

**BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION AT
PANCHKULA**

Case No. HERC/P. No. 48 of 2025

Date of Hearing : 17/12/2025

Date of Order : 16/01/2026

IN THE MATTER OF:

Petition under Section 181 of the Electricity Act 2003 for removal of difficulties read with Section 86 of the Electricity Act 2003 read with Regulations 18, 19 & 20 of the HERC (Deviation Settlement Mechanism and Related Matters) Regulations, 2019 read with Regulations 65, 66, 67 & 68 of the HERC (Conduct of Business) Regulations, 2019 seeking the Hon'ble Commission to exercise its power to relax / power to remove difficulty or in the alternative power to amend the provisions of clause "6" of Procedure for forecasting, scheduling and deviation settlement of solar & wind generation as approved by the Hon'ble Commission in accordance with HERC (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019 with respect to the qualifying criteria for appointment as qualified coordinating agency (QCA).

Petitioner

Saini Power Transactor, SCO 110, 2nd floor, Sector 25, Panchkula. through its authorised representative Mr. Gaurav Saini.

VERSUS

Respondents:

Haryana Vidyut Prasaran Nigam Limited, through its Managing Director, Shakti Bhawan, Plot No. C-4, Sector-6, Panchkula – 134109

Present

On behalf of the Petitioner

1. Sh. Akshay Gupta, Advocate
2. Sh. Gaurav Saini, Petitioner
3. Sh. Sanjeev Chopra, Representative

On behalf of the Respondent

1. Sh. Lovepreet Singh, Advocate
2. Sh. Ashok Muthuria, XEN, HVPN

QUORUM

Shri Nand Lal Sharma, Chairman

Shri Mukesh Garg, Member

Shri Shiv Kumar, Member

ORDER

1. Petition:

- 1.1 That Saini Power Transactor, a proprietorship firm, having its registered office at S.C.O 110, 2nd Floor, Sector-25, Panchkula, Haryana-134116 (hereinafter referred to as SAINI POWER).
- 1.2 That Mr. Gorav Saini is authorized by the Smt. Saroj Bala Sani Proprietor of Saini Power to file this present petition on behalf of the firm.
- 1.3 The present petition is being preferred by the SAINI POWER TRANSACTOR (hereinafter referred to as "SAINI POWER" or "PETITIONER" praying before this Hon'ble Commission to exercise its power to relax, power to remove difficulties with respect to the qualifying requirements laid down under Clause 6 of the Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation (hereinafter called as "Procedure") approved by the Hon'ble Commission in accordance with Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019 (hereinafter referred to as "Forecasting Regulations") with respect to the qualifying criteria for appointment as Qualified Coordinating Agency (QCA). The detailed procedure was approved by Hon'ble Commission vide order dated 08.03.2021.
- 1.4 The respondent here is Haryana Vidyut Prasaran Nigam Limited (hereinafter referred to as "Respondent" or "HVPNL") and is a company incorporated under the Companies Act, 1956. It has its registered office at Plot No. C-4. Shakti Bhavan, Sector-6, Panchkula. It was initially entrusted with the transmission and distribution business of erstwhile HSEB, however later, the distribution business was transferred to the distribution utilities of the State of Haryana. The Respondent holds the license issued by this Hon'ble Commission for transmission and handling of bulk supply/ quantity of power. The Respondent, HVPNL, issued a Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation, the clause 6 of which is being challenged in this present petition.
- 1.5 That the objective of these regulations and procedure was to maintain grid discipline and grid security as envisaged under the Grid Code through the commercial mechanism for Deviation Settlement for controlling drawl and injection of electricity by the users of the grid as per their schedules and dispatches within State of Haryana.
- 1.6 Before proceeding further, it is important to understand the whole concept behind bringing in such a Regulation and the role and responsibilities of the QCA. The Hon'ble Commission in the preface of the Regulation itself has elaborated the background and the necessity to put in place a system where integration of all the players in the power system and their positions viz.-a-viz. each other needs to be well articulated and defined under a legal framework.
- 1.7 It was the Availability Based Tariff (ABT) regime introduced by CERC at the national level which eventually enabled a credible settlement

mechanism for intra-day power transfers from licensees with surpluses to licensees experiencing deficits. SERCs were advised to introduce the ABT regime at the State level. The Act of 2003 also mandated Open Access in Transmission and Distribution System wherein the transmission system had been recognized as a common carrier. Consequently, IPPs, Captive Power Plants, HT consumers and other utilities connected to the grid, could seek access to the network and pay the usage charges subject to margins in the system.

1.8 Subsequently with the passage of time and with the growing penetration of the Renewable Energy Sources (RES)/Distributed Energy Resources (DER) coupled with manifold increase in the intra-state, inter-state, interregional and transnational bulk electrical energy transactions, the bulk energy transactions whether from renewable or conventional ultimately required scheduling, measurement of physical delivery, book keeping, settlement and clearing in energy as well as in financial terms. It became essential that the adopted systems and procedures at various Load Dispatch Centers should be compatible with each other.

1.9 **OBJECTIVES OF THE REGULATION**
Objectives of the Regulation have been reproduced as under:

3.1. These Regulations are intended to facilitate Grid integration of Wind and Solar energy generated in Haryana while maintaining Grid stability and security as envisaged under the Haryana Grid Code and the Act, through forecasting, scheduling and a mechanism for the settlement of deviations by such Generators.

3.2. In order to maintain system security, stability and reliability, the SLDC shall take into consideration the forecasts of Wind and Solar generation for Week-Ahead, Day-Ahead and intra-Day operations and scheduling and long term forecasts for its planning. Provided that the day Ahead forecasting may be given twice by the QCA i.e R-0 and R-1 on a fixed time as mutually decided by QCA and SLDC

3.3. The SLDC shall make use of the flexibility provided by conventional Generating Units and the capacity of inter-Grid tie-lines to accommodate Wind and Solar energy generation to the largest extent possible subject to Grid security.

1.10 The Regulation defines the QCA as under:
“Qualified Co-ordinating Agency” (or “QCA”) means the agency appointed by the Wind or Solar Energy Generators connected to a Pooling Sub-Station, or by an individual Generator connected directly to a Sub-Station, to perform the functions and discharge the obligations specified in these Regulations”

1.11 Forecasting and Scheduling Code in the Regulation along with detailed roles and responsibilities of QCA have been elaborated as under:

7.1 *This Forecasting and Scheduling Code specifies the methodology for Day-Ahead scheduling of Wind and Solar Energy Generators connected to the intra-State Transmission /Distribution Network, its revisions on*

a one and a half hourly basis, and the treatment of their deviations from such Schedules.

- 7.2 *The Wind and Solar Energy Generators at each Pooling Sub-Station shall appoint a QCA: Provided that an individual Generator not connected to a Pooling Sub-Station may opt to be its own or to appoint a separate entity as its QCA.*
- 7.3 *The QCA shall be treated as a State Entity.*
- 7.4 *Every QCA shall be registered with the SLDC in accordance with the Detailed Procedure prescribed in pursuance of Regulation 5.21.*
- 7.5 *Notwithstanding the appointment of a QCA, the onus of complying with the relevant provisions of these Regulations shall remain that of the concerned Generators, and the commercial and other arrangements between them and their QCA shall be governed by their inter-se agreements or terms of engagement.*
- 7.6 *The QCA shall be appointed by the Generators for the purposes specified in these Regulations, including but not limited to the following:*
 - a. *Meter reading and data collection and its communication, and co-ordination with the Distribution Licensees, the SLDC and other agencies;*
 - b. *De-pooling of amounts payable/ recoverable on behalf of the constituent Generator of the Pooling Sub-Station to/ from the State Deviation Pool account and settling them with each Generator;*
 - c. *Settlement of the Deviation Charges specified in these Regulations with the SLDC on behalf of the Generators.*
- 7.7 *The QCA shall be the single point of contact between the SLDC and its Solar and/or wind Generators for the purposes of these Regulations.*
- 7.8 *The QCA shall furnish the technical specifications of the Generators whom it represents to the SLDC in the prescribed format, at the time of its registration or within such period thereafter as may be stipulated by the SLDC in its Detailed Procedure, and when there is a change in these specifications.*
- 7.9 *The QCA shall provide real-time data relating to the power system output and parameters and weather-related data, as may be required, real-time to the SLDC.*
- 7.10 *Meters shall be installed for energy accounting in accordance with the relevant provisions of the Central Electricity Authority (CEA) Regulations governing metering, along with telemetry / communication and Data Acquisition Systems for the transfer of information to the SLDC by the QCA.*
- 7.11 *The QCA shall furnish to the SLDC the aggregated forecasts relating to its Wind and Solar Energy Generators connected to the intra-State Transmission/Distribution network, with details of their Availability.*
- 7.12 *The SLDC shall also undertake forecasting of the Wind and Solar energy generation expected to be injected into the intra-State Transmission network at each location, by engaging forecasting agencies if required, so as to enable it to better plan for the balancing resources required for secure Grid operation.*
- 7.13 *The QCA shall aggregate the Schedules of all Generators connected to a Pooling Sub-Station and communicate them to the SLDC.*

7.14 No Wind or Solar energy generation shall be considered for despatch by the SLDC if it is not scheduled by the QCA on behalf of the Generators in accordance with the provisions of these Regulations.

7.15 The QCA may adopt the forecast of the SLDC for preparing its Schedule or provide SLDC with a Schedule based on its own forecast, which shall be the reference Schedule for the purposes of deviation determination and settlement:

7.16 Provided that, if the QCA opts to adopt the forecast of the SLDC, the consequences of any error in such forecast which results in a deviation from scheduling shall be borne by the concerned Generators through their QCA.

7.17 The SLDC shall recover such charges as may be approved by the Commission for providing its forecasting services to the QCA; and the amount so recovered shall be treated as 'other income' in the Aggregate Revenue Requirement of the SLDC for the determination of its Fees and Charges.

7.18 The QCA shall provide to the SLDC a Day-Ahead and a Week-Ahead Schedule for each Pooling Sub-Station or each stand-alone Generating Station, as the case may be, to enable it to assess the Availability of energy and the margin available in the State Grid.

7.19 The Day-Ahead Schedule shall comprise the Wind or Solar energy generation to be scheduled in each 15-minute time block starting from 00:00 hours of the following day, and for all 96 time blocks of that day; and the Week-Ahead Schedule shall contain the same information for the next seven days.

a) The QCA may revise the Schedule of Generators connected to the Intra-State Transmission/Distribution Network (excluding collective transactions) by giving advance notice to the SLDC.

b) Such revisions shall be effective from the 4th time block following the time block in which notice was given.

c) There may be one revision for each time slot of one and half hours starting from 00.00 hours of a particular day, subject to a maximum of 16 revisions during the day.

7.20 The plan for data telemetry, formats of forecast submission and other modalities and requirements shall be stipulated in the Detailed Procedure to be submitted by the SLDC within two months, which the Commission shall endeavour to approve within a month thereafter.

7.21 The Detailed Procedure shall address the following aspects:

a) The procedure and requirements, including the payment of fees and penalties, for the registration and de-registration of QCAs by the SLDC.

b) The information and data, and the formats, required by the SLDC from the QCAs and to be provided by the SLDC to them.

c) The mode and protocol of communication for exchange of information and data between the QCAs and the SLDC.

d) The guidelines for energy and deviation accounting of Wind and Solar energy transactions under the State energy accounting framework, with illustrative examples, in accordance with the principles specified in these Regulations.

- e) *The mechanism for monitoring compliance of the Forecasting and Scheduling Code by the QCAs*
- f) *The default conditions in the State Deviation Pool Settlement by QCAs and their treatment.*

7.22 *The commercial impact of deviation from Schedule based on the forecast shall be borne by the Generators through their QCAs.*

1.12 Principles of appointment of QCA

The principles of appointment of QCA have also been elaborated in the Regulation as under:

6.1. *The Generators at a Pooling Sub-Station may appoint one amongst themselves or any other entity as a QCA:*

Provided that an individual Generator not connected through a Pooling Sub-Station may opt to be its own QCA or to appoint a separate entity.

6.2. *The QCA shall be appointed with the approval of at least 51% of the Generators at a Pooling Sub-Station, in terms of their combined installed capacity.*

Provided that QCA may undertake forecasting and scheduling at feeder level; however, deviation accounting shall be undertaken for Pooling Sub-Substation as a whole.

6.3. *The Generators shall satisfy themselves that the QCA is technically and financially competent to undertake on their behalf the functions and discharge the obligations specified in these Regulations.*

6.4. *The terms of engagement of the QCA shall include provisions on the following aspects:*

- a) *The respective roles and responsibilities of the QCA and Generators;*
- b) *The metering, billing and energy accounting arrangements;*
- c) *The modalities for recovery of Deviation Charges from the Generators and their settlement, including the principles for de-pooling;*
- d) *The payment security mechanism and related provisions;*
- e) *The events of default and their mitigation.*

1.13 Haryana Vidyut Prasaran Nigam Limited (HVPNL), as a follow up of the directions, placed a Detailed Procedure in this regard before the hon'ble Commission and suggested the following Qualifying Requirement for selection / appointment of QCA. The hon'ble Commission approved the same as under:

Clause No. 6. Qualifying Requirement for QCA:

In case of appointment of any mutually agreed agency other than the Generator(s), the pool generators shall consider following guiding principles for appointment of QCA. Adherence to these guiding principles for appointment of QCA would be in the interest of pool generators and would facilitate smooth implementation of F&S framework in the State. Further, the QCA shall be appointed with the approval of at least 51 % of the generators at the pooling substation in terms of combined installed capacity. Operational requirements-

- i *The QCA shall be a company incorporated in India under the Companies Act, 1956/2013*

- ii The QCA shall have fully functional forecasting and scheduling tools to obtain the desired output.
- iii The QCA shall have the experience in the field of Wind and/or Solar Power forecasting and scheduling for 50 MW projects (including cumulative pilot projects) and a minimum period of one (1) year with appropriate accuracy levels in forecasting.
- iv The QCA shall have an experience in working in different terrain & regions, as Wind/ Solar generation depends on these factors and such experience facilitates better scheduling.
- v The QCA shall have capability to handle multiple plant owners connected to a pooling station in order to be well positioned to de-pool deviation charges. The financial strength of the QCA shall be such that it shall be in a position to handle the risk of penalties due to deviation charges applicable to pool generator. Considering this, the net worth of the QCA shall be a least RS. 1.50 Crores in the previous financial year (Net worth = Share Capital + Reserve - Revaluation Reserve - Intangible Asset - Misc. Expenditure to the extent not written off - Carried Forward Losses - Liabilities), which shall reflect from its audited accounts duly certified by the Chartered Accountant.
- vi The QCA shall have a compatible system in place for seamless flow of information to and from SLDC in order to facilitate forecasting, scheduling and revision of schedule, intimation of outages/ grid constraints etc. and it shall have capability to provide real time monitoring systems in place for seamless flow of information to and from SLDC.
- vii QCA shall have an established team of Renewable Resource Analysts, modeling Statisticians/ Data Scientists, Energy modelers and 24*7 operation and monitoring team.
- viii QCA shall possess/provide the authorization/ consent letter and consent from all the pool generators connected to the pooling station or directly connected to the state network for being appointed as the QCA and from the concerned beneficiary (ies).
- ix The corresponding supporting certificates/ documents justifying qualification should be submitted along with the application for registration.

1.14 While suggesting the above mentioned qualifying requirements, the HVPNL grossly erred in understanding the essence behind bringing in such a regulation, the essence of the CERC recommendations, the nature of work involved and almost nil availability of the mandated qualifying requirement / expertise in the market. The concept of introducing and appointing a QCA as an intermediary between the generators and the Load Dispatch Centers was new and technocommercial in nature. The qualifying criteria, therefore, should have been much simpler and there should have been an effort to promote more and more agencies to take up the job of QCA. But on the contrary, the qualifying requirements have been designed in such a

manner that till today, not even a single agency has been able to qualify as QCA in Haryana.

1.15 Time has come now to have a relook at these qualifying requirements listed at Clause no. "6" of the "Procedure"

1.16 Taking up one by one, the qualifying requirements in the detailed procedure are discussed as under:

i) The QCA shall be a company incorporated in India under the Companies Act, 1956/2013

- a) HVPNL while recommending the above QR has failed to realize the nature of work involved and that as to why the QCA should be a company incorporated in India under the Companies Act
- b) As the name itself suggests i.e. Qualified Coordinating Agency (QCA), the eligible firm need not be a company registered under the Companies Act 1956/2013. The CERC Report as well as the HERC Regulation has carefully chosen to use the word "Agency" instead of "Company"
- c) Going by the general definition of "Agency", the "Agencies are businesses that provide specialized services to clients, often acting on behalf of another company, group, or individual to manage a segment of their business"
- d) As far as Legal Structure of Agency is concerned, "the Agencies, like any businesses, can be structured as private limited company, a limited liability partnership (LLP), or a Proprietorship"
- e) The core difference between an Agency and a Company lies in their focus. "Companies typically produce and sell goods or services directly to consumers. Agencies on the other hand, act as intermediaries, providing specialized services to other companies or individuals"
- f) In law, "Agency is a legal relationship where one party, the principal, grants another party, the agent, the authority to act on their behalf and represent them in dealings with third parties. The agent's actions, when within their authority, are legally considered the actions of the principal. This relationship is often established through a contract, but it can also be implied by the actions of the parties"
- g) Another distinctive feature that makes an "Agency" different from "Company" is that under the provisions of law, "an individual can also be called an "Agency" particularly in context of the Indian Contract Act 1872 wherein an "Agent" is defined as a person employed to do any act for another, or to represent another in dealings with third persons. The person for whom the act is done or who is represented is called the "Principal"".
- h) Prior to enactment of Companies Act 2013, wherein "One Person Company" has been permitted with limited liability, it was necessary to have at least 2 persons to form a private limited company and at least 7 persons to form a public limited company. In that context, an individual person could form only a Proprietary firm with and could be called an Agency in order to

provide specialized services to the companies providing goods and services to the consumers. Keeping all these aspects in mind, the word "Agency" has been used while framing the Regulations and while calling it "Qualified Coordinating Agency" instead of "Qualified Coordinating Company"

- i) The work and duties of QCA as defined in the Regulation and the Procedure are such that to discharge them, only a specialized expertise is required. There is nothing in the nature of work which only a company can do and a proprietary firm cannot do
- j) Therefore, there is an urgent need to relax the above criteria to the extent that it should not be mandatory for any agency to be incorporated as a company under the Companies Act 1956/2013
- k) Neither the CERC report nor the HERC Regulation anywhere mandates the QCA to be a company registered under Companies Act 1956/2013

ii) The QCA shall have fully functional forecasting and scheduling tools to obtain the desired output.

- a) Here again, the HVPNL has failed to realize that the assignment and role of the QCA was new in nature and that any sole agency might not be available in the market to qualify for appointment as QCA. To be strong technically and to be strong financially are two different things and the best thing would have been to allow a Joint Venture of two or more agencies.
- b) Therefore, there is an urgent need to relax the above criteria to the extent that QCA could be an individual firm or a Joint Venture between two or more firms where qualification of each of the JV partners would add up to meet the qualifying requirements as a whole

iii) The QCA shall have the experience in the field of Wind and/or Solar Power forecasting and scheduling for 50 MW projects (including cumulative pilot projects) and a minimum period of one (1) year with appropriate accuracy levels in forecasting

- a) Here also, the HVPNL has failed to realize that it might not be possible for any one agency to meet the requirement of 50 MW and therefore, any sole agency might not be available to qualify for appointment as QCA. The best thing here also would have been to allow a Joint Venture of two or more agencies.
- b) There is an urgent need to relax the above criteria to the extent that it QCA could be an individual firm or a Joint Venture between two or more firms where qualification of each of the JV partner would add up to meet the qualifying requirements as a whole

iv) The QCA shall have an experience in working in different terrain & regions, as Wind/Solar generation depends on these factors and such experience facilitates better scheduling

- a) It is not understood as to from where the above criteria have been adopted. Obviously, it should not be expected from any prospective QCA to have worked in almost all parts and terrains of India. Most of the QCAs, when the market is explored, would

be found confined to one or the other particular area or the terrain.

b) Therefore, there is a need to relax the above criteria to the extent that it QCA could be an individual firm or a Joint Venture between two or more firms where qualification of each of the JV partner should add up to meet the qualifying requirements as a whole

v) *The QCA shall have capability to handle multiple plant owners connected to a pooling station in order to be well positioned to de-pool deviation charges. The financial strength of the QCA shall be such that it shall be in a position to handle the risk of penalties due to deviation charges applicable to pool generator. Considering this, the net worth of the QCA shall be a least RS. 1.50 Crores in the previous financial year (Net worth = Share Capital + Reserve - Revaluation Reserve - Intangible Asset - Misc. Expenditure to the extent not written off - Carried Forward Losses - Liabilities), which shall reflect from its audited accounts duly certified by the Chartered Accountant.*

- a) It is not understood as to from where this formula has been arrived at. This formula also is one of the major impediment for the agencies to qualify as QCA
- b) Therefore, there is a need to amend the Formula by replacing the present one with the standard nomenclature of "Net Worth" available and defined in the relevant Acts

1.17 Going by the remaining Qualifying requirements from "vi" to "ix" above, it is found that the above qualifying requirements are not exhaustive, limit the competition and are proving to be an impediment in the successful implementation of the Forecasting Regulations and in the appointment of many competent firms as QCA. For example, the present criteria mandates that to be eligible and to qualify for appointment as QCA, one must be a company incorporated in India under the Companies Act 1956/2013. It does not include the Proprietary firm despite the fact the formation of Proprietary Firm in India is legally permitted and is permitted under the law to take up any business in accordance with the provisions of different laws, rules and regulations framed from time to time and for the time being in force

1.18 To make it more clear here, the present petitioner "Saini Power" is a Proprietary Firm and has been working as in energy trading business since 2010 as a professional member of IEX and was granted an Inter State Trading Licensee by the Hon'ble Central Electricity Regulatory Commission (CERC) and has been engaged in the business of power trading including in Haryana but still, it does not qualify to be a QCA according to the present "Procedure"

1.19 The petitioner has emerged in the last 15 years as a pioneer in shaping a vibrant trading market with a track record of performance, customer satisfaction and sustained growth with access to Technical, Managerial and Financial Resources. The petitioner is adequately equipped and has domain expertise in all the segments of Power Trading whether it be Marketing, Scheduling, Commercial or

Operations, supported by Financial, Legal and Administrative functions but still it has entered into a Memorandum of Understanding to form a Joint Venture with a German company to bring in international exposure and expertise in the area of forecasting and scheduling of renewable power and to qualify for QCA as a joint Venture. If permitted under the procedure, the present petitioner would form a Joint Venture with its German counterpart which will actually enhance the performance of the petitioner as QCA. In fact, allowing Joint Ventures would bring the international expertise in the field of Forecasting, Scheduling, Handling of large volumes of power and it would be in the interest of the grid safety and smooth integration of Conventional and Renewable Power.

JURISDICTION

1.20 Section 86 of the Electricity Act 2003 provides for this Hon'ble Commission to promote generation of electricity from renewable energy sources and empowers this hon'ble Commission to discharge its functions in accordance with this Act. The relevant provision under sub-section 1(e) reads as under:

“promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee”

Sub-section 1(k) reads as under:

“discharge such other functions as may be assigned to it under this Act”

1.21 Regulations 18, 19 and 20 of the HERC (Deviation Settlement Mechanism and related matters) Regulations, 2019 provides Hon'ble commission the power to amend, power to remove difficulty and power to relax respectively. The relevant provisions are quoted as under:

18 Power to amend

The Commission may, at any time, vary, alter, modify or amend any provisions of these Regulations.

19 Power to remove difficulties

If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by general or specific order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty.

20 Power to relax

The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected by grant of relaxation, may relax any of the provisions of these Regulations on its own motion or on an application made before it by an interested person.

1.22 Regulation 65, 66, 67, 68, 69 & 70 of the HERC (Conduct of Business) Regulations. 2019 provide this hon'ble Commission with inherent

powers and general power to amend. Relevant provisions are extracted below:

Saving of inherent power of the Commission

65. *Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for ends of justice or to prevent the abuse of the process of the Commission.*

66. *Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Act a procedure at variance with any of the provisions of these Regulations if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.*

67. *Nothing in these Regulations shall, expressly or impliedly, bar the Commission to deal with any matter or exercise any power under the applicable legal framework for which no Regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit. General power to amend*

68. *The Commission may, at any time and on such terms as to costs or otherwise as it may think fit, amend any defect or error in any Proceedings before it, and all necessary amendments shall be made for the purpose of determining the real question or issue arising in the Proceedings. Power to remove difficulties*

69. *If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, do anything not being inconsistent with the provisions of the Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty.*

70. *In case of any difficulty in interpretation of these Regulations the same shall be done by the Commission in accordance with the provisions of the Electricity Act, 2003. In case of any conflict between the provisions of these regulations and the provisions of the Electricity Act, 2003, the provisions of the Act shall prevail in all case.*

FACTS

1.23 The facts giving rise to the present Petition are briefly set out herein below for ready reference of this Hon'ble Commission:

- i) The Act consolidated the laws relating to generation, transmission, distribution, trading and use of electricity and generally for taking measures conducive to development of electricity industry, promoting competition therein, protecting interest of consumers and supply of electricity to all areas, rationalization of electricity tariff, ensuring transparent policies regarding subsidies, promotion of efficient and environmental benign policies, constitution of Central Electricity Authority, Regulatory Commissions and

establishment of Appellate Tribunal and for matters connected therewith or incidental thereto

- ii) Under Section 32, State Load Dispatch Centre is mandated to ensure integrated operation of the power system in a State for reliability, economy and efficiency of the power system. This inter-alia requires forecasting of load and RE generation, load-generation balance in real-time as well as compilation and analysis of the Energy Balance Sheets, Deviation Statement and Transmission Losses at the grid level for every time block. The Act also mandates open access in transmission and distribution system. The transmission system has been recognized as a common carrier.
- iii) With the growing penetration of the Renewable Energy Sources/ Distributed Energy Sources coupled with manifold increase in the intra-state, inter-state, inter-regional and transnational bulk energy transactions. whether from renewable or conventional source require scheduling, measurement of physical delivery, book-keeping and settlement etc.
- iv) In view of the above, the Hon'ble Commission issued the "Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement and related matters for Solar and Wind Generation) Regulations, 2019 ("Forecasting Regulations"), which were notified on 29.04.2019. As per Regulation 3, these regulations have been issued with the objective of facilitating grid integration of wind and solar energy generated in Haryana while maintaining grid stability. Further, SLDC is mandated to provide for inter-grid tie-lines to accommodate wind and solar energy generation to the largest extent possible subject to grid security. As per Regulation 4, these regulations shall apply to the Wind and Solar energy generators in the state of Haryana connected to the Intra-State Transmission / Distribution System, including those connected through pooling sub-station and using the power generated for self-consumption or sale within or outside the State.

The relevant provisions of Forecasting Regulations are reproduced as under:

- i) These Regulations are intended to facilitate Grid integration of Wind and Solar energy generated in Haryana while maintaining Grid stability and security as envisaged under the Haryana Grid Code and the Act, through forecasting, scheduling and a mechanism for the settlement of deviation by such Generators.
- ii) The SLDC shall make use of the flexibility provided by conventional Generating Units and the capacity of inter-Grid tie-lines to accommodate Wind and Solar energy generation to the largest extent possible subject to Grid security

GROUNDS

1.24 The Petitioner by virtue of this Petition seeks indulgence of this Hon'ble Commission on the ground that the "Procedure", in its current form vis-à-vis Clause "6" which mandates, for example, that the QCA shall be a company incorporated in India under the Companies Act, 1956/2013 needs to be amended to an extent that Proprietary Firm

should also be eligible for appointment as QCA. The existing provisions of some of the states in this regard are reproduced as under for ready reference:

Rajasthan

Regulation 13 of the Rajasthan Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement and Related Matters of Solar and Wind Generation Sources) Regulations, 2017 hereinafter called the “Procedure for implementation of the framework on Forecasting and Scheduling for Renewable Energy (RE) Generating Stations” (amended as on 23.10.2019)

Clause 6 Qualifying Requirement for QCA Sub Clause(a) on (page no. 3)

“The QCA shall be a company incorporated in India under the Companies Act, 1956/2013 or any firm, Limited Liability Partnership (LLP), person or association of persons fulfilling the criteria given below” (Emphasis Supplied)

Karnataka

Procedure for Forecasting, Scheduling and Deviation Settlement of wind and solar generation regulation 2015 issued on 15th May-2020.

Clause 3 Qualifying Criteria for the QCA Sub Clause (2) on (page no. 4)

Any Agency/Entity, whether any company or body corporate or and association or body of individuals or an artificial juridical person, whether incorporated or not, shall be eligible to act as a QCA.

(Emphasis Supplied)

Gujarat

Procedure for Forecasting, Scheduling and Deviation Settlement of wind and solar generation regulation

Clause 5 Qualifying Criteria for the QCA on (page no. 12)

Any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person shall be eligible to act as a QCA provided it satisfies the qualifying criteria as laid down hereunder (Emphasis Supplied)

Maharashtra

Procedure for Forecasting, Scheduling and Deviation Settlement of wind and solar generation regulation 2018 issued on 30.09.2019

Clause 2 Qualifying Criteria for the QCA Sub Clause1 (on page no. 6)

As per Regulation 6.1 of MERC F&S Regulations, 2018, Generators at Pooling Substation shall appoint one amongst themselves or any other entity as QCA. The QCA shall be a company incorporated in India under the Companies Act 1956/2013. (Emphasis Supplied)

Chhattisgarh

Detailed Operating Procedure for Forecasting and Scheduling of Solar, wind, solar-wind hybrid generating stations connected to pooling substations (May-29-2024)

Clause 6 Qualifying Criteria for QCA on page no. 7

The QCA shall be appointed by REGS which may be one of the generators amongst them or any mutually agreed agency, any company or body corporate or association or body of individuals, or artificial juridical person incorporated/ registered under the company laws of India shall be eligible to act as a QCA

(Emphasis Supplied)

- 1.25 That the eligibility criteria as mentioned under clause “6” of the Detailed Procedure is *prima facie* unjust, unreasonable and has made the Forecasting Regulation and Detailed Procedure un-implementable with respect to the appointment of QCA and functions thereof.
- 1.26 That this Commission has the jurisdiction to relax the provision of the Detailed Procedure or remove the apparent difficulty by reading down such eligibility requirement or direct the Respondent to amend/revise the qualifying requirement to the extent of making the Proprietary firms eligible for appointment as QCA and also to the extent of allowing Joint Ventures between two or more agencies.
- 1.27 That, the jurisdiction of the State Commission is not circumscribed in any manner to access such powers whatsoever and accordingly, it can pass directions to immediately initiate process of amendment.
- 1.28 It is submitted that on the submissions made above, it is evident that arbitrary nature of Clause “6” of the Detailed Procedure is severely impacting the Petitioner despite the fact it fulfills all other qualifying criteria as listed down in the “Procedure”.
- 1.29 That the submissions made by the petitioner are bonafide and based upon the genuine difficulties being faced by it, and removal of such difficulties have become need of the hour.

PRAYER:

In view of the submissions made hereinabove, it is humbly prayed that this Hon'ble Commission may be pleased to:

- i) Admit the present petition: and
- ii) Exercise its powers under the HERC (Deviation Settlement Mechanism and related matters) Regulations, 2019 to amend / relax the provision of Clause “6” of the Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation, for the petitioner, with respect to eligibility / qualifying requirement
 - a) by allowing Proprietary firms also to qualify for appointment as QCA.
 - b) by allowing Joint Ventures between two or more firms where qualification of each of the JV partner would add up to meet the qualifying requirements as a whole
 - c) to correct the formula for arriving at the Net Worth and
 - iii) Pass any other order/ direction as the Commission may deem fit in the interest of justice
2. The case was heard on 16/07/2025, Ms. Sonia Madan counsel for the respondents requested for four (4) weeks' time for filing the reply to the

petition. Sh. Sanjeev Kumar Chopra, representative of the petitioner requested for early hearing in the matter.

Acceding to requests of the respondent, the Commission adjourns the matter and directs the respondent to submit its reply with in four (4) weeks with advance copy to the petitioner and the petitioner may file rejoinder, if any, with in one week thereafter.

3. Reply submitted by HVPN dated 30/07/2025:

- 3.1 That the present reply is being filed through Sh. Vikas Malik, Executive Engineer/ ISMC, Haryana Vidyut Prasaran Nigam Limited (hereinafter referred to as 'HVPNL'), who is fully conversant with the facts and circumstances of the case on the basis of knowledge derived from record.
- 3.2 That all submissions made herein in the present reply ("Reply") by the Respondent are without prejudice to one another and are made in the alternative, as may be applicable to the facts and circumstances of the present case. All allegations made by the Petitioner are denied in totality and the same may be treated as a denial as if it was made in *seriatim*. Nothing submitted herein shall be deemed to be admitted unless the same has been admitted thereto specifically.

PRELIMINARY SUBMISSIONS/OBJECTIONS:

- 3.1 That at the very outset, and before dealing with the submissions on merits, the Respondent most respectfully submits that the reliance placed by the Petitioner on various provisions of law and regulations in support of the present petition ("Petition") is misplaced and untenable. The Petitioner, in an attempt to invoke the jurisdiction of this Hon'ble Commission, has referred to the following provisions:
 - a) Section 181 and Section 86 of the Electricity Act, 2003;
 - b) Regulations 18, 19, and 20 of the Haryana Electricity Regulatory Commission (Deviation settlement mechanism and related matters) Regulations 2019;
 - c) Regulations 65 to 68 of the HERC (Conduct of Business) Regulations, 2019.
- 3.2 That it is submitted that the Petitioner has failed to demonstrate the applicability of Section 181 of the Electricity Act, 2003, to the present matter. No explanation or justification has been provided in the Petition for invoking the said provision, nor has the Petitioner set out any legal basis for the same. It is submitted that Section 181 of the Electricity Act confers powers upon the State Commission to frame regulations, consistent with the Act and the rules made thereunder, to carry out the provisions of the Act. The said section is reproduced herein for ready reference:

"Section 181. (Powers of State Commissions to make regulations):
--- (1) *The State Commissions may, by notification, make regulations consistent with this Act and the rules generally to carry out the provisions of this Act....."*

xxx xxx xxx

3.3 The Petitioner has also sought to rely upon Section 86 of the Electricity Act, 2003, particularly clause (e), which empowers the State Commission to promote co-generation and generation of electricity from renewable energy sources. Section 86(e) has been reproduced below:

“Section 86. (Functions of State Commission): --- (1) The state Commission shall discharge the following functions, namely: -

xxx xxx xxx

“promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;”

xxx xxx xxx

3.4 That a plain reading of the above provisions makes it evident that Section 181 only deals with the power of the Commission to frame regulations, and Section 86(1)(e) defines the broad regulatory functions of the Commission vis-à-vis renewable energy. Neither provision confers a right on a private party to seek modification of an already notified regulation. It is further submitted that the *Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019* (hereinafter referred to as the “Forecasting Regulations”, as annexed by the Petitioner as Annexure P-3 to the Petition) were framed in accordance with the provisions of the Electricity Act, 2003 and the rules made thereunder. Pursuant to the Forecasting Regulations, the *Procedure for Forecasting, Scheduling and Deviation Settlement of Solar and Wind Generation* (hereinafter referred to as the “Detailed Procedure”) was prepared and subsequently approved by this Hon’ble Commission, as referred to by the Petitioner in Annexure P-1, to ensure that its implementation remains consistent with the intent and framework of the Electricity Act. The Detailed Procedure itself is appended by the Petitioner as Annexure P-2.

3.5 That further, the reliance placed by the Petitioner on Regulations 18, 19, and 20 of the *Haryana Electricity Regulatory Commission (Deviation Settlement Mechanism and Related Matters) Regulations, 2019* is misconceived and untenable. As clearly stipulated under Clause 4 of the said Regulations, their applicability is expressly excluded in cases involving wind and solar generating stations. The relevant portion of Clause 4 is reproduced below for ease of reference:

“Applicability

These regulations shall apply to the transactions of conveyance of electricity through short-term open access, medium-term open access, or long-term open access using the intra-State transmission system or

distribution system of electricity (including inter-State wheeling of power), subject to the following conditions:

(A) Deviation Settlement Mechanism under these Regulations shall be applicable for all Seller(s), including Open Access Generators, Captive Generators, and RE-generators with capacity of 10 MW and above (excluding In-Situ Captive Generators) connected to the Intra-State Transmission system but excluding Wind and Solar Generating Station(s)

Provided that, Forecasting, Scheduling, and Deviation Settlement-related matters in respect of Wind and Solar Generation shall be governed as per the provisions of the Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2018, as and when notified and further amended.”

(Emphasis Supplied)

- 3.6 In view of the above, it is evident that the *Deviation Settlement Mechanism and Related Matters Regulations, 2019* do not apply to wind and solar generating stations, and therefore, the reference of the same in the nomenclature as well as the main pleadings makes the present petition defective in its current form.
- 3.7 The Petitioner has also placed reliance on Regulations 65 to 68 of the HERC (Conduct of Business) Regulations, 2019. However, the Petitioner has failed to demonstrate how these provisions support the maintainability of the present Petition or confer any right to seek modification of the Detailed Procedure framed under the Forecasting Regulations. Regulations 65 to 67 merely preserve the inherent powers of the Commission to issue appropriate orders in furtherance of justice or to prevent abuse of process. These provisions are procedural in nature and are meant to ensure flexibility in adjudicatory functions. They do not, in any manner, empower the Commission to modify substantive frameworks or documents, such as the Detailed Procedure, especially at the instance of a private party. Regulation 68 specifically empowers the Commission to rectify procedural defects or errors in any pending *proceedings* before it, and is therefore, not applicable in present cases where a party seeks amendment of a regulatory document or procedure adopted pursuant to validly framed regulations.
- 3.8 That the Petition, in essence, challenges Clause 6 of the Detailed Procedure, which was framed in furtherance of the Forecasting Regulations, 2019. The said Procedure, being a part of the regulatory framework approved by this Hon’ble Commission, cannot be modified at the instance of an individual Petitioner, who does not have any *locus standi* in the present matter. Any revision to the Detailed Procedure, if deemed necessary, may only be considered by the Commission in accordance with the framework laid down in the Forecasting Regulations themselves and upon satisfaction of procedural requirements—not upon a unilateral request from a private party.

3.9 That it is a well-settled principle of law that a proprietorship firm does not constitute a separate legal entity distinct from its proprietor. The Hon'ble Supreme Court, in *M/s. Shankar Finance & Investments v. State of Andhra Pradesh*, 2008 SCC OnLine SC 997, has categorically held as under:

"As contrasted from a company incorporated under the Companies Act, 1956 which is a legal entity distinct from its shareholders, a proprietary concern is not a legal entity distinct from its proprietor. A proprietary concern is nothing but an individual trading under a trade name. In civil law where an individual carries on business in a name or style other than his own name, he cannot sue in the trading name but must sue in his own name, though others can sue him in the trading name." (Emphasis Supplied)

In view of the above, it is evident that a proprietorship concern is merely a trade name under which an individual conducts business, and it does not possess a separate juristic or legal identity. Consequently, it cannot be treated as an independent legal entity for the purposes of eligibility under statutory frameworks or for initiating legal proceedings. In the present case, the petition has been instituted in the name of the proprietorship concern rather than in the name of the individual proprietor. Since a proprietorship is not recognized as a distinct legal entity, the present petition is not maintainable in law and is liable to be dismissed at the threshold.

3.10 It is further submitted that the allegation of the Petitioner, that the Respondent has failed to appreciate the underlying intent behind the enactment of the Forecasting Regulations and the nature of work contemplated under the Detailed Procedure, is incorrect and is specifically denied. The Petitioner has contended that the process for appointment of a QCA (Qualified Coordinating Agency) should be simplified to allow broader participation. However, the Petitioner has neither substantiated the legal basis for making such a claim nor demonstrated any *locus standii* to raise this issue in the present Petition. As per Clause 5 of the *Detailed Procedure*, the appointment of a QCA is the responsibility of the Pool Generators. The said clause has been reproduced below:

"5. The Qualified Coordinating Agency (QCA):

i) The Pool Generators shall appoint one amongst themselves or any other mutually agreed agency to act as Qualified Coordinating Agency (QCA) for coordinating on their behalf with SLDC. The pool generators shall give authorization/consent at least for a period of 2 years as per Annexure-V for registration of QCA at SLDC.

Provided that an individual pool generator may opt to function as a QCA on its own or appoint a separate entity as its QCA.

Provided further that separate pools shall be formed for generators involved in intra-state and inter-state transactions.” (Emphasis Supplied)

In the present case, the Petitioner is admittedly not a Pool Generator, and therefore, has no direct interest or role in the process of QCA appointment. Accordingly, the Petitioner lacks any locus to seek modification of a clause that governs a framework in which it is neither a stakeholder nor an affected party. The Petition, to the extent that it seeks to alter such a provision, is thus liable to be rejected as being wholly misconceived and beyond the scope of the Petitioner's standing.

3.11 That a bare perusal of the *Forecasting Regulations* clearly reveals their significant public character and the wide-reaching impact they have on the electricity sector and consumers at large. These Regulations have been framed with the overarching objective of securing public welfare, as expressly reflected in Clause 3 – Objectives of the Forecasting Regulations. It is evident that the primary aim of these Regulations is to facilitate the seamless integration of wind and solar energy into the State grid, while simultaneously ensuring grid stability and security—which are matters of public importance and statutory priority. The said clause has been reproduced below:

“3 Objective 3.1. These Regulations are intended to facilitate Grid integration of Wind and Solar energy generated in Haryana while maintaining Grid stability and security as envisaged under the Haryana Grid Code and the Act, through forecasting, scheduling and a mechanism for the settlement of deviations by such Generators.”

(Emphasis Supplied)

In view of this, the Petitioner's contention that the Detailed Procedure should be “simplified” to enable more entities to become Qualified Coordinating Agencies (QCAs) is wholly misconceived and untenable. The appointment and functioning of a QCA is a critical component of the regulatory mechanism that directly affects the operational reliability of the grid. Diluting the qualification criteria under Clause 6 of the Detailed Procedure to permit entities lacking requisite financial and technical capacity would pose a serious risk to grid discipline, public interest, and the fundamental rights of consumers who depend on a stable and uninterrupted power supply.

3.12 That it is specifically denied that the qualification criteria under Clause 6 are impractical or impossible to meet, as alleged by the Petitioner. Such an assertion is not only unsubstantiated but also overlooks the careful balance struck by the Commission between accessibility and technical rigor to safeguard the integrity of the power system. The primary reason why many entities aspiring to be appointed as a QCA were unable to qualify under the Detailed Procedure was due to the stipulation contained in Clause 6(v), which required the QCA's to have a minimum net worth of ₹1.5 crore in the

previous financial year. The formula prescribed for the computation of net worth under the said clause was subsequently revised by this Hon'ble Commission vide its Order dated 22.05.2025 passed in Case No. HERC/P No. 20 of 2025, a copy of which has been annexed by the Petitioner as Annexure R-1. This modification was undertaken with the express objective of widening eligibility and enabling more entities to qualify as QCA. Prior to this clarification, several entities were disqualified solely on account of the restrictive interpretation of the net worth criterion. However, pursuant to the said Order, multiple entities have now become eligible. In fact, as recorded in the Order itself, M/s RE Connect Pvt. Ltd. had fulfilled all other eligibility requirements as early as 10.04.2023 to become a QCA, but was considered ineligible by HVPN (Haryana Vidyut Prasaran Nigam Limited) on the limited ground of not meeting the net worth requirement under clause 6(v) of the Detailed Procedure as per the earlier interpretation. In view of the above, the sweeping assertion made by the Petitioner that no entity is eligible to be appointed as a QCA is factually incorrect and specifically denied. The onus lies on the Petitioner to substantiate such a claim, especially in light of the Commission's recent clarification which has demonstrably expanded the pool of eligible entities.

3.13 That the contention of the Petitioner that the eligibility criteria for appointment as a QCA, as set out in the Detailed Procedure requiring incorporation under the Companies Act, 2013 or 1956, should be relaxed to include proprietorship firms is denied in *toto*. The Petitioner has no locus to seek any modification to the Detailed Procedure, which has been duly approved by the Hon'ble Commission in accordance with law and following a public hearing process, as evident from Annexure P-1. The attempt of the Petitioner to challenge or alter the approved procedure apparently under the guise of setting up a new business venture is wholly misconceived and impermissible. It is further submitted that the Petitioner has failed to disclose or substantiate any legal grounds for maintaining the present Petition. The only apparent objective of the Petition is to seek an amendment to the Detailed Procedure to enable the Petitioner to qualify as a QCA, which is not a legally tenable basis to invoke the jurisdiction of this Hon'ble Commission.

3.14 That reliance of the Petitioner on the eligibility criteria prescribed for appointment as a QCA under the legal frameworks of certain other states i.e. Karnataka, Gujarat, Maharashtra, and Chhattisgarh, to contend that a proprietorship firm should also be considered eligible for such appointment is not only misplaced but also of no avail as the conditions of the said states are not binding on the State of Haryana. The State Electricity Regulatory Commissions are fully empowered to notify/approve their own conditions for injection of power into the State Grid in consonance with the provisions of the Electricity Act, 2003. The Petitioner has failed to establish any case demonstrating that the eligibility criteria for QCA registration, as notified by the Commission, are violative of the provisions of the Electricity Act, 2003. In view thereof, the relief sought is devoid of any merit.

3.15 That without prejudice to foregoing, it is however, submitted that a bare perusal of the legal provisions governing the appointment of QCAs in the aforesaid states reveals that none of them expressly recognize or permit a proprietorship firm to be eligible for appointment as a QCA. It is pertinent to note that while the frameworks in Gujarat, Maharashtra, and Chhattisgarh provide that any artificial juridical person may act as a QCA, they do not include or specify proprietorships within the scope of such eligibility. The legal position in this regard is well-settled. A proprietorship concern is not a separate legal entity, distinct from its proprietor, and therefore does not fall within the ambit of an "artificial juridical person." In this context, reliance is placed on the judgment of the Hon'ble Supreme Court in *Raghu Lakshminarayanan v. M/s Fine Tubes*, (2007) 5 SCC 103, wherein the Court has held that:

A juristic person can be a Company within the meaning of the provisions of the Companies Act, 1956 or a partnership within the meaning of the provisions of the Indian Partnership Act, 1932 or an association of persons which ordinarily would mean a body of persons which is not incorporated under any statute. A proprietary concern, however, stands absolutely on a different footing. A person may carry on business in the name of a business concern, but he being proprietor thereof, would be solely responsible for conduct of its affairs. A proprietary concern is not a Company. Company in terms of the explanation appended to Section 141 of the Negotiable Instruments Act, means anybody- corporate and includes a firm or other association of individuals. Director has been defined to mean in relation to a firm, a partner in the firm. Thus, whereas in relation to a Company, incorporated and registered under the Companies Act, 1956 or any other statute, a person as a Director must come within the purview of the said description, so far as a firm is concerned, the same would carry the same meaning as contained in the Indian Partnership Act.

(Emphasis Supplied)

In view of the above authoritative pronouncement, it is clear that a proprietary concern, not being a separate legal entity distinct from its proprietor, does not qualify as a company, firm, body corporate, or artificial juridical person. As such, a proprietorship firm cannot be construed to fall within the categories of entities eligible to be appointed as a QCA under regulatory frameworks that limit eligibility to artificial juridical persons.

3.16 That the procedure for appointment of a QCA in the State of Maharashtra, as relied upon by the Petitioner itself, clearly stipulates that a QCA shall be a company incorporated in India under the Companies Act, 1956 or 2013. This requirement expressly excludes and thereby bars a proprietorship concern from being eligible for appointment as a QCA, as such concerns are not incorporated entities under the Companies Act. Similarly, in the case of Chhattisgarh, the regulatory framework mandates that any entity seeking to act as a

QCA must be incorporated or registered under the company laws of India. Accordingly, both frameworks unambiguously require legal incorporation and do not recognize proprietorships as eligible entities for appointment as QCAs.

1. That it is pertinent to note that even in the states of Andhra Pradesh and Uttar Pradesh, the eligibility criteria for an entity to act as a QCA clearly stipulate that only a company incorporated under the Companies Act, 1956 or 2013 is eligible. In Andhra Pradesh, this requirement is prescribed under Clause 5(b) of the Procedure issued pursuant to Regulation 4 of 2017 of the Andhra Pradesh Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement of Solar and Wind Generation) Regulations, 2017. Clause 5.7 under clause 5(b) is reproduced below:

"The QCA should be a company incorporated in India under the Companies Act, 1956/2013."

Similarly, in Uttar Pradesh, the UPERC (Forecasting, Scheduling, Deviation Settlement and Related Matters of Solar and Wind Generation Sources) Regulations, 2018 provide that the State Load Dispatch Centre (UPSLDC) shall prepare a procedure, and the relevant provision as per clause 2 – Roles and Responsibilities of the Qualified Coordinating Agency (QCA) is reproduced below:

"(1) The QCA shall be a Company incorporated in India under the Companies Act, 2013 as amended from time to time."

These provisions clearly establish that a proprietorship firm is not eligible to act as a QCA under the respective frameworks in both Andhra Pradesh and Uttar Pradesh.

2. That a proprietary concern does not possess a separate legal identity distinct from its proprietor, the entire responsibility to perform the functions and obligations of a QCA rests solely on the individual proprietor. In the event the proprietor dies, becomes of unsound mind, or otherwise becomes legally incapacitated, the functioning of the QCA would come to an immediate halt. It is pertinent to note that, as discussed above, the primary objective of the Forecasting and Scheduling Regulations is to ensure the security and stability of the electricity grid. The failure of a QCA to carry out its responsibilities on account of the personal contingencies of its sole proprietor would pose a serious threat to grid security, which in turn would adversely impact the operations of the Respondent and compromise the delivery of a public utility service — ultimately affecting the public at large. Furthermore, the role of a QCA is highly technical, continuous, and critical in nature, requiring both domain expertise and institutional continuity. These essential characteristics cannot be guaranteed by a sole proprietorship, where the functioning is inextricably tied to a single individual.

3. That reliance is placed on the judgment of the Hon'ble Supreme Court in ***Vinayak Purshottam Dube (Deceased) v. Jayashree***

Padmakar Bhat and Ors., wherein it was held that the death of a proprietor results in the cessation of the proprietary concern, and the legal heirs cannot be compelled to perform obligations that are personal to the deceased.

But in the case of sole proprietorship, which is a common form of business in India , when a legal obligation arises under a contract which has to be discharged personally by the sole proprietor, who is since deceased, had entered into the agreement, such as, in the case of a Development Agreement in the instant case, can such obligations be imposed on his legal representatives or heirs who are not parties to the Development Agreement and where the obligations under such an agreement per se cannot be fulfilled inasmuch as they neither have the skills nor the expertise to do so and those obligations depend purely on the skills and expertise of the deceased sole proprietor? In other words, where the decree or order is not against the estate of a deceased sole proprietor but based on the skills and expertise of the sole proprietor, we are of the view that in the latter case, the obligations which had to be performed by the sole proprietor would come to an end on his demise and the same cannot be imposed on his legal heirs or representatives. We reiterate that such a position is distinguished from a position where the estate of the deceased sole proprietor would become liable to satisfy the decree in monetary terms. This is because a proprietorship firm is not a separate legal entity as compared to the proprietor and his estate would become liable only to satisfy a decree or an order in monetary terms on his demise.

(Emphasis Supplied)

4. That in view of the aforesaid judgment, it is evident that in the case of a sole proprietorship, where the contractual obligations are inherently personal and require the specific skills or expertise of the proprietor, such obligations stand extinguished upon the death, incapacity, or legal incompetence of the proprietor. The Court has clearly held that legal representatives or heirs of a deceased sole proprietor cannot be compelled to perform obligations of a personal nature, particularly when they are not parties to the underlying agreement and lack the requisite skills to discharge the same. Applying the above principle to the present context, it is submitted that the role and functions of a QCA, being highly technical, continuous, and critical to grid security, require personal expertise, institutional capacity, and sustained performance. These functions, once entrusted to a sole proprietorship, cannot be transferred or enforced against any other individual upon the demise or incapacity of the proprietor. This poses a significant risk to the Respondent and, more importantly, to the public interest, as any disruption in QCA

functions can seriously compromise grid stability and electricity distribution.

5. That as clarified by the Supreme Court in the above-mentioned judgment (*Vinayak Purshottam Dube (Deceased) v. Jayashree Padmakar Bhat and Ors.*), while monetary claims may be enforceable against the estate of a deceased proprietor, such claims are contingent upon the existence of an estate. In a situation where the proprietor leaves behind no estate, the Respondent would have no recourse to recover dues, thereby exposing it to financial risk and undermining the public utility function it is mandated to discharge. This further reinforces the necessity of ensuring that only incorporated and legally distinct entities, with perpetual succession and institutional continuity, are eligible for appointment as QCAs.

6. That the relief sought by the Petitioner for relaxation of Clause 6(ii) of the Detailed Procedure so as to permit even a Joint Venture (JV) to be appointed as a QCA is misconceived and is denied. In this regard, reliance is placed on the judgment of the Hon'ble Andhra Pradesh High Court in ***GVPREL-MEE (J.V.), Hyderabad v. Government of A.P.***, 2005 SCC OnLine AP 531, wherein it was categorically held that upon the withdrawal of a partner from an unincorporated Joint Venture, the Joint Venture stands dissolved. The Court observed as under:

“Therefore, this submission of the learned counsel that even after the withdrawal of MEE, Joint Venture continued to exist cannot be accepted. It must be remembered that the company incorporated in the nature of joint venture may not lose its juristic personality. Similarly a registered partnership firm under Partnership Act may still have certain obligations, rights and liabilities, even after dissolution, by reason of Sections 45, 46 and 47 of Partnership Act, 1932. The same is not the position in the case of Joint Ventures which came into existence by reason of agreement between two or more Joint Venture partners. When there are only two partners in the Joint Venture, and one of them goes out, it is very difficult to accept such entity as a continuing Joint Venture especially when it only draws its sustenance under a mutual agreement between the two partners.”

(Emphasis Supplied)

In light of the above, it is evident that an unincorporated Joint Venture is not a separate legal entity and is wholly dependent on the mutual agreement between its constituent partners. Any change in its composition, such as the exit of one partner, can lead to its dissolution. Therefore, permitting an unincorporated JV to act as a QCA would compromise the reliability and continuity required for such a critical technical function. The nature of work entrusted to a QCA, which directly affects grid security and public utility functions, mandates institutional stability and legal accountability—factors

inherently absent in an unincorporated JV structure. Accordingly, the relief sought is untenable and is liable to be rejected.

7. That the present petition has been filed by the Petitioner solely with the intent to enter into a new line of business as a QCA, and seeks a relaxation of the existing eligibility criteria without demonstrating any compelling legal or technical basis for the same. The Petitioner has failed to substantiate the necessity or rationale for relaxing the eligibility conditions prescribed under the Detailed Procedure. The only assertion made by the Petitioner is that there are currently no entities eligible to be appointed as QCAs under the present framework, an allegation that remains wholly unsubstantiated in the petition. The burden of proof squarely lies on the Petitioner to demonstrate that no eligible entities exist under the current eligibility criteria. However, as discussed in the preceding paragraphs, this claim is demonstrably incorrect. **In fact, several entities have already been designated as QCAs in the State of Haryana following the order of this Hon'ble Commission dated 22.05.2025 (Annexure R-1)**, wherein the Commission also expressed its intent to widen participation and facilitate the appointment of QCAs in the State. Accordingly, it is evident that the Petitioner, who has no *locus standii* in the matter, is seeking to amend the duly approved regulatory framework purely from a commercial perspective, which is impermissible in law. Entertaining such a petition would not only undermine the sanctity of the regulatory process but also set an unhealthy precedent, enabling entities with no stake or standing to seek amendments to regulations that have been lawfully approved following due process. This would lead to regulatory uncertainty and confusion in a sector as critical as electricity, ultimately affecting the public at large. In view of the above, the relief sought by the Petitioner is misconceived and deserves to be rejected outright.

8. It is pertinent to note that the Detailed Procedure under challenge has been formulated by HVPNL, a State-owned transmission utility with substantial experience and technical expertise in the power sector. The said procedure has been duly approved by the Hon'ble Commission after due consideration and in accordance with law. In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court in ***B.R. Enterprises v. State of U.P.***, (1999) 9 SCC 700, wherein it was held:

"It is also well settled, first attempt should be made by the Courts to uphold the charged provisions and not to invalidate it merely because one of the possible interpretations leads to such a result, howsoever attractive it may be. Thus, where there are two possible interpretations, one invalidating the law and the another upholding, the latter should be adopted. For this, the courts have been endeavouring, sometimes to give restrictive or expansive meaning keeping in view the nature of legislation, may be beneficial, penal or fiscal etc. Cumulatively it is to subserve the object of the legislation. Old gold rule is of respecting the wisdom of

legislature that they are aware of the law and would never have intended for an invalid legislation. This also keeps courts within its track and checks individual zeal of going wayward.

(Emphasis Supplied)

In view of the above, and given the presumption of validity that attaches to statutory and regulatory instruments duly framed and approved by competent authorities, it is respectfully submitted that the Detailed Procedure cannot be lightly interfered with, particularly in the absence of any cogent or legally sustainable ground having been made out by the Petitioner to demonstrate that the said procedure is ultra vires or arbitrary. The Petitioner has failed to establish that the provisions under challenge suffer from any legal infirmity, and as such, the Hon'ble Commission ought not to consider amending the Detailed Procedure merely on the basis of unsubstantiated grievances apparently raised for commercial benefit.

9. That the relief sought by the Petitioner in challenging the validity of Clause 6(v) of the Detailed Procedure is misconceived and is denied. The Petitioner has failed to appreciate that Clause 6(v) has already been amended by this Hon'ble Commission vide order dated 22.05.2025 (Annexure R-1). In the said order, the Hon'ble Commission, after noting the limited number of entities qualifying as QCAs under the earlier criteria, substituted the clause with the following:

"The QCA shall have capability to handle multiple plant owners connected to a pooling station in order to be well positioned to de-pool deviation charges. The financial strength of the QCA shall be such that it shall be in a position to handle the risk of penalties due to deviation charges applicable to pool generator. Considering this, the net worth of the QCA shall be at least ₹1.50 Crores in the previous financial year (Net worth = Share Capital + Reserve - Revaluation Reserve - Intangible Asset - Misc. Expenditure to the extent not written off - Carried Forward Losses), which shall reflect from its audited accounts duly certified by a Chartered Accountant."

Accordingly, the grievance raised by the Petitioner with respect to Clause 6(v) stands addressed by the Hon'ble Commission itself through a reasoned and considered amendment. No further relief has been substantiated or articulated by the Petitioner with respect to this clause. Therefore, seeking to re-agitate an issue that has already been deliberated and resolved by the competent authority, without any fresh material or legal basis, is wholly untenable and does not warrant any interference by this Hon'ble Commission.

10. That in light of the mandate of the abovementioned legal position and the submissions made hereinabove, the present Petition filed by the Petitioner is liable to be dismissed being untenable and bereft of

any merit. The Respondent shall however, make para-wise response hereunder and prays that the same shall be considered in light of the foregoing submissions.

PARA-WISE REPLY:

1. That the contents of paragraphs 1 to 3 are matters of record and are subject to verification at this stage.
2. That the contents of paragraphs 4 to 8 are matters of record and, therefore, do not call for any specific response.
3. That the contents of paragraphs 9 to 12 are matters of record and do not warrant any response, as they merely reproduce the verbatim provisions of the Forecasting Regulations.
4. That the contents of paragraph 13 are matters of record, as they merely reproduce verbatim extracts from Clause 6 of the Detailed Procedure.
5. That the contents of paragraph 14 are wrong and denied. The Petitioner has failed to substantiate its allegation that the Respondent has misconstrued the essence of the Forecasting Regulations. Furthermore, the assertion made by the Petitioner that there is nil availability of QCAs meeting the eligibility criteria under the Detailed Procedure is wholly unsubstantiated and incorrect. It is further submitted that the Petitioner has consistently made vague and unsupported statements without elaborating upon them or placing on record any documents or evidence to substantiate the same. The statements made in this paragraph are baseless and have already been addressed in detail in the submissions made above.
6. That the contents of paragraph 15, as projected, are incorrect and hence, denied. The submissions made above adequately addresses the unsubstituted grievances raised in the instant Petition, which are not worthy of any consideration as the petition itself is untenable.
7. That the contents of paragraph 16 are wrong and denied, for the reasons detailed in the sub-paragraphs below:
 - i. That the contents of this sub-paragraph are wrong and denied. The assertion made by the Petitioner that a proprietorship firm should be made eligible to act as a QCA is wholly unsubstantiated. As with earlier submissions, the Petitioner has failed to provide any legal basis, supporting documentation, or authoritative source for the definitions or interpretations it relies upon. It has vaguely referred to the term “agency” and other legal structures without clarifying the context, source, or relevance of such references. The Petitioner has neither explained the legal distinction it seeks to draw between an “agency” and a “company,” nor substantiated why a proprietorship should be treated as eligible under the existing regulatory framework. Without prejudice to the foregoing, it is respectfully submitted that this issue has already been addressed in detail in the Preliminary Objections/ Submissions, made above which shall be read as integral part of instant response and is not being reiterated here for the sake of brevity.
 - ii. That the contents of this sub-paragraph are wrong and denied with respect to the assertions made by the Petitioner. The eligibility criteria

under the relevant clause require the QCA to possess fully functional forecasting and scheduling tools. However, the Petitioner has erroneously and arbitrarily interpreted this to mean that technical strength and financial strength are entirely distinct requirements and has suggested that the ideal structure to meet these requirements is a Joint Venture. It is submitted that this sub-paragraph does not deal with or prescribe any financial criteria for QCAs, and the reliance placed by the Petitioner to assert the need for a JV is misplaced and incorrect. Further, the Petitioner seeks relaxation of the criteria under Clause 6 of the Detailed Procedure without substantiating any valid reason for doing so. Such a unilateral attempt to amend the regulatory framework solely from a business standpoint, without considering the interests of all stakeholders, is misplaced and contrary to the spirit of the law. Other relevant criteria such as the perpetual continuity of the QCA, its continuous accountability, and the critical nature of its functions involving the public at large must also be given due consideration. Accordingly, the relief sought by the Petitioner in this regard is denied. The issue has already been addressed in detail in the Preliminary Objections/Submissions above, which may be read as an integral part of the present response and is not being reiterated here for the sake of brevity.

- iii. That the contents of this sub-paragraph are wrong and denied with respect to the assertions made by the Petitioner. The Petitioner has claimed that the Respondent has failed to recognize that a single entity may not be able to meet the eligibility criteria requiring experience in the field of wind and/or solar power forecasting and scheduling for a minimum of 50 MW capacity with at least one year of relevant experience and appropriate accuracy levels. However, the Petitioner has once again failed to substantiate this assertion or provide any basis for its claim that no single agency may be capable of fulfilling such eligibility. **This claim is denied as incorrect, as there are, in fact, several entities that meet the said eligibility criteria under the Detailed Procedure.** Accordingly, the Petitioner's plea to dilute the qualification norms to allow Joint Ventures or other forms of individual firms to qualify as QCAs is misconceived and unjustified. The issues raised herein have already been addressed in detail in the preceding paragraphs and are not being reiterated here for the sake of brevity.
- iv. That the contents of this sub-paragraph are wrong and denied with respect to the assertions made by the Petitioner. The Petitioner has no locus in the present matter, yet continues to make unsubstantiated statements regarding the eligibility requirement for a QCA to have prior experience in operating across different terrains and regions. The Petitioner has failed to demonstrate any legal or factual basis to justify the relaxation of these conditions and has once again asserted—without any supporting material—that a Joint Venture or an individual firm should be permitted to qualify as a QCA. The said contention is denied in toto. It is reiterated that the eligibility criteria have been framed in accordance with law and duly approved by the competent authority. An entity without locus and without substantiating any of its claims cannot be permitted to question a regulatory framework that has been lawfully enacted.

v. That the contents of this sub-paragraph are wrong and denied, as the Petitioner has failed to acknowledge that the relevant clause has already been substituted by the Hon'ble Commission vide its Order dated 22.05.2025. The said aspect has been discussed in detail in the preceding paragraphs and is not being reproduced here for the sake of brevity. Therefore, the Petitioner's issue seeking a change to this clause stands addressed. The assertions made in support are however, denied as frivolous and unsubstantiated.

8. That the contents of paragraph 17 are denied as being incorrect and misconceived. It is specifically denied that clauses (vi) to (ix) of Clause 6 of the Detailed Procedure act as impediments to the effective implementation of the Forecasting Regulations. The Petitioner has failed to substantiate its assertions in this regard. Further, any unilateral attempt to amend the regulatory framework solely from a business standpoint, without regard to the interests of all stakeholders, is unwarranted and contrary to the spirit and intent of the law. Pertinently, other critical criteria—such as the requirement of perpetual continuity of the QCA, its ongoing accountability, and the vital public interest involved in the discharge of its functions—must also be duly considered. In view thereof, the relief sought by the Petitioner in this regard is untenable and denied. The issues raised in this paragraph have already been dealt with in detail in the foregoing submissions and are not being reiterated here for the sake of brevity.

9. That the contents of paragraphs 18 and 19 are a matter of verification. The Petitioner has not placed on record any documents or material evidence to substantiate the claims made therein, and accordingly, the assertions are denied at this stage. A bare perusal of the said paragraphs does not establish or imply that the Petitioner has the requisite locus standi to maintain the present petition. It is respectfully submitted that permitting entities, who do not meet the prescribed eligibility criteria, to seek relaxations in the regulatory framework is contrary to the spirit of law. Allowing such ineligible entities to influence or amend regulatory provisions would severely undermine the certainty and sanctity of the law. It is imperative that any modification to the eligibility norms under the Detailed Procedure be based on a holistic consideration of all relevant factors, including the interests of all stakeholders, and not merely on unilateral business considerations. If the Petitioner intends to be registered as a QCA, it must endeavor to meet the eligibility requirements prescribed therein, rather than seeking exemption or dilution of the same.

10. That the contents of paragraphs 20, 21, and 22, relating to the jurisdiction of the present petition, are completely denied as being false and misconceived. The Petitioner has sought to rely upon Section 86 of the Electricity Act, 2003, as well as Regulations 18, 19, and 20 of the Haryana Electricity Regulatory Commission (Deviation Settlement Mechanism and Related Matters) Regulations, 2019, and Regulations 65 to 70 of the HERC (Conduct of Business) Regulations, 2019. However, the Petitioner has merely reproduced the verbatim text of the said provisions and has failed to substantiate how, or on what basis, these provisions confer jurisdiction to maintain the present petition. The issues raised in these paragraphs

have already been addressed in detail in the Preliminary Objections/ Submissions made above which shall be read as integral part of instant response and is not being reiterated here for the sake of brevity.

11. That the contents of paragraph 23, insofar as they pertain to facts which do not arise under or form part of the Electricity Act, 2003 or the Forecasting Regulations, are a matter of verification, as the Petitioner has not placed any material on record to substantiate the basis of such assertions. Moreover, the factual narration in the said paragraph merely refers to the general legal framework under the Forecasting Regulations and fails to disclose any specific facts relating to the Petitioner or demonstrate how or why the Petitioner seeks to invoke the jurisdiction of this Hon'ble Commission. Accordingly, the averments made are vague, incomplete, and do not present a comprehensive or accurate factual foundation for the present petition.
12. That the contents of paragraph 24 are wrong and denied. The Petitioner's reliance on the regulatory frameworks of other states to determine the eligibility criteria for appointment as a QCA is misconceived and untenable. As already detailed in the foregoing submissions, the regulatory frameworks adopted by other State Electricity Regulatory Commissions (SERCs) are not binding on the State of Haryana. Each SERC is independently empowered under the Electricity Act, 2003 to frame and notify conditions governing the injection of power into its State Grid, in accordance with the local requirements and regulatory considerations. The Petitioner has failed to demonstrate that the eligibility criteria for QCA registration, as approved by the Hon'ble Commission, are in any manner violative of the Electricity Act, 2003. Hence, the relief sought is devoid of merit. Furthermore, the Petitioner's claim that other states permit proprietorship firms to act as QCAs is factually incorrect. The regulatory frameworks of states such as Karnataka, Gujarat, Maharashtra, and Chhattisgarh do not anywhere provide that a proprietorship firm is eligible to act as a QCA. In fact, the framework in Maharashtra explicitly mandates that only a company incorporated under the Companies Act shall be eligible for such appointment. These aspects have already been addressed in detail above and are not reiterated here for the sake of brevity.
13. That the contents of paragraph 25 are wrong and denied. The Petitioner has failed to assert or substantiate how or why Clause 6 of the Detailed Procedure is alleged to be unjust, unreasonable, or otherwise flawed. No documents or material have been placed on record to support such claims. The contentions raised in this paragraph have already been addressed in detail in the Preliminary Objections/ Submissions, made above which shall be read as integral part of instant response and is not being reiterated here for the sake of brevity.
14. That the contents of paragraph 26 and 27 are denied to the extent that the Petitioner has failed to substantiate the specific legal provisions under which it seeks to maintain the present petition. Furthermore, the Petitioner has not established any locus standi to file the present petition. Accordingly, the petition is not maintainable and deserves to be dismissed at the threshold.

15. That the contents of paragraphs 28 and 29 are denied. Throughout the petition, the Petitioner has consistently failed to substantiate its claims by placing on record any supporting material, including judgments, statutory provisions, or documentary evidence. The bare allegation that Clause 6 of the Detailed Procedure is arbitrary, without any legal or factual foundation, is misconceived and denied in toto. Consequently, the said contentions are liable to be rejected outright. The Preliminary Objections/ Submissions, made above shall be read as integral part of instant response and is not being reiterated here for the sake of brevity.

Prayer clause is denied.

In view of the submissions made hereinabove, the present Petition being untenable and devoid of merit, is liable to be dismissed forthwith. It is therefore, most humbly prayed that the Hon'ble Commission be pleased to dismiss the present Petition with exemplary costs, in the interest of justice and fair play.

3. The case was heard on 27/08/2025, The petitioner Sh. Gaurav Saini submitted that their counsel Sh. Akshay Gupta is not available due to medical emergency, he further requested for some time to file the rejoinder to the reply filed by the respondent. Acceding to request of the petitioner, the Commission adjourns the matter and directs the petitioner to file rejoinder by 03.09.2025 with advance copy to the respondent

4. Rejoinder submitted by petitioner on 24/09/2025:

- 4.1 At the outset, it is submitted that unless hereinafter specifically admitted, each averment in the reply of the respondents shall be deemed to have been denied in its entirety as though herein specifically set forth and traversed. A bare perusal of the reply filed by the respondents makes it clear that the same is a misuse of the process of law and devoid of merits.
- 4.2 The Petitioner reserves the right to file additional evidence, including, but not limited to, additional documents and witnesses as well as expert opinion, should the same become inevitable at any stage of the proceedings and/or should such evidence arise from further submissions made by the respondents.
- 4.3 The petition primarily addresses the technical responsibilities a QCA must discharge as detailed in Regulation 5.6 of the Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019 (Regulation 44). A look at these functions of a QCA reveals that they are highly technical in nature and involve extensive IT tools and software based assessment of RE generation and its time-based transfer.

- 4.4 The requirement that a QCA must necessarily be a company registered under the Companies Act has not only restricted the scope of search for a competent QCA but has also unnecessarily excluded other technically competent entities simply because they have not been constituted as a company under the Companies Act.
- 4.5 The Petitioner is a proprietorship firm and has been active in the energy trading business since 2010 as a professional member of IEX. The Petitioner was granted an Inter-State Trading Licence by the Hon'ble Central Electricity Regulatory Commission (CERC) and has been engaged in power trading, including in Haryana, yet remains ineligible to be a QCA under the present Procedure. Over the past 15 years, the Petitioner has established a track record of performance, customer satisfaction, and sustained growth, with access to technical, managerial, and financial resources.
- 4.6 The Petitioner is adequately equipped and has domain expertise across power trading segments — marketing, scheduling, commercial, and operations supported by financial, legal, and administrative functions. The Petitioner has entered into a Memorandum of Understanding to form a joint venture with a German company to bring international expertise in forecasting and scheduling of renewables. If permitted under an amended procedure, such collaboration would enhance performance as a QCA and would serve grid safety and smooth integration of conventional and renewable power.
- 4.7 That before replying to the para-wise contents of the reply filed by the respondents, the petitioner herein would like to set out certain preliminary submissions and objections:

PRELIMINARY SUBMISSIONS AND OBJECTIONS AGAINST THE REPLY SUBMITTED BY THE RESPONDENT

- 4.8 A perusal of the reply filed by the respondents shows that most of their submissions are vague, baseless, and devoid of specific answers to the issues raised in the petition. The respondents have failed to address the substance of the dispute and have instead relied on repeated denials and inapposite legal technicalities.
- 4.9 The petition filed by the Petitioner is bona fide and made in the interest of justice. The defense taken by the respondents is without merit in fact or law. The grounds in the present petition and the prayer are essentially technical; yet the respondents have deliberately avoided answering the technical issues and have, instead, reiterated the same grounds repeatedly without critically analysing the petitioner's concerns.
- 4.10 The reply filed by the respondents does not adequately cover the issues and facts stated in the petition. Either the respondents have not understood the technical issues involved, or they have deliberately attempted to brush them aside by making unrelated legal submissions, thereby adding to confusion rather than resolving the dispute.

PARA WISE REJOINDER To THE REPLY FILED BY RESPONDENT
NO. 1 (HVPNL) DATED 29.07.2025 (Preliminary Submissions / Objections)

1. Para I Contents of this paragraph are incorrect, misleading, and hence denied. It is incorrect for the respondents to assert that the cited sections of the Electricity Act and the Regulations are not tenable. The references were made to place on record the Commission's powers to amend or relax existing provisions to promote RE generation and regulation.
2. Para 2 Contents of the para are incorrect, misleading and hence denied. The respondents in their reply have failed to understand that it is they who formulated the "Procedure" and placed before the hon'ble Commission for approval, the clause 6 of which regarding qualification of QCA has been questioned in the petition. It is reproduced as under: "HVPNL placed detailed Procedure in this regard before the hon'ble Commission and suggested the following Qualifying Requirement for selection / appointment of QCA. The hon'ble Commission approved the same as under:

Clause No. 6. Qualifying Requirement for QCA:

In case Of appointment of any mutually agreed agency other than the Generator(s), the pool generators shall consider following guiding principles for appointment of QCA. Adherence to these guiding principles for appointment of QCA would be in the interest of pool generators and would facilitate smooth implementation of F&S framework in the State. Further, the QCA shall be appointed with the approval of at least 51 % of the generators at the pooling substation in terms of combined installed capacity. Operational requirements-

6.1 The QCA shall be a company incorporated in India under the Companies Act, 1956/2013

It may be understood that the hon'ble Commission approved the "Procedure" under the powers conferred upon under section 181 of the Act, it became a part of the Regulation 44 of 2019. And therefore the reference before the hon'ble Commission has been rightly made under section 181.

3. Para 3 The contents of this paragraph are incorrect and misleading. It appears that the respondents have not properly understood Section 86 of the Act. The promotion of co-generation and generation of electricity from renewable sources necessarily includes the procedure for appointment of QCA, which is integral to power aggregation and the deviation settlement mechanism. Therefore, the reference to Section 86 is rightly made in the petition. The respondents, instead of providing a reasoned reply, have ventured into legal technicalities without addressing the essence of Section 86.
4. Para 4 Contents of the para are totally incorrect, misleading and hence denied. The respondents have mentioned in their reply that neither section 181 nor section 86 of the Act confers a right on a private party to seek modification of an already notified Regulation. The respondents have failed to appreciate two important issues here. One, that to seek any modification of an already notified Regulation, the Act does not differentiate between a private or a public party. The petitioner and the respondents are just two parties before the hon'ble Commission and the only power to amend the Regulation lies with the Commission. And

Two, that the petitioner has a legitimate right to appraise the hon'ble Commission about any discrepancy or any such provision which could restrict competition and the amendment of which would be in the benefit of all the stakeholders. Also, the petitioner nowhere in the petition has challenged the Regulation 44 of 2019. A simple reading of the petition would make it clear that the petitioner has just tried to raise an issue which would invite better competition and more competent people to become a part of the system. Therefore, the contention of respondents is misconceived and not in line with a healthy competition in RE sector

5. Para 5 The contents of this paragraph are incorrect, misleading, and hence denied. The respondents have referred to Regulation 43 of 2019 (which relates to non-wind/non-solar generation), whereas the Regulation governing wind and solar is Regulation 44 of 2019. Regulations 18, 19 and 20 of both regulations are identical in conferring the powers to amend, remove difficulties, and relax. It is therefore unclear why the respondents raise an objection to the petitioner citing the relevant powers of the Commission.
6. Para 6 Contents of the para are incorrect, misleading and hence denied. The matter has been answered in para "5" above. It is also clear to the petitioner that the Regulation which governs the matter in question is Regulation 44 of 2019 and not the Regulation 43 of 2019. Raising an objection in this regard by the respondents is irrelevant and misconceived
7. Para 7 Contents of the para are incorrect, misleading, misconceived and hence denied. Mentioning of relevant Regulations is only to say that the hon'ble Commission has all the powers to amend, to remove difficulties and to relax the existing provisions of Regulations, if need be. Here again, the respondents have questioned the right of the private party to seek modification or relaxation. The respondents have failed to appreciate two important issues herein, as also mentioned in para "4" above. One, that to seek any modification of an already notified Regulation, the Act does not differentiate between a private or a public party. The petitioner and the respondents are just two parties before the hon'ble Commission and the only power to amend the Regulation lies with the Commission. And Two, that the petitioner has every right to bring to the kind notice of the hon'ble Commission any discrepancy or any such provision which could restrict competition and the amendment of which would be in the benefit of all the stakeholders, including the respondents. Also, the petitioner nowhere in the petition has challenged the Regulation 44 of 2019. A simple reading of the petition makes it clear that the petitioner has just tried to raise an issue which would invite better competition and more competent people to become a part of the system. Therefore, the contention of respondents is misconceived and not in line with a healthy competition in RE sector
8. Para 8 Contents of the para are correct only to the extent that the "Procedure" was framed in furtherance of Regulation 44 of 2019 but is

incorrect, misleading and misconceived to say that the same cannot be modified at the instance of an individual petitioner. It is also incorrect to say that the petitioner has no locus-standi in the present matter. The respondent has rightly said that revision in the any provision(s) can be considered by the Commission in accordance with the framework laid down in the Forecasting Regulations themselves but it is not correct to contend that it cannot be done upon a unilateral request from a private party. By raising the question of "Private Party" again and again, the respondents have shown their inability to understand the importance of stakeholders, which include private parties as well. The respondents may appreciate that while raising objections to filing of petition by the private parties, they should understand that being a government owned power utility, it is their prime responsibility to act as eyes and ears of the hon'ble Commission. But if they do not discharge their due responsibility as state utility and if they continue to oppose any modification proposed by a private party, then how the things would get corrected is not understood.

9. Para 9 Respondents here have cited a judgment of the hon'ble Supreme Court in M/S Shankar Finance & Investments v. State of Andhra Pradesh, 2008 SCC Online SC 997.

"As contrasted from a company incorporated under the Companies Act, 1956 which is a legal entity distinct from its shareholders, a proprietary concern is not a legal entity distinct from its proprietor. A proprietary concern is nothing but an individual trading under a trade name. In civil law where an individual carries on business in a name or style other than his own name, he cannot sue in the trading name but must sue in his own name, though others can sue him in the trading name. "

(EMPHASIS SUPPLIED)

The respondent has misinterpreted, misplaced and misconceived the above cited judgment. In fact, the above judgement clarified that a proprietorship is not distinct from proprietor but is a recognized legal entity for litigation/ business. Before citing this judgment, the respondents should have understood the context in which the above said judgment had been pronounced by the hon'ble Apex Court. The judgment here does not say that a Proprietorship firm is not a legal entity but it only says that "it is not a legal entity distinct from its Proprietor". Also that when he has to sue someone, he has to sue in his own name, though other can sue him in the trading name.

The respondents have probably misunderstood the judgment and that is why they have questioned the legal identity of a proprietorship firm. It is a bare misconception on their part that Proprietorship is not recognized as a distinct legal entity whereas the above cited judgment clearly says that it is also a distinct legal entity but it is not distinct from its proprietor. Therefore, the contention of the respondents in the para is liable to be dismissed on grounds of misconception of the referred judgment.

The petitioner reliance upon the judgment passed by Rajasthan Electricity Regulatory Commission, Jaipur, (Petition No. RERC1382/18, 1406/18, 1431/18, 1495/19, 1511/19 and

1531/19.). In the matter of Petitions and representations filed pursuant to the order dated 29.05.2019 of the Hon'ble Rajasthan High Court, Jodhpur Bench in the matter of DBCWP No(s) 18587/2018,3662/2018 and 2623/2018. And Petitions filed Under Section 86 (1), (c), (e), (f) and (h) of the Electricity Act 2003 for adjudication of disputes regarding the RERC (Forecasting, Scheduling, Deviation Settlement and related matters of Solar and Wind Generation Sources) Regulations, 2017. And Regulation 24 and 25 of the RERC (Forecasting, Scheduling, Deviation Settlement and related matters of Solar and Wind Generation Sources) Regulations, 2017.

The paraphrased extract from the RERC Final Order on Forecasting & Scheduling for RE Generators, 27.09.2019 relating to Qualifying Coordinating Agency (QCA) eligibility:

- Some stakeholders suggested that only companies or registered entities should be permitted to act as QCAs.
- The Commission observed that the primary, consideration is not the form of business (company, partnership: or proprietorship) but whether the entity has the necessary technical and financial capability to discharge the duties of a QCA (forecasting, scheduling, deviation settlement, de-pooling of payments, etc.).
- Accordingly the Commission clarified that a sole proprietorship concern or a partnership firm with adequate expertise and resources can also be registered and permitted to function as a QCA.
- The order emphasized that such flexibility would encourage wider participation and would not restrict the QCA function to only companies under the Companies Act.

In simple terms: RERC held that a proprietorship firm can qualify as a QCA under the Deviation Settlement Mechanism, provided it demonstrates competence and resources.

10. Para 10 Contents of the para are totally incorrect, baseless, misconceived and hence denied. The respondents have not understood the reason for the petitioner to file the petition. Nowhere in the petition, the petitioner has challenged the Regulation. The petition has been filed only to apprise the hon'ble Commission that if the Proprietorship firms are also made eligible and are allowed to participate in the bids to qualify as QCA, all other terms and conditions of the Regulations remaining same, it would invite a better competition and the expertise available in the market, in the absence of which the best of competency levels would be left out just because they did not have enough resources to form and register a company under the Companies Act.
11. Para 11 Contents of the para are incorrect, misconceived and hence denied. The respondents by saying in their reply that "appointment and functioning of QCA is a critical component of the regulatory mechanism and directly affects the operational reliability of the grid" have themselves answered the contention raised by the petitioner. The role of QCA being of so much important and relevancy, should be open to invite best of the talent in the country and should not make them to sit at the fence just because they could not form a company under the Companies Act. What would the respondents gain out of a QCA as

a company and what would they lose in case a Proprietorship firm becomes a QCA, is not understood. The respondents in their whole reply have not explained even once as to what harm they would suffer if a proprietorship firm is made eligible for appointment as QCA. Also, as to what would they lose legally if a proprietorship firm is appointed as QCA, has also not been explained by them. Their contention that a proprietorship firm is not a legal entity has been proved wrong by their own citing of Apex court judgment in para "9" above where the judgment clearly says that it is a legal entity

12. Para 12 Contents of the para are incorrect, misconceived, misinterpreted and hence denied. The respondents in their reply have contradicted their own submission. On one hand, they have denied that the qualification criteria under clause 6 are impractical or impossible to meet but on the other hand, they themselves have admitted that many entities aspiring to be appointed as QCA were unable to qualify under "Detailed Procedure" due to the stipulation contained in clause 6(v) which required QCAs to have a minimum net worth of Rs. 1.5 crores in the previous financial year. They have also mentioned that the said formula prescribed for computation of net worth under the said clause has been revised by the hon'ble Commission in its order dated 22.05.2025 passed in case no. HERC/P No. 20 of 2025. The respondents have also stated in the reply that the above revision was undertaken with the express objective of widening eligibility and enabling more entities to qualify as QCA. By admitting the above facts in their reply, the respondents' own contentions in all the above paras have been proved wrong, misleading and misconceived because the "Procedure" had to be modified to revise the computation formula on the application filed by private parties and to encourage more parties to qualify for QCA. Then on what grounds the respondents are opposing the present petition is not understood despite the fact the plea to allow proprietorship firm to qualify as QCA is also with an express objective of widening eligibility and enabling more entities to qualify as QCA. In light of the above facts, the respondents have no locus standi to oppose the inclusion of proprietorship firm as QCA.
13. Para 13 Contents of para are incorrect, misleading, misconceived and hence denied. Again here, the respondents have said that petitioner has no locus-standi to seek any modification because the Detailed Procedure has been approved by the hon'ble commission. While saying so, they have again forgot to see what they themselves have said in their reply to para no. "12". In a way, the respondents have tried to justify a modification if it is recommended by them but it is not acceptable to them if the modification has been suggested by the petitioner or any private party for that matter. Laws have always been subject to scrutiny and necessary amendments have been made even in the Constitution of India also to bring in new concepts, new technology, new thoughts and new energy. It is also wrong on the part of the respondents to say that petitioner has failed to disclose or substantiate any legal grounds for maintaining the present petition.

The petitioner has neither challenged the existing provisions nor have an intention to do that. The only prayer which has been made in the petition is that the inclusion of proprietorship firm would enhance the competition and would invite a more competent person to do the job at a cheaper cost.

14. Para 14 Contents of the para are totally wrong, misplaced, misconceived and hence denied. The petitioner has not said anywhere in the petition that regulations of other states is binding on the hon'ble Haryana Commission. Also, the petitioner has not contended in the petition that the eligibility criteria for QCA registration is in violation of the provisions of the Electricity Act 2003. Also, the petitioner has not prayed for any deletion in the approved provisions but has only prayed for some addition and for the inclusion of proprietorship firm for qualification s QCA. The reply of the respondents itself is devoid of any merit
15. Para 15 Contents of the para are irrelevant, misplaced and misconceived. The respondents in their reply have only explained as to what is an artificial juridical person. The petitioner also understands that an artificial juridical person (AJP) is a non-human entity that the law recognizes as a legal person, capable of having its own rights, duties, and liabilities. Unlike a natural person (a human being), an AJP is an artificial creation of law that can own property, enter into contracts, sue, and be sued. But the prayer made in the petition is not to include an artificial juridical person but the petition only suggests and prays that a proprietorship firm should also be included in the qualifying criteria for appointment as QCA. That a proprietorship firm is not distinct from its proprietor is well understood but there are thousands and thousands of proprietorship firms which are functional in the country and are doing the business legally and complying with the provisions of law and have been discharging their respective liabilities successfully. In addition to the above submission, relevant clause of the Regulation 44 of 2019 is reproduced as under for ready reference:

6. *Principles Of appointment of QCA*
 - 6.1 *The Generators at a Pooling Sub-Station may appoint one amongst themselves or any other entity as a QCA*
 - 6.2 *The QCA shall be appointed with the approval of at least 51% of the Generators at a Pooling Sub-Station, in terms of their combined installed capacity*
 - 6.3 *The Generators shall satisfy themselves that the QCA is technically and financially competent to undertake on their behalf the functions and discharge the obligations specified in these Regulations*

The above regulation casts the complete responsibility of appointment of QCA upon the generators themselves and it has been left to them only to ensure their qualification and competency. The respondents have no legal agreement or binding with the QCA whatsoever and the liability, if any, shall lie upon the generators. Therefore, if the generators find more competent persons in the shape of proprietorship

firms and at a much cheaper price, the liability in case of default or discrepancy would be liable to be paid by the generators and not the QCA. Therefore, all the technical and financial qualifications remaining the same, a proprietorship firm can work with the same efficiency at a much cheaper cost.

16. Para 16 Contents of the para are a matter of record. Contention of the respondents that proprietorship firm is nowhere recognized as a legal entity is absolutely wrong and misconceived. It is a legal entity indeed but not distinct from its proprietor. It has unlimited liability of the proprietor unlike the private limited or limited companies registered under the Companies Act. It can sue or be sued in the name of its proprietor.
17. Para 17 Contents of the para are a matter of record and required no reply.
18. Para 18 Contents of the para are incorrect, misconceived, misinterpreted and hence denied. Contention of the respondents in assuming that proprietorship firm means the working by only one individual and that in case of his death or incapacitation, its functions would close posing threat to grid security is totally misplaced and is out of ignorance on the part of respondents. Proprietorship firms can also have big teams and experts who perform the functions. Therefore, to say that proprietorship firm would not provide the desired level of service is not correct. Moreover, the Regulations cast the complete responsibility of appointment of QCA and the functioning thereof upon the generators themselves. Agreement for any kind of liability is between the Generators and the QCA and the respondents shall not bear or share any loss incurred due to wrong assessment of weather or in case of any other default. The respondents have no legal agreement with the QCA whatsoever and the liability, if any, shall lie upon the generators only. Therefore, if the generators find more competent persons in the shape of proprietorship firms and at a much cheaper price and all the liability remaining with the generators only, the respondents should have no reason to oppose the eligibility of a proprietorship firm also for appointment as QCA. As such, all the technical and financial qualifications remaining the same, a proprietorship firm should also be eligible for appointment as QCA and it should be left to the generators to choose among the QCAs cleared by the respondents.
19. Para 19 Contents of the para are reference to a judgment and therefore, cannot be commented upon.
20. Para 20 Contents of the para are wrong, misconceived and hence denied. The discharge of liability in case of demise of the proprietor, which the respondents have pointed out in their reply, is anyway between the generator and the QCA and is not with the respondents. Therefore, it should be left to the generators to see whether they wish to appoint a proprietorship firm or not. The only contention of the present petition is to widen the scope of qualifying criteria and to invite better and competent entities or persons to do the job

21. Para 21 Contents of the para are wrong, misconceived and hence denied. As already explained in the above para, discharge of liability in case of demise of the proprietor, which the respondents have pointed out in their reply, is anyway between the generator and the QCA and is not with the respondents. Therefore, it should be left to the generators to see whether they wish to appoint a proprietorship firm or not. The only contention of the present petition is to widen the scope of qualifying criteria and to invite better and competent entities or persons to do the job
22. Para 22 Contents of the para are wrong, misconceived and hence denied. The reference of court's decision, which the respondents have made in their reply, is about "*unincorporated Joint Venture*". *The respondents have failed to see in the same judgment they have referred to that "that upon the withdrawal of a partner from an unincorporated Joint Venture, the Joint Venture stands dissolved..... It must be remembered that the company incorporated in the nature of Joint Venture may not lose its juristic personality*". Therefore, it should be left to the generators to choose from whether they wish to appoint any unincorporated or incorporated Joint Venture or not. It is again reiterated here that the petitioner does not intend to question any provision of the Regulation but it simply intends to appraise the hon'ble Commission that widening the qualifying criteria by including proprietorship firms also would only help in having a better choice and better competency levels in the market
23. Para 23 Contents of the para are totally baseless, wrong, misleading and hence denied. It is wrong to say that the petition has been filed solely to enter into the new business. As already elaborated in the petition, the present petitioner "Saini Power" is a Proprietary Firm and has been working in energy trading business since 2010 as a professional member of IEX and was granted an Inter State Trading Licensee by the Hon'ble Central Electricity Regulatory Commission (CERC) and has been engaged in the business of power trading including in Haryana but still, it does not qualify to be a QCA according to the present "Procedure". The petitioner has emerged in the last 15 years as a pioneer in shaping a vibrant trading market with a track record of performance, customer satisfaction and sustained growth with access to Technical, Managerial and Financial Resources. The petitioner is adequately equipped and has domain expertise in all the segments of Power Trading whether it be Marketing, Scheduling, Commercial or Operations, supported by Financial, Legal and Administrative functions. Therefore, it is wrong on the part of the respondents to say that the petitioner is new to the business. It is also wrong on the part of the respondents to say that any amendment in the present regulations would lead to regulatory uncertainty and confusion in a sector as critical as electricity, ultimately affecting the public at large. This is despite that fact that they have themselves mentioned in the reply that the hon'ble Commission has very recently amended the regulation vide its order dated 22.05.2025.

24. Para 24 Contents of the para are factually wrong, misleading and misconceived and hence denied. The petitioner has already urged in the petition that the respondents, being a government entity, must work as eyes and ears of the hon'ble Commission and should submit well reasoned replies instead of just opposing to what has been submitted by the petitioner. The court judgment, which the respondents have referred to in their reply is not relevant in the present case. The petitioner has not prayed for any deletion of any of the existing provisions of the regulation. The petitioner has only put forth a sincere prayer that in addition to the existing framework of regulations, proprietorship firm should also be made eligible to for appointment as QCA. The petitioner has not prayed for relaxation in any of the technical or financial qualifying criteria. Therefore, the judgment which the respondents have referred to has no relevance in the present petition. Also, there is no unsubstantiated grievance of the petitioner, as alleged by the respondents in their reply. The only prayer made is to widen the scope of qualifying requirements

25. Contents of the para are factually wrong, misleading and misconceived and hence denied. On one hand the respondents have said that the petitioner has challenged the validity of clause 6(v) of the detailed procedure. The petitioner agrees that the provision under clause 6(v) have been amended by the hon'ble Commission but it was after the filing of the present petition. Therefore, there is nothing to add in this regard. The respondents have failed to notice that prayer in the petition relates to only an amendment in clause 6(i) to the extent that proprietorship firm is also made eligible so as to qualify for appointment as QCA

26. Contents of the para are factually wrong, misleading and misconceived and hence denied. The petition is bonafide and has neither prayed for any deletion nor any alteration in the existing provisions of the regulation, Also, the petitioner has nowhere prayed for any relaxation / amendment in the existing technical and / or financial criteria. Therefore, to say that the petition is not tenable is not correct. The prayer made in the petition, if allowed, would make the competition more fruitful and congenial.

PARA WISE REJOINDER AGAINST THE REPLY SUBMITTED BY THE HVPNL (RESPONDENT)

1. Para nos. I to 3. Matter of record. Nothing has been commented upon
2. Para nos. 4 to 8. Matter of record. Nothing has been commented upon
3. Para nos. 9 to 12. Matter of record. Nothing has been commented upon
4. Para no. 13. Matter of record. Nothing has been commented upon
5. Para no 14 Contents of the para are baseless, wrong, misconceived and hence denied. It is true that before the order dated 22.05.2025, there was not even one firm, who could qualify as QCA. It is only after the above said order that some firms have qualified as QCA. In fact, reply of the respondents is itself a testimony of the petitioner's submission that the law is dynamic and every amendment adds to a new value and a fair establishment in the society. In light of the above

facts, the respondents have no locus-standi to oppose the prayer made in the petition

6. The reply of respondents to para no. 15 of the petition is not specific and therefore nothing can be commented upon except that the petition is bonafide and has prayed for only to widen the competition and to invite real technical competence in search for QCA
7. Contents of reply to para 16 of the petition are totally baseless, wrong, misleading and hence denied. All the contents of the reply of respondents have already been dealt at length in the above paras and are not being repeated here for the sake of brevity
8. Contents of reply of para 17 of the petition are wrong and misleading. The exhaustive replies have been given above and in the petition and need not be repeated for the sake of brevity
9. Contents of reply to para nos. 18 & 19 of the petition are a matter of record. Therefore, nothing to comment upon
10. Contents of reply to para no. 20, 21 & 22 of the petition are misplaced, misconceived and hence denied. The matter of jurisdiction and applicability of regulations has been explained above in the reply and there is no need to repeat the same contentions again
11. Contents of reply to para 23 of the petition do not have any specific things to say and therefore need not be commented upon
12. Contents of reply to para no. 24 of the petition have been adequately dealt with above in this rejoinder and need to be repeated here again
13. Contents of reply to para no. 25 of the petition have been adequately dealt with above in this rejoinder and need to be repeated here again. However, it is pertinent to mention that the petition does not pray for any deletion in the existing regulations but it only suggests that allowing proprietorship firm would only enhance the availability of competent QCAs as competitive costs
14. Contents of reply to para no. 26 to 27 of the petition are not specific and therefore, cannot be commented upon. It is wrong and misleading on the part of respondents to say that petition is not maintainable. The petitioner has prayed for a fair and just amendment to the extent that allowing proprietorship firm and incorporated joint ventures would add to the fairness of the competition
15. Contents of reply to para no. 28 of the petition are wrong and misleading. The petitioner has nowhere challenged the authenticity of the regulation. Instead, it has only prayed for making the qualifying base wider and flexible to attract more and more competent talent in the field of IT and AI.
16. The petitioner's reliance upon the Precedents Supporting Inclusion of Proprietorship Firms as QCA
 - i. Rajasthan Electricity Regulatory Commission — Final Order dated 27.09.2019
In Petitions No. RERC-1382/ 18, 1406/18, 1431/ 18, 1495/ 19, 1511/19 and 1531/ 19 pursuant to Rajasthan High Court directions, the Hon'ble RERC categorically held:
 - a. The form of business (company, partnership, or proprietorship) is immaterial.

- b. The decisive factor is technical and financial competence to discharge the obligations of a QCA.
- c. Sole proprietorships and partnerships, if adequately resourced, may be registered as QCAs.

Thus, the proposition that only Companies Act entities can function as QCA was expressly rejected by RERC.

- ii. Supreme Court — Shankar Finance & Investments v. State of Andhra Pradesh, (2008) 8 SCC 536

- The Apex Court held:

- A proprietorship is not distinct from its proprietor, but it is a recognized entity for doing business.
- Others can sue it in the trade name; procedural law does not bar its recognition.

HVPN's reliance on this judgment is misplaced; it does not bar proprietorships from being recognized, but only clarifies their procedural identity.

- iii. Supreme Court — Indian Medical Association v. V.P. Shantha, (1995) 6 scc 651

The Court adopted a broad interpretation of "person" under welfare legislation.

The term "Agency" in HERC Regulations should likewise be interpreted widely to include sole proprietorships, not restrictively to Companies Act entities.

- 17. The petitioner placed the reliance upon the Precedents on Regulatory Flexibility

- i. Appellate Tribunal for Electricity (APTEL) - MSEDCL v. MERCI & Ors., Appeal No. 246 of 2016
 - Held that State Commissions must exercise their "power to relax" in deserving cases to prevent injustice and promote wider participation.
 - HERC has ample jurisdiction under Regulations 18, 19, 20 (DSM Regulations) and 65—67 (Conduct of Business) to relax the procedure for larger public interest.

- ii. Supreme Court — Reliance Energy Ltd. v. MSRDC Ltd., (2007) 8 scc 1
 - Recognized the principle of a "level playing field" in competitive frameworks.
 - Excluding proprietorships from QCA eligibility violates this principle and discourages competition.

- iii. Supreme Court — State of Tamil Nadu v. K. Shyam Sunder, (2011) 8 scc 737
 - The Court emphasized that public interest and efficiency must guide regulatory interpretation.
 - Permitting technically competent proprietorships as QCAs would serve public interest by ensuring grid security, competition, and cost efficiency.

18. The petitioner submitted that the insistence that QCA must be a "company" is arbitrary and restrictive, having no nexus with the technical functions of QCA.
19. The Proprietorships and partnerships with adequate competence can discharge QCA functions effectively and excluding them amounts to an artificial barrier to entry, contrary to the Electricity Act's objective of promoting renewable energy and competition.
20. The Hon'ble Commission, in exercise of its power to relax and remove difficulties, may permit proprietorships like the Petitioner to be considered for QCA registration, subject to safeguards such as performance security, technical capability certification, and continuity provisions.

It is evident from the replies submitted by the respondents, as also explained above, the respondent despite being highly technical departments, have not dealt with issues with an open mind and have not played their true role as a guide to the hon'ble Commission in order to resolve the technical issues and hindrances which are coming in the way of finding more firms and individuals as PCAs. On the specific issue of QCA, the respondents have only emphasized that because the Regulations mandate it to be a company registered under Companies Act, it would be detrimental to amend the regulation. The respondents actually should have given their free and fair opinions irrespective of the outcome of the present petition or numerous other such petitions decided in the past. The discussion and arguments could have been much healthier had the respondents not adopted an adamant and punitive attitude.

PRAYER

In light of the above judicial and regulatory precedents, it is most humbly prayed that this Hon'ble Commission be pleased to:

- i) Exercise its powers under the HERC (Deviation Settlement Mechanism and related matters) Regulations, 2019 to amend / relax the provision of Clause "6" of the Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation, for the petitioner, with respect to eligibility / qualifying requirement
 - a) by allowing Proprietary firms also to qualify for appointment as QCA.
 - b) by allowing Joint Ventures between two or more firms where qualification of each of the JV partner would add up to meet the qualifying requirements as a whole
 - c) to correct the formula for arriving at the Net Worth and
- ii) Pass any other order/ direction as the Commission may deem fit in the interest of justice

5. The case was heard on 26/09/2025, The counsel for petitioner submitted that the rejoinder to the reply filed by the respondent has been filed. Ms. Sonia Madan counsel for the respondent submitted that the copy of the rejoinder has been received yesterday only and requested for some time to

file the replication. Acceding to request of the respondent, the Commission adjourns the matter and directs the respondent to file its replication by 27.10.2025 with advance copy to the petitioner.

6. The case was heard on 17/12/2025, Sh. Akshay Gupta counsel for petitioner submitted that the petitioner has challenged the qualification criteria of the QCA only and requested to allow proprietorship firms and joint ventures also in addition to Companies registered under Companies act only. Due to strict qualifying criteria no QCA has been registered till date.

Sh. Lovepreet Singh contested that the Companies have perpetual liability whereas in case of proprietorship firm or LLP the succession to liability is not present. He further submitted that 2 nos. QCAs have been registered. The counsel requested to allow him to submit written submissions in the matter.

The Commission observes that the limited no. of registered QCAs indicate stringent qualifying criteria resulting in lack of competition. The data submitted by the petitioner reveals that the other states don't have such stringent qualifying criteria.

The Commission reserves the order and acceding to request of the respondent allows both the parties to submit written submissions within two (2) weeks.

Commission's Order:

1. The Commission Considered the pleadings, averments in the reply and the material placed on record, and observes that the Forecasting, Scheduling and Deviation Settlement framework was introduced under the HERC (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019 with the primary object of maintaining grid discipline, reliability and security, in consonance with Sections 32 and 86 of the Electricity Act, 2003. The role of the Qualified Coordinating Agency is central to this framework, acting as an intermediary between generators and the State Load Dispatch Centre for

forecasting, scheduling, data communication and settlement of deviation charges.

2. At the same time, the factual position emerging from the pleadings indicates that, for a considerable period after notification of the Regulations on 29.04.2019 and approval of the Detailed Procedure on 08.03.2021, the appointment of QCAs in the State of Haryana remained extremely limited. The petitioner has specifically pleaded that the qualifying requirements under Clause 6 of detailed procedure, particularly the incorporation of companies under the Companies Act, 1956/2013 has acted as a barrier to entry and have restricted competition.
3. The comparative regulatory position placed on record shows that several other State Commissions, while pursuing identical statutory objectives under the Electricity Act, 2003, have adopted broader eligibility formulations permitting firms, associations of persons or entities other than companies to act as QCAs, subject to satisfaction of technical and financial criteria. These examples, though not binding, are relevant indicators that regulatory objectives of grid security and market efficiency can coexist with a more inclusive eligibility framework.
4. The respondent's objection regarding locus standi and maintainability has been carefully considered. It is correct that the appointment of a QCA is undertaken by pool generators and that the petitioner is not itself a generator. However, the petitioner has approached the Commission not as an existing appointee but as an affected stakeholder seeking relaxation of a regulatory condition that governs entry into a regulated activity under the Commission's jurisdiction. In regulatory jurisprudence, particularly under the Electricity Act, 2003, the Commission is not confined to adjudicating bilateral disputes but is also empowered to examine systemic issues affecting implementation of regulations and development of competition. Sections 86(1)(e) and 86(1)(k) of the Act, read with the power to relax and remove difficulties provided under the regulatory framework, enable the Commission to take a pragmatic view where strict application of a procedure impedes the achievement of regulatory objectives.

5. The legal position cited by the respondent regarding the juristic status of proprietorship concerns is well settled, and it is accepted that a proprietorship does not have a separate legal personality distinct from its proprietor. However, the question before the Commission is not one of civil liability or enforcement of private contracts, but of regulatory eligibility. The Forecasting Regulations themselves use the expression “agency” and do not expressly restrict eligibility to companies alone. The Detailed Procedure, being subordinate to the Regulations, must be interpreted and applied in a manner that furthers the objectives of the parent Regulations rather than narrowing them unduly. Adequate safeguards for continuity, accountability and financial security can be ensured through conditions such as registration requirements, performance guarantees, bank guarantees and clear allocation of responsibility, even where the agency is not incorporated as a company.
6. It is also relevant that the petitioner has placed on record its long-standing engagement in the power sector since 2010, its inter-State trading licence granted by CERC, and its stated intent to associate with experienced entities through structured arrangements to meet technical requirements. These assertions have not been controverted on factual grounds. The apprehension expressed by the respondent that allowing wider participation would compromise grid security is noted, but such risk can be mitigated through stringent operational conditions, monitoring by SLDC, and enforcement of penalties under the Regulations, rather than by excluding entire categories of otherwise competent entities at the threshold.
7. In the considered view of the Commission, fostering effective competition in ancillary and coordinating services like QCA functions is consistent with the overall scheme of the Electricity Act, 2003, which aims at promoting competition, efficiency and development of the electricity market while safeguarding consumer interest. A regulatory framework that is overly restrictive in terms of legal form, without demonstrable necessity, may inadvertently suppress innovation and capacity building

in a developing segment such as renewable energy forecasting and scheduling.

8. Upon perusal of the records available and averments made by the parties, the Commission observes that, in order to promote competition, widen the pool of eligible agencies, and ensure effective implementation of the Forecasting Regulations, it is appropriate to allow the request in principle. Clause 6 of the Detailed Procedure warrants suitable amendment and relaxation to permit participation of agencies other than companies, including proprietorships and joint ventures, subject to fulfillment of prescribed technical competence, financial strength, performance security and continuity obligations. Such relaxation shall not dilute the substantive requirements relating to forecasting accuracy, real-time data availability, settlement capability and accountability towards SLDC and generators.

9. Therefore, the Commission in exercise of inherent power to amend, to remove difficulty and to relax the regulations/procedures, decides that the clause No. 6(i) of Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation clause shall be substituted as under:

“Clause No. 6. Qualifying Requirement for QCA:

.....Operational requirements-

i *The QCA shall be a company incorporated in India under the Companies Act, 1956/2013 or any firm, Limited Liability Partnership (LLP), person or association of persons.”*

10. The petition is disposed of in above terms.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 16/01/2026.

	Sd/-	Sd/-	Sd/-
Date: 16/01/2026	(Shiv Kumar)	(Mukesh Garg)	(Nand Lal Sharma)
Place: Panchkula	Member	Member	Chairman