

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

**Case No. HERC/PRO- 20 of 2020**

**Date of Hearing : 19.08.2020**

**Date of Order : 08.10.2020**

**In the Matter of**

Petition under Section 43 of the Electricity Act, 2003 read with Regulation 3 of the 'Duty to Supply Electricity on Request, Power to recover expenditure incurred in providing supply and Power to require security Regulations, 2016' for release of partial load in licensed area of the petitioner in DLF Phase V Sector 42,43,52 and 54 Gurugram for which the Electrification plan has already been approved;

And in furtherance allow the application for grant of 11 kV, HT electrical connections for Group Housing Scheme namely, 'The Crest' and the commercial complex namely, 'Two Horizon Centre' appended as Annexure P-1 dated 28.03.2017 and Annexure P-2 dated 17.12.2014 respectively; and further prayed that the single point connection may kindly be released to the petitioner.

And further for issuance of such other appropriate orders as this Hon'ble commission may deem fit and appropriate in the facts and circumstances of the case and in the interest of justice and fair play.

**Petitioner**

M/s DLF Limited

**V/s**

**Respondents**

1. The Chairman-cum-Managing Director  
Dakshin Haryana Bijli Vitran Nigam Limited
2. The Managing Director, HVPNL
3. Chief Engineer, Commercial, DHBVN, Hisar
4. Chief Engineer/PD&C, HVPNL, Panchkula

**Present**

**On behalf of the Petitioner:**

1. Shri Vinod Bhardwaj, Advocate
2. Rohit Sharma, Vice President, DLF

**On behalf of the Respondent:**

1. Ms. Rimali Batra, Advocate
2. Shri Joginder Hooda, SE OP Circle-2, Gurugram
3. Shri Anil Sharma, SE/RAPDRP, DHBVN
4. Shri Sachin Yadav, XEN, Sub-Urban, Divn, DHBVN, Gurugram

## **QUORUM**

**Shri D.S. Dhesi, Chairman**  
**Shri Pravindra Singh, Member**  
**Shri Naresh Sardana, Member**

### **ORDER**

#### **1. Brief Background of the Case**

The Petitioner filed the aforesaid petition under Section 43 of the Electricity Act, 2003 read with Regulation 3 of the 'Duty' to Supply Electricity on Request, Power to recover expenditure incurred in providing supply and Power to require security Regulations, 2016; for release of partial load in licensed area of the petitioner in DLF Phase-V Sector-42, 43, 52 and 54 Gurugram for which the Electrification plan has already been approved and in furtherance allow the application for grant of 11 KV HT electrical connections for Group Housing Scheme namely, 'The Crest' and the Commercial Complex namely, 'Two Horizon Centre' appended as Annexure P-1 dated 28.03.2017 and Annexure P-2 dated 17.12.2014 respectively; and further prayed that the single point connection may kindly be released to the petitioner. The petitioner has submitted as under:

- 1.1 That the petitioner company had been granted licence for development of various projects including development of a Group Housing Project in the area which is described as DLF-Phase V. The petitioner had submitted application for release of bulk supply under domestic category for its Group Housing Scheme namely "the Crest" on March 28, 2017 for a contract demand of 8287 KW. It had also applied for release of 11 KV bulk supply electric connection under the NDS category for commercial complex namely "Horizon Centre" for a contract demand of 9800 KW vide application dated December 17, 2014. The processing fee along with the advance consumption deposits was also submitted by the petitioner.
- 1.2 That the aforesaid application remained pending with the respondents. Eventually, a meeting was held in the office of the ACS (power) on July 25, 2016, the minutes whereof were drawn on October 4, 2016. The issues raised in the aforesaid meeting pertained to release of single point connection of 9800 KW under NDS category through 2 numbers 11 KV feeders from the own substation of the petitioner of 66 KV situated in phase 5. The installed capacity of the substation of 60 MVA against which the maximum demand of 30 MVA has been recorded so far. The petitioner also sought sanction for installation of an additional transformer of capacity 25/31.5 MVA at its aforesaid 66 KV substation thereby making the total capacity as 91.5 MVA.
- 1.3 That the petitioner specifically represented that it has an existing 66 KV substation and that it is in the process of constructing another 66 KV

substation. It was also willing to install another 25/31.5 MVA transformer at 66 KV in the phase 5 substation for which approval of the distribution licensee was sought. Since the maximum demand on 66 KV phase V substation is 30 MVA against sanctioned load of 76 MVA and installed capacity of 60 MVA, a request was made to release the additional connection of 9800 KW from the existing arrangement by erecting 2 numbers 11 KV feeders at the cost of the petitioner.

- 1.4 That after the deliberation on the matter, it was decided in the meeting to release connection to the petitioner on priority so that the surplus power available could be utilised. It was also noticed that as the maximum demand recorded at 66 KV phase V substation was far less than the installed capacity, the request of the petitioner for release of single point connection of 9800 KW through 2 numbers 11 KV feeders from DLF phase V substation be accepted provided the maximum demand at the power transformers there is limited to 80% of the installed capacity. It was also agreed that the petitioner may be given permission to install additional transformer of 25/31.5 MVA at its 66 KV phase-V substation in total installed capacity as 91.5 MVA.
- 1.5 That vide memo dated December 6, 2016 the distribution licensee approved the electrification plan of "Horizon Centre" for ultimate load of 10107 KW under the HT/NDS category and sanctioned the load of 9800 KW subject to the terms and conditions mentioned there under. Various documents as per the decision taken in the meeting held on July 25, 2016 and in terms of the approval granted by the Technical Feasibility Committee on September 14, 2016 were sought. The petitioner claims to have submitted the necessary documents in accordance with the conditions so imposed. However, as the application for the release of Connection for the Group Housing Society, namely 'The Crest' was also submitted on March 28, 2017 the petitioner sought approval of the Electrification plan for entire Phase V of DLF in sectors 42, 43, 53 & 54 as per the suggestions of the officials of the Distribution licensee. The total load requirement was fixed at 147 MVA/MW. The petitioner claimed that it has an existing 66 KV substation with the running capacity of 60 MVA and that it intends to augment the capacity by another 31.5 MVA. As against the running capacity of 60 MVA and sanctioned load of 74 MVA, the maximum actual consumption recorded had not exceeded 28 MVA despite more than 80% occupancy. Hence, the entire load requirement can be released from the substation and with the augmented capacity to 91.5 MVA, it would be sufficient to cater to the entire projected load of 147 MVA for DLF Phase V and that the actual consumption would not exceed 60 MVA against the running capacity of 91.5 MVA and sanctioned load of 147 MVA.
- 1.6 That the petitioner had also submitted the necessary documents required for approval of the electrification plan for DLF phase V. While considering the aforesaid requests, the distribution licensee approved the electrification plan along with sanction of ultimate load of 155.897 MW

with contract demand of 173.219 MVA. While granting the in-principle approval, certain conditions were imposed by the respondent including the conditions pertaining to the effect that the petitioner shall be catered load to the extent of 75 MVA from the existing 66/11 KV substation. For the purposes of catering to another part of the load i.e. upto 75 MVA, the petitioner shall have to build additional 66/11 KV substation at its own cost along with the required feeding lines and installed capacity of power as 31.5 MVA. For the remaining load, the petitioner shall have to reserve sufficient land for building a an additional 66/11 KV substation with installed capacity of power as to into 25/31.5 MVA at its own cost along with the required feeding lines.

- 1.7 That the conditions prescribed by the distribution licensee were grossly arbitrary and were bereft of any rationality which led to the petitioner filing objections to conditions incorporated while granting approval to the electrification plan. Amongst various objections raised, the petitioner pointed out that the revised conditions have the effect of nullifying all the prior approvals in an arbitrary manner and that the conditions incorporated in breach of the regulations themselves.
- 1.8 That the petitioner vide letter dated January 1, 2019, in continuation of the earlier letters again pointed out that the existing electric substation setup by the petitioner with the running capacity of 60 MVA is underutilised to an extent of 45% of its capacity. The said substation is planned to be further augmented 91.5 MVA and with the aforesaid capacity, the substation would be sufficient enough to meet the entire requirement of DLF phase V and that the requirement to sanction a load of 75 MVA only against the running capacity of 60 MVA is contrary to the substation load utilisation norms applied by the distribution licensee as well as the transmission licensee to its own electric substation. The petitioner represented that the matter be intervened and that the pending connections be released to the petitioner for DLF phase V and that the DLF can be called upon to furnish the bank guarantee only in case the substation infrastructure as created is deficient cater to the load requirement of DLF phase 5. The petitioner specifically urged that even if the entire load of DLF phase 5 is taken into consideration, the actual load consumption shall not exceed 60 MVA against the running load capacity of 91.5 MVA.
- 1.9 The petitioner had also raised the aforesaid issues in the meeting held on November 14, 2018 with the ACS (power) wherein the ACS power desired to examine the electrification requirements including seeking input from consultants to establish an appropriate substation capacity norms. A meeting was also convened under the chairmanship of Hon'ble Chief Minister Haryana on 6th March, 2019 to discuss the issue relating to the pending electricity connection of the petitioner wherein all these issues was again pointed out at the behest of the petitioner and that the demands being raised were exorbitant and not supported by any rationality. The variation could be guessed from the fact that as against the installed

capacity of the 66 KV substation DLF Phase-V at 60 MVA and sanctioned load of 74 MVA the maximum load of actual consumption was only around 27 MVA. It was further urged that with the augmentation of the capacity of the existing substation from 60 MVA 91.5 MVA would be suitable for providing power to DLF phase 5 for next 8 - 10 years as the petitioner does not envisage any further development for such periods. That while making a reference to the demand being raised by the respondents and the insistence for creation of 2 numbers 66/11 KV substation, the necessary communication was sent.

1.10 That the aforesaid decision of the respondents to prescribe onerous conditions in the electrification plan ignoring the subsequent developments and the communication about the demand raised vide memo dated 21.01.2020 through memo dated 27<sup>th</sup> of January 2020 was assailed in the present petition being violative of the terms and conditions prescribed in the regulations as well as being in contravention of the mandate of the Electricity Act, 2003.

1.11 The petitioner has prayed:

- a) That the respondents be directed to release electricity connection to the petitioner immediately and without any further delay for the sanctioned load as per Annexure P-1 and P-2 at single point to the petitioner in terms of the decision dated 06.03.2019 and without insisting upon creation of additional infrastructure i.e. not required and subject to such terms as this Hon'ble Commission may deem fit and appropriate in the interest of justice.
- b) That set aside the communication / demand raised vide memo No.4926 dated 21.01.2020 and communicated through memo No.1098/1104 dated 27.01.2020 as being invalid, illegal and unsustainable.
- c) That grant exemplary damages to the petitioner for the unwarranted delay of more than 5 and 2½ respectively in sanctioning and release of the electricity connection.
- d) That pass such other appropriate order as this Hon'ble Commission may deem fit and proper in the facts and circumstances of the case and in the interest of justice and fair play.

## **2. Response by the respondents:**

2.1 That the respondents, in their reply claim that petition should be dismissed as the request for a partial load is in violation of the Supplier Regulations of 2016 and the same does not provide for any such distinction to release the connection in deferment of the charges/payments as per the Electricity Act, 2003. It was contended that the electrification plan sanctioned on September 25, 2018 was subject to certain conditions and that the said conditions are not a subject matter of challenge.

2.2 That the respondent also contended that it has taken into consideration the load norms while determining the contract demand and sanctioning

the same and that the load norms are determined by the Competent Authority in consultation with representatives of various stakeholders. The determination of the load norms is not a subject matter of challenge in the petition and as such, the petitioner cannot be permitted to agitate the determination of load in the instant petition. Rather, the petitioner ought to file an appropriate petition raising a challenge to the determination of the load norms.

- 2.3 That the respondents also submitted that the electrification plan dated 25.09.2018 was sanctioned subject to certain conditions including creation of electrical infrastructure. It is nowhere statutory intent that the supply should be released even without existence of the adequate electrical infrastructure. The action of the respondent licensee is strictly in accordance with the load norms as determined in the due consolidation process by the competent authority and there is no challenge to the load determination norms. Consequently, the demand raised on the basis of uncontroverted load norms cannot be held to be illegal. The creation of infrastructure for release of connection is a necessary condition so as to ensure uninterrupted and continuous power supply. All the issues that were raised by the petitioner in the various meetings held at appropriate levels were duly taken into consideration before conveying the final decision and demand.
- 2.4 That the respondent also vehemently argued that the petition under Section 43 espoused the grievances of non-release of connection was not maintainable before the Hon'ble Commission and instead the petitioner ought to approach the Consumer Grievances Redressal Forum in terms of the remedy prescribed under Section 42(5) and 42(6) of the Electricity Act, 2003 and the subsequent remedy of challenge before the Electricity Ombudsman.
- 2.5 That the respondent also contended that the jurisdiction of the Commission is restricted to provisions under Section 86 of the Electricity Act, 2003 and the petition is misconceived. The distribution licensee is not obligated to release the electricity connection even in the situation of non-compliance of the Supply Regulations, 2016. The reference was also made to provisions of Section 43, 46 and 47 of the Electricity Act read with Regulations 2(18), 4.5, 4.6, 4.7, 4.8, 4.8.4, 4.12.2 and 4.13 to justify the demand being raised by the respondent towards release of connection.
- 2.6 That the general submissions about the necessity of prescribing the Bank Guarantee and norms also submitted with vehement under the pretext that creation of additional infrastructure is necessitated to ensure existence of adequate infrastructure to the electricity needs of the consumers. The reference was made to history of determination of the load norms in order to impress that there has been no error in determination of the load norms and also about the justification from raising a demand for the Bank Guarantee equal to 1.5 times.
- 2.7 That the Learned counsel for the respondents also submitted that it is entitled to claim share the cost/Bank Guarantee for the inadequate

electrical infrastructure in terms of the regulations framed by the Haryana Electricity Regulatory Commission from time to time and that the DLF being the consumer is bound to comply with the terms and conditions as contained in the electrification plan. It was also submitted by the petitioner that the clubbing of load was at the behest of the petitioner and that even the terms and conditions as deliberate in agreed upon in the meeting held under the chairmanship of Hon'ble Chief Minister, Haryana on 06.03.2019 had not been complied with by the petitioner.

**3. Proceedings of the Commission:**

- 3.1 That the matter was heard by the Commission on dated 09.06.2020. The counsel for both the parties were heard and with their assistance the documents and record was perused along with the necessary statutory provisions.
- 3.2 That Shri Vinod S.Bhardwaj, Advocate while appearing for the petitioner submitted that the respondents have conveyed the demand vide communication dated 21.01.2020 sent vide memo dated 27.01.2020 in terms of the electricity electrification plan dated 25.09.2018. The existence statutory framework does not provide for any procedure of challenge against the conditions prescribed in the electrification plan. The Section 42(5) of the Electricity Act provides a remedy for redressal of grievances of consumers. The Electricity Act defines consumer under Section 2(15) which means a person who is supplied with electricity for his own use by a distribution licensee. The petitioner having not been supplied with the electricity connection by the licensee is not a consumer in terms of Section 2(15) of the Electricity Act, 2003 and as such the stipulated remedies under Section 42(5) and 42(6) or the appellate remedy under Section 42(7) of the Electricity Act, 2003 is not applicable to the petitioner. It has also been submitted that the provisions of Section 86 of the Electricity Act under sub clause (i) vest the function upon the commission to specify and enforce standards with respect to quality, continuity and reliability of services by the licensee and under sub clause (k) assign all such functions under the Act which is more in the nature of a residuary power. The petitioner could not be left remediless where a person is being denied connection in violation of the mandate of Section 43 by raising demands contrary to the Electricity Supply Regulations and by justifying the same on the basis of misplaced and misconceived reading of the statutory provisions.
- 3.3 That the Commission had specifically sought information from the petitioner as to the provisions of the electrification plan that are violative of the statutory provisions vide order dated 07.07.2020 and subsequently vide order dated 29.07.2020. The petitioner had submitted its note on the various conditions incorporated in the electrification plan which in the opinion of the petitioner are violative of various statutory provisions. The reference was made to the provisions incorporated thereunder and the same are extracted hereinafter below:-

Electrification Plan dated 25.09.2018.

**Condition No.2** - Part of the load of DLF Phase V (to the tune of 75 MVA of the Ultimate load of 155.897 MW with CD 173.219 MVA of DLF Phase-V (Presently being Operated and Maintained by HVPN and being fed through D/ connectivity from Sec-52 with alternate S/C connectivity from. Sec-56 and Sector-43), with an installed capacity of 3x20 MVA and proposed 1x31.5 MVA (To be installed by DLF).

**Condition No.3:** For catering another part Load (Up to 75 MVA) of DLF Phase-V, DLF has built one number additional 66/11 KV Sub-Station at its own cost in Phase-V scheme along with the required feeding lines with installed capacity of power T/Fs as 3x25/31.5 MVA. Subsequently this 66/11 KV sub-station shall be handed over to HVPN who will then Operate and maintain the same.

The department has released sanctioned load of 88 MVA from the existing substation built by petitioner and maximum load recorded-ever at this substation is only 30 MVA against installed capacity of 60 MVA transformer at any point of time. This is the scenario when all feeding areas/buildings are fully occupied. As against the ultimate load of the project is 173.19 MVA the actual required to feed the installed capacity is maximum 70~75 MVA to feed its ultimate load of 173.19 MVA. The respondents, as per their own Sub-Stations has sanctioned load which is much beyond the total capacity as the respondent take the advantage of substation level diversity factor. However, when it is the matter of capacity determination of customers substations, these technical realities and factors are not taken into consideration and set aside. This result in wasteful expenditure and double/triple capacity infrastructure creations by the developers which is nothing but the wastage of national resources as transformers operate maximum at 30-40% capacity. The load data summery during' the period from March to June 2020 is being tabulated as under to show that the total sanctioned load is upto three times of the total capacity of the Sub-Stations when it's come to Sub-Station capacity utilization by the DISCOM / TRANSCO to its own Sub Station. The Discom/STO are not applying the same Sub-Station utilization norms to the DLF as are being applied by them for their own sub-stations.

The DLF has no objection to creation of the infrastructure which is necessary to meet the actual load requirements, however, the non-availability of substation capacity utilization norm should not be used as a ruse to burden the consumer with creation of infrastructure which is not required.

Here we would like to draw the kind attention of honorable commission to the practices followed in the other states. In most of the states, the load calculation, capacity of substations is worked out and projected by

the project developers themselves and DISCOM/TRANCO never insist on double /triple capacity creations by the developers. In this regard, we would request the commission to look into the matter if the infrastructure created by developers are being utilized by the DISCOM/TRANCO to feed developers area only or some other adjoining areas. And this becomes a matter of examination by honorable commission where developer area consumers are cross subsidizing the other areas consumers by the way of double/triple infrastructure capacity creation and allowing others to be fed from developer's substation.

**Condition No.5:** - The feeding and inter-connectivity of above additional 66/11 KV sub-station shall be decided by HVPN and DHBVN after demarcation of land for the proposed sub-stations by DLF and its clearance by land feasibility Committee. HVPN will either have to construct additional 220 KV sub-station or to augment existing 220 KV sub-stations in order to feed the balance load of DLF Phase-V and the comprehensive proposal in this regard will be decided by DHBVN and HVPN in line with the above arrangement.

The release of connection cannot be dependent on unreal/impractical factors that have no bearing on the release of connections. Moreover, as explained in previous points, DISCOM/TRANCO need to first establish the actual feeding substation capacity required by DLF to feed its ultimate load of 173.19 MVA. Once this value is ascertained in realistic manner the requirement of feeding substations of various voltage level can be determined. The honorable commission need to first direct then DISCOM/TRANCO to ascertain the actual feeding substation capacities required before ascertaining the voltage levels.

The only liability whatsoever that has been thrust upon the petitioner in actual terms is the creation or installation of 31.5 MVA transformer in order to create redundancy and keeping in view the release of connections for future buildings from this substation. The petitioner agrees to add transformer as his own cost and is willing to pay Bank Guarantee till the transformer is installed. Moreover, it is shocking revelation that the substation data reflects on the sanctioned load and the discrepancies between sanction load and actual load on such substation in Gurugram. It is also a point to note that various substation have been created by HVPN in Gurugram and once the proper load distribution and diversification there will be no requirement for creation of any additional power infrastructure by the petitioner and similarly placed developers whose connection are not being released on one pretext or other even despite the fact the surplus power is available throughout the State.

**Section 43. (Duty to supply on request) –**

- (1) Save as otherwise provided in this Act, every distribution] licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply. Provided that where such supply requires extension of distribution mains, or commissioning of new substations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission:

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

[Explanation. For the purposes of this sub-section, “application” means the application complete in all respects in the appropriate form, as required by the distribution licensee along with documents showing payment of necessary charges and other compliances.]

- (2) 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 in sub-section (1):

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission.

- (3) If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default.

**Section 46. Power to recover expenditure:** The State Commission may, by regulations, authorize a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply.

**Section 47. Power to require security: -**

- (1) Subject to the provisions of this section, a distribution licensee may require any person, who requires a supply of electricity in pursuance of section 213, to give him reasonable security, as may be determined by regulations, for the payment to him of all monies which may become due to him.

- (a) in respect of the electricity supplied to such persons; or
  - (b) where any electric line or electrical plant or electric meter is to be provided for supplying electricity to person, in respect of the provision of such line or plant or meter, and if that person fails to give such security, the distribution licensee may, if he thinks fit, refuse to give the supply of electricity or to provide the line or plant or meter for the period during which the failure continues.
- (2) Where any person has not given such security as is mentioned in subsection (1) or the security given by any person has become invalid or insufficient, the distribution licensee may, by notice, require that person, within thirty days after the service of the notice, to give him reasonable security for the payment of all monies which may become due to him in respect of the supply of electricity or provision of such line or plant or meter.
  - (3) If the person referred to in sub-section (2) fails to give such security, the distribution licensee may, if he thinks fit, discontinue the supply of electricity for the period during which the failure continues.
  - (4) The distribution licensee shall pay interest equivalent to the bank rate or more, as may be specified by the concerned State Commission, on the security referred to in sub-section (1) and refund such security on the request of the person who gave such security.
  - (5) A distribution licensee shall not be entitled to require security in pursuance of clause (a) of sub-section (1) if the person requiring the supply is prepared to take the supply through a pre-payment meter.

Perusal of the same would show that only the expenditure reasonably incurred can be recovered from DLF Limited. The Regulations merely allow recovery of the extension of the distribution main or its upgradation to the point of supply. Under Regulation 4.7, the cost of creation of a new substation or cost of augmentation of line feeding the substation cannot be recovered. Contrary to the said regulation, the conditions have been imposed in the electrification plan compelling DLF to incur expenses towards creation of substation and the cost of augmentation of the line feeding the substation.

3.4 That the counsel for the petitioner has also submitted that it is grossly inaccurate on the part of the respondent to contend that the dispute revolves around the fixation of erroneous load norms. The same is deliberate misreading of the submissions. The ground of agitating its grievance before the Commission does not owe its origin to the load norms. Rather it arises from the non-disclosure of substation capacity utilization norms being followed by the distribution licensee and/or State Transmission Utility. The Learned counsel for the petitioner of various

substations maintained by the distribution licensee as well as by the Transmission licensee and the load sanctioned against the same, the same is extracted as under: -

Name of the substation	Location	Substation code	Circle location	Voltage ratio	Total capacity	Total load sanctioned
66 kV Substation						
66 kV SS, DLF, Phase-V	DLF V	1308	Circle-II	66/11 kV	60 MVA	88 MVA
66 kV SS, Sector 43	Sector 43	1297	Circle II	66/11kV	63 MVA	132 MVA
66 KV SS, Sector 28	Sector 28	1292	Circle II	66/11 KV	63 MVA	132.7 MVA
66 kV SS, Q Block	Q Block	1271	Circle II	66/11 kV	110.5 MVA	213.4 MVA
220 kV Substation						
220 kV SS, Sector 20	Sector 20	1504	Circle II	220/66/11	63 MVA	96.6 MVA
220 kV SS, Sector 52A	Sector 52A	1287	Circle II	220/66/11	63 MVA	177.3 MVA
220 kV SS, Sector 56	Sector 56	1283	Circle II	220/66/11	94.5 MVA	166.8 MVA

By making a reference to the aforesaid table, the Learned counsel for the petitioner submitted that as against the 60 MVA 66 kV Substation of the petitioner, the total sanctioned load is 88 MVA. When compared to the consumption for the months of March, April, May and June for the years 2019-20, it has been shown that the highest actual consumption recorded has never exceeded 30 MVA. The petitioner thus argued that the submission of the petitioner that despite the sanctioned load on 88 MVA, the actual consumption never exceeded 30 MVA stands corroborated. The Learned counsel for the respondent also acknowledged the aforesaid factual aspect to be correct while responding to the arguments of the petitioner.

- 3.5 That it was also argued by the counsel for the petitioner that when the total capacity and the total sanctioned load distribution licensee for the 66 kV Substations of Sector 43, Sector 28 and Q Block which see from table B, the total sanctioned load is nearly double the total capacity of the substation. The actual load consumption has, however, not been even to the extent of 60% of the total running capacity. The counsel for the petitioner thus contended that once the petitioner already has a running substation capacity of 66 MVA and is willing to augment it by another 31.5 MVA taking the total running substation capacity of 91.5 MVA, there is no reason why the total sanctioned load should not be allowed at par with the substation capacity utilization norms being adopted by the distribution licensee for its own substations. Since the corresponding substations in the same area show the sanctioned load to be nearly twice the capacity of the substation, hence, the total sanctioned load should be permitted on the augmented capacity at 183 MVA. The petitioner further submitted that even against the aforesaid sanctioned load of 183 MVA, the actual consumption of electricity would not exceed even 60 MVA going by the actual load data summary of the substations. Thus, there is no objectivity in directing the petitioner under the electrification plan to create 2 substations of 66/11 kV with the installed capacity of 60 MVA and sanction 75 MVA and augmentation of the substation for the remaining load. The Learned counsel for the petitioner submitted that the respondent should be called upon to share the substation capacity utilization norms applied by the licensee to its own substations and as to whether the same substation capacity norms have been applied while incorporating the conditions in the electrification plan sanctioned for the petitioner. The aforesaid aspect was duly conveyed to the Learned counsel for the respondent during the course of hearing with a liberty to respond to the same failing which the Commission shall be at liberty to draw an inference against the respondent.
- 3.6 That further with a view to draw a comparison with the substation capacity utilization norms of the State Transmission Utility, the details of the 220 kV Substation of the STU were also extracted. The aforesaid table shows that the total sanctioned load against the substation is upto 3 times the capacity of the substation. On the basis of the said data, the Learned counsel for the petitioner has vehemently argued that the respondents have arbitrarily prescribed the condition of creation of infrastructure on the basis of substation capacity utilization norms that have been arbitrarily fixed by the respondents in a manner which is discriminatory against the petitioner. The artificial need of creation of additional infrastructure has been incorporated in the electrification plan in order to augment its own infrastructure at the cost of ultimate residents of the colonies of the petitioner. The same is clearly an abuse of the position by the distribution licensee.
- 3.7 That the reference was also made to the provisions of the Supply Regulations of 2016 to contend that the conditions of the electrification

plan dated 25.09.2018 are in contradiction to the provisions of the Supply Regulations of 2016. By virtue of Regulation 4.4, the creation of infrastructure to meet any future expected growth of demand can only be provided for through the ARR to be allowed by the Commission after prudence check by way of tariff. The obligation of the person seeking release of connection is only the cost to be incurred for meeting the demand of such person and not the creation of any new substation or cost of augmentation of such substations.

- 3.8 That while responding to the submissions of the respondent, it was also submitted that the provisions of Regulation 4.8 and the sub regulations thereunder are not attracted to the claim of the petitioner since the same would be applicable only when the applicant request for supply of electricity through an independent feeder. Since no such request has been made by the petitioner hence, the Regulation 4.8.2 and the sub regulations mentioned thereunder would not be applicable. On the same principles, the mandate of regulation 4.13 would also not get attracted.
- 3.9 That the Learned counsel for the petitioner also reiterated his submission that the Commission has already approved release of connection for the respective phases to be developed. The petitioner does not intend to develop any other phase for next nearly 10 years and as such, the infrastructure created is adequate to cater to the load requirement sanctioned by the respondents. The only obligation is to augment the substation by 31.5 MVA which the petitioner is ready to do. It was specifically pointed out that the infrastructure created by the petitioner is not deficient and no deficiency has been conveyed by the respondents. The necessity of depositing a Bank Guarantee arises only when the created infrastructure is deficient. In the absence of any deficiency, there is no obligation of an applicant to furnish Bank Guarantee.
- 3.10 That the petitioner on the strength of the submissions as aforesaid challenged the demand being raised by the respondents and prayed that the electricity connection be released without any delay and without insistence upon creation of additional infrastructure for which there is no necessity. It was stated by the Learned counsel for the petitioner that the Section 46 empowers recovery of expenditure "reasonably incurred" in providing electric line for giving supply. Hence, the reasonableness of the demand has to be substantiated by the distribution licensee. However, no pleading has been filed by the respondent or evidence submitted to substantiate that the creation of the infrastructure or the demand of expenses towards the same are reasonable. The respondents cannot be vested with unbridled authority to raise any demand and are obligated. Under the statute to provide justification for the demand raised. The absence of the power to challenge does not confer absolute and unbridled powers.

#### **4. Arguments on behalf of Respondents:**

- 4.1. The Learned counsel for the respondent while reiterating the submissions made by her in the written statement filed challenge the maintainability of the petition and urge that the conditions incorporated in the electrification plan are strictly in accordance with the load norms as determined by the competent authority. It was further argued that the conditions incorporated in the electrification plan are specifically in accordance with the Supply Regulations of 2016. The answering respondent is entitled to claim the expenses towards creation of infrastructure for ensuring uninterrupted supply to the petitioner.
- 4.2. That it was further argued on behalf of the respondent that the petition in question is in fact in the nature of a challenge to the load norms whereas the cause of action does not support the same. The Learned counsel further argued that the petition before the Commission is not maintainable as there is an alternative remedy under Section 42(5) and 42(6) and the appellate remedy under Section 42(7) of the Electricity Act 2003 and that the petitioner ought to have approached the said Forums for redressal of their grievance.
- 4.3. That the Learned counsel also argued that the distribution licensee is under an obligation to ensure that the infrastructure created by the developer is adequate and for the purposes of catering to the needs of the residents who would ultimately be residing in the said colonies of the developer and there is nothing unreasonable in the conditions incorporated by the respondent in the electrification plan. The same are aimed and intended to ensure uninterrupted power supply to the ultimate consumer.
- 4.4. That it was further submitted on behalf of the respondent while making reference to the provisions of Section 43, 46 and 47 of the Electricity Act that it is entitled to recover the cost and expenditure towards ensuring supply of electricity and that the similar provisions have also been incorporated in the Supply Regulations of 2016. Specific reliance was placed by the respondent to various regulations of the Supply Regulations of 2016, the details whereof have already been stated in para 2 of the order and are thus not being reiterated for the sake of brevity.
- 4.5. That the Learned counsel for respondent further raised an argument that it is not obligated to release the connection where the infrastructure is inadequate and there is no mandate that the supply has to be ensured in relaxation of the provisions of the Supply Regulations of 2016.
- 4.6. That the respondent also argued that the petitioner is in default and has not complied with the conditions incorporated in electrification plan and thus is responsible for the delay in release of the connection. It thus was urged that no liability or responsibility for non-release of connection can be fastened upon the respondent.

**5. Commissions analysis and order :**

- 5.1. That the Commission has considered the rival submissions made by the parties and has also gone through the record with the able assistance of the counsel representing the respective parties. Having considered the same, the Commission agrees with the contention of the petitioner that as per loading conditions at 66 KV substation at DLF phase V, there is cushion for feeding the proposed connections of Crest and 2 Horizon at present and connections can be released without creation of additional 66 KV substation for the time being. At the same time interest of Nigam/Discom has to be secured by submitting Bank Guarantee for creation of required substation in future.
- 5.2. The Commission does not agree with the argument of respondent that amendment regarding phase development of developer cannot be applied retrospectively to the present case. The purpose of amendment was to facilitate developers of large area in electrical infrastructure development in phased manner as clarified by the Commission vide its Memo No. 1291 /HERC/Tech dated 25.09.2020.
- 5.3. Further, on scrutiny of load norms of neighbouring states i.e. Punjab, UT Chandigarh and Karnataka, commission is of the view that load norms prescribed by Nigam appear to be in sync except load norms for Commercial space developed in residential complex.
- 5.4. Commission further does not agree with the contention of the petitioner that expenditure for creation of substation is required to be recovered through ARR instead of burdening the developer for creation of capital assets as Nigam is entitled to recover the expenditure as per regulations framed by commission in pursuance of Electricity Act. Even otherwise if the expenditure of creation of substation required to be created for release of load to consumers of area developed by developers is allowed to be recovered through ARR, it will pass on to the consumers of state at large.
- 5.5. The respondents have placed on record, case of developers where the load being fed at present is more than the load considered at the time of approval of electrification plan as per load norms in vogue at relevant point of time which justifies the load norms taken by Nigam.

**6. Directions:**

That for the forgoing reasons, the instant petition is allowed and it is directed as under: -

- 6.1. That the petitioner is at liberty to get the phase wise electrical infrastructure development plan of scheme/lay out plan approved and to furnish Bank Guarantee in accordance with the provisions of the HERC Regulations in vogue. The commission has observed that existing electrical infrastructure at 66 KV DLF phase V is sufficient to cater the proposed connections of Crest, Camellias and Horizon 2 of DLF and phase-V at present. The respondent shall release these two connections through 11 KV feeder from existing 66 KV substation after submission of

Bank Guarantee of substation of appropriate capacity as per ultimate load within 15 days thereof.

- 6.2. The Petitioner is directed to submit an undertaking that in the event of actual load exceeding 75 MVA, the petitioner will set up additional Sub-stations based on the prevailing policies and norms at that point of time. The respondents are hereby directed to grant necessary approval for augmentation of the substation capacity by 31.5 MVA 66/11 kV so as to enhance the total capacity of the existing 66/11 kV substation situated in DLF Phase-V to 91.5 MVA. The respondent within 7 days of this order shall inform the Bank Guarantee amount to be deposited by petitioner for this substation capacity enhancement.
- 6.3. The petitioner is directed to install an additional transformer of 31.5 MVA at his cost in the existing Sub-station of DLF Phase V and handover the same to HVPNL in terms of permission given by HVPNL vide their memo dated 25.09.2018.
- 6.4. That the petitioner shall duly inform the distribution licensee about development of further phases / projects in the area and shall comply with the requirement of the supply regulations for such projects in accordance with the applicable regulations at the time of initiation of work on the said projects.
- 6.5. The respondent shall file a compliance report of above order to this commission.
- 6.6. The Commission further observes that the existing sub-station capacity utilization norms are leading to disputes and therefore, need to be rationalized. The Commission recommends that respondent needs to have a relook at the norms particularly for commercial load. This exercise may be completed within 6 months.

This Order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 08/10/2020

**Date: 08.10.2020**  
**Place: Panchkula**

**(Naresh Sardana)**  
**Member**

**(Pravindra Singh)**  
**Member**

**(D.S. Dhesi)**  
**Chairman**