BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION
BAYS No. 33-36, SECTOR-4, PANCHKULA- 134112, HARYANA

CASE NO: HERC / RA- 4 of 2020

DATE OF HEARING	**:**	**13.10.2020**
DATE OF ORDER	**:**	**13.10.2020**

IN THE MATTER OF:

Application seeking review of order dated 24.02.20 passed by the Commission in Petition No. HERC/PRO-43 of 2019 in accordance with powers vested with the Commission under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 78(1) of HERC/06/2004 Regulations, as amended till date.

Review Petitioner

M/s. Jindal Stainless (Hisar) Limited

Respondents

1. Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL), Hisar
2. Haryana Vidyut Prasaran Nigam Ltd (HVPNL), Panchkula

Present on behalf of the Review Petitioner through Video Conferencing

1. Shri R.K. Jain, Advisor
2. Shri Vinod Bhardwaj, Advocate

Present on behalf of the Respondents through Video Conferencing

1. Shri Samir Malik, Advocate

Quorum

Shri Pravindra Singh Chauhan,	**Member (In Chair)**
Shri Naresh Sardana,	**Member**

ORDER

Brief Background of the case

1. The present Review Petition has been filed by M/s. Jindal Stainless (Hisar) Ltd., seeking review of the Order dated 24.02.2020, passed in Petition No. HERC/PRO-43 of 2019 and grant of corresponding reliefs as sought for through the original Petition.
2. At the outset, before adverting in detail to the contents of the respective submissions made by the parties to the present lis, it is considered necessary by this Commission

to make reference to the following twofold prepositions arising out of the prayer made in the petition PRO 43 of 2019 and the arguments presented on behalf of the petitioner. The first preposition arises from the prayer clause of the PRO 43 of 2019 from which it is clearly established that the effective relief claimed from this Commission in the said petition was in the nature of a claim for money in the nature of refund. The second preposition is later in time and arises from the case made out by the petitioner in the present review petition. In the present petition, it has been claimed by the petitioner that PRO 43 of 2019 invoked merely the contempt/punitive jurisdiction of the Commission and this claim as is apparent has been made in the teeth of the plain stipulation in the prayer clause of PRO 43 of 2019 that the prayer is '*to pay the refund of the UI Charges*'. This preliminary reference as above has been so placed in order to put on record the conduct of the petitioner in blowing hot and cold in the same breath, whereby attempt has been made to unduly discount not just the adjudication of the Commission, rather the said contrarian stand undermines even the factual understanding of the Commission as reflected in the order dated 24.02.2020. It is apposite to note here that for formulation of its factual understanding, the Commission has no other source to draw upon except the pleadings of the parties. And in the present case, it was the content of the pleadings only which formed the basis for the factual formulation/understanding relied upon by the Commission while passing the order dated 24.02.2020.

3. The Petitioner has submitted as under:-

i) That the petitioner is a large supply industrial consumer of the Respondent Nigam with a sanctioned contract demand of 125 MVA and is getting power supply on 220 kV through an independent feeder.

ii) That the Petitioner have been using Inter-State and intra-State open access to wheel its captive power from Odisha and power purchased over Indian Energy Exchange (IEX) through collective transaction. While doing so it is guided by the Open Access Regulations framed by Hon'ble Central Electricity Regulatory Commission (CERC) for Inter-State Open Access and Hon'ble Haryana Electricity Regulatory Commission (HERC) for intra-State Open Access transactions.

iii) That the Petitioner had filed Petition No. HERC/PRO-43 of 2019, which was disposed of by the Commission vide Order dated 24.02.2020.

iv) That the Petitioner is aggrieved by the aforesaid impugned order and accordingly requests the Commission to review the order under the enabling powers vested under Section 94(1)(f) of Electricity Act, 2003 and the Reg. 78(1) of HERC (Conduct of Business) Regulations, 2004 read with subsequent Amendments thereto. The said Regulation reads as under,

"Review of the decisions, directions, and orders"

78 (1) All relevant provisions relating to review of the decisions, directions and orders as provided in the Code of Civil Procedure 1908, as amended from time to time, shall apply mutatis 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 making of such decision, directions or order, review such decision, directions or orders and pass such appropriate orders as the Commission may deem fit.

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

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

v) That the Petitioner is of the considered view that the grounds on which the impugned order has been passed are vastly at variance to the facts on ground and the Commission has failed to consider the true nature and import of the proceedings and thereby failed to arrive at the conclusions and decisions in league with the nature of the proceedings owing to the representation made by the respondents even though the same was not within the scope of the proceedings and the same has resulted in patent error in the jurisdiction and latent defect in the order passed by the

Commission. Specific points which are proposed to be submitted before the Commission with reference to the observations made in the impugned order are dealt hereunder with a request to the Commission to consider the facts as are set out herein below and to register the case for hearing afresh.

vi) That the main grounds spelled out in the impugned order hinges on the following major grounds/premise:-

a) The claim of the petitioner is a money claim;

b) The Limitation Act, 1963 is squarely applicable in the instant case, which is three years from the date the right to sue accrues, as specified in Article 113 of the Schedule of the Limitation Act, 1963 and the right to sue accrues on the date when the amount became due to the Petitioner, as per the provisions of HERC OA Regulations;

c) The recovery claim preferred by the Petitioner against the Respondents is time barred as per the Limitation Act, 1963, in respect of the claims preferred for the period prior to 31.07.2016;

vii) The Petitioner submits that the findings so recorded by the Commission are beyond the facts as pleaded and the scope of the case. As a result of the observations recorded by the Commission, the conclusions have travelled beyond the scope of the case and the relevant Rules, Regulations and procedures applicable. All these issues are dealt at length for kind consideration of the Commission.

A. Para 7 (Page 20) of the impugned reads that "***the claim of the petitioner is a money claim****."*

a.1. These observations made by the Commission are contrary to the very title of the Petition, which read as under,

> "***Petition under S.142 and 146 of the Electricity Act, 2003 read with Haryana Electricity Regulatory Commission (Terms and Conditions for grant of connectivity and open access for intra-state transmission and distribution system) Regulations, 2012 (as amended from time to time) and other enabling provisions under the EA-2003 and Rules/Regulations framed thereunder***".

The Petition was unquestionably/squarely seeking action against the persons/Respondents who had violated the directions/provisions as contained in

the OA Regulations. Hence the very basic premise assumed by the Commission was not based on facts on ground/record.

In order to elaborate this point further Petitioner would like to reiterate Section 142 and 146 of EA-2003, which empowers the Commission to take punitive action against the persons violating the directions, orders or Regulations framed by the Commission. These sections read as under:-

Section 142. (Punishment for non-compliance of directions by Appropriate Commission):

In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or the rules or regulations made thereunder, or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction.

Section 146. (Punishment for non-compliance of orders or directions):

Whoever, fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to one lakh rupees, or with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to five thousand rupees for every day during which the failure continues after conviction of the first such offence:

a.2 The Petitioner had brought out the specific violations of the OA Regulations by the Respondents. The relevant part of Regulation 24(2)(A)(b) dealing with the issue of 'Imbalance Charges' reads as under:-

24(2) Imbalance charge applicable for all open access transactions for over drawal / under injection or under drawal / over injection by long-term, medium-term and short-term open access consumers / generators shall be as given below:

(A) ***Due to reasons attributable to the open access consumers/generators/traders****.*

(II) Under drawl by open access consumer/ Over injection by generator/trader

(i) Under drawl by open access consumer: In the event of underdrawl, the consumer will be paid by the licensee UI charges as notified by CERC for intra-state entities or lowest tariff as determined by the Commission for the relevant financial year for any consumer category or power purchase price/sale price contracted by the open access consumer whichever is lower provided that no imbalance charges shall be payable by the distribution licensee to the open access consumer for the under drawl beyond 10% of the entitled drawl in a time – slot or beyond 5% of the entitled drawl on aggregate basis for all the 96 time-slots in a day. However, if the under drawl by the consumer is on account of any force majeure conditions such as earth quake, flood, war or any other act of God which simultaneously do not disable the distribution licensee from supplying power, the consumer will be paid imbalance charges as above for the entire under drawl during such period.

(5) Payment of imbalance charges shall have a high priority and the concerned constituents, including the transmission licensee, distribution licensees or the open access consumers as the case may be, shall pay the indicated amounts within 10 (ten) days of the issue of the statement, into a State Imbalance Pool Account operated by the SLDC. Thereafter, the person who has to receive the money on account of imbalance charges shall be paid out from the State Imbalance Pool Account, within three (3) working days.

(6) If payments against the above imbalance charges are delayed by more than two days, i.e., beyond twelve (12) days from the date of issue of statement, the defaulting party shall have to pay simple interest @ 0.04% for each day of delay. The interest so collected shall be paid to the person who had to receive the amount, payment of which got delayed. In case of persistent payment defaults,

the SLDC shall initiate action against the defaulter as may be provided in the detailed procedure.

From the above provisions under the OA Regulations, following important conclusions are evident:-

a) Payment of imbalance charges is to have high priority for all the constituents including the transmission licensee, distribution licensees or the open access consumers as the case may be;
b) The payment of imbalance charges are to be made within 10 (ten) days of the issue of the statement. This statement is issued by Respondent No.2 every month.
c) The payment of imbalance charges if delayed by more than two days, i.e., beyond twelve (12) days from the date of issue of statement, the defaulting party shall have to pay simple interest @ 0.04% for each day of delay.

Thus, the Regulation is very clear that the imbalance charge are to be paid by the concerned constituent within 12 days and in case of delay in payment, interest is also payable @ 0.04% for each day of delay. The Regulations do not provide for filing of any Claim Petition for the unpaid imbalance charges or interest thereon by any of the constituents against the defaulters. The amount could be payable by any of the constituents.

Any violation of such provision of the Regulations fall under the gambit of S.142 and S.146 of the EA-2003. Hence there was no reason for the Petitioner Company to file the Claim Petition accordingly the Petition was rightly filed seeking appropriate action as per provisions under the aforesaid provisions of the Electricity Act, 2003.

a.3 The breach on the part of the respondents is established and since the obligation has been imposed upon the appropriate Commission for ensuring the compliance of the provisions of the Electricity Act, 2003 and to impose punishment for non compliance thereof, hence the scope of the petition was limited and restricted to the said aspect. The commission was only required to examine as to whether any rules or regulations of the Electricity Act have been violated or not and once the said

violation is established, impose the prescribed punishment as per the provisions of the Electricity Act, 2003.

a.4 The Commission also failed to appreciate that the provisions as contained in section 142 and 146 of the Electricity Act, 2003 have to be strictly applied. The reading of the said provisions shows that it does not contain any exemption on account of any justifiable cause or valid explanation. The satisfaction of the Commission is restricted only to the extent whether the order has been violated or not and not into the reasons that may have led to the disobedience. The Commission by the very act of directing payment for the last four months (01.08.2016 to 30.11.2016) admit and acknowledge that there has been a violation by the respondents and thereafter there was no reason why the action in accordance with the provisions of section 142 and 146 of the Electricity Act, 2003 should not have been taken resort to.

B. Para 7 (Page 23) of the impugned order reads, "***the Limitation Act, 1963 is squarely applicable in the instant case, which is three years from the date the right to sue accrues, as specified in Article 113 of the Schedule of the Limitation Act, 1963 and the right to sue accrues on the date when the amount became due to the Petitioner, as per the provisions of HERC OA Regulations***:

b.1 In view of the explanation given above the observation made by the Commission is contrary to the facts of the case as the Petition filed by the Petitioner was seeking execution of the provisions under the OA Regulations and not a claim Petition by nature. Rightly so, the Petition not being a Claim Petition, it should have been dealt as an Execution Petition and not a Claim Petition.

b.2 There is no timeline provided for execution of the provision of a Regulation under the Limitation Act, 1963. The OA Regulations provide clear guidelines for payment of imbalance charges by the respective constituents irrespective of the payment becoming due to any of the constituents including the transmission licensee, distribution licensees or the open access consumers, as the case may be. There is also a clear provision for payment of interest on the delayed payment of imbalance charges in the Regulations.

As such there is no scope or provision under these Regulations for right to sue by any of the constituents. Once there is no such right to sue under the Regulations, there was no question of claim being time barred.

b.3 That the Electricity Act 2003 is a complete Act unto itself and for the purposes of determining the rights under the Act, only the provisions contained therein can be taken into consideration. There is no limitation prescribed under the Electricity Act, 2003. Section 170 of the Electricity Act, 2003 provides for recovery of penalty and does not provide any time limit for recovery of the same. Needless to mention that the legislature was not oblivious of the concept of limitation under the Act and has prescribed limitation under various provisions such as section 56, where ever the legislature so intended. The same cannot be made subject to the provisions of the Limitation Act. Further section 174 of the Electricity Act 2003 gives an over-riding effect to the provisions of this Act. Hence, when the Electricity Act 2003 intends not to prescribe any limitation, the same cannot be made applicable by pulling the provisions of the Limitation Act, 1963.

C. Para 8 (Page 24) of the impugned reads that "***the recovery claim preferred by the Petitioner against the Respondents is time barred as per the Limitation Act, 1963, in respect of the claims preferred for the period prior to 31.07.2016***." _

c.1 As explained above, the Petition filed by the Petitioner was an Execution Petition and not a Claim Petition. Hence the above view taken by the Commission was not based on facts of the case. The implementation of the Regulations is not barred by any timeline or provisions of the Limitation Act, 1963. The relevant provision for execution of any provisions under the relevant Act or Regulations framed thereunder, is covered under Article 136 of the Schedule attached to the Limitation Act, 1963, which provides as under:-

Article	*Description of suit*	*Period of limitation*	*Time from which period begins to run*
136.	*For the execution of any decree (other than a decree granting a*	*Twelve years.*	*When the decree or order becomes enforceable or where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at*

	mandatory injunction) or order of any civil court.		*recurring periods, when default in making the payment or delivery in respect of which execution is sought, takes place:* *Provided that an application for the enforcement or execution of a decree granting a perpetual injunction shall not be subject to any period of limitation*

c.2 The Commission failed to appreciate that SLDC is required to be constituted as per the provisions of section 31 of the Electricity Act, 2003 for the purposes of exercising the powers and discharging the functions under the part including scheduling the dispatch of electricity as per the contracts including monitoring the grid operations, to keep accounts and supervision and control over the intra state transmission. While dealing with the said aspect under the OA Regulations of 2003 under regulation 24, the HERC imposed the obligation upon the SLDC to pay the imbalance charges from the Imbalance Pool Account in favour of the person who is to receive the money and quantified the delayed payment interest in the event of delay in making the said payment. The legislature does not provide for any remedy in the form of the beneficiary to have to file a proceeding for the recovery of the said amount since the obligation was a state obligation to give the credit of the said amount.

c.3 That the statutory obligation for crediting the charges to the account of the beneficiary was on the SLDC and the Regulations did not contemplate any situation where the beneficiary was required to file a claim for recovery of such money. Rather, the entire process was required to be settled by the SLDC at its own level without the beneficiary having to file any claim. It was for the said reason, that there is no procedure provided for lodging the claim before the SLDC. Needless to mention that the SLDC being the nodal agency under the regulations, the claim, if any, can only be filed before the said agency. It would not be filed before the Commission, rather the same would have been filed before the SLDC.

c.4 That the claim thus could not have been filed before the HERC as per the Regulations. The statutory obligation was upon the SLDC. The claim can only be filed with the agency which is the nodal agency and as per the procedure prescribed by such agency before whom the claim is to be lodged. In the absence of the nodal

agency prescribing the procedure, the claim can not be held to be barred by limitation. Needless to mention that the claim could not have been lodged at all for the want of the procedure governing the filing the claim.

c.5 That the consumer cannot be burdened with the default committed by the state agency which was required to ensure the protection of the rights of the parties. That would amount to giving premium for the default committed by the State agency.

c.6 That the default has been committed by the State Agency as well as the nodal agencies and the petitioner cannot be burdened with the failure of the nodal agency to prescribe the procedure, form, fee for filing the claim. In the absence of the procedure prescribed, the Petitioner could not have filed the claim at all. Hence, even on the said account, it cannot be said that the claim of the petitioner is belated and hence deserves to be dismissed as barred by limitation.

c.7 That the nodal agency is empowered in law to recover the amount and the interest as arrears of land revenue. There is no reason as to why the aforesaid proceedings have not been initiated by the SLDC. Invariably the said agency which is required to discharge its functions for furtherance of the objective enshrined under the Act, is merely acting as yet another department of the State. Apparently, such departure from the statutory mandate is because despite the provisions of the Act come into force from December 2003, the proviso to section 31 has been used as a substantive provision which was rather intended to be a stop-gap arrangement has been deployed by the State as the substantive provision.

viii) That the Commission did not consider some of the very important facts of the case. Some of these, which were elaborated in the Petition and accepted by the Respondents repeatedly. These are summarized as follows:-

a) The Petitioner filed Petition No. HERC/PRO-43 of 2019 in July 2019 (listed by the Commission on August 01, 2019) and thereafter Commission heard the matter on 16.09.19, followed by hearings held on 23.10.19, 04.12.19 and 04.02.2020.

b) Meanwhile, Respondent No.1 filed another Petition No. HERC/PRO-56 of 2019 on October 31, 2019 seeking clarification regarding the Haryana Electricity Regulatory Commission (Terms and conditions for grant of Connectivity and Open Access for

Intra-State Transmission and Distribution System) Regulations, 2012 and amendment thereof under Regulation 58 of the said Regulations. The Commission decided to take up this Petition first as it had direct impact on the earlier Petition of the Petitioner. The Petition was heard on 04.12.19 and order passed on 09.12.19. Through this Petition, Respondent No.1 had specifically mentioned about the pending UI payments of the Petitioner Company for the period Nov. 2013 to Oct. 2016. The Petition also mentioned the reason for non-payment of UI charges to the Petitioner Company. Some of the extracts from this Petition, as reproduced in the Commission order dated 09.12.19 are as under:-

i) M/s Jindal Stainless (Hisar) Limited, who is an embedded open access consumer, had scheduled open access power through two sources viz. Captive Power Plant situated at Odisha and Indian Energy Exchange (IEX) and residual requirement was supplied by the Petitioner during November 2013 to October 2016.

ii) M/s Jindal Stainless (Hisar) Limited filed a petition bearing PRO 43 of 2019 before this Commission under S.142 and S. 146 of the Electricity Act, 2003 seeking refund of Unscheduled Inter-change (UI) charges for the period of November 2013 to October 2016 from DHBVN in July 2019.

iii) Regulations 43 read with Regulation 42 (iii) read with Regulation 24 (2) (A) (II) (i) of the OA Regulations provides the manner of calculating imbalance charges at the time of settlement of energy at drawl point. However, it lacks clarity qua the settlement methodology or the order in which energy drawl is to be adjusted in case of a consumer sourcing conventional power through open access from multiple sources. For instance, whether energy sourced from an expensive source is to be settled first or it has to be settled later. In the peculiar case of M/s Jindal Stainless (Hisar) Limited as cited in the preceding para, settlement of drawl of energy for the purpose of Regulation 43 sourced from multiple sources poses following three scenarios before the Petitioner: -

(a) Adjustment of captive power first and then power sourced through IEX;or

(b) Adjustment of IEX first and Captive Power Later; or

(c) Treatment of Captive Power and power from IEX alike

The imbalance charges will differ under each of the three scenarios stipulated above due to application of different settlement methodology in each case.

Moreover, the Respondent No.1 prayed for the clarification:-

"(a) Allow the instant Petition of the Petitioner herein seeking clarification regarding accounting methodology to be adopted or the order in which energy drawl is to be adjusted in case a consumer is sourcing conventional power through open access from multiple sources and further clarify whether payment against underdrawl under regulation 24(2)(A) (II) (i) of the OA Regulations are applicable on open access power sourced through Captive Power Plant;"

c) The Commission accordingly decided to give this clarification first before deciding the matter in Petition of the Petitioner. Necessary clarification was given by the Commission vide its order dated 09.12.19. From the above development it was amply clear that the Respondent No. 1 had not been able to settle the UI charges in the absence of the order of settlement of wheeled energy. There was no question of UI payments being time barred as it was pure implementation of the provisions under the OA Regulations, which was held up in the absence of requisite clarification with the Respondent No.1.

d) Prior to the date of hearing of Petition No. HERC/PRO-43 of 2019 on 04.02.20, the Respondent No.1 issued detailed instructions to SDO/Op. Sub Division, Civil Lines, DHBVN, Hisar vide Memo. No. 650 dated 03.02.2020 for adjustment of under drawl of the Petitioner Company pursuant to the above order of the Commission dated 09.12.2019 in Petition No. HERC/PRO-56 of 2019 filed by Respondent No.1.

In this letter it was clearly mentioned that the calculations had been duly pre-audited by the office of Chief Auditor of DHBVN and issued with the approval of Chairman Cum Managing Director, DHBVN/UHBVN. It is clear from this letter that the amount of adjustment to be given to the Petitioner Company had been settled by Respondent No.1 for adjustment through the monthly energy bill to be issued in Feb. 2020**.**

ix) That all the above developments clearly depicted the intention of Respondent No. 1 to give adjustment of the pending UI charges in the forthcoming bill of Feb. 2020. There can't be any limitation of time for implementation of the express provisions

under the Regulations. Moreover, the Petition filed under S.142 & 146 of the EA-2003 could under no circumstance be termed as claim Petition.

x) In any case, the Commission has clearly travelled beyond the terms of petition and in deciding about the claim, if any, of the petitioner being time barred or not especially when the same was not the issue brought before the Commission. The Commission has recorded its findings even when under the regulatory framework, the petitioner cannot and has not approached the Commission for any recovery. In any case, while applying the provisions of Article 113 of schedule I of the Limitation Act, 1963, the Commission has also failed to take into account the effect of section 22 of the Limitation Act, 1963. Since, the act of non-payment of amount attracted a default interest of 0.04% for every day default, hence, it gave rise to a fresh cause of action. This being a continuous cause of action, would give rise to a new period of limitation. Hence, the Commission has given its ruling as regards the claim being barred by time not only without any petition to that effect, and without consideration that the regulations provided that the action has to be initiated by SLDC as per procedure prescribed, without considering that no such procedure has been prescribed so far and no action has been initiated by SLDC, without considering the import of a recurring cause of action since every day delay gave rise to interest @ 0.04% and hence giving rise to a fresh cause of action in terms of section 22 of the Limitation Act, 1963 are just some of the factors which show that there has been a latent error of law and fact resulting in inherent defect in the order passed by the Commission and rendering the order liable to be reviewed so as to rectify the aforesaid defects that go to the root of the order.

xi) The following prayer has been made:-

The Commission may review the order passed in Petition No. HERC/PRO-43 of 2019 dated 24.02.20 and grant corresponding reliefs as sought for through the original Petition.

Proceedings in the Case

4. The case was first heard on 05.08.2020. The Commission vide its Interim Order of ibid date directed the Respondent to file a written reply specifically clarifying the

background and intent in which the letter no. 650 dated 03.02.2020 of DHBVNL was issued.

5. In response to the Interim Order of the Commission, DHBVNL filed its detailed reply dated 28.09.2020, received through email dated 08.10.2020, primarily submitting that the review petition is not maintainable, being outside the review jurisdiction of the Commission. The reply of DHBVNL is summarized as under:-

i) That the Petitioner has challenged the detailed findings and reasoning of the Commission passed vide the Order dated 24.02.2020 in HERC/PRO-43 of 2019. The scope of Review does not extend to the adjudicating court/ commission to relook into the findings passed earlier, but only extends to errors that are apparent on the very face of the record or where there is a fact that has been discovered after passing of Order which was not in the knowledge of the Petitioner at the time of hearing of the Petitioner. It is pertinent, at this juncture, to consider Order XLVII Rule 1 of the Code of Civil Procedure 1908, which reads as under:

1. Application for review of judgment *—*

(1) Any person considering himself aggrieved—

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes,

and who, from the ***discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made****, or* ***on account of some mistake or error apparent on the face of the record*** *or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.*

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applied for the review.

Explanation.—The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment. ***(Emphasis supplied)***

ii) That the Petitioner has not made out a case for any patent error or any newly discovered fact being brought on record and accordingly, there arises no case for Review being made out. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power of review under the Code of Civil Procedure, 1908.

iii) The Hon'ble Supreme Court of India in the matter of ***Kamlesh Verma v. Mayawati and others [(2013) 8 SCC 320]*** has summarized the principles of Review under the Civil Procedure Code, 1908 in the following manner:

"*19. 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. In review jurisdiction, mere disagreement with the view of the judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned judgment in disguise that an alternative view is possible under the review jurisdiction.*

Summary of the principles

20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1. When the review will be maintainable:

(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii) Mistake or error apparent on the face of the record;

(iii) Any other sufficient reason.

The words "any other sufficient reason" have been interpreted in Chhajju Ram v. Neki [(1921-22) 49 IA 144 : (1922) 16 LW 37 : AIR 1922 PC 112] and approved by this Court in Moran Mar Basselios Catholicos v. Most Rev. Mar Poulose Athanasius [AIR 1954 SC 526 : (1955) 1 SCR 520] to mean "a reason sufficient on grounds at

least analogous to those specified in the rule". The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd. [(2013) 8 SCC 337: JT (2013) 8 SC 275]

20.2. When the review will not be maintainable:

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the original hearing of the case.

(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.

(v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived."

iv) In yet another case of Jain Studios Limited through its ***President vs. Shin Satellite Public Co. Ltd. (11.07.2006 - SC) : MANU/SC/8226/2006***, the Hon'ble Supreme Court while considering an application for Review of Order has held:

"*8. So far as the grievance of the applicant on merits is concerned, the learned Counsel for the opponent is right in submitting that virtually the applicant seeks the same relief which had been sought at the time of arguing the main matter and had been negatived. Once such a prayer had been refused, no review petition would lie which would convert rehearing of the original matter. It is settled law that the power of review cannot be confused with appellate power which enables a superior Court to correct all errors committed by a subordinate Court. It is not rehearing of an original matter. A repetition of old and overruled argument is not enough to reopen concluded adjudications. The power of review can be exercised with extreme care,*

caution and circumspection and only in exceptional cases. When a prayer to appoint an arbitrator by the applicant herein had been made at the time when the Arbitration Petition was heard and was rejected, the same relief cannot be sought by an indirect method by filing a review petition. Such petition, in my opinion, is in the nature of 'second innings' which is impermissible and unwarranted and cannot be granted."

v) Therefore, it is quite evident that where a review is preferred to re-argue the same matter which has been negatived or is an appeal in disguise whereby an erroneous decision is sought to be reheard, it would not be maintainable and cannot be entertained. The Petitioner in the present case has gone ahead to re-argue the complete matter from scratch expecting every merit to be reconsidered afresh. The present case squarely fulfils the 2 criterions and is therefore liable to dismissed *in limine*.

vi) Furthermore, the Petitioner has attempted to put forth a new case altogether by bringing in the role of SLDC and alleging its default, without formally impleading it as a party. Furthermore, the Petitioner has attempted to put forth whimsical arguments to suggest that the Case No. PRO 43 of 2019 was in the nature of an execution Petition, which is first heard of in the present Petition. It has always been the case of the Petitioner that the case was in the nature of contempt under Section 142 and 14 of the Electricity Act, 2003. The Petitioner cannot be permitted to plead additional defenses to its case, but is merely permitted to point out patent errors if any, which it has completely failed to do.

RE: Reliance on Letter dated 03.02.2020 is unfounded

vii) Pertinently, the Petitioner has attempted to contend that the Letter dated 03.02.2020 was in the nature of a direction to pay / an admission, which is frivolous and whimsical. In reply to the direction of the Commission to clarify the position on the said letter, it is submitted the same was merely a calculation made by one of the departments of DHBVNL for furnishing information for assistance of the Commission, if so required. The same did not suggest any promise of any adjustment or payment as is being contemplated by the Petitioner. Merely calculating would not tantamount to admission unless there is an unequivocal acceptance of the debt and the obligation to pay. The same had also been clarified during the hearing of the Petition and the Order dated 24.02.2020 also records the arguments made by both parties on the said Letter. After due consideration of the said aspect the Commission has

decided the case in terms of the Order dated 24.02.2020. The Petitioner's contention is therefore frivolous and ought to be disregarded in totality.

RE: Claim of the Petitioner is in essence a Money Claim

viii) It is the case of the Petitioner that the Case No. HERC/PRO -43 of 2019 is a Petition for contempt under Section 142 and 146 of the Electricity Act, 2003 and not infact a monetary claim. In this regard it may be relevant to highlight the definition of "Money Claims" as per Black's Law Dictionary (revised 4th Edition), which reads as under:

"*In English practice, under the judicature act of 1875, claims for the price of goods sold, for money lent, for arrears of rent, etc., and other claims where money is directly payable on a contract express or implied, as opposed to the cases where money is claimed by way of damages for some independent wrong, whether by breach of contract or otherwise.*"

ix) Upon a basic perusal of the prayers made by the Petitioner, as has been stated hereinabove, the very primary prayer is of refund of UI Charges and the subsequent prayers speak about penalizing for non-compliance etc. The Petition essentially is a monetary claim in essence and merely by indicating Section 142 and 146 of the Electricity Act, 2003 in the title, the same cannot be termed as a Petition for contempt. For all practical purposes, the same would have to be dealt with in a manner of monetary claim, which it has been rightly considered by the Commission. Therefore, there arises no question of any review being entertained.

x) It is submitted that the Petitioner has attempted to put forth a case to indicate that the Case No. HERC/PRO -43 of 2019 is a proceeding in the nature of execution and is not a claim petition. At this juncture it become imperative to consider what constitutes execution under the Code of Civil Procedure, 1908. It is submitted that under the Civil Procedure Code, 1908, Power of a Court to enforce execution has been provided for in the following manner:

"***51. Powers of Court to enforce execution.***—*Subject to such conditions and limitations as may be prescribed, the Court may, on the application of the decree-holder, order execution of the decree*—

(a) by delivery of any property specifically decreed;

(b) by attachment and sale or by the sale without attachment of any property;

(c) by arrest and detention in prison 3 for such period not exceeding the period specified in section 58, where arrest and detention is permissible under that section;

(d) by appointing a receiver; or

(e) in such other manner as the nature of the relief granted may require:

Provided that, where the decree is for the payment of money, execution by detention in prison shall not be ordered unless, after giving the judgment-debtor an opportunity of showing cause why he should not be committed to prison, the Court, for reasons recorded in writing, is satisfied—

(a) that the judgment-debtor, with the object or effect of obstructing or delaying the execution of the decree,—

(i) is likely to abscond or leave the local limits of the jurisdiction of the Court, or

(ii) has, after the institution of the suit in which the decree was passed, dishonestly transferred, concealed, or removed any part of his property, or committed any other act of bad faith in relation to his property, or

(b) that the judgment-debtor has, or has had since the date of the decree, the means to pay the amount of the decree or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same, or

(c) that the decree is for a sum for which the judgment-debtor was bound in a fiduciary capacity to account.

Explanation. —In the calculation of the means of the judgment-debtor for the purposes of clause (b), there shall be left out of account any property which, by or under any law or custom having the force of law for the time being in force, is exempt from attachment in execution of the decree."

The above proposition has been held to be applicable to Orders under Section 36 of the Code of Civil Procedure, 1908.

Section 2 (2), of the Code of Civil Procedure, 1908, defines a Decree as follows:

"decree" means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either

*preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within 2 *** section 144, but shall not include—*

(a) any adjudication from which an appeal lies as an appeal from an order, or

(b) any order of dismissal for default

.

.

Section 2 (14), of the Code of Civil Procedure, 1908, defines an "order" to be formal expression of any decision of a Civil Court which is not a decree.

xi) Manifestly, execution proceedings can be lodged against Orders and not regulations. It is settled law that an Order/ Judgment puts to rest the controversy between the parties and determines the liability of the parties. It is only upon such adjudication and clear establishment of liability, that one can file an application seeking execution of such order. In the present case this had never ensued, and hence there arises no question of an execution. The Regulations in question do not contemplate a scenario for settlement of energy charges where the electricity is sourced through multiple sources and therefore, there could not have been any execution or a contempt for the same. In any case it is the Petitioner's case that the Case No. 43 of 2019 was under Section 142 and 146 of the Electricity Act, 2003, which itself cannot be in the nature of an execution. Hence, the argument of the Petitioner fails miserably.

RE: Claims barred by Limitation

xii) Furthermore, the proposition of the Petitioner that Section 170 of the Electricity Act, 2003 provides for recovery of penalty and does not provide any time limit for recovery of the same is completely flawed. Section 170 infact provides for a mode of recovery of the penalty to be by way of land arrears. There is no question of limitation being part of the same. As far as the contention pertaining to Section 174 is concerned, it is important to peruse Section 174 and 175 of the Electricity Act, 2003, which reads as under:

"Section 174. (Act to have overriding effect):

Save as otherwise provided in section 173, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other

law for the time being in force or in any instrument having effect by virtue of any law other than this Act."

"***Section 175. (Provisions of this Act to be in addition to and not in derogation of other laws)****:*

The provisions of this Act are in addition to and not in derogation of any other law for the time being in force."

xiii) Section 174 provides for overriding effect over any other act/ provision which are inconsistent with the Act. Further Section 175 provides that the provisions of the act are in addition and not in derogation of the other laws for the time being in force. Evidently, the Electricity Act, 2003 does not provide for a separate time line and is hence harmonious and in addition to the Limitation Act, 1963. The Petitioner is clearly attempting to mislead this Hon'ble Commission. The aforesaid position has also been clarified by the Order of the Hon'ble Supreme Court of India ***in A.P. Power Coordination Committee v. Lanco Kondapalli Power Ltd. (2016) 3 SCC 468*** in the context of Electricity Act, 2003, has held:

"30. In such a situation it falls for consideration whether the principle of law enunciated in State of Kerala v. V.R. Kalliyanikutty [State of Kerala v. V.R. Kalliyanikutty, (1999) 3 SCC 657] and in New Delhi Municipal Committee v. Kalu Ram [New Delhi Municipal Committee v. Kalu Ram, (1976) 3 SCC 407] is attracted so as to bar entertainment of claims which are legally not recoverable in a suit or other legal proceeding on account of bar created by the Limitation Act. On behalf of the respondents those judgments were explained by pointing out that in the first case the peculiar words in the statute—"amount due" and in the second case "arrears of rent payable" fell for interpretation in the context of powers of the tribunal concerned and on account of the aforesaid particular words of the statute this Court held that the duty cast upon the authority to determine what is recoverable or payable implies a duty to determine such claims in accordance with law. In our considered view a statutory authority like the Commission is also required to determine or decide a claim or dispute either by itself or by referring it to arbitration only in accordance with law and thus Sections 174 and 175 of the Electricity Act assume relevance. Since no separate limitation has been prescribed for exercise of power under Section 86(1)(f) nor this adjudicatory power of the Commission has been enlarged to entertain even the time-barred claims, there is no conflict between the provisions of the Electricity

Act and the Limitation Act to attract the provisions of Section 174 of the Electricity Act. In such a situation, on account of the provisions in Section 175 of the Electricity Act or even otherwise, the power of adjudication and determination or even the power of deciding whether a case requires reference to arbitration must be exercised in a fair manner and in accordance with law. In the absence of any provision in the Electricity Act creating a new right upon a claimant to claim even monies barred by law of limitation, or taking away a right of the other side to take a lawful defence of limitation, we are persuaded to hold that in the light of nature of judicial power conferred on the Commission, claims coming for adjudication before it cannot be entertained or allowed if it is found legally not recoverable in a regular suit or any other regular proceeding such as arbitration, on account of law of limitation. We have taken this view not only because it appears to be more just but also because unlike labour laws and the Industrial Disputes Act, the Electricity Act has no peculiar philosophy or inherent underlying reasons requiring adherence to a contrary view.

31…….Hence we hold that a claim coming before the Commission cannot be entertained or allowed if it is barred by limitation prescribed for an ordinary suit before the civil court. But in an appropriate case, a specified period may be excluded on account of the principle underlying the salutary provisions like Section 5 or Section 14 of the Limitation Act. We must hasten to add here that such limitation upon the Commission on account of this decision would be only in respect of its judicial power under clause (f) of sub-section (1) of Section 86 of the Electricity Act, 2003 and not in respect of its other powers or functions which may be administrative or regulatory.

xiv) Therefore, it is abundantly clear that the Electricity Act, 2003 is not in conflict with the Limitation Act, 1963 and therefore there is no bar on its application.

xv) That the Commission by directing payment for the last four months (01.08.2016 to 30.11.2016) admit and acknowledge that there has been a violation by the Respondent No. 1. The same was ordered in furtherance of the clarification given on the Petition filed by the Respondent No. 1 in respect of the multiple sources of energy through open access. The act of the Commission to clarify the position upon the application made by Respondent No. 1, clearly goes to show that the issue of multiple sources of open access and their priority of consideration for settlement of energy had not been contemplated under the Regulations itself. Hence, there has not been any punishment as sought levied upon Respondent No. 1.

xvi) That the Review Petition ought to be dismissed with heavy costs and none of the prayers as sought by the Petitioner are liable to be granted in view of the facts and the defences set out hereinabove.

Commission's Analysis and Order

6. The Commission heard the arguments of both the parties at length as well as perused their written submissions given in the matter.

7. Before proceeding to examine the issues raised by the Petitioner, the Commission considered it appropriate to examine the issue of maintainability of the Review Petition. The Commission has perused the scope of review jurisdiction, contained 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 relevant clause of Order no. XLVII of Code of Civil Procedure 1908, is reproduced below:-

"1. Application for review of judgment-

(1) Any person considering himself aggrieved—

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred.

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes.

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applied for the review.

[Explanation - The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.]"

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. <u>The review petition has to be entertained on the ground of error apparent on the face of record and not on any other ground</u> (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".

Further, the Commission has also perused the following judgment of Hon'ble Supreme Court cited by the Respondent (HPPC):-

Kamlesh Verma Vs. Mayawati and others, (2013) 8 SCC 320

"17. In a review petition, it is not open to the Court to reappreciate the evidence and reach a different conclusion, even if that is possible. Conclusion arrived at on appreciation of evidence cannot be assailed in a review petition unless it is shown that there is an error apparent on the face of the record or for some reason akin thereto.

19. 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. In review jurisdiction, mere disagreement with the view of the judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned judgment in disguise that an alternative view is possible under the review jurisdiction.

20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1. When the review will be maintainable:

(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii) Mistake or error apparent on the face of the record;

(iii) Any other sufficient reason.

The words "any other sufficient reason" have been interpreted in Chhajju Ram v. Neki [(1921-22) 49 IA 144 : (1922) 16 LW 37 : AIR 1922 PC 112] and approved by this Court in Moran Mar Basselios Catholicos v. Most Rev. Mar Poulose Athanasius [AIR 1954 SC 526 : (1955) 1 SCR 520] to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd. [(2013) 8 SCC 337: JT (2013) 8 SC 275]

20.2. When the review will not be maintainable:

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the original hearing of the case.

(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.

(v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived."

8. On the basis of examination of the scope of Review Jurisdiction and rejoinder filed by the Respondent enunciated above, the Commission is of the considered opinion that all the issues raised were dealt with by the Commission while passing the impugned

Order. It is not open for the Petitioner to re-agitate without identifying errors apparent or brining to the table new facts and figures that were not available at the time of passing of the impugned Order. A manifest illegality must be shown to exist or a patent error must be shown in an Order to review a judgement. No such grounds or patent error has been shown by the Review Petitioner. The Commission is of the considered view that all the issues raised are liable to be rejected as being beyond the scope of Review jurisdiction of this Commission.

9. From the above detailed consideration of the issues sought to be raised by way of the present review petition, the conclusions in the following paragraphs are inevitable and the same effectively veto the petitioner's case, especially in view of the fact that despite the heavy brief having been filed by the petitioner, this Commission cannot be nudged to traverse down a path which is statutorily impermissible.

10. It is the considered opinion of this Commission that in the garb of invoking the review jurisdiction of this Commission, the petitioner is seeking a re-consideration of the issues involved in the present case. The order of which the review has been sought by the petitioner has not been shown to suffer from any illegality or patent irregularity. The bar against re-consideration of its own decision is a settled principle in adjudicatory jurisprudence. Once a case has been finally heard and adjudicated upon by the authority concerned, the resultant adjudication can be re-opened for consideration only in appellate jurisdiction wherefore statutory provision must be available.

11. That from the above consideration is it clear that apart from a re-examination of the issues in exercise of appellate jurisdiction, no review is permissible except in the limited cases where the matters requiring review fall within the statutorily prescribed contours of threefold grounds viz, *firstly*, previously unavailable or newly discovered fact, *secondly*, an error apparent on record, and *thirdly*, any other sufficient reason. A consideration of the record of the case indubitably reflects the absence of any of the aforesaid threefold statutory facts, in that the petitioner has *not been able to establish* the discovery of a previously unknown fact *nor has there been any* substantiation by the petitioner which will hint to any error apparent on record. *As far as the third statutory requirement for review* is concerned, this Commission is cognizant of the fact that the order as impugned in this petition contains adequate reasons to justify the conclusions arrived at therein, and there being sufficient reasons for the Commission

to pass the said order, no other sufficient cause for review is made out in the present petition.

12. The petition is accordingly disposed of.

This Order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 13.10.2020.

Date: 13.10.2020	(Naresh Sardana)	(Pravindra Singh Chauhan)
Place: Panchkula	Member	Member