

**BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION
BAYS No. 33-36, SECTOR-4, PANCHKULA- 134112, HARYANA**

Case No. HERC/PRO – 09 of 2014

DATE OF HEARING : 25.11.2014

DATE OF ORDER : 03.12.2014

IN THE MATTER OF:

Petition under Section 94 of the Electricity Act, 2003 and regulation 5.5 of the Haryana Electricity Regulatory Commission (Single Point Supply to Employers’ Colonies, Group Housing Societies and Residential or Commercial cum Residential Complexes of Developers) Regulations, 2013 for redressal of grievances.

Petitioner Shri Pankaj Bhalotia

V/s.

Respondent

1. M/s. SPR Buildtech Limited (Builder), Faridabad
2. M/s. Luxury Facilities Maintenance Services Private Limited (Maintenance Agency), Faridabad
3. Imperial Estate Resident Welfare Association (RWA), Faridabad
4. Dakshin Haryana Bijli Vitran Nigam Ltd., Hisar

QUORUM: **Shri Jagjeet Singh, Chairman**
Shri M. S. Puri, Member

PRESENT:

On behalf of the Petitioner : Shri Pankaj Bhalotia

On behalf of the Respondent:

Sh. Rohit Gosain for Respondent No. 1
Sh. S.P. Chopra, Advocate for Respondent No. 1 & 2.
Sh. Munish Behl, Advocate for Respondent No. 1 & 2.
Sh. Shaurya Sharma Advocate for Respondent No. 3.
Sh. K.K. Gupta, SE/RA, DHBVNL, Hisar.
Sh. Varun Pathak, Advocate for Respondent No. 4.

Order

1. Brief background of the Case

The Petitioner in the present case is an apartment owner in a group housing society in the name of Imperial Estates, Sector 82, Faridabad built up by M/s. SPR Buildtech Ltd. (hereinafter referred to as Builder or Respondent No. 1) and the possession of flats/apartments to the respective allottees /owners was offered by the Builder from Oct, 2012.

The Petitioner has submitted as under:-

- i. The Respondent No. 1 had got sanctioned Single Point Supply connection under Bulk Supply (Domestic) category from Distribution Licensee (DHBVNL) to supply electricity to the apartment owners.
- ii. The Respondent No. 1 has installed prepaid dual Electric Meter (which facilitates recording of main supply, backup supply and maintenance charges) for supply of electricity to the apartments and has started charging for electricity w.e.f. Jan, 2013.
- iii. The Builder i.e. Respondent No. 1 has collected cost of meter, its installation and advance consumption deposit from the residents/owners at the time of offering possession.
- iv. The Respondent No. 1 i.e. Builder, appointed maintenance agency i.e. M/s. Luxury Maintenance Services (P) Ltd., (Respondent No. 2) to provide maintenance service and common facilities and RWA as Imperial Estate Resident Welfare Association (Respondent No. 3) was constituted by builder to redress the issues, grievances etc. of the residents.
- v. Haryana Electricity Regulatory Commission (Single Point Supply to Employers' Colonies, Group Housing Societies and Residential or Commercial cum Residential Complexes of Developers) Regulations, 2013 (hereinafter referred as Single Point Supply Regulation) were issued by Commission to provide administration convenience to Distribution Licensees and to minimize the harassment of individual consumers from Discom employees so that distribution licensees may have one point of contact for meter readings, billing and payments.
- vi. A resident in a group housing society having electricity connection under said regulation is for all purpose a consumer under DS category and tariffs and benefits available to person in a DS category are always applicable and available to a resident in group housing society also.
- vii. Petitioner has sought relief/directions on following issues which emerged out allegedly due to the conduct of Respondent(s) by not adhering to certain

aspects of Single Point Supply Regulation, 2013 and other orders, instructions, circulars, procedures issued by Commission or by Discom:-

- a) Tariff charged to the residents.
- b) Prepaid Dual Electricity Meter.
- c) Fuel Surcharge Adjustment.
- d) Electricity Duty and Municipal Tax.
- e) Interest earned on ACD and various rebates concessions, incentives, subsidy as announced by Distribution licensee or by State Govt.
- f) Increase/decrease in load.
- g) Frequent Power cuts.

The Petitioner has prayed as under:-

- a) The Petition, in its present form, may kindly be taken on record.
- b) Condone any inadvertent omissions/errors/shortcomings and permit Petitioner to add/change/modify/alter this filing and make further submissions as may be required at a future date.
- c) Immediate direction to the Respondents No. 1 to 3 not to discontinue supply of electricity to a resident's flat/apartment who honestly paying for electricity consumed (though incorrect) until final judgments by the Commission.
- d) To direct the Respondents No. 1 to 4 to follow Single Point Supply Regulation and charge its residents as per provisions of the said regulation and pass on credit to individual resident for excess amount charged until change is implemented.
- e) To amend the Single Point Supply Regulation to incorporate regulation regarding prepaid dual electricity meters, reduction of load. MMC to avoid exploitation in the hands of a Builder, developer, Maintenance Agency, RWA.
- f) To direct the Respondents No. 1 to 4 to pass on interest received on advance consumption deposits to each individual resident who have paid such amount in same month in which such credit is given by Respondent-4.
- g) To direct the Respondents No. 1 to 4 to pass on credits, incentive, discount, concession, subsidy, rebate whatever name it is called as applicable to a Domestic Supply (DS) category consumer to residents of the society as such residents are for all purposes a consumer under Domestic Supply (DS) category and is entitled to receive and get all such benefits.
- h) To direct the Respondents No. 1 to 4 not to levy and collect Municipal tax and Electricity Duty as the connection does not fall in Jurisdiction of Municipal Corporation of Faridabad.
- i) To direct the Respondent No. 4 not to collect FSA as per various orders of Commission for financial year 2008-09 to 2010-11 as the housing society is

new in existence and not to be required to pay for losses for the period it was not in existence.

- j) To direct the Respondent No. 4 to refund the double collection of FSA from July 2013 to December 2013 of Rs. 0.35 as it was by mistakenly included in that period.
- k) To direct the Respondents No. 1 to 4 to work together to minimize unscheduled power cuts in the society.
- l) All money needed to be refunded back to the residents by the Respondents No. 1 to 4 should be returned back with interest and with the compensation as decided by the Commission.
- m) Pass any such other order/s and/or direction/s which the Commission may deem fit and proper in the facts and circumstances of the case.
- n) Please allow leave of absence to me to attend hearing and proceedings of this petition at Panchkula, being working professional and request Commission to decide as per merit of case and keeping interest of public at large in mind.

2. The Respondents were asked to submit their reply on issues raised by Petitioner. Respondent No. 1 & 2 submitted detail/ Parawise reply to Commission on 14.03.14 with a copy to Petitioner on 01.03.14. Respondent No. 3 submitted the reply dated 01.03.14, received in the Commission office on 11.03.14. Respondent No. 4 submitted parawise reply on 28.04.14. Submissions of the Petitioner/Respondents on various issues are briefly given as under:

Tariff charge to resident(s)

The petitioner submitted that the Respondents No. 1 to 3 are not charging for electricity, from its residents the tariff as per the procedure laid in the Single Point Supply Regulations even after the provisions of the said regulation were brought to their notice. Respondents No. 1 to 3 are charging from the residents as per tariff and rules and regulation decided by them and not as per provisions of the Regulations.

Respondent No. 1 & 2 submitted that electricity charges have been recovered strictly from the residents/owners as per charges levied by Respondent No. 4 (DHBVNL) in the monthly bill issued from time to time and they are not overcharging the Petitioner.

Prepaid Dual Electricity Meter

The petitioner submitted that the meter provided by the Respondent No. 1 is a prepaid dual electricity meter which has the facility to charge to residents for main supply, back up supply and maintenance charges via one meter. The Respondents No. 1 to 3 are recovering maintenance charges via prepaid dual electricity meter and disconnects supply for nonpayment of maintenance charge also. The petitioner submitted that as per the Single Point Supply Regulation, a GHS/developer /builder/maintenance agency/RWA acts as intermediary only between a resident and a distribution licensee for supply of electricity to a resident's apartment/flat and if such resident is regularly paying its dues towards electricity consumption

GHS/developer/builder/ maintenance agency/RWA has no right or power to discontinue or stop supply of electricity to his/her apartment/flat.

Respondent No. 1 & 2 submitted that the Maintenance Agreement executed by the petitioner with the Respondent No. 1 & 2 provide that *"if the maintenance charges or any part thereof are not paid regularly, the flat buyer/user shall lose its right to use any of the common facilities including right to receive electrical energy inside the flat."* Respondent No. 1 & 2 further submitted that the maintenance charges are being levied through Pre-paid Meter on the request of Respondent No. 3 to recover Maintenance charges on daily basis.

Fuel Surcharge Adjustments (FSA)

The Petitioner submitted that FSA recovery done by the Respondent No. 4 for current year on quarterly basis of Rs. 0.35 has been included as FSA recovery in the month of July to December 2013 as the same was applicable until May 2013 only. Hence, Respondent No. 4 erroneously charged Rs. 0.35 as FSA for the period July to December 2013. The Petitioner further stated that the Respondent No. 1 got Completion Certificate in September 2012 & started offering possession and after that residents started to move in and started consuming electricity as supplied by the distribution licensee. As such the recovery of FSA of Rs. 0.46 due to losses incurred by Respondent No. 4 in the year financial year 2008-09 to 2010-11 should not be recovered from the Petitioner's group housing society as it was not in existence at that time when loss was incurred by the distribution licensees.

Respondent No. 1 & 2 submitted that recovery of FSA comes under the preview of respondent No. 4 (DHBVNL).

Respondent No. 4 stated that FSA is being determined as per MYT Regulations, 2012. As per Clause 66.1 of the said regulation read as under: *"The distribution licensees shall recover FSA amount on account of increase in fuel and power purchase cost from consumers on quarterly basis so as to ensure that FSA accrued in a quarter is recovered in the following quarter without going through regulatory process."*

Respondent No. 4 also mentioned clause 66.6 of MYT Regulations, 2012 read as under:-

" FSA shall be recovered by each distribution licensee by charging a uniform FSA (per kWh) across all consumer category in the area of license"

Respondent No. 4 further submitted that regulation 66.7 of the MYT Regulations, 2012 permits Distribution licensee that in case FSA for any quarter is not recovered due to ceiling of 10%, the under recovered amount shall be added to the FSA for the next quarter. FSA being component of tariff is leviable to all categories of consumers and therefore FSA is recoverable from Respondent No. 1 & 2. The levy of FSA cannot be correlated in point of time to individual consumers, as such an approach

is impracticable and hence, FSA is leviable on consumers of distribution licensee as a whole and cannot be levied individually.

Electricity Duty and Municipal Tax

The Petitioner submitted that the Electricity duty and Municipal tax charged and collected @ 10 paisa and 5 paisa per unit respectively, are not applicable to his society in Sector 80, Faridabad as the same is still in developing stage and outside jurisdiction area of Municipal Corporation, Faridabad.

Respondent No. 1 & 2 submitted that the Electricity duty and Municipal tax are related to Respondent No. 4.

Respondent No. 4 submitted that these charges are leviable on the consumption of electricity in Haryana and being levied by Govt. of Haryana. These charges are being collected by DHBVN on behalf of Govt. of Haryana and Municipal Corporation and deposited with state exchequer.

Interest earned on Advance Consumption Deposit and various Rebates, Concession, Incentive, Subsidy as announced by Distribution Licensee or by State Government

The Petitioner stated that as per provisions of the Single Point Supply Regulation, a resident in a Residential Colony or Group Housing Society for all purposes will be treated as domestic supply (DS) category consumer and hence all rules and regulations, scheme, benefits, discount etc. with regard to domestic supply (DS) category consumers will be applicable on such resident. Rebates, Concession, Incentive, and Subsidy as announced by Distribution Licensee (Respondent – 4) or by State Government of the Haryana and applicable on domestic supply (DS) category consumers.

Respondent No 1 & 2 submitted that they have not received any interest on ACD from Respondent No. 4 (DHBVNL) hence there is no question of passing on any interest to the Petitioner. Further, energy consumption after allowing the rebate and maximum demand recorded by single point supply meter is billed to the residents/owners as per respective consumption, at the tariff applicable to Bulk Supply (Domestic) category.

Respondent No. 4 submitted that rebate, concessions, incentives, subsidy etc., the same may be provided by Respondent No. 1 to 3 to the consumers as per provisions of Electricity Act and regulations made there under.

Increase/Decrease in load

The petitioner stated that the Respondent No. 1 while offering possession of the apartment, also allotted a load of 7 kW to his apartment for electricity supply from Respondent No. 4 without bringing the same to his knowledge and understanding. The Petitioner has requested the Commission to direct Respondents No. 1 to 4 to make available the process to get it reduced to save Monthly Minimum Charge (MMC).

Respondent No. 1 & 2 submitted that total load of 4030 kW for group housing complex has been tried to be distributed among the various flat owner and petitioner have been accordingly sanctioned a load of 7 kW. However, that monthly MMC are not payable in case of Bulk Supply consumer.

Respondent No. 4 submitted that, it is a responsibility of Respondent No. 1 to 3 to provide adequate infrastructure required to cater the needs of flat owner.

Frequent Power cuts

The petitioner stated that there are frequent power cuts which may be scheduled or un-scheduled and requested the Commission to direct Respondents No. 1 to 3 to work with the Respondent No. 4 and improve on supply of electricity to society.

Respondent No. 1 & 2 submitted that electricity is being supplied to the flats including petitioner as per supply made available by Respondent No. 4. In case of no supply of grid electricity then the same is supplied through DG set.

Respondent No. 4 submitted that there is surplus power in the State of Haryana and power cuts, if any, are due to inadequate electrical infrastructure laid down by the Builder.

3. The Commission issued notice to both the Petitioner & Respondents for hearing to be held on 30.4.14. The hearing was attended by Petitioner along with two other residents namely Sh. Vikrant Jain and Sh. Gaurav Gupta and also by all the Respondents.

The Petitioner, Shri Pankaj Bhalotia, submitted that the tariff they are being charged by the Respondent No. 2 is not as per Regulation 5.5 of HERC Single Point Supply Regulations. The anomaly was brought to the notice of the Respondent No. 1, 2 & 3. It was submitted by the petitioner that the Respondent No. 1 has installed pre-paid meters and has charged Rs 25,000/- towards cost of meters. Further Respondent No. 2 is not providing the bills/invoice for consumption of electricity to the residents of the Society. Additionally, Respondent No. 2 is also recovering maintenance charges through prepaid electricity meter from January 2014.

Shri S. P. Chopra, Ld. Counsel for the Respondent No. 1 & 2 submitted that RWA had made a request that they cannot pay maintenance charges at one go and the same may be charged on monthly basis along with the electricity bill. Accordingly, the Respondent started charging the same from the prepaid meter recharge coupons.

Further, Respondent No. 2 is charging the tariff from the residents as per the electricity bills raised by DHBVNL for single point supply.

The Ld. Counsel for the Respondent No. 1 & 2 submitted that they had deposited ACD of around Rs. 40 Lacs but they have not received any interest from the Discom on ACD.

In response to the Respondent No. 1 & 2 argument regarding not providing rebate on account of interest on ACD deposited by them to Respondent No. 4 (DHBVNL), Shri Varun Pathak, Ld. Counsel for Respondent-4 informed that they will look into the matter and will submit their reply.

Upon hearing the parties, the Commission observed that the petitioner/residents of the Society were being charged for electricity through pre-paid meters but monthly electricity bills were not provided to them. Respondent No. 1 & 2 was also charging maintenance charges from the Petitioner/Residents of the Society through pre-paid electric meter. In response to the observations of the Commission, the Ld. Counsel of the Respondent No. 1 & 2 submitted that they were recovering electricity charges from the flat owners strictly as per tariff applicable for Bulk (Domestic) Supply category and as per the monthly electricity bills raised by the Respondent No. 4 i.e. DHBVNL from time to time. Further they are recovering the maintenance charges through pre-paid meters only with the consent of Resident Welfare Association (RWA).

Respondent No. 1 & 2 sought clarification from the Commission that whether they can continue with pre-paid meters or have to change the meters?

The Commission clarified that they may continue with the prepaid meters but shall provide the residents of the society a distinct electricity bill along with the relevant details. The DG/back-up supply should be separately metered and reflected in the electricity bill.

The Ld. Counsel of the Respondent No. 4 handed over a copy of their reply to the Petitioner and Respondent No. 1 & 2 and the Commission asked the petitioner & the Respondents submit the rejoinder(s), if any, to the Commission with copies to the Respondent No. 4.

After hearing the parties on 30.4. 2014 commission issued interim order as under:-

“6. Commission directs the Respondent No. 1 & 2 to levy electricity charges from the residents of the society strictly as per Regulation no. 5.5 of HERC Single Point Supply Regulations (Regulation No. HERC/27/2013). The electricity bill should clearly show the energy consumed and tariff applicable including all the relevant details. Further, maintenance charges/any other charges not relating to electricity consumption should not be charged through the electricity meter/bill. The Respondent No. 2 cannot charge from the residents of the society more than the domestic tariff approved by the Commission.”

"9. The Commission directs Respondent No. 4 i.e. DHBVNL, to check and verify that the prepaid meters installed in the society have the facility to separately record the two supplies i.e. DISCOM supply and back-up supply. The Nigam should also verify that the installed prepaid meters are capable of charging the tariff of domestic supply category as per the slabs approved by the Commission in its tariff order for the relevant year. DHBVNL should also verify whether the electricity bills are being generated for each consumer. If it is being generated then besides charges for electricity consumption what other charges, if any, it includes."

"10. The Commission further directed the Petitioner that for claiming any refund of excessive charges paid initially by them to the Respondent No. 1 & 2, they should submit complete facts & figures in support of their claims."

"11. The Commission allows six week time to the parties for carrying out their respective work and to submit their report/reply."

4. Compliance of Interim Order

- (1) Respondent No. 1 & 2 submitted the report of compliance of the direction given by commission vide interim order dated 30.04.14 on 16.07.14 and stated that they have complied with the directions as given in Para 6 & 8 of the Commission interim order. Respondents submitted that separate bill for every consumer were being issued w.e.f. 01.06.14 strictly as per regulation 5.5 of HERC Single Point Supply Regulation- 2013 and maintenance charges/any other charges are not being recovered through Electricity Meter/ Bill as per directions of the Commission.
- (2) The Respondent No. 4 i.e. DHBVNL vide letter memo no. Ch-62/HERC dated 25.08.14 submitted as under regarding compliance of directions as given in Para 8 of the interim order:-
 - a) *The prepaid meter installed in the society have the facility to separate record the two supplies i.e. DISCOMS supply and back up supply.*
 - b) *The installed prepaid meter are capable for charging the Tariff of domestic supply, in token of which 4 no. bills have been collected from the society. The charges of bills to various slabs has been done as in case of General domestic consumer as per Nigam Sale Circular No. D-04/2014.*
 - c) *It has been verified and confirmed that the electricity bill on the enclosed pattern are being generated for each consumer/dwelling unit. Moreover no charges other than electricity consumption are being reflected in the electricity bills collected at random from the society.*

Petitioner also submitted rejoinder to the reply of Respondent No. 4 i.e. DHBVNL on 01.07.14.

5. After receipt of replies/rejoinders, Commission fixed the hearing in the matter on 27.08.2013 at 11:30 AM which was re-scheduled to 16.10.14 at 11.30 AM and was later again re-scheduled to 17.11.14.

The commission held the hearing on 17.11.14 which was attended by the Petitioner and Respondents 1 to 4. During the hearing, the Petitioner Sh. Pankaj Bhalotia in his submission raised following points:-

- i. Can respondent No. 2 (Maintenance Agency) disconnect the Electricity supply of resident, if he does not pay maintenance charges/ DG charges?
- ii. Can Respondent No. 2, collect ACD in view of clause 47(5) of EA-2003, since the supply is given through pre-payment meter?
- iii. Respondents No. 1 to 3 are enjoying on collection of cash in advance via recharge and paying to DHBVN on consumption after a month.
- iv. The process to increase/ decrease the sanctioned load in single point regulations- 2013 is not given.
- v. Interest on ACD and other incentives given by State Govt/ HERC to Domestic Communities is not being passed on to the residents.
- vi. Municipal Tax is not applicable, as the connection falls outside the jurisdiction of M.C. Faridabad.
- vii. Refund the excess amount charged by respondent 2 from Jan, 2013. Details of excess amount charged have already been submitted to the commission.

In reply, the Ld. Counsel of the Respondents No. 1 & 2 submitted that separate bills for electricity consumed by the residents as per Para 6 of the interim order of the Commission are being issued w.e.f of 01.6.2014 strictly according to the tariff approved by Hon'ble Commission for Domestic supply and all the relevant details are being provided in the electricity bills to the residents of the society. The Ld. Counsel of Respondent No. 3 further informed that among 250 members of RWA, none has grievances against the Respondents except the Petitioner. He also submitted that, Sh. Vikrant Jain one of three members, appeared before the Hon'ble Commission on 30.04.14 along with the petitioner and has given in writing that he has no grievances against the Respondents. Respondent No. 4 argued that the instant petition has no locus standi citing sub clause 1 (f) of clause 86 of Electricity Act and Para 2 of Clause 5.5 of HERC Single Point Supply Regulations, 2013 being single aggrieved resident of society filed the Petition and the case comes under the domain of CGRF. Petitioner argued that three aggrieved residents jointly in group appeared before the Commission on 30.04.14, and hence, the plea of Respondent No. 4 is not maintainable. Furthermore, he stated residents are not direct consumer of licensee hence the grievances as such does not come under the purview of CGRF.

Commission observed that many issues raised by Petitioner relate to seeking clarification of HERC Single point Regulations, 2013. Hence, Commission decided to proceed with the Petition for hearing.

Ld. Counsel of the Respondents No. 1 & 2 further informed that interest on ACD has already been disbursed to the Petitioner through cheque. Regarding refund of excess amount paid by Petitioner, counsel for Respondent informed that details of stated refund with facts and figures has not been provided to them by the Petitioner. Commission directed the Petitioner to provide the copy of refund details to the Respondents immediately.

The Ld. Counsel of Respondent No. 4 submitted that since the Petitioner has not given the affidavit as required under Conduct of Business Regulations, hence petition is not maintainable. However, the Petitioner informed that affidavit was submitted along with the Petition. Regarding FSA, Ld. Counsel of Respondent No. 4 argued that it is a component of Tariff and is to compensate Distribution licensees for increase in power purchase cost during the year to keep its financial liquidity intact and FSA is leviable in terms of HERC MYT Regulations, 2012 on consumers of distribution licenses as a whole and cannot be levied individually. It is therefore incorrect that FSA is not payable by the Petitioner.

6. After hearing both the parties on 17.11.14, Commission issued interim order as under:

"2. Commission directed Respondents to furnish reply to the following issues raised by the petitioner:

- i. Respondents No. 1 to 3 are enjoying on collection of cash in advance via recharge and paying to DHBVN on consumption after month.*
- ii. The process to increase/ decrease the sanctioned load under single point supply.*
- iii. Interest on ACD and other incentives given by State Govt/ HERC to Domestic consumers is not being passed on to the residents.*
- iv. To refund the excess amount charged by respondent No. 2 from Jan, 2013.*
- v. There are frequent power cuts and some out of that may be scheduled and some unscheduled. Respondents 1 to 4 should work together and minimize unscheduled power cuts and improve on supply of electricity to the society."*

"3. The Commission allows two days time to the Respondent 1 & 2 to furnish the reply of quarries as above and written submissions if any. Commission also allows two days to the petitioner to furnish written submission if any along with any further details. Commission further directs the Respondent no. 4 to bring reply to the issues raised by the petitioner regarding frequent power cuts by DHBVNL along with data for last one year."

The Commission further ordered to hold the next hearing in the matter on 25.11.2014 at 10:00 A.M.

7. On scheduled date of hearing dated 25.11.14, only the Petitioner and Respondent No. 4 appeared before the Commission. Respondent No. 1, 2 & 3 were not present. Subsequently, an e-mail dated 24.11.14 from Sh. S P Chopra, Advocate for Respondent No. 1 & 2 was received praying for exemption from personal hearing, requested for adjournment and sought some other date after 12.12.14.

Petitioner reiterated the same facts and figures raised by him in his Petition/previous hearings. Regarding frequent power cuts Petitioner was asked to mention specific instances of such occurrences. Petitioner failed to produce any evidence/data in that matter and further admitted that the power supply to the residents/flats is regular since June, 2014.

Respondent No. 4 stated that there are no unscheduled/frequent power cuts but did not submit the record/data regarding electricity supply to the society for the last one year in compliance of the Commission interim order dated 25.11.2014.

Commission on hearing both the parties present in the hearing and considering the request of Respondent No. 1 & 2, directed Respondents to submit the requisite information by 28.11.2014 as per interim order dated 18.11.2014. Respondent No. 1 & 2 submitted vide e-mail dated 27.11.2014 which is as under:-

- i.) The Domestic tariff approved by the Commission is being charged to the residents whether the consumer is metered through prepaid meter or otherwise and has not distinguished the payment of electricity charges which are paid in advance.
- ii.) DHBVN has sanctioned a Bulk Supply Connections having sanctioned load of 4030 kW for group housing complex being developed by Respondent No. 1 as per their policy.
- iii.) That, we have already distributed the interest on the ACD received from DHBVNL on pro-rata basis to all the consumers. The Petitioner has also been paid Rs. 600/- by Cheque No. 019531 dated 15.11.2014 drawn on OBC Bank.
- iv.) Excess payments received on account of difference of Domestic tariff charges for the period Jan., 2013 to May, 2014 are being worked out and shall be refunded/recovered as the case may be within one month.
- v.) That, we are totally dependent on DHBVNL for supply of electricity through grid and are always be pleased to share any information with Petitioner related to power cuts as and when communicated by DHBVNL.

8. The commission has carefully considered the written submissions of the parties as well as submissions, pleadings, data, materials made/placed during the hearings scheduled in the case and orders as under:-

- (1) Respondent No. 1& 2 as per current practice disconnect the electricity supply of their consumers on account of non-payment of maintenance charges of the society/ any other charges apart from electricity charges also. Commission is of

the view that disconnection of electricity should not normally be done on account of nonpayment of charges other than grid electricity charges i.e. on account of Maintenance charges, Backup Supply charges and other Misc. charges etc. Commission directs Respondent No. 1 & 2 to take remedial measures to ensure disconnection of Grid supply shall not take place, if the Petitioner pays the electricity bill raised by the Respondents. Further, Commission observes that the said Prepaid Meters were installed with the consent of RWA of society and no other resident/ owner except Petitioner is agitating, hence, Commission orders the Respondent No. 1, 2 & 3 to provide separate energy Meter for grid/licensee electricity supply for the Petitioner at his cost, if he desires.

- (2) As already directed in the interim order dated 30.04.14, the Respondent No. 1 & 2 shall recover electricity charges from the residents/owners of the society strictly as per Regulation No. 5.5 of HERC Single Point Supply Regulations (Regulation No. HERC/27/2013). Besides, the electricity bill should clearly show the energy consumed and tariff applicable including all the relevant details. Respondent No. 1 & 2 however, has already confirmed that electricity tariff to residents are being made as per directions of Commission and in regards to which Respondent No. 4 also confirmed that the billing has been done strictly as per ibid Regulations. If the Respondents have charged more than the prescribed charges as per tariff approved by Commission from time to time, the Respondents shall refund the same through adjustment in the future electricity bill(s) of the concern residents/owners.
- (3) Regarding reduction/increase of load, Commission observes that Respondent No. 1 has distributed the load in fair manner among the residents/owners. Hence, no directions are required from the Commission on the issue.
- (4) Regarding refund of interest on ACD, Respondent No. 1 & 2 confirmed that due payment on account of interest on ACD has been refunded/adjusted to the respective residents/owners of the society. However, the issue is not in the purview of Commission as per HERC Single Point Regulations, 2013.
- (5) On issue whether Respondent No. 1 & 2 can at all recover ACD form the residents/owners in view of clause 47(5) of Electricity Act, 2003 where supply is given through prepaid Meters, Commission observes that this clause is relevant to Distribution Licensee but the Respondent No. 1, 2 & 3 are not Distribution licensee and as such above referred clause is not applicable to them.
- (6) Commission directs that Respondents No. 1 & 2 shall pass all kind of incentives, concessions, rebates etc. to the Petitioner/ residents of the society for electricity

by Distribution Licensee strictly as per Domestic Supply Tariff determined by the commission from time to time.

- (7) Regarding levy of Municipal Tax and Electricity Duty, Commission observed that these statutory taxes are levied by Distribution licensee on behalf of Municipal Corporation and Haryana Government respectively and are not a part of tariff. Hence, it is not in the purview of Commission.
- (8) Regarding charging of FSA from the residents/owners, Commission observes that FSA is a part of tariff and leviable on DS category consumers and hence is recoverable from the residents/owners on the rates as recovered by Distribution Licensee from their DS Category consumers in line with HERC MYT Regulations, 2012 and Distribution Licensees are making the recovery of FSA accordingly.
- (9) The Commission has examined the submissions made by the Petitioner that recovery of FSA of 35 paisa/unit was applicable only up to June, 2013 and Respondent No. 4 wrongly levied the same from July, 2013 to Dec., 2013. It is noted from the record available in the Commission, that recovery of FSA of 35 paisa/unit towards FSA for FY 2012-13 was continued beyond June, 2013 as total amount of FSA due to be recovered was much higher than the recovery affected. The Commission, on an application by the Distribution Licensees has allowed the recovery of FSA pertaining to FY 2012-13 up to Dec., 2014, so the recovery of FSA made by Distribution Licensee beyond June, 2013, is in order. Hence, no intervention from the Commission is required on the issue.
- (10) Regarding issue of frequent power cuts, the petitioner himself admitted that he is getting regular power supply since June, 2014. DHBVNL has also confirmed that supply is being given to the society without any discrimination. Hence, no further directions from the Commission are required in the matter.

The petition is disposed off accordingly without any cost to the parties.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 03rd December, 2014.

Date: 03/12/2014

Place: Panchkula.

(M.S. Puri)
Member

(Jagjeet Singh)
Chairman

HEERCC