

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

Case No. HERC/P. No. 32 of 2023

Date of Hearing : 11/12/2024

Date of Order : 26/12/2024

IN THE MATTER OF:

Petition under Section 43, 46 and 50 of the Electricity Act, 2003 and Regulation 8 and 9 of the Haryana Electricity Regulatory Commission(Duty to Supply Electricity on Request , Power to recover expenditure incurred in providing Supply and Power to recover expenditure incurred in providing Supply and Power) Regulations, 2016 (“Duty to Supply Regulations”) and Regulation 16 of the HERC Electricity Supply Code Regulations, 2014 (“Supply Code”) read with Section 142 and 146 of the Electricity Act, 2003.

Petitioner

Uttar Haryana Bijli Vitran Nigam, IP-3 & 4, Sector-14, Panchkula,
Haryana - 125005

VERSUS

Respondent(s)

1. M/s TDI Infratech Private Ltd., 2nd Floor, TDI Corporate Headquarters Mahindra Towers, 2A, Bhikaji Cama Place, New Delhi- 110066 through its Directors Ravinder Kumar Taneja Renu Taneja Rohit Gogia Ved Parkash
2. RWA, TDI City, Panipat through Sh. Anil Malik, Resident Welfare Association Panipat -131030

Present

On behalf of the Petitioner

1. Ms. Sonia Madan, Advocate
2. Sh. Rajesh Arora, SE, UHBVN
3. Sh. Pradeep Balodi, AE, UHBVN

On behalf of the Respondent

Sh. Hemant Saini, Advocate for R-1

QUORUM

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

ORDER

1. **Petition:**

- 1.1 That the present petition is being filed by Uttar Haryana Bijli Vitran Nigam (hereinafter referred to as "UHBVN/Petitioner") through Sh. Rajesh Arora, Superintending Engineer (Monitoring) who is authorized to file the instant petition and is otherwise also is well conversant with the facts of the present case.
- 1.2 That the Petitioner had earlier filed a Petition bearing no. 67 of 2022 seeking grant of new connection/additional load by the licensee to the members of Resident Welfare Association (RWA) of TDI City, Panipat (Respondent no. 2) as an immediate respite measure in view of the deficiency of Developer-Respondent no. 1. The said prayer was made conditional subject to deposition of full amount equivalent to the inadequacy jointly by the members of RWA. In this respect, a proposal was made by the Petitioner in lieu of deliberations with the representatives of RWA. By way of said proposal, the development charges were required to be collectively deposited by the RWA equivalent to the amount of inadequacy computed by the Petitioner for electrical infrastructure in TDI City, Panipat.
- 1.3 That in the hearing dated 22.02.2023 held before the Hon'ble Commission in Petition no. 67 of 2022, it was apprised to the Hon'ble Commission that although the representatives of RWA earlier agreed to deposit the amount of inadequacy in advance, however, subsequently they did not come forward to deposit the amount equivalent to inadequacy. It was submitted that the 200-250 families are ready to deposit the inadequacy amount on pro-rata basis and requested release of connection on DHBVN pattern. It was also submitted by the Petitioners that a revised proposal will be submitted to the State Government for approval in this regard. Accordingly, the Hon'ble Commission disposed off the petition as infructuous with direction that Petitioner may file fresh petition, if need be. The relevant excerpt of the said Order dated 23.02.2023 is reproduced herein below for ready reference-

"3..... counsel for petitioner submitted that although the residents of RWA have earlier agreed to deposit the amount of inadequacy in advance as per earlier deliberations held with RWA, yet the RWA is not coming forward to deposit amount equivalent to the inadequacy, which is approximately Rs 23.63 Crores in case of TDI City Panipat as already stated in the petition. Out of total residents of society, only 200-250 families are ready to deposit the inadequacy amount on pro-rata basis and have requested for release of connections on DHBVN pattern after depositing of development charges. She further submitted that, accordingly, a revised proposal will be submitted to the Commission on receipt of approval from State Government which is under process.

4. In view of the foregoing facts and circumstance, Commission observes that as per petition/ statement of the petitioner, the RWA is not ready to deposit amount equivalent to the inadequacy which is in contradiction to the contents/prayer. Therefore, the petition does not survive and the same

is disposed of, being infructuous. However, the petitioner may file a fresh petition if need be."

- 1.4 That way of present petition, the Petitioner modified the proposal after consulting the members of the Respondent no. 2 and the condition with respect to submission of joint affidavit and deposit of complete inadequacy amount of township by RWA was dispensed with. The said revised proposal was submitted to the State Government for approval and the same was approved with following terms -
- a) *For release of connection in licensed colonies with deficient infrastructure and non-availability of bank guarantee by developer, the requirement of joint affidavit through RWA and deposit of complete inadequacy amount of town ship by RWA after its collection from members of RWA be dispensed with, as no RWA come forward to adopt it.*
 - b) *In licensed colonies with deficit electrical infrastructure, the electricity connections be released to individual new connection applicants or existing applicants seeking extension of load by depositing individual affidavit and development charges by individual consumer on voluntary basis to UHBVN on the same methodology and principles as being followed in DHBVN with the approval of State Government,*
 - c) *While calculating the development charges, the cost of land should not be included and earmarked land in layout plan for electric sub-station (ESS) should be transferred to DISCOM, which will be ensured by DTCP. In cases, where land is not earmarked for ESS, but load norms of power utilities requires creation of sub-station, in that case the DTCP / HSVP shall ensure transfer of suitable land i.e. pieces of land wherein General electric Layout Plan (GELP) of proposed sub-station fits in.*
 - d) *Similarly, the credit of electrical infrastructure already created by the developer should also be given by DISCOM while calculating the development charges.*
 - e) *For any required augmentation of distribution system in the township as per technical standards in vogue, the same will be carried out by Discom out of available funds accumulated through deposit of development charges.*

A. DETAILS OF THE PARTIES -

- 1.5 That the Petitioner is a state owned Distribution Company and registered under the Companies Act, 1956 formed under the corporatization/restructuring of erstwhile Haryana State Electricity Board (HSEB). The Petitioner is responsible for the distribution and retail supply of electricity in the North Zone of the State of Haryana which encompasses the projects developed by the Respondent Developer/Builder.
- 1.6 That the Respondent no. 1 is the developer of licensed residential plotted colony, the TDI City, Panipat which is a plotted colony spreading over ~ 291.7765 Acres situated in Sector-36, 37, 38 & 39, in the revenue estate of villages Kabri, Faridpur & Ratipur, Panipat, Haryana. The Respondent

no. 1 was granted following licenses by the Director (Town & Country Planning), Government of Haryana over the years under DTCP Scheme-LC-805 (Now LC-2230)

SR. No.	Particulars	Description
1	DTCP Scheme No.	LC-805 (Now LC-2230)
2	Licenses Numbers	63 - 105 of 2007 (except 88 of 2007) dated 11.02.2007, 121 of 2012 dated 13.12.2012 and 5 of 2017 dated 07.02.2017
3	Approved Lay out plan Area	291.7765 ACRES
4	Area of the Scheme	291.7765 ACRES
6	Nos. of Plots	2239

The developer got approved the electrification plan for an area of ~ 221 acre, however, the area was increased to ~ 291 acre and being same colony, the increased area is considered with ultimate load of increased area of the colony.

- 1.7 That Respondent no. 2 is the Resident Welfare Association of the TDI City, Panipat. After the sale of plots/dwelling units in the project developed by the delinquent developer, Respondent no. 2 - Resident Welfare Association (RWA) TDI City, Panipat has been established with the mandate of looking after the issues of residents. The Respondent no. 2 is registered under the Societies Act, 1860 and governs their day to day functioning as per the by-laws established by it.

B. CONSPECTUS OF THE PETITION –

- 1.8 That the Petitioner is filing the instant petition seeking certain urgent relief(s) mentioned in the succeeding paragraphs in view of the representations made to the Petitioner regarding the hardships faced by the owners/occupants/residents of the premises/units in the residential project developed by the Respondent no. 1 (hereinafter also referred to as “Delinquent Developer”) wherein the Respondent no. 1 /Delinquent Developer has developed project by the name of TDI City, Panipat which falls within the Petitioner’s Licence area without adequate electrical infrastructure to cater to the load as per applicable load norms.
- 1.9 That the Respondent no. 2, which is one of the Resident Welfare Association of the TDI City, Panipat through its representative, Sh. Anil Malik had approached the Petitioner and explained their grievances as regards the irregular supply of electricity owing to lack of adequate electrical infrastructure in the project area. They had also agitated their grievances with respect to erratic supply of electricity before various Authorities/ Forums/ Courts.
- 1.10 That various owners/occupants/residents of TDI City, Panipat are seeking new electricity connection/additional load etc. within the project area of the Respondent no.1. However, due to the non development of adequate electrical infrastructure by the Delinquent Developer and non-

submission of Bank Guarantee by the Developer, the Petitioner stopped the release of further connections in the licensed colony.

- 1.11 That a similar situation prevailed in the License area of Dakshin Haryana Bijli Vitran Nigam (hereinafter referred to as "DHVBN") i.e. Southern Haryana especially with respect to the projects of the Delinquent Developers in Gurugram, Haryana. In pursuance to alleviate the grievances of the individual owners/occupants/residents situated within the projects of the Delinquent Developer, a Petition with case no. HERC/Petition No. 55 of 2021 titled Dakshin Haryana Bijli Vitran Nigam v. M/s Ansals properties and Infrastructure and Ors. was filed by the DHVBN before this Hon'ble Commission seeking release of new electricity connections/additional load to distressed residents on voluntary payment of 'Development Charges' to DHVBN subject to adjustment/refund by Delinquent Developers therein by payment of cost to DHVBN or curing prevalent deficiencies.
- 1.12 That the Hon'ble Commission took cognizance of the matter and issued an Order dated 02.02.2022 permitting the DHVBN to release the new electricity connections/additional load on voluntary payment of development charges as an ad-interim measure and directed the DHVBN to keep a record of the charges paid by the applicants seeking release of new connection/additional load in the areas developed by Respondents therein and to make the same available to the Commission as and when directed to do so. For the kind perusal of this Hon'ble Commission, the relevant portion of the Order dated 02.02.2022 has been reproduced as under:
- "15. In the given circumstances, the Commission deems it appropriate to grant immediate relief to the distressed residents of the subject areas/projects developed by the respondent developers and permits the petitioner to release new electricity connections/additional load on voluntary payment of development charges mentioned in the Petition. This is an ad-interim measure aimed at resolving needs of those distressed persons, who are in urgent need of an electricity connection/additional load and voluntarily opt to pay development charges.*
- 16. The petitioner is directed to keep a record of the charges paid by applicant(s) seeking release of new connection/additional load in the areas developed by respondents and to make the same available to the Commission as and when directed to do so. In case, the petitioner recovers cost of the claimed inadequacies, the aforesaid charges, voluntarily paid by the above applicants, shall be adjusted/set off in their future energy bills. "*
- 1.13 That subsequently the Hon'ble Commission considered it necessary to assess the inadequacies of each builder/respondents therein independently and directed the DHVBN vide Order dated 18.05.2022 to file separate petitions regarding inadequacies of infrastructure in respect of each developer with all the relevant details/facts for adjudication. The relevant extract of the Order dated 18.05.2022 is reproduced as under:

“The Commission has considered the aforesaid submissions made by the parties. Since the inadequacy of each builder/respondent is required to be assessed individually as per the norms/regulations occupying the field at relevant time, the Commission directs the petitioner to file separate petitions regarding inadequacy of infrastructure in respect of each developer with all the relevant details/facts for adjudication within 5 weeks”

1.14 That thereafter, as per the directions of the Hon’ble Commission, separate petitions with respect to each of the Delinquent Developers therein were filed. The Petition no. 55 of 2021 was disposed off with order that the ad-interim directions passed vide interim order dated 02.02.2022 are extended to each of the separate petitions filed by DHBVN against the Respondents/ Delinquent Developers therein. The relevant extract of the Order dated 14.09.2022 is reproduced as under:

1. *“In the given facts and circumstances, the Commission deems it fit to dispose off the present petition in view of the separate petitions filed by DHBVN. The Commission will now adjudicate the issue of inadequacies in respect of each of the concerned respondent developer based on the relevant facts and details mentioned in the separate petitions filed by DHBVN. Accordingly, the interlocutory application (IA) filed by M/s Unitech Ltd, respondent no-3 shall be heard with the separate petition no 46 of 2022 (DHBVN Vs M/s Unitech Ltd). Meanwhile, in the interest of justice, the ad-interim directions passed in the present petition vide interim order dated 02.02.2022 qua release new electricity connections/additional load on voluntary payment of development charges shall extend to each of the separate petitions filed by DHBVN against the respective Respondent-developers.”*

C. INTERIM URGENT RELIEF SOUGHT FOR THE MEMBERS OF THE RESPONDENT NO. 2 –

- 1.15 That in the present Petition, Petitioner is seeking similar interim reliefs for the owners/occupants/residents of the TDI City, Panipat represented through Respondent no. 2 who are suffering because of defaults of the Respondent no. 1 to establish adequate electrical infrastructure in accordance with the Sanctioned Electrification Plan. The Petitioner has held meetings with Respondent no. 2 wherein requests were made for resolution of hardships of the owners/occupants/residents of TDI City, Panipat by release of new connections. Based on such discussions, the Petitioner got the proposal approved by DHBVN from State Government on 23.12.2021 vide which the prospective consumers have to pay development chargers on Rs. Per KW basis based on load of the plot/flats as per load norms, where connections are required to be released and total inadequacy of the project/builder.
- 1.16 That a meeting was held between Resident Welfare Association of the Respondent no. 1 (RWA/ Respondent no. 2) and the Petitioner on 18.11.2022 wherein the foregoing proposed procedure was intimated to the RWA.
- 1.17 The RWA agreed to bear the development charges and ensure joint submission of the same by collecting the charges from the existing

members as well as from the future members of the township. The Respondent no.2 agreed to the aforesaid arrangement is further evident from the Order dated 05.01.2023 in Petition no. 67 of 2022, wherein the Hon'ble Commission observed as under-

"4. The representative of RWA also appeared before the Commission, and submitted that as per the meeting with UHBVN officials, they have agreed on the proposal deliberated with them by UHBVN officials.

5. The Commission pointed out that if the licensee can recover the amount of inadequacy from RWA voluntarily subject to refund to RWA in case inadequacy is removed by the developer, then what is the need to come before the Commission for any relief. Therefore, the Commission directs the petitioner to ensure recovery of amount as stated by the representative of the RWA to be paid voluntarily, equal to inadequacy from the RWA within four weeks as per the proposal and approach the Commission with appropriate prayer/request for further adjudication of the matter."

- 1.18 That however, subsequent to the same, the representatives of the RWA did not come forward to deposit the amount equivalent to the inadequacy. In the hearing held before the Hon'ble Commission on 22.02.2023, it was submitted that the 200-250 families are ready to deposit the inadequacy amount on pro-rata basis and requested release of connection on DHBVN pattern. It was also submitted by the Petitioners that a revised proposal will be submitted to the State Government for approval in this regard. Accordingly, the Hon'ble Commission disposed off the petition as infructuous with direction that Petitioner may file fresh petition, if need be.
- 1.19 That thereafter, the Petitioner modified the proposal and the condition with respect to submission of joint affidavit and deposit of complete inadequacy amount of township by RWA was dispensed with. The said revised proposal was submitted to the State Government for approval and the same was approved with following terms -
- f) For release of connection in licensed colonies with deficient infrastructure and non-availability of bank guarantee by developer, the requirement of joint affidavit through RWA and deposit of complete inadequacy amount of township by RWA after its collection from members of RWA be dispensed with, as no RWA come forward to adopt it.*
 - g) In licensed colonies with deficit electrical infrastructure, the electricity connections be released to individual new connection applicants or existing applicants seeking extension of load by depositing individual affidavit and development charges by individual consumer on voluntary basis to UHBVN on the same methodology and principles as being followed in DHBVN with the approval of State Government,*
 - h) While calculating the development charges, the cost of land should not be included and earmarked land in layout plan for electric sub-station (ESS) should be transferred to DISCOM, which will be ensured by DTCP. In cases, where land is not earmarked for ESS, but load norms of power utilities requires creation of sub-station, in that case the DTCP / HSVP shall ensure transfer of suitable land i.e. pieces of land*

wherein General electric Layout Plan (GELP) of proposed sub-station fits in.

- i) Similarly, the credit of electrical infrastructure already created by the developer should also be given by DISCOM while calculating the development charges.*
- j) For any required augmentation of distribution system in the township as per technical standards in vogue, the same will be carried out by Discom out of available funds accumulated through deposit of development charges.*

1.20 That the Petitioner is therefore, seeking approval of the Hon'ble Commission for grant of connection/additional load to the members of the Respondent no. 2 in terms of the revised proposal.

1.21 That the development charges recovered by the Petitioner will be utilized to create adequate electrical infrastructure in the township. The development charges deposited individually shall be adjusted/refunded as when the Respondent no. 1 cures the deficiencies or make payment of cost thereof. The new connections and load will be released by such augmentation of infrastructure as is feasible in view of the recovered amount. The Petitioner is therefore, seeking the kind indulgence of the Hon'ble Commission for grant of urgent relief to the distressed members of Respondent no. 2 in terms of the proposed procedure submitted above.

D. DEFAULTS OF THE RESPONDENT NO. 1/ DEVELOPER IN CREATION OF ADEQUATE ELECTRICAL INFRASTRUCTURE -

1.22 That the Petitioner shall also set out here under the defaults of the Respondent no. 1 in installation of Electrical infrastructure as per Sanctioned Electrical Plan –

- i. The Respondent no. 1 had approached the Petitioner for approval of Electrical Plan and for the plotted colony, electrification plans were approved from time to time as under:-
 - (a) Chief Engineer (OP) Rohtak Memo No. Ch-5/C-193/DRG/PNP dated 14.12.2007 for TDI city
 - (b) SE (Monitoring), UHBVN, Memo No. Ch-49/SE/MON/Elect. Plan/case file No.75/PNP/21 dated 06.08.2021 for TDI city for 221 Acres
- ii. The Petitioner Department was constrained to issue a notice bearing Memo No. Ch-55/SE/MON/Elect. Plan/case file no.75/PNP/21 dated 20.09.2021 & various other notices calling upon the Delinquent Developer to furnish cost or Bank Guarantees on account of inadequate electrical infrastructure in its projects/colonies situated in sectors 39,40, Panipat. The Petitioner Department in the said notice specifically made reference to the various provisions of the Electricity Act, 2003 and Regulations framed there under.
- iii. Keeping in view the latest decisions with the approval of State Government, the inadequacy in the project has been calculated afresh, after considering the infrastructure already created in the township, after excluding the cost of land required for sub-station, as 1.20-acre land earmarked for electric sub-station (ESS) in the

layout plan has been transferred to UHBVN and increased area of the scheme. After considering above and as per latest applicable load norms, the inadequacy amount worked out to be Rs 23.18 Crores for creation of electrical infrastructure to meet the power requirement of plot holders as per their ultimate load requirement.

- 1.23 That in view of the foregoing details, regarding the default of the Respondent no. 1 to install electrical infrastructure for the project, the creation of capacity in the network and required electrical infrastructure for release of new connection is not available for all prospective residents in the township. Therefore, there is a dire need to take immediate steps to provide relief to the plot holders or new applicant and therefore, an immediate ad-interim measure is to be resorted to grant immediate relief to the distressed residents of the colonies/projects developed by the Respondent/Delinquent Developer.

E. COMPUTATION OF DEVELOPMENT CHARGES -

- 1.24 That for the purpose of obtaining the voluntary payment of development charges on per KW from prospective new consumers for development of electrical infrastructure, the development charges are to be determined vide the following formula:

$$\text{Development Charges (in rupees per KW per Applicant/ Consumer)} = \frac{\text{[Cost of inadequacies of the project cost} \div \text{Total ultimate load of prospective applicants in the project]} \times \text{ultimate load or applied load (whichever is higher) of individual Applicant / Consumer.}}{\text{Total ultimate load of prospective applicants in the project]}}$$

**Govt. Taxes/Duties, as applicable will also be levied on the above development charges*

- 1.25 That by applying the above said formula, proposed Development charges computed for deficient project of TDI City, Panipat shall be determined. It is submitted that the charges are proposed to be applicable upto 31.03.2024 and are to be enhanced by 10% every financial year thereafter. The new applicants of domestic category have the option to deposit proportionate “development charge(s)” in lump sum or in 12 EMI’s (in case of monthly bills) and 6 no. EMI (in case of bimonthly bills). A rebate of 4% (four per cent) would be allowed to domestic applicants/consumers opting to deposit development charges in lump sum in one go. It is pertinent to mention herein that these development charges shall be refunded afterwards subject to recovery that would be made from the Delinquent Developer.
- 1.26 The applicants of other than domestic categories would be required to deposit the proportionate development charges in one go before release of their connections as the load of other than DS categories would be quite higher and would require immediate creation of infrastructure to release the same. The above development charges, so deposited by the applicants/consumer would be refunded afterwards subject to recoveries that would be made from defaulting developers.
- 1.27 That the cost of installing the adequate electrical infrastructure to cater to the ultimate load has to be to the account of the Delinquent Developer/

Respondent no. 1, who has failed to install adequate infrastructure. The applicants/consumers shall therefore, be reimbursed such development charges after recovery made from the Respondent no. 1.

F. LEGAL FRAMEWORK -

1.28 That the Hon'ble Commission has ample power to issue such directions as is necessary to ensure supply of electricity which is a basic amenity. Section 46 of the Electricity Act, 2003 empowers the State Commission to frame regulations to authorise a distribution licensee to charge from a person requiring a supply of electricity any expenses reasonably incurred in providing any electric line or electric plant used for the purpose giving that supply.

1.29 That in exercise of the powers granted vide Section 46, this Hon'ble Commission notified the Duty to Supply Regulations, 2016 as amended from time to time. Regulation 4.1 of the aforesaid regulations empowers Petitioner to recover the expenditure referred to in Section 46 of the Electricity Act, 2003. The Regulation 4.1 reads as under:

“Subject to the provisions of the Act and these Regulations and subject further to such direction, orders or guidelines issued by the Commission, every distribution licensee is entitled to recover from an applicant requiring a supply of electricity or modification in existing connection, any expenses reasonably incurred by the distribution licensee in providing any electric line or electrical plant used for the purpose of giving that supply. The service connection charges or the actual expenditure to recover such expenses shall be computed in accordance with these Regulations.”

1.30 That further the Petitioner places reliance on Clause 4.2 of the Electricity Supply Code Regulations, 2014 which reads as:

"4.2 licensee's obligation to strengthen/ upgrade/ augment the distribution system and the mode of recovery of the cost thereof:

4.2.3 The cost of extension of distribution main and its up-gradation up to the point of supply for meeting demand of a consumer, whether new or existing, and any strengthening/ augmentation/ up- gradation in the system starting from the feeding substation for giving supply to that consumer, shall be payable by the consumer or any collective body of such consumers as per the Regulations framed by the Commission under Section 46 of the Act.”

1.31 That further under the Electricity Act, 2003 an electricity connection under Section 43 can be provided when infrastructure required for supply of electricity is adequate to cater to the load of such consumer. Pertinently, the proviso to Section 43 (1) of the Electricity Act, 2003 provides that where such supply requires extension of distribution mains, or commissioning of new sub stations, the distribution licensee shall supply electricity to such premises only after such extension or commissioning is made. Thus, if the infrastructure required as per peak load requirement of an area is inadequate and the Petitioner releases new connections and provide electricity, the provisions of the Electricity Act, 2003 and the underlying objective thereof shall be rendered otiose.

1.32 That with respect to the above, the Commission in Case No. HERC/PRO-21 & 23 of 2013 titled as Ansal Build Well v. DHBVN & Ors., while passing the Order dated 20.02.2015 held that the developer is required to install the electrical infrastructure determined as per electrical layout plan approved by the Distribution Licensee in accordance with the applicable load norms during the course of development of the colony/Group Housing Societies/residential/non-residential areas. The said Order was challenged by way of a Civil Writ Petition No. 2467 of 2013 which was dismissed as being withdrawn.

1.33 That the Hon'ble Commission in plethora of cases has issued directions from time to time to the delinquent developers thereby taking a stringent view on their defaults leading to hardships being caused to the occupants/owners/residents of their projects. Reliance in this regard is placed upon the judgment dated 09.08.2021 of Hon'ble Commission in PRO-48 of 2020 wherein it was held as under –

“...it is obligatory on the part of developer (License holder) to get the electrification plan approved from DISCOM as per ultimate load requirement and deposit the requisite bank guarantee for development of the electrical infrastructure for the licensed area before release of the electrical connection for which compliance is required to be made by M/s Country Wide developers. The petitioner society falls within the licensed area of M/s Country Wide developers and approval of beneficial interest by DTCP does not absolve them from creation of inadequate infrastructure and deposit of the requisite bank guarantee by M/s Countrywide developers for which the case is pending for adjudication (i.e. Civil writ Petition no. 15141 of 2019) before the Hon'ble High Court of Punjab and Haryana.”

1.34 That further in the matter of *Confederation of Real Estate Developers Association of India-Haryana v DHBVN and Ors. (PRO-68 of 2021)*, the Hon'ble Commission took note of the electrical inadequacies created by the Developers and held as under –

“ 8. The Commission has carefully examined the contents of the petition, submissions made, arguments placed before the commission during the hearings. The Commission observes that the provisions of the sales circulars which are in contravention of the provisions of the Regulations causing undue hurdle and oppres the right of any genuine consumers 85 should not be the part of any guideline/ sales circulars issued by the Licensee, on the other hand the Act/ Regulations also cast duty upon the Licensee to ensure the adequate infrastructure and services to consumer at reasonable cost is provided and to take appropriate measures to deal with defaulting developer/ consumer to ensure the recovery of legitimate dues/inadequacy if any in past from such defaulter. A list of 36 developers of only one circle i.e. OP Circle Sonapat submitted by the Respondents, reflecting continuous defaults made by the Developers/ Builders/ Colonizers for the creation of the requisite infrastructure, reveals that the electrical infrastructure had not been created even after the lapse of several years; even the temporary connection which is essentially meant for the limited purpose of undertaking the construction

activities has also been used to provide the supply of electricity to regular connections on inhabitants. If the temporary connection is allowed without processing/approved electrification plan, the developer may not be obligated to lay down any electrification infrastructure as seen in the past since the Developers are not coming to create infrastructure even the lapse of 10 to 14 years. Keeping in view of the judgment of Hon'ble Bombay High Court mentioned in para No. 3 above, the electricity connection should not be released to any developer/colonizer or subsidiary or sister concern/partnership firm thereof against whom there are outstanding dues to discourage dodgy practices by allowing developer to form a different corporate entity with similar shareholding/ management and get away with the legitimate payment of dues, despite the fact that the usual person behind both the legal entities would be the same. Therefore, the Commission is of considered opinion that the ibid five challenged clauses of the above said Circulars have been added by the Respondents as deterrent with the intent to curtail the defaults by the Developers in the interest of consumers, and to ensure that adequate electrical infrastructure is laid down and time limit so fixed is essential to be implemented to have quality of supply to the residents of the township developed by the Developer. As such Commission finds no merit in the petition."

- 1.35 That the Petitioner vide Sales Circular no. U-21/2020 dated 18.09.2020 circulated a procedure for assessment of creation of electrical infrastructure as per approved electrification plan. The said circular categorically specified that the completion certificate whether part or complete can only be issued once the electrical infrastructure for the area in question stands completed in terms of the electrification plan and the bank guarantee has been submitted for the balance work, if any. Seeing the defaults of the developers in execution of electrical infrastructure, the Petitioner has been making all efforts to set in place a system with adequate checks and balances to avoid hardships being caused to the public at large.

G. OBLIGATION ON RESPONDENT DEVELOPERS AND CONSUMERS TO BEAR THE COST OF ADEQUATE ELECTRICAL INFRASTRUCTURE.

- 1.36 That the developers are obliged in law as well as contractually (in terms of bilateral agreement between DTCP and the concerned Developer) to install such electrical infrastructure as may be adequate to cater the 'ultimate load' within the area developed by them. If the Developer does not install such adequate electrical infrastructure, the cost thereof shall have to be borne by the consumers within the Project developed by such developer. This position is emanating from interaction of the following laws:-
- a) The Haryana Development and Regulation of Urban Areas Act, 1975 ("1975 Act") and the Haryana Development and Regulations of Urban Areas Rules 1976 ("1976 Rules");
 - b) Electricity Act, 2003;
 - c) Duty to Supply Regulations;
 - d) Electricity Supply Code; and

e) Single Point Supply Regulations.

1.37 That what is evident from the foregoing legal framework is that the liability to bear cost of the electrical infrastructure associated with creation of any project is that of the developer who develops a project and recovers such cost from the consequent consumer.

H. RELIEFS SOUGHT -

1.38 That, in view of the foregoing submissions, the Petitioner herein is seeking urgent interim relief for release of new connections to the new applicants/plot holders by augmentation of electrical infrastructure/rectification of deficiencies in existing infrastructure to the extent feasible subject to submission of development charges on pro-rata basis voluntarily by the plot holders/new applicants in accordance with the revised procedure mentioned in the submissions made above. The Petitioner further seeks action against the Respondent no. 1 for defaults in creation of adequate electrical infrastructure with directions to Respondent no. 1 to deposit the requisite amounts in accordance with the conditions of the approved Electrical Plans and inadequacy in the project.

PRAYER

In light of the submissions made hereinabove and in the larger interest, this Hon'ble Commission may be pleased to:

- a. Permit Petitioner to recover 'Development Charge(s)' as per Annexure P-11 and Para 25, 26 & 27 stated herein above, from each of the prospective applicant(s) seeking new connections, consumer seeking grant of additional load (situated within the Projects), subject to adjustment/refund (without interest) on curing deficiencies by the Delinquent Developers or payment of cost thereof (in any of the manner mentioned below), so as to grant immediate respite of granting connections/additional load to applicants/consumers within the Projects in the manner mentioned in Annexure P-11 or any other manner as this Hon'ble Commission may deem fit and proper;
- b. Directions to the Respondent no. 1 to, forthwith: -
 - (i) complete electrical infrastructure of the project as per approved layout;
 - (ii) pay a sum of money either: -
 - (1) in cash deposit equivalent to the cost of curing the aforesaid inadequacies amounting to Rs. 23.18 Crores, or
 - (2) by way of bank guarantee(s) of the cost of curing the aforesaid inadequacies to the Petitioner, and
 - (3) by way of transfer of an immovable property duly certified by DTCP to be of encumbrance free and of value equivalent to the cost of curing the aforesaid inadequacies;
- c. Grant ad-interim/interim permission to the Petitioner in terms of the above prayer during pendency of this Petition;

- d. Impose appropriate penalty under Section 142 read with Section 146 of the Electricity Act, 2003 on the Respondents and punish each of the persons in-charge of Respondents affairs with appropriate imprisonment and /or fine under Section 146 of the Electricity Act, 2003, as this Hon'ble Commission may deem fit; and
 - e. Pass any other order or order (s) as this Hon'ble Commission may deem fit and proper in the facts and circumstances of this case.
2. The case was heard on 05/07/2023, Sh. Hemant Saini, counsel for the respondent no. 1 seeks additional time of four weeks for filing its reply to the petition, however, he submitted no objection for releasing the connection the residents of RWA as per proposal of the petitioner.
The Commission observed that the respondents were given an opportunity to file their reply but no reply has been received, as yet, and seeks further time for filing its response. The representative of RWA and distressed residents/plot holders of the Project appeared before the Commission submitted their willingness on the proposal of the Discoms for releasing of connection to the owners/residents who are voluntarily willing to deposit the development charges.
The Commission in line with earlier order dated 02.02.2022 (in P.No.55 of 2021) as an ad-interim measure, allows the petitioner to release the additional load/new connection to the prospective applicant(s) situated within the Projects on voluntary payment of development charges, subject to adjustment/refund (without interest) on curing deficiencies by the delinquent developers or payment of cost thereof. Further, the petitioner is directed to keep a record of the charges paid by the applicant(s) seeking release of new connection/additional load in the Project area and make the same available to the Commission as and when directed to do so. In case, the petitioner recovers the cost of the claimed inadequacies, the aforesaid charges voluntarily paid by the above applicants shall be adjusted/set off in their future energy bills.
 3. The case was heard on 26/09/2023, Sh. Hemant Saini, counsel for the respondent no. 1 sought additional time of four weeks for filing the reply. Acceding to the request, the Commission directs the respondent no. 1 to file the reply within four weeks
 4. The case was heard on 15/11/2023, Sh. Hemant Saini, counsel for the respondent no. 1 sought additional time for filing the reply. The Commission expressed displeasure on delay in filing the reply by respondent-developer and made it clear that in case of non-submission of reply, the case will be decided Ex-parte. However, acceding to the request, the Commission, as a last opportunity directs the respondent no. 1 to file the reply within two weeks alongwith copy to petitioner
 5. The case was heard on 20/12/2023, Ms. Neha, counsel for the respondent no. 1 sought additional time for filing the reply. The Commission observes that the respondent-developer has not filed reply till date. The Commission vide interim order dated 15/11/2023 had directed respondent-developer to file reply within two weeks but the respondent-developer is again seeking time, which implies that the

respondent-developer is not serious in pursuing the case and dilly-delaying filing of reply on one pretext or the other. However, the Commission decides to give one last opportunity to respondent developer to file its reply with in four weeks subject to payment of penalty of Rs. 25,000/-. Advance copy of the same be supplied to petitioner to file rejoinder, if any

6. The case was heard on 07/02/2024, Sh. Hemant Saini, counsel for the respondent no. 1 submitted that the cost imposed during last hearing has been deposited and sought further four weeks' time for filing the reply as some documents from the client are yet to be received. The Commission observes that the respondent-developer was given last opportunity to file its reply with in four weeks subject to payment of penalty of Rs. 25,000/- but the respondent-developer is again seeking time, which is not appreciable. However, the Commission decides to give one more opportunity to respondent developer to file its reply with in four weeks again subject to payment of penalty of Rs. 25,000/-, with an advance copy to petitioner to enable him to file rejoinder, if any.
7. The case was heard on 13/03/2024, Sh. Hemant Saini, counsel for the respondent no. 1 sought more time for filing the reply as related documents are still to be received from the client. The Commission observes that the respondent-developer was given last opportunity to file its reply within four weeks subject to payment of penalty of Rs. 25,000/- but the respondent-developer is again seeking time, which is not appreciable. However, the Commission decides to give one more opportunity to respondent developer to file its reply within two weeks subject to additional payment of penalty of Rs. 50,000/-, with an advance copy to petitioner to enable him to file rejoinder, if any.
8. The case was heard on 10/04/2024, Sh. Hemant Saini, counsel for the respondent no. 1 submitted a DD of Rs. 50,000/- in compliance of the Commission interim order dated 14.03.2024 and sought more time for filing the reply. The counsel stated that the respondent company was engaged in settling dispute with India bulls in the NCLT which has been settled a few days back only. As such no one from the company was available for supplying information for preparing reply. The Counsel for the petitioner, Ms. Simron Arora, objected to the conduct of respondent in filing reply inspite of various opportunities afforded by the Commission. The Commission observes that the respondent-developer has not filed reply inspite of various opportunities. In exceptional circumstances, last opportunity is being afforded to the respondent to file reply within 2 weeks with distinct understanding that in case the reply is not filed within two weeks of this order, pleadings will deemed to be completed and case will be listed for arguments.
9. The case was heard on 14/05/2024, Sh. Hemant Saini, counsel for the respondent no. 1 submitted the reply to the petition & requested for taking the same on record. He further submitted that there is no inadequacy in the project. The electrical infrastructure presently in place is sufficient to cater electricity load of the occupied plots/ residential units. The land for erection of 33 kV substation stands transferred to

UHBVN. Further electrical infrastructure will be created in phased manner depending on the rate of occupancy in the project. The Counsel for the petitioner, Ms. Sonia Madan, submitted that the contents submitted by the respondent developer in the reply are required to be verified and the petitioner needs two weeks to respond properly. Mr. Hemant Saini intimated the Commission that developer is in process of submitting revised plan to execute the balance work in phased manner as per the HERC (Single Point Supply) Regulations, 2020. The Commission suggested that parties may hold conciliatory meeting after verifying the contents of reply submitted by the respondent, which was agreed upon by the petitioner and respondent. After hearing parties, the Commission directed the petitioner to verify the facts within 2 weeks and the parties, to hold a meeting in the 1st week of June' 24 to reconcile the issues. UHBVN may file its rejoinder before next date of hearing.

10. Reply of respondent submitted on 14/05/2024:

- 10.1 That at the outset, it is humbly submitted that the Answering-Respondent M/S TDI Infratech Limited has already laid down adequate electrical infrastructure, much beyond the existing occupancy level, in consonance with the existing revised electricity norms and thus there is no inadequacy what-so-ever at all.
- 10.2 That as per Annexure P-11 of the Petition filed by Uttar Haryana Bijli Vitran Nigam Limited (herein after referred to as UHBVNL), it has calculated the Ultimate Load for the total number of 2239 Plots as 22.50 MW i.e. 25 MVA. It would be pertinent to mention here that at present occupancy is only in 794 Plots out of the aforementioned 2239, meaning thereby that only 35% of the total layout is occupied at the moment. A copy of the calculation inadequacy TDI city Sector-39, Panipat, as calculated by the UHBVNL, which has been annexed with their Petition as Annexure P-11 is annexed alongwith present Reply as Annexure R-1/1 for the facility of the reference of this Hon'ble Commission, even at the risk of reputation.
- 10.3 That as per the calculation of the Answering Respondent, on the basis of UHBVNL circular No. U-07/2024, dated 12.03.2024, the Ultimate Load/ Maximum Demand is to be 15.50 MVA. The DTS required is 19.771 MVA, whereas the Answering Respondent has already installed DTs amounting to 8.35 MVA as against the required Distribution Transformer Capacity of 7.065 MVA as per present occupancy.
- 10.4 That it would be pertinent to mention here that UHBVNL has made the calculations as per the Sales Circular U-15/2015, whereas the applicable circular today is Sales Circular No. U-07 / 2024, thus the calculations done by UHBVNL are not in consonance with the latest Sales Circular.
- 10.5 That it would be pertinent to mention here that the cost of Sub-station 33/ 11 KV capacity, as per the Annexure P-11, which has been annexed by the UHBVNL with their petition is shown to be 5.50 crores, which is absolutely erroneous and militates against their own record, which clearly mentions the cost of creation of 33/11 KV Sub-station, to be Rs.3.27 crores (327.20 lacs) as approved by the Chief Administrator, HSVP, as per memo dated 17.11.2021 for Residential Plotted Colony "TDI

city", Sector 36, 37, 38 and 39 Panipat, a copy whereof is annexed along-with Annexure R-1/4 for the kind perusal of this Hon'ble Commission. The relevant portion of the same is reproduced hereunder;

To
The Chief Engineer-II
HSVP, Panchkula
Memo No.HSVP.CCF.Accm-m-2021/ 19641 dated 17-11-21"

Subject:- R/C/E for construction of 33 RV Sub Station alongwith Line in the Residential plotted colony namely "TDI City" **Sector-36,37,38** & 39 at Panipat.

A/Cost Rs.327.20 lacs
(Rs. Three crore twenty seven lacs and twenty thousand only)

Please refer to your office memo no. CD-II-HSVP/P/EE(E)(HQ)/(E/H) 2021/18249 dated 27.10.2021 and cfms No. 177490 dated 03.11.2021 on the subject cited above vide which you have submitted the above Rough Cost Estimate for Rs.327.20 lacs. The estimate has been approved by worthy CA, HSVP for Rs.327.20 lacs (Rs. Three crore twenty seven lacs and twenty thousand only), subject to the following conditions:-"

From the perusal of above it is clear that UHBVNL has given inflated figures before this Hon'ble . Commission, which are de hors their own inter departmental communications.

From the perusal of the above it clearly delineates that even as per internal communication between the Chief Engineer, HSVP, Panchkula and the Chief Administrator, HSVP, Panchkula, the cost of 33 KV electrical Sub-station along with line was only 3.27 crores.

- 10.6 That a communication was sent by Executive Engineer, HSVP, Rohtak to Executive Engineer "OP", Sub Urban Division, UHBVNL, Panipat, vide communication dated 23.11.2021 i.e. estimate for construction for 33 KV Sub-station at the Residential Plotted Colony viz. TDI city in Sector 36, 37, 38 and 39 Panipat had already been approved.
- 10.7 That the UHBVNL has admitted that the Answering Respondent has already installed Distribution Transformers (DT), to the extent of 7.35 MVA (7350 KVA), which is incorrect. The Answering Respondent has actually installed Distribution Transformers worth 8.35 MVA (8350 KVA). The UHBVNL are alleging that 37 Distribution Transformers have been installed, whereas the actual number of installed Distribution Transformers is 42. In fact as per the occupancy of the Plots the requirement of Distribution Transformer Capacity is 7.065 MVA as per the present norms, whereas the Answering Respondent have already installed 8.35 MVA, which is much more than the current requirement. It would be pertinent to mention here that for 794 occupied Plots out of the total number of 2239 Plots, the Distribution Transformer Capacity required is 7.065 MVA, whereas the Distribution Transformer Capacity made available by the Answering Respondent at present the 8.35 MVA, much more than the presently required capacity.

10.8 That already installed capacity of the Distribution Transformers is as follows;

100 KVA x 3 Nos.	- 300
200 KVA x 37 Nos.	- 7400
250 KVA x 1 No.	- 250
400 KVA x 1 No.	- 400
Total is	8350 KVA =8.35 MVA

10.9 That a list of the Plots which shows that 794 Plots are occupied at present. It would be pertinent to mention here that 448 EWS Plots have not been occupied but have still been factored into the present calculations, Similarly Community Sites are unsold but have been duly factored in, in the present calculation.

10.10 That the UHBVNL, vide its Annexure P-11, has alleged that the Answering Respondent has installed only 7.35 MVA (actually installed capacity by the Answering Respondent is 35 MVA) whereas, as per the UHBVNL, the requirement was of 31.25 MVA. It would be pertinent to mention here that the requirement is not 31.25 MVA but is required inadequacy is $19.771 - 8.35 \text{ MVA} = 11.421 \text{ MVA}$, which at present is not required as the total occupancy only 794 Plots out of 2239 Plots which is 35% of the total occupancy.

In fact the extra infrastructure would be wasted as of now, in view of the fact that the same is not required and would be left to rot, rust, and pilferage. It is humbly submitted that in case the Answering Respondent installs the excessive infrastructure it will be resulting into the following maladies;

1. Theft/ pilferage
2. Loss of warranty of the material
3. Damage/ rusting to the material
4. Incurring of the "No Load Losses"

It would be pertinent to mention here that the "No Load Loss" is incurred, when an empty transformer, without any load, when installed, would continue to consume electricity even when remaining idle. For example, 1% of the KVA installed i.e. in case of 200 KVA transformer, which is without any load, that transformer will consume 2 KVA per hour, which would mean 48 KVAH in 24 hours which would mean 48 units per day per transformer, which loss would run into lacs per month for no reason.

10.11 That it would be pertinent to mention here that 33 KV Sub-station is yet to be created by HSVP, which they have not created till date, inspite of the fact that Answering Respondent has already provided HSVP with the land admeasuring 1.2 acres, which is duly admitted by them. A copy of the documents pertaining to the gift of the land by TDI Infratech Limited in favour of UHBVNL are annexed along-with as Annexure R-1/8.

10.12 That it is humbly submitted that with respect to 312 Plots the connections have been released by UHBVNL till date amounting to

only 1052 KV, which has been admitted by UHBVNL at point 12 of its Annexure P-11, whereas the load available with them is 1 MVA whereas Answering Respondent has already provided electrical infrastructure worth 8.35 MVA (though admitted by UHBVNL is 7.35 MVA) which is much more than the required load till date.

- 10.13 That thus, Answering Respondent has provided for Electrical Infrastructure and Electrical Load much beyond the present requirement and thus the present petition be dismissed in the interest of justice.

PRAYER

In view of the submissions made above it is most respectfully prayed that the present petition bearing No. HERC Petition No.32 of 2023 by UHBVNL may kindly be dismissed, as in the interest of the justice, as the same is not maintainable in the eyes of law, in view of the adequacy of the infrastructure established by the Answering Respondent.

11. The case was heard on 19/06/2024, Sh. Himanshu Monga, counsel for the respondent no. 1 submitted that reply to the petition has been submitted and requested for adjournment as the main counsel was not available. The Counsel for the petitioner, Ms. Ayushi Garg, submitted that the conciliatory meeting as directed by the Commission could not be held as the load norms are under revision by the petitioner. The counsel requested for 2 weeks' time for holding the meeting and assured to submit rejoinder thereafter. Acceding to requests of both the parties, the Commission directs to hold the conciliatory meeting in two weeks and petitioner to submit rejoinder within two weeks thereafter with an advance copy to the respondent.
12. The case was heard on 07/08/2024, Ms. Sonia Madan, counsel for the petitioner submitted that the conciliation meeting with the respondent was held and the amount of inadequacy is required to be revised in wake of the latest revision of the load norms. The counsel requested for 3 weeks' time for conveying the revised inadequacy amount to respondent No.1, after due approval from management. Acceding to the request of the petitioner, the Commission adjourned the matter and directs the petitioner to file revised amount of inadequacy within 3 weeks with an advance copy to respondent No.1 and thereafter, the respondent No.1 to submit their response if any, within one week with an advance copy to the petitioner
13. The case was heard on 19/09/2024, Ms. Ayushi Garg, counsel for the petitioner submitted that the revised inadequacy amount has been worked out as per latest load norms and she submitted a copy of the same in the court. Sh. Hemant Saini counsel for the respondent developer requested to grant time for filing response to the petition as well as the revised inadequacy amount intimated by the petitioner. Acceding to the request of the respondent, the Commission adjourned the matter and directed the respondent to submit their response, within two weeks with an advance copy to the petitioner. The petitioner may also file its response, if any, within a week thereafter

14. **Revision of Inadequacy amount by the petitioner on 19/09/2024:**

As per revised load norms, the Inadequacy amount has been varied from Rs. 23.18 Cr. to Rs.18.31 Cr.

15. The case was heard on 24/10/2024, Ms. Simran Arora counsel for the petitioner submitted that the revised inadequacy amount worked out as per latest load norms already stands intimated to the respondent developer during last hearing, which has been reduced to Rs.18.31 Cr from 23.18Cr.

Sh. Hemant Saini counsel for the respondent developer submitted that the electrical infrastructure required as per present occupancy of the project has already been erected. The respondents had submitted their reply on 14/05/2024 as per previous inadequacy amount intimated by the petitioner but require more time to submit fresh reply as per the revised inadequacy amount intimated by the petitioner. The counsel submitted the death certificate of Smt. Kamlesh Kurich, mother of the key person in the respondent's company and requested to grant time for submitting fresh reply and final arguments.

Acceding to the request of the respondent, the Commission adjourned the matter and directed the parties to be present for the final arguments on next date of hearing as last opportunity, otherwise the Commission will proceed further in the case. The Commission further directed the counsel of the petitioner to ensure presence of the concerned officers of UHBVN in the court on hearings.

16. The case was finally heard on 11/12/2024. Ms. Sonia Madan Counsel for the petitioner submitted that the contention of TDI regarding the available electrical infra as per occupancy level is sufficient, is not correct as the infrastructure is required to build as per ultimate load. The Cost of sub-station has been taken as per UHBVN cost data book at the time of filing petition which has been further increased now. The cost considered by developer as per HSVP is not applicable. The developer claims installed DT capacity of 8.35 MVA, whereas field report is 7.35 MVA at the time of petition. its impact is only Rs 70 lac on over inadequacy. For balance DTs, the developer is to give BG.

Sh. Hemant Saini counsel for the respondent submitted that out of 2279 only 794 plots have been occupied till date. The project should be divided in phases so that the infrastructure could be created phase wise. Further the infrastructure will remain idle for coming many years which may deteriorate with passage of time. The adequate electrical infrastructure as per occupancy level has already been created.

Commission's Analysis and Order:

17. The Commission has considered the submissions made by the Petitioner in the Petition/Rejoinder, submission made in the reply filed by the Respondent and the pleadings made by both the parties and has also critically examined the entire material/information placed on the record by both the parties.
18. The Respondent TDI Infratech contended that the existing infrastructure of 8.35 MVA (Three 100KVA, thirty-seven 200kVA, one 250kVA and one

400kVA) of installed DT capacity adequately meets the demand for the current occupancy of 794 plots out of 2239 plots. Further, creating infrastructure for ultimate load (for full occupancy) is unnecessary at this stage and the respondent proposes infrastructure development in phases as occupancy increases. Creating infrastructure for the entire ultimate load would result in material wastage and operational inefficiencies as current occupancy is only 35%. Phased infrastructure as per occupancy of plots basis would be more cost-effective and practical.

The Petitioner UHBVN submitted that the developer (TDI Infratech) has failed to create sufficient infrastructure as per the ultimate load sanctioned in the electrification plan approved for TDI City, Panipat. Without proper infrastructure, it cannot meet the electricity demand of all the residents, particularly for new connections or additional loads. The respondent developer has defaulted in installing Distribution Transformers (DTs) and substation equipment as required by the project's load norms. Regulations mandate infrastructure sufficient for the ultimate load, ensuring future readiness and uninterrupted supply. The lack of infrastructure impacts new applicants and undermines its ability to fulfil obligations under the Electricity Act, 2003.

19. The Respondent argued that the petitioner used outdated norms (UHBVN Circular U-15/2015) and should have applied the latest circular (U-07/2024). Claims of the petitioner are inflated, for example, petitioner has estimated the substation cost at ₹5.50 Crores instead of the approved ₹3.27 Crores. As per internal communication between Chief Engineer, HSVP, Panchkula and the Chief Administrator, HSVP, Panchkula, the cost of 33 KV electrical Sub-station along with line was only 3.27 crores.

The Petitioner submitted that it initially calculated inadequacy of ₹23.18 Crores based on UHBVN's cost data book but revised it to ₹18.31 Crores after applying updated load norms. There are discrepancies in the developer's calculations, particularly regarding costs of substation construction and installed transformer capacities. The calculations made by the petitioner are based on historical and approved cost data, following regulatory norms. As per conditions of the DTCP and the HERC Regulations responsibility of creation of electrical infrastructure lies with developer and not HSVP. The HSVP is not creating any substation for any developer.

20. The Respondent Developer proposed phased development to match current demands, which will reduce unnecessary expenditures and prevent the deterioration of idle infrastructure. Further if infrastructure is installed prematurely the idle infrastructure will result into no-load losses, pilferage, and reduced material warranties.

The Petitioner submitted that Infrastructure planning and implementation should cater to the ultimate load to comply with regulatory requirements and to avoid repeated upgrades. The phased development risks non-compliance with statutory provisions and regulatory objectives and risks leaving residents underserved as demand

grows, particularly if the developer delays further phases. Regulatory provisions require that the ultimate load has to be accounted for at the planning stage.

21. Pursuant to the details of inadequacies as furnished by the Petitioner vide its pleadings, it is clear that, inadequacy of Rs. 18.31Cr. remains in the Project developed by the Respondent and the Respondent is liable to cure the same in a time bound manner.
22. In view of the aforesaid facts and discussions, the commission observes that the developer's obligation to create infrastructure adequate for the ultimate load persists. Therefore, the petition is disposed off with following directions to the Parties:
 - a. The inadequacies equivalent to the ₹18.31 Crores as established by the Petitioner shall be cured by the Respondent within One year;
 - b. The monthly progress report of the work on curing of inadequacies will be submitted by the Respondent to the petitioner; and
 - c. Requisite Bank Guarantee as per regulations shall be furnished by the Respondent to the Petitioner within 30 days.
 - d. The respondent Developer is ordered to pay ₹50,000/- Court Fee deposited by the petitioner along with ₹15,000/- towards litigation expenses to the petitioner within 30 days from the date of this order.
 - e. In case the Builder fails to comply with the above-mentioned timeline, the Commission will be constrained to initiate proceedings under Section 142 read with Section 146 of the Electricity Act, 2003 against the defaulters and stringent action shall be taken for such wilful and repetitive non-compliance.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 26/12/2024.

Date: 26/12/2024
Place: Panchkula

(Mukesh Garg)
Member

(Nand Lal Sharma)
Chairman