

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

Case No. HERC/P. No. 72 of 2024

Date of Hearing : 22/04/2025

Date of Order : 13/05/2025

IN THE MATTER OF:

Petition under Section 181(1) and 181(2)(u, x) read with sections 45 & 50 of the Electricity Act, 2003 and Regulation 16 & 17 of the HERC (Electricity Supply Code) Regulations, 2014 (as amended from time to time) read with Regulation 65 to 67 of the HERC (Conduct of Business) Regulations, 2019 and all other provisions enabling the Hon'ble Commission in this behalf, seeking framing of regulations with respect to the conditions for supply of electricity, including the levy of fixed charges, to special category of consumers who have sought and have been given supply from more than one feeding source.

Petitioner

Dakshin Haryana Bijli Vitran Nigam Limited

Present

On behalf of the Petitioner

1. Ms. Sonia Madan, Advocate
2. Sh. J. S. Jaglan, SDO, DHBVN
3. Sh. Vikram Singh, Consultant, DHBVN

QUORUM

Shri Nand Lal Sharma, Chairman

Shri Mukesh Garg, Member

ORDER

Petition

- 1.1 That the present petition is being filed by the Petitioner- Dakshin Haryana Bijli Vitran Nigam Limited (for brevity "DHBVNL") on the basis of knowledge derived from record.
- 1.2 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.

- 1.3 That the present petition is being filed by DHBVNL seeking framing of Regulations and for laying down the terms and conditions for supply of electricity, including the levy of fixed charges, on special category of consumers who have sought supply from more than one feeding source.
- 1.4 That the brief facts leading upto the filing of the present petition are as under:
- a. In the past, the Petitioner had received request/ applications from consumers both Government and private, requiring a reliable and continuous supply of electricity i.e. requiring supply of electricity from more than one feeding source. Such consumers were the entities performing functions of paramount public importance. For instance, entities engaged in providing day-to-day transportation facilities to the common man being DMRC or the entities engaged in daily water supply.
 - b. As such, the issue was duly considered by the Petitioner, and, keeping in view of the functions being performed by such consumers, a Sales Circular No. D-8/2011 dated 21.02.2011 was issued by the Petitioner. It has been stated in the S.C. No. D-8/2011 that the issue with respect to power supply to such special category of consumers *"...has been considered by the Nigam and keeping in view the importance of services, it has been decided that the supply from more than one feeding sources may be allowed to such consumers."* As per the Circular, the supply was made subject to the fulfilment of certain conditions enumerated therein. For instance, it was decided that the *"fixed charges & MMC are to levied at the normal rates by treating each connection from different sources as separate connection."*
 - c. Subsequently, Sales Instructions No. 28 of 2011 dated 28.12.2011 were also issued by the Petitioner wherein it was clarified that – *"...more than one feeding source means the supply fed from two or more different S/ Stns. where the load shall be kept reserved for such consumers at each S/ Stn. However, the cases where consumer opt for more than one feeding source from different T/Fs / Bays of the same S/ Stn. and the load is to be kept reserved for such consumers on each T/Fs / Bays shall be considered as alternate source."*
 - d. After passage of some time, certain clarifications were required to be incorporated in the Sales Circular in vogue. As such, another Sales Circular No. D-27/2012 dated 28.08.2012 was issued by the Petitioner superseding both the aforementioned S.C. No. D-8/2011 and S.I. No. 28/2011. Vide the S.C. No. D-27/2012, additional conditions were laid down, for instance, it was stated that– *"The supply fed from different T/Fs / Bays of the same S/ Stn. or from different S/ Stns. shall be considered as supply from different sources and the load is to be kept reserved for such consumers. It shall be treated as separate connections with separate meter at S/ Stn. end."* A copy the S.C. No. D-27/2012 dated 28.08.2012 is annexed.
 - e. The matter with respect to supply from different sources was reviewed yet again by the Petitioner and another Sale Circular No. D-43/2012 dated 27.12.2012 was issued wherein an additional

condition was incorporated i.e. – “*The supply fed from different Bays of the same S/Stn. where load is not to be kept reserved for such consumers shall not be considered as supply from different sources.*” A copy of the S.C. No. D-43/2012 dated 27.12.2012 is also annexed.

- f. It is submitted that, at present, the issue with respect to the supply of electricity from separate feeding sources is dealt with by the Petitioner in accordance with S.C. No. D-27/2012 and S.C. No. D-43/2012.
- g. It is the case of the Petitioner that though the Petitioner is obligated to supply electricity from separate feeding sources subject to technical feasibility and right of way, however legal and financial ramifications of such arrangements has not been dealt with by any of the Regulation framed by this Hon’ble Commission. Except the S.C. No. D-27/ of 2012 dated 28.08.2021 which was revised vide issuance of S.C. No. D-43 of 2012 dated 27.12.2012, the absence of a formal regulatory framework has created difficulty in Discom’s ability to recoup expenditures incurred in extending infrastructure and reserving the load for such special category of consumers twice, necessitating the filing of the present petition.

1.5 That at this stage, attention is also brought towards Section 45 of the Electricity Act, 2003 provides as under:

“45. Power to recover charges.- (1) Subject to the provisions of this section the prices to be charged by a distribution licensee for supply of electricity by him in pursuance of section 43 shall be in accordance with such tariffs fixed from time to time and conditions of his licence.

(2) The charges for electricity supplied by a distribution licensee shall be-

(a) fixed in accordance with the methods and the principles as may be specified by the concerned State Commission;

(b) published in such manner so as to give adequate publicity for such charges and prices.

(3) The charges for electricity supplied by a distribution licensee may include

(a) a fixed charge in addition to the charge for the actual electricity supplied;

(b) a rent or other charges in respect of any electric meter or electrical plant provided by the distribution licensee.

(4) Subject to the provisions of section 62, in fixing charges under this section a distribution licensee shall not show undue preference to any person or class of persons or discrimination against any person or class of persons.

(5) The charges fixed by the distribution licensee shall be in accordance with the provisions of this Act and the regulations made in this behalf by the concerned State Commission.

(Emphasis Added)

Reliance is also placed on the decision of in the case of K.C. Ninan Vs. Kerala State Electricity Board [2023 (3) RCR (Civil) 227], wherein the Hon'ble Apex Court held as under:

"84. The scheme of the 2003 Act makes it evident that the regulatory powers of the State Commission under section 181(2) are of wide import. The Commission has certain plenary powers to regulate on matters contained in section 181(2), including Electric Supply Code under Section 50. Accordingly, the Commission can notify a Supply Code governing all the matters pertaining to supply of electricity such as "recovery of charges", "disconnection of supply" and "restoration of supply". In our opinion, such an authority also extends to stipulating conditions for recovery of electricity arrears of previous owners from new or subsequent owners.

... ..

108. A subordinate rule or regulation, as in the case of the Electricity Supply Code framed by a regulatory commission, can provide for a statutory charge to be fastened on the premises within which consumption of electricity was effected. In terms of Section 50 of the 2003 Act, a State Commission is empowered 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 and other cognate matters. In terms of Section 181 of the 2003 Act, the State Commission is empowered to make regulations and rules consistent with the Act which carry out the provisions of the Act. As held in the preceding paragraphs, the rule making power contained under Section 181 read with Section 50 is wide enough to enable the regulatory commission to provide for a statutory charge in the absence of a provision in the plenary statute providing for creation of such a charge. The State Commission is conferred with wide powers under the statutory framework to provide for different mechanisms in the Electricity Supply Code for recovery of electricity arrears of the previous owner. The recovery of electricity arrears may take effect either by requiring a subsequent owner of premises to clear payment of outstanding dues as a condition precedent for an electricity connection, or by deeming that any amount due to the licensee shall be a first charge on the assets, or by any other reasonable condition."

(Emphasis Added)

- 1.6 That, as have been held by the Hon'ble Apex Court, this Hon'ble Commission has ample power to frame Regulations with respect to the charges to be levied and the manner of levy of such charges, especially in absence of any provision dealing with the peculiarity of the present situation. Hence, the present petition has been filed seeking framing of regulations in terms of the mandate of Section 45 of the Electricity Act, 2003, for dealing with the special category of consumers for whom provision has been made for supply of electricity from separate feeding sources. In fact, the Discom is under the Universal Service Obligation

to provide reliable electricity to every household in its areas of jurisdiction. As such, any steps taken by the Petitioner in furtherance to the supply of such reliable energy is also in line with the duties cast upon by the Petitioner under the Electricity Act, 2003.

- 1.7 That even otherwise, it is well trite law that where persons belonging to a particular class in view of their special attributes are differently placed, in public interest, a classification can be carved out and law in respect of the classified category can be framed separately provided the same has a close nexus with the objects sought to be achieved. In the present case higher standards of reliable and continuous power are required by the departments/consumers performing public functions. A legislative body, which includes this Hon'ble Commission exercising the power conferred by way of delegated legislation is therefore, empowered to notify regulatory legal framework for a different class of paramount consumers. Such regulations shall be based on reasonable and intelligible differentia having rational basis to further the main objects of the Electricity Act, 2003.
- 1.8 That, it is suggested that the Regulations with the following provisions, that also finds mention in the S.C. No. D-27/2012 and S.C. No. D-43/2012, may kindly be framed:
- a. That on an application received by the Consumers performing functions of public importance (Govt./Private) and subject to the technical feasibility and right of way, supply from more than one feeding source may be allowed to such consumers. The Whole-Time Directors (WTD) shall be competent to approve and allow such request for supply from different sources based on the merit of each case. The same would be done only after approval of design and drawings by the CE/P&D, DHBVN.
 - b. That each feeding source may be allowed on independent feeder at 11 KV or above voltage level.
 - c. That the cost of erecting the complete infrastructure from the feeding source to the premises of the consumer shall be borne by the consumer. The recovery of such charges may be dealt in accordance with the HERC (Duty to Supply Electricity on Request, Power to Recover Expenditure incurred in providing Supply and Power to Require Security) Regulations, 2016. Further, the consumers shall also provide necessary terminal and safety equipment in accordance with the applicable Regulations, as amended from time to time.
 - d. That each feeding source connection shall be billed separately. Fixed charges and Minimum Monthly Charges (MMC) will be applied at rates prescribed by the Hon'ble Commission on each of the connection. It is reiterated that each connection treated as separate for all billing purposes. As such, separate fixed charge and MMC shall be leviable.
 - e. That the electrical system must be inspected by the Chief Electrical Inspector before the energization and after energization, the new electrical system becomes the property of the Nigam. An undertaking to this effect shall be provided by the consumer.

- f. That in case, one of the sub-stations of HVPNL is involved in the feeding of electricity, in such a scenario, a No Objection Certificate (NOC) shall be obtained from HVPNL before the commencement of supply.
 - g. That connections from different transformers/bays of the same or different substations will be considered as supply from different sources and treated as separate connections with separate meters at Substation end. However, the supply fed from different Bays of the same S/Stn. where load is not to be kept reserved for such consumers shall not be considered as supply from different sources.
- 1.9 It is submitted that this Hon'ble Commission is empowered to address this gap in the regulatory framework and formulate the requisite Regulations. As such, the Petitioner is constrained to approach this Hon'ble Commission by way of filing the present petition seeking framing of Regulations and/or incorporation of suitable provisions by way of an amendment to the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014. It is submitted that the sole intent of the Petitioner is to rationalize the recovery of fixed charges.
- 1.10 It is humbly submitted that this Hon'ble Commission has the power to frame Regulations, where none exists, and to deal with the situation contemplated above. Section 181 of the Act of 2003 empowers the State Commission to make regulations consistent with the Act of 2003 and the Rules made therein in order to carry out the provisions of Act. Infact, Section 45(5) of the Act of 2003 specifically provides that – “The charges fixed by the distribution licensee shall be in accordance with the provisions of this Act and the regulations made in this behalf by the concerned State Commission.” Further, the Hon'ble Apex Court in *PTC India Ltd. v. Central Electricity Regulatory Commission* [(2010) 4 SCC 603] has categorically held that Regulations can be framed by the Commission under the Act of 2003 as long as two conditions are satisfied, namely, that the regulations which are framed must be consistent with the provisions of the Act and are made for carrying out the provisions of the Act.
- 1.11 Further, Regulation 17 of the HERC (Electricity Supply Code) Regulations, 2014 itself provides that – “The Commission may, at any time vary, alter, modify or amend any provision of these Regulations after following the due process.” Even otherwise, it is well-settled that the power to amend includes the power make suitable additions to the existing Regulations.
- 1.12 That the present petition is *bonafide* and has been filed in furtherance to the object of Section 45 of the Act of 2003 read with the Regulations, 2016 as well as the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014.

PRAYER

In view of the facts and circumstances mentioned hereinabove, the Petitioner most respectfully prays the Hon'ble Commission may kindly be pleased to:

- A. Frame Regulations/ Amend the HERC (Electricity Supply Code)

Regulations, 2014 with respect to supply of electricity including the levy of fixed charges for the special category of consumer who have sought and have been given supply from more than one feeding source, in terms para no. 8 hereinabove;

- B. Pass any other order as the Hon'ble Commission may deem fit, keeping in view the facts of the matter submitted by Petitioner.

- 2 The case was heard on 20/02/2025. Ms. Sonia Madan counsel for the petitioner re-iterated the contents of the petition. The Commission enquired whether the proposed facility for providing dual source of supply shall be available to all the eligible consumers. The counsel for the petitioner submitted that the facility of alternate source for reliable supply is proposed only for the consumers performing functions of public importance (Govt./Private such as Hospitals, Public Health, and DMRC etc.) and is subject to technical feasibility/availability of Right of way. The Commission observed that the proposal has wider implications and before considering the same, inputs of other stake holders are required. The Commission directs the petitioner to publish Public hearing notice in two leading newspapers (Hindi and English) for seeking comments/objections of the stake holders/public on the petition. Copy of the petition also be sent to DMRC, Public Health Deptt., Health Deptt., HVPN and UHBVN for their comments. A consolidated report of the comments received along with status of such dual supply connections running presently in DHBVN be submitted to Commission before date of public hearing.

3 Compliance Report on behalf of the Petitioner

- 3.1 That the present report is being filed by the Petitioner- Dakshin Haryana Bijli Vitran Nigam Limited (for brevity "DHBVNL") through Sh. Subhash Kumar Singh working as Superintending Engineer/ Commercial 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 report.
- 3.2 That the present petition has been filed by DHBVNL seeking framing of Regulations and for laying down the terms and conditions for supply of electricity, including the levy of fixed charges, on special category of consumers who have sought supply from more than one feeding source.
- 3.3 That during the hearing on 20.02.2025, the Hon'ble Commission directed the Petitioner to publish a public hearing notice in two leading newspapers (in Hindi and English) to seek comments/objections from stakeholders and the public on the petition. It was further ordered that a copy of the petition be sent to DMRC, the Public Health Department, the Health Department, HVPN, and UHBVN for their comments. Additionally, a consolidated report of the comments received, along with the status of the dual supply connections currently running in DHBVNL, was ordered to be submitted before the date of the public hearing.

- 3.4 That in accordance with the foregoing directions of the Hon'ble Commission, the Petitioner submits compliance of the Order as under:
- a. A public notice was published in the following newspapers:
 - The Tribune (English)- Edition dated 20.03.2025.
 - Dainik Bhaskar (Hindi)- Edition dated 20.03.2025.A copy of the extract of the same is annexed.
 - b. A copy of Petition was sent to DMRC, the Public Health Department, the Health Department, HVPN, and UHBVN for comments vide letter of the Petitioner dated 24.03.2025. Further, a reminder was also sent on 07.04.2025 to all the departments. However, as on the date of filing of this report, no comments have been received from any of the department. Copies of the said letters are annexed.
 - c. In response to the consolidated report, as is sought by the Hon'ble Commission in para 7 of the interim order, the Petitioner is attaching herewith a report regarding the dual supply connections currently running in DHBVN. A copy of the same is annexed.
- 3.5 In view of the foregoing, the Petitioner respectfully prays that this Hon'ble Commission may kindly be pleased to –
- i. Take on record the present Compliance Report along with Annexure P-3 to Annexure P-6; and/or
 - ii. Pass any other order (s) as may be deemed fit and proper in the interest of justice.

Commission's order

- 4.1 The case was heard on 22/04/2025, as scheduled, in the court room of the Commission.
- 4.2 At the outset, Ms. Sonia Madan counsel for the petitioner submitted that the compliance report to the Order dated 20/02/2025 has been filed in the Commission. No stake holder except the petitioner has turned up for today's hearing. Also, no comments have been received from any of the stake holders except concurrence of UHBVN in favour of the petition.
- 4.3 On the query of the Commission Ms. Sonia Madan intimated that DHBVN had issued its circular in 2012 on the issue. Now, during discussions, it was observed that existing regulations are not having enough explanation on this issue. The petition has been filed to have more clarity and defined procedure to handle such cases.
- 4.4 Upon careful examination, the Commission observes that the petitioner has broadly prayed for

- A separate regulatory framework to allow supply from more than one feeding source for the Consumers performing functions of public importance (Govt./Private) and subject to the technical feasibility and right of way with mandate to levy fixed charges and minimum monthly charges for each feeding source as separate connections.
- The connections from different transformers/bays of the same or different substations will be considered as supply from different sources and treated as separate connections with separate meters at Substation end. However, the supply fed from different Bays of the same S/Stn. where load is not to be kept reserved for such consumers shall not be considered as supply from different sources.

4.5 The existing proposal of DHBVN provides for 2 connections in the same premises, which is neither regulatory framework compliant nor technically advisable keeping in view the safety of men and material. However, the Commission is of the view that the Licensee is within its rights to charge cost of erection and additional fixed charges from consumer who requests for reserving a standby source of supply in case of failure of primary source of supply. Here, it is pertinent to mention that no additional fixed charges shall be recovered from the consumer whose supply is provided from alternate source available temporarily in case of supply failure from the primary source and no standby source of supply is reserved by him.

4.6 In view of the above facts and discussions, the Commission decides to allow the petitioner to provide dual source of supply on request on independent feeder at 11kV or above voltage level to consumers performing functions of public importance (Govt./Private) such as Delhi Metro Rail Corporation (DMRC), Irrigation Canal Services, Hospitals, etc. depending upon technical feasibility and availability of ROW etc. at the cost of consumer. In dual source supply connection, one source shall be designated as primary and other as standby. Simultaneous usage of both sources shall be prohibited with provisions for technical checks and interlocks and load shall not be split across the two sources.

Provided that to ensure only one source is active at a time, standard interlocking mechanisms or automatic Transfer Switches must be installed at the consumer premises with appropriate and foolproof protection arrangement required under the existing provisions of the Act/Rules to avoid mixing of two supplies. The Metering at consumer end shall be done through a common meter installed after changeover of supplies. Billing of the consumer shall be done as it is done in case of independent feeder by adding consumption of both meters installed at substations end.

- 4.7 Further, in case of dual source of supply to the consumer, the fixed charges shall be levied at the normal approved rates for each source if the supply has been provided from different transformers/bays of the same or different substations and load is to be kept reserved at both the sources, since licensee is required to reserve infrastructure and capacity equivalent to the contract demand of the consumer at both sources of supply, regardless of whether one source remains on standby.

However, dual supply fed from different Bays of the same substation and where the load is not to be kept reserved separately from each bay, shall not be considered as supply from different sources and as such normal rate of fixed charge shall be applicable considering single source connection.

- 4.8 The petition is disposed of in above terms.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 13/05/2025.

Date: 13/05/2025
Place: Panchkula

(Mukesh Garg)
Member

(Nand Lal Sharma)
Chairman