

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

Case No. HERC/P. No. 11 of 2025

Date of Hearing : 10/12/2025

Date of Order : 16/01/2026

IN THE MATTER OF:

Petition filed for removal of difficulties under:

- 1. Section 181 of the Electricity Act 2003 for Removal of Difficulties**
- 2. Provisions 16 & 17 of the Haryana Electricity Supply Code 2014 and its subsequent Amendments**
- 3. Provisions 9, 10 & 11 of the Duty to Supply Electricity Regulations.**

Petitioner:

RPS Infrastructure. Ltd., Sector 27-c, Faridabad through authorised representative Mr. B.K. Singh.

Versus

Respondents:

1. Dakshin Haryana Bijli Vitran Nigam Through its officers
2. The Director / Operation, Vidyut Nagar, Hisar
3. The Chief Engineer / Commercial, Vidyut Nagar, Hisar
4. The Chief Engineer / Operation, Delhi Zone, Delhi
5. The Superintending Engineer / Operation Circle, Faridabad
6. Executive Engineer / Operation, Old Faridabad Division, DHBVN, Faridabad
7. Sub Divisional Officer / Operation, Mathura Road Sub-Division, DHBVN, Faridabad

Present

On behalf of the Petitioner

1. Sh. Sanjeev Chopra, Authorised Representative
2. Sh. Parth Aneja, Advocate

On behalf of the Respondent

1. Sh. Lovepreet Singh, Advocate
2. Sh. Naresh Kumar, SDO, DHBVN

QUORUM

**Shri Nand Lal Sharma, Chairman
Shri Mukesh Garg, Member
Shri Shiv Kumar, Member**

ORDER

1. Petition:

- 1.1 That the present petition is being filed before this Hon'ble Commission under Section 181 of the Electricity Act 2003 for removal of difficulties which the petitioner and many more such consumers / applicants are facing in getting the regular electricity connections, or even the partial load from the distribution licensee DHBVN especially in the areas developed by the developers / builders in the state of Haryana on account of arbitrary application of certain provisions of the Electricity Supply Code, Duty to Supply Regulations, and the Load Norms circulated by the licensee Respondent and the Respondent's method of arriving at the ultimate load from kilo Watt (kW) to kilo Volt Amperes (kVA).
- 1.2 That the present petition though lists out the difficulties faced by the petitioner in the instant case. It is submitted that the resolution of said difficulties by the Hon'ble Commission would not only help him in getting a regular electricity connection for his developed IT Park in Faridabad but also the removal of difficulties would benefit many more such consumers / applicants and the decision of the Hon'ble Commission would eventually turn out to be in larger public interest.
- 1.3 That to put up the instant case of the petitioner, it is submitted that a license was issued by the Director, Town & Country Planning Haryana vide Scheme no. LC-1555A and License No. 19 of 2010 dated 10.03.2010 to M/S Gandhar Exports Ltd. and M/S Shivalik Global Ltd. in collaboration with M/S RPS Infrastructure. Ltd. (the Petitioner herein) for setting up of an IT Park at village Sarai Khwaja in Sector 27C, Faridabad over an area measuring 7.587 acres which stands renewed till 09.03.2029 vide Memo No.LC-1555-je(MK)-2024/11697 dated 09.04.2024.
- 1.4 That the sole electricity distribution licensee of the area is Dakshin Haryana Bijli Vitran Nigam (DHBVN) (Respondent No. 1 herein) having its head office at Vidyut Nagar, Hisar (Haryana)
- 1.5 That to start the work of construction of buildings and other infrastructure at site, a 200 kVA temporary connection was obtained in 01.02.2022 from the office of SDO Operation, Mathura Road Subdivision (respondent no. 7) of the licensee
- 1.6 That the said IT Park project has now been properly developed as per the approved scheme and has been ready for occupation for quite some time now. But due to non-release of a regular electricity connection by the distribution licensee so far, only partial occupation has been possible and the electricity for use is presently being met through Diesel Generating Sets running round the clock
- 1.7 That the regular permanent electricity connection at single point has been applied under "Single Point Regulations of 2020" circulated by the licensee vide Sales Circular No. D-17/2020
- 1.8 That this Hon'ble State Commission has the power to make and amend regulations under Section 181 of the Electricity Act. Section 50 provides for the function of the Hon'ble State Commission to specify

or enforce the Supply Code for Distribution Licensees. In this regard the reliance is being placed on the following provisions:

1.9 Section 50 of the Electricity Act, 2003 provides for enactment of the Supply code, which reads as under:

“Section 50 - *The Electricity Supply Code*
The State Commission shall specify an electricity supply code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply of electricity for non-payment thereof, restoration of supply of electricity; measures for preventing tampering, distress or damage to electrical plant, or electrical line or meter, entry of distribution licensee or any person acting on his behalf for disconnecting supply and removing the meter; entry for replacing, altering or maintaining electric lines or electrical plants or meter and such other matters”

1.10 Section 181 (2) (x) of the Electricity Act, 2003 provides for the power of the State Commission to enact the Supply Code:-

“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.*

(2) *In particular and without prejudice to the generality of the power contained in sub-section (1), such regulations may provide for all or any of the following matters, namely:*

...

(x) *electricity supply code under section 50*

...”

1.11 Regulation 16 and 17 of the HERC Supply Code provides for the power of the Hon’ble State Commission to remove difficulties and to amend / alter the provision of the HERC Supply Code, 2015 and the same reads as under:

“16. *Powers to remove difficulties:*
If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, give the necessary clarifications, not being inconsistent with the Electricity Act, 2003, which appears to the Commission to be necessary or expedient for the purpose of removing difficulties.

17. *Power to amend:*
The Commission may, at any time vary, alter, modify or amend any provision of these Regulations after following the due process”.

1.12 Likewise, Regulation 9, 10 and 11 of the Duty to Supply Regulations also provides for the power of this Hon’ble Commission to remove difficulties, to relax and to amend / alter the provision of the Supply Regulations.

1.13 It is stated that this Hon’ble Commission, in exercise of the powers conferred on it under Section 50 and sections 43, 46 & 47 read with

clause (t, v, x) of Sub-section (2) of Section 181 of the Electricity Act, 2003 (36 of 2003), notified the Supply Code and the Duty to Supply Regulations after following due process of law. A combined reading of the provisions of the Supply Code and Duty to Supply Regulations read with the power of this Hon'ble Commission under the Electricity Act, 2003, it is submitted that this Hon'ble Commission has the power to grant the relief(s) sought in this Petition.

1.14 It is submitted that powers enumerated above are sufficient for this Hon'ble Commission to afford complete relief to the Petitioner herein.

Brief Facts of the Case:

1.15 A license was issued by the Director, Town & Country Planning Haryana vide Scheme no. LC-1555A and License No. 19 of 2010 dated 10.03.2010 to M/S Gandhar Exports Ltd. and M/S Shivalik Global Ltd. in collaboration with M/S RPS Infrastructure Ltd. for setting up of an IT Park at village Sarai Khwaja in Sector 27C, Faridabad over an area measuring 7.587 acres which stands renewed till 09.03.2029 vide Memo No.LC-1555-je(MK)-2024/11697 dated 09.04.2024.

1.16 The IT Park has been properly developed as per the approved scheme and drawings and has been ready for occupation for quite some time now. But due to non-release of a regular electricity connection by the distribution licensee, only partial occupation has been possible and the electricity for use is presently being met through Diesel Generating Sets running round the clock

1.17 For the purpose of construction of the building and other infrastructure etc., a 200 kVA temporary connection was obtained on 01.02.2022 from the office of SDO Operation, Mathura Road Subdivision (respondent no. 7) of the licensee

1.18 To obtain a regular permanent electricity connection, an electrification plan (EP) was submitted to the office of CE Commercial (respondent no. 2) and the same was sanctioned vide his office memo no. Ch-127/SE/R-APDRP/OLNC-HT/FBD/EP-139 dated 08.12.2021. Conditions of this sanction are reproduced as under for ready reference:

- i) *The ultimate load of 7242.81 kW or 8047.57 kVA of the IT Park shall be fed at 33 kV level through newly proposed 33 kV RPS Infrastructure Independent feeder*
- ii) *Above 33 kV independent feeder shall be emanating from 66 kV substation USA, Faridabad. However, requirement of bay at 66 kV substation USA Faridabad shall be allocated by HVPN and the same to be ensured accordingly*
- iii) *Builder / Developer shall develop 33 kV substation / electrical infrastructure, along with installation of appropriate capacity of 33 kV Power Transformer(s), on its own land duly earmarked, on the DTCP approved layout plan, to cater the ultimate load of 7242.81 kW or 8047.57 kVA of the project area, in line with the instructions in vogue by DHBVN*
- iv) *As per Single Point Regulations 2020 circulated by Nigam vide Sales Circular D-17/2020, Single Point electricity connection under*

HT/Supply category (Commercial) shall be released in the project area of the developer/builder

- v) *The above proposal of electricity feeding arrangements to the project area of the developer/builder shall however be without prejudice to the rights of DHBVN to alter or modify or optimize it further, as per specific directions of Nigam & HERC*
- 1.19 The above ultimate load of 7242.81 kW was arrived at by the respondents on the basis of load norms followed by DHBVN multiplied by the total FAR area of the project
- 1.20 Further, the ultimate load of 8047.57 in kVA was arrived at by dividing the ultimate load in kW i.e. 7242.81 by 0.90 assuming that the consumer will maintain the power factor at 0.90. To divide the load in kW by 0.90 to arrive at the load in kVA has been in practice in DHBVN for the last around 20 years.
- 1.21 The calculated load, as above, warranted the connection to be released at 33 kV level and after due deliberations between DHBVN and HVPN, it was sanctioned from the nearest substation, called 66 kV USA substation where 33 kV capacity was sufficiently available
- 1.22 In compliance to the sanction of Electrification Plan (EP) and the conditions of sanction listed therein, a demand was raised by the respondents asking the petitioner to deposit a Bank Guarantee for Rs. 96.58 lacs against cost of laying of 1 km double circuit 33 kV line from 66 kV USA substation to the petitioner's site and the same was deposited by the petitioner on dated 25-01-2024.
- 1.23 The above sanctioned Electrification Plan could not materialize because the transmission licensee Haryana Vidyut Prasaran Nigam (HVPN) subsequently denied to release any 33 kV connection from its 66 kV USA substation on the grounds that it was not possible to construct another new 33 kV bay even though admitting that requisite load was available.
- 1.24 The petitioner continued pursuing the matter with various officers of DHBVN in Faridabad and Hisar for release of electricity connection. Subsequently over the years, DHBVN reduced the load norms due to increase in quality and efficiency of electrical gadgets over the time and accordingly, the ultimate load calculation reduced the load to 5281.21 kW. Dividing it by 0.90, the ultimate load in kVA also reduced to 5868 kVA
- 1.25 The revised Electrification Plan (EP) was sanctioned by the office of Chief Engineer Commercial vide his office memo no. CH-146/SE/R-APDRP/OLNC-HT/FBD/EP-139 dated 26.02.2024. Conditions of this sanction are reproduced as under for ready reference:
 - I. *Ultimate Load of 5281.21 kW or 5868 kVA of the developer's IT Park/licensed area shall be fed at 11 kV on newly proposed 11 kV independent feeder emanating from power T/F (33/11 kV, 10 MVA) of 33 kV substation IAC, Faridabad*
 - II. *However, any sanction and release of interim/partial or ultimate load shall be contingent upon the augmentation of power transformer at 33 kV substation, IAC, Faridabad or in case of non-augmentation of power T/F at 33 kV S/stn, IAC Faridabad, Ultimate*

load of 5281.21 kW or 5868 kVA shall be released at 11 kV level on 11 kV independent feeder emanating from 66 kV Sub-station, Sector 37, Faridabad in view of this office memo no. Ch-280/OLNC-HT/GL-15/Vol-V dated 08.02.2023

III. The above proposal of electricity feeding arrangements to the project area of the developer/builder shall however be without prejudice to the rights of DHBVN to alter or modify it further, based on the future evolution of 11 kV system/network in the areas, system conditions including reliability & redundancy, topographical conditions, and technical assessment, for the optimum utilization of the electrical resources

IV. As per clause 3.2 of HERC Regulation "Electricity Supply Code" circulated vide Sales Circular no. D-07/2020, any load greater than 5 MVA shall be released at 33 kV level for which an appropriate capacity of 33 kV Substation needs to be created by the developer in the development area. However, as intimated by you, there is no 33 kV level available in the vicinity of the instant projects of the Builder/Developer, as such, load of 5281.21 kW or 5868 kVA be served through an 11 kV feeder with the appropriate type/size of conductor as provisioned in clause no. 3.2.2 of HERC Regulation "Electricity Supply Code" circulated vide Sales Circular no. D-07/2020. However, the difference in cost of the substation (as per HERC Electricity Supply Code Regulation 3.2.2 & sales Circular no. D-10/2023) at the consumer end along with its connectivity from the distribution/transmission licensee's substation including the bay and the actual cost of connection on 11 kV is to be borne by M/S RPS Infrastructure. Ltd.

1.26 Even though the reduced ultimate load also warranted the voltage level of the connection to be 33 kV, the load was sanctioned by DHBVN on 11 kV because facility of 33 kV supply was not available with them in the concerned area. It is pertinent to note here that the petitioner never refused to take the connection at 33 kV supply but it was DHBVN only which after deliberations with HVPN decided to release the load at 11 kV level

1.27 The petitioner, owing to the development of IT Park in phases, assessed the immediate load requirement of 1100 kW with a Contract demand of 1100 kVA.

1.28 In compliance to the re-approval of the electrification plan and to meet the immediate demand, the petitioner applied for a partial load of 1100 kW with a Contract Demand of 1100 kVA which has been sanctioned by the office of Superintending Engineer Operation, Faridabad vide his office memo no. Ch-33/SI-3197 dated 26.03.2024 with the following conditions:

- Sanction of load of 1100 kW with CD 1100 kVA shall be fed at 11 kV level on proposed 11 kV Independent feeder from Power Transformer T-2 (66/11 kV 25/31.5 MVA) of 66 kV S/Sn. Sector 37, Faridabad*
- As per Single Point Regulations 2020, circulated by Nigam vide Sales Circular D-17/2020 and further Sales Circular No. D-*

21/2020, the already approved EP in the name of M/S RPS Infrastructure. Ltd. shall remain sacrosanct & Single Point electricity connection(s) under HT/NDS shall be released in the project area of the developer/builder

iii) The above proposal of electricity feeding arrangements to the project area of the developer/builder shall however be without prejudice to the rights of DHBVN to alter or modify it further, as per any specific directions of Nigam & HERC

1.29 In compliance of the above sanction, the petitioner has erected at his own cost an 11 kV feeder from 66 kV substation Sector 37 duly inspected by the respondents and it is ready for use now

1.30 When the petitioner requested the respondents to release the partial load of 1100 kW with a CD of 1100 kVA, they instead of releasing the load, dispatched a letter to the petitioner vide memo no. Ch-54/GC-149 dated 16.12.2024 demanding Rs. 3,11,25,012/- as the difference of cost between 33 kV and 11 kV level.

1.31 In the meanwhile, the petitioner obtained the "Indian Green Building Council (IGBC) Certification on 27.12.2024 for optimization of energy utilization and has accordingly applied for further reduction in the ultimate load as per norms for the Green Building. As per provisions of Sales Circular no. D-25/2024, the ultimate load now has further reduced to 4526.76 kW and after dividing it by 0.90, the ultimate load in kVA has reduced to 5029.73.

1.32 It is important to note here that up to an ultimate load of 5000 kVA, the admissible level of voltage is 11 kV whereas only for an excess load of 29.73 kVA, the petitioner has been put to an excessive and exorbitant additional burden of Rs. 3,11,25,012/- (Rs. Three crores eleven lacs twenty-five thousand twelve) which is highly unreasonable and is causing undue hardship to the Petitioner.

1.33 It is also pertinent to mention here that the Board of Directors of the transmission licensee HVPN has decided in principle that henceforth, 33 kV level would not be allowed at the existing 66 kV substations in Faridabad and therefore there should not be any reason for DHBVN to demand for an amount which they will never utilize.

1.34 The above additional burden on the petitioner is not justified on following Grounds and therefore it has been necessitated to knock the doors of this Hon'ble Commission for removal of difficulties:

(A) Regulation No. HERC/29/2014 (2nd Amendment on dated 08.01.2020)

In exercise of the powers conferred by Section 50 and clause (x) of sub-section (2) of Section 181 of the Electricity Act, 2003 (36 of 2003) (hereinafter referred to as 'the Act') and all other powers enabling it in this behalf, the Haryana Electricity Regulatory Commission hereby makes the following Regulations on Electricity Supply Code.

1.1 *These Regulations shall be called 'The Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014*

3.2.2 In case where supply, depending upon the technical conditions of the transmission/distribution system and / or the requirement of the consumer, has to be given at a voltage other than specified in Regulation 3.2.1/ approved plan, the licensee may accept the request of the applicant with the approval of the Commission. Further, in case 33KV voltage level is not available in the area of supply than load above 5 MVA up to 8 MVA may be served through 11 KV feeder with appropriate type/size of conductor. Provided, the difference of cost of 33 KV substation at the consumer end along with its connectivity from the distribution / transmission licensee's substation including the bay and the actual cost of connection of 11 KV is borne by the consumer

The Difficulty:

The above regulation 3.2.2. does not differentiate between the following situations:

- i. Situation 1: Where the system constraints do not allow the connection to be given on 33 kV level at present
- ii. Situation 2: Where the system allows the connection to be given on 33 kV level but the consumer wants the connection to be released at 11 kV level
- iii. Situation 3: Where the system constraints presently do not permit connection at 33 kV level but the 33 kV level would be created in due course and the connection would finally be shifted from 11 kV to 33 kV level
- iv. Situation 4: Where the system constraints neither permit the connection at 33 kV level at present nor there is any possibility of creation of 33 kV level in future and the connection would continue to run at 11 kV level
- v. To demand the difference in costs of 33 kV and 11 kV system for release of connection at 11 kV level in Situation “2” above may seem to be justified because DHBVN has already incurred expenditure on the creation of 33 kV facility and has made it available to the consumer but to demand the difference of two costs in situation “3” or in situation “4” above is not justified and logical
- vi. In situation “3” above, if the 33 kV levels gets created in due course but the consumer refuses to shift from 11 kV to 33 kV level, then DHBVN would be within its rights to shift it at 33 kV level by incurring the full estimated cost of 33 kV and not just the difference of the two costs
- vii. In situation “4” above, if there is no possibility of creation of 33 kV level even in future or due course and as per the respective regulations, since the load of 5 MVA to 8 MVA can be fed from 11 KVA in such as situation then there is no justification, economic or otherwise for DHBVN to demand the difference of cost. As a matter of law also, if no expenditure is to be incurred, it cannot

be demanded and any recovery on account of such demand would violate the principles of natural justice whilst causing unjust enrichment of DHBVN at the cost of the legitimate rights of the Petitioner and other similarly placed consumers at large. That is to say that DHBVN cannot demand any cost for an infrastructure which it is not going to create at all. And for the 11 kV system which DHBVN has created and from where the connection has been permitted, the cost has already been recovered.

- viii. In the present petition, the status of the Petitioner falls under Situation “4” above. The petitioner has never refused to take the connection at 33 kV level but it is the system constraints at the respondents’ side, which have necessitated the connection to be sanctioned at 11 kV level.
- ix. There is another anomaly in the regulations of the hon’ble Commission and the tariff order. On one hand, in case of release of connection at 11 kV level due to non-availability of 33 kV level, the Regulation provides that the petitioner / applicant has to pay the differential cost of 33 kV and 11 kV but at the same time, billing would be done at 11 kV tariff despite the fact that the consumer has paid in full the cost of 33 kV infrastructure.
- x. The petitioner, therefore, cannot be arbitrarily put to undue hardship to bear the cost of an infrastructure which is not going to be created at all in the future.
- xi. The respondents also stand to gain no benefit from the situation either because they will have to show this differential cost as unused in the Aggregate Revenue Requirement (ARR).
- xii. It is submitted that the timely release of the pending connection in such a situation would rather result in the customer satisfaction besides augmentation of revenue from sale of power for the Respondent.

(B) Regulation No. HERC/29/2014 (2nd Amendment on dated 08.01.2020)

3.2.1 *The ultimate loads have been defined here in the tabular form which determine the voltage level at which the connection would be given to the consumers*

The Difficulty:

- i. Though it is essential to define the limits of ultimate loads but the situation should not be so rigid that even 1 kVA above the defined limit of 5000 kVA warrants the permissible voltage level to go to next higher level. That there exists no technical and/or economic rationale for laying down such rule or regulation.
- ii. There needs to be some flexibility in the whole set of norms to make it consumer friendly and a variation of 5% (+) over and above the defined limits should be permitted to remain within the lower voltage level to avoid any hardships to such consumers.
- iii. As a case in point, it may be noted that a variation of 5% (+) is already permitted in case the Maximum Demand Indicator (MDI) exceeds the prescribed limit and no penalty is levied in such cases.

- iv. In the present petition also, the petitioner's ultimate load in KVA after Green Building Certification turns out to be 5029.73 against 5000 kVA i.e. exceeding by only 0.59%, and the petitioner gets unreasonably burdened by Rs. 3,11,25,012/- (Rs. Three crores eleven lacs twenty-five thousand twelve).
- v. The exorbitant amount of Rs. 3,11,25,012/- is the differential cost between 33 kV and 11 kV, wherein the substation from where the connection at 11 kV has been sanctioned is at a distance of 3 kms. If this distance increases to around 4 to 6 kms., the additional burden on account of excess of mere 0.59% in kVA load would run into more than 8 crores.
- vi. The nearest substation to the petitioner's IT Park is 66 kV substation USA, which is only 1 km. away and where 33 kV load is also available, but because HVPN has refused to construct an additional bay, the connection has been sanctioned at 11 kV from 66 kV substation Sector 37, which is more than 3 kms. away from the project site of the petitioner.
- vii. After the first EP was sanctioned in 2021, the connectivity was approved from 66 kV substation USA and accordingly, the petitioner in full compliance to the sanction of Electrification Plan deposited the Bank Guarantee of Rs. 96.58 lacs against the cost of double circuit 33 kV underground line.
- viii. The petitioner accordingly purchased 33/11/0.415 kVA distribution transformer for its use, which is still placed at site but remains unused. Had the DHBVN and HVPN done their due exercise and homework in light of the fact that 33 kV supply would not be possible, the petitioner could have saved the cost on the transformer and other electrical equipment and the protection switchgear, etc.
- ix. A variation of (+) 5% in the limits of ultimate load are totally justified and will surely save the petitioner and other similarly placed consumers from the unnecessary hardships of bearing the additional burden running into crores of Rupees which amounts to unjust enrichment of the Respondent No. 1 under the garb of unreasonable rules and their arbitrary implementation.

(C) Load Norms circulated by DHBVN on dated 09.08.2024 vide Sales Circular No. D-25/2024:

Power Factor: Power Factor for calculation demand in KVA would be 0.9

The Difficulty:

Presently, the power factor which is used to calculate the load in kVA from kW is 0.90 as per the above mentioned sales circular of the respondents.

- i. The load norms and the power factor for the purpose of arriving at the ultimate load in kVA are not approved / sanctioned / regulated by the Hon'ble Commission but these are defined and altered by the distribution licensee only from time to time.

- ii. Over the last 30 years or so, since the need for devising some kind of load norms for various categories of consumers was felt with a view to ensure creation a minimum level of electrical infrastructure by the developers' in their respective areas, lot of improvements in the electrical gadgets have been witnessed. Efficient lighting and star rated equipment have reduced the electrical consumption to a large extent and accordingly the load norms have been lowered several times since then, the latest being in 2024.
- iii. In the present case also, due to technical advancements that have taken place in recent years and duly recognized by DHBVN, the ultimate load has reduced from 7242.81 kW to 4526.76 kW and in kVA, it has reduced from 8047.57 kVA to 5029.73 kVA in just last 3 years i.e. by 37.50 %.
- iv. If DHBVN tomorrow again decides to lower the load norms further, the ultimate load of the petitioner would come below the threshold value of 5000 kVA and then it would be almost an irreversible process to roll back such huge additional burden which the petitioner is now being subjected to just because of marginal excess of 29 KVA at present which shall further decrease and go below the 5000 kVA level in future years on account of technical advancements.
- v. Similarly, with the improvement in quality and efficiency of the electrical equipment, power factors which used to remain as low as 0.75 or 0.80 have drastically improved to more than 0.95 and with the LED lighting and very efficient air conditioning system capturing the market, the requirement of reactive power has considerably reduced.
- vi. At one point of time, the power factor adopted to derive the ultimate load in kVA was 0.80. With the passage of time, it became 0.85 and then 0.90. It has been a very long time since a power factor of 0.90 has been in use for calculation of ultimate load from kW to kVA.
- vii. If the data of previous 3 or 4 years is perused, the power factors of commercial establishments and the IT Parks have been recorded as high as 0.98 or even 0.99 (Data of power factors of some of such connections of Malls, IT Parks and Commercial establishments attached) which prove that the power factors now have improved to almost near Unity.
- viii. Still arbitrarily adopting a power factor of 0.90 for deriving the load from kW to kVA practically means asking a consumer, without any cogent rationale to create an electrical infrastructure in excess of what is actually required
- ix. This excess electrical infrastructure is not only an additional burden on the consumers, but also it is an avoidable wastage of resources of the nation. At the same time, once the excess infrastructure gets created, the feeding source capacities also remain redundant and never touch their ultimate capacities thereby causing loss to the licensees too

x. Keeping in line with pace with which the improvements have been made and the limited resources which our country and the state has, power factor of at least 0.95 should be adopted to derive the load from kW to kVA

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

- I. In view of the forgoing facts and circumstances, this Hon'ble Commission is requested to:
 - (a) Issue appropriate amendments and/or grant appropriate relaxation in the provisions of Supply Code and Duty to Supply Regulations;
 - (b) Issue appropriate amendments in the provisions of Supply Code and Duty to Supply Regulations to the extent mentioned in the present petition towards recovery of costs demanded by the licensee for creation of transmission / distribution system
 - (c) Grant ex-parte interim directions to the respondents to release the partial load of 1100 kW with a Contract Demand of 1100 kVA, during the pendency of this petition and the decision of the hon'ble Commission
 - (d) To direct the respondents not to withhold release of other connections of the petitioner during the pendency of this petition due to the pending demand of Rs. 3,11,25,012/- in the present case
- II. Pass any other order as this Hon'ble Commission may deem fit.

2. IA-02 of 2025:

- 2.1 That the Applicant/petitioner is a developer and has a valid license issued by the office of Director, Town & Country Planning Haryana vide Scheme no. LC-1555A and License No. 19 of 2010 dated 10.03.2010 to M/S Gandhar Exports Ltd. and M/S Shivalik Global Ltd. in collaboration with M/S RPS INFRASTRUCTURE LTD. for setting up of an IT Park at village Sarai Khwaja in Sector 27C, Faridabad over an area measuring 7.587 acres
- 2.2 That a separate petition has also been filed before this Hon'ble Commission by the Applicant for removal of difficulties contents whereof are not repeated herein for the sake of brevity.
- 2.3 That an electrification plan (EP) has been sanctioned by the office of Chief Engineer Commercial vide his office memo no. CH-146/SE/R-APDRP/OLNC-HT/FBD/EP-139 dated 26.02.2024. Conditions of this sanction are reproduced as under for ready reference:
 - I. *Ultimate Load of 5281.21 kW or 5868 kVA of the developer's IT Park/licensed area shall be fed at 11 kV on newly proposed 11 kV independent feeder emanating from power T/F (33/11 kV, 10 MVA) of 33 kV substation IAC, Faridabad*
 - II. *However, any sanction and release of interim/partial or ultimate load shall be contingent upon the augmentation of power*

transformer at 33 kV substation, IAC, Faridabad or in case of non-augmentation of power T/F at 33 kV S/stn, IAC Faridabad, Ultimate load of 5281.21 kW or 5868 kVA shall be released at 11 kV level on 11 kV independent feeder emanating from 66 kV Substation, Sector 37, Faridabad in view of this office memo no. Ch-280/OLNC-HT/GL-15/Vol-V dated 08.02.2023

- III. *The above proposal of electricity feeding arrangements to the project area of the developer/builder shall however be without prejudice to the rights of DHBVN to alter or modify it further, based on the future evolution of 11 kV system/network in the areas, system conditions including reliability & redundancy, topographical conditions, and technical assessment, for the optimum utilization of the electrical resources*
- IV. *As per clause 3.2 of HERC Regulation "Electricity Supply Code" circulated vide Sales Circular no. D-07/2020, any load greater than 5 MVA shall be released at 33 kV level for which an appropriate capacity of 33 kV Substation needs to be created by the developer in the development area. However, as intimated by you, there is no 33 kV level available in the vicinity of the instant projects of the Builder/Developer, as such, load of 5281.21 kW or 5868 kVA be served through an 11 kV feeder with the appropriate type/size of conductor as provisioned in clause no. 3.2.2 of HERC Regulation "Electricity Supply Code" circulated vide Sales Circular no. D-07/2020. However, the difference in cost of the substation (as per HERC Electricity Supply Code Regulation 3.2.2 & sales Circular no. D-10/2023) at the consumer end along with its connectivity from the distribution/transmission licensee's substation including the bay and the actual cost of connection on 11 kV is to be borne by M/S RPS INFRASTRUCTURE LTD.*

2.4 That a partial load of 1100 kW with a contract demand of 1100 kVA at IT Park project site of the Applicant/petitioner has been sanctioned by the office of respondent no. 4 Superintending Engineer / Operation, Faridabad vide his office memo no. Ch-33/SI-3197 dated 26.03.2024 with the following conditions:

- i) *Sanction of load of 1100 kW with CD 1100 kVA shall be fed at 11 kV level on proposed 11 kV Independent feeder from Power Transformer T-2 (66/11 kV 25/31.5 MVA) of 66 kV S/Sn. Sector 37, Faridabad*
- ii) *As per Single Point Regulations 2020, circulated by Nigam vide Sales Circular D-17/2020 and further Sales Circular No. D-21/2020, the already approved EP in the name of M/S RPS INFRASTRUCTURE LTD. shall remain sacrosanct & Single Point electricity connection(s) under HT/NDS shall be released in the project area of the developer/builder.*

2.5 That in compliance with the above sanction of partial load, an independent 11 kV feeder has been erected by the petitioner at its own cost from the feeding substation and all other technical and

commercial formalities have also been completed for release of load to the petitioner.

- 2.6 That as detailed in the Petition, an unreasonable demand of Rs.3,11,25,012/- has been raised by the respondents and have put its deposition as a precondition to release the partial load against which the above mentioned separate petition for "Removal of Difficulties" under section 181 of the Electricity Act 2003 has been filed before this Hon'ble Commission.
- 2.7 That the above demand is unreasonable and unjustified on the grounds that it is a differential cost between 33 kV & 11 kV infrastructure despite the fact that it has been decided by the respondents not to create any further 33 kV level in Faridabad and therefore, this demand of Rs. 3,11,25,012/- is nothing but unjustly enriching the respondents.
- 2.8 That in absence of release of partial load by the respondents, the Applicant/petitioner is constrained to run the Diesel Generating Sets round the clock to meet the electricity requirement of the premises.
- 2.9 That running of Diesel Generating Sets is prohibited by the Pollution Control Department and we have been following the instructions, which apart from hardships is also not economical for the project to survive and sustain.
- 2.10 That inter-alia, the above mentioned circumstances and high-handedness of the respondents and their unjustified reasoning for holding up release of the partial load of 1100 kW or 1100 kVA has necessitated filing of this Interim Application before the hon'ble Commission seeking direction to the respondents to release the partial load, as already sanctioned by the competent authority.
- 2.11 That the immediate reason to file this Interim Petition is that the disposal of the petition filed separately under section 181 of the Electricity Act 2003 for "Removal of Difficulties" may take its due course of time in reaching its conclusion, and till such time, the respondents are required to be directed to release the partial load immediately without any further hold up.
- 2.12 That release of partial load will not only help the Applicant/petitioner to sustain the project but also it will fetch an additional revenue for the respondents. Moreover, this act will also save wastage of precious resources as also hard earned money of the Applicant/Petitioner.
- 2.13 That the Applicant/petitioner shall abide by the final order of the Hon'ble Commission and agrees to pay the differential cost of 33 kV and 11 kV with interest, if so ordered by this Hon'ble Commission in the final order. Thus, in any case, release of partial load at this stage, will not affect the Respondents after conclusion of the proceedings in favour of either of the parties.

PRAYER

In view of the foregoing, it is most humbly prayed that:

- (i) The present interim application may kindly be allowed and the ex parte interim directions to immediately release the partial load of

1100 kW or 1100 kVA without any further hold-up be issued to the respondents.

(ii) Any other relief which this Hon'ble Commission deem fit in the present circumstances

3. **Reply to IA submitted on 26/03/2025:**

- 3.1 That the present reply is being filed on behalf of Respondent No. 1 to 7- Dakshin Haryana Bijli Vitran Nigam Limited (for brevity "DHBVNL" or "Answering Respondents") through Sh. Devender Kumar working as Executive Engineer, 'OP' Division, Old Faridabad who is fully conversant with the facts and circumstances of the case on the basis of knowledge derived from record and is also duly authorized to submit, aver and sign the present reply.
- 3.2 That DHBVNL is a State-Owned Power Distribution Company (for brevity "Discom") and registered under the Companies Act, 1956, formed under corporatization/ restructuring of erstwhile Haryana State Electricity Board and is a holder of distribution and retail supply of electricity License in the southern zone of the State of Haryana.
- 3.3 That the petition has been filed seeking appropriate amendments and/or grant of the appropriate relaxation in the provisions of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 as amended from time to time (for brevity "the Supply Code"). The Petitioner has sought directions as against the Answering Respondents restraining them from withholding the release of the load on account of an outstanding demand of Rs.3,11,25,012/- (Rupees Three Crores, Eleven Lakhs, Twenty-Five Thousand and Twelve Only). In other words, the Petitioner is seeking release of the load while simultaneously seeking an exemption from the requirement of prior payment of the aforesaid amount.
- 3.4 That along with the main petition, the Petitioner has also filed present interim application, seeking immediate release of partial load of 1100 kW with contract demand of 1100 kVA. In fact as per the prayer clause of the main petition, the following interim reliefs has been sought:
"(c) Grant ex-parte interim directions to the respondents to release the partial load of 1100 kW with a Contract Demand of 1100 kVA, during the pendency of this petition and the decision of this Hon'ble Commission.

(d) To direct the respondents not to withhold release of other connections of the petitioner during pendency of this petition due to pending demand of Rs.3,11,25,012/- in the present case."

At this stage, the Answering Respondents are filing their reply to the interim application while reserving their right to submit a detailed reply to the main petition in due course of the proceedings.

PRELIMINARY SUBMISSIONS/ OBJECTIONS:

APPLICATION LIABLE TO BE DISMISSED ON ACCOUNT OF NON-JOINDER OF NECESSARY PARTIES:

- 3.5 That it is respectfully submitted that the relief sought by way of the present application, namely, the release of load, is contingent upon

the availability of requisite capacity at the end of the Transmission Licensee- Haryana Vidyut Prasaran Nigam Limited (hereinafter "HVPNL") for the off-take of the power required by the Petitioner. However, HVPNL has not been impleaded as a party respondent in the present proceedings. In the absence of HVPNL, which is a necessary and proper party, no effective relief can be granted. Consequently, the present application, as well as the petition, is liable to be dismissed solely on the ground of non-joinder of necessary parties.

THERE IS NO URGENCY IN THE MATTER, AS THE PETITIONER HAS LONG BEEN AWARE OF ITS LIABILITY TO PAY THE DIFFERENTIAL COST:

3.6 That it is respectfully submitted that the Petitioner has attempted to mislead this Hon'ble Commission by projecting an urgency in the matter to justify the grant of ex-parte and/or interim relief. However, it is an admitted fact that the demand for the deposit of ₹3,11,25,012/- was raised vide Memo No. Ch-54/GC-149 dated 16.12.2024 (Annexure P-4, Page 41 of the Petition), i.e., in December 2024. Despite this, the Petitioner has approached this Hon'ble Commission only after a delay of over three months. The Petitioner cannot be permitted to sleep over the matter for months then seek urgent relief, expecting the matter to be adjudicated *ex-parte* in a single day without due deliberation. It is therefore humbly submitted that there exists no urgency in the matter, and accordingly, no interim relief is warranted in the Petitioner's favor.

Furthermore, the liability regarding the payment of the differential cost had already accrued upon the Petitioner and was duly communicated vide letter dated 26.02.2024 (Annexure P-2), wherein it was explicitly stated as follows:

"IV. As per clause 3.2 of HERC Regulation "Electricity Supply Code circulated vide Sales Circular no. D-07/2020, any load greater than 5 MVA shall be released at 33 kV level for which an appropriate capacity of 33 kV Sub-station needs to be created by the developer in the development area. However, as intimated by you, there is no 33 kV level available in the vicinity of the instant projects of the Builder/ Developer, as such, load of 5281.21 kW or 5868 kVA be served through an 11 kV feeder with the appropriate type/ size of conductor as provisioned in clause no. 3.2.2 of HERC Regulation "Electricity Supply Code" circulated vide Sales Circular no. D-07/2020. However, the difference in cost of the substation (as per HERC Electricity Supply Code Regulation 3.2.2 & Sales Circular no. D-10/2023) at the consumer end along with its connectivity from the distribution/ transmission licensee's substation including the abv and the actual cost of connection on 11 kV is to be borne by M/s RPS Infrastructure Ltd." (Emphasis Supplied)

However, the Petitioner did not agitate the issue by approaching this Hon'ble Commission at the relevant point in time. The Petitioner neither sought any relaxation nor requested any amendment to the terms and conditions duly communicated vide letter dated 26.02.2024. Therefore, it cannot be contended that there is any

urgency in deciding the issue, especially when the Petitioner was specifically made aware of its liability on 26.02.2024.

3.7 That, be that as it may, the demand was raised in accordance with Regulation 3.2.2 of the Supply Code and its subsequent clarification issued by the Hon'ble Commission vide order dated 15.02.2023 in Petition No. 60 of 2022. The said Regulation and its clarification was circulated vide Sales Circular No. D-10/2023 dated 23.02.2023. Accordingly, any cause of action, if at all, accrued in favor of the Petitioner upon the notification of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 (2nd Amendment) Regulations, 2019, dated 08.01.2020, whereby the amended Regulation 3.2.2 came into effect. As such, the present application has been filed belatedly and the urgent interim relief sought by the Petitioner is merely an attempt to obscure and justify its own delays.

RELIEF BEING SOUGHT IS CONTRARY TO THE MADATORY PROVISIONS OF LAW:

3.8 That, it is further submitted that the relief which is being sought by way of the interim application i.e. release of load without deposit of differential cost is contrary to the express provisions of the Supply Code. The Regulation 3.2.2 of the Supply Code as amended upto date is reproduced below for ready reference:

"3.2.2 In case where supply, depending upon the technical conditions of the transmission/distribution system and / or the requirement of the consumer, has to be given at a voltage other than specified in Regulation 3.2.1/ approved plan, the licensee may accept the request of the applicant with the approval of the Commission.

Further, in case 33KV voltage level is not available in the area of supply than load above 5 MVA upto 8 MVA may be served through 11 KV feeder with appropriate type/ size of conductor. Provided, the difference of cost of 33 KV substation at the consumer end along with its connectivity from the distribution / transmission licensee's substation including the bay and the actual cost of connection of 11 KV is borne by the consumer.

Provided further that, in case intermediate voltage level between 33 KV and 220 KV is not available in the area of supply of the licensee, the load upto 37.5 MVA may be served through 33 KV feeder with appropriate type/ size of conductor provided the difference of cost of substation as per Regulation 3.2.1 at the consumer end along with its connectivity from the distribution / transmission licensee's substation including the bay and the actual cost of connection on 33 KV is borne by the consumer. (Emphasis Supplied)

3.9 That attention in this regard is also brought towards the decision in the case of Sharad Farms & Holdings Pvt. Ltd. Vs. the Managing Director & Ors. [HERC/ PRO-30 of 2020, Decided on 11.07.2022], whereby this Hon'ble Commission did not grant exemption to the Petitioner from payment of differential cost in terms of Regulation 3.2.2 of the Supply Code while holding as under:

"2.8 Therefore, in view of the settled principle of laws as discussed above and the provisions of the extant regulations, such an exemption from payment of cost cannot be granted to the petitioner.

2.9 However, it is noteworthy that a reasonable differential cost is to be recovered in terms of the Regulations occupying the field. The Commission therefore, directs the Discom to calculate such cost difference only on the basis of difference in cost in terms of line, the bay and other electrical infrastructure from the already approved feeding source i. e. 132 KV sub-station, sector 3 Rohtak from where the 3 Nos. 33 KV sub-stations were approved by the respondent Nigam. The respondent is further directed to furnish this calculation of difference in cost before the Commission within a period of 30 days from the date of passing this order.

2.10 It needs to be noted that a distribution licensee is duty bound to adhere to the 'Universal Supply Obligation' as cast upon it under Section 43 of the Electricity Act, 2003. Moreover, when the conditions imposed by the proviso to sub-section (2) to Section 43 of the Act, are explicitly addressed by this Commission by way of a specific order or duly notified regulations i.e. regulation 3.2.2. In that case the distribution licensee has to necessarily make arrangement for supply of the electricity to the applicant. Needless to add, that the said approval ought not to be seen in isolation but in conjunction with the Commission's directions dated 27.01.2020 i.e. do the needful without insisting on upfront payment of cost differential. Admittedly, the prime concern of the Commission was to expeditiously alleviate the hardships and inconvenience of the electricity consumers within a reasonable time period of a month and then settle the 'cost' issue in the due course within the four corners of the statute / Regulations occupying the field.

.....
2.12 In view of the foregone discussions and circumstances, the Commission deems it appropriate to hold that the petitioner is required to follow the regulations in vogue and as such is required to bear such costs as envisaged in the regulation 3.2.2, of the HERC (Supply Code) Regulations 2nd amendment, notified on 08.01.2020. However, such cost shall be recovered in the manner mentioned in para 2.9 above."

(Emphasis Supplied)

Thus, the release of the partial load cannot be granted as an interim relief to the Petitioner without compliance with the applicable Regulation, namely, the deposit of the requisite cost. Accordingly, the present application is liable to be dismissed solely on the ground that the relief sought by the Petitioner is in direct contravention of the express provisions of law.

COMMERCIAL DIFFICULTY CANNOT BE A GROUND TO GRANT INTERIM RELIEF:

3.10 That it is humbly submitted that the application does not set forth any cogent or compelling reasons to justify the urgency claimed. The Petitioner has failed to provide any reasons as to why the required amount cannot be deposited. The only ground put forth by the Petitioner pertains to its own financial and commercial interests,

which cannot form the basis for the grant of urgent interim relief. Attention in this regard is brought towards the following submission made by the Petitioner in the application under reply:

“8. That in absence of release of partial load by the respondents, the Applicant/ petitioner is constrained to run the Diesel Generating Sets round the clock to meet the electricity requirement of the premises.

9. That running of Diesel Generating Sets is prohibited by the Pollution Control Department and we have been following the instructions, which apart from hardships is also not economical for the project to survive and sustain.

.....

12. That release of partial load will not only help the Applicant/ petitioner to sustain the project but also it will fetch an additional revenue for the respondents. Moreover, this act will also save wastage of precious resources as also hard earned money of the Applicant/ Petitioner.”

It is the case of the Answering Respondents that urgency must be genuine, arising from an imminent and irreparable loss or hardship, rather than being a mere consequence of business considerations. The provisions of law cannot be bypassed in order to provide commercial benefit to the Petitioner.

THE POWER TO RELAX CAN NOT BE EXERCISED IF THE SAME WOULD RESULT IN ABROGATION OR AMENDMENT OF THE LAW:

- 3.11 That it is further submitted that the Petitioner, through the main petition, is seeking a "relaxation" of the applicable Regulations. If the present interim application is allowed, and the partial load is released without requiring the deposit of the stipulated cost, it would, in effect, amount to granting the very relief sought in the main petition. Such an outcome would preempt the final adjudication of the matter and render the main petition infructuous.
- 3.12 That be that as it may, the 'Power to Relax' can be invoked by the Hon'ble Commission only under special circumstances and not in a routine manner. It is well-settled that a procedure which is at variance with any of the provisions of Act/Rules/Regulations cannot be adopted with the sole intent of giving benefit to a particular person. An attempt to relax any of the Regulations will fall out if it leads to abrogation or amendment of such Regulations. Further, it is well settled that the power of relaxation is a species of public power to be exercised in public interest, rationally equitably and on legitimate classification parameters. It cannot be discriminatorily applied to the Petitioner while leaving out similarly placed developers. Reliance once again is placed on the decision of this Hon'ble Commission in *Sharad Farms & Holdings Pvt. Ltd. (Supra)*.
- 3.13 Reliance is also placed on the order dated 26.06.2019 passed in Petition no. 13 of 2018 filed by *Haryana Chamber of Commerce and Industries, Panipat* whereby the request regarding relaxation/ amendment of Regulations was rejected by the Hon'ble Commission while holding as under:

*"The Petitioner has primarily raised a challenge to *ibid* Regulations under the garb of seeking relaxation thereto. Any such exercise cannot be undertaken by the Commission in an adjudicatory framework. The same is more in the nature of exercising legislative function of the Commission as the Regulations framed by it are in the nature of subordinate (delegated) legislation. Hence, ordinarily relaxation in the Regulations cannot be considered on a Petition filed by the Petitioner comprising particular category of consumers."*

In view of the submissions made hereinabove, it is respectfully submitted that the Petitioner has failed to establish any grounds warranting grant of an urgent relief and as such, the present application may kindly be dismissed in the interest of justice.

PARA-WISE REPLY:

1. That the contents of para no. 1 do not call for any reply being a matter of record.
2. That the contents of para no. 2, insofar as it relates to the filing of the Petition is a matter of record. The Answering Respondent seeks time to file a detailed reply to the main petition.
3. That the contents of para no. 3 are a matter of record. In this regard, it is submitted that admittedly, the Petitioner was informed regarding the payment of the difference in cost in terms of Regulation 3.2.2 of the Supply Code read with Circular No. D-10/2023, vide Answering Respondent's letter dated 26.02.2024. As such, cause of action, if any, accrued in the favour of the Petitioner in February, 2024 when it came to the knowledge of the Petitioner that differential cost was required to be paid. The Petitioner did not take any action for a period of over a year, however, at this stage, the Petitioner has approached the Hon'ble Commission while stating that the matter is urgent in nature warranting an "interim" relief. As have been detailed in the preliminary submissions/ objections hereinabove, there is no urgency in the matter and no interim relief is warranted.
4. That the contents of para no. 4 are a matter of record. However, it is clarified that partial load had been sanctioned subject to compliance on the part of the Petitioner of the Regulations in vogue.
5. That the contents of para no. 5 are wrong and denied.
6. That the contents of para no. 6 are wrong and denied. It is denied that an unreasonable demand of Rs.3,11,25,012/- has been raised by the Answering Respondents. It is submitted that the demand has been raised in terms of Regulation 3.2.2 of the Supply Code. Insofar as the filing of the petition seeking 'removal of difficulty' is concerned, it is submitted that the only difficulty reflected from the submissions made by the Petitioner is commercial/ financial difficulty. Apart from financial difficulty, the Petitioner is not submitted as to what hardship is being faced by the Petitioner in depositing the amount and complying with the Regulations. It is a rudimentary principle of law that power to remove difficulties clause cannot be used to violate the provisions of the law. As such, the submissions made by the Petitioner by way of the main petition are worthy of no credence in the eyes of law. Be that as it may, at this stage, the reply to the interim application

is being filed and the Answering Respondents seeks time to file detailed reply to the main petition.

7. That the contents of para no. 7 are wrong and denied. It is denied that any unreasonable or unjustified demand has been raised by the Answering Respondents. It is further denied that the demand is nothing but unjustly enriching the respondents. It is submitted that the demand has been raised in terms of Regulation 3.2.2 of the Supply Code with the objective to maintain parity between the consumers. No undue preference is liable to be granted to the Petitioner.
8. That the contents of para no. 8 are wrong and denied. It is denied that in absence of release of partial load by the Respondents, the Petitioner is constrained to run on Diesel Generating Sets round to clock to meet the electricity requirement of the premises. It is submitted that the Petitioner is unwilling to deposit the amount in terms of the Regulations. In view of the admitted non-compliance on the part of the Petitioner, no interim relief is liable to be granted in the favour of the Petitioner.
9. That in reply to the contents of para no. 9 it is submitted that economic/ financial difficulty is not a ground for grant of interim relief or for grant of relaxation to the Petitioner.
10. That the contents of para no. 10 are wrong and vehemently denied. It is denied that there is any high-headedness on the part of the Answering Respondents, to the contrary, there is a blatant refusal on the part of the Petitioner to comply with the Regulations. It is further denied that holding-up of release of the partial load is unjustified. It is further denied that the filing of the present interim application is necessitated. It is humbly submitted that the present application is non-maintainable, bereft of merit and is liable to be dismissed outrightly in view of the submissions made by the Answering Respondents in the preliminary submissions/ objections hereinabove.
11. That the contents of para no. 11 are wrong and denied. It is denied that there is any immediate reason in the favour of the Petitioner to file the present interim application. It is vehemently denied that any direction is liable to be issued against the Answering Respondents or the partial load is required to be released or there is any 'hold-up' by the Answering Respondents.
12. That in reply to the contents of para no. 12 it is submitted that once again the Petitioner has stated regarding the financial/ economic gain for the Petitioner as a ground for release of partial load. It is submitted that the load cannot be released to the Petitioner who is refusing to comply with the terms and conditions stated in letter dated 16.12.2024 (Annexure P-4). Detailed reply has already been given in the preliminary submissions/ objections, the contents of which are not being repeated here for the sake of brevity.
13. That in reply to contents of para no. 13 it is humbly stated that an undertaking to comply with the final order is no ground for grant of interim relief. It is reiterated that there is no urgency in the matter and no interim relief is liable to be granted to the Petitioner.

Prayer clause is denied.

PRAYER

In view of the facts and circumstances stated hereinabove, the present application being non-maintainable and also bereft of merit, in the interest of justice.

4. The case was heard on 26/03/2025, Ms. Sonia Madan counsel for the respondents submitted the short reply to the IA filed by the petitioner for urgent release of the partial load of 1100 kW to the developer and requested for some more time to file the detailed reply to the petition. Sh. Sanjeev Chopra re-iterated the contents of the petition and requested to direct the respondent to release the partial load of 1100 kW on urgent basis without any further holdup, subject to outcome of the petition. Ms. Sonia Madan argued that the prevailing regulations do not allow for waiver of any charges applicable for release of connection. The petitioner may submit the requisite BG of Rs. 3.11 Cr. towards cost differential of 33 kV and 11 kV infrastructure subject to final decision on the petition. Ms. Madan argued that in the similar matter brought before the Commission through P.No. 30 of 2020 decided on 11/07/2022, no exemption was granted to the petitioner for payment of requisite charges in terms of regulation 3.2.2 of Supply Code Regulation. Upon hearing parties, the Commission decides to dispose of the IA and directs the respondent to file reply to the petition within 3 weeks, with an advance copy to the petitioner and the petitioner may file rejoinder, if any, within one week time thereafter.
5. **IA-06 of 2025 filed on 01/04/2025:**
 - 5.1 That the Petitioner / Applicant herein has filed the Interim Application for release of partial load of 1100 KW with a contract demand of 1100 kVA at its IT Park, Sector 27C, Faridabad, pending adjudication of the Main Petition bearing HERC/P. No. 11 of 2025 with prayer for substitution of bank guarantee with mortgage of unsold inventory of the equivalent amount or more as security in favour of respondent. The aforesaid Main Petition is pending adjudication before this Hon'ble Commission and is fixed for 14.05.2025. The contents of the Main Petition and Interim Application are not repeated herein for the sake of brevity and to avoid repetition and the same be read as part and parcel of this application as well.
 - 5.2 That due to the immediate and pressing nature of the matter, we seek an expedite hearing to prevent irreparable loss and damage to the applicant-Petitioner.
 - 5.3 That the delay in the release of partial load is leading to economic and infrastructural setbacks that could be mitigated with prompt judicial intervention.

5.4 That Petitioner has a good *prima facie* case in its favour and grave prejudice would be caused to the Applicant if the instant application is not allowed and matter is not heard on urgent basis, Hence, the instant application for early and urgent hearing.

Prayer:

It is therefore most respectfully prayed before this Hon'ble Commission that the instant application may kindly be allowed and the matter may be heard on urgent basis, in the interest of justice.

It is prayed accordingly.

6. IA-07 of 2025 filed on 01/04/2025:

6.1 That the Applicant/petitioner is a developer and has a valid license issued by the office of Director, Town & Country Planning Haryana vide Scheme no. LC-1555A and License No. 19 of 2010 dated 10.03.2010 to M/S Gandhar Exports Ltd. and M/S Shivalik Global Ltd. in collaboration with M/S RPS INFRASTRUCTURE LTD./Petitioner herein for setting up of an IT Park at village Sarai Khwaja in Sector 27C, Faridabad over an area measuring 7.587 acres.

6.2 That the Respondent has raised an unreasonable demand of Rs.3,11,25,012/- upon the petitioner as a precondition for release of the Partial load on account of the differential cost between 33KV & 11 KV Infrastructure, against which *inter-alia* amongst other grounds, Petitioner has filed Main petition no.11 of 2025 u/s 181 of the Electricity Act,2003 for removal of difficulties, which is pending adjudication for 14.05.2025, the contents of which are not repeated herein for the sake of brevity and may be read as part and parcel of this Application also.

6.3 That along with the said Main Petition 11 of 2025, the petitioner had also moved an Interim Application for issuance of ex-parte interim directions to the respondent for immediate release of partial load of 1100 kVA, pending the adjudication of Main Petition No.11 of 2025, the contents whereof are not repeated herein for sake of brevity and same may be read as part of this application.

6.4 That this Hon'ble Commission was pleased to hear the aforesaid Interim application and decided to dispose the same vide its order dated 26.03.2025 with a direction to the respondents to file their reply to the Petition within 3 weeks.

6.5 That though the order dated 26.03.2025 do not contain any directions to the petitioner to submit a Bank Guarantee (BG) of Rs. 3.11 crores as pre-condition for release of partial load of 1100 kVA, yet the perusal of order reflects that Respondent/DHBVN has conceded during the course of arguments on Interim application that *Petitioner may be allowed to submit the Bank Guarantee for the requisite amount.*

6.6 That the necessity to file the instant Interim Application in furtherance to the aforesaid Order dated 26.03.2025 passed by this Hon'ble Commission has arisen from the facts that the urgency of release of partial load of 1100 kVA could neither find its due mention in the order dated 26.03.2025 nor in the arguments put forth by the Petitioner

during the hearing held on 26.03.2025 nor any directions have been passed in this regard.

6.7 Hence, the instant interim application for release of the Partial load is being filed in furtherance to the earlier interim application subject to substitution of Bank Guarantee with the mortgage of unsold inventory for the equivalent amount, as security in favour of respondent, in the same Project for which Occupation Certificate has already been received on the following amongst other grounds:

Grounds:

- i) That the prayer of the applicant / petitioner for release of 1100 kVA without a demand of BG of Rs. 3.11 crores by the respondents is well founded on technical and commercial grounds and is not only in the interest of the applicant / petitioner but also in the interest of the respondents as well.
- ii) That the respondents during the hearing held on 26.03.2025 argued and pressed for submission of BG on the basis of existing regulations without realizing that these very regulations are unclear and do not differentiate between different situations and for which the present petition has been filed for "Removal of Difficulties".
- iii) That an ultimate load of 7242.81 kW or 8047.57 kVA was sanctioned originally in December 2021 which has now reduced to 5029.73 kVA after obtaining Indian Green Building Certification (IGBC) i.e. a reduction by 37.50 % in just 3 years.
- iv) This load is further likely to reduce to 4765 kVA after the difficulties as raised in the petition are redressed.
- v) Had the erection of electrical infrastructure not got delayed beyond 2022, the petitioner would have been subjected to erection of an excess infrastructure of $8047.57 - 5029.73 = 3283$ kVA.
- vi) This excess infrastructure of 3283 kVA would not only have been a national wastage of the precious resources of the country but also an artificial overloading of the electrical substations resulting into huge revenue losses to the respondents.
- vii) The load was originally sanctioned on 33 kV level from 66 kV USA substation after due deliberations in the Technical Feasible Committee of the respondents and HVPN against which the petitioner deposited the BG of Rs. 96.58 lacs. But later, the HVPN refused to allow the connection from its existing 33 kV facility at USA substation on the grounds that there was no space to construct a new 33 kV bay.
- viii) Subsequently, load was sanctioned from 33 kV IAC substation at 11 kV subject to augmentation of 33 kV capacity, but yet again, this could not materialize because augmentation of 33 kV transformer at IAC substation was not possible.
- ix) Finally, the complete load as well partial load of 1100 kVA was sanctioned at 11 kV from 66 kV substation Sector 37, Faridabad.
- x) In the whole process of sanctioning, the petitioner never refused to take the supply at 33 kV and rather purchased 33/11/0.415 kV transformer which is now standing idle at the site and has turned out to be a wasteful expenditure.

- xi) It is the respondents and HVPN who have their own constraints to give supply to the petitioner at 33 kV. Further, HVPN has decided not to create any 33 kV capacity henceforth and also not to allow any new connection at 33 kV in the area.
- xii) The provision in the existing Regulation to recover differential cost of 33 kV and 11 kV was on the logic that if the consumer insisted on taking load at 11 kV beyond 5000 kVA despite the availability of 33 kV capacity or that if the licensee would create 33 kV facility in due course of time, the BG taken would serve as a safeguard against the future investment on creation of 33 kV facility. But because in the present case, it has already been decided by the respondents not to create any 33 kV capacity in the area, there is no justification for demanding any cost or the BG thereof for a facility which is never going to be created. Demanding the differential cost or the BG thereof would only result in an undue enrichment of the respondents at the cost of the petitioner.
- xiii) After the load was sanctioned at 11 kV from 66 kV sector 37 substation, 3 kms. away from the petitioner's site, the petitioner erected at his own cost an 11 kV feeder which has been duly inspected by the respondents and the office of Chief Electrical Inspectorate, Haryana and which has been standing idle for more than 4 months now because the respondents have not allowed its energization and have instead put deposition/submission of BG of Rs. 3.11 crores as a pre-condition for its energization.
- xiv) Because the line material required for energization is already in place, and there is a serious risk of theft if the energization is further delayed, leading to significant financial loss and security concerns.
- xv) Because the IT Park is now sufficiently occupied, the delay in energization is adversely affecting the customers, as they are currently receiving electricity supply through DG sets, which is not only costly but also environmentally detrimental for which the Pollution Control Board is pressing hard to switch over to respondents' electrical system immediately.
- xvi) That by allowing its energization, the respondents would start getting revenue on commercial tariff which otherwise the petitioner is forced to burn as diesel.
- xvii) That the pre-condition of submission of BG affects the cash flows and hampers the ongoing progress of the project and causes undue hardship in business operations.
- xviii) That the Petitioner possesses unsold inventory in the Project, for which the Occupation Certificate has already been obtained, valued equivalent to the Bank Guarantee amount (at the Collector rates), the market value of which is even more than the Bank Guarantee required by the Respondent.

6.8 That in the light of above facts and circumstances, the Petitioner prays for the immediate release of partial load as an interim relief, subject to the substitution of the Bank Guarantee with the mortgage of the aforesaid unsold inventory of an equivalent amount, thereby securing the interests of the Respondent as well as the petitioner.

- 6.9 That the proposed substitution of security will not prejudice the Respondent in any manner and will ensure continuity in compliance with regulatory requirements.
- 6.10 That the respondents have no reason whatsoever to oppose the release of partial load of 1100 kVA and in fact will fetch additional revenue.
- 6.11 That the petitioner has *prima facie* a very good case before this Hon'ble Commission in its favour and it shall suffer irreparable loss if the instant application is not allowed and the partial load is not released immediately, subject to outcome of the petition.
- 6.12 That the Petitioner undertake to abide by the decision of this Hon'ble Commission, as the Hon'ble Commission may deem reasonable and fit in the present circumstances of the case, in the interest of justice.

PRAYER

In view of the foregoing, it is most humbly prayed that:

- (i) The present interim application may kindly be allowed and the ex parte interim directions be issued to the respondents to immediately release the partial load of 1100 kVA without any further hold-up, pending adjudication of the main petition;
- ii) Allow substitution of the submission of Bank Guarantee with the mortgage of unsold inventory of equivalent value as security, as stated above.
- iii) Consider the imminent risk of theft of the installed line material and the hardship caused to customers relying on DG sets for power supply;
- iv) Pass any other order(s) as this Hon'ble Commission may deem fit and proper in the interest of justice.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER SHALL EVER BE DUTY BOUND AND GRATEFUL.

7. The case was heard on 09/04/2025, The Applicant/petitioner has filed petition no.11 of 2025 for removal of difficulties against the demand of Rs.3,11,25,012/- raised by respondent as a precondition for release of the Partial load on account of the differential cost between 33KV & 11 KV Infrastructure, which is pending adjudication for 14.05.2025. The petitioner has filed IA no. 06 for early hearing and IA No. 07 for release of partial load of 1100 kW with a contract demand of 1100 kVA at its IT park, Sector 27C, Faridabad, with prayer for substitution of Bank Guarantee with mortgage of unsold inventory of the equivalent amount as security in favour of respondent. Sh. Namit Khurana counsel for the petitioner reiterated the contents of the IA and pleaded for release of partial load of 1100 kVA. Ms. Sonia Madan counsel for the respondent argued that the respondent is bound to the provisions of regulation 3.2.2 of supply code and no relaxation can be given to any consumer. The petitioner has to

deposit differential cost of Rs. 3.11 Cr. in compliance of the said regulations.

The Commission, having examined the conduct of the respondents, observes with concern that the load in question has been sanctioned on three separate occasions, each time from different source. The respondents have failed to maintain consistency in their decisions and have repeatedly altered their stand. Petitioner already has procured 33/11/0.415 kV transformer which is lying idle. The petitioner has complied with all procedural requirements as and when intimated by the respondents. Due to the indecisive and inconsistent actions of the respondents, the end consumers are compelled to rely on diesel generating sets, which not only impose financial hardship but also contribute to environmental degradation through increased air pollution. In view of the above discussions and circumstances and considering this as a case of unique kind, the Commission Allows IA No. 07 of 2025 and as an ad interim relief, the respondents are directed to release the partial load of 1100 kVA forthwith, without any further delay, subject to furnishing of a duly notarized undertaking by the petitioner to deposit the requisite differential cost if the main petition is decided in favor of the respondent. Further, this Interim Application has been decided without going into the merit of the main petition and will not have any bearing on the final decision of the case.

8. The case was heard on 14/05/2025, Ms. Sonia Madan counsel for the respondents submitted copy of the reply to the petition. Sh. Sanjeev Chopra representative of the petitioner requested for some time to file the rejoinder. Acceding to request of the petitioner, the Commission adjourns the matter and directs the petitioner to file the rejoinder within two weeks with advance copy to respondents.

9. Reply of DHBVN to main petition submitted on 14/05/2025:

- 9.1 That the present reply is being filed on behalf of Respondent No. 1 to 7- Dakshin Haryana Bijli Vitran Nigam Limited (for brevity “DHBVNL” or “Answering Respondents”) through Davender Kumar working as XEN (OP) Division, Old Faridabad who is fully conversant with the facts and circumstances of the case on the basis of knowledge derived from record and is also duly authorized to submit, aver and sign the present reply.
- 9.2 That DHBVNL is a State-Owned Power Distribution Company (for brevity “**Discom**”) and registered under the Companies Act, 1956, formed under corporatization/ restructuring of erstwhile Haryana State Electricity Board and is a holder of distribution and retail supply of electricity License in the southern zone of the State of Haryana.

9.3 That all submissions herein are made in the alternative and without prejudice to each other. Any allegations raised by the Petitioner against the Answering Respondents-DHBVNL are denied in totality and the same may be treated as 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:

9.4 That the petition has been filed seeking appropriate amendments and/or grant of the appropriate relaxation in the provisions of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 as amended from time to time (for brevity "the Supply Code"). The Petitioner has sought directions as against the Answering Respondents restraining them from withholding the release of the load on account of an outstanding demand of Rs.3,11,25,012/- (Rupees Three Crores, Eleven Lakhs, Twenty-Five Thousand and Twelve Only). In other words, the Petitioner is seeking release of the load while simultaneously seeking an exemption from the requirement of prior payment of the aforesaid amount.

9.5 That, along with the petition, the Petitioner has also preferred an interim application seeking immediate release of partial load of 1100 KW with a Contract Demand of 100 kVA. The Answering Respondents have already filed a reply to the said application whereby certain preliminary objections, such as, the petition being bad on account of non-joinder/ mis-joinder of necessary parties, relief being contrary to the explicit provisions of law etc. have been raised. It is humbly submitted that such preliminary objections raised by way of the reply to the interim application, goes to the root of the matter and hits the very maintainability of the petition. Thus, the contents of the reply to the interim application, already on record, may kindly be read as part and parcel of the present reply, which are not being repeated here for the sake of brevity.

BRIEF BACKGROUND OF THE PETITIONER'S CASE/ DETAILS OF THE ACTION TAKEN TILL DATE BY THE ANSWERING RESPONDENTS:

9.6 That, at the outset, it is necessary to bring to the kind notice of the Hon'ble Commission, the current status of the application submitted by the Petitioner alongwith the details of the action taken by the Answering Respondents till date:

- a. The Petitioner had applied for the approval of Electrification Plan for release of single point connection on 33 KV level with the ultimate load of 7242.81 kW with CD 8047.57 kVA, for IT Park Colony over an area measuring 7.587 acres in Sector 27-C Faridabad.
- b. The Petitioner's Electrification Plan was sanctioned by DHBVNL vide Memo No. Ch-127/SE/R-APDRP/ONLC-HT/FBD/SOL-139 dated 08.12.2021 (Annexure P-1). It is humbly submitted that the approval was made subject to a number of conditions as enumerated in the Memo dated 08.12.2021 including the compliance of the Regulations and the Electricity Supply Code.
- c. Thereafter, a Memo No. Ch-18/GC-149 dated 15.01.2022 was addressed by the Answering Respondent to the Petitioner duly

informing that for the purposes of the release of the temporary load the Bank Guarantee (BG) amounting to Rs.6,51,11,104/- (Rupees Six Crores Fifty-One Lac, Eleven Thousand, One Hundred and four Only) is required to be submitted by the Petitioner in terms of the Regulations read with the Sales Circulars. A copy of the Memo dated 15.01.2022 is annexed. It is pertinent to mention here that the vide Memo No. Ch-26/GC-149 dated 17.02.2023 another notice was served upon the Petitioner calling upon to submit the BGs as per the detailed calculation in the Memo dated 15.01.2022. A copy of the Memo dated 17.02.2023 is annexed, the relevant part of which is reproduced below:

“... As per the Electrification Plan you required to create 33 kV independent feeder, but after elapse of 1.3 years neither you submit required BG nor you create 33 kV Infrastructure till now, in spite of regular pursuance by undersigned. As per Sales Circular D-21/2021 period allowed for partial/ interim load is 3 Years, it is further added that you applied 7242.81 KW with CD 8047.57 KVA has been sanctioned and regular pursuance by undersigned regarding submission of BG, but till now you did not submitted Bank Guarantee.

So you are again directed to submit BG within 7 days for further process failing which your electrification plan/ application will be cancelled without any further notice.”

Apart from the above, various telephonic massage were given to the Petitioner by the Answering Respondents asking the Petitioner to submit the required BGs. Further a copy of the Sales Circular D-21/2020, as per which the calculations were made, is also annexed for the ready reference of the Hon’ble Commission.

- d. In the meanwhile, HVPNL vide its Memo No. Ch-106/D-58/33kV/Vol IV dated 24.11.2023 informed that there is space for construction of only 01 no. 33kV bay at 66kV sub-station USA whereas there is no availability of 33kV bay/ space at 220kV substation Palla, in view of the infrastructure already approved by the WTD of DHBVNL and HVPNL.
- e. It is submitted that despite the written communications, the Petitioner did not submit the requisite BGs, however, on 21.12.2023 a letter was addressed by the Petitioner to the Respondents herein seeking to re-calculate the BG amount on the basis of the Sales Circular D-26/2023 and consider the application of the Petitioner for the phase-wise distribution of load. A copy of the Petitioner’s letter dated 21.12.2023 is annexed, the relevant part of which is reproduced below:

“With reference to Memo No CH-18/GC-149 dated 15-01-2022, we required you to revise the demand of bank guarantees as per new norms wide Sales Circular No. D-26/2023 Memo No. Ch-26/SE/Cooml./R-16/28/2004 Vol-I dated 07/08/2023.

1) We are also requesting you to consider our application for phase wise distribution of our total Load as per new norms.

2) We assure to submit all require BG Demands within 30 days from revised BG demand date.

3) Kindly note that in the said project location the 33 kV line way is not available.

The Bank Guarantee against subject cited phase wise development plan against sanctioned ultimate load of 7242.81 KW with CD 8047.57 KVA.

We Submit the phase wise execution plan as per details given below:-

Sr. No.	Load	Load Requirement	Timeline
1	200 KVA	Load required by	31.03.2022
2	1800 KVA	Load required by	31.01.2024
3	2000 KVA	Load required by	30.12.2024
4	4047 KVA	Load required by	31.12.2026

....

Further, for the ready reference of the Hon'ble Commission, the Sales Circular D-26/2023, in terms of which the re-calculation was being sought by the Petitioner, is also annexed.

f. In view of the request of the Petitioner, the BG amount was re-calculated. The details of the re-calculated amount can be seen in the Memo No. Ch-39/GC-149 dated 19.01.2024, a copy of which is annexed. The BG was recalculated @Rs.7,11,02,585/- (Rupees Seven Crores, Eleven Lacs, Two Thousand, Five Hundred and Eighty-Five Only) (i.e. ACD @Rs. 72,43,000/-, Internal Infrastructure @ 95,63,456/-, 1st Phase BG being Rs. 17,97,444/-, 2nd Phase BG is Rs. 1,61,76,999/-, 3rd Phase BG is Rs. 1,19,82,963/- and 4th Phase BG is Rs.2,42,48,723/-).

g. Thereafter, once again the Petitioner submitted a request to revise the BGs by calculating the same based on 3 phases instead of 4 phases. The 3 phases being as under:

Sr. No.	Load	Load Requirement	Timeline
1	2000 KVA	Load required by	31.03.2024
2	2000 KVA	Load required by	31.01.2025
3	4048 KVA	Load required by	31.12.2026

On the basis of the request, the amount was recalculated, the details of which can be evinced from the Memo No. Ch-40/GC-149 dated 07.02.2024 annexed. The relevant part of the Memo dated 07.02.2024 is reproduced below:

“Now as per consumer request submitted after a gap of two years from the 1st notice of BG through your good office and received through email dated: 05.01.2024 and again revised request received through your good office vide memo no. Ch-19/SI-3197 dated 25.01.2024 accordingly phase wise BG again recalculated. Hence revised recalculation of 1st Phase BG is 11982963, 2nd Phase BG is 11982963/- from 66/33 KV S/Stn. USA, Faridabad upto the premises of M/s RPS Infrastructure Ltd. as per sanctioned electrification plan approved by worthy C.E. Commercial, DHBVN, Hisar vide

memo no. Ch-127/SE/R-APDRP/OLNC-HT/FBD/EP-139
dated 08.12.2021.”

Attention of the Hon’ble Commission is also brought towards the Memo No. Ch-17/SE-3197 dated 25.01.2024 annexed. A perusal of the both the Memos dated 25.01.2024 and 07.02.2024 shows that BGs amounting to (1) Rs.96,53,456/- (Rupees Ninety-Six Lacs, Fifty-Three Thousand Four Hundred and Fifty-Six Only) and (2) Rs. 72,43,000/- (Rupees Seventy-Two Lacs, Forty-Three Thousand Only) had been deposited by the Petitioner on 25.01.2024 towards the “Cost of 1800 KM 33 KV line from 66/33 KV S/Stn. USA, Faridabad upto the premises of M/s RPS Infrastructure Ltd. @ Rs.5363031/- Km” and towards ACD respectively. However, no BG for internal infrastructure was received.

h. The Petitioner applied for re-approval of Electrification Plan vide an application dated 06.02.2024. The same was subsequently approved vide Memo No. Ch-146/OLNC-HT/FBD/EP-139 dated 26.02.2024 (Annexure P-2), the relevant terms of which are reproduced below for ready reference:

“2. In exercise of the power conferred upon this office vide S.C. No. D-06/2023 issued by Nigam, the Electrification Plan comprising of Ultimate Load of 5281.21 KW or 5868KVA is hereby re-approved for M/s RPS Infrastructure Pvt. Ltd. (herein referred to as builder/ developer/ colonizer/ applicant), as per the following details for release of Single Point Connection in the I.T. Park Colony over an area measuring 7.587 acres in Sec-37C, Faridabad:-

1. *Ultimate Load of 5281.21 KW or 5868KVA of the developers’ IT Park/ licensed area shall be fed at 11 KV level on newly proposed 11 KV Independent Feeder emanating from power T/F (33/ 11 KV, 10 MVA) of 33 KV Sub-Station, IAC, Faridabad.*
2. *However, any sanction and release of Interim/ partial or Ultimate Load shall be contingent upon the augmentation of power T/F at 33 KV S/Stn. IAC, Faridabad or in case of non-augmentation of power T/F at 33 KV S/Stn. IAC, Faridabad, Ultimate Load of 5281.21 KW or 5868KVA shall be released at 11 KV level on 11 KV independent feeder emanating from 66KV Sub-Station, Sector-37, Faridabad in view of this office Memo no. Ch-280/OLNC-HT/GL-15/VOL-V dated 08.02.2023.*
3.
4. *As per clause no. 3.2 of HERC Regulation “Electricity Supply Code” circulated vide Sales Circular no. D-07/2020, any load greater than 5 MVA shall be released at 33 KV level for which an appropriate capacity of 33 KV Sub-Station needs to be created by the developer in the development area.*
5.

....
VIII. With the approval of EP, release of any Temporary/ Permanent electricity connection to the builder/ developer for their project area shall be contingent upon timely submission of BG(s) by the builder/ developer for the creation of the electrical infrastructure (as per the

approved EPO in terms of the HERC Regulation Duty to Supply Electricity on Request and Power to Recover Expenditure and Power to Recover Security Regulations 2016 (1st Amendment) Regulation 2020, circulated vide Sales Circular No. D-12/2020 dated 25.06.2020 and further Sales Circular No. D-21/2020 circulated by Nigam. Accordingly, it shall be ensured that the required BG(s) is/ are submitted by the builder/ developer within the specified time.

.... ” *(Emphasis Supplied)*

It is humbly submitted that the earlier Memo No. Ch-127/SE/R-APDRP/ONLC-HT/FBD/SOL-139 dated 08.12.2021 was superseded on the re-approval of Electrification Plan vide Memo dated 26.02.2024. Further, once the Electrification Plan was re-approved the BGs to be submitted by the Petitioner were also recalculated and the same were brought to the notice of the Petitioner vide Memo No. CH-47/GC-149 dated 06.03.2024 annexed. Vide the said Memo dated 06.03.2024 the Petitioner was duly informed- “*The amount of BG for the cost of internal electrical infrastructure of ACD i.e. Rs. 5282000/- already submitted in one go. It is requested to submit the amount of B.G. i.e. Rs. 34126352/- as mentioned above to this office for taking further necessary action in the matter.*” Moreover, the liability to submit BG equivalent to 1.5 times the estimated cost was also brought to the Petitioner’s notice, in the following terms:

“However, it is also informed you that the Phase Ist, as per load sanctioned memo was completed on 31.10.2024 and you have submitted the bank Guarantee of Ist phase worth Rs.11631340/-. As you failed to develop the Ist phase electrical infrastructure up to 31.10.2024, so clause no-II below prevails as per S/C no. D-12/2020, which stipulates that distribution license, shall have the following options.

- I. To encash the BG for said phase and get the balance work of such phase executed.*
- II. To extend the time period of such phase on furnishing a BG equivalent to 1.5 times of the estimated cost of the work of such phase earlier provided by the distribution license.*
- III. To cancel the electrification plan and encash all the Bgs submitted by the developer, if the developer does not inform the distribution license about commencement of development work (s) in subsequent phase (s) and does not apply for obtaining the assessment of the cost of electrical infrastructure to be created before commencement of development work therein.”*

- i. Subsequently, the Petitioner applied for partial load vide application no. F13-324-262 dated 13.03.2024 in accordance with the re-approved Electrification Plan. A copy of the application dated 13.03.2024 is annexed.
- j. It is pertinent to mention here that in the meanwhile the load norms were revised. A copy of the Sales Circular D-25/2024 regarding the – “*Revision of Load Norms for Residential Plotted Colonies, Residential Group Housing Colonies developed by HSVP/ Private*

colonizer- Consolidated instructions of all types of licensed colonies i.e. residential plotted ground housing, industrial etc. developed by HSVP/ HSIIDC/ Housing Board/ Private Coloniser etc.", is annexed. Further, the Load Calculation Sheet of the Petitioner re-calculated as per the Sales Circular D-25/2024 is annexed.

- k. The Petitioner was asked to deposit an amount of Rs. 1,50,36,844/- being the difference of the cost of 33 KV and 11 KV level vide Memo No. Ch-52/GC-149 dated 16.12.2024 (Annexure P-4).
- l. Instead of depositing the requisite amount/ difference of cost, the Petitioner submitted a request for the refund of BGs already submitted against the external infrastructure which stands developed by the Petitioner. A copy of the Petitioner's letter dated 08.01.0225 is annexed. The request of the Petitioner was forwarded to SDO (OP) Sub-Division, Mathura Road, DHBVNL to cross check and physically verify if the requisite infrastructure has been installed. On verification it was informed that one no. 2500 KVA transformer has been installed in the premises.
- m. The reminder notice was also served to the Petitioner vide Memo no. Ch-60/GC-149 Dated: 30.01.2025 to submit the IInd phase of BG of Rs. 87,23,505/- along with difference cost of 33 kV and 11 kV level of Rs: 3,11,25,011/- as per the re-approved Electrification Plan. A copy of the Memo dated 30.01.2025 is annexed.
- n. Another notice/ Memo No. Ch-63/GC-149 dated 28.02.2025 has been served upon the Petitioner whereby the Petitioner was directed to submit the BG for the IInd Phase. It was further informed that the deposit of difference of cost of 33KV and 11kV was also pending from the Petitioner's side. A copy of the Memo dated 28.02.2025 is annexed.

PRESENT STATUS AND PENDING PAYMENTS ON THE PART OF THE PETITIONER:

9.7 That at present, that B.G. towards the Internal Infrastructure amounting to Rs. 1,76,52,652/- (Rupees One Crore, Seventy Six Lacs, Fifty-Two Thousand, Six Hundred and Fifty-Two Only) is required to be deposited by the Petitioner. It is submitted that as per the Load Sheet, annexed, the ultimate load of the Petitioner is 5035.36 KVA. As such, internal infrastructure required to be developed by the applicant @ 80% loading i.e. 5035.36 KVA (ultimate load) /0.80 = 6294.20 KVA. The B.G. is required to be deposited on 6.294 MVA @ per MVA cost of Rs: 46,52,536/- (cost of 11/.440 KV Internal Infrastructure). The same comes out to be $4652536 \times 6.294 = \text{Rs. } 2,90,45,782/-$. However, the Petitioner has already installed a 2500 KVA transformer in the premises, as have been verified by the SDO as per CEI report, therefore, the total BG required is $29045782 - 11393130 = 1,76,52,652/-$ (Rupees One Crore, Seventy Six Lacs, Fifty-Two Thousand, Six Hundred and Fifty-Two Only).

Apart from the above, the difference cost against re-approval of Electrification Plan of 33 KV and 11 KV level of Rs. 3,11,25,012/- (Rupees Three Crores, Eleven Lacs, Twenty Five Thousand, and Twelve

Only) is yet to be deposited and is still pending on the part of Petitioner. It is submitted that various notices were given to the Petitioner seeking deposit of the BG/ difference of the cost, however, to no avail.

CALCULATIONS HAVE BEEN MADE AND THE DEMAND HAVE BEEN RAISED BY THE ANSWERING RESPONDENTS IN ACCORDANCE WITH LAW:

9.8 That, it is humbly submitted that the demand for the difference of cost has been raised in terms of Regulation 3.2.2 of the Supply Code, reproduced below for ready reference:

"3.2.2 In case where supply, depending upon the technical conditions of the transmission/distribution system and / or the requirement of the consumer, has to be given at a voltage other than specified in Regulation 3.2.1/ approved plan, the licensee may accept the request of the applicant with the approval of the Commission.

Further, in case 33KV voltage level is not available in the area of supply than load upto 5 MVA upto 8 MVA may be served through 11 KV feeder with appropriate type/size of conductor. Provided, the difference of cost of 33 KV substation at the consumer end along with its connectivity from the distribution / transmission licensee's substation including the bay and the actual cost of connection of 11 KV is borne by the consumer.

Provided further that, in case intermediate voltage level between 33 KV and 220 KV is not available in the area of supply of the licensee, the load upto 37.5 MVA may be served through 33 KV feeder with appropriate type/size of conductor provided the difference of cost of substation as per Regulation 3.2.1 at the consumer end along with its connectivity from the distribution / transmission licensee's substation including the bay and the actual cost of connection on 33 KV is borne by the consumer. (Emphasis Supplied)

Along with the aforesaid Regulation, the order dated 15.02.2023 passed by this Hon'ble Commission in PRO-60 of 2022 where clarification has been issued regarding the calculations to be made under Regulation 3.2.2 above, has also been taken into account by the Answering Respondents.

9.9 That attention in this regard is also brought towards the decision in the case of Sharad Farms & Holdings Pvt. Ltd. Vs. the Managing Director & Ors. [HERC/ PRO-30 of 2020, Decided on 11.07.2022], whereby this Hon'ble Commission did not grant exemption to the Petitioner from payment of differential cost in terms of Regulation 3.2.2 of the Supply Code while holding as under:

"2.8 Therefore, in view of the settled principle of laws as discussed above and the provisions of the extant regulations, such an exemption from payment of cost cannot be granted to the petitioner.

2.9 However, it is noteworthy that a reasonable differential cost is to be recovered in terms of the Regulations occupying the field. The Commission therefore, directs the Discom to calculate such cost difference only on the basis of difference in cost in terms of line, the bay and other electrical infrastructure from the already approved feeding

source i. e. 132 KV sub-station, sector 3 Rohtak from where the 3 Nos. 33 KV sub-stations were approved by the respondent Nigam. The respondent is further directed to furnish this calculation of difference in cost before the Commission within a period of 30 days from the date of passing this order.

2.10 It needs to be noted that a distribution licensee is duty bound to adhere to the 'Universal Supply Obligation' as cast upon it under Section 43 of the Electricity Act, 2003. Moreover, when the conditions imposed by the proviso to sub-section (2) to Section 43 of the Act, are explicitly addressed by this Commission by way of a specific order or duly notified regulations i.e. regulation 3.2.2. In that case the distribution licensee has to necessarily make arrangement for supply of the electricity to the applicant. Needless to add, that the said approval ought not to be seen in isolation but in conjunction with the Commission's directions dated 27.01.2020 i.e. do the needful without insisting on upfront payment of cost differential. Admittedly, the prime concern of the Commission was to expeditiously alleviate the hardships and inconvenience of the electricity consumers within a reasonable time period of a month and then settle the 'cost' issue in the due course within the four corners of the statute / Regulations occupying the field.

....
2.12 In view of the foregone discussions and circumstances, the Commission deems it appropriate to hold that the petitioner is required to follow the regulations in vogue and as such is required to bear such costs as envisaged in the regulation 3.2.2, of the HERC (Supply Code) Regulations 2nd amendment, notified on 08.01.2020. However, such cost shall be recovered in the manner mentioned in para 2.9 above." (Emphasis Supplied)

Thus, the notice for deposit of the difference of cost has been rightly issued in view of the Regulations in vogue read with the orders passed by this Hon'ble Commission from time to time. It is submitted that the now the Petitioner has approached this Hon'ble Commission seeking waiver of this cost, however, it is the case of the Answering Respondents, that the grant of relief being sought to the Petitioner may result in conflicting decisions of favouring one consumer over the other i.e. denial of exemption for M/s Sharad Farms Pvt. Holding while allowing the same to the Petitioner. It is humbly submitted that the same may result in disparity and violation of the principle of equality of law. In fact, the present petition is liable to be dismissed solely on the ground that the relief sought by the Petitioner is in direct contravention of the express provisions of law.

9.10 That it is further submitted that the Petitioner was well-aware of its liability to pay the difference of cost which was made clear vide the Memo dated 26.02.2024 (Annexure P-2) wherein it had been specifically mentioned that - "However, as intimated by you there is no 33 KV level available in the vicinity of the instant projects of the Builder/ Developer as such Load of 5281.21 KW or 5868 KVA be served through an 11 KV feeder with the appropriate type/ size of conductor as provisioned in clause no. 3.2.2 of HERC Regulations "Electricity Supply

Code" circulated vide Sales Circular no. D-07/2020. However, the difference in cost of the substation (as per Electricity Supply Code Regulation 3.2.2 & Sales Circular no. D-10/2023) at the consumer end along with its connectivity from the distribution/ transmission licensee's substation including the bay and the actual cost of connection on 11 KV is to be borne by M/s RPS Infrastructure Pvt. Ltd.". However, the Petitioner did not agitate the issue by approaching this Hon'ble at the relevant point in time. The Petitioner neither sought any relaxation nor requested any amendment to the terms and conditions duly communicated vide letter dated 26.02.2024.

THE POWER TO RELAX CAN NOT BE EXERCISED IF THE SAME WOULD RESULT IN ABROGATION OF AMENDMENT OF THE LAW:

9.11 That the Petitioner, by way of the present petition, is seeking a "relaxation" of the applicable Regulations, however, it is humbly submitted that the 'Power to Relax' can be invoked by the Hon'ble Commission only under special circumstances and not in a routine manner. It is well-settled that a procedure which is at variance with any of the provisions of Act/Rules/Regulations cannot be adopted with the sole intent of giving benefit to a particular person. An attempt to relax any of the Regulations will fall out if it leads to abrogation or amendment of such Regulations. Further, it is well settled that the power of relaxation is a species of public power to be exercised in public interest, rationally equitably and on legitimate classification parameters. It cannot be discriminatorily applied to the Petitioner while leaving out similarly placed developers. Reliance once again is placed on the decision of this Hon'ble Commission in *Sharad Farms & Holdings Pvt. Ltd. (Supra)*.

9.12 Reliance is also placed on the order dated 26.06.2019 passed in Petition no. 13 of 2018 filed by *Haryana Chamber of Commerce and Industries, Panipat* whereby the request regarding relaxation/ amendment of Regulations was rejected by the Hon'ble Commission while holding as under:

"The Petitioner has primarily raised a challenge to ibid Regulations under the garb of seeking relaxation thereto. Any such exercise cannot be undertaken by the Commission in an adjudicatory framework. The same is more in the nature of exercising legislative function of the Commission as the Regulations framed by it are in the nature of subordinate (delegated) legislation. Hence, ordinarily relaxation in the Regulations cannot be considered on a Petition filed by the Petitioner comprising particular category of consumers."

COMMERCIAL DIFFICULTY CANNOT BE A GROUND FOR AMENDING/ RELAXING THE REGULATIONS:

9.13 That it is humbly submitted that the present petition does not set forth any cogent or compelling reasons to justify the amendment/ removal of difficulty. The Petitioner has failed to provide any reasons as to why the required amount cannot be deposited. The only ground put forth by the Petitioner pertains to its own financial and commercial interests, which cannot form the basis for the grant of relief. Attention

in this regard is brought towards the following submission made by the Petitioner in the interim application filed with the present petition: “8. *That in absence of release of partial load by the respondents, the Applicant/ petitioner is constrained to run the Diesel Generating Sets round the clock to meet the electricity requirement of the premises.*

9. *That running of Diesel Generating Sets is prohibited by the Pollution Control Department and we have been following the instructions, which apart from hardships is also not economical for the project to survive and sustain.*

.....

12. *That release of partial load will not only help the Applicant/ petitioner to sustain the project but also it will fetch an additional revenue for the respondents. Moreover, this act will also save wastage of precious resources as also hard earned money of the Applicant/ Petitioner.”*

It is the case of the Answering Respondents that hardship/ difficulty must be genuine, arising from an imminent and irreparable loss or hardship, rather than being a mere consequence of business considerations. The provisions of law cannot be bypassed in order to provide commercial benefit to the Petitioner.

PETITION LIABLE TO BE DISMISSED ON ACCOUNT OF NON-JOINDER OF NECESSARY PARTIES:

9.14 That, even otherwise, it is respectfully submitted that the relief sought by way of the present petition, namely, the release of load, is contingent upon the availability of requisite capacity at the end of the Transmission Licensee- Haryana Vidyut Prasaran Nigam Limited (hereinafter “**HVPNL**”) for the off-take of the power required by the Petitioner. Further, allegations have been raised against HVPNL. For instance at para 34 (B) 6. of the present petition, the Petitioner has alleged that- “... *HVPN has refused to construct an additional bay, the connection has been sanctioned at 11 kV from 66 kV substation Sector 37...*”. However, HVPNL has not been impleaded as a party respondent in the present proceedings. In the absence of HVPNL, which is a necessary and proper party, no effective relief can be granted. Consequently, the present petition is liable to be dismissed solely on the ground of non-joinder of necessary parties.

As such, the present petition seeking amendment/ relaxation of the Regulations is merely an attempt to protect the business/ financial interest of the Petitioner. The same is liable to be dismissed being non-maintainable and also bereft of merit.

PARA-WISE REPLY:

1. That the contents of para no. 1, insofar as it relates to the filing of the present petition, the same is a matter of record. Rest of the contents of the para are wrong and denied. It is vehemently denied that there is any arbitrary application of certain provision of the Supply Code/ Regulations/ Load norms or the method being adopted by the Answering Respondents to arrive at the ultimate load. In view of the preliminary submissions/ objections

detailed hereinabove, the petition is non-maintainable and also bereft of merit.

2. That the contents of para no. 2 are wrong and denied since the only difficulty detailed in the petition is the commercial/ financial difficulty being faced by the Petitioner. The resolution of commercial difficulty is not a valid ground for seeking exemption from compliance of the regulations of the Hon'ble Commission. Rest of the contents of the para are wrong and denied.
3. – 5. That the contents of para no. 3 to 5 are a matter of record.
6. That the contents of para no. 6 are wrong and denied. It is denied that the IT Park project has now been properly developed as per the approved scheme or has been ready for occupation.
7. That the contents of para no. 7 are a matter of record.
8. – 13. That the contents of para no. 8 to 13 insofar as it relates to the powers of this Hon'ble Commission, the same is a matter of record. However, no grounds have been raised by the Petitioner warranting invocation of such powers.
14. That in reply to the contents of para no. 14, it is submitted that no relief is liable to be granted to the Petitioner. To the contrary, directions are liable to be issued as against the Petitioner to comply with the Regulations in vogue.

Reply to "Brief facts of the Case":

15. That the contents of para no. 15 do not call for any reply being a matter of record.
16. That the contents of para no. 16 are wrong and denied. It is denied that the IT Park has been properly developed as per approved scheme.
- 17.-31. That the contents of para no. 17 to 31, relating to the various correspondence exchanged between the parties, do not call for any reply being a matter of record. However, the facts, as projected by the Petitioner, are denied. The relevant factual position has been stated by the Respondent in the Preliminary Submissions above and the same shall be read as part of reply here.
32. That in reply to the contents of para no. 32, it is submitted that as per the Load Sheet appended with the present reply, the ultimate Load of the Petitioner's project is 5035.3658 KVA. It is further submitted that the no excessive/ exorbitant/ additional/ high reasonable burden has been put on the Petitioner. The calculation has been made by the Answering Respondents in terms of the Regulation 3.2.2 of the Supply Code. Detailed submissions in this regard have been stated above and the same are reiterated as part of instant reply.
33. That the contents of para no. 33 relate to HVPNL, which has not been arrayed as a party respondent to the present proceedings.
34. That in reply to the contents of para no. 34, it is submitted that no grounds whatsoever exist in the favour of the Petitioner for the grant of the relief, however, for the convenience of the Hon'ble Commission, the sub-para wise reply is as under:
(A) That sub-para (A), the Petitioner has reproduced Regulation 3.2.2 of the Supply Code and has thereafter enumerated certain scenarios and has stated that Regulation 3.2.2 does not take into account the scenarios so enumerated. In this regard, it is humbly submitted that a bare perusal of the ground shows that the Petitioner is trying to seek amendment of the Regulations on an apprehended future. It is wrong and denied that the Regulation 3.2.2 does not differentiate between the following situations. Each of the said situations are replied to as under:

1. Situation 1: Where the system constraints do not allow the connection to be given on 33 kV level at present: - In this regard it is submitted that

Regulation 3.2.2 specifically deals with the situation “*where 33kV voltage level is not available in the area of supply.*”

2. Situation 2: Where the system allows the connection to be given on 33 kV level but the consumer wants the connection to be released at 11 kV level:
- In this regard, it is submitted that the supply is required to be given on the voltage level as prescribed under Regulation 3.2 of the Supply Code on the basis of the contracted load. The said Regulation also prescribes that keeping in view the “technical consideration” the supply can also be given at the voltage level other than the voltage prescribed. It is humbly submitted that the same cannot be left solely at the wish and will of the consumer. The consumer would keep in view the financial considerations in place of the technical consideration. Even otherwise, the consumer lacks technical expertise and cannot be made the judge of the voltage levels appropriate for supply.

3. Situation 3: Where the system constraints presently do not permit connection at 33 kV level the 33 kV level would be created in due course and the connection would finally be shifted from 11 kV to 33 kV level: It is humbly submitted that the Regulations deal with the release of supply at appropriate voltage level. The supply is as per the current demand and the present technical constraints, the same cannot be on the basis of any future anticipation.

4. Situation 4: Where the system constrains neither permit the connection at 33 kV level at present nor there is any possibility of creation of 33 kV level in future and the connection would continue to run at 11 kV level: It is once again submitted that the Regulations deal with the release of supply at appropriate voltage level. The supply is as per the current demand and the present technical constraints, the same cannot be on the basis of any future possibilities/ probabilities.

5. The contents of this para are wrong and denied. It is wrong and denied that to demand the difference of the two costs in situation no. 3 or 4 above is not justified. It is humbly submitted difference of cost is sought in view of the prevalent system/ technical constraints. The same cannot be relaxed or enhanced on the basis of future possibilities. If the argument of the Petitioner is accepted the same would be mean that no cost is liable to be charged from the builder as the Discom ought to create the requisite infrastructure in future.

6. That the contents of this para are a matter of record to the extent it relates to the incurring of the cost on the part of the Answering Respondents in case of refusal on the part of the consumer. However, the same has no applicability to the facts and circumstances of the present case.

7. That in reply to the contents of this para, it is respectfully submitted that once again the Petitioner has based its arguments on future possibilities and probabilities. It is humbly submitted that the Answering Respondents are bound by the Regulations in vogue and any deviation of the Regulations is not permitted.

8. That the contents of this para are wrong and denied. It is denied that the status of the Petitioner falls under “Situation 4 above”.

9. That the contents of this para it is submitted that Answering Respondents are bound by the Regulations in vogue and any deviation of the Regulations is not permitted.

10. - 12. That the contents of these paras are misleading in nature, wrong and denied. It is denied that the Petitioner is put to any under hardship. In this regard, it is submitted that the Answering Respondents are required to treat all the consumers with parity. Section 45 the Electricity Act,

prohibits the licensee from showing any undue preference to any person or class of person or discrimination against any person or class of person and there are several other developers similarly placed like the Petitioner who are required to create requisite infrastructure in terms of extant Regulations, however, the same is not being done due to technical constraints, at present, therefore, in case exemption is granted to the Petitioner, the other developers would also claim parity with the Petitioner without paying the differential cost which will ultimately lead to a critical situation of inadequacy of electrical infrastructure in the State.

(B) That in reply to the contents of para (B), it is submitted that the Petitioner has stated that another “difficulty” is being faced with regard to the Regulation No. HERC/29/2014 (2nd Amendment on dated 08.01.2020). At the outset, it is submitted that Regulation 9 of the Duty to Supply Regulations, 2016 deal with the power of the Hon’ble Commission regarding the “Removal of Difficulty”. It is humbly submitted that a bare perusal of Regulation 9 shows that such difficulty must be arise “...*in giving effect to the provisions of these Regulations...*” Further, the order to be passed for removal of difficulty cannot be “...*inconsistent to the provisions of the Act and these Regulations*”. To the contrary, the Petitioner, is in essence seeking complete amendment/ relaxation of the provisions which are being given effect and applied to the case of the Petitioner. Further, the sub-para wise reply is as under:

1. That the contents of this para are wrong and denied. It is wrong and vehemently denied that there is no technical and/ or economic rationale for laying down such Regulations. In this regard, it is submitted that the Petitioner is, in essence, seeking to challenge the validity the provisions of the Regulations. However, such a challenge lies only be before the Hon’ble High Court in exercise of its extra-ordinary writ jurisdiction. Even otherwise, the benchmark has to be assigned to a particular value, otherwise every consumer will seek variation on one pretext or the other thereby giving rise to application of discretion and chaos thereof, which would be against the larger interest of the consumers.
2. – 5. That in reply to the contents of these paras relating to the exemption in case there is variation of 5%, it is humbly submitted that the Regulations have been notified by the Hon’ble Commission only after taking into account the relevant factors. The same cannot be challenged at a belated stage. Detailed reply has already been given in the preliminary submissions/ objections, the contents of which are not being repeated here for the sake of brevity.
6. That the contents of this para do not relate to the Answering Respondent.
7. That the contents of this para are a matter of record.
8. That the contents of this para, insofar as it relates to the purchase of the transformer are denied for want of knowledge. It is humbly submitted that the Petitioner had failed to carry out the construction within the requisite time. On account of the delay on the part of the Petitioner, there was no more availability of supply of power at 33kV level. The said fact was well in the knowledge of Petitioner, as can be seen from bare perusal of the Memo dated 26.02.2024 (Annexure P-2). No liability can be fastened on the Answering Respondents on account of the delay on the part of the Petitioner.
9. That the contents of this para are wrong and denied, in reply to which it is reiterated that Section 45 the Electricity Act, 2003 prohibits the Answering Respondents from showing any undue preference to the consumers. In case exemption is granted to the Petitioner, the other developers would also claim parity with the Petitioner without paying the

differential cost which will ultimately lead to a critical situation of inadequacy of electrical infrastructure in the State.

(C) That in reply to the contents of para (C) it is submitted that there is no difficulty with respect to the "*Load Norms circulated by DHBVN on dated 09.08.2024 vide Sales Circular No. D-25/2024*". The sub-para wise reply is as under:

1. – 3. That in reply to the contents of these paras it is submitted that the load norms have been sufficiently amended keeping in view the increased efficiency of the electrical infrastructure. It is submitted that as per the Sales Circular D-25/2024 (Annexure R-1/11), the demand factor for the purposes of calculation of ultimate load explicitly specified as 0.4 and the Power Factor for calculation of demand in KVA is 0.9.
4. That the contents this para are misleading in nature, wrong and hence denied. In case the argument of the Petitioner is accepted the same would mean that all the cost recovered by the Answering Respondents from the consumer/ developers, owing to the system constraints at the requisite point in time, is liable to be refunded once the efficiency of the system is increased.
5. – 6. That in reply to the contents of these paras, it is submitted that the Power Factor being applied by the Answering Respondents is already 0.9. The same has been applied to the Petitioner's case in view of the Sales Circular No. D-25/2024 dated 09.08.2024. As such, the Power Factor has been recently revised and it would be wrong to state that Power Factor of 0.9 is in use since long, as sufficient revisions have been made from time to time.
7. – 10. That the contents these paras are misleading in nature, wrong and hence denied. It is reiterated that, in case the argument of the Petitioner is accepted the same would mean that any cost vis-à-vis the system/infrastructure to be developed, which has been recovered from the consumer/ developers from time to time, is liable to be refunded once the efficiency of the system is increased. Such an argument raised by the Petitioner is fallacious and is liable to be rejected.

That the contents of this para are wrong and denied as the Petitioner has failed to point out any difficulty in giving effect to any of the Regulations. It is submitted that the only difficulty reflected from the submissions made by the Petitioner is commercial/ financial difficulty

Prayer clause is denied.

PRAYER

In view of the facts and circumstances stated hereinabove, the present petition being non-maintainable and also bereft of merit, in the interest of justice.

10. The case was heard on 16/07/2025, Sh. Sanjeev Chopra, representative of the petitioner, submitted that the rejoinder is yet to be compiled based on the data received from all circles and requested for some time to file the rejoinder. Acceding to request of the petitioner, the Commission adjourns the matter and directs the petitioner to file the rejoinder within two weeks with advance copy to respondents.

11. Rejoinder of Petitioner submitted on 19/08/2025:

- 11.1 That at the outset all the contentions, adverts and statements made by the Respondents in the reply dated 08.05.2025 filed on 12.05.2025 by the Respondents are denied and nothing therein shall be deemed as admitted by the Petitioners, by reason of non-traverse or otherwise, unless specifically admitted hereinafter. It is submitted that the reply dated 08.05.2025 filed by the Respondents is nothing but a misuse of the process of law and is devoid of any merits and is therefore liable to be dismissed.
- 11.2 That the Petitioner reserves the right to file additional evidence, including, but not limited to, additional documents and witnesses as well as the expert opinion, should the same become inevitable at any stage of the proceedings and/or arising out of the further submissions made by the respondents.
- 11.3 That the petition basically mentions the difficulties which the petitioner and many more such consumers / applicants are facing in getting the regular electricity connections, or even the partial load from the distribution licensee DHBVN especially in the areas developed by the developers / builders in the state of Haryana on account of arbitrary application of certain provisions of the Electricity Supply Code, Duty to Supply Regulations, and the Load Norms circulated by the licensee Respondents and their method of arriving at the ultimate load from kilo Watt (kW) to kilo Volt Amperes (kVA).
- 11.4 That the petitioner has performed his part of the obligations with full honesty and integrity, and has acted bona fide at all stages and has complied with all directions and communications issued by the Respondents from time to time. Petitioner has not violated any rules or regulations of the respondents, has faithfully followed the terms and conditions of the sanctioning of load, has humbly and gracefully accepted the changed stances of the respondents without asking for any additional technical or financial favor.
- 11.5 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:

1. That bare perusal of the reply filed by the respondents would show that submissions made by them are totally vague, baseless, evasive and failed to address the substantive issues raised by the Petitioner; and the respondents are only trying to escape their liability and obligations on one pretext or the other.
2. That the petition filed by the petitioner is bona fide and is in the interest of justice. It is imperative to note that the grounds of recovery of expenditure, which the respondents have resorted to so far or are contemplating to recover in future from the petitioner, are in themselves a matter of dispute in the present petition to which the respondents have deliberately skipped to answer and instead have repeatedly reiterated their stand to go ahead with the recoveries.
3. That the respondents have failed to appreciate the fact that the petitioner has never refused to take the connection at 33 kV level, or

to disobey the regulations and sales circulars in this regard. On the contrary, it is the respondents themselves who are not able to release the load at 33 kV level and therefore, sanctioned the load on 11 kV. Thus, on one hand, the respondents themselves sanctioned the load on 11 kV but on the other hand they are demanding the full cost of 33 kV infrastructure which anyway they are not going to create at all. Hence, acts of the respondents in demanding the differential cost of 33 KV infrastructure from the petitioner which the respondents shall not be incurring, are unreasonable, arbitrary and amounts to unjust enrichment at the cost of the Petitioner besides being violative of the very essence of the Electricity Act 2003, the objective whereof is to provide efficient, cost effective and consumer friendly services to the consumer.

4. That the Electricity Act 2003 mandates recovery of only the expenditure which the licensee / respondents incur or intend to incur on the creation of infrastructure. But here in the present case, as also in many other such cases, where the constraint is on the part of respondents, they are mandated to recover only the expenditure which they have either incurred or going to incur and not against any such hypothetical infrastructure which they shall never create.
5. That the respondents have revised the load norms at least 4-5 times in the last few years without any involvement or approval of the Hon'ble Commission which has resulted in drastic reduction in the ultimate load requirements of the builders / developers but Respondent has been impractical in raising an objection to the petitioner's legitimate demand to apply a power factor of 0.95 instead of 0.90 for the purpose of calculating the ultimate load from kW to kVA, which would not only be beneficial to the Petitioner and other developers but shall also be in the financial interests of the respondents.
6. That the respondents have also failed to appreciate that the petitioner has not come before the Hon'ble Commission to avoid paying Rs. 3.11 crores but it is in the larger public interest and in the interest of the respondents. It is submitted that adopting a power factor of 0.95 instead of 0.90, would allow the respondents to sanction far more load from the same existing capacities without having to incur expenditure on creation of additional infrastructure. An outdated power factor not only places an undue financial burden on consumers, but it also leads to wastage of national resources. Additionally, it causes feeding sources to operate below their ultimate capacity, resulting in significant financial losses for licensees. If the power factor of 0.95 is taken instead of 0.90, they will be able to release far more load through the exiting capacity. For example, from a 66 kV substation of 94.50 MVA, DHBVN will be able to release an additional load of almost 5 MVA from the same substation without any augmentation.
7. That the objections raised by the respondents in their reply had already been discussed at length before the Hon'ble Commission during the hearing of Interim Application wherein, the respondents had admitted that it was not possible for them to release the

connection at 33 kV level. Considering the admission of the respondents, the Hon'ble Commission allowed the interim relief directing the respondents to release the partial load of 1 100 kVA to the petitioner. That the respondents sanctioned the load twice at 33 kV level after detailed discussions and approvals by the Technical Feasibility Committee without even checking the facts on the ground. And further, instead of admitting a serious lapse on their part, the respondents in their reply have put a blame on the petitioner for not impleading Haryana Vidyut Prasaran Nigam Limited (HVPNL) as a party to the present petition. It is submitted that the petitioner is a consumer of DHBVNL and not HVPNL. Any inter-dependence of the two licensees is purely an internal matter between them and they cannot blame the petitioner for not interacting directly with the transmission licensee. Moreover, the Petitioner does not seek any specific relief or direction against HVPNL. Instead, it highlights IHVPNL's acknowledged system constraints i.e. the refusal to construct an additional 33kV bay as the underlying permanent factual impossibility that renders DHBVN's demand for differential cost irrational and unjust. The dispute over the differential cost is primarily with DHBVN.

Para-wise reply to the preliminary submissions made under reply filed by the Respondents:

- I -2. That the contents of paras 1-2 under reply are matter of record and need no reply.
3. That the contents of para 3 under reply need no comments. However, the contents of the Petition filed by the Petitioner are reiterated and be read and referred to as part and parcel of present rejoinder.
4. That the contents of para 4 save the matter of record are wrong, false and denied. It is wrong to state that the petitioner has brought the subject matter Petition just to avoid paying Rs. 3.1 1 crores. The contents of preliminary submission above may be read and referred to as part of reply to this para for the sake of brevity. It is submitted that the respondents, instead of opposing the plea of the petitioners, should help in bringing out solutions to the difficulties and should rather act as a true guide for the Hon'ble Commission so that a rightful decision can be taken in the matter. True equity requires treating similar situations similarly and different situations differently. Applying a rule uniformly without regard to material factual differences can lead to inequitable outcomes and unjust enrichment of DHBVN.
5. That the contents of para 5 under reply save the matter of record are wrong and denied. It is submitted that Interim application has already been heard at length by the Hon'ble Commission while allowing 1100 kVA load. Therefore, the submissions made by both the parties are already on record of the Hon'ble Commission.
6. That the contents of para 6 (a) & (b) under reply to the extent they relate to the application for approval of electrification plan for release of single point connection on 33 KV level with the ultimate load of 7242.81 kW with CD 8047.57 KVA for IT Park colony and the sanction of the same subject to certain conditions are matters of record. However, the rest of the contents are wrong, misleading and denied.

That the contents of para 6(c) are wrong, misleading and contrary to facts. Respondents in their reply have admitted that they had demanded a BG of

Rs. 6.51 crores against 33 kV feeder and other related infrastructure without even verifying the fact that it was not possible to release the connection at 33 kV. Also, it is wrong to say that the petitioner didn't comply with the conditions of sanction. The petitioner in fact had deposited a BG of Rs. 96 lakhs against 33 kV line from 66 kV substation USA. But later, the petitioner was informed that it was not possible to release the load from 66 kV USA substation. The respondents, therefore, had no reason whatsoever to dispatch such letters demanding BGs against 33 kV infrastructure and which eventually became infructuous also once they themselves revised the sanction at 11 kV.

That the contents of para 6(d) are not denied. It is submitted that respondents in their reply have admitted that there were constraints on their part to release the connection at 33 kV level from USA substation hence, demanding differential cost of the infrastructure from the Petitioner which respondents are constrained to provide is highly unreasonable, arbitrary and unjust enrichment.

That the contents of para 6(e) are matter of record and need no comments. However, it is submitted that it is within the provisions of the regulation to request for phasing of the total development of infrastructure and there is nothing which the petitioner pleaded against the law.

That the contents of para 6(f) are matter of record and need no comments. However, it is important to note here that the respondents in their reply have stressed so much on BG of Rs. 7.11 crores and their phasing but they have failed to bring out in their reply that all these letters and demands raised were against 33 kV network which they very well knew they would not be creating. All these calculations and permutations / combinations became futile once they themselves admitted in writing that they had constraints to release the connection at 33 kV level.

That the contents of para 6(g) to 6(n) are matters of record and need no comments.

7. That the contents of para 7 to the extent they relate to the load being reduced to 5035 kVA are not denied. It is submitted that the respondents despite admitting that in the ultimate load of Petitioner as per latest load norms is 5035 kVA, but they have failed to mention that they are yet to approve the same. Respondents are holding up the approval of 5035 kVA on the grounds that the petitioner has not deposited the differential cost of Rs. 3.11 crores. Therefore, as per record of the respondents, the ultimate load sanctioned still stands at 5868 kVA. Further to calculate the transformer capacity, if we divide 5868 kVA by 0.80, the capacity of transformers which the petitioner needs to install comes out to 7335 kVA i.e. 3 nos. distribution transformers of 2500 kVA each. Because the petitioner has an option to develop the infrastructure in phases, the phasing in 3 nos. phases has been approved by the respondents as per their letter no. Ch-04/Re-phase wise / ROEL dated 25.07.2025 (copy attached as Annexure P-1). The rephasing approved is placed as under:

Name of Builder	Ultimate Load in kVA	Rephasing of Load (in kVA)		
		31.12.2025	01.0.2026	31.12.2026
		Phase I	Phase II	Phase III
RPS 12 th Avenue infinia, RPS Infrastructure Ltd.	5868	2000	2000	1868

That the capacity of transformers which the petitioner needs to install as per the rephasing, in the Ist phase up to 31.12.2025 comes to 200() / 0.80 2500 1<VA. However, as admitted and verified by the respondents, since 2500 kVA transformers already stand installed, the compliance already stands made so far as phase- I is concerned. Therefore, as on date, there is no liability pending so far as internal infrastructure is concerned.

8. That the content of para 8 relates to the provisions of the Electricity Supply Code are matter of record. However, Respondents have failed to acknowledge the very fact that the present Petition revolves around the issue in carrying out the provision of the Act due to the strict and literal application of Regulation 3.2.2. Regulation 3.2.2 does not distinguish between temporary and permanent unavailability. The current case of the Petitioner falls under a situation where the system constraints of Respondents neither permit the connection at 33 kV level at present nor is there any possibility of creation of 33 kV level in future. In such a scenario, demanding the differential cost for a 33kV infrastructure that will never be created or utilized by the Respondent is legally and economically unjustifiable. This creates a punitive charge. Upholding such a demand would set a dangerous precedent, allowing licensees to charge for services they cannot deliver, thereby eroding consumer trust and creating significant financial burdens without corresponding benefits.
9. That the content of para 9 needs no comment. However, the Petitioner craves the leave of this Hon'ble Commission to distinguish the facts of the Judgements relied upon by the Respondents with the factual of the present case at the time of final arguments.
10. That the Contents of the para 10 under reply save the matter of record are wrong, denied and incorrect. The petitioner has not intended to violate any regulation or instructions of the respondents but the only issue which has been raised in the petition in this context is that the two situations, ONE, where there is a demand from the consumer to give connection at a lower voltage level and TWO, where there is a constraint on the part of the licensee should be dealt separately. Also, it may also be kept in mind that the Electricity Act 2003 does not permit to recover any such expenditure which the licensee would not incur. And the petitioner is within its legal right to bring such deficiencies into the notice of Hon'ble Commission. In fact, the Petition is precisely to address the legality and fairness of the demand given the circumstances of 33 KV level infrastructure permanent unavailability and disproportionate burden on the Petitioner of the expenditure that is never going to be incurred by the respondents. The Contents of the preliminary submission be read and referred to as part of reply to this para also.
- 11-12. That the Contents of paras I 1 & 12 are wrong, false and denied as not correct. It is submitted that the only intention behind bringing in such a petition is to bring to the notice of Hon'ble Commission the difficulties being faced by the consumers due to some provision of the existing regulations which primarily seem to be illogical and unjust. The petitioner also pleads that the Hon'ble Commission may kindly take cognizance of such situations where the constraints are on the part of the licensee and not the consumers. The Respondent's assertion that the Petitioner seeks "abrogation or amendment of law" undermines the Hon'ble Commission's statutory powers. The Petitioner is seeking the exercise of the Commission's inherent and statutory powers to "remove difficulties" as explicitly provided under Regulation 16 of the HERC Supply Code 2014, and Regulations 9, 10 & I 1 of

the Duty to Supply Electricity Regulations. These provisions are specifically designed to address situations where the strict, literal application of regulations leads to absurd, unjust outcomes, particularly when unforeseen circumstances arise. Denying this power in a clear case of factual impossibility would render these statutory provisions redundant, undermining the Commission's ability to act as a fair and responsive regulator.

13. 13 are wrong and denied as it treats the Petitioner's difficulties as mere "commercial interests" which reflects a limited understanding of the substantial hardships involved. The Petitioner is compelled to operate Diesel Generating (DG) sets continuously to meet the electricity demands of its developed IT Park. Such a situation leads to the wastage of valuable resources and raises significant public interest concerns. These issues extend beyond mere private financial issues and become a public concern for the commission to address.
14. That the contents of para 14 are totally wrong and misleading. The Respondent's contention that the Petition is non-maintainable due to the non-joinder of HVPNL is legally untenable. It is humbly submitted that the petitioner is a consumer of DHBVN and not HVPNL. If there are any constraints or system limitations, it is for DHBVN and HVPNL to resolve among themselves. The petitioner mentioned the name of the transmission licensee HVPNL only because the sanction at 33 kV level had to be cancelled twice in as much as the respondents themselves stated that it was HVPNL who informed that there was no spare 33 kV Bay available at USA substation or at IAC substation. So, to expect from the petitioner to implead HVPNL as a party is not justified. Respondents may refer to para 6(d) of their own reply on page no. 5 in this regard wherein they themselves mentioned the decision of the WTDs of IDHBVN and HVPNL.

In view of the submissions made above, it is evident that the petitioner has not been at fault so far as compliances of regulations is concerned. The point of contest here is that the constraints on the part of consumer and on the part of licensee should be dealt with differently and that such cost should not be demanded against which no infrastructure is to be created.

The Petitioner further reiterates that dividing kW by 0.90 instead of 0.95 power factor to arrive at ultimate load in kVA is in the interests of the Respondents as well.

The submissions made above are bonafide and purely based upon the technical necessities of the distribution system. The respondents should realize that creating overcapacities is neither in favour of respondents nor of the consumers. The Petitioner's primary grievance is directed at the arbitrary application of the Electricity Supply Act, 2003, and related Regulations by the Respondent, DHBVN, specifically concerning the unjust demand for differential costs. The Petition does not seek any specific relief or direction against HVPNL. Instead, it highlights HVPNL's acknowledgement for refusal to construct an additional 33kV bay as the underlying factual impossibility which renders DHBVN's demand for differential cost illegal and unjust.

PARA WISE REPLY

1. That the Contents of para I are wrong and misleading and denied. The contents of the Petition filed by the Petitioner along with the submissions made above Inay be read and referred to as part of reply to this para also, for the sake of brevity and to avoid repetition. It is pertinent to submit here that BG worth Rs. 96 lakhs against the 33 kV line from 66 kV USA substation is still lying with the Respondents while it is the Respondents own constraints that they are unable to provide connection at 33 KV level infrastructure

either in present or in future. It is submitted that strict interpretation of the provisions / regulations that leads to absurdity, arbitrariness cannot be sustained and must be harmoniously construed to give effect to the objectives of the regulations/code i.e. cost efficiency and consumer friendly services.

2. That 2 are wrong and denied. The contents of the Petition filed by the Petitioner along with the submissions made above may be read and referred to as part of reply to this para also, for the sake of brevity and to avoid repetition. It is submitted that the petitioner has not filed the subject matter petition to seek any exemption or to avoid paying the legitimate charges but has brought out certain difficulties in the existing provisions, the strict application whereof leads to arbitrary, unreasonable and unjust, absurdity and an undue enrichment of the Respondents at the cost of the Petitioner. It is submitted that the correction / amendment of these provisions shall align with the objectives of the supply code and regulations, which will not only benefit the consumers at large but also the respondents.
- 3-5 That the contents of para 3 to 5 need no comments.
6. That the contents of para 6 under reply are wrong, misleading and contrary to facts. It is wrong to say that IT Park has not been properly developed. It is submitted that the IT Park has been properly developed and the Occupation Certificate has also been received by the Petitioner on 28.03.2024. The Possession has already been offered and is partially occupied also. After the release of partial load of 1 100 kVA in April 2025, a load of 1000 kVA has been utilized and bills amounting to Rs. 80 lacs have been paid to the respondents in just $2 \frac{1}{4}$ months. In fact, the respondents have earned huge revenue, as above, after the Hon'ble Commission permitted the interim release of 1 100 kVA vide its interim order dated 09.04.2025.
That the contents of para 7 under reply are matter of record and need no comments.
- 8-13. That the contents of the paras 8-13 under reply are correct to the extent that these mention about the powers of the Hon'ble Commission to amend the regulations and provisions but it is incorrect on the part of respondents to say that no grounds have been raised by the petitioner for invocation of such powers. The contents of the Petition filed by the Petitioner along with the submissions made above may be read and referred to as part of reply to this para also, for the sake of brevity and to avoid repetition. The Petitioner is seeking the exercise of the Commission's inherent and statutory powers to "remove difficulties" as explicitly provided under Regulation 16 and 17 of the HERC Supply Code 2014, and Regulations 9, 10 & 11 of the Duty to Supply Electricity Regulations.
14. That the Contents of the para 14 under reply are wrong and denied. The contents of the Petition filed by the Petitioner along with the submissions made above may be read and referred to as part of reply to this para also, for the sake of brevity and to avoid repetition.
15. That the contents of para 15 under reply need no comments. The contents of the Petition filed by the Petitioner along with the submissions made above may be read and referred to as part of reply to this para also, for the sake of brevity and to avoid repetition.
16. That the contents of para 16 are wrong, misleading and contrary to facts. The contents of the Petition filed by the Petitioner along with the submissions made above may be read and referred to as part of reply to this para also, for the sake of brevity and to avoid repetition.
- 17-31. The Contents of the paras 17-31 of the petition addressed collectively by the Respondents in a single paragraph, rather than addressing each

averment individually, appears to be a deliberate attempt to avoid dealing with the specific facts and highlighting the respondents' alleged failure to efficiently deal with the petitioner's load application. The permanent connection was applied by the petitioner in 2021 but for the next three years, the respondents did not know as to, from where the load has to be sanctioned. The first EP was sanctioned in 2021, the connectivity was approved from 66 kV substation USA in Faridabad. Later, they realized that it was not possible for them to give the connection from USA substation. Then, they revised the sanction to 33 kV substation at IAC but again they realized that connection from IAC substation was also not possible. Finally, in February 2024, the load was sanctioned at 11 kV level from 66 kV substation Sector 37. Even the partial load of 1100 kVA has been sanctioned at 11 kV level from 66 kV substation Sector 37 because there is no 33 kV level available nearby. The petitioner kept following the revised sanctions from time to time and finally erected its own 11 kV feeder from 66 kV substation Sector 37 for release of partial as well as the ultimate load. However, the Respondent, in its submission, has failed to fully apprise the Hon'ble Commission that they themselves revised the load norms and the ultimate load of 8047 kVA, which had been arrived at and sanctioned initially, has finally reduced to 5035 kVA. The respondents, by summing up contents of paras 17 to 31 in just one para have also skipped apprising the Hon'ble Commission that just for an extra load of 35 kVA over and above 5000 kVA, they are demanding charges worth Rs. 3.11 crores against a hypothetical 33 kV infrastructure which they also know would never be coming up. As distribution licensee, their effort should have been to be consumer friendly and they themselves should have recommended the moderation of provisions in order to bring such reliefs but on the contrary, they are bent upon opposing the genuine issues raised by the petitioner. On one hand, all these reductions in load norms during last few years do not have any approval / sanction of the Hon'ble Commission but when the petitioner has raised a technical issue of considering the power factor from 0.90 to 0.95 for calculating load in kW to kVA, the respondents have raised objections without understanding the benefits it would bring to the consumers at large and the respondents in particular.

32. That the contents of para 32 to the extent they relate to the ultimate load arrived at after Green Building Norms is 5035 kVA but again just for an extra load of 35 kVA above 5000 kVA (0.70%), the respondents are demanding charges worth Rs. 3.11 crores and that too against a hypothetical 33 kV infrastructure which they know they would not be erecting at all. Further, with the advancement in technology, power factor efficiency has increased from 0.90 to 0.95 and applying the flawed and outdated power factor will only inflate the kVA and the load. It is submitted that while the calculation has been made in terms of the Regulation, it leads to absurdity and unjust enrichment of the Respondents at the cost of the Petitioner. In order to seek removal of these difficulties being faced with the strict application of the regulation, the present Petition has been filed seeking directions, as prayed for in the said Petition. It is further submitted that Respondents, being distribution licensee, their effort should have been to be consumer friendly and they themselves should have recommended the moderation of provisions in order to bring such reliefs but on the contrary, they are bent upon opposing the genuine issues raised by the petitioner.
33. That the contents of the para 33 are wrong and misleading. The contents of preliminary and para wise submissions made above may be read and referred

to as part of reply to this para also, for the sake of brevity and to avoid repetition.

34(A). That the contents of Para 34 (A) are erroneous and failed to take into account the critical distinction of the Petitioner's case. The Respondent's contention that arguments cannot be based on future possibilities and Petitioner is bound by the Regulations in vogue, failed to consider the permanent unavailability of 33kV voltage level infrastructure. Respondent DHBVN itself acknowledged this 33kV unavailability, leading to the re-approval of the EP for an 11kV connection vide Memo No. CH-146/SE/R-APDRP/OLNCHT/FBD/EP-139 dated February 26, 2024.1 This memo explicitly states: "However, as intimated by you there is no 33 KV level available in the vicinity of the instant projects... as such, load of 5281.21 KW or 5868 KVA be served through an 11 KV feeder...". The Respondent's contentions about relief being discriminatorily applied to the Petitioner while leaving out similarly placed developers and violation of Section 45 of the Electricity Act is unfounded. The Petitioner's case is unique due to the fact of 33kV nonavailability as explicitly acknowledged by the Respondent itself. In such a scenario, demanding the differential cost for a 33kV infrastructure that will never be created or utilized by the Respondent is legally and economically unjustifiable, leading to "unjust enrichment" of DHBVN. Regulation 3.2.2 does not distinguish between temporary and permanent unavailability. This creates a punitive charge. Granting relief in this specific instance would not constitute undue preference but rather an equitable application of the law to a distinct factual scenario. True equity requires treating similarly situated parties similarly and differently situated parties Applying a rule uniformly without regard to material factual differences can lead to inequitable outcomes and unjust enrichment of DHBVN.

It is submitted that the Electricity Act 2003 while permitting recovery of expenditure does not permit recovery of any such expenditure which the licensee will never incur. If the consumer is to be fed -from 11 kV infrastructure due to constraint on the part of licensee, only the expenditure incurred on 11 kV can be recovered. The expenditure against hypothetical 33 kV infrastructure cannot be recovered. The respondents on one hand have expressed that if the petitioner is granted any exemption from paying the charges, many other such builders / developers would also claim parity. It is made clear in this regard that the petitioner has nowhere requested any undue favour but has only pleaded before the Hon'ble Commission that regulation should be so amended as to handle different constraints and scenarios differently so that such consumers do not face any hardships due to unjust demand by the respondents

34(B). That the contents of the para are wrong, misleading and contrary to facts. Here also in reply to all the sub-paras of sub-para "34 (B)" from serial nos. I to 9, the respondents have taken an unjustified recourse to defend themselves citing only the existing provisions of the regulations but have not replied specifically to the issues raised in the petition. Thus, in the absence of some healthy arguments from the respondents, it would not be easy to have a positive discussion and to remove the difficulties. Their reply is correct to that extent that a threshold value has to be defined for any rule to apply but at the same time, they have failed to realize that some provisions are always kept to allow variations within a limited value plus or minus. May it be accuracy of electrical equipment, which is normally $+/- 3\%$ or for that matter the exceeding of MDI in an energy meter, which is $+5\%$, a room for accommodating limited variations is always kept. Here in the present case, the threshold value to decide the voltage level up to 11 kV is 5000 kVA but in

the absence of any variation allowed, even 1 kVA over and above 5000 kVA would subject the consumer to spend crores of rupees on creating 33 kV infrastructure which would practically be of no use, neither to the consumer nor to the respondents. Therefore, allowing a variation of +5 % would not only resolve the issue for the consumers but would also help the respondents to save their 33 kV capacity for some other fruitful use against some higher loads instead of wasting it only for a few kVA's. The respondents in their reply have also failed to realize that the consumers in commercial and industrial categories are their only partners who earn them a profit in the business of electricity distribution. Therefore, the respondents need to be more considerate towards resolving the problems and difficulties faced by their consumers rather than taking a rigid and punitive stand. As already admitted by the respondents that in the present case, it is only 35 kVA over and above the threshold value of 5000 kVA which comes to only 0.7% and by any standards, it does not seem to be justified on the part of the respondents to demand Rs. 3.11 crores and that too against a hypothetical 33 kV infrastructure which they know they would not create at all. Instead of mentioning the existing provisions of the regulations, which are already on record anyway, the respondents should have discussed their point of view specifically on the issues raised and should have come out clearly about what harm or loss they would incur if the variation of +5% was allowed. Further, the respondents have mentioned in their reply that the petitioner is seeking relief and undue favour on the basis of future possibilities and anticipation. It seems that the respondents have not understood the issues raised in the petition. The petitioner has nowhere sought any exemption, relief or undue favour from the respondents or from the Hon'ble Commission but has only placed some practical solutions to the ongoing difficulties being faced by the consumers. It is again reiterated that the respondents, instead of coming out freely in their reply to express their free and fair opinion about the issue raised by the petitioner, have simply negated it without giving any reason. They have simply said that the charges demanded are as per existing regulation. In their reply, the respondents on one hand have expressed that if the petitioner is granted any exemption from paying the charges, many other such builders / developers would also claim parity. It is made clear in this regard that the petitioner has nowhere requested for any undue favour but has only pleaded before the Hon'ble Commission that regulation should be so amended as to handle different constraints and scenarios differently so that such consumers do not face any hardships due to unjust demand by the respondents. In reply to the sub-paras of sub-para "34 (B)" from serial nos. 1 to 9, the respondents have mentioned that regulation cannot be amended at this belated stage or that the regulation can only be challenged before the High Court. It seems that by saying so, the respondents have not understood the submissions made by the petitioner. It is again reiterated that the petitioner has nowhere challenged the regulation but at the same time, the petitioner is within its right to bring all such problems and difficulties to the kind notice of the Hon'ble Commission in applying those provisions as their strict application is leading to absurdity and unjust enrichment of the respondents at the cost of the petitioner and would render the objective of the Code/ regulations nugatory and ineffective. The whole context of the issues raised in the petition is to have a healthy discussion before the Hon'ble Commission to arrive at certain conclusions and to remove the genuine difficulties being faced by the consumers of the state.

34 (C). That the Contents of the para are wrong, misleading and contrary to facts. It is submitted that in reply to all the sub-paras of sub-para "34 (C)" from

serial nos. I to 10, the respondents have not come out with an open mind and seemingly have a preset mind to oppose any submission which has been made by the petitioner. The Respondents have even failed to realize that they stand to benefit the most, if a power factor of 0.95 is adopted instead of 0.90 to arrive at load in kVA from kW. The respondents in their reply have also failed to realize that the consumers in commercial and industrial categories are already maintaining a power factor of 0.99 or 0.98. A detail of power factors being maintained by around 20 nos. such big commercial consumers is attached at Annexure P-2. A look at this annexure would make it easier to understand as to why the power factor of 0.95 should be adopted in place of 0.90. The respondents in their reply have stated that this power factor of 0.90 has been recently adopted, which is totally incorrect as this power factor of 0.90 has been in use for almost the last 20 years or so and requires a change now, in light of the changed circumstances. It is submitted that continuing to apply 0.90 PF in calculations results in an inflated kVA demand, leading to higher demand charges and unnecessary oversizing of system capacity, which is inconsistent with the ground reality wherein modern consumers routinely maintain PF at or above 0.95 through capacitor banks or other correction systems. With modern capacitor banks, automatic power factor correction (APFC) systems, and improved load management, most high-tension and extra-high-tension consumers maintain $PF > 0.95$ as a routine practice.

Therefore, designing and billing on PF — 0.90 artificially inflates kVA demand and misaligns infrastructure sizing with actual usage, leading to excess cost recovery from consumers and inefficient asset utilization by the licensee. The respondents have also mentioned in their reply that if the contention of petitioner is accepted and the power factor of 0.95 is adopted, they would have to return all the cost recovered from other consumers in the past. This contention of the respondents is totally misplaced and misleading. Laws are made effective only prospectively, which is evident from the fact that the respondents themselves have reduced the load norms from time to time thereby causing substantial reduction in the ultimate load calculations and the expenditure but they did not have to return any cost or the expenditure which the builders / developers had incurred due to old load norms. Thus, the statement made by the Respondents that they would have to return the cost to many such consumers is not correct. The respondents need to be more considerate towards resolving the problems and difficulties faced by their consumers rather than taking a rigid and punitive stand. Further, the respondents have mentioned in their reply that Petitioner is seeking relief and undue favour on the basis of future possibilities and anticipation. It seems that the respondents have not understood the issues raised in the petition. The petitioner has nowhere sought any exemption, relief or undue favour from the respondents or from the Hon'ble Commission but has only placed some practical solutions to the ongoing difficulties being faced by the consumers. It is reiterated that the petitioner has nowhere challenged the regulation but at the same time, the petitioner is within its right to bring all such problems and difficulties to the kind notice of the Hon'ble Commission. The whole context of the issues raised in the petition is to have a healthy discussion before the Hon'ble Commission to arrive at certain conclusions and to remove the genuine difficulties being faced by the consumers of the state. Because adopting a power factor of 0.90 for deriving the load from kW to kVA practically means asking a consumer, without any cogent rationale to create an electrical infrastructure in excess of what is required. This excess electrical infrastructure is not only an additional burden on the consumers,

but also it is avoidable wastage of the national resources. At the same time, once the excess infrastructure gets created, the feeding source capacities also remain redundant and never touch their ultimate capacities thereby causing loss to the licensees too. The contents of the Petition and the submissions made above may be read as part of reply to the reply submitted by the Respondents, for the sake of brevity. The respondents are again reminded that if the power factor of 0.95 is taken instead of 0.90 for arriving at the load in kVA, they will be able to release an additional load through the existing capacity. For example, from a 66 kV substation of 94.50 MVA, DHBVN will be able to release an additional load of almost 5 MVA from the same substation without any augmentation and without additional investment

The submissions made above 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 forgoing facts and circumstances, this Hon'ble Commission is requested to:

- (a) Issue appropriate amendments and/or grant appropriate relaxation in the provisions of Supply Code and Duty to Supply Regulations and directions to the respondents to apply a power factor of 0.95 instead of 0.90 to arrive at the ultimate load in KVA;
- (b) Issue appropriate amendments and/or grant appropriate relaxation in the provisions of Supply Code and Duty to Supply Regulations to prevent demand of charges against hypothetical infrastructure which the respondents are not going to create;
- (c) Issue appropriate amendments in the provisions of Supply Code and Duty to Supply Regulations to the extent mentioned in the present petition towards recovery of costs demanded by the licensee for the creation of transmission / distribution system which they anyway cover under their respective ARRs;
- (d) Pass any other order as this Hon'ble Commission may deem fit.

12. The case was heard on 20/08/2025, Ms. Sonia Madan Counsel for the respondent submitted that the rejoinder has been received two days back and requested for some time to go through the same and respond. Acceding to request of the respondent, the Commission adjourns the matter.

13. The case was heard on 10/12/2025, learned counsel appearing for the Respondent sought a brief adjournment to enable him to advance submissions on behalf of the Respondent for final arguments. Thereupon, Sh. Sanjeev Chopra, appearing on behalf of the Petitioner, submitted that a connected load of 1100 kVA had been sanctioned to the Petitioner as an interim relief and that the Petitioner's requirement has, thereafter,

increased to 2000 kVA, and accordingly prayed for sanction/extension of load to 2000 kVA.

To the query of the Commission, the concerned SDO stated that there is no technical impediment to the proposed enhancement of load to 2000 kVA, however, the differential cost of infrastructure on account of supply at 33 kV instead of 11 kV is still required from the petitioner.

In view of the above, the Commission reserves its orders in the matter. The parties are directed to file their respective written submissions within a period of fifteen days from the date of this order, where after the case shall be considered for final disposal.

14. Written arguments of petitioner submitted on 24/12/2025:

- 14.1 The present written submissions are filed on behalf of Petitioner and are in addition to the submissions made thus far, before this Ld. Commission. These submissions are intended to render further and better assistance to the Hon'ble Commission and are being filed supplemental to and in continuation of the earlier pleadings and affidavits already placed on record.
- 14.2 The present petition was filed before this Hon'ble Commission under Section 181 of the Electricity Act 2003 for removal of difficulties which the Petitioner and many more such consumers/applicants were facing in getting the regular electricity connections, or even the partial loads from the distribution licensee DHBVN especially in the areas developed by the developers/builders in the state of Haryana on account of arbitrary application of certain provisions of the Electricity Supply Code, Duty to Supply Regulations, and the Load Norms circulated by the licensee Respondent and the Respondent's method of arriving at the ultimate load from kilo Watt (kW) to kilo Volt Amperes (kVA)
- 14.3 Immediate necessity to file this petition had arisen from the fact that despite having complied with all the rules, regulations and sales circulars of the Respondent Nigam, the respondents denied a regular electricity connection under HT NDS category on the grounds that the Petitioner had not deposited the differential cost of 33 kV and 11 kV internal and external infrastructures.
- 14.4 In the meantime, the Petitioner in a bid to develop the load in phases, applied for a partial load of 1100 kVA which was duly sanctioned by the Respondents. But this partial load was also refused on the same grounds that the Petitioner needed to deposit the differential cost of 33 kV and 11 kV levels
- 14.5 The Respondents cited that as per existing regulations, a voltage level of 11 kV was admissible only up to a load of 5000 kVA whereas in the Petitioner's case, the ultimate load arrived at was 5029.73 kVA and was thus exceeding by 29.73 kVA. The load since was beyond 5000 kVA, it could be released only at 33 kV level. And if a load is released at 11 KV level, Petitioner would deposit the differential cost of 33 kV and 11 kV internal and external infrastructures. Accordingly, the Respondents demanded an amount of Rs. 3,11,25,012/- as the

differential cost which they arrived at on the basis of estimates at 33 kV and 11 kV levels against a hypothetical infrastructure which the Respondents knew they were never going to create.

14.6 The Petitioner never refused to take the connection at 33 kV. Admittedly, it was the Respondents themselves who sanctioned the load on 11 kV because of the unavailability of 33 kV voltage level, as is evident from the bare perusal of the Memo No. Ch-54/GC/149 dated 16.12.2024 addressed by the Respondent No.1 to the Petitioner which stipulated that *...actual cost of 11KV is to be borne by the consumer, due to non-availability of 33 kV bay as intimated by HVPNL vide memo no. Ch-106/D-58/33 KV/Vol-IV dated 24.11.2023.* Therefore, the constraint to release the connection at 33 kV voltage is at the end of the respondents. Copy of Memo dated 24.11.2023 is annexed as Annexure P-4 in the Petition at Page no. 41 This fact that respondent No.1 was not able to release the connection of the Petitioner at 33 KV Voltage due to their own constraints, is also absolutely clear from *para 8 of the Order dated 09.04.2025 passed by the Hon'ble Commission.*

14.7 During initial hearings before the Hon'ble Commission in the present case, the Respondents admitted that it was not possible to create 33 kV level in the area and therefore the connection had to be sanctioned at 11 kV.

14.8 The Hon'ble Commission after hearing arguments in the Interim Application ordered release of 1100 kVA load as an interim measure till such time the petition is decided on merits.

14.9 After the above said order of the Hon'ble Commission, partial load of 1100 kVA was released by the Respondents in April 2025 and since then, total bills amounting to around Rs. 2.25 crores have been paid to the respondents.

14.10 The partial load of 1100 kVA has since been exhausted and the load beyond 1100 kVA is being met through DG Sets. It is feared that if the matter does not get resolved in next 2 months or so, the actual load requirement would further increase thereby forcing the Petitioner to run even bigger DG Sets.

14.11 The dispute between Petitioner and respondents and the difficulty therefrom has primarily arisen because the existing Regulation 3.2.2, does not differentiate between the following situations and consequent to the failure of the respondents to take decisive and consistent actions:

- i. Situation 1: Where the system constraints do not allow the connection to be given on the 33 kV level at present
- ii. Situation 2: Where the system allows the connection to be given on the 33 kV level, but the consumer wants the connection to be released at the 11 kV level
- iii. Situation 3: Where the system constraints presently do not permit connection at the 33 kV level, but the 33 kV level would be created in due course, and the connection would finally be shifted from 11 kV to the 33 kV level
- iv. Situation 4: Where the system constraints neither permit the connection at the 33 kV level at present nor is there any

possibility of the creation of a 33 kV level in future, and the connection would continue to run at the 11 kV level

The present case of the Petitioner falls under “Situation 4” explained above, wherein neither the 33 kV level is present nor is there any possibility of the creation of the 33 kV level in future.

14.12 That because Regulation 3.2.2 does not distinguish between temporary and permanent unavailability, demanding differential cost becomes a punitive charge upon the Petitioner. Granting relief to the Petitioner will lead to an equitable application of the law to a distinct factual scenario. True equity requires treating similarly situated parties similarly and differently situated parties differently. Applying a rule uniformly without regard to material factual differences can lead to inequitable outcomes and unjust enrichment of DHBVN.

14.13 The strict interpretation of the provisions / regulations that lead to absurdity, arbitrariness cannot be sustained and must be harmoniously construed to give effect to the objectives of the regulations/code.

14.14 In this regard, it is pertinent to mention, Section 46 of The Electricity Act 2003 (Power to recover expenditure) which stipulates that “The State Commission may, by regulations, authorize a distribution licensee to charge from a person requiring a supply of electricity in pursuance of Section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply”.

The above provision of the Act does not permit the distribution licensee to recover any expenditure which has not been incurred, and therefore, if any regulation has been formulated in violation of the provisions of the Act and the fundamental principles and execution of the same amounts to unjust enrichment of one party at the cost of other, it has to be amended accordingly.

14.15 In the instant Petition, the Respondents have demanded an amount of Rs. 3.11 crores against the differential cost of 33 kV and 11 kV infrastructure without the creation of 33 kV infrastructure. In such a scenario, demanding a differential cost for 33kV infrastructure that will never be created by the Respondents is legally and economically unjustifiable, leading to “unjust enrichment” of the Respondents.

14.16 Whereas the Petitioner has erected 11 kV infrastructure at his own cost and in accordance with the strict compliance of the estimates sanctioned by the respondents, and whereas the respondents have not incurred any expense towards creating 33 kV level infrastructure, then there is no cost outstanding to be recovered from the Petitioner. Consequently, it is illegal and unfair to impose a disproportionate burden on the Petitioner for the expenditure that is never going to be incurred. Respondents' conduct in demanding the differential cost of infrastructure, which they have neither created nor are going to create in the future, amounts to an arbitrary demand, at the cost of the Petitioner and violates the principles of natural justice.

14.17 This issue has already been addressed by the Hon'ble Commission through the 2nd Amendment to the Duty to Supply Regulations of 2016 i.e., “HERC duty to supply electricity Regulations, 2016 (2nd

amendment of 2023)" whereby Regulation 4.16.9 states that where it has not been possible to erect 33 kV level by the Respondents as of now due to constraints on their own part and thus where the Petitioner has been sanctioned a load of more than 5000 kVA at 11 kV, any further upgradation to 33 kV level, if it actually happens at any later stage will have to be erected by the Respondents / Licensee themselves and to claim the expenditure through ARR. Regulation 4.16.9 is reproduced herein below for the ready reference of this Hon'ble Commission as under:

4.16.9 Upgradation of the existing Infrastructure from 11 kV to 33 kV

- i) *Where electrification plan has already been approved on 11kV and adequate infrastructure for the ultimate load at 11 kV has been created, the cost for switching over from 11 kV to 33 kV shall be borne by the Licensee and such cost shall form part of the ARR.*
- ii) *In cases where estimates for installation of internal infrastructure by the Builder/Developer(s) at 11 kV has been approved, supervision charges have been collected by the licensee and the work of installation internal infrastructure has been started (after placing work orders/ purchase orders) by the Builder/Developer(s) before the date of notification of this amendment, the licensee shall not enforce revision of estimates. Shifting from 11kV to 33 kV system will be done by the licensee at its own cost and such cost shall form part of the ARR.*

The Regulation 4.16, introduced through the Second Amendment, only applies to 33kV Pilot Projects in parts of Gurugram (Sectors 58-115, 37-C, & 37-D), New sectors of Faridabad, the area on the left side of the Delhi-Jaipur highway in Dharuhera.

The Petitioner asserts that their project should also be included under Regulation 4.16 because it is similarly circumstanced, in fact better positioned to claim the benefit of Regulation 4.16, because the load was originally sanctioned at 33kV. Despite the Petitioner's readiness to take the 33kV load, the final sanction was granted at the lower 11kV level (vide Memo dated 26.02.2024) due to the non-availability of the 33kV voltage level, a fact that the Respondent Authority has acknowledged (as recorded in Annexure-4 of the Petition). Since the regulation already recognizes technical difficulties in other projects, the Petitioner demands that the principle of equity requires the benefits of Regulation 4.16 to be extended to their project as well, ensuring similar treatment.

14.18 The Petitioner is therefore seeking the exercise of the Commission's inherent and statutory powers to "remove difficulties" as explicitly provided under Regulation 16 of the HERC Supply Code 2014, and Regulations 9, 10 & 11 of the Duty to Supply Electricity Regulations. These provisions are specifically designed to address situations where the strict, literal application of regulations leads to absurd, unjust outcomes, particularly when unforeseen circumstances arise. Denying this power in a clear case of factual impossibility would render these statutory provisions redundant, undermining the Commission's ability to act as a fair and responsive regulator. Petitioner has only pleaded

before the Hon'ble Commission that regulation should be so amended as to handle different constraints and scenarios differently so that such consumers do not face any hardships due to unjust demand by the respondents.

14.19 Application for amendment in Power factor (0.90 to 0.95):

- i) With the advancement of technology and the increased efficiency of electrical equipment, it is not in the interest of either of the parties to apply a power factor of 0.90 at present times, instead of 0.95 for arriving at the load in kVA. Application of a power factor of 0.95 would benefit all the stakeholders including the respondents. The Petitioner has provided as evidence the details of the power factors maintained by various commercial establishments in the vicinity, wherein the Project of the Petitioner is situated. However, the respondents have not commented on the said details. The bare perusal would show that the said commercial establishments are maintaining the power factor more than 0.95.
- ii) It is reiterated that continuing to apply 0.90 PF in calculations results in an inflated kVA demand, leading to higher demand charges and unnecessary oversizing of system capacity, which is inconsistent with the ground reality wherein modern consumers routinely maintain PF at or above 0.95 through capacitor banks or other correction systems. With modern capacitor banks, automatic power factor correction (APFC) systems, and improved load management, most high-tension and extra-high-tension consumers maintain $PF \geq 0.95$ as a routine practice. The consumers in commercial and industrial categories are already maintaining a power factor of 0.99 or 0.98. A detail of power factors being maintained by around 20 nos. of such big commercial consumers which is annexed as Annexure P-2 in the Rejoinder at page no. 28. The power factor of 0.90 has been in use for almost the last 20 years or so and requires a change now, in light of the changed circumstances.
- iii) Designing and billing on a power factor of 0.90 artificially inflates kVA demand and misaligns infrastructure sizing with actual usage, leading to excess cost recovery from consumers and inefficient asset utilization by the licensee.
- iv) The whole context of the issues raised in the petition is to have a healthy discussion before the Hon'ble Commission to arrive at certain conclusions and to remove the genuine difficulties being faced by the consumers of the state. Adopting a power factor of 0.90 for deriving the load from kW to kVA practically means asking a consumer, without any cogent rationale, to create an electrical infrastructure in excess of what is required. This excess electrical infrastructure is not only an additional burden on the consumers, but also is avoidable wastage of the national resources. At the same time, once the excess infrastructure gets created, the feeding source capacities also remain redundant and never touch their ultimate capacities, thereby causing loss to the licensees too.

An example below would explain the higher amount of losses if more than the required capacities are created:

<u>Example:</u>			
Rating of Transformer (with pf of 0.90 and transformer loading factor of 80%)			
a)	Ultimate Load as per Load Norms	=	4500 kW
b)	After applying a power factor of 0.90	=	$4500 / 0.90 = 5000$ kVA
c)	After applying Trf. loading factor of 80%	=	$5000 / 0.80 = 6250$ kVA
Rating of Transformer (with pf of 0.95 and transformer loading factor of 95%)			
a)	Ultimate Load as per Load Norms	=	4500 kW
b)	After applying a power factor of 0.95	=	$4500 / 0.95 = 4737$ kVA
c)	After applying Trf. loading factor of 95%	=	$4737 / 0.80 = 4896$ kVA

v) It is evident from the above that just by applying the above-mentioned two factors judiciously, not only can we save a developer from being unnecessarily pushed to next higher voltage level but also we can prevent installation of an excess capacity of 1264 kVA of distribution transformer, which not only saves around 10 lacs in cost but also prevents unnecessary no-load losses of an additional 1264 kVA.

For example, a 1000 kVA transformer has no-load losses of 1800 Watts (1.80 kW).

Losses in a day = $1.800 \times 24 = 43.20$ kWh (units)

Losses in a year = $43.20 \times 365 = 15768$ kWh (units)

In terms of money at the rate of Rs. 7 per unit, the total loss in a year comes to $15768 \times 7 = \text{Rs. } 1,10,376/-$

If there are around 500 nos. (actual figures could be much higher) of such higher capacity transformers, we can save $15768 \times 500 = 78,84,000$ units in a year and in terms of money, it would be around Rs. 5,51,88,000/- per year.

vi) Apart from these benefits in financial terms, there will be a positive impact on the environment, as well. Lesser capacity of transformers would mean lesser quantity of transformer oil, lesser amount of heat generated, lesser steel, lesser core, lesser copper/aluminum, lesser size of cables, lesser size of electrical panels and switchgear, etc., etc.

vii) Adopting a power factor of 0.95 instead of 0.90 for arriving at the load in kVA, the respondents would be able to release more load without augmenting the existing capacity of their substations and equipment.

For example, from a 66 kV substation of 94.50 MVA, DHBVN will be able to release an additional load of almost 5 MVA from the same substation without any augmentation and without additional investment.

14.20 That the present Written Submission / Arguments is being filed bona fide and in the utmost interest of justice. It is respectfully prayed that this Hon'ble Commission may kindly be pleased to take it on record, read and refer to the contents of the same, in addition to the Pleadings as filed before this Hon'ble Commission.

15. **Written arguments of respondent submitted on 24/12/2025:**

RELIEF SOUGHT BY THE PETITIONER

- Issue appropriate amendments and/or grant appropriate relaxation in the provisions of Supply Code and Duty to Supply Regulations;

b) Issue appropriate amendments in the provisions of Supply Code and Duty to Supply Regulations to the extent mentioned in the present petition towards recovery of difference of costs demanded by the licensee.

c) To direct the respondents not to withhold release of other connections of the petitioner during the pendency of this petition due to the pending demand of Rs. 3,11,25,012/- in the present case.

BACKGROUND OF THE PROCEEDINGS

15.1 The present petition has been filed seeking appropriate amendments and/or grant of the appropriate relaxation in the provisions of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 as amended from time to time (for brevity "the Supply Code"). The Petitioner has sought directions as against the Respondents restraining them from withholding the release of the load on account of an outstanding demand of Rs.3,11,25,012/- (Rupees Three Crores, Eleven Lakhs, Twenty-Five Thousand and Twelve Only). In other words, the Petitioner is seeking release of the load while simultaneously seeking an exemption from the requirement of prior payment of the aforesaid amount.

15.2 Along with the petition, the Petitioner has also preferred an interim application seeking immediate release of partial load of 1100 KW with a Contract Demand of 1100 kVA. The Hon'ble Commission, vide Interim Order dated 26.03.2025, after hearing the parties, disposed of the Interim Application seeking urgent release of partial load of 1100 kW. The Hon'ble Commission recorded the submissions of the Respondents that no waiver of statutory charges is permissible under the prevailing Regulations and that the requisite Bank Guarantee towards differential cost under Regulation 3.2.2 of the Supply Code is mandatory, reliance being placed on the order dated 11.07.2022 passed in Petition No. 30 of 2020 by the Hon'ble Commission.

15.3 Thereafter, an Interim Application No. 07 of 2025 filed by the Petitioner seeking removal of difficulties and interim release of partial load of 1100 kVA at its IT Park, Sector-27C, Faridabad, without prior payment of the differential cost of Rs. 3,11,25,012/- mandated under Regulation 3.2.2 of the Supply Code. The Hon'ble Commission, vide Interim Order dated 09.04.2025, after hearing both the parties, granted ad-interim relief directing release of partial load subject to a notarized undertaking by the Petitioner to deposit the requisite differential cost in the event the main petition is decided in favour of the Respondents, while expressly clarifying that such interim directions were passed without examining the merits of the case and shall not influence the final adjudication scheduled for 14.05.2025.

15.4 That the present petition, in substance, seeks to reopen and circumvent the settled regulatory position affirmed by this Hon'ble Commission in the earlier proceedings, including Petition No. 30 of 2020, wherein it has been categorically held that no exemption from payment of charges prescribed under Regulation 3.2.2 of the Supply Code can be granted. The reliefs sought, if allowed, would amount to rewriting the Regulations and conferring an impermissible waiver on

the Petitioner, which is neither contemplated under the Electricity Act, 2003 nor permissible in the exercise of the regulatory powers of this Hon'ble Commission.

PETITION IS NON-MAINTAINABLE AND CONTRARY TO THE STATUTORY FRAMEWORK

15.5 The present Petition is not maintainable as it seeks to circumvent the mandatory provisions of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 (hereinafter "Supply Code") and the Duty to Supply Regulations, 2010 (as amended), which are statutory in nature and have been duly framed under Sections 50 and 181 of the Electricity Act, 2003. The Petitioner, by seeking exemption from the requirement of prior payment of Rs. 3,11,25,012/- towards the differential cost of infrastructure between 11 kV and 33 kV levels, is essentially attempting to bypass the statutory mandates that are binding on all consumers. The Supply Code provides for a clear mechanism for determination of load, voltage level, and cost of infrastructure and these provisions cannot be overridden through a petition seeking relaxation or amendment for the sake of individual convenience.

15.6 Further, the present Petition is contrary to the settled statutory framework as it directly challenges the regulatory scheme enacted by this Hon'ble Commission. Regulation 3.2.2 of the Supply Code explicitly provides that where supply has to be given at a voltage different from the specified level due to technical or system constraints, the consumer is liable to bear the cost difference. This provision has been consistently upheld by this Hon'ble Commission in prior petitions, including Petition No. 30 of 2020. By seeking release of load without complying with the statutory requirement of payment or bank guarantee, the Petitioner is attempting to obtain a relief that is neither contemplated under the Electricity Act, 2003 nor permissible under the Supply Code, rendering the petition non-maintainable in law.

15.7 Moreover, the petition is liable to be dismissed as an abuse of the process of law. The Petitioner has already been granted the interim relief and the relief sought in the main petition amounts to seeking retrospective relaxation from mandatory statutory obligations. Allowing such relief would not only set a precedent for other similarly situated consumers to flout regulatory provisions but would also undermine the regulatory authority of the Hon'ble Commission, contrary to the purpose of the Electricity Act, 2003, which envisages a transparent and equitable mechanism for supply of electricity. Therefore, the Petition is liable to be dismissed at the threshold as being non-maintainable and contrary to law.

DIFFERENTIAL COST AND BG DEMANDS ARE LAWFUL AND NON-NEGOTIABLE

15.8 It is submitted that the Petitioner had applied for approval of the Electrification Plan for release of a single-point connection at the 33 KV level for its IT Park Colony, with an ultimate load of 7242.81 kW and Contract Demand of 8047.57 kVA, covering an area of 7.587 acres

in Sector 27-C, Faridabad. The Electrification Plan was sanctioned by DHBVNL vide Memo No. Ch-127/SE/R-APDRP/ONLC-HT/FBD/SOL139 dated 08.12.2021 (Annexure P-1), subject to multiple conditions, including strict adherence to the applicable Regulations and the Electricity Supply Code.

15.9 Thereafter, the Respondents issued Memo No. Ch-18/GC-149 dated 15.01.2022, informing the Petitioner that the Bank Guarantee (BG) of Rs. 6,51,11,104/- was required to be submitted in accordance with the Regulations and applicable Sales Circulars. Despite repeated written communications, including Memo No. Ch-26/GC149 dated 17.02.2023, and numerous telephonic reminders, the Petitioner failed to submit the requisite BGs for internal infrastructure or the amount of differential cost between the 33 KV and 11 KV supply. This clearly demonstrates that the demands raised by the Respondents were lawful and consistent with the regulatory framework.

15.10 In response to the Petitioner's letter dated 21.12.2023 (Annexure R-1/4) seeking recalculation of BGs and phased distribution of the load, the Respondents duly recalculated the BGs based on both 4-phase and later 3-phase execution plans, in accordance with the applicable Sales Circulars D-26/2023 and the operational requirements. The recalculated BG amounts were communicated to the Petitioner through Memos No. Ch-39/GC-149 dated 19.01.2024, Ch-40/GC-149 dated 07.02.2024, and Ch-47/GC-149 dated 06.03.2024 (Annexures R-1/6 to R-1/9). This demonstrates that the Respondents acted transparently and in strict compliance with law in determining the amounts due.

15.11 The Petitioner persistently failed to submit the requisite mandatory Bank Guarantees for internal infrastructure and to deposit the differential cost arising from supply at 11 kV instead of 33 kV, as mandated under Regulation 3.2.2 of the Supply Code. Even as of date, substantial statutory dues remain unpaid, namely pending BG of Rs.1,76,52,652/- for internal infrastructure and differential cost of Rs.3,11,25,012/-, notwithstanding repeated notices and final reminders. The verification conducted by the field officers further establishes that only one 2500 kVA transformer has been installed, which does not discharge the Petitioner's regulatory and financial obligations, rendering the present petition a consequence of its own prolonged noncompliance rather than any illegality or arbitrariness on the part of the Respondent Nigam. A perusal of the chronology unequivocally establishes the sequence of events and actions taken by the Respondent, as set out in the table below;

Date	Action / Description	DHBVN's submission
08.12.2021	Electrification Plan approved for 33 kV single-point connection; Ultimate Load- 7242.81 kW / CD 8047.57 kVA for IT Park Colony, Sector-27C, Faridabad	Subject to compliance with Supply Code
15.01.2022 (Annexure R-1/1)	Demand for BG Rs.6,51,11,104/- for release of temporary load	Warning of cancellation if BG not deposited

17.02.2023 (Annexure R-1/2)	Reminder for BG submission for temporary load	-
07.09.2020 (Annexure R-1/3)	Sales Circular D-21/2020 forwarded to Petitioner	-
24.11.2023	HVPNL informed- only one bay available at 66 kV S/Stn USA; no space at 220 kV S/StnPalla, in view of the infrastructure already approved by the WTD of DHBVNL and HVPNL	Upstream capacity constraint
21.12.2023 (Annexure R-1/4)	Sought recalculation of BG as per Sales Circular D26/2023; submitted phase-wise load plan	-
07.08.2023 (Annexure R-1/5)	Sales Circular D-26/2023, in terms of which the recalculation was being sought by the Petitioner	-
19.01.2024 (Annexure R-1/6)	BG was recalculated @Rs.7,11,02,585/- (Rupees Seven Crores, Eleven Lacs, Two Thousand, Five Hundred and Eighty-Five Only) (i.e. ACD @Rs. 72,43,000/-, Internal Infrastructure @ 95,63,456/-, 1st Phase BG being Rs. 17,97,444/-, 2nd Phase BG is Rs. 1,61,76,999/-, 3rd Phase BG is Rs. 1,19,82,963/- and 4th Phase BG is Rs.2,42,48,723/-).	Based on revised norms
25.01.2024 (Annexure R-1/8)	Petitioner deposited Rs.96,53,456/- (line cost) and Rs.72,43,000/- (ACD)	No BG for internal infrastructure submitted
07.02.2024 (Annexure R-1/7)	BG recalculated phase-wise into three phases	At Petitioner's request
06.02.2024	Sought re-approval of Electrification Plan	-
26.02.2024 (Annexure P-2)	Electrification Plan re-approved; Revised ultimate load 5281.21 kW / 5868 kVA	Subject to Sales Circulars D-06/2023, D-07/2020, D-12/2020, D-21/2020
06.03.2024 (Annexure R-1/9)	Revised BG requirements communicated; BG of Rs.3,41,26,352/- demanded; 1.5× BG applicable due to non-completion by 31.10.2024	-
13.03.2024 (Annexure R-1/10)	Petitioner applied for partial load in accordance with the re-approved Electrification Plan.	-
(Annexure R-1/11)	Revised load norms (D-25/2024)	-
(Annexure R-1/12)	Load calculation sheet of Petitioner based on D-25/2024	-
16.12.2024 (Annexure P-4)	Demand of Rs.3,11,25,012/- (difference between 33 kV and 11 kV costs)	-
08.01.2025 (Annexure R-1/13)	Petitioner submitted a request for the refund of BGs already submitted against the external infrastructure which stands developed by the Petitioner	Site verification: only one 2500 kVA transformer installed
30.01.2025 (Annexure R-1/14)	Demand notice issued- Phase-II BG Rs.87,23,505/- + cost difference Rs.3,11,25,012/-	BG still not submitted

28.02.2025 (Annexure R-1/15)	Final reminder regarding non-submission of Phase-II BG and pending cost difference	Compliance awaited
(Annexure R-1/16)	Pending BG for Internal Infrastructure Rs.1,76,52,652/-; Pending difference of cost for 33 kV vs 11 kV Rs.3,11,25,012/-	Petitioner required to deposit remaining BG & cost difference; 2500 KVA transformer already installed verified by SDO

15.12 It is further submitted that the Petitioner has already deposited partial BGs amounting to Rs. 96,53,456/- and Rs. 72,43,000/- on 25.01.2024 for the cost of the 33 KV line from 66/33 KV S/Stn. USA, Faridabad upto the premises of the Petitioner, and for ACD, respectively. However, no BG for internal infrastructure has been submitted, leaving the liability of Rs. 1,76,52,652/- pending. In addition, the difference of cost between the 33 KV and 11 KV supply of Rs. 3,11,25,012/- remains outstanding. These amounts are calculated strictly in accordance with Regulation 3.2.2 of the Supply Code and are non-negotiable.

"3.2.2 In case where supply, depending upon the technical conditions of the transmission/ distribution system and / or the requirement of the consumer, has to be given at a voltage other than specified in Regulation 3.2.1/ approved plan, the licensee may accept the request of the applicant with the approval of the Commission.

Further, in case 33KV voltage level is not available in the area of supply than load above 5 MVA upto 8 MVA may be served through 11 KV feeder with appropriate type/ size of conductor. Provided, the difference of cost of 33 KV substation at the consumer end along with its connectivity from the distribution / transmission licensee's substation including the bay and the actual cost of connection of 11 KV is borne by the consumer.

Provided further that, in case intermediate voltage level between 33 KV and 220 KV is not available in the area of supply of the licensee, the load upto 37.5 MVA may be served through 33 KV feeder with appropriate type/ size of conductor provided the difference of cost of substation as per Regulation 3.2.1 at the consumer end along with its connectivity from the distribution / transmission licensee's substation including the bay and the actual cost of connection on 33 KV is borne by the consumer. (Emphasis Supplied)

15.13 The demand for the differential cost is fully consistent with Regulation 3.2.2 of the Supply Code, which mandates that when supply has to be provided at a voltage other than that specified, the consumer shall bear the difference in cost between the required voltage and the actual voltage of supply, including substation cost, bay and connectivity from the distribution's Licensee substation system. That attention in this regard is also brought towards the decision of this Hon'ble commission passed in the case of Sharad Farms & Holdings Pvt. Ltd. Vs. the Managing Director &Ors.[HERC/ PRO-30 of 2020, decided on 11.07.2022], whereby the Hon'ble Commission did not grant the

exemption to the Petitioner from payment of differential cost in terms of Regulation 3.2.2 of the Supply Code and had directed the concerned Petitioner in that case to follow the Regulations in vogue while holding as under:

“2.8 Therefore, in view of the settled principle of laws as discussed above and the provisions of the extant regulations, such an exemption from payment of cost cannot be granted to the petitioner.

2.9 However, it is noteworthy that a reasonable differential cost is to be recovered in terms of the Regulations occupying the field. The Commission therefore, directs the Discom to calculate such cost difference only on the basis of difference in cost in terms of line, the bay and other electrical infrastructure from the already approved feeding source i. e. 132 KV substation, sector 3 Rohtak from where the 3 Nos. 33 KV sub-stations were approved by the respondent Nigam. The respondent is further directed to furnish this calculation of difference in cost before the Commission within a period of 30 days from the date of passing this order.

2.10 It needs to be noted that a distribution licensee is duty bound to adhere to the „Universal Supply Obligation” as cast upon it under Section 43 of the Electricity Act, 2003. Moreover, when the conditions imposed by the proviso to sub-section (2) to Section 43 of the Act, are explicitly addressed by this Commission by way of a specific order or duly notified regulations i.e. regulation 3.2.2. In that case the distribution licensee has to necessarily make arrangement for supply of the electricity to the applicant. Needless to add, that the said approval ought not to be seen in isolation but in conjunction with the Commission’s directions dated 27.01.2020 i.e. do the needful without insisting on upfront payment of cost differential. Admittedly, the prime concern of the Commission was to expeditiously alleviate the hardships and inconvenience of the electricity consumers within a reasonable time period of a month and then settle the „cost” issue in the due course within the four corners of the statute / Regulations occupying the field.

.....

2.12 In view of the foregone discussions and circumstances, the Commission deems it appropriate to hold that the petitioner is required to follow the regulations in vogue and as such is required to bear such costs as envisaged in the regulation 3.2.2, of the HERC (Supply Code) Regulations 2nd amendment, notified on 08.01.2020. However, such cost shall be recovered in the manner mentioned in para 2.9 above.”

(Emphasis Supplied)

15.14 It is further submitted that the Petitioner was fully aware of its statutory obligation to pay the differential cost and BGs at the time of re-approval of the Electrification Plan on 26.02.2024 (Annexure P-2). The Memo clearly stated that in the absence of a 33 KV level in the vicinity, the load would be served at 11 KV, but the Petitioner was required to bear the differential cost as per Regulation 3.2.2. The Petitioner did not challenge these conditions or sought any relaxation at the relevant time, and now, by seeking waiver of such lawful

charges, is attempting to obtain relief contrary to the settled statutory scheme and the established regulatory principles.

15.15 In view of the above, it is pertinent to state here that the differential cost and BG demands are lawful, binding, and non-negotiable. Any relaxation of these statutory requirements in favour of the Petitioner would not only violate Regulation 3.2.2 of the Supply Code but would also lead to arbitrary treatment of consumers, thereby causing disparity and inequity in the implementation of the law. The Hon'ble Commission may take note of the fact that the Petitioner's attempt to avoid compliance with these obligations is both unjustified and untenable in law, and the petition in this regard is liable to be dismissed.

NO POWER TO RELAX REGULATIONS FOR INDIVIDUAL COMMERCIAL HARSHSHIP

15.16 It is submitted that the regulatory powers of this Hon'ble Commission, including any power to relax or remove difficulties, are circumscribed by the scheme and object of the Electricity Act, 2003. Such powers are intended to address systemic or procedural difficulties in implementation of Regulations and cannot be exercised to grant case specific exemptions based on individual commercial hardship. The Petitioner's plea for relaxation is founded solely on alleged financial inconvenience and projectspecific constraints, which do not constitute a legally cognizable ground for invoking regulatory relaxation.

15.17 The Supply Code Regulations have been framed on the basis of the powers enumerated under Sections 50 and 181 of the Electricity Act, 2003, following due stakeholder consultation, and having their own binding force. Upon their notification, the said Regulations are binding on both the distribution licensee as well as the consumers. It is submitted for the consideration of this Hon'ble Commission that the provisions of the Supply Code are intended to be applied uniformly, and any relaxation or deviation in favour of an individual consumer would be inconsistent with the statutory framework governing the Regulations, as the same are intended to operate in accordance with settled principles of administrative and regulatory law.

15.18 It is further submitted that Regulation 3.2.2 of the Supply Code embodies a policy decision to ensure cost neutrality and prevent socialization of project-specific infrastructure costs. Granting relaxation to the Petitioner on the basis of his alleged commercial hardship would result into shifting the financial burden of infrastructure augmentation onto the general body of consumers, thereby violating the principles of equity, non-discrimination, and upholding the consumer interest that underpin the Electricity Act, 2003. Commercial hardship of an individual developer cannot override the larger public interest embedded in the regulatory framework.

15.19 Reliance is also placed on the order dated 26.06.2019 passed in Petition no. 13 of 2018 filed by Haryana Chamber of Commerce and Industries, Panipat whereby the request regarding relaxation/ amendment of Regulations was rejected by the Hon'ble Commission while holding as under:

*“The Petitioner has primarily raised a challenge to *ibid* Regulations under the garb of seeking relaxation thereto. Any such exercise cannot be undertaken by the Commission in an adjudicatory framework. The same is more in the nature of exercising legislative function of the Commission as the Regulations framed by it are in the nature of subordinate (delegated) legislation. Hence, ordinarily relaxation in the Regulations cannot be considered on a Petition filed by the Petitioner comprising particular category of consumers.”*

This Hon’ble Commission has consistently declined similar requests for granting such relaxation from abiding the requisite statutory regulations in the prior proceedings instituted before this Hon’ble Commission thereby upholding the binding nature of the Regulations and statutory framework, including Petition No. 30 of 2020, wherein it was held that statutory charges cannot be waived on equitable or sympathetic considerations. The Petitioner’s attempt to seek individualized relief under the guise of “removal of difficulty” is therefore misconceived and untenable. Accepting such a plea would open the floodgates for similar claims, undermine regulatory certainty, and erode the uniform application of law. Thus, the relief sought under this head deserves to be rejected outrightly.

PETITION LIABLE TO BE DISMISSED ON ACCOUNT OF NON-JOINDER OF NECESSARY PARTIES:

15.20 The relief sought by way of the present petition, namely, the release of load, is contingent upon the availability of requisite capacity at the end of the Transmission Licensee- Haryana Vidyut Prasaran Nigam Limited (hereinafter “HVPNL”) for the offtake of the power required by the Petitioner. Further, allegations have been raised against HVPNL. For instance at para 34 (B) of the present petition, the Petitioner has alleged that- *“... HVPN has refused to construct an additional bay, the connection has been sanctioned at 11 kV from 66 kV substation Sector 37...”*. However, HVPNL has not been impleaded as a party respondent in the present proceedings. The nonimpleadment of HVPNL, therefore, renders the relief sought incapable of effective consideration, and the petition, to that extent, suffers from the defect of non-joinder of a necessary and proper party. Consequently, the present petition is liable to be dismissed solely on the ground of non-joinder of necessary parties

PRESENT STATUS AND PENDING PAYMENTS ON THE PART OF THE PETITIONER:

15.21 That vide Interim Order dated 10.12.2025, the Hon’ble Commission, after hearing the parties, has merely recorded the submissions made on behalf of the Petitioner seeking enhancement of load from 1100 kVA to 2000 kVA and the statement of the concerned SDO that, while there may be no technical impediment, the differential cost of infrastructure on account of supply at 33 kV instead of 11 kV continues to remain payable by the Petitioner. The Hon’ble Commission has consciously refrained from granting any substantive relief and has reserved its orders, while directing the parties to file written submissions for final adjudication. It is submitted that the said order does not confer any

right upon the Petitioner for enhancement of load and expressly keeps open the issue of statutory liability to deposit the differential cost in accordance with the applicable Regulations.

15.22 It is submitted that, as on date, the Petitioner continues to remain in substantial default of its statutory and contractual obligations under the applicable Regulations and the approved Electrification Plan. Despite repeated opportunities, reminders, and recalculations undertaken by the Respondent-Nigam in a transparent manner, the Petitioner has failed to deposit the mandatory Bank Guarantee amounting to Rs.1,76,52,652/- towards internal infrastructure, which is a pre-condition for release and continuation of load. In addition thereto, the differential cost of infrastructure amounting to Rs.3,11,25,012/- arising on account of supply being rendered at 11 kV instead of the originally approved 33 kV level, remains unpaid.

15.23 It is further submitted that the factual position on ground, as verified by the field officers of the Respondent-Nigam, clearly establishes that the Petitioner has installed only one transformer of 2500 kVA capacity, which is grossly inadequate in relation to the sanctioned and sought load and does not fulfill the conditions of the approved Electrification Plan. The Petitioner's request for enhancement of load, without first discharging its pending financial and infrastructural obligations, is therefore premature, untenable, and contrary to the regulatory scheme. The Interim Order dated 10.12.2025 has also expressly recorded that while there may be no technical impediment, the liability to deposit the difference cost continues to subsist, thereby reaffirming that no vested or enforceable right has accrued in favour of the Petitioner in the absence of compliance.

15.24 In view of the foregoing facts, statutory framework, and settled regulatory position, it is respectfully submitted that the present petition is wholly misconceived, nonmaintainable, and an abuse of the process of law. The Petitioner seeks to evade mandatory statutory obligations relating to payment of differential infrastructure cost and submission of Bank Guarantees, which are expressly mandated under the Supply Code and Duty to Supply Regulations and have been consistently upheld by this Hon'ble Commission.

15.25 The Respondent-Nigam has acted strictly in accordance with the Electricity Act, 2003, the Supply Code Regulations, applicable Sales Circulars, and binding precedents of this Hon'ble Commission. No arbitrariness, illegality, or regulatory deviation can be attributed on the part of the Respondent. On the contrary, the record demonstrates prolonged and deliberate non-compliance on the part of the Petitioner, who now seeks individualized relief under the guise of "removal of difficulties", which is impermissible in law.

15.26 Accordingly, it is prayed that this Hon'ble Commission may be pleased to dismiss the present petition with costs, uphold the lawful demands raised by the Respondent towards differential cost and Bank Guarantees.

Commission's Order:

1. The factual background expresses that the petitioner is a licensed developer of an IT Park at Sector 27C, Faridabad, with licence originally issued on 10.03.2010 and renewed up to 09.03.2029. A temporary connection of 200 kVA was granted on 01.02.2022. The initial electrification plan sanctioned on 08.12.2021 assessed an ultimate load of 7242.81 kW / 8047.57 kVA, necessitating supply at 33 kV, pursuant to which the petitioner deposited a bank guarantee of ₹96.58 lakhs on 25.01.2024. That plan could not be operationalised due to the refusal of the transmission licensee to permit construction of an additional 33 kV bay at the 66 kV USA sub-station. Thereafter, owing to revision of load norms, a revised electrification plan was sanctioned on 26.02.2024 assessing the ultimate load at 5281.21 kW / 5868 kVA and permitting supply at 11 kV, explicitly subject to the condition that the differential cost between 33 kV and 11 kV infrastructure would be borne by the petitioner in terms of Regulation 3.2.2 of the HERC Electricity Supply Code Regulations, 2014 (as amended).
2. The petitioner thereafter sought partial load of 1100 kVA, which was sanctioned on 26.03.2024. The Commission allowed IA No. 07 of 2025 and as an ad interim relief, the respondents were directed to release the partial load of 1100 kVA, subject to furnishing of an undertaking by the petitioner to deposit the requisite differential cost if the main petition is decided in favor of the respondent. Consequently, the immediate grievance of non-supply no longer survives for consideration. What essentially remains for adjudication is the challenge to the demand of ₹3,11,25,012/- raised vide memo dated 16.12.2024 towards differential cost of 33 kV and 11 kV infrastructure, and the prayer for relaxation or amendment of the applicable regulatory provisions.
3. It is an admitted position that the petitioner never refused supply at 33 kV level. The decision to release supply at 11 kV was taken by the respondents themselves on account of system constraints. The petitioner thereafter applied for partial load of 1100 kW with contract demand of 1100 kVA, which was sanctioned on 26.03.2024 and for which the petitioner erected, at its own cost, an independent 11 kV feeder from 66 kV Substation, Sector 37, Faridabad.
4. The petitioner has invoked Sections 43, 46, 47, 50 and 181 of the Electricity Act, 2003, contending that strict application of Regulation 3.2.2 results in undue hardship, particularly where 33 kV supply is not available due to system constraints, and has sought removal of difficulties, relaxation, and regulatory amendment. Emphasis was placed on reduction

of assessed load over time, marginal excess over 5000 kVA after "Indian Green Building Council (IGBC) Certification on 27.12.2024 for optimization of energy utilization resulting in further reduction to 4526.76 kW and after dividing it by 0.90, the ultimate load in kVA to 5029.73, Adoption of power factor of at least 0.95 to derive the load from kW to kVA and the unfair demand of cost for infrastructure which may never be created. The excess over 5000 kVA is only 29.73 kVA, i.e. about 0.59%, for which an additional burden of over Rs. 3.11 crore has been imposed.

5. The respondent has relied upon the mandatory nature of Regulation 3.2.2 of the Supply Code, notified under Section 50 read with Section 181 of the Electricity Act. Accordingly, the revised electrification plan sanctioned on 26.02.2024 clearly stipulated the liability of the petitioner to bear the differential cost, that such liability was known to the petitioner well before the demand was raised on 16.12.2024, and that the regulation leaves no discretion with the licensee to waive or relax such cost. Reliance has been placed on the decision of the Commission in Sharad Farms & Holdings Pvt. Ltd. vs. Managing Director & Ors. (Petition No. PRO-30 of 2020, decided on 11.07.2022), wherein it was categorically held that exemption from payment of differential cost under Regulation 3.2.2 cannot be granted, and that the power to relax cannot be exercised so as to amend the regulation itself. The licensee has also relied on the order dated 26.06.2019 in Petition No. 13 of 2018 (Haryana Chamber of Commerce and Industries), to submit that amendment of regulations is a legislative function and cannot be undertaken in an adjudicatory proceeding in case of an individual consumer.
6. On a considered evaluation of the pleadings, averments, and the statutory framework, the Commission notes that Regulation 3.2.2 intends recovery of differential cost where supply is given at a voltage other than the specified level. However, the regulation proceeds on the premise that such higher voltage infrastructure is available or is to be created. In the present case, the material on record, including the sanctioned electrification plans and correspondence, clearly establishes that 33 kV infrastructure is not available in the vicinity and, as stated by the petitioner without specific rebuttal, HVNP has taken a policy decision not to allow further 33 kV bays at existing 66 kV substations in Faridabad. In such a situation, no expenditure is either incurred or proposed to be incurred by the respondents towards creation of 33 kV infrastructure for the petitioner. Demand of differential cost in respect of an infrastructure which is admittedly not going to be created amounts to recovery which results in unjust enrichment of the distribution licensee.

7. Further the ultimate sanctioned load of 5029.73 kVA is marginally above threshold of 5000 kVA and No additional bay or extra investment is required for ultimate load as no 2nd 11 kV feeder is needed.
8. The reliance placed by the respondents on the decision in Sharad Farms is distinguishable on facts. In that case, the Commission itself emphasized that differential cost must be reasonable and relatable to the actual infrastructure from the approved feeding source. In the present matter, the demand of Rs. 3,11,25,012/- is based on a hypothetical comparison with 33 kV infrastructure which is neither available nor feasible, while the entire 11 kV feeder has already been created at the cost of the petitioner.
9. In view of the above facts and statutory provisions of the Electricity Act, 2003, the HERC (Electricity Supply Code) Regulations, 2014, the (Single Point Supply) Regulations, 2020, and the principles laid down in earlier orders of the Commission, the Commission observes that the petitioner falls in a category where supply at 11 kV has been necessitated solely due to system constraints of the licensees and where there is no likelihood of creation of 33 kV infrastructure in future. In such circumstances, insistence on payment of differential cost of Rs. 3,11,25,012/- is arbitrary, lacks legal justification and causes undue hardship.
10. Accordingly, The Commission allows the petition. The demand raised by the respondents towards differential cost between 33 kV and 11 kV supply is deferred till the creation of 33 kV infrastructure in future avoiding undue burden on the petitioner for network deficiency attributable to respondent. The respondents are directed to release the sanctioned load and proceed further in accordance with law, without insisting upon differential cost at present. Upon 33 kV readiness notice by respondent, the petitioner shall be liable to pay differential cost prevailing at that time irrespective of petitioner opting either to shift to 33 kV or to retain 11 kV supply.
11. 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.

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