

BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION

AT PANCHKULA

Case Nos. HERC/RA-18 of 2019

Date of Hearing: 11.09.2019

Date of Order : 22.10.2019

In the matter of

Petition under Section 94 of the Electricity Act 2003 read with Regulation 57 (1) and (2) of the Haryana Electricity Regulatory Commission (Conduct of Business) Regulations, 2019, as amended from time to time, for review of Haryana Electricity Regulatory Commission Tariff Order dated 07.03.2019 for True-Up for FY 2017-18, Annual (Mid-Year) Performance Review for FY 2018-19, Aggregate Revenue Requirement of UHBVNL and DHBVNL and Distribution & Retail Supply Tariff for the FY 2019-20.

Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL), Panchkula

& Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL), Hisar

Petitioners

Quorum

Shri D.S. Dhesi,

Chairman

Shri Pravindra Singh Chauhan,

Member

Shri Naresh Sardana,

Member

ORDER

Brief background of the Case

1. The Commission, in exercise of the powers vested in it under section 62 of the Electricity Act, 2003 read with section 11 of the Haryana Electricity Reforms Act, 1997 and all other enabling provisions in this behalf, had passed the Order dated 07th March, 2019, determining the true-up of the ARR for the FY 2017-18, Annual (Mid-year) Performance Review for the FY 2018-19 and Aggregate Revenue Requirements / Tariffs of UHBVNL and DHBVNL for their Distribution and Retail Supply Business under MYT framework for the FY 2019-20 in accordance with the provisions of 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.
2. UHBVNL, the distribution licensee, vide memo no. Ch.16/SE/RA/N/F-25/Vol-74 dated 15.07.2019, has filed the present petition seeking review of the said Order passed by the Commission on certain issues as under:-
 - i) To revise the ARR of UHBVN for FY 2016-17 considering the Administrative & General (A&G) expenses of UHBVN for FY 2016-17 approved in HERC Order dated 22.02.2019.
 - ii) To allow revision in AP Sales of DHBVN and AP Subsidy for FY 2016-17 thereto.

- iii) To revise Administrative and General Expenses of UHBVN for FY 2017-18, on the basis of expenses approved for FY 2016-17.
- iv) To allow Bad and Doubtful Debt to UHBVN for FY 2017-18 to the extent permissible in MYT Regulation 2012.
- v) Return on Equity for FY 2017-18 of UHBVN.
- vi) To revise the Interest on Working Capital on the basis of revision proposed in ARR of UHBVN for FY 2017-18.
- vii) To allow the actual interest on working capital loan proposed by UHBVN for FY 2017-18.
- viii) To allow the Interest on UDAY Bonds in ARR of FY 2017-18.
- ix) To allow the carrying cost for 1 year on Revenue Gap of FY 2016-17 while carrying out the true for FY 2017-18.
- x) To revise AP Subsidy and Revenue Gap in accordance to the revision submitted for review in ARR of FY 2017-18.
- xi) To allow revision in Employee and Administrative & General Expenses for FY 2019-20, in accordance to the approved expenses for FY 2017-18 and indexation worked out on the basis of available value of APR year.
- xii) Addition of Guarantee Fees allowed to UHBVN in the ARR of FY 2019-20.
- xiii) To revise the Interest on Working Capital on the basis of revision proposed in ARR of UHBVN for FY 2019-20.
- xiv) To allow the interest on UDAY Bonds for FY 2019-20.
- xv) To allow carrying cost for 2 years on Revenue gap of FY 2017-18.
- xvi) To revise Revenue Gap in accordance to the revision submitted for review in ARR of FY 2019-20.
- xvii) To revise the Cross-Subsidy Surcharge for FY 2019-20.
- xviii) To allow Additional Surcharge for FY 2019-20 in line to the approach followed in previous orders.
- xix) To allow Minimum Monthly Charges (MMC) for Streetlight for FY 2019-20.
- xx) To withdraw the direction of charging twice tariff on the Consumer for failing in replacement of Dead/defective Meter within one month.
- xxi) To allow Power Procurement from Pragati Gas Power Plant, Bawana for FY 2019-20.
- xxii) To adjust the energy availability from WYC Kakroi for working out RPO for FY 2019-20.
- xxiii) To allow the procurement of power from solar generating sources under short term agreement to comply the shortfall in Solar RPO for FY 2016-17.
- xxiv) To withdraw the direction of installation of Rooftop Solar Generation beyond sanctioned load.

3. **Commission's Analysis & Order**

In Order to examine the scope of review jurisdiction, the Commission has perused the provision of Regulation 57 & 58 of the HERC (Conduct of Business) Regulations, 2019, which empowers the Commission to exercise review jurisdiction. The relevant regulation is reproduced below:-

“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.

Provided that the Commission may on the application of any party or person concerned, filed within a period of 45 days of the receipt 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.

58 The Commission may on its own motion or on the application of any party correct any clerical or arithmetical errors in any order passed by the Commission.”

Further, the Commission has also perused the judgment of Hon'ble Delhi High Court in Aizaz Alam Versus Union of India & Others (2006 (130) DLT 63: 2006(5) AD (Delhi) 297. The relevant extract from the aforesaid judgment is reproduced below:-

“We may also gainfully extract the following passage from the decision of the Supreme Court in Meera Bhanja V. Nirmala Kumari Choudhury, where the Court, while dealing with the scope of review, has observed:

The review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47, Rule 1, CPC. The review petition has to be entertained on the ground of error apparent on the face of record and not on any other ground (emphasis added). An error apparent on the face of record must be such an error which must strike one on mere looking at the record and would not require any long drawn process of reasoning on points where there may conceivable be two opinions. The limitation of powers of courts under Order 47 Rule 1, CPC is similar to the jurisdiction available to the High Court while seeking review of the Orders under Article 226.

Applying the above principles to the present review petition, there is no gainsaying that the review of the Order passed by this Court cannot be sought on the basis of what was never urged or argued before the Court (emphasis added). The review must remain confined to finding out whether there is any apparent error on the face of the record. As observed by the Supreme Court in Lily Thomas and Ors.V Union of India & Ors., the power of review can be used to correct a mistake but not to substitute one view for another (emphasis added). That explains the reason why Krishna Iyer, j. described a prayer for review as “asking for the moon” M/s Northern India Caterers (India) Ltd. V. Lt. Governor of Delhi”.

4. The Commission has examined the review sought, issue wise, by the petitioner on including maintainability tested on the anvil of the aforesaid Regulations / Case Laws as under:-

(A) True- up of ARR of FY 2017-18.

- i) To revise the ARR of UHBVN for FY 2016-17 considering the Administrative & General (A&G) expenses of UHBVN for FY 2016-17 approved in HERC Order dated 22.02.2019.**

UHBVNL has submitted that in the Order dated 22.02.2019, the Commission has revised Administrative & General (A&G) expenses of UHBVN for FY 2016-17 at Rs 96.41 Crores against the amount of Rs 77.89 Crores allowed in Tariff Order dated 15.11.2018 and that the Commission in Tariff Order dated 07.03.2019 has not considered the revised amount of Rs. 96.41 Crores. Hence, the ARR of UHBVN for FY 2016-17 may be accordingly corrected and considered at Rs 10906.04 Crores instead of Rs 10887.52 Crores and the Revenue Gap for FY 2016-17 may be revised accordingly.

The Commission has examined the relevant portion of the order dated 22.2.2019 and observes that an inadvertent typographical error appears to have crept in the said order with regard to the words “as proposed” which should be “as per HERC MYT Regulations”. Further, the Commission has also redetermined the revenue gap for the FY 2016-17 and increased it to Rs. 925.53 crore in place of Rs. 406.86 crores in light of the additional cost allowed as part of its Order dated 22.02.2019 after appropriate review of Order dated 15.11.2018. In case the petitioner was aggrieved by HERC Order in the review petition RA – 1 of 2019, it was required to proceed in an appropriate manner and within the prescribed time frame, either by approaching this Commission or filing an appeal, which apparently is not the case. It may be noted that the instant petition has been filed seeking review of HERC Order dated 07.03.2019, in PRO 52 of 2018 and PRO 53 of 2018, and only those issues are required to be considered in the instant review petition, for which cause arises from HERC Order dated 07.03.2019.

The Commission, accordingly, declines any review of Order dated 22.02.2019 on the above-mentioned ground on account of lack of review jurisdiction.

- ii) To allow revision in AP Sales of DHBVN and AP Subsidy for FY 2016-17.**

UHBVNL submitted that the Commission in Tariff Order dated 15.11.2018 has calculated AP sales of DHBVN for FY 2016-17 as 4962.25 MU. However, while working out the same, an inadvertent error was observed regarding adjustment of AP sales on other feeders (i.e. 129.59 MU) and other category consumption on AP Feeders (i.e. 93.05 MU) with AP consumption recorded on the segregated AP Feeders (i.e. 5950.71 MU), which as per the methodology approved by Commission for calculating AP sales works out to 5035.14 MU for DHBVN in FY 2016-17. Therefore, it has been requested to revise the AP sales of DHBVN and accordingly allow the AP Subsidy for FY 2016-17.

The Commission observes that the Petitioner has sought review of the Order dated 15.11.2018 pertaining to the true-up of the FY 2016-17 in the instant review petition filed against the Order dated 07.03.2019, which is not maintainable and is rejected being outside the scope of review jurisdiction.

iii) To revise Administrative and General Expenses of UHBVN for FY 2017-18, on the basis of expenses approved for FY 2016-17.

UHBVNL has submitted that the Commission in Tariff Order dated 07.03.2019, has considered the approved O&M Expenses of FY 2016-17 to approve the admissible Employee and A&G expenses for FY 2017-18. However, it shall be noted that A&G expenses for FY 2016-17 has been revised from Rs 77.89 Crores to Rs 96.41 Crores as per the Order dated 22.02.2019. Therefore, in consideration to the revision in A&G expenses of FY 2016-17 and indexation factor (i.e. 3.04%) allowed in Tariff Order dated 07.03.2019, the approved A&G expenses for FY 2017-18 will also get revised. Thus, on the basis of above, the A&G expenses for FY 2017-18 works out to Rs 99.34 Crores against Rs 80.26 Cores allowed in Tariff Order dated 07.03.2019. Further, it is important to mention here that the actual A&G expenses for FY 2017-18 is proposed as Rs 92.97 Crores, which is less than A&G expenses of Rs 99.34 Crores projected on normative basis. Therefore, it is requested that the Commission may kindly allow the A&G expenses at Rs 92.97 Crores to UHBVN for FY 2017-18.

The Commission has examined the submissions of the Petitioner and observes that A&G Expenses for the FY 2016-17 were approved in accordance with the relevant provisions of the HERC MYT Regulations. The additional expenses incurred by the licensee in FY 2016-17 over and above the normative expenses are in the nature of onetime expenses only and are not expected to have a recurring impact in future years. Accordingly, in the absence of any specific justification for additional expenditure, over and above the normative expenses for the FY 2017-18 that is to be allowed in accordance with the MYT Regulations, the Commission is unable to grant any relaxation to allow recovery of such excess expenditure from consumers of the State. Therefore, the review sought on this issue is rejected as being devoid of merit.

iv) To allow Bad and Doubtful Debt to UHBVN for FY 2017-18 to the extent permissible in MYT Regulation 2012.

UHBVNL has submitted that the Commission in Tariff Order dated 07.03.2019, has disallowed the Other Expenses Rs. 261.89 Crores of UHBVN for FY 2017-18, on account of Sundry Debit Balances Written Off. UHBVNL further submitted that due to reconciliation of sundry debtors, Rs 261.89 Crores were written off and considered as Bad Debt for FY 2017-18. Regulation 64 of HERC MYT Regulation 2012, provides as under:-

“64. BAD AND DOUBTFUL DEBTS Bad and doubtful debts shall be allowed to the extent the distribution licensee has actually written off bad debts subject to a maximum of 0.5% of sales revenue. However, this shall be allowed only if the distribution licensee submits all relevant data and information to the satisfaction of the Commission. In case there is any recovery of bad debts already written off, the recovered bad debts will be treated as other income.”

In view of the above, UHBVNL requested that Bad and Doubtful Debt Rs 41.53 Crores, equivalent to 0.5% of sales revenue (Rs 8367.27 Crores approved for FY 2017-18 in Tariff Order dated 07.03.2019) in the ARR of UHBVN for FY 2017-18, may be allowed.

The Commission has examined the submissions of the Petitioner and observes that the Regulation clause no. 64 of the MYT Regulations, quoted by the Petitioner, specifically provides that the same can be allowed only if (emphasis provided) the distribution licensee submits all relevant data and information to the satisfaction of the Commission. The Petitioner in its petition no. HERC/PRO-52 of 2018 had submitted that the reconciliation of the sundry debit balances was done in FY 2017-18 due to which there is an abnormal increase in sundry debit write off. The Commission observes that bad debts of energy bills can only be allowed under Regulation 64 mentioned above, whereas sundry debit written off can be on several accounts e.g. unreconciled advances, amount recoverable from consumers on account of energy bills or delayed payment surcharge or any other matter. The Commission notes with concern that no details regarding nature of bad debts written off or efforts made by the licensee towards recovery of these bad debts was provided. It may be noted that the bad debts may have included many recoverable e.g. delayed payment surcharges etc. which are not required to be passed on to the consumer simply because they do not form part of revenue or non-tariff income. Thus, while submitting its application for writing off bad debts, the licensee did not comply with the requirements as per the relevant regulation. It is observed that, even now, no such details form part of the review application. The Commission, in the absence of adequate information on the composition of bad debts and efforts made by the licensee to collect the same, is unable to take any view on the genuineness of the claim. Hence, the review sought on this issue is rejected as being devoid of merit.

v) Return on Equity for FY 2017-18 of UHBVNL.

UHBVNL has submitted that the Commission in Tariff Order dated 07.03.2019, has approved Return on Equity Rs. 176.77 Crores for UHBVN in FY 2017-18. Wherein, the Opening Equity eligible for RoE is determined by deduction of the share capital of asset not put to use, which has been calculated by the Commission at 20% of closing CWIP instead of Opening CWIP.

The Commission has examined the submissions of the Petitioner and find merits in the same. Accordingly, the Return on Equity for the FY 2017-18 is allowed to be revised from Rs. 176.77 Crore in the impugned Order to Rs. 177.58 Crore.

vi) To revise the Interest on Working Capital on the basis of revision proposed in ARR of UHBVN for FY 2017-18.

UHBVNL has submitted that the Commission may kindly allow the interest on working capital in accordance to the revision proposed in ARR of UHBVN for FY 2017-18 at Rs 113.59 Crores as a consequential benefit.

The Commission observes that the only revision admitted in the present review petition is regarding Return of Equity, which has been revised from Rs. 176.77 Crore in the impugned Order to Rs. 177.58 Crore. The impact of the same is not material on the working capital and the same does not warrant recalculation of interest on working

capital allowed in the true-up for the FY 2017-18. Therefore, the review sought on this issue is rejected as being devoid of merit.

vii) **To allow the actual interest on working capital loan proposed by DHBVN for FY 2017-18 and**

viii) **To allow the Interest on UDAY Bonds in ARR of FY 2017-18.**

The Petitioner has submitted that the Commission, in Tariff Order dated 07.03.2019, has not allowed the actual interest cost to DHBVN on working capital borrowings of FY 2017-18. The actual interest cost allowed to DHBVN amounts to Rs 88.28 Cores against the proposal of Rs 163.08 Crore submitted in True Up Petition of FY 2017-18. The Petitioner has submitted that the interest cost paid toward the working capital borrowings from HVPNL and DHBVN bonds amounts to Rs 58.84 Cores and 15.96 Cores respectively, has not considered by the Commission for DHBVN in FY 2017-18. Accordingly, it has requested to allow the interest on working capital loan amounting to Rs 163.08 Crores to DHBVNL for FY 2017-18, against the actual interest cost on working capital amounting to Rs 643.41 Cores.

The Petitioner further submitted that the Commission in Tariff Order dated 07.03.2019 has allowed normative interest cost on working capital and admitted that interest cost on UDAY bonds is Rs. 1044.33 Crores for both Discoms for FY 2017-18, and further directed to meet the interest cost through Operational Funding Requirement (OFR) provided under UDAY.

As per Clause no. 1.3(b) of UDAY MoU, interest cost on the outstanding loan (loans taken over under UDAY scheme but pending conversion to grant) has to be paid by the Discoms in each financial year at the rate at which Government of Haryana issued non-SLR bonds. The relevant excerpts from the UDAY MoU is as below: -

“1.3 (b) The DISCOMs shall pay interest to the Government of Haryana on the outstanding Government of Haryana loan (loans taken over under the UDAY scheme but pending conversion to grant) in a financial year at the rate at which Government of Haryana issued non- SLR bonds.”

Therefore, due to the manner of loan takeover by the Govt. under the UDAY Scheme, Discoms are bound to bear the interest cost on the balance loan amount yet to be taken over by the State Govt., which is an unavoidable expense. Hence the interest liability pertaining to the UDAY Bonds is required to be allowed in totality in the ARR of FY 2017-18.

The Commission has examined the submissions of the Petitioner and observes that interest on working capital has been allowed to DHBVNL in the impugned order, in accordance with the provisions of MYT Regulations, 2012 and no contravention of the said applicable regulation has been pointed out by the licensee in the matter. Further, the issue of disallowance of interest on UDAY bond was part of the review petition filed by the DISCOMs in case no. RA-06 of 2017 & RA-1 of 2019, on the same grounds. The matter has already been discussed in detail in the impugned order dated 07.03.2019 as well as in the Orders dated 15.11.2018 & 14.12.2018. In this regard, the relevant extract of the Order of the Commission dated 14.12.2018 is given as under:-

“It is evident from the above discussions that the entire gamut of allowing interest on UDAY bonds was well within the knowledge of the all stakeholders including this Commission and the same was specifically dealt with in the impugned Order dated 11.07.2017. The Petitioner has not placed on record any new facts or error apparent on the face of record that may merit review on this issue. Therefore, the review sought on this issue is rejected as devoid of merit and also beyond the scope of review jurisdiction of this Commission.”

Thus, the issue has already been decided and settled by the Commission. The Petitioner has not given any additional information/justification warranting the Commission to change its earlier decision in the matter. Accordingly, the Commission is of the considered opinion that the ibid Order would apply to the instant case as well. Hence, the issues raised are rejected as being devoid of merit and also beyond the scope of review jurisdiction of the Commission.

ix) To allow carrying cost for 1 year on Revenue Gap of FY 2016-17 while carrying out the true for FY 2017-18.

It has been submitted that the Commission in Tariff Order dated 15.11.2018 had not allowed the recovery of Revenue Gap of FY 2016-17 from the ARR of FY 2018-19 and it was stated that the gap for FY 2016-17 (allowed as Rs 406.86 crores) would be met through FSA (allowed Rs 828.40 Crores) recoverable in FY 2017-18 as per HERC Order dated 03.03.2017. However, the Commission in Tariff Order dated 07.03.2019, has considered the recovery of Revenue Gap of FY 2016-17 in the ARR of FY 2017-18. Therefore, it is submitted that along with the recovery of Revenue Gap of FY 2016-17 holding cost for 1 Year need be allowed as per the APTEL Order dated 8th April 2015 on Appeal No. 215 and 211 of 2013, wherein the Hon'ble APTEL has directed that interest on revenue gap should be calculated from the mid of that year till the middle of the year in which such revenue gap is allowed to be recovered. The relevant excerpt of the ibid APTEL Order is reproduced as under:

“...the revenue gap of the past year will be recovered throughout the year in which its recovery is allowed. Therefore, the interest on revenue gap as a result of true up for a financial year should be calculated from the mid of that year till the middle of the year in which such revenue gap is allowed to be recovered.”

Therefore, in view of the above, it is submitted that carrying cost of Rs 83.08 Crores (calculated on Revenue Gap Rs 787.50 Crores for FY 2016-17 for 1 Year @ 10.55%) may be allowed by the Commission to be recovered in the ARR of FY 2017-18.

The Commission has examined the submissions of the Petitioner and observes that revenue gap of the FY 2016-17 has been worked out to Rs. 825.10 Crore, to be recovered along with the ARR for the FY 2019-20 which is in surplus of Rs. 645.97 Crore, which after offsetting revenue gap of the FY 2016-17 and FY 2017-18, resulted in net revenue surplus of Rs. 219.16 Crore only. Further, the Commission, in its order dated 15.11.2018, on the issue of recovery of revenue gap, had observed as below:

“The Commission observes that the actual recovery during the FY 2016-17 has been higher than that estimated by the licensees and therefore the net revenue gap after the true up at Rs 406.86 crores is much less than the amount of true up of power purchase cost and also Rs. 828.40 crores assumed to be unrecovered as on 31.3.2017 vide Order dated 03.03.2017. The Commission, therefore, is not allowing the recovery of revenue gap for the FY 2016-17 from the ARR of the FY 2018-19, assuming that the gap would have been recovered as part of FSA. The DISCOMS are directed to reconcile the recovery figures.”

Though the revenue gap for the FY 2016-17 was revised consequent to the Order dated 22.03.2019, the resultant amount at Rs. 825.10 crores was still lower than the amount recoverable from FSA, including holding cost amounting to Rs. 828.40 crores. The Commission in its order dated 22.03.2019 had directed the distribution licensees to examine and submit details of recovery of FSA in order to ensure that the holding cost is not recovered more than once. The Discoms were also directed to reconcile the recovery figures and the FSA for the FY 2017-18 and the FY 2018-19 and submit the same to the Commission within one month of the Order. The Commission observes that the petitioner has failed to provide details in this regard. In view of the fact that the unrecovered FSA as on 31.3.2017, to be recovered in 2017-18 in accordance with Order dated 03.03.2017, was inclusive of holding cost, and also in view of the fact that the licensees having not provided information in compliance of the Order dated 22.03.2019, the Commission is unable to entertain any review on this account. Hence, the review sought on this issue is rejected as being devoid of merit and also beyond the scope of review jurisdiction of the Commission.

- x) **To revise AP Subsidy and Revenue Gap in accordance to the revision submitted for review in ARR of FY 2017-18.**

It has been submitted that in consideration to the issues submitted for review, the total ARR for FY 2017-18 will also get revised against the approved amount in Tariff Order dated 07.03.2019. Further, in consideration to the same the Average Cost of Supply will also increase, resulting in revision of the AP Subsidy allowed for FY 2017-18. Hence, in view of the above, the approved revenue gap for FY 2017-18 will also get revised from Rs. 865.53 Crores to Rs. 1789.55 Crores.

The Commission observes that the only review admitted in the present review petition is regarding Return of Equity, which has been revised from Rs. 176.77 Crore in the impugned Order to Rs. 177.58 Crore. As a result, the net revenue gap for the FY 2017-18 to be recovered along with ARR for the FY 2019-20 has increased from Rs. 865.12 Crore to Rs. 865.93 Crore. As previously noted, this increase has no material impact on the average cost of supply and therefore does not warrant revision in AP subsidy allowed for FY 2017-18.

- B) **Aggregate Revenue Requirement of FY 2019-20.**
- i) **To allow revision in Employee and Administrative & General Expenses for FY 2019-20, in accordance to the approved expenses for FY 2017-18 and indexation worked out on the basis of available value of APR year.**

It has been submitted that the Commission in Tariff Order dated 07.03.2019, has estimated the employee and A&G expenses for FY 2019-20 by considering the approved cost and indexation factor for FY 2017-18. However, it may be noted that in the past years Tariff Orders, indexation considered for estimation purpose, has been calculated as per the Consumer Price Index (CPI) and Wholesale Price Index (WPI) value available for APR year. Moreover, as specified in MYT Regulation 2012, annual performance review is to be carried out on the basis of the actual indexation values available at the end of each year. Hence, in consideration to the HERC MYT Regulations, 2012 and approach followed in past years Tariff Order, it is submitted that the indexation factor for estimation purpose shall be allowed at 3.79% instead of 3.04% for FY 2019-20. Therefore, in view of the above the total employee and A&G expenses for UHBVN and DHBVN for FY 2019-20, works out to Rs 751.95 Crores and 1066.65 Crores respectively, which may be allowed for calculating revenue gap for FY 2019-20.

The Commission has examined the submissions of the Petitioner and observes that para 3.2.13 of the impugned order dated 07.03.2019 specifies as under:-

“The projected employee cost and A&G expenses as proposed by UHBVNL and DHBVNL for the FY 2019-20 are based on audited cost for the FY 2017-18 and escalated by indexation factor of 3.04% per annum, as against the inflation factor of 3.79% considered by DISCOMs. However, any variation in the employees cost because of either the inflation or on account of increase in DA shall be allowed to both the Discoms separately at the time of True-up.”

The Commission has considered the arguments put forth by the licensee in support of its claim and observes that at the time of impugned order, values of WPI and CPI were available for FY 2018-19 only upto September, 2018, and therefore inflation factor was calculated for the FY 2017-18. In view of the fact that these expenses are eligible for true up based on actual inflation figures for the FY 2019-20, along with holding cost, the Commission does not find it appropriate to replace one estimated cost with another. Further, there is no error apparent from the records, warranting the Commission to exercise its review jurisdiction.

ii) Addition of Guarantee Fees allowed to UHBVN in the ARR of FY 2019-20

It has been submitted that the Commission in Tariff Order dated 07.03.2019, has allowed Guarantee Fees to UHBVN amounting to Rs 26 Crores for FY 2019-20 but inadvertently the same was not added in the approved ARR. Therefore, it is requested that the Commission may kindly include the same in approved ARR of UHBVN for FY 2019-20.

The Commission has examined the submissions of the Petitioner and find merits in the same. Accordingly, the Guarantee Fee of Rs. 26 Crore is allowed to be included in the ARR of UHBVN for FY 2019-20.

iii) To revise the Interest on Working Capital on the basis of revision proposed in ARR of UHBVN for FY 2019-20 and

That the Commission, in Tariff Order dated 07.03.2019, has allowed interest on working capital for FY 2019-20 as per the provisions of HERC MYT Regulation 2012. However, based

on the review submitted on the ARR of UHBVN for FY 2019-20, the interest cost allowed for working capital will also get revised. Therefore, it is requested that the Commission may kindly revise the interest cost on working capital to Rs 92.94 Crores for FY 2019-20.

The Commission observes that the only revision admitted for FY 2019-20 in the present review petition is guarantee fee, which has resulted in upward revision of ARR by Rs. 26 crores. However, this revision is not likely to have any material impact on the working capital calculations. Further, the interest on working capital for FY 2019-20 may be revised at the time of true up and shall be allowed to be recovered along with holding cost. The review sought on this issue is, therefore, rejected as being devoid of merit.

iv) To allow the interest on UDAY Bonds for FY 2019-20

It has been submitted that the Commission in Tariff Order dated 07.03.2019 has allowed normative interest cost on working capital and admitted that interest cost on UDAY bonds is Rs. 221.53 Crores for both Discoms for FY 2019-20, and directed further the interest cost on UDAY Bonds shall be met through the Operational Funding Requirement (OFR) available under UDAY.

It is pertinent to mention here that as per Clause No. 1.3(b) of UDAY MoU, Haryana Discoms has to pay interest to the Govt. of Haryana on outstanding loan (to be taken over under UDAY but pending for conversion into grant) in each financial year at the rate at which Government of Haryana issued non-SLR bonds.

Therefore, it is quite evident that in the manner the outstanding loan under UDAY has been taken over by the Govt., Discoms are bound to bear the interest cost on the balance loan amount, which is an unavoidable expense. Hence the interest liability pertaining to the UDAY Bonds is required to be allowed in totality by the Commission in the ARR of FY 2019-20.

The Commission has considered the above submissions and observes that the issue has already been dealt with earlier in this order at para A(viii), and the Petitioner has not given any additional information/justification warranting the Commission to change its earlier decision in the matter. Accordingly, the Commission is of the considered view that the ibid Order would apply to the instant case as well. Hence, the issues raised are rejected as being devoid of merit and also beyond the scope of review jurisdiction of the Commission.

v) To allow carrying cost for 2 years on Revenue gap of FY 2017-18.

That the Commission in Tariff Order dated 07.03.2019, has allowed carrying cost on the revenue gap of FY 2017-18 for 1.5 years @ 9.50%. However, as per the APTEL Order dated 08.04.2015 in Appeal No. 215 and 211 of 2013 in case Reliance Industries Pvt. Ltd Vs Maharashtra Electricity Regulatory Commission, directed that interest on revenue gap resulted due to true up for a financial year should be calculated from mid of true up year till middle of the year in which such revenue gap is allowed to be recovered. Therefore, in consideration to the same, the carrying cost on the revenue gap of True Up year (i.e. FY 2017-18) shall be allowed for 2 years. Thus, it is requested that the Commission may kindly allow the carrying cost for two

years Rs. 340.01 Crores, considering the review proposed for revision in ARR of UHBVN for FY 2017-18.

The Commission has considered the submissions and observes that the carrying cost is to be allowed under Regulation clause no. 13.3 of HERC MYT Regulations, 2012, reproduced as under:-

“13.3 The Commission shall allow carrying costs for the trued-up amount (positive or negative) at the interest rates specified in these regulations by adjusting the interest allowed on the working capital requirement for the relevant year of the control period.”

Thus, as per the HERC MYT Regulations, 2012, the true-up amount is to be included in the working capital for the relevant year and carrying cost of that particular year only is to be allowed. However, as part of HERC Order dated 07.05.2015 in PRO-62 of 2014 & PRO-63 of 2014, the Commission, keeping in mind the financial constraint faced by the Licensees, had allowed recovery of carrying cost beyond the close of the year and upto the presumed recovery of the amount i.e eighteen months. This was in addition to the adjustment of interest allowed on working capital for the FY 2013-14 in accordance with the relevant provisions of the MYT Regulations.

In doing so, the Commission was guided by the fact that revision of working capital after the close of the true up year, in accordance of the regulations, would have resulted in unnecessarily disturbing the ARR of the current year and therefore, a separate calculation of holding cost was deemed appropriate. Further, the APTEL Order cited by the Petitioner was not part of its original filing of Petition No. HERC/PRO-52 & 53 of 2018, though the judgement has been passed earlier to the filing of the petition. It may be noted that ARR for FY 2018-19 was determined vide Order dated 15.11.2018, with Revenue Surplus of Rs. 306.39 Crore. Thus, the Revenue Gap for the FY 2017-18 should have been adjusted against the surplus of the FY 2018-19. Therefore, in the considered view of the Commission, the review sought on this issue is not maintainable, being devoid of merit.

vi) To revise Revenue Gap in accordance to the revision submitted for review in ARR of FY 2019-20

That in consideration to the review proposed above, the total ARR of FY2019-20 will get revised. Therefore, it has been requested that the Commission may allow Rs 1774.42 Crores as Revenue Gap for FY 2019-20.

The Commission observes that the only revisions admitted in the present review petition for the FY 2019-20 is regarding Guarantee Fee amounting to Rs. 26 crore and the Return of Equity for the FY 2017-18, which has been revised from Rs. 176.77 Crore in the impugned Order to Rs. 177.58 Crore. Accordingly, net revenue gap for the FY 2019-20 has been re-casted as under:-

Total ARR for FY 2019-20	Revenue gap at current tariff (Rs. Crore)
Net Revenue Gap for the FY 2019-20, as per impugned order dated 07.03.2019	346.98
Add: Expenses allowed Allowance in the present petition	

Total ARR for FY 2019-20	Revenue gap at current tariff (Rs. Crore)
Guarantee Fee for the FY 2019-20	26.00
Return on Equity for the FY 2017-18 (Rs. 177.58 Crore minus Rs. 176.77 Crore)	0.81
Revised Net Revenue Gap for the FY 2019-20	373.79

C) Open Access and Other Commercial related matters

vii) To revise the Cross-Subsidy Surcharge for FY 2019-20

The petitioner has submitted that it is not pressing for the issue. Accordingly, no opinions are expressed.

viii) To allow Additional Surcharge for FY 2019-20 in line to the approach followed in previous orders

That the Commission in Tariff Order dated 07.03.2019, has changed the methodology for working out of Additional Surcharge which is inconsistent with the approach followed in past Orders. In current methodology, fixed cost of power procurement attributable to industrial consumers which remained unrecovered from the recovery of fixed charges has been considered for working out of Additional Surcharge, however in the past order the fixed cost of surrendered power, stranded due to open access consumers was considered for working out of the same. Further, the fixed cost of power procurement attributable to industrial consumers has been worked out by considering the estimated sales and per unit fixed cost of power procurement. Whereby the recovery of fixed charges from the industrial consumers, restricted to the proportion of power purchase with total ARR to determine the unrecovered fixed cost for working out of Additional surcharge.

Furthermore, it is pertinent to mention here that the Commission in current Tariff Order, has view on the objections filed by the interveners, on page no 145, that determination of Additional Surcharge is not dependent on the projected sales. However, for working out of Additional Surcharge in current tariff order, the Commission has erroneously considered the estimated energy sales for determination of fixed cost of power procurement attributable to industrial consumers, which is in contradiction to the view reckoned by the Commission.

Moreover, on page no. 150 of Tariff Order, the Commission has asserted that Additional Surcharge has been worked out on the basis of fixed cost of stranded power, surrendered due to energy drawn by consumers under Open Access. Besides, the same approach has been followed in past years and the approach is in line to Section 42 of the Electricity Act and Clause 8.5.4 of the National Tariff Policy. The relevant expert is reproduced as under:

“The Commission has taken note of the ibid objections / comments and observes that the Commission in the past Orders has been working out the additional surcharge based on the fixed cost of power that has to surrendered by the Discoms on account of energy drawl by the consumers through open access. This is in line with the provision as in section 42 of Electricity Act, 2003 as also in line with clause 8.5.4 of the National Tariff Policy. The same methodology has been followed while calculating additional surcharge in the present Order”.

Even after the same, Additional Surcharge has not been worked out in the way as were viewed by the Commission. The Petitioner has further submitted that since the proposal for

working out of Additional Surcharge submitted in ARR Petition for FY 2019-20, conform to the view of the Commission and approach followed in past Orders, thus the same shall be the considered to allowing Additional Surcharge for FY 2019-20.

Additional surcharge, worked out after considering the methodology adopted by the Commission in past Order is tabulated as under:

Particulars	Units	Amount
Total Units of Power in MUs to be considered for Additional Surcharge	MU	177.63
Effective Approved Fixed Cost considered for the purpose of Evaluating Additional Surcharge	Rs/ Unit	1.21
Total Additional Surcharge for H1 of FY 2018-19	Rs Million	214.93
Estimated Open Access Units	MU	184.74
Additional Surcharge to be applicable on OA Consumers in H1 of FY 2019-20	Rs/ Unit	1.16

Nevertheless, if the approach for working out Additional Surcharge in present Tariff Order may be followed, even then the per unit fixed cost of power procurement will revise, as the same is to calculated on total projected sales, in order to account the overall impact of system losses. Subsequently, the same is used further to work out the fixed cost of power procurement attributable to the industrial consumers. Moreover, the recovery of fixed charges from industrial consumers may also get revised due to change in percentage of power purchase cost with ARR due to the revision submitted above. Hence, in accordance to above the applicable Additional Surcharge FY 2019-20 worked out to be 95 Paise/kWh against 44 Paise/kWh approved in the present Tariff Order.

However, the Petitioner has requested to review the Additional Surcharge determined as per the new methodology in present Tariff Order.

The Commission has considered the submissions of the licensee and observes that a separate petition PRO 40 of 2019 has been filed by the same petitioners for determination of “additional surcharge” and is under consideration of this Commission. However, the Commission at this juncture is also constrained to note that there was a change in the methodology of determination of Additional Surcharge by this Commission without detailed deliberations on the same with various stakeholders. The Additional surcharge determined in the impugned order dated 07.03.2019 is Rs. 0.44/kWh. Whereas, as per the approach followed in the past orders of the Commission, the Additional Surcharge is calculated at Rs. 1.16/kWh, as under:-

Months	MW	MU	OA (MW)	OA (MU)	
	A= Lower of Open Access and Backing down	B= A converted into MU	C= Open Access	D= C converted into MU	
April	9.55	6.87	9.64	6.94	
May	12.12	9.02	12.41	9.24	
June	41.44	29.84	49.16	35.40	
July	71.44	53.15	72.75	54.13	
August	71.21	52.98	71.61	53.28	
September	35.78	25.76	35.78	25.76	
Total	241.55	177.63	251.35	184.74	
Monthly Average	40.26	29.60	41.89	30.79	
Quantum considered for Addl. Surcharge (lower of the power backed down/surrendered and open access power)				MU	29.60

Months	MW	MU	OA (MW)	OA (MU)	
	A= Lower of Open Access and Backing down	B= converted into MU	C= Open Access	D= C converted into MU	
Per Unit Fixed Cost of Power Purchase for the FY 2019-20				Rs/kWh	1.21
Avg. Additional Surcharge for the FY 2019-20				Rs. Millions	35.82
Monthly Open Access Power				MU	30.79
Additional Surcharge (rounded off)				Rs/kWh	1.16

The Commission is also of the considered view that it will be difficult to recover the Additional Surcharge with retrospective effect after the determination of same upon the decision of Petition No. HERC/PRO-40 of 2019, after holding detailed discussions with various stakeholders. Therefore, in order to restore the original position, the Commission decides that the Additional Surcharge shall be applicable as determined according to the methodology adopted by the Commission in its earlier orders i.e. at Rs. 1.16/Kwh, from the date of this Order, which shall be applicable till the Petition No. HERC/PRO-40 of 2019 filed by DISCOMs for determination of Additional Surcharge is decided.

ix) To allow Minimum Monthly Charges (MMC) for Streetlight for FY 2019-20

That the Petitioner has submitted that the Commission in current Tariff Order has not specified the MMC charges for Streetlight category for FY 2019-20. The Commission even in last the Tariff Order dated 15.11.2018 has not specified MMC charge for Streetlight Category. However, later in Order dated 22.02.2019, the Commission has admitted that there are no changes in the applicable tariff, including MMC charges for the Streetlight category and the same is in line with the proposal submitted by the Petitioner. Thus, in light of the above, there appears to be some typographical error in specifying the MMC charges for Streetlight Category. Hence, in line to the directions given in Order dated 22.02.2019, it is requested that the Commission may kindly allow MMC Charges for Street light Category.

The Commission has examined the submissions of the Petitioner and find merits in the same. As there are no fixed charges in case of Streetlight, MMC has to be provided in the Tariff approved for the Streetlight and the same appears to have been missed out inadvertently, as also expressed in HERC Order dated 22.02.2019. Accordingly, MMC for Street Light Category shall be retained at Rs. 180/KW. This being an inadvertent error, the charges shall be applicable from 01.05.2019.

x) To withdraw the direction of charging twice tariff on the Consumer for failing in replacement of Dead/defective Meter within one month.

The Commission in the current Tariff Order has directed that dead/defective meters shall be replaced within one month, either by the Discoms or by the concerned consumer, failure to which the consumer shall be liable to pay twice of the normal tariff. UHBVNL has submitted that as per CEA Installation and Operation of Meters Regulations 2006, the obligation to maintain a correct meter at consumer premises is the responsibility of Licensee itself. However, the consumer may opt to purchase his own meter, whereas “the meter purchased by the consumer shall be tested, installed and sealed by the Licensee itself”. Further, it may be noted that in

case the meter gets defective, the responsibility to replace the same is again of the Licensee. The consumer cannot be allowed to replace his own defective meter. Hence, the direction given by the Commission in current tariff order is not in accordance with the CEA Installation and Operation of Meters Regulations. The relevant extract from the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 is reproduced as under: -

“15. Meter failure or discrepancies

(2) Consumer meters

In case the consumer reports to the licensee about consumer meter readings not commensurate with his consumption of electricity, stoppage of meter, damage to the seal, burning or damage of the meter, the licensee shall take necessary steps as per the procedures given in the Electricity Supply Code of the Appropriate Commission read with the notified conditions of supply of electricity.”

In view of the above, the Petitioner has prayed to withdraw the directive given for charging twice tariff to the consumer for failure in replace of defective/dead meters.

The Commission observes that the following direction was issued in the impugned order dated 7/03/2019:-

“3.8 Non-replacement of defective energy meters by the distribution licensees

The Commission is of the firm view and also as per the mandate of the Act that no power ought to be supplied without accurate meter. Hence, in urban areas the effort should be to install smart meters -and the normal meters (in healthy condition) may be installed in the rural areas. The dead /defective meters shall be installed within a month. In case the Discoms fails to do so the Consumer concerned shall do so. However, in case the consumer fails to replace the dead / defective meter after expiry of one month, the consumer shall be liable to pay twice the normal tariff of the category that the consumer falls in.”

The Commission has considered the submission of DISCOMs that as per CEA (Installation and Operation of Meters), Regulations, 2006, a consumer cannot change replace defective meter on his own and it is the duty of the DISCOM to replace defective meter. Accordingly, the said directive is modified to read as under:

"3.8 Non replacement of defective energy meters by the distribution licensees:

The Commission is of the firm view and also as per the mandate of the Act that no power ought to be supplied without-accurate meter. Hence, in urban areas, the effort should be to install smart meters and the normal meters (in healthy condition) maybe installed in the rural areas. The DISCOMs are directed to strictly adhere to the timelines and billing procedure stipulated in The Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 for replacement of defective/sticky/dead stop/burnt meter.”

D) Power Purchase and other related matters

xi) To allow Power Procurement from Pragati Gas Power Plant, Bawana for FY 2019-20

The Petitioner has submitted that the Commission in the Tariff Order dated 07.03.2019, has not allowed power procurement from Pragati Power Plant for FY 2019-20 specifying that PPA of the same has also not been approved by the Commission. However, the Commission in

Order dated 15.03.2018 on Case No. HERC/PRO-12 of 2017, has given ex-post facto approval on PPA and admitted that the PPA signed with Pragati Power cannot be unilaterally terminated by the Haryana, as the same do not have any early exit clause. Further, in Review Order dated 22.02.2019, the Commission has admitted that statement regarding non approval of PPA with Pragati Gas Power Plant mentioned in Tariff Order dated 15.11.2018 was a typographical error, however, if any power being schedule from such generating source then the same can be claimed in True Up Petition. Thus, in view of the above, statement given in present Tariff Order regarding non approval of PPA with Pragati Power, appears to be a typographical error and hence it is requested that the energy purchased from Pragati Gas Plant may be considered in power purchase cost at the time of truing up.

The Commission has examined the submissions of the Petitioner and observes that there appears to be prima-facie error in the write up in the impugned order as the fixed cost has been approved by the Commission in its order. However, variable cost and quantum has not been considered, considering the remote possibility of inclusion of such power in the merit order despatches. In case any power is scheduled from the source, the DISCOMs may claim the same in its True-up petition.

xii) To adjust the energy availability from WYC Kakroi for working out RPO for FY 2019-20

The Petitioner has submitted that the Commission has calculated RPO for FY 2019-20, by considering the net energy consumption for Haryana Discoms. The same has been worked out by netting off the energy available at state periphery with intrastate transmission losses and power purchased from Renewable and Hydro generating sources during the year. However, the energy available from the WYC Kakroi has not been deducted while calculating the energy consumption of Haryana Discoms for FY 2019-20. Therefore, it is submitted that the Commission may consider the energy available from WYC Kakroi for calculating the RPO for FY 2019-20.

The Commission has examined the submissions of the Petitioner and finds merit in the same. The Commission observes that the total quantum of 17288 Mus approved to be sourced from HPGCL, includes 235 Mus from WYC Kakroi, which may be excluded while calculating energy consumption for FY 2019-20. Accordingly, the revised RPO approved for the FY 2019-20 is as under:-

Energy Consumption for 2019-20 (MU)	%age of Non solar RPO of energy Consumption	Non solar RPO (MU)	Solar RPO as %age of energy sales	Solar RPO (MU)	Total renewable energy required to be purchased (MU)
39303.18*	5.50%	2161.67	3.00%	1179.10	3340.77

xiii) To allow the procurement of power from solar generating sources under short term agreement to comply the shortfall in Solar RPO for FY 2016-17.

The Petitioner has submitted that the Commission in current Tariff Order has directed that 50% of shortfall in meeting Solar RPO for FY 2016-17 shall be met through the REC purchase. In this regard it is submitted that as there is no physical delivery of energy in REC purchase, not only the power purchase cost of Discoms will get burdened but also the consumers may get effected by the ways of increase in applicable tariff. Further Discoms are

making earnest efforts to meet the shortfall of Solar RPO and are trying to tie up the solar generating plants under short term agreements. Discoms has been actively participating in the DEEP portal, which is an energy trading platform maintained by Government of India, and trying to tie up solar generating sources at the competitive price lower than APPC. However, so far, the offer received from the market are not competitive enough therefore off take of energy from identified sources have not been materialised. Henceforth, in consideration to above, DISCOMs have prayed that the Commission may either allow to procure the energy from solar generating sources at the rate available in the market or may allow to carry forward the shortfall of Solar RPO in next financial year till the time the appropriate solar generating source at the price lower than APPC rate has been allocated by the DISCOMs.

The Commission has examined the submissions of the Petitioner and observes that the Commission, while deciding the petition filed by National Solar Energy Federation of India (NSEFI) and Indian Wind Power Association (IWPA) (HERC/PRO-26 of 2015, HERC/PRO-28 of 2015), in its Order dated 22.03.2018, had directed as under:-

“D. Direct Obligated Entities, i.e. Respondent 1 to Respondent 5, to comply with RPO Obligations;

The Commission has examined the compliance report filed by the Nodal Agency (HAREDA) and observes that there have been instances when the mandated reports have not been filed with the Commission in compliance of the RPO regulations. The Commission directs HAREDA and the obligated entities to strictly comply with the RPO through purchase of RE power and / or REC in case of power surplus scenario and also the filing requirements. Further, HAREDA is also directed to ensure that its website is kept up to date with the information filed by the obligated entities. The Commission further directs that HPPC and other obligated entities shall assess the shortfall in meeting RPO for the FY 2016-17 and take suitable action to meet at least 50% of the shortfall so determined by purchase of REC's.

E. Impose monetary penalty on the Obligated Entities under Section 142 of the Act;

The Commission has examined the replies filed by the obligated entities enumerating the steps being taken by each one to ensure compliance and observes that sincere efforts are being made by the obligated entities and therefore the Commission finds no cause to take action under section 142 of the Electricity Act, 2003.”

The same decision of the Commission was reiterated in the impugned order of the Commission dated 07.03.2019, to ensure its compliance.

The Commission observes with concern that even after the lapse of one and half year, the DISCOMs have not been able to meet the shortfall of RPO obligations for the FY 2016-17. Further, as per the RPO compliance report received from HAREDA, vide letter no. 1762 dated 16.05.2019, there is shortfall in meeting RPO obligations by HPPC/DISCOMs till 31.03.2019 (Solar 1850.44 MUs and Non Solar 910.8 MUs, which includes backlog of RPO obligations in 648.44 MUs and Non Solar 986.80 MUs).

In view of the above discussions, the Commission is not inclined to reconsider its decision and HPPC/DISCOMs are directed to comply with the directions of the Commission to take suitable action to meet at least 50% of the shortfall by purchase of REC's. The compliance report in this regard may be submitted within one month from the date of issue of this Order.

xiv) To withdraw the direction of installation of Rooftop Solar Generation beyond sanctioned load.

The Petitioner has submitted that the Commission in Tariff Order dated 07.03.2019 has allowed the consumers to install Rooftop Solar power plant irrespective of their sanctioned load. However, as per the Regulation 7.2 of HERC Rooftop Solar Grid Interactive System based on Net Metering Regulations 2014, the maximum capacity for installation of Roof Top Solar System (RTSS) at consumer premises shall not exceed than the connected load, which will be further subjected to maximum of 1MWp. The relevant extract from the Regulations is reproduced as under: -

“7.2 The maximum rooftop solar system capacity to be installed at any eligible consumer premises shall not exceed his connected load in case of Low-Tension connection and contract demand in case of High-Tension connection.

Provided that the maximum installed capacity shall not exceed 1MWp for a single eligible consumer.

Provided further that a variation in the rated capacity of the system within a range of five percent shall be allowed.”

Therefore, in view of the above, the directions given by the Commission in current Tariff Order, that the consumer shall be allowed to install RTSS irrespective of their sanctioned contract demand is in contradiction with the HERC Net Metering Regulations, 2014 and amounts to amendment in the existing regulations. Therefore, it is submitted that DISCOMs are bound to abide with the existing Regulations, unless the required amendment in the Regulations by way of a notification, after following the due process as per law, shall be carried out by the Commission.

The Commission has examined the following direction given in this regard at para 3.2.11 of the impugned order dated 07.03.2019:-

“Notwithstanding anything else contained in any Regulations of the Commission, the consumers shall be allowed to install Rooftop solar power plant irrespective of their sanctioned load. However, tariff benefit of net metering shall be allowed upto the sanctioned load, as per notification issued by the Govt. of Haryana. Further, in order to enable the DISCOMS to fulfil their RPO benefits, DISCOMs are directed to accept all the solar power so generated in their grid. However, only 25% of the excess generation over and above the sanctioned load of the consumer shall be allowed as net off from the consumption of the consumer. The excess generation injected into the grid above this limit shall lapse and no tariff benefit shall be allowed to such consumer.”

The Commission is of the considered view that Rooftop Solar power generation should not be restricted in any manner, given the ambitious target of solar generation set

by Government of Indian/ Government of Haryana. Additionally, it needs to be noted that, given the high cost of land in Haryana, including limited availability to divert the same for setting up solar power plants, the only viable option to achieve the ambitious target is the rooftop solar power generation plants. The Commission further observes that the amendment of HERC Rooftop Solar Grid Interactive System based on Net Metering Regulations 2014 is under consideration of the Commission. Therefore, the Commission, considering the submissions of the licensee and the provisions of the regulations in this regard, allows the review filed by the licensee on this issue. Accordingly, the restrictions imposed on the consumers for installing rooftop solar power plants as per Regulation 7.2 of HERC Rooftop Solar Grid Interactive System based on Net Metering Regulations 2014 shall prevail.

In terms of the above findings / decisions on each issue, the review petition preferred by the DISCOMs against the Commission's Order dated 07th March, 2019 (Case No. HERC/PRO-52 of 2018 & HERC/PRO-53 of 2018) is disposed of.

This Order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 22nd October, 2019.

Date: 22.10.2019 (Pravindra Singh Chauhan) (Naresh Sardana) (D.S. Dhesi)
Place: Panchkula Member Member Chairman