e):** With regard to Para 4 (e), DVC would crave leave to refer to the additional information submitted by DVC pursuant to the Order dated 21.6.2005 passed by the Hon'ble Commission and also to Annexures 'B' and 'C' of the additional details submitted by DVC pursuant to the Order dated 29.7.2005. The allegations to the contrary are wrong and are denied. It is wrong and denied that DVC has acted with any malafide or has withheld any facts or figures. It is wrong and denied that the O & M Expenses should be allowed only as per normative figures laid down in the Tariff Regulations, 2004 and not as prayed for by DVC. It is reiterated that DVC is also entitled to relaxation of normative parameters as allowed by the Hon'ble Commission in certain other generating stations.

**Para 4 (f):** With regard to Para 4 (f), DVC submits that the norms and parameters have to be decided based on various aspects including the vintage and size of the generating stations. The norms and parameters laid down for generating stations of higher capacity and of recent installation cannot be applied to old stations and of lower capacity. The Hon'ble Commission has relaxed such norms and parameters for some of the generating stations such as Talchar and Tanda. The tariff policy of the Government of India also reiterates that the norms should be determined based on the past performance, vintage of equipment and the nature of operation. It is, therefore, not appropriate for the Objector to contend that the norms should

be applied uniformly to all generating stations. The allegations to the contrary contained in Para 4 (f) of the Objections are wrong and are denied.

**Para 4 (g):** With regard to Para 4 (g), DVC has been formulating tariff as per the provisions of the DVC Act till such time this Hon'ble Commission had directed DVC to file tariff petition. The tariff was determined under the DVC Act are valid and shall continue to have force till such time the tariffs are validly amended or revised by this Hon'ble Commission under the Electricity Act, 2003. It is wrong and denied that the tariff so determined under the DVC Act is required to be re-worked for the period from June 2001 as alleged by the Objector. It is relevant to mention that DVC was not subject to the regulatory control of the Hon'ble Commission under the Electricity Regulatory Commissions Act, 1998. It is reiterated that late payment surcharge levied and collected by DVC as per the provision of the DVC Act are valid. It is wrong and denied that there is any cause for refunding any amount on account of the charges collected as delayed payment surcharge. It is also relevant to mention that the Objector being a defaulter in the payment of the amount becoming due to DVC, cannot raise any objection as to the levy and collection of delayed payment surcharge at the rate determined and made applicable validly under the provisions of the DVC Act till such time the Hon'ble Commission revises the same.

**Para 4 (h):** With regard to Para 4 (h), DVC has validly given the rebate to the State of West Bengal and the State of Jharkhand. DVC submits that the rebate given to the State of West Bengal and the State of Jharkhand was in regard to the supply of electricity to the two State Electricity Boards as per the normal practice prevalent from the past. The two State Governments are the participating Governments in the activities of the DVC. It is wrong and denied that the rebate given is not in accordance with the provisions of the Electricity Act or the regulations. The rebate given goes to the benefit of the people at large and in public interest. The tariff charged by DVC to the various classes of consumers including the class to which the Objector belongs to is lower than the tariff charged to similarly placed consumers in other parts of the States of West Bengal and Jharkhand

MOP, GOI vide Gazette Notification dated 31.05.1975 instructed DVC that the schedule of charges for supply of electricity to WBSEB and BSEB shall be 10% below the schedule of charges which may be fixed under section 20 of the DVC Act from time to time at any voltage for supply of electricity to the Corporation's general consumers and that this differential will apply to both demand and energy charges but not to fuel adjustment clause. Accordingly DVC extended a rebate of 10% both on demand and energy charges for power supply to WBSEB and BSEB. Subsequently in 1997 the Corporation decided to enhance the said rebate to 15% subject to approval of the Govt. of India. MOP, GOI approved the proposal of enhancement of rebate from 10% to 15% to SEBs subject to timely payment of electricity bills by the respective State Electricity Boards and the same had been made effective since September 2000. From the power surplus, DVC Board further allowed an additional rebate of 10% over and above the existing 15% rebate to the respective State Electricity Boards for 6 (six) months from 01.10.2004 to 31.03.2005.

**Para 4 (i):** The contents of Para 4 (i) of the Objections are wrong and are denied. It is wrong and denied that fuel surcharge has not been calculated properly or has otherwise been inflated. DVC would crave leave to refer to the relevant particulars given at the time of the hearing.

**Para 4 (j):** The contents of Para 4 (j) of the Objections are wrong and are denied. DVC would crave leave to refer to the relevant Annexures at the time of the hearing.

**Para 4 (k):** With regard to Para 4 (k), DVC would crave leave to refer to the loss levels and other particulars given in the petition. It is wrong and denied that the tariff for DVC should be below the tariff rate applicable to DPL as alleged or otherwise.

**Para 4 (l):** With regard to Para 4 (l) DVC would crave leave to refer to the additional details filed by DVC pursuant to the Order dated 29.7.2005 passed by the Hon'ble Commission at the time of the hearing and the allegations to the contrary are wrong and are denied.

**Para 4 (m):** With regard to Para 4 (m) DVC submits that in the facts and circumstances mentioned in the petition as well as in the details given, a transition period is required to be allowed before the norms prescribed by the Tariff Regulations, 2004 are applied to DVC. The allegations to the contrary are wrong and are denied.

**Para 5:** The contents of Para 5 does not call for any reply.

**Para 6:** The contents of Para 6 are aspects peculiar to the Objector and are not denied.

**Paras 7-9:** With regard to Paras 7 to 9, DVC submits that the statement made in the Consumer Meet held in February 1995 regarding ceiling of 3% annual tariff revision was subject to the consideration and approval by the Board of the DVC. DVC Board did not approve the above proposal. Accordingly, there was no concluded and binding proposal in regard to the agreement on the part of DVC to restrict the ceiling of the increase in the tariff to 3% annually. After the above announcement when the consumers called for official confirmation of the proposal they were duly notified of the position by the DVC Board not accepting the proposal. Accordingly, the Objector and other consumers cannot place any reliance on the above announcement. The allegations to the contrary are wrong and are denied.

**Para 10:** With regard to Para 10 DVC would crave leave to refer to the petition filed and the allegations to the contrary are wrong and are denied. It is reiterated that in the facts and circumstances mentioned in the petition, DVC is entitled to continue tariff for a transition period as prayed for in the petition.

**Paras 11-12:** With regard to Paras 11 and 12, it is submitted that the DVC was not under the regulatory control of the Commission under the Electricity Regulatory Commissions Act, 1998. DVC was, therefore, entitled to continue with the tariff as determined before under the DVC Act till the enactment of the Electricity Act, 2003. The allegations to the contrary are wrong and are denied.

**Paras 13-16:** With regard to Paras 13 to 16 of the Objections, DVC submits that after the enactment of the Electricity Act, 2003, there were some differences in regard to the jurisdiction of the concerned Regulatory Commission over the activities of the DVC. Finally, by letter dated 02.06.2005 the Government of India, Ministry of Power had communicated its decision that the Central Commission will have jurisdiction over DVC under Section 79 of the Electricity Act, 2003 in respect of the generating stations of the DVC and the activities of the inter-State transmission of electricity undertaken by DVC and concerned State Regulatory Commission will have jurisdiction under Section 86 of the Electricity Act, 2003 in respect of the distribution of the electricity and in respect of intra-State transmission of electricity. It is, therefore, wrong and denied that DVC did not deliberately comply with the filing of tariff petition before the above date.

**Paras 17-18:** With regard to Paras 17 and 18 it is reiterated that DVC is entitled to take into account the expenses of its activities relating to power and other statutory functions in claiming tariff for various activities. The allegations to the contrary are wrong and are denied.

**Paras 19-21:** With regard to Paras 19 to 21 of the Objections, DVC would crave leave to refer to the petition filed and the details given pursuant to the Orders passed by the Hon'ble Commission at the time of the hearing. The allegations to the contrary are wrong and are denied.

**Para 22:** With regard to Para 22, DVC would crave leave to refer to the National Electricity Policy at the time of the hearing.

**Para 23:** With regard to Para 23 DVC reiterates that in the facts and circumstances mentioned in the petition, DVC is entitled to claim continuation of the existing tariff for a period of 4 to 5 years before the norms are applied. The allegations to the contrary are wrong and are denied.

**Para 24:** With regard to Para 24, it is reiterated that the claim made by DVC in the petition are just and proper. The allegations to the contrary are wrong and are denied.

**Para 25:** The contents of Para 25 of the Objections are wrong and are denied. It is denied that DVC is seeking any premium on its inefficiency as alleged or otherwise.

**Para 26:** The contents of Para 26 of the Objections are wrong and are denied. It is denied that the tariff of DVC needs to be reduced as alleged or otherwise.

**Para 27:** The contents of Para 27 of the Objections are wrong and are denied.

**Para 28:** The contents of Para 28 of the Objections are wrong and are denied.