

BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION

BAYS No. 33-36, SECTOR-4, PANCHKULA- 134112, HARYANA

Case No. HERC/PRO – 13 of 2018

DATE OF HEARING : 18.06.2019

DATE OF ORDER : 26.06.2019

IN THE MATTER OF:

Petition seeking amendment in The Haryana Electricity Regulatory Commission (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security) Regulations, 2016 (HERC/34/2016) and Schedule of Tariff for supply of electricity and suitable directions for giving consequent relief to the Petitioners

Petitioner

Haryana Chamber of Commerce and Industries,
Panipat

Respondent

Uttar Haryana Bijli Vitran Nigam Limited
and
Dakshin Haryana Bijli Vitran Nigam Limited

PRESENT

On behalf of the Petitioner:

Shri R.K. Jain, Advisor/Legal & Power

On behalf of the Respondent:

Smt. Sonia Madan, Advocate

Smt. Rekha, XEN (RA), DHBVN

Shri Rajesh Arora, DST, UHBVNL

Shri Manoj Kumar, XEN Comm, UHBVNL

Shri BS Kamboj, XEN (RA), UHBVNL

Shri Pardeep, AEE (RA), UHBVNL

QUORUM

Shri Jagjeet Singh, Chairman

Shri Pravindra Singh, Member

Shri Naresh Sardana, Member

ORDER

Brief background of the Case:

1.1 The Petitioner has submitted that:

- a) They have authorized Sh. Pritam Singh, President, Haryana Chamber of Commerce and Industries to file the present Petition before the Hon'ble Commission vide a validly passed resolution.
- b) They have large number of Small, Medium and Large Industries as its members and represents the common interests of the members of the Haryana Chamber.
- c) The members of the Haryana Chamber are facing lot of financial hardship because of some of the provisions in the latest HERC/34/ 2016 Regulations especially the ones discussed in the subsequent paragraphs.

A. Difficulties relating to the industrial consumers fed through Independent Feeders:

- d) Regulation 4.8.2 relating to the Power Supply through Independent Feeder reads as under:

"4.8.2 Supply through independent feeder.

i) In case the applicant requests for supply of electricity through an independent feeder and the same is technically feasible as per Regulation 3.11, the charges of controlling equipment including Circuit Breaker, Bay (if to be erected), CTs & PTs, Isolators, Line and Earth switch, Meter required at the feeding sub-station, Electric Line up to the consumer end and the meter at consumer end shall be borne by the applicant.

ii) Such consumer, who on his own, requests for supply of electricity through an independent feeder, will be billed as per the meter reading taken jointly by consumer and the licensee, of the meter placed at the sub-station from where the independent feeder is emanating. The licensee will inform the consumer through phone / SMS to be present for joint reading of meter. In case the consumer fails to be present, it will be treated as deemed to be present for meter reading. The installation of metering arrangements at the consumer-end would be optional and would be in addition to the meter at the sub-station. However, for billing purposes only the sub-station meter reading shall be used.

iii) If more than one applicant/consumer(s) are required to be fed from the existing independent feeder due to right of way or other similar problems, the utility shall connect such consumer(s) to an existing independent feeder provided they are of the same category i.e. HT Industrial, HT Non-Domestic

Supply/Bulk Supply consumers. In such cases metering arrangement at the consumer end would be mandatory.

The billing of such consumers shall be done as per Regulation 4.8.2 (ii) on the basis of the joint meter reading of the meter placed at the sub-station from where the independent feeder is emanating, in proportion of the consumption recorded by the meters installed at their premises and read jointly by the licensee and the respective consumer.

The metering arrangement at both ends (sub-station as well as the consumer end) would be of the same specifications and accuracy class conforming to CEA metering Regulations.

iv) The Regulation 4.8.2 (iii) will be applicable as long as the number of consumers connected on an independent feeder are restricted to five only with ceiling of 250 ampere load current on 11kv feeder.

Where more than five consumers are connected on an independent feeder, that feeder shall be considered as general feeder and the billing to the consumers shall be done based on the consumption recorded by the meters installed at the consumers premises.

The differential cost i.e. the cost of the feeder incurred by the original consumers on the independent feeder minus service connection charges levyable from them shall be adjusted in the future bills of the original consumer(s). However, in case the service connection charges calculated as per the prevailing rates are more, then no additional cost would be charged.

The additional consumer required to be connected on such general feeder, shall deposit the service connection charges as per these Regulations.

v) As long as the status of the feeder remains independent, the meters installed at the sub-station and at the consumer premises shall be read by the licensee on the same day in the shortest possible time in the presence of the consumer's representative.

The apportionment of the feeder losses among the consumer on the independent feeder shall be done in proportion of their consumption as per the meters installed in their premises irrespective of the distance of the consumer on the feeder. That is the consumer shall be billed as per Regulation 4.8.2 (iii).

vi) In case due to exigencies/unforeseen reasons, any other consumer(s) of different category are to be connected to the independent feeder for some period to maintain the continuity of supply, the same will be connected only with the permission of the Chief Engineer (Operation) of the licensee. If such consumers are required to be connected on an independent feeder for more than 7 days, the permission of the Director concerned shall be required and

during such period the independent feeder will be deemed to be a general feeder.

The consumer(s) of the independent feeder shall be informed prior to the connection/disconnection of consumer(s) of other category on the independent feeder and the reading of the meters installed at the premises of the consumers and the sub-station meter shall be taken simultaneously in a shortest possible time in the presence of the consumer(s) or their representative. No apportionment of losses shall be carried out during this period and the billing for this period shall be done as per the consumption recorded by the meters installed at the consumer(s) premises.

vii) For connecting second or subsequent consumer on an independent feeder, if after such connection, the capacity of the feeder is utilized within seventy percent of its rated capacity, no consent of original consumer shall be required. In case due to connection of such subsequent consumer(s) on the independent feeder, the load increases to more than seventy percent of the rated capacity of the feeder, the consent of the original consumer(s) shall be required.

Provided further that, with the proposed addition of load of the subsequent consumer(s), if the total load on the independent feeder exceeds its rated capacity, such consumer(s) shall not be connected until the capacity of the feeder is augmented.

viii) When a second consumer is connected on an independent feeder, the original cost of the common portion of the independent feeder shall be shared by the new consumer and the credit of the same will be given to the original consumer.

Provided further that on subsequent applicant/consumer to be connected, the cost of the portion of the feeder shared by the new incumbent shall be apportioned among the previous connected consumer on the feeder in proportion of their contract demand. The proportionate cost paid by the second or subsequent consumer shall be of the original cost of the feeder and not the current cost.

ix) In case an independent feeder has been laid on common poles/ structures or otherwise and any case of misuse for abstraction of power or unauthorized use of the independent feeder for connecting any other load by the line staff is noted, the same shall be dealt under Section 142 of the Electricity Act for action against the defaulting employee/person not withstanding any actions, that may be taken against such employee/person under Section 138 of the Electricity Act by the appropriate authority.

Provided further that in case the connivance of the consumer is proved, the issue will be dealt under Section 135 of the Electricity Act for dishonestly using electricity for the purpose other than for which the usage of electricity was authorized.”

e) Following provisions need immediate attention of the Hon'ble Commission:

Recovery of the cost of the independent feeder:

f) The main causes for consumer opting supply through an independent feeder are as follows:

- (i) the consumer is likely to get more reliable power supply,
- (ii) the power interruptions will be reduced due to external faults caused due to faults in other consumer premises,
- (iii) the consumer could facilitate open access facility.

g) However, these are the basic duties of the Licensee to provide interruption free reliable power supply to all its consumers. Although the so called independent feeder is to be built at the cost of the consumer but as per Indian Telegraph Act it is only the Utility who is legally empowered to lay its electricity lines on Public Land. Therefore, even if the electricity lines are laid at the cost of the consumer, it becomes property of the licensee on charging and the assets so raised are transferred to the licensee at zero cost. On transfer such assets become part of the distribution system/network. Once it becomes a part of the Licensee's network, all its operation & maintenance cost becomes part of the overall permissible expenses of the Licensee or covered under annual ARR and further on included in the tariff.

Tapping of such independent feeders for other consumers:

h) The concept of allowing tapping of such feeders for any subsequent consumer also emanates from the right of the Licensee on the independent feeder, like that of any other feeder. The Regulations allow upto 5 consumers to be allowed connection from such independent feeders with or without the consent of the original consumer. There is no sanctity of this (5) number. It is just arbitrary and without any legal consideration. Moreover, once the feeder is tapped for some other consumer, the independent nature of the feeder and associated benefits are gone.

Metering of consumers connected to independent feeders:

- i) As per the Regulations for any consumer who is connected through independent feeder is to be billed on the energy consumption recorded on the common meter installed at the sending end i.e. the substation end. The line losses on the feeder are to be borne by the consumer. It needs to be appreciated that a consumer who is bearing the entire cost of the feeder and loses the right on the feeder after charging of line, is required to pay for the line losses as well, which is a serious discrimination amongst the consumers. While a normal consumer neither pays for the cost of the feeder nor the line losses, and all expenses are built in the tariff approved for consumer category. Therefore, the consumer fed from such so called independent feeder has to pay all the charges included in the tariff and above these extra towards initial investment and the additional line losses. Therefore, it is submitted that the nomenclature of the feeder laid at the cost of the consumer should be changed to a general industrial feeder once such feeder is tapped to give connection to any other consumer. Thereafter even the metering of such consumers should be done from the meter installed at the consumer premises like that for other consumers so that there is no discrimination amongst consumers.
- j) The Haryana Electricity Regulatory Commission (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security) Regulations, 2016, under Regulation 2.3(38) defines the Point of Supply as under:
- 2.3(38) “**point of supply**” means the point at the incoming terminals of switchgear installed by the consumer.*
- k) Therefore, there is no justification of treating the substation end as the supply point for consumers connected to independent feeders.
- l) Even in the neighboring State of Punjab, there is no discrimination amongst consumers fed through independent feeders in respect of their metering and billing. The Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2014 does not make any such

differentiation. All such consumers are billed as per the meter reading taken from the meters installed at the premises of the individual consumers.

Classification of industrial consumers:

m) As per the successive Tariff orders Hon'ble Commission has been classifying industrial consumers under LT and HT categories. The consumers having load upto 50 kW are categorized as LT consumers and above 50 kW as LS/HT consumers. Earlier there used to be 3 categories i.e. Large Supply above 100 kW, Medium Supply above 20 kW and upto 100 kW and upto 20 kW consumers were LT consumers. Over the years the MS category of consumers has been done away with and the LS category has been brought down from above 100 kW to first 70 kW and then 50 kW. The consumers in the load group of 50 kW to 100 kW are hard pressed to make huge investments on HT equipment and engage operation & maintenance staff having knowledge of HT installations. The Petitioner urges Hon'ble Commission to allow release of connection for loads upto 100 kW on LT and save the industrial consumers from heavy investment required to erect HT distribution system and associated O&M expenses. An option may be given to the consumers whether to choose power supply on LT or HT.

n) Even in the neighboring State of Punjab the consumers in load slab of 20 kW to Contract Demand of 100 kVA are categorized as Medium Supply Industrial consumers. The option is with the consumer to take power supply on 11 kV or LT.

1. Charging of penalty @ 25% for exceeding MDI beyond 5% of the Contract Demand for the whole month:

o) The Schedule of Tariff for supply of energy, as notified through ARR & Retail Supply Tariff order for FY 2000-01 dated 22.12.2000, mentioned the penalty for exceeding contract demand as under,

(vii) Contract Demand

a) The contract demand means the maximum kW/kVA for the supply of which the Licensee undertakes to provide facilities from time to time.

b) *In case the consumer exceeds his Contract Demand in any month by more than 5%, a **surcharge of 25% will be levied on the Sale of Power (SOP)**/monthly minimum charges (Industrial, Factory Lighting and Colony Lighting).*

- p) Such a provision of penalty being levied on the monthly bill was justified when there were not enough metering gadgets or facilities to know as to when the consumer exceeded his contract demand but now there are electronic meters installed on all LS industrial consumer premises which record system data for each time slot of 15-30 minutes and a regular load survey data is available for scrutiny of the Licensee. Under these conditions it is very harsh to levy penalty for the complete month. The consumer might have exceeded his contract demand in any time slot of any day; he is penalized for the entire month. It may kindly be appreciated that such default is not intentional but purely accidental, which could be due to lack of awareness about load management by lesser trained or qualified personnel of the small industrial consumers. This will give genuine relief to the industrial consumers.
- q) Hon'ble Commission may kindly consider and liberalize this penal provision so as to recover penalty for the days subsequent to the occurrence of default during the month instead of the entire month.
- r) In this connection the Petitioner Chamber would draw kind attention of the Hon'ble Commission to the enabling provisions of the ibid Regulations HERC/34/2016 and HERC/26/2014 which provide as under,

Haryana Electricity Regulatory Commission (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security) Regulations, 2016.

8. POWER TO GIVE DIRECTIONS

The Commission may from time to time issue such directions and orders as considered appropriate for implementation of these Regulations.

9. REMOVAL OF DIFFICULTIES

If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by an order, make such provision, not inconsistent to the provisions of the Act and these Regulations, as may appear to be necessary for removing the difficulty.

10. POWER TO RELAX

The Commission may by general or special order, for reasons to be recorded in writing and after giving an opportunity of hearing to the parties likely to be affected, may relax any of the provisions of these Regulations.

11. POWER TO AMEND

The Commission may from time to time add, vary, alter, suspend, modify, amend or repeal any provisions of these Regulations after following the due process.

Haryana Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Generation, Transmission, Wheeling and Distribution & Retail Supply under Multi Year Tariff Framework) Regulations, 2012:

78. POWERS TO REMOVE DIFFICULTIES.

If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by a general or special order, not being inconsistent with the provisions of these regulations or the Act, do or undertake to do things or direct the generating company or the licensee to do or undertake such things which appear to be necessary or expedient for the purpose of removing the difficulties.

79. POWER TO RELAX

The Commission may in public interest and for reasons to be recorded in writing, relax any of the provision of these regulations.

81. SAVING OF INHERENT POWERS OF THE COMMISSION

81.1 Nothing in these regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for ends of justice or to protect consumers' interest or to prevent the abuse of the process of the Commission.

81.2 Nothing contained in these regulations shall limit or otherwise affect the inherent powers of the Commission from adopting a procedure, which is at variance with any of the provisions of these regulations, if the Commission, in view of the special circumstances of the matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient to depart from the procedure specified in these regulations.

81.3 Nothing in these regulations shall, expressly or by implication, bar the Commission to deal with any matter or exercise any power under the Act for which no regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.

83. POWER TO AMEND

The Commission, for reasons to be recorded in writing, may at any time vary, alter or modify any of the provision of these regulations after following the due process.

- s) Under the above enabling provision in these Regulations, Hon'ble Commission may kindly consider the fact that unnecessary harassment was being caused to the members of the Petitioner Chamber and may kindly consider amending the Regulations and give suitable directions to the Respondent Nigam to give corresponding relief to the consumers.

1.2 Accordingly, the Petitioner has prayed as follows:

“

- (i) *The existing provisions of Regulation 4.5.2 of Regulations HERC/34/2016 relating to the consumers connected to independent feeders may please be amended to the extent that once a feeder which is laid at the cost of a consumer is tapped to give connection to any subsequent consumer (irrespective of number of consumers), its nomenclature would change to that of any other 'General Industrial Feeder';*
- (ii) *Metering of industrial consumers whether connected from an independent feeder or otherwise would be done from the 'point of supply' as defined under Regulation 2.3(38) of the HERC/34/2016 Regulations;*
- (iii) *Industrial Consumers in the load group of 50-100 kW would be allowed to choose the supply voltage either at HT or LT, as per their convenience;*
- (iv) *The penalty for exceeding MDI for industrial consumers would be charged for the period from the date of default to the end of the month instead of the whole month.*
- (v) *Any other relief to which the members of the Petitioner Chamber are found entitled may also kindly be granted. ”*

Respondent's Replies

2.1. UHBVNL has submitted as follows:

- a) The present petition has been filed under Duty to Supply Regulations, 2016. However, the relief sought in the present petition is to amend the regulations

framed by this Hon'ble Commission. No provision of the alleged regulations permits amendment in regulations in favour of few stakeholders. Hence, the present Petition is untenable in its present form.

- b) The Petitioner has sought modification/ amendment to regulations, which if allowed to the Petitioner will bring with it multiplicity of such petitions by different stakeholders. In this regard, it is pertinent to bring to the kind notice of this Hon'ble Commission that the power to frame Regulations cannot be made a subject matter of the hearing as in the case of other petitions and proceedings before the Commission where under one of the party files a petition, the other party is called upon to answer the complaint in the petition and the Commission takes the view under the adjudicatory powers. The consistent practice adopted by the Hon'ble Central Electricity Regulatory Commission is not to entertain any petition by any person/group of people asking the Hon'ble Central Electricity Regulatory Commission to frame or amend a regulation. The request for framing a Regulation can be made only by way of representation to the Commission. It is for the Commission to decide whether there is a need to enact the Regulation or not. The exercise of such legislative power to frame Regulation cannot be a matter of judicial hearing as in the case of other petitions.
- c) That various parameters/provisions specified/ made in the HERC Regulations that were framed by this Hon'ble Commission are based on an exhaustive study and discussions inviting comments from all stakeholders. Therefore, any amendment/ relaxation in the Regulations sought to be made should also be based on a similar comprehensive study wherein various implications/ repercussions that could arise on account of proposed amendment/relaxation have been examined beforehand. Thus, there is no basis with the Hon'ble Commission for affecting any amendments/ relaxations in the HERC Regulations and that too on the request of few stakeholders.
- d) That the prayer of the Petition seeking amendment in Regulations 4.8.2 (iii) & (iv) of Duty to Supply Regulations, 2016 is misconceived and untenable. The regulation 4.8.2 (iv) of said regulations stipulates that *"where more than five consumers are connected on an independent feeder, that feeder shall be considered as general feeder and the billing to the consumers shall be done*

based on the consumption recorded by the meters installed at the consumers premises". The Petitioner has prayed for modification of said regulation to the extent that the word 'five' shall be substituted by 'one' on the ground that once the feeder is tapped for some other consumer, the independent nature of the feeder and associated benefits do not exist and on the ground that there is no sanctity of 'five' number prescribed in such regulations.

- e) It is pertinent to bring to the kind notice of the Hon'ble Commission that the amendments brought in Duty of Supply Regulations from time to time have been made keeping in view the changing demographics and conditions regarding availability of power in the State of Haryana. The conditions stipulated in regulations are a result of exhaustive deliberations keeping in consideration interests of all stakeholders including consumers of State. The Independent feeder services are privileged services for which consumers are bound to pay additional costs over and above other consumers to avail interrupted and efficacious power supply round the clock. The laying of adequate infrastructure for such reliable services are greatly dependent on geographical and demographical features of the State. In State of Haryana, around 3425 consumers have been connected to Independent feeders presently whereas the demand for Independent feeders is higher than the availability and are increasing each year. The demand for independent feeders is increasing at a very high rate surpassing even the number of Urban feeders connections. This has posed bigger challenges before the Respondents as the demand of consumers have to be satisfied in balance with available infrastructure, safety in operations and effective power supply.
- f) The stipulation of limit of five connections on each independent feeder is not an arbitrary and whimsical figure. The limit of five connections on an independent feeder has been prescribed keeping in account the load requirement, the safety in operations and the space constraints. It is not feasible to provide single connection on each independent feeder since there is not enough space available for all feeders in sub-stations. Moreover, Right of Way is lost with increasing connections thus bringing in greater public inconvenience. Thus, the prescribed limit of five connections for conversion of Independent category to General Category is a result of considering several

factors mentioned above and cannot be altered/ modified on arbitrary grounds and interests of few stakeholders.

- g) That even otherwise the connections on independent feeder are distributed as per load requirement. For instance, at 11 KV level, the maximum allowable load is 5 MVA. If an applicant applies for 5 MVA load, then no further connected is added on the said feeder having exhausted the load capacity. In that view of the matter, regulations also provides for obtaining prior consent of original consumers where loading is greater than 70 %, i.e. 3500 MVA. However, where there is demand for lesser load i.e. 150 KW or less in rural area and 1 MVA in other area, it is not feasible to allow a single consumer as State has limited independent feeder facility. Therefore, the limits specified in Duty to Supply Regulations, 2016 are necessary to protect the rights of the consumers.
- h) That the prayer of the Petition seeking amendment in Regulation 4.8.2 (ii) of Duty to Supply Regulations, 2016 is misguided and unsustainable. Regulation 4.8.2 (ii) stipulates that the consumers of independent feeder will be billed as per the meter reading taken jointly by the consumer and the licensee, of the meter placed at the sub-station from where the independent feeder is emanating. The said regulation had been stipulated keeping in consideration the line losses that shall be borne by the Consumers for availing a special facility for reliable power supply over other consumers. If such line losses for not borne by independent feeder consumers, the same shall get passed to the general consumers, which shall be unfair and against the interests of consumers at large. Thus, the interests of few stakeholders can not prevail over the larger interests of consumers of State. The prayer of the Petitioners is therefore, not worthy of any consideration.
- i) That the prayer of the petitioner seeking regulation to the effect that the Industrial Consumers in the load group of 50-100 KW would be allowed to choose the supply voltage either at HT or LT as per their convenience is without any basis and against the prevailing regulations. Regulation 3 of the Supply Code Regulation No. HERC /29/2014 provides as under -

“3.2.1 Supply shall generally be given at the following voltages on the basis of contracted load:

Category	System of Supply
<i>Low Tension</i>	
<i>Contracted load upto 5 kW</i>	<i>Single phase at 230 V</i>
<i>Contracted load above 5 kW and up to 50 kW</i>	<i>3 Phase 4 wire at 400 V</i>
<i>High Tension</i>	
<i>Contracted load exceeding 50 KW and up to 5000 kVA</i>	<i>3 Phase at 11 kV</i>
<i>Contracted load exceeding 2000 kVA and up to 25000 kVA</i>	<i>3 Phase at 33 kV</i>
<i>Contracted load exceeding 5000 kVA and up to 75000 kVA</i>	<i>3 Phase at 66 kV</i>
<i>Contracted load exceeding 25000 kVA and up to 100000 kVA</i>	<i>3 Phase at 132 kV</i>
<i>Contracted load exceeding 75000 kVA and up to 320000 kVA</i>	<i>3 Phase at 220 kV</i>
<i>Contracted load exceeding 320000 kVA</i>	<i>3 Phase at 400 kV</i>

3.2.2 Provided that in case where supply, depending upon the technical conditions of the transmission/distribution system, has to be given at a voltage other than those specified above, the licensee may give the same subject to the Commission’s approval.

Provided further that in case an existing consumer gets his contracted load reduced, he may be allowed to continue receiving supply at the same voltage unless he himself requests for supply at lower voltage subject to the condition that his reduced load is in High Tension category.

3.2.3 The existing LT connections having sanctioned load above 50 kW and up to 70 kW would continue to be categorized as LT connections till these are converted to HT connections.”

- j) The afore stated regulation had been specified so as to reduce line losses. Ideally, the HT: LT ratio should be 1 to reduce line losses. In that view of the matter, the provision for release of connection above 50 KW on HT category has been made. The consumers cannot be left to exercise their discretion with respect to choice of supply voltage as the same shall increase the losses, which will ultimately burden the consumers of the State. The prayer of the petitioner is therefore, not tenable and liable to be rejected.
- k) That it is further pertinent to bring to the kind notice of this Hon’ble Commission that the Distribution transformers installed in towns are usually of 25 KVA, 63 KVA, 100 KVA and 200 KVA capacity. However, cost of LT lines and losses are higher when bigger transformers are installed. Further, since

the loading capacity on distribution transformer is 80%, for giving 2 connections of 100KVA, a transformer of 200 KVA is not suffice. The replacement of high capacity transformers in case of damage is cumbersome and difficult. Thus, the installation of high capacity transformers is not feasible and in the event the voltage limit of 50 KW is increased for classification of Industrial consumer, Respondent will have to install large Nos. of transformers for which there will be inevitable ROW and space constraints besides higher chances of theft and increased cost of long LT lines.

- 1) That the prayer of the petitioner seeking amendment in the provision for levy of penalty for exceeding MDI to the extent that the industrial consumers should be charged for the period from the date of default till the end of month instead of whole month is based on personal interest of few industrial consumers and is against the larger interests of State. The prayer of the Petitioner is highly misconceived and not worthy of consideration. Regulation 9.3.5 of Supply Code Regulation No. HERC /29/2014 provides as under –

“9.3.5 Under this category, the maximum load which can be drawn by a consumer is the contract demand declared by him which is referred to as the sanctioned contract demand. In case the maximum demand of a consumer exceeds his sanctioned contract demand in any month by more than 5%, a surcharge of 25% (or as amended by the from time to time) will be levied on the charges towards total sale of power during that month.”

- m) The above stated regulation prescribes that the penalty for exceeding MDI had to be levied for whole month. The basis for such regulation is that the overloading of transformers even for few minutes entails great danger to power transformer. The regulation prescribing penalty for whole month acts as deterrence and is a time tested measure to prevent overloading and damage to power transformers. In the absence of regulation for levy of penalty for exceeding MDI or its dilution, there will be more chances of overloading and consequent damage.
- n) That further the Respondents have to procure power and has to make planning for such procurement in advance. If the industrial consumers are given a liberty to pay surcharge from the date of default only, the same shall give rise to abrupt increase/ decrease in demands of industrial consumers thereby

making it difficult for the respondents to make effective planning for procurement of power to ensure effective power supply in State. Thus, regulation 9.3.5 referred above is essential to ensure that the losses caused on account of sudden and abrupt demand of Industrial consumers are not passed on to general consumers of the State and there are lesser exigencies on account of shortage of power or the power is not rendered surplus excessively.

- o) In view of the foregoing submissions, the present petition is liable to be dismissed being untenable and bereft of any merit.

Proceedings:

- 3.1 The matter was listed for hearing on 18th June, 2019. The representatives of all parties were present on the date of hearing.
- 3.2 The Ld. Counsel of the Petitioner briefed their submissions before the Commission mainly summarizing their Petition in which they have sought amendment to various provisions of the *Haryana Electricity Regulatory Commission (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security) Regulations, 2016* and the *Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014*.
- 3.3 The Ld. Counsel of the Respondent submitted that various parameters/provisions specified/ made in the ibid Regulations were framed by this Hon'ble Commission based on an exhaustive study and discussions inviting comments from all stakeholders. Therefore, any amendment/relaxation in the Regulations sought to be made should also be based on a similar comprehensive manner. Thus, there is no basis for affecting any amendments/ relaxations in the Regulations on the request of few stakeholders.

Commission Analysis & Order:

- 4.1 The Commission has carefully examined the contents of Petition, reply made by the Respondent, material placed on record and the detailed deliberation, averments made by the representative of both Petitioner and the Respondent during the hearing in the matter.

- 4.2 The prayers made by the Petitioner with regards to various amendments/relaxations in Regulation No. HERC/34/2016 - *“the Haryana Electricity Regulatory Commission (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security) Regulations, 2016”* and HERC/29/2014 - *“the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014”*, cannot be allowed as the Commission has taken into consideration all relevant factors at the stage of framing Regulations and any such Petition as an attempt to dilute the sacrosanct nature of the Regulations, cannot be permitted.
- 4.3 The Petitioner has primarily raised a challenge to ibid Regulations under the garb of seeking relaxation thereto. Any such exercise cannot be undertaken by the Commission in an adjudicatory framework. The same is more in the nature of exercising legislative function of the Commission as the Regulations framed by it are in the nature of sub-ordinate (delegated) legislation. Hence, ordinarily relaxation in the Regulations cannot be considered on a Petition filed by the Petitioner comprising particular category of consumers. However, any person aggrieved by such sub-ordinate legislation has the remedy of challenging the same before Hon’ble High Court.
- 4.4 The Petitioner may submit its comments/suggestions and/or make appropriate submissions related to its prayers on the draft Regulations related to Duty to Supply and/or Supply Code which may be published by the Commission in future. Further, with regards to Petition’s submissions related to the policies and practices followed in other State Electricity Regulatory Commissions (SERCs), the Distribution Licensees’ may submit their report on the same.
- 4.5 Accordingly, the prayers as aforesaid are without merit and rejected.

In view of the above the present Petition is disposed of.

This Order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 26.06.2019.

Date: 26.06.2019

(Naresh Sardana)

(Pravindra Singh)

(Jagjeet Singh)

Place: Panchkula

Member

Member

Chairman

HERC