

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

**Case No. HERC/PRO- 54 of 2020**

**Date of Hearing : 25.08.2021**

**Date of Order : 03.09.2021**

**In the Matter of**

**Complaint under section 142, 146 and 149 of electricity act, 2003 for violating the order passed in pro 44/2019 dated 31.10.2019, order dated 26/06/2018 passed by the consumer grievance redressal forum, Hisar, Haryana in case no.2147/2018 and order dated 11.09.2018 passed by Electricity Ombudsman in appeal no. 18/2018 as the aforesaid orders were not complied and no speaking order was passed as directed by this Hon'ble Commission and no revised bill was issued till date.**

**Petitioner/Complainant**

The Indian Airlines Pilots Co-Operative House Building Society, Sector 28,  
MG Road, Gurugram-122002.

**V/s**

**Respondents**

1. Dakshin Haryana Bijli Vitran Nigam Limited, through its M.D, Vidyut Sadan, Vidyut Nagar, Hisar-125 005.
2. S.E. 'OP', Dakshin Haryana Bijli Vitran Nigam Limited, Sector-31, Gurugram.

**Present**

**On behalf of the Petitioner**

Sh. B.P. Aggarwal, Advocate

**On behalf of the Respondent**

Sh. KC Aggarwal, Chief Engineer 'OP', DHBVN, Delhi Zone  
Sh. Manoj Yadav, SE 'OP', DHBVN, Gurugram-II

**QUORUM**

**Shri R.K. Pachnanda, Chairman  
Shri Pravindra Singh, Member  
Shri Naresh Sardana, Member**

## ORDER

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

The petitioner has submitted as under:

1.1 That the present complaint filed by the complainant as the respondents have violated the order dated 26.06.2018 passed by this Hon'ble Commission in PRO 44/2019 dated 31.10.2019, also order passed by the Consumer Grievance Redressal Forum, Dakshin Haryana Bijli Vitran Nigam, Hisar in case bearing C.G. NO.2147 of 2018 and order dated 11.09.2018 passed by the Electricity Ombudsman in Appeal No. 18/2018. As per details mentioned hereunder :-

- I. That the complainant is an association of apartment owners of The Indian Airlines Pilots Co-operative House Building Society and Capt. Ms. Anila Bhatia is the president of the association who is authorized to file the present complaint on behalf of the association.
- II. That the complainant has obtained an electricity connection from the respondents through account no. 4015250000, Division: Sub Urban Gurgaon, Sub Division: G21-DLF, with the sanctioned load of 2982 KW in the name of INDIAN AIR and paid the security deposit as demanded by the respondents.
- III. That the society is having 245 apartments and they are using the electricity from the connection provided by respondents.
- IV. That as per the notification dated 09.01.2013 issued by the Hon'ble Commission for Single Point Supply to Residential Colonies or Office cum Residential Complexes of Employers, Group Housing Societies and Commercial cum Residential Complexes of Developers, Regulations 2013, the respondents are required to give the rebate of 4% from the total units consumed but the respondent has failed to comply with the said regulation and give the rebate on the energy charges.
- V. That complainant has deposited a huge amount as security deposit and as per Section 154(4) of Electricity Act, 2003, the respondents are liable to pay the interest from 2003 or from the date of deposit of bank rate which was 6% prior to 2012 and for the periods of 2012-13 it was 9.5%, 2013-14 it was 8.5%, 2014-15 it was 9%, 2015-16 it was 8.5%, 2016-17 it was 7.75 %. As per sales instruction 9/2016, in case the interest accrued during the year is not adjusted in the consumer's bill for the first

billing cycle of the ensuing financial year, the licensee shall be liable to pay interest at the rate of 18% for the period for which the payment of interest accrued is delayed but the respondents have failed to comply with the provision of law.

- VI. That the complainant served a legal notice on 13.03.2018 through the counsel to refund the excess amount paid by the complainant along with the interest but the respondents have failed to respond to the legal notice and hence the present complaint.
- VII. That since the respondents have failed to comply with the Supply Code/Regulations passed by the Hon'ble Commission and various circular issued by the respondents, the complainant was forced to file a complaint before the Consumer Grievances Redressal Forum, Hisar vide complaint no. 2147/2018.
- VIII. That the case was fixed for hearing on 29.05.2018 and on that day, the respondent no.1 filed the reply to the complaint in which it was stated that the complainant has paid Rs.29,82,000/- as ACD and they have paid the interest from 11-12 onwards except for the period 2013-14 and 2014-2015 and for this period the interest of Rs.4,02,570/- will be adjusted in the bill issued for the month of June 2018. From the reply it is crystal clear that for the years 2013-14 and 2014-2015, no interest was paid prior to June 2018 and there was delay of making the payment of interest. As per the sales circular No. D-29/2016 issued by the respondent company and as per clause 5.8.1 & 5.8.2 of regulation no. 34/2016 issued by the Hon'ble Commission under the Haryana Electricity Regulatory Commission (Duty To Supply Electricity On Request, Power To Recover Expenditure Incurred In Providing Supply And Power To Require Security) Regulations, 2016, the respondents are required to pay the interest in the month of April of each year and if they fail to do so then they are liable to pay the penal interest @ 18% per year. The respondents are liable to pay the penal interest for the period of 2013-14 and 2014-2015 on Rs.29,82,000/-. The relevant para are reiterated as under:-

**"5.8.1:** *The licensee shall pay interest to the consumer at the Bank rate as determined by the Reserve Bank of India on 1st*

*April of each year or more as specified by the Commission payable annually on the Consumer's security deposit. The interest accrued during the year shall be adjusted in the consumer's bill for the first billing cycle of the ensuing financial year.*

**5.8.2:** *In case the interest accrued during the year is not adjusted in the consumer's bill for the first billing cycle of the ensuing financial year, the licensee shall be liable to pay interest at the rate of 18% for the period for which the payment of interest accrued is delayed."*

- IX. That regarding the number of dwelling units, it was alleged that the details of the dwelling units were not available with them, whereas full details of the dwelling units were provided to the respondents at the time of getting the connection sanctioned. The details of the dwelling units were supplied to the respondents and on the basis of same, load was sanctioned.
- X. That in the reply it was mentioned that they are already giving the 4% rebate on SOP to the complainant but it was not clarified from which date they started giving the rebate. As per guidelines issued by HERC, the respondent is required to deduct the 4% units from the total units consumed and this benefit was required to be given w.e.f. 09.01.2013 but the same was not given by the respondents.
- XI. That without considering the submission of the complainant, the CGRF order dated 26.06.2018 held that the consumers and officials of DHBVN shall sit together and reconcile the difference, if any, in the interest of ACD without directing the respondents to file the details of the interest paid and for balance interest, pay the interest in terms of the sales circular no. D-29/2016 issued by the respondent company and as per clause 5.8.1 & 5.8.2 of Regulation No. 34/2016 issued by the HERC under the Haryana Electricity Regulatory Commission (Duty To Supply Electricity On Request, Power To Recover Expenditure Incurred In Providing Supply And Power To Require Security) Regulations, 2016. The CGRF also failed to consider that the list of occupancy was already provided to the respondents at the time of getting the connection and now again after passing the order, the list was provided to the SDO through e-mail.

1.2 That the complainant has filed an appeal vide no. 18/2018 before the Electricity Ombudsman and the matter was listed for hearing on 10.09.2018 before the Ombudsman. During the hearing, there was a settlement between the parties, the terms of which are mentioned in the order, which is as follows: -

*“After the detailed deliberations, it was mutually agreed that the appellant would submit a certificate issued by the Director, Town & Country Planning regarding occupancy of 245 dwelling units along with the electricity bills issued by the RWA to the individuals 245 units, as a documentary evidence. After considering the documentary evidence, the account will be overhauled by giving the benefit of slab system, as per the instructions of the Nigam regarding the prevailing Single Point Supply Regulations. Further, the interest on the ACD, already given, would be reviewed in light of the Departmental instructions and the benefit, as claimed by the appellant, would be allowed accordingly. The respondent SDO made a written statement in this regard.*

*In response, the Ld. Counsel for the appellant stated in writing that “As mutually agreed and in view of the statement of the respondent SDO, I have instructions to withdraw the present appeal”.*

*Keeping in view the above, material available on record and the submissions made by both the parties, the appeal is disposed of as “settlement by conciliation” in terms of HERC Regulations 37/2016 dated 29.07.2016.*

1.3 That in the certificate issued by the Director, Town & Country Planning to the complainant, number of flats were not mentioned, the complainant, through his counsel, made the representation under RTI to Director, Town & Country Planning, with the request to issue the certificate showing the number of flats and thereafter in the reply under RTI, number of dwelling units were shown as 245 as claimed by the complainant.

1.4 That immediately after receiving the certificate the complainant made the representation vide letter dated 27.04.2019 through e-mail along with the copy of the document received under RTI from Director, Town & Country Planning and the house tax receipt of 245 dwelling units. A legal notice dated 16.05.2019 was also sent to the concerned SDO but no action was taken on the representation or on the legal notice and no revised bill was ever issued.

- 1.5 That the complainant has also filed a complaint vide PRO – 44 of 2019 before this Hon'ble Commission and the aforesaid complaint was disposed of on 31.10.2019. At the time of hearing, it was informed by the respondent no.1 that the complainant has not provided the bills of the individual consumers to the respondents and revised bill can be issued only after receipt of the bills. The respondent no.1 was directed by the Hon'ble Commission to pass the speaking order with respect to issue raised by the complainant regarding ACD but till date no speaking order has been passed.
- 1.6 That on 06.11.2019, along with the letter, the complainant has also served 245 copies of the individual electricity bills raised by the RWA to the individual resident, showing that all the 245 residents of the society have occupied their houses prior to 2013 and hence, the complainant association is entitled for the slab benefit for 245 dwelling units as mentioned in the tariff order for the year 2013-14. The complainant is not filling the 245 copies of the bills as it will increase the number of pages of this complaint and if directed, the complainant will undertake to file all the 245 copies of the bills.
- 1.7 That, in the month of January 2020, when the complainant contacted the respondent no.1 regarding issue of the revised bill, it was informed to the representative of the complainant that sundry account is already prepared which is under the process and revised bill will be issued soon and similar reply was received at the starting of March, 2020 but till date no revised bill has been received showing the refund of the excess amount, showing the number of dwelling units as 245 and no speaking order was passed as directed by the Hon'ble Commission vide order dated 31.10.2019.
- 1.8 That since the respondents have violated the order dated 31.10.2019 passed by the Hon'ble Commission, order dated 26.06.2018 passed by the CGRF and order passed by the Ombudsman dated 11.09.2018, hence the complainant has filed this complaint.
- 1.9 That the cause of action arose in favour of the complainant and against the respondent when the respondents violated order dated 26.06.2018 passed by CGRF, order dated passed by the Ombudsman dated 11.09.2018, various tariff order starting from 2013 onwards passed by the Hon'ble Commission for allowing the rebate, order dated 09.01.2013 allowing 4% rebate on units, Section 154(4) of Electricity Act, Sales Circular D-29/2016, cause of action again arose when the

certificate issued under RTI was served upon the respondent showing the number of dwelling units, again when the bills of individual consumers were supplied, violated the order dated 31.10.2019 passed by the Hon'ble Commission, cause of action again arose when the complainant has served the 245 copies of the bills raised by the association to the respondent no.1, the cause of action is still subsisting.

**PRAYER :-**

In view of the above facts and circumstances, it is most respectfully prayed that the Hon'ble Commission may be pleased to :-

- 1.10 Initiate an inquiry against the respondents, every person who, at the time of offence committed, was in charge of and was responsible to the company for the conduct of the business of the company for violating the order passed by the Hon'ble Commission in HERC/PRO-44 of 2019 on 31.10.2019, Electricity Act, 2003, as no speaking order was passed, tariff provision was not complied for the year 2013-14 and onwards as no slab benefit was given till date, there was no deduction of 4% units from the total units consumed, interest was given for the limited period on ACD, whereas the same was required to be given for the entire period after deposit of the security, Clause 2.52, 2.56 & 2.57 of Haryana Electricity Regulatory Commission (Guidelines for establishment of Forum for Redressal of Grievances of the Consumers, Electricity Ombudsman and Consumer Advocacy) Regulations, 2017 Regulations passed by the Hon'ble Commission, various Sales Circulars and order dated 26.06.2018 passed by CGRF and order dated 11.09.2018 passed by the Ombudsman and take the action against them under section 142, 146 and 149 of Electricity Act, 2003 and;
- 1.11 Direct the respondents to issue the revised bill in terms of the order dated 26.06.2018 passed by CGRF and order dated 11.09.2018 passed by the Ombudsman, till the current reading along with the full details of the revised demand and same be either refunded or adjust against the current demand and refund be made in terms of the Regulation 2017and;
- 1.12 Direct the respondents to pay the interest in terms of the regulations dated 29.07.2017 passed by the Hon'ble Commission on refund amount and interest @ 18 % on delayed payment of interest on Security deposit /ACD;

- 1.13 Award the compensation and costs of present proceedings in favour of complainant and against the respondent and;
- 1.14 Any other or further order which this Hon'ble Commission may deem fit and proper in the facts and circumstances of the case in favour of the complainant in the interest of justice.

**2. Report Dated: 03.03.2021 from SE OP Circle II, DHBVN, Gurugram:**

**I. To give rebate of 4% on units bills as per notification 09.01.2013.**

Compliance has been made by giving credit of Rs. 2214745/- against case ID no. 62041521 by the office of SE/CBO, Hisar on 29.12.2020. The same has been credited in the energy bill in the month of Jan, 2021.

**II. To update the dwelling units in the billing software.**

Compliance has been made by updating the 245 no. dwelling units in consumer account and benefit of Rs. 580006/- has been credited in consumer account on 08.01.2021 (for the period of 09/2019 to 03/2020) against case id no. 9976636674 by the office of SE/CBO, Hisar.

**III. To pass a speaking order in the issue of interest on advance consumption deposit.**

In compliance, speaking order has been passed by SE/OP Circle-II, DHBVN Gurugram on 15.01.2021

**3. Proceedings:**

- 3.1 The case came up for hearing on 16.06.2021, as scheduled, through video conferencing in view of Covid-19 Pandemic. Sh. B.P Aggarwal, counsel for the petitioner, submitted that DHBVN vide order dated 31.10.2019 was directed to pass the speaking orders regarding the interest on ACD. But the same has been passed by SE 'OP' on 15 January, 2021 only after filing the present petition and the speaking order passed is wrong to the extent that the interest on ACD has not been given for the period from 2003 to 2010-11. The petitioner further argued that dues outstanding on the respondent are more than the refund paid. The Commission observed that the direction of passing the speaking orders has been complied with by DHBVN.
- 3.2 Per contra the respondent, XEN submitted that the lower tariff slab benefit regarding dwelling units (i.e. 245 nos.) has been refunded and

the ACD amount and interest thereupon has been given as per the instructions.

- 3.3 After hearing the parties, the Commission observes that the dispute is regarding amount to be refunded. Therefore, it is directed that Chief Engineer 'OP', Gurugram, would check calculation of the amount and submit the report.

**Compliance Report dated 29/06/2021 file by CE/OP, DHBVN, Delhi Zone:**

- 3.4 The CE 'OP' in his report submitted as under:

- a) That petition HERC/PRO 54 of 2020 was filed by M/s Indian Airlines Pilots Co-Operative House Building Society in the Hon'ble Commission, in the matter of complaint under section 142,146 and 149 of Electricity Act, 2003 for violating the order passed in PRO-44/2019 dated 31/10/2019, order dated 26/06/2018 passed by the CGRF, Hisar in case no. 2147/2018 and order dated 11/09/2018 passed by the Electricity Ombudsman in appeal no. 18/2018, as the aforesaid orders were not complied, no speaking order was passed as directed by the Hon'ble Commission and no revised bill issued till date.
- b) That Hon'ble Commission vide its order dated 29.06.2021 has directed that "Chief Engineer Operations, Gurugram, would check calculation of interest on ACD amount and submit the report". The detailed calculation, regarding interest on ACD payable to petitioner i.e. M/s The Indian Airlines Pilots Co-Operative House Building Society has been duly checked by SDO (OP) DLF, XEN 'Op' Sub Urban Division and pre-audited by Sr. Accounts Officer Sector-31, Gurugram. While going through the detailed calculation, it is gathered that Rs. 3,88,801/- is chargeable from the petitioner as interest due to petitioner w.e.f. FY 2013-2014 to FY 2020-21 is Rs. 8,04,578/- whereas interest already paid to the plaintiff is Rs. 11,93,379/. It is clear from the calculation that all the legitimate dues on account of the interest on ACD have already been paid to the petitioner and no issue is left pending on this account.

**4. Commission's Order:**

- 5.1. The case was heard finally on 25.08.2021, as scheduled, through video conferencing in view of the Covid-19 Pandemic.
- 5.2. The CE 'OP' submitted that the interest on ACD has been made till 2021, all legitimate dues on account of interest on ACD has already been paid to the petitioner and no issue is left pending on this account. The Commission further enquired as to whether the petitioner has submitted relevant documents prior to the year 2010-11, the respondent stated that no documents have been provided by the petitioner before FY 2010-11.
- 5.3. After going through the record placed on file and submissions made by both the parties, the Commission observes that refund on account of lower slab benefit and the rebate of 4% on 11 KV have been adjusted in the bill of petitioner. Further, the interest on ACD has already been paid to the petitioner till 2021 based upon the details made available. Therefore, the instant petition is disposed-of accordingly.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 03/09/2021.

**Date: 03.09.2021**

**(Naresh Sardana)**

**(Pravindra Singh)**

**(R.K. Pachnanda)**

**Place: Panchkula**

**Member**

**Member**

**Chairman**