

BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION AT PANCHKULA

Case No. HERC/P. No. 63 of 2023

Date of Hearing : 06/12/2023

Date of Order : 06/12/2023

IN THE MATTER OF:

PETITION UNDER SECTION 181 OF THE ELECTRICITY ACT, 2003 AND REGULATIONS 16 AND 17 OF HERC (ELECTRICITY SUPPLY CODE), REGULATIONS, 2014 READ WITH REGULATIONS 65, 68, 69, 70 and 71 OF HERC (CONDUCT OF BUSINESS) REGULATIONS, 2019, SEEKING RELAXATION/REMOVAL OF DIFFICULTY THERETO OF SUB-CLAUSE (2)(C) OF CLAUSE 4.4.3 OF THE HARYANA ELECTRICITY REGULATORY COMMISSION (ELECTRICITY SUPPLY CODE), REGULATIONS, 2014.

Petitioner:

Uttar Haryana Bijli Vitran Nigam, IP-3 & 4, Sector-14, Panchkula, Hry.-134109

Present

On behalf of the Petitioner

1. Ms. Abha, XEN, UHBVN.
2. Sh. Arun, AEE, UHBVN
3. Ms. Sonia Madan, Advocate

QUORUM

Shri Naresh Sardana, Member

ORDER

1. Petition:

- 1.1 That the present petition has been filed by Uttar Haryana Bijli Vitran Nigam (hereinafter referred to as "UHBVN/Petitioner") through the Superintending Engineer, UHBVN who is authorized to file the instant Petition and is otherwise also well conversant with the facts of the present case. The Petitioner-UHBVN is entrusted with the responsibility of distribution and retail supply of power within their jurisdiction consisting of districts of Panchkula, Ambala, Yamunanagar, Kurukshetra, Kaithal, Karnal, Panipat, Sonapat, Rohtak and Jhajjar in the State of Haryana. The Governor of Haryana on 01.07.1999, in exercise of its power under Section 55 read with

Sections 23, 24, and 25 of the Haryana Electricity Reform Act, 1997 vide second transfer scheme issued the rules for the purpose of providing and giving effect to the transfer of distribution undertakings of Haryana Vidyut Prasaran Nigam Limited ('HVPNL') to Dakshin Haryana Bijli Vitran Nigam Limited (for brevity 'DHBVNL') and Uttar Haryana Bijli Vitran Nigam Limited (for brevity 'UHBVNL').

1.2 That the Haryana Electricity Regulatory Commission (HERC) 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 vide its notification dated 8th Jan 2014 notified the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 (hereinafter referred to as "Electricity Supply Code") and issued 1st Amendment vide notification HERC/29/2014/1st Amendment/2014 dated 17.11.2014 and 2nd Amendment vide notification HERC/ 29/ 2014/ 2nd Amendment / 2019 dated 08.01.2020.

1.3 That the present Petition is being filed before the Hon'ble Commission seeking relaxation/ removal of difficulty in implementation of note to sub-clause (2)(c) of Clause 4.4.3 of the 2nd Amendment Electricity Supply Code issued by this Hon'ble Commission. The Hon'ble Commission under sub-clause(2)(c) of Clause 4.4.3, notified the guidelines for issuing demand notice to the consumers of the licensee. Further, note to sub-clause (2)(c) of Clause 4.4.3 specifies the sharing of cost by the consumers and the licensees in the event of replacement /repair of transformer for any reason including theft. The said note is reproduced hereunder for ready reference –

"4.4.3 Issue of demand notice

2. The demand notice shall include the following details:

(a) Details of the works (including service line) to be undertaken for providing electric supply.

(b) Charges to be paid in case the work is to be carried out by the licensee.

(c) In case the applicant opts to carry out the work at his own cost, he shall get the same carried out through a Licensed Electrical Contractor and pay supervision charges to the licensee. In such case the consumer himself shall procure the material and equipment. The material and equipment shall conform to relevant BIS specifications or its international equivalent and should bear the ISI mark or its successor mark as provided by BIS, wherever applicable. The

material procured and the design of the installation shall also conform to the standards and specifications of the distribution/transmission licensee.

Note:- In case of LT connections (other than domestic supply connections), where the transformer has been installed by the consumer and is exclusively for his supply, the transformer if and when required to be replaced/repared for any reason including theft, shall be so replaced/repared by sharing 20% of the cost by the consumer and 80% by the licensee except when the damage is due to natural events including cyclone, floods, storms or other occurrences beyond consumer's control, in which case the licensee shall bear the entire cost of repair/replacement.

Provided that if the applicant chooses to get the work done at his cost, the licensee shall charge only supervision charges at the rate of 1.5% of the estimated cost of such works as are to be finally handed over to the distribution/transmission licensee or as approved by the Commission.

Provided further that if the applicant chooses to get the work done on his own, he shall get the work done within the timeframe specified under Regulations 4.4.6 and 4.4.7, subject to proviso under Regulations 4.4.4 (5) and 4.4.7, failing which the licensee may, on giving 15 days' notice, treat the application for supply as cancelled.”

- 1.4 That according to the aforementioned note to the sub-clause, in the case of LT Connections (other than domestic supply connections), where the transformer has been installed by the consumer and is solely for his supply, the transformer has to be replaced or repaired by the licensee, with the consumer paying 20% of the cost and the rest of the amount shall be borne by the licensee. The said cost sharing proportion is qualified by the exception where the damage is caused by cyclones, floods, storms, or other occurrences beyond the licensee's control, in which case the licensee has to bear the full cost of repair or replacement.
- 1.5 That the farmers in the State of Haryana at various occasions highlighted before the Chief Minister, Haryana, the difficulties faced in payment of 20% cost of stolen transformer. It was represented that the payment of 20% cost of transformers an unjustified financial burden on the farmers.
- 1.6 The Government of Haryana deliberated upon the said difficulties with regards to the payment of cost of transformer as per Clause 4.4.3(2)(c) of 2nd Amendment Electricity Supply Code. After due deliberation, the Chief Minister, Haryana during a press conference held on 06.10.2023 announced

that cost burden on the farmers in case of stolen transformers shall be reduced.

- 1.7 That in view of the aforesaid, the Government of Haryana proposed that the cost of the stolen Distribution Transformers shall be recovered from the Farmer Applicant as per the following provisions:
- a) 20% of the Cost of DT, if the DT is within its warranty period.
 - b) 10% of the Cost of DT, if the DT is beyond its warranty period.
- 1.8 That in view of the decision of the Government of Haryana, relaxation of note to sub-clause(2)(c) of Clause 4.4.3 of the Regulations is sought for in the present case only qua the farmers of the State who are consumers under 'Agriculture Tubewell' category.
- 1.9 That in light of the foregoing, it is humbly requested before this Hon'ble Commission that the Note to sub-clause (2)(c) of Clause 4.4.3 of the 2nd Amendment Electricity Supply Code may kindly be relaxed to the extent that in case of replacement of a stolen transformer, exclusively for the supply to the farmer consumer i.e. who is a consumers of Discom under 'agricultural tubewell category', only 20% of the cost (for replacement of DT within warranty period) or 10% of the cost (for replacement of DT beyond warranty period) shall be borne by the said consumer. The foregoing relaxation shall enable resolution of difficulty expressed by the farmers/ consumers under Agriculture Tubewell category.
- 1.10 That further the HERC (Conduct of Business) Regulations, 2019 confers wide power to this Hon'ble Commission to pass such orders/ make amendments/ relax regulations as are necessary to meet the ends of justice. The Hon'ble Commission has the power to dispense with the requirements of any of the Regulations in a specific case.
- 1.11 That in the abovementioned circumstances, the Petitioner has preferred the present Petition seeking relaxation of Note given under sub-clause (2) (c) of Clause 4.4.3 of the 2nd Amendment Electricity Supply Code which have been notified by the Hon'ble Commission under Section 181 of the Electricity Act, 2003. The Hon'ble Commission as the delegatee has the power to amend/ relax the Electricity Supply Code from time to time. Reliance in this regard is placed upon Regulations 16 and 17 of HERC (Electricity Supply Code), Regulations, 2014, which are reproduced hereunder for ready reference: -
- "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 That the present Petition is within the jurisdiction of the Hon'ble Commission.
- 1.13 That the Petitioner has paid the requisite fee as per Haryana Electricity Regulatory Commission (Fee) Regulations, 2005, 7th Amendment Regulations, 2022

PRAYER:

- 1.14 In view of the foregoing submissions, it is most humbly submitted that the Hon'ble Commission may be pleased to:
- a. Relax the implementation of the Note under sub-clause (2)(c) of Clause 4.4.3 of the Electricity Supply Code with respect to sharing of cost of stolen transformer by the farmer consumer to the extent stated above; and/or
 - b. Pass any such further order(s) that this Hon'ble Commission for removal of difficulty mentioned in the instant petition and as may deem fit and necessary in the facts and circumstances of the case.

2. Proceedings:

- 2.1 The case was heard on 06/12/2023, Ms. Sonia Madan, Counsel for the petitioner reiterated the contents of the petition and submitted that in the instant petition the licensee has sought Relaxation/Removal of difficulty thereto of Sub-Clause (2)(C) of Clause 4.4.3 of The Haryana Electricity Regulatory Commission (Electricity Supply Code), Regulations, 2014 from the Hon'ble Commission under Section 181 of The Electricity Act, 2003 and Regulations 16 And 17 of HERC (Electricity Supply Code), Regulations, 2014 read with Regulations 65, 68, 69, 70 and 71 of HERC (Conduct Of Business) Regulations, 2019.
- 2.2 Ms. Sonia Madan, submitted that the Government of Haryana proposed that the cost of the stolen Distribution Transformers may be recovered from the Farmer Applicant as per the following provisions:
- 2.2.1. 20% of the Cost of stolen DT, if the DT is within its warranty period.
 - 2.2.2. 10% of the Cost of stolen DT, if the DT is beyond its warranty period.

3. Commission's Order:

- 3.1 The commission observes that relaxation of note to sub-clause(2)(c) of Clause 4.4.3 of the Regulations is sought for in the present case only qua the farmers

of the State who are consumer under 'Agriculture Tubewell' category and The relaxation shall enable resolution of difficulty expressed by the agricultural consumers.

- 3.2 The commission is in process of bringing out draft paper for amendment in the supply code in view of various provisions in electricity rules notified by MoP, Govt. of India. The proposal of Govt. of Haryana made in this petition will also be included in draft papers for amendment as per procedure laid down in *Section 181 of the Electricity Act 2003*.
- 3.3 However, during the intervening period, the Commission, in exercise of powers conferred under Regulation 16 of HERC (Electricity Supply Code) Regulations 2016 and subsequent up to date amendments, allows the relaxation in the note to sub-clause (2)(c) of Clause 4.4.3 of the 2nd Amendment Electricity Supply Code, to the extent that in case of replacement of a stolen transformer, exclusively for the supply to the agricultural consumer i.e. who is a consumer of Discom under 'agricultural tubewell category', only 20% of the cost (for replacement of DT within warranty period) or 10% of the cost (for replacement of DT beyond warranty period) shall be borne by the said consumer..

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 06/12/2023.

Date: 06/12/2023

Place: Panchkula

**(Naresh Sardana)
Member**