

**BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION**

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

Case No. HERC/RA – 13 of 2019

DATE OF HEARING : 09.09.2019

DATE OF ORDER : 13.09.2019

**IN THE MATTER OF:**

Application Seeking Review of Order Dated 22.04.19 in Petition No. HERC/PRO-39 of 2018 in accordance with powers vested with the Commission under S.94(1)(F) of Electricity Act, 2003 read with Regulation 78(1) of HERC/06/ 2004 Regulations.

**Review Petitioner**

Star Wire (India) Ltd., VPO Chhainsa, Ballabgarh,  
Faridabad

**Respondent**

HVPNL & DHBVNL

**PRESENT**

On behalf of the Petitioner:

1. Shri R.K. Jain, Advisor/Legal & Power
2. Shri D.K. Gangwar, GM

On behalf of the Respondent:

1. Smt. Sonia Madan, Advocate
2. Shri Kuldeep Mor, XEN, DHBVN
3. Shri Hans Raj, XEN, HVPNL
4. Shri Ravinder Kumar, SDO, HVPNL

**QUORUM**

**Shri D.S. Dhesi, Chairman**

**Shri Pravindra Singh, Member**

**Shri Naresh Sardana, Member**

**ORDER**

**1) Brief Background of the Case**

1.1. The Petitioner has submitted that:

- a) They are limited company constituted under the provisions of the Companies, Act 1956 having its registered office at 35, Link Road,(2nd Floor), Lajpat Nagar-III, New Delhi-110024 and its manufacturing facilities at Village & PO Chhainsa, Mohana Road, Ballabgarh, Haryana. Further, they are large supply industrial consumer of Respondent No.1 having sanctioned contract demand of 15,000 kVA while the sanctioned connected load is 14,500 kW.
- b) They had filed Petition No. HERC/PRO-39 of 2018 in the matter of seeking suitable directions under Reg. 4.7 of the HERC (*Duty to Supply electricity on request, power to recover expenditure incurred in providing supply and power to require security*) Regulations, 2016. Hon'ble Commission passed order dated 22.04.19 on this Petition.
- c) They are aggrieved by the aforesaid impugned order and accordingly requests the Hon'ble Commission to review the order under the enabling powers vested under S.94(l)(f) of Electricity Act, 2003 and the Reg. 78(1) of HERC (Conduct of Business) Regulations, 2004 read with subsequent Amendments thereto. The said Regulation reads as under,

*"Review of the decisions, directions, and orders"*

*78 (1) All relevant provisions relating to review of the decisions, directions and orders as provided in the Code of Civil Procedure 1908, as amended from time to time, shall apply mutatis mutanda for review of the decisions Provided that the Commission may on the application of any party or person concerned, filed within a period of 45 days of the making of such decision, directions or order, review such decision, directions or orders and pass such appropriate orders as the Commission may deem fit*

*(2) No application for review shall be considered unless an undertaking has been given by the applicant that he has not preferred appeal against the decision, direction, or order, sought to be reviewed. in any Court of Law.*

*(3) No application for review shall be admitted/ considered unless an undertaking has been given by the applicant that in case he files an appeal of the decision, direction or order of which review is pending adjudication, he shall immediately inform the Commission regarding the fact of filing the appeal.*

- d) In view of the requirement of this Regulation, reproduced above:
- (i) The Petitioner has not preferred appeal against the impugned order of the Hon'ble Commission, sought to be reviewed, in any Court of Law.
- (ii) The Petitioner undertakes and confirms that in case the Petitioner files an appeal of the order, of which review is pending adjudication, the Petitioner will immediately inform the Commission regarding the fact of filing the appeal.
- e) The Petitioner is of the considered view that the grounds on which the impugned order has been passed are vastly at variance to the facts on ground and Hon'ble Commission has probably overlooked those facts. Specific points which are proposed to be submitted before the Hon'ble Commission with reference to the observations made in the impugned order are dealt hereunder

with a request to the Hon'ble Commission to consider the facts with regard to the impugned order afresh

- f) The main grounds spelled out in the impugned order hinge on the following major grounds/premise,
- (i) The Petitioner applied for extension of load raising Contract Demand from 10 MVA to 25 MVA in the year 2012 and this was approved by CE/Planning, HVPN vide his letter dated 04.04.2013
  - (ii) As the load extension was approved by HVPN in the year 2013, the Duty to Supply Regulations of 2005 will be applicable
  - (iii) The Petitioner gave Undertaking dated 29.03.2013 to pay all charges as per prevalent policy and the policy under formation
  - (iv) HVPN approved load extension from 9580 kW to 23153.2 kW on 04.04.2013 and again from 14500 kW to 18500 kW on 06.10.2017 and both these approvals were given by WTDs of HVPN
  - (v) There was a material mischief played in active collusion of the Petitioner and officials of HVPNL
  - (vi) Representative appearing on behalf of the Petitioner concealed vital information from being shared especially w.r.t. the undertaking provided by the Petitioner
- g) The Petitioner very humbly submits that all the above assumptions are contrary to the facts and relevant Rules, Regulations and procedures applicable.
- h) Para 6.6 and 6.7 of the Commission order read as under:

*6.6 The Commission further observes from perusal of Annexure P-S relied upon by the Petitioner and appended as document along-with the Petition, wherein it has been specifically noticed as under:-*

*" ... and subsequent to the FIRM'S request for load extension from 9580kW with contract demand of 10,000kVA to 23153.2kW with contract demand of 25,000kVA on 66kV supply pressure and furnishing of undertaking dated 29.03.2013 to comply guidelines for self-execution of deposit works issued by Deputy Secretary Operations, HVPNL, Panchkula and to pay all charges as applicable to the works of self-execution and extension of load as per the existing policy & as per policy under formulation. "*

*6.7 On perusal of the aforesaid shows that the Petitioner had itself submitted a request to the licensee along-With an undertaking to comply with the guidelines under the Regulations in vogue for execution of the works and to pay all charges as applicable. While considering the aforesaid request on the basis of the undertaking so furnished by the Petitioner in consonance with the Regulations in vogue, the approval was granted by the licensee and the following was noted.-*

*"Note: An amount as per present policy being followed by the NIGAM be got deposited from the firm in the first instance. However, the aforesaid charges will be worked out again when the new policy/guidelines are framed. Further, an undertaking should be taken from the firm to deposit the difference, if any, till completion of the work. "*

These observations made by the Hon'ble Commission are not based on facts on ground. In order to elaborate this point further Petitioner would like to reiterate the relation of a consumer with the Distribution Licensee and the role of Transmission Licensee in the load sanction process.

- a) The Electricity Act, 2003 defines the relevant terms as under,  
S.2 (15) "consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;  
S.2 (17) "distribution licensee" means a licensee authorised to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply;  
S.2 (73) "transmission licensee" means a licensee authorised to establish or operate transmission lines;
- b) 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 cover the relation of the Distribution Licensee and the consumers in his area of supply. Some of the relevant provisions are as follows;  
Reg. 3.1 - Every distribution licensee shall on an application by the owner or occupier of any premises located in his area of supply, give supply of electricity to such premises within the timeframe specified under Regulation 4 of the Electricity Supply Code, after receipt of the application complete in all respects requiring such supply,  
Reg. 3.3 - It shall be the duty of every distribution licensee to provide, if required electric plant or electric line for giving electric supply to the premises specified under Regulation 3.1 above;  
Reg. 3.4 - It shall be the responsibility of the licensee to have necessary arrangements with the respective transmission licensee(s) to ensure that the required supply at high Tension above 33 kV is made available within the  
timeframe specified under Regulation 4 of the Electricity Supply Code.  
Reg. 4.7 - However, cost of augmentation of substation or creation of a new substation or cost of augmentation of the line feeding the substation from

where the supply is to be given shall not form part of cost to be recovered from the consumer or collective body of consumers as per Regulation .4.6. From the above provisions it is clear that the interface of any applicant/consumer with regard to the supply of electricity is only the Distribution Licensee and none else. All Commercial /Legal contracts for supply of electricity are between the applicant/consumer and the Distribution Licensee of the area. If the consumer is connected to the grid substation under the control of a Transmission Licensee, his contractual relation remains with the Distribution Licensee. Hence the Hon'ble Commission overlooked the fact that it is the Distribution Licensee who is empowered to sanction load or extension of load. The role of the transmission licensee is to examine the technical feasibility of feeding the required load from a grid substation under the control of the Transmission Licensee.

Hence the feasibility report given by the Transmission Licensee can not constitute sanction of load! extension of load for the consumer.

Hon'ble Commission may kindly consider the actual sequence of sanction of load/ extension of load from time to time as per the following flow chart:

29.05.08	CGM, DHBVN, Delhi sanctioned load of 5859.936 kW (CD of 6000 kVA) to be fed on 66kV from 66 kV substation, Chhainsa
08.10.08	CE/Plg., HVPN conveyed to DHBVN the technical feasibility for feeding the load sanctioned by DHBVN in May 2008.
23.07.10	Load was released on 66 kV after 66 kV substation and other works including the underground cable were completed by Star Wire at a cost of Rs4.85 crore. .
24.08.10	Star Wire applied for extension of load from 5859.936 kW to 9580 kW (CD from 6 MVA to 10 MVA) vide AM Form 592/LS.
10.02.11	CGM/Op., DHBVN, Delhi sanctioned extension of above load. NOC was to be obtained from HVPN before releasing load.
18.01.12	CE/Plg., HVPN conveyed to DHBVN concurrence for the above extension of load.
14.02.12	CE/Op., DHBVN, Delhi asked SE/Op., DHBVN, Faridabad to release extended load during night hours from 22.00 hrs. to 09.00 hrs. These restrictions were removed and full supply was given with effect from 15.03.13.
19.03.12	Star Wire submitted AM Form with request for extension of load from 9580 kW to 23153.2 kW with CD to be increased from 10 MVA to 25 MVA on 19.03.12. (Annex P-3). However, this application was modified in view of the system constraint and limited to 14,500 kW with CD of 15 MVA. CE/Comml., DHBVN authorised extension of load/CD to 14,500 kW/15 MVA.

04.04.13	CE/Plg., HVPN conveyed to DHBVN feasibility for extension of load from 9580 kW to 23153.2 kW (CD from 10 MVA to 25 MVA) subject to commissioning of 400 kV substation Nawada, 66 kV Nawada-Fatehpur Biloch D/C line and augmentation of conductor on Fatehpur Biloch to Chhainsa line. DHVN was asked to submit the detailed proposal of extension of load duly approved by WTDs of DHBVN for concurrence of HVPN. The Note-1 in the HVPN letter was to take effect only when DHBVN was to submit a detailed proposal. Moreover, the works mentioned above were not likely to be completed for next 5 years. Hence DHBVN never submitted proposal for load extension to 25 MVA and no new Undertaking was asked for.
08.01.14	CE/Comml., DHBVN accorded approval to sanction of load extension from 9580 kW to 14500 kW (CD from 10 MVA to 15 MVA). This was again subject to NOC from HVPN as per Sr. No.14 of the letter.
09.01.14	CE/Comm., DHBVN further conveyed to CE/Op.,:DHBVN, Delhi approval from MD, DHBVN to allow 15 MVA load to Star Wire during lean period.
31.01.14	CE/Comm., HVPN, Faridabad conveyed to DHBVN approval of WTDs of HVPN for extension of load from 9580 kW to 14500 kW (CD 10 MVA to 15 MVA) and to submit detailed proposal for load extension to HVPN duly approved by WTDs of DHBVN for concurrence of HVPNL.
03.04.15	CE/Comm., DHBVN conveyed approval of MD, DHBVN for releasing the balance extended load of 5 MVA as approved vide letter dated 08.01.14.
03.06.15	WTDs of HVPN accorded approval for release of extension of partial load from 10 MVA to a5 MVA as approved by MD, DHBVN vide letter dated 03.04.15
07.06.17	CE/Comml., DHBVN sanctioned extension of load from 14500 kW to 18500 kW (CD 15 MVA to 20 MVA) as per Duty to Supply Regulations, 2016.
06.10.17	WTDs of HVPN approved extension of load from 14500 kw to 18500 kW (CD from 15 MVA to 20 MVA) as per the sanction accorded by CE/Comml., DHBVN

i) From the above flow chart the following issues would have clarity:

- i. The authority to sanction load of an applicant/ consumer is with the Distribution Licensee i.e. DHBVN in this case.
- ii. The load is sanctioned by DHBVN as per delegation of authority for specific load. As the load of the Petitioner Company fell in the powers of the WTDs of the Utility, sanction was accorded by CE/Comml., DHBVN with the permission of WTDs.
- iii. In case the consumer is to be fed on 66 kV or higher voltage, concurrence of HVPN is obtained by DHBVN. The WTDs of HVPN give concurrence to the proposal for load extension as submitted by DHBVN after obtaining approval from WTDs/ MD, DHBVN.
- iv. In every case the Distribution Licensee is the interface for the consumer and not the Transmission Licensee.

- v. Hence the approval given by HVPN vide letter dated 04.04.2013 was an approval of technical feasibility and could not be equated with sanction of load.

j) Para 6.8 of the Commission order reads as under:

*6.8 There is nothing on record to contradict that such undertaking was not furnished by the Petitioner or that the decision of the licensee was ever challenged and not accepted by the Petitioner. Per contra, perusal of the material on record in specific reference to Annexure P-9 which is the letter of the Petitioner and addressed to the Executive Engineer, 400 kV SIs; HVPNL, Nawada, Faridabad wherein the Petitioner submitted as under*

In the year 2012, the Petitioner had applied for extension of load from 9580 kW to 23153.2 kW with corresponding increase in Contract Demand from 10,000 kVA to 25000 kVA as we had planned augmentation of load. Main features of the system augmentation included the following works:

- i. Commissioning of 400KV Substation Nawada by HVPN
- ii. Erection of DIC 66kV Nawada-FIBiloch line with ULO of one circuit 66kV Chhainsa Sub Station by HVPN
- iii. Augmentation of conductor on 66kV F/Biloch-Chhainsa line from 0.2sq inch ACSR to AL-59 conductor by SWIL.

As regards submission of undertaking by the Petitioner, the fact is totally different than perceived by the Hon'ble Commission. This Undertaking was given in compliance to "the sanction of extension of CD from 6 MVA to 10 MVA. Clause at Sr. No. (f) of the said Undertaking read as under,

M/s Star Wire India Ltd., Plant-2 has opted for self-execution of replacement of ACSR 0.2 conductor with AL -59 conductor from Fatehpur to Chhainsa on 66 kV tower. "

- iv. This Undertaking was with reference to the augmentation of conductor on 66 kV Fatehpur Biloch-Chhainsa line. It is reiterated that other than this, no Undertaking has ever been given by the Petitioner Company

k) Para 6.9 of the Commission order reads as under

*6.9 Hence, the Petitioner itself has acknowledged the fact with respect to increase in contract demand from 10,000 kVA to 25,000 kVA vide decision of the WTD dated 4.4.2013. There was thus mischief played by the Petitioner while seeking approval to the extension of load from 14500 to 18500 KW vide letter dated 6.10.2017. When the licensee namely HVPN had already approved the load from 9580 kW to 23153.2 kW in its decision taken on 4.4.2013, there was no occasion or reason for the interregnum letter dated 6.10.2017~ unless there was a material mischief played in active collusion of the Petitioner and officials of HVPNL. The*

*Commission feels that such an attempt has been made by the Petitioner in collusion with the officials so as to cause loss to the revenue and to provide windfall gains to the Petitioner by saving him the cost required to be incurred under the Regulations in vogue*

- l) As already exhibited from the flow chart above and the subsequent submissions that HVPN is not the authority to sanction load to any electricity consumer. It is the Distribution Licensee who is the interface for all electricity supply matters with the consumers. All commercial arrangements are between the Consumer and the Distribution Licensee. If any commercial arrangement is to be made by the Distribution Licensee with the Transmission Licensee for consumers to be fed from HVPN substations, such arrangement has to be between the two Licensees and consumer has nothing to do with it.
- m) The feasibility given by HVPN was subjective and dependent on the completion of planned works. Hence the Distribution Licensee rightly sanctioned part loads depending on the then system capability. This action of the Distribution Licensee was perfectly in line with the regulations/procedures approved for release of electric connections.
- n) The above view taken by the Hon'ble Commission is totally contrary to the facts and procedures followed for sanction of load. It is unfortunate that the Hon'ble Commission made such observations which are far from the realm of reality. Hon'ble Commission is humbly requested to look at the facts afresh and reconsider on the order passed.
- o) Para 6.10 and 6.11 of the Commission order read as under:

*6.10 Further, the Commission also observes from the para 7 of the Petition that the Petitioner has himself submitted that vide it's application in the year 2012 had sought ultimate load extension to 23153.5kW with enhanced Contract Demand of 25 MVA which was approved by CE/Planning, HVPNL vide his letter dtd. 4/4/2013.*

*6.11 The Commission observed that the respondent NO.1 stated that the Consumer applied for extension of load from 9850 KW/10000 KVA CD to 23153 KW/25000 KVA CD with undertaking dated 29.3.2013 to pay all charges as per prevalent policy and the policy under formation at that point of time and augmentation of Fatehpur-Billoch line feeding 66KV substation Chhainsa.*

*However, the Petitioner categorically denied to a specific question raised during the hearing that no such undertaking was given except the undertaking for augmentation of ACSR Conductor of 66 KV Fatehpur Billoch - Chhainsa line feeding the 66 KV substation Chhainsa with AL - 59 conductor.*

p) The Petitioner has already explained the difference between approval accorded by the Transmission Licensee and the sanction of load by the Distribution Licensee. While HVPN is to examine the technical feasibility and convey its concurrence to the proposal of DHBVN, the real authority to sanction the load remains DHBVN. At no stage any procedure or instructions were bypassed/violated or over-ruled. The Undertaking given by the Petitioner has also been explained in the foregoing Paragraphs with special reference to the scope of the Undertaking. This Undertaking dated 29.03.2013 was given with reference to the replacement of 66 kV line conductor and the work was completed by the Petitioner at a cost of Rs.56 lac. While the HVPN had given feasibility of feeding the ultimate load of 2S MVA but had apparent hurdles in completion of ongoing system expansion works due to which the load was rightly sanctioned by DHBVN in instalments looking at the system capability.

q) Para 6.12 and 6.13 of the Commission order read as under:

*6.12 Further, as per Annexure-I of the Haryana Electricity Regulatory Commission (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply & Power to require security) Regulations, 2005, the Licensee shall charge the cost of enhancing the capacity of existing power transformer or providing new power transformer, with or without bay extension, along with associated equipments from the applicant, as follows*

*“3 Extra High Tension Supply*

*In case of an applicant where there is a need to enhance the capacity of existing power transformer or provide new power transformer or erect or extend the electric line for extending supply to the applicant, the Licensee shall charge the cost of enhancing the capacity of existing power transformer or providing new power transformer, with or without bay extension, along with associated equipment's and the cost of erecting or extending such line, calculated as per part I of this annexure.*

*6.13 In view of the above letter of Petitioner dated 28/02/2018, approval accorded by HVPN vide letter dated 04/04/2013 and Regulation in vogue at that time, the Commission is of considered opinion that load enhancement request of the Petitioner from 9580 kW to 23153.2 kW with corresponding increase in Contract Demand from 10,000 kVA to 25,000 kVA has to be dealt as per the provisions of Haryana Electricity Regulatory Commission (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply & Power to require security) Regulations, 2005 indicated above i.e. Licensee shall charge the total cost of enhancing the capacity from the Petitioner. Further, the expenditure of Rs. 56,80,500/- incurred by the Petitioner for augmentation of Fathepur - Billoch - Chhainsa line conductor with AL 59 conductor is justified under the relevant Regulations prevailing at that point of time so no refund is permissible*

The above observations of the Hon'ble Commission may kindly be reviewed in the light of the facts of the case stated above. The feasibility report given by HVPN on 04.04.13 could not form the basis for charging amount from the Petitioner. The Petitioner applied for load extension vide letter dated 13.10.16. As the authority to sanction load of any consumer is the Distribution Licensee, it is only the letter issued by DHBVN for extension of load from 15 MVA to 20 MVA dated 07.06.17 which would be the reference date. Pursuant to this letter only HVPN conveyed its concurrence vide letter dated 06.10.17. The Foot-Note: 1 of this letter reads that " *The charges involved for releasing the extension of load will be payable by M/s Star Wire (India) Limited as per 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 dated July 19, 2016* "

- r) Therefore, the old Regulations of 2005 could not be applied on a sanction of load extension accorded in the year 2017.
- s) Moreover, the Hon'ble Commission overlooked the fact of successive system augmentation approved by HVPN much prior to the submission of application of load extension by the Petitioner. The Petitioner had given ample proof of the proposals approved by HVPN in this regard. To reiterate the facts, attention is drawn to the following important documents:
  - i. The erection of 400 kV substation Nawada and all the associated power evacuation lines of 220 kV, 66 kV were also a part of the overall system augmentation programme of the HVPN. This is established from the letter dated 17.09.2010 written by SE/TS, HVPN. Therefore, all the works which were already under execution by HVPN for augmentation of system could not form a part of the cost to be recovered from any individual consumer. These works were not initiated or planned for any individual consumer.
  - ii. The Govt. of India received loan from the International Bank for Reconstruction and development (IBRD) in various currencies towards the cost of "Haryana Power System Improvement Project (HPSI). Part of the proceeds of this loan applied to eligible payments under the contract for plant, design, supply, installation, testing & commissioning of 220 kV, 132 kV & 66 kV Transmission Lines. The work of LILO of one circuit of 66 kV Nawada-Fatehpur Biloch line with 0.4 sq." ACSR at 66 kV S/Stn. Chhainsa (8.515 Kms.) was a part of the Package-19 (B) of the International Competitive Bidding floated by HVPN on 19.09.2012 i.e. much prior to the technical feasibility given vide letter dated 04.04.2013 for load extension of the Petitioner.
- t) Hence there was no payment to be made by the Petitioner for these works or any such Undertaking to be given at any stage.
- u) Para 6.14 to 6.16 of the Commission order read as under:

6.14 *The Commission observes from the HVPNL letter dated 04/04/2013 that Whole Time Directors (WTDs) of HVPN had accorded approval to the Petitioner for extension of load from 9580 kW to 23153.2 kW with corresponding increase in Contract Demand from 1~000 kVA to 25,000 kVA on 66kV supply*

*Further, HVPNL vide its letter dated 06/10/2017 re-extended the same load of the Petitioner from 14,500 kW to 18,500kW whereas HVPNL vide its earlier letter dated 04/04/2013 had already approved the load from 9580 kW to 23153.2 kW.*

*Both the letters of HVPNL has the approval of WTDs.*

*Frist letter dated 04/04/2013 correspond to the era of Haryana Electricity Regulatory Commission (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply & Power to require security) Regulations, 2005 wherein the total cost for extension of supply has to be borne by the Petitioner whereas second letter dated 06/10/2017 is issued in the era of The HERC (duty to Supply electricity on request, power to recover expenditure incurred in providing supply and power to require security) Regulations, 2016 (HERC 34/2016) wherein as per Regulation 4.7 of HERC 34/2016 the cost of augmentation of substation or creation of a new substation or cost of augmentation of the line feeding the substation from where the supply is to be given shall not form part of cost to be recovered from the consumer*

6.15 *The Commission observes that the matter related to extension of load of the Petitioner did not attain finality till date. The Petitioner has submitted in para 7 of the petition that they had submitted application to the Respondents in the year 2012 had sought ultimate load extension to 23153.5 kW with enhanced Contract Demand of 25 MVA which was approved by CE/Planning, HVPNL vide his letter dtel. 4/4/2013. Delay on account of laying on infrastructure by the Respondents has caused non-enhancement of load of the Petitioner on time leading to huge revenue loss to the Respondents.*

6.16 *Accordingly, the Commission levies fine of Rs. 6,000/- per officer/official per day on the concerned officers/officials of HVPNL subject upto maximum fine of Rs. 1 lakh. DDO of HVPNL to ensure that the fine be deposited in the Commission within 15 days from the receipt of this Order*

v) *The Petitioner has given ample proof to establish the role of HVPN and DHBVN in the load sanction process. While for the consumer/applicant the load is to be sanctioned by the Distribution Licensee only as that is the interface with the consumer. Any technical feasibility, given by HVPN at each stage of load sanction/extension, was an internal matter between the transmission and distribution licensees and it does not become final till the formal sanction letter is issued by the Distribution Licensee and electricity connection is released to the consumer.*

w) Para 6.17 of the Commission order reads as under,

*6.17 Further, the Commission observes that the role of the Lei. representative appearing on behalf of the Petitioner has not been fair. It was incumbent upon him to correctly represent the facts and to disclose all material aspects. However, he did not perform his role before the Commission and instead actively involved himself along-with the Petitioner to conceal vital information from being shared especially w. r. t. the undertaking provided by the Petitioner. He went even to the extent of specifically denial to the pointed-out query raised by the Commission. The Petitioner as well as the learned representative of the Petitioner is advised to exercise complete fairness in the proceedings before the Commission.*

- x) The Petitioner would reiterate that at no stage of the present case nothing was concealed from the Hon'ble Commission and attempt of the Petitioner and the Representative has been to present as many facts and documents as were available with them in record or were in their knowledge. Rather efforts were made to get supporting documents from even other sources where these documents could be obtained and brought before the Hon'ble Commission. It is being reaffirmed by the petitioner that at no stage any document or information was kept secret from the Commission, rather efforts were made to bring maximum clarity so as to assist the Commission to arrive at the final decision.
- y) The Hon'ble Commission has completely ignored one of the important issues relating to the source/point of supply to the Petitioner, which was spelled out and argued at length. The source of supply as approved by DHBVN/HVPN from time to time was as follows:
- i. DHBVN sanctioned load of 5859.936 kW (CD of 6 MVA) on 66 kV from 66 kV substation Chhainsa vide CGM/Op., DHBVN letter dated 29.05.2008
  - ii. DHBVN sanctioned extension of load from 5859.936 kW to 9580 kW (CD from 6 MVA to 10 MVA) on 66 kV supply through existing 66 kV independent feeder emanating from 220 kV substation Ballabgarh (by extending from 66 kV substation Chhainsa) vide CGM/Op., DHBVN letter dated 10.02.2011.
  - iii. DHBVN sanctioned extension of load from 9580 kW to 14500 kW (CD from 10 MVA to 15 MVA) on 66 kV supply from 66 kV substation Fatehpur Biloch to 66 kV substation Chhainsa through existing independent feeder vide CE/Comml., DHBVN letter dated 08.01.2014.
  - iv. DHBVN sanctioned extension of load from 14500 kW to 18500 kW (CD from 15 MVA to 20 MVA) on 66 kV supply from 66 kV substation Chhainsa on existing independent Star Wire feeder vide CE/Comml., DHBVN letter dated 07.06.2017.
- z) The above successive sanction letters issued by DHBVN, it is evident that the power supply for the Petitioner at 66 kV is through independent 66 kV feeder emanating from 66 kV substation, Chhainsa. The entire transmission system behind 66 kV Chhainsa substation is a part of the overall transmission system of HVPN. Thus no cost of the transmission system is payable or shared by the

Petitioner for the extension of load from 14500 kW to 18500 kW (CD from 15 MVA to 20 MVA).

aa) The Hon'ble Commission has also overlooked the fact that 14500 kW load of the Petitioner (CD of 15 MVA) is already in operation and the present extension is only for 5 MVA, which was sanctioned by CE/Comml., DHBVN vide letter dated 07.06.17. HVPN has estimated cost of D/C 66 kV lines from Nawada to Fatehpur Biloch with LILO of once Ckt. at 66 kV substation Chhainsa and the connected 66 kV Bays at Nawada, Fatehpur Biloch and Chhainsa, as RS.17.50 Crore and cost to be shared by the Petitioner has been worked out for loads 20 MVA and 25 MVA, as if it is a new connection ignoring the ground reality. HVPN has worked out the share cost as Rs.2,96,32,000/- (Rs. Two crore ninety six lac thirty two thousand) for 20 MVA load and 3,84,60,125/- (Rs. Three crore eighty four lac sixty thousand one hundred and twenty five) for 25 MVA. As the demand is totally illegal and against the Regulations framed by the Hon'ble Commission, necessary orders have to be passed by the Hon'ble Commission directing DHBVN/HVPN to withdraw this demand.

bb) Accordingly, the Petitioner has prayed as follows:

- A. *To kindly accept the instant review petition in the present form*
- B. *To give suitable directions to the Respondents to withdraw demand of charges conveyed through Memo. No.Ch-31/S-23/Vol.-4 dated 23.06.2018 towards proportionate cost of the transmission system;*
- C. *To direct the Respondents to release the extended "load of 18500 kW (enhanced Contract Demand of 20 MVA) sanctioned vide Memo. No. R-1503/Ch-128/NCR/FBD-229 dated 06.10.2017 at the earliest;*
- D. *To refund the amount of Rs.56,80,500/- incurred by the Petitioner Company for augmentation of capacity of 66 kV SIC Fatehpur-Biloch line by replacing 0.2 sq. inch ACSR to AL -59 conductor as per directions contained in Memo. No. R-1089/Ch-102/NCR/FBD-129 dated 04.04.2013;*
- E. *To take suitable action against the persons found responsible in delaying release of extended load and causing harassment to the Petitioner Company;*
- F. *Pass such other order(s) as may be deemed just and proper in the facts and circumstances of the case*

## **2) Respondent's Replies**

During the hearing held on 9/9/2019, the Respondents submitted their written replies, briefed as follows:

a) The instant Petition is untenable in its present form. The Petitioner has under the garb of review sought a relief which has not been allowed by this Hon'ble Commission after due consideration of facts of this case. The Order of the Hon'ble Commission dated 22.04.2019 is categorical and specific. There is no omission/error apparent on the reading of said Order. The Petitioner has in fact

claimed reliefs in the present application, which cannot be considered in review jurisdiction. An application seeking modification of the Order for allowing claim that has not been allowed despite similar grounds being urged in main petition cannot be considered in review jurisdiction. The instant application is therefore, an abuse of process of law and liable to be rejected as not maintainable.

- b) It is pertinent to reproduce the law settled by the Hon'ble Supreme Court in judgment dated 8<sup>th</sup> August, 2013 under Writ Petition (CRL.) 135 of 2008 with respect to scope of Review under law. The relevant part of the said judgement is reproduced below:-

*"This Court has repeatedly held in various judgements that the jurisdiction and scope of review is not that of an appeal and it can be entertained only if there is an error apparent on the face of the record. A mere repetition through different counsel, of old and overruled arguments, a second trip over ineffectually covered grounds or minor mistakes of inconsequential import are obviously insufficient. "*

Also in Sow Chandra Kante & Anr. Vs. Sheikh Habib (1975) 1 SCC 674, Apex Court held as under:-

*"Mr. Daphtary, learned counsel for the petitioners, has argued at length all the points which were urged at the earlier stage when we refused special leave thus making out that a review proceeding virtually amounts to a re-hearing. May be, we were not right in (sic.) refusing special leave in the first round; but, once an order has been passed by this Court, a review thereof must be subject to the rule of the game and cannot be lightly entertained ...."*

- c) The prayer for review of the order of the Hon'ble Commission has no basis in view of the fact that the Petitioner has failed to establish as to what constitutes in this case "error apparent" or "sufficient grounds" and "sufficient reasons" as enshrined in the law for seeking review of an order / direction including a misconception of fact or law or even a misapprehension of the true state of circumstances.
- d) In view of the foregoing, it is respectfully submitted that Petitioner have failed to set up any case fit for review of order of this Hon'ble Commission dated 22.04.2019. The petitioner has mentioned in para 4 of the application that the Petitioner Company is aggrieved by the impugned order and accordingly prays for review of order. Merely because petitioner is aggrieved against the order, it does not give any ground for review of order. Further, in para 6 of the application, the ground alleged by the Petitioner is that the Hon'ble Commission has overlooked facts while passing impugned judgment. The grounds conferring jurisdiction for review of order does not include the alleged deficiencies in the order liked overlooking of facts. Further, the petitioner has specifically requested Hon'ble Commission to consider facts afresh, which is not permissible by way of a review application. Thus, the appropriate remedy of the

Petitioner for the alleged grievance against impugned order lies elsewhere and not before this Hon'ble Commission under review jurisdiction.

- e) That without prejudice to the foregoing, it is submitted that the Petitioner has pleaded additional grounds and had made submissions contrary to the original Petition in the instant application, which cannot be considered under present application. The Petitioner has further appended new documents in review application, thereby attempting to set up a new case for consideration of this Hon'ble Commission. The grounds made up by petitioner are an abuse of process of law and deserves to be rejected outright.
- f) The Petitioner has appended a host of additional documents with the instant application. It has not been explained by the petitioner as to what prevented Petitioner from producing these documents along with Original Petition. Such documents cannot be examined under review jurisdiction without satisfying that the production of these documents could not be made earlier for inevitable reasons. Thus, the documents appended along with instant application cannot form basis of any ground alleged in the instant application.
- g) The review is by no means an appeal in disguise and there is a difference between an erroneous decision and an error apparent on the face of the record. The Petitioner is seeking re-appraisal of facts under review jurisdiction, which is not permissible under law. Thus, the instant petition deserves to be dismissed on this short score alone.
- h) In view of the above submissions, the reply on merits is submitted in following paras:
- i) In response to contentions raised by the Petitioner regarding observation of this Hon'ble Commission in Para 6.6 and 6.7 of the impugned order, it is submitted at the outset that Petitioner has urged wholly new ground that the interface of the consumer with regard to the supply of electricity is only the Distribution Licensee and none else. This contention has been raised by the Petitioner at this stage to set up a flimsy ground to refute the feasibility report issued by HVPNL by alleging that the feasibility report given by HVPNL cannot constitute sanction of load/ extension of load for the consumer. It is pertinent to bring to the kind notice of this Hon'ble Commission that no such contention was ever raised by the Petitioner in the original petition. On the contrary, in the original Petition, Petitioner has placed on record direct correspondence/ meeting with HVPNL officials and has relied upon the feasibility report given by HVPNL at many places. It is the specific case of the Petitioner in the Original petition that the Petitioner had approached HVPNL seeking load extension and HVPNL approved the extension of load in the year 2017. Reliance in this regard is placed upon para 7 and 11 of the Original Petition, which is reproduced hereunder for the ready reference –

“7. The Petitioner Company approached the Respondent Nigam in the year 2012 seeking ultimate load extension to 23123.2 kW with enhanced contract demand of 25 MVA. The CE/planning, HVPNL Panchkula conveyed sanction of the aforesaid load vide letter dated 04.04.2013 (Annex P-5) which mentioned the following.

a) The Company will augment the capacity of 66 kV S/C Fatehpur Biloch – Chhainsa line by replacing existing ACSR conductor with AL-59 conductor of equivalent size as self-executed deposit work,

b) The desired extension would be feasible subject to commissioning of 400 kV substation Nawada, 66 kV Nawada- Fatehpur Biloch D/C line, augmentation of conductor as mentioned under (a) above.

c) An amount as per the present policy being followed by the Nigam e got deposited from the firm in the first instance. However, the aforesaid will be worked out again when the new policy/ guidelines are framed. Further, an undertaking should be taken from the firm to deposit the difference, if any, till completion of work.

11. That it was only in the year 2017 that when Respondent Nigam approved extension of load from 15 MVA to 20 MVA vide CE/Planning, HVPN letter no. R-1503/Ch.-128/NCR/FBD-229 dated 06.10.2017 (Annex P-7). The sanction letter mentioned about the following important conditions for allowing extended load,

Following important conditions for allowing extended load,

The extended load to be from 66 kV substation Chhainsa;

This is subject to be commissioning of 66 kV Nawada- Fatehpur Biloch line with LILO of the circuit at 66 kV Substation Chhainsa;

The charges involved for releasing the extension of load will be payable by M/s Star Wire (India) Ltd. As per the Haryana Electricity Regulatory Commission (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security) Regulation, 2016 dated July 19,2016.

The concerned SE/TS. HVPN shall ensure deposition of any pending charges/cost on behalf of M/s Wire (India) Limited as per earlier accorded HVPN approvals related to their 66 kV substation at village Chhainsa district Faridabad prior to release of load.”

- j) Without prejudice to foregoing, it is worthwhile to point out the distinction between ‘sanction of load’ and ‘release of connection’. The sanction of load is the initial stage of any application for new load/ extension of load. For consumers having requirement for bigger loads like the case of Petitioner, it is the transmission licensee who checks for the feasibility of infrastructure and approves sanction of load subsequent to which load is released by the distribution licensee. It is a matter of record that the increase in the load of Petitioner from 10 MVA to 25 MVA was approved by the HVPNL vide letter dated 04.04.2013 subject to commissioning of 400 KV Sub-station Nawada alongwith 66 KV Nawada- fatehpur Billoch D/C line. The approval for release of connection is done subsequently by Distribution Licensee after completion of

the infrastructure subject to which the load has been sanctioned. To substantiate the same, reliance is placed upon letter of the Respondent dated 30.04.2015 vide which DHBVN gave approval to Petitioner for release of balance extended load of 5 MVA. The extended load from 10 MVA to 15 MVA was approved for release by DHBVN as Petitioner demanded extension from 10 MVA to 15 MVA in Phase 1 and further upto 25 MVA in Phase 2 vide letters dated 04.07.2012, 08.04.2013 and 22.03.2013. The fact that the approval for extension of load from 10000 KVA to 25000 KVA was done by HVPNL is substantiated by letter of the HVPNL dated 12.04.2013. It is relevant to note that Petitioner directly communicated with HVPNL vide letters dated 22.03.2013 and 18.06.2012 and even deposited supervision fees directly to HVPNL vide book no. 1028 dated 05.04.2013. Not only this but Petitioner vide letter dated 13.06.2012 requested HVPNL for approval for extension of load from 10 MVA to 14 MVA. Likewise, HVPNL responded directly to Petitioner vide letter dated 28.03.2013, wherein an undertaking was requested for issuance of approval for extension of load. Hence, the contention of the Petitioner that the only interface for the Petitioner was Distribution Licensee and not Transmission Licensee is wholly incorrect, contrary to the record, an afterthought and a feeble attempt to set up new grounds for seeking relief which has been rightly denied by this Hon'ble Commission. It is also apparent that the load of the Petitioner was sanctioned in the year 2013 and the then prevailing regulations of 2005 are applicable to the instant case of the Petitioner. In that view, the present application is a sheer abuse of process of law and liable to be dismissed.

- k) In response to contentions raised by the Petitioner regarding observation of this Hon'ble Commission in Para 6.6 and 6.7 of the impugned order, it is submitted that the observation of the Hon'ble Commission is duly supported by the letter of the Petitioner dated 28.02.2018 which has been reproduced by the Hon'ble Commission in the Order. Contents of said letter has neither been challenged nor refuted. It is not understood as to what error has been done by the Hon'ble Commission while arriving at the finding in para 6.8 which is based on the material available on record. Moreover, there is ample record which establishes that the work of strengthening of infrastructure and construction of LILO from Nawada sub-station was planned and executed considering the several requests and representations of the Petitioner. Reliance in this regard is placed upon representations/ correspondences made by Petitioner to the Respondents since 2008. In this regard, letters of the Petitioner dated 02.09.2008, 25.05.2010 29.02.2012 are appended herewith for reference of the Hon'ble Commission. Pursuant to repeated requests of Petitioner, the Respondents planned setting up of infrastructure to meet the increasing demand of the Petitioner, which is fortified from email of the Respondent no. 1 dated 1.10.2012. Further, the Petitioner was well aware of its obligations in terms of the prevailing regulations and had agreed to share the proportionate cost as per prevailing regulations in its Application and Agreement form for Extension of Load dated 19.03.2012. Even if it is presumed for the sake of arguments that no undertaking was furnished by the Petitioner, yet the observation of the Hon'ble Commission in Para 6.8 does not suffer from any error or is contrary to the record as the

observation regarding submission of undertaking is given only in alternative to observation regarding admission made by Petitioner in Annexure P-9 which have been isolated with use of expression 'or' in para 6.8 of the order. Thus, there exists no ground for review of order dated 22.04.2019 and the instant application is untenable.

- l) In response to contentions raised by the petitioner regarding observation of this Hon'ble Commission in Para 6.9 of the impugned order, it is submitted that though Respondent is not in agreement with the observation of the Hon'ble Commission regarding collusion of the officials with the Petitioner, yet it is incorrect for the Petitioner to contend that HVPNL is not an authority to sanction load to any electricity consumer. It has been elaborated in reply to Point A. above that the role of HVPNL is essential in cases where technical feasibility has to be examined by HVPNL and involves creation/ strengthening of power infrastructure. Direct correspondences with consumers are entertained in those cases to avoid procedural delays and to ensure fairness and transparency in the process. Petitioner cannot be heard at this stage to contend that it had nothing to do with HVPNL especially in light of the correspondences referred above which were made by the Petitioner directly to HVPNL seeking approval of load extension. The prayer of the Petitioner seeking afresh consideration of facts and reconsideration is not permissible in review jurisdiction and therefore, the instant ground is liable to be rejected summarily.
- m) In response to contentions raised by the petitioner regarding observation of this Hon'ble Commission in Para 6.10 and 6.11 of the impugned order, it is submitted that the contention raised by the Petitioner with regard to said paras of the impugned order has been dealt with in detail in paras A to C above. The submissions made above are reiterated. Suffice to say that it is well-established from the record that HVPNL granted approval of sanction of load upto 25 MVA subject to completion of certain works. The Petitioner duly accepted to such approval and was aware of the same. The said sanction has not been challenged or commented upon by the Petitioner even till the decision of the original Petition. The contentions raised now are an afterthought and not worthy of any consideration. Moreover, the observations of this Hon'ble Commission are duly supported by material on record and there exists no ground for review of same on the basis of lame and unsubstantiated contentions of the Petitioner.
- n) In response to contentions raised by the Petitioner regarding observation of this Hon'ble Commission in Para 6.12 and 6.13 of the impugned order, it is submitted at the outset that Petitioner is seeking re-examination of the decision of this Hon'ble Commission under the garb of review, which is by no means permissible under review jurisdiction. The Hon'ble Commission has expressed an opinion in Para 6.13 based on examination of material available on record. The view or interpretation or opinion of the Hon'ble Commission cannot be challenged under review jurisdiction. Petitioner has wrongly relied upon footnote of letter dated 06.10.2017 as the said footnote pertains to charges involved for releasing extension of load at the time the said regulations will be applicable. However, the work of augmentation of conductor was approved at

the time when the Regulations of 2005 were prevailing. Admittedly, the augmentation of the conductor was done solely for facilitating extended load to Petitioner. It is worthwhile here to note that the petitioner in its letter dated 13.09.2012 itself admitted that the cost of independent feeder or its extension is to be entirely borne by consumer. As detailed above, the Petitioner has been representing Respondents for requirement of extended load since 2008. The work of the LILO was therefore, included in WB-19 package keeping in consideration the requirement of the Petitioner. Reliance in this regard is placed upon the proposal of the HVPNL dated 26.07.2011 affirmed in the letter of the HVPNL dated 10.08.2011. Thus, the contentions raised by the Petitioner in this sub-para are incorrect and untenable. There exists no ground for review of findings given by this Hon'ble Commission in order dated 22.04.2019.

- o) In response to contentions raised by the petitioner regarding observation of this Hon'ble Commission in Para 6.14 to 6.16 of the impugned order, it is submitted that although the Respondent is not in agreement with the finding of the Hon'ble Commission given in said paras as delay caused was beyond the control of the HVPNL officials yet the contention of the Petitioner that HVPNL had no role with the consumer has been dealt with in detail hereinabove and the submissions made above are reiterated. Suffice to say that the contention of the petitioner is an afterthought and not worthy of any consideration.
- p) In response to contentions raised by the petitioner regarding observation of this Hon'ble Commission in Para 6.17 of the impugned order, it is submitted that the contention of the Petitioner is unsubstantiated and do not form any basis for review. It is pertinent to note that the Petitioner has appended a host of additional documents with the instant application. It has not been explained by the petitioner as to what prevented Petitioner from producing these documents along with Original Petition. Such documents cannot be examined under review jurisdiction without satisfying that the production of these documents could not be made earlier for inevitable reasons.
- q) The Respondent in reply to the Original Petition has established that the feeding sub-station for the Petitioner was A-5 Ballabgarh Sub-station. That Petitioner is the industrial Consumer of 66 KV Voltage level. The Chhainsa plant does not have any transformer which supplies 66 KV Voltage. Petitioner was fed through transformer at A-5, Ballabgarh Sub-station before commissioning of double circuit line between Fatehpur to Nawada. The said fact is also fortified from perusal of email of the Respondent no. 1 dated 1.10.2012. The transformer from which Petitioner is being fed currently is situated at 400 KV Nawada Sub-station. Therefore, feeding sub-station of Petitioner was never Chhainsa Sub-station. The Hon'ble Commission had duly considered the contention of the parties with respect to the same and finding given in the order dated 22.04.2009 with respect to cost of transmission system to be paid by the Petitioner cannot be reviewed on mere reiteration of the submission made earlier.

- r) The contents of this para are wrong, incorrect and hence, denied. No valid ground has been urged by the Petitioner for exercise of review jurisdiction. No review of the order of the Hon'ble Commission can be made on the basis of reiteration of the submissions made in the Original Petition. Even on merits, the Petitioner is liable to pay the proportionate cost incurred towards construction of transmission line meant to feed 66 kV sub-station Chhainsa and M/s Star Wire which is line with regulations of the Hon'ble Commission. Thus, the demand raised by the Respondent no. 2 is valid and legal. The actual feeding sub-station in the instant case is 400kV Nawada and the LILO of 66kV Nawada - Fatehpur Biloch line has been executed on the specific request of the Petitioner. Hence, Petitioner is liable to pay the proportionate cost of LILO portion of the said line. Thus, the contention raised by the petitioner in this para is liable to be rejected.
- s) In view of the foregoing, it is prayed that the review application filed by the petitioner shall be dismissed summarily with exemplary costs.

### **3) Proceedings**

- 3.1. The Hearing in the matter was held on 9/9/2019, as scheduled. The representative of the Review Petitioner, Sh. R.K. Jain briefed his case to the Commission.
- 3.2. The Ld. Counsel Smt. Sonia Madan appeared on behalf of the respondents and submitted reply. The Ld. Counsel submitted that no valid ground has been cited by the Petitioner for exercise of review jurisdiction and accordingly, the Review Petition ought to be rejected.

### **4) Commissions Analysis and Order**

- 4.1. Having heard both the parties and examining the record submitted by them, the Commission observes that as per Regulation 57 (1) of *Haryana Electricity Regulatory Commission (Conduct of Business) Regulations, 2019* all relevant provisions relating to review of the decisions, directions and orders as provided in the Code of Civil Procedure 1908, shall apply for review of the decisions, directions and Order of the Commission, as follows:

*“Review of the decisions, directions, and orders*

*57 (1) All relevant provisions relating to review of the decisions, directions and orders as provided in the Code of Civil Procedure 1908, as amended from time to time, shall apply mutatis mutandi for review of the decisions, directions and order of the Commission.”*

- 4.2. The Commission observes that as per Order XLVII – Review as mandated under Code of Civil Procedure 1908 is as follows:

*“ORDER XLVII-REVIEW*

*1 . **Application for review of judgment**— (1) Any person considering himself aggrieved—*

- (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,*
- (b) by a decree or order from which no appeal is allowed, or*
- (c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record of for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.”*

- 4.3. During the hearing held on 19/09/2019, while presenting the case to the Commission, review petitioner could not establish any ground i.e., discovery of new and important matter/evidence which could not be produced at the time when the Order was passed or “error apparent” or “some mistake” and “sufficient reasons”, as mandated in Code of Civil Procedure 1908 for review of the Commission’s Order dated 22/04/2019.

- 4.4. After the examination of the Review Petition and reply of the Respondents, the Commission agrees with the Respondents that there has been reiteration of the submissions in the Review Petition which were made in the Original Petition. The reply of the Respondents is not reproduced here for the sake of

brevity. Further, the Review Petitioner has submitted additional documents with the instant Petition.

4.5. From the foregoing analysis, the Commission is of the view that Review Petition is untenable and is rejected.

4.6. However, based on the submission made by Sh. R.K. Jain on the date of hearing dated 09/09/2019, the Commission feels that it would not be fair to hold the counsel of the petitioner responsible for mis-representation of facts. Therefore, the Commission decides to omit the para 6.17 of the Order dated 22/04/2019 which is as under.

*“6.17 Further, the Commission observes that the role of the Ld. representative appearing on behalf of the Petitioner has not been fair. It was incumbent upon him to correctly represent the facts and to disclose all material aspects. However, he did not perform his role before the Commission and instead actively involved himself along-with the Petitioner to conceal vital information from being shared especially w.r.t. the undertaking provided by the Petitioner. He went even to the extent of specifically denial to the pointed-out query raised by the Commission. The Petitioner as well as the learned representative of the Petitioner is advised to exercise complete fairness in the proceedings before the Commission.”*

This Order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 13/09/2019.

<b>Date: 13.09.2019</b>	<b>(Naresh Sardana)</b>	<b>(Pravindra Singh)</b>	<b>(D.S. Dhesi)</b>
<b>Place: Panchkula</b>	<b>Member</b>	<b>Member</b>	<b>Chairman</b>