

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

**Case No. HERC/Review Petition no 4 of 2023  
Case No. HERC/Review Petition no 5 of 2023**

**Date of Hearing: 05.07.2023  
Date of Order: 18.07.2023**

**In the Matter of**

Review of HERC Distribution Retail Supply Tariff Order dated 15.02.2023 related to the True-Up for FY 2021-22, Annual (mid-year) Performance Review for FY 2022-23, Aggregate Revenue Requirement of UHBVNL & DHBVNL for FY 2023-24 and Distribution & Retail Supply Tariff for FY 2023-24 under Section 94 (1) (f) of the Electricity Act 2003 and Regulation 57(1) & (2) of Haryana Electricity Regulatory Commission (Conduct of Business) Regulations, 2019 amended from time to time.

**Petitioner**

Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL) in Review Petition no 4 of 2023  
Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL) in Review Petition no 5 of 2023

**Present on behalf of the Petitioner**

In Review Petition no 4 of 2023

1. Sh. Naresh Boora, SDO/RA, DHBVNL
2. Sh. Ravinder Jadhav, Consultant, DHBVNL
3. Ms. Urmila Rani, XEN/RA, DHBVNL
4. Sh. Lalit Chaturvedi, Consultant, DHBVNL

In Review Petition no 5 of 2023

1. Sh. J. S Nara, SE/RA UHBVNL
2. Sh. B. S. Kamboj, XEN/RA
3. Sh. Subhash Kumar, UHBVNL
4. Sh. Anil Kumar, UHBVNL
5. Sh. Lalit Chaturvedi, Consultant, UHBVNL

**Quorum**

**Shri R.K Pachnanda  
Shri Naresh Sardana**

**Chairman  
Member**

**ORDER**

**Brief Background of the case**

1. The present review petition(s) have been filed by the Distribution Licensee(s) in Haryana viz. Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL) and Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL), being aggrieved by some of the issues deliberated and decided by the Commission in the Tariff Order, under the

provisions of Regulations 57 (1) and (2) of the HERC Conduct of Business Regulations, 2019.

2. As the Commission had disposed of the ARR/Tariff petitions filed by the review applicants vide a common order dated 15.02.2023; hence, the Commission has considered it appropriate to deal with the present review petition filed separately by UHBVNL and DHBVNL together and dispose of the same vide the present common order. The details of the review petition filed by UHBVNL and DHBVNL is reproduced as under:

#### A. Background

- i. That the Hon'ble Commission has notified the Tariff Order for Distribution Retail Supply Business on 15.02.2023 (Annexure-A) on the True Up for the FY 2021-22, Annual Performance Review for the FY 2022-23, Aggregate Revenue Requirement of UHBVNL and DHBVNL for the FY 2023-24 and Distribution and Retail Supply Tariff for the FY 2023-24.
- ii. That the petitioner(s) have prepared the present review petition under the provisions of Regulations 57 (1) and (2) of the HERC Conduct of Business Regulations, 2019. The petitioner(s) have submitted detailed illustrations on the matters for which review has been sought. The relevant excerpt of the Conduct of Business Regulations, 2019 is reproduced as under:  
*"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"*
- iii. That the petitioner(s) furthermore have submitted that as per Regulation 57 of the HERC Conduct of Business Regulations, 2019, no appeal against the decision, direction or order, sought to be reviewed is filed in any Court of Law.
- iv. That the petitioner(s) have submitted that the following issues are the subject matter of review.

#### B. DHBVNL: Issues for review

- i. **Error apparent in computation of Standalone Gap of the FY 2021-22:**

It is submitted that, the Hon'ble Commission vide its Tariff Order dated 15.02.2023 has approved the interstate sale revenue of Rs.270.53 Crore for

the FY 2021-22, against the claimed revenue of Rs. 683.09 Crore for the FY 2021-22 (i.e. Rs. 270.53 Crore for UHBVN + Rs.412.56 Crore for DHBVN).

In view of above, the Hon'ble Commission is requested to approve the interstate sale revenue of Rs.683.09 Crore for the FY 2021-22 (i.e. Rs.270.53 Crore for UHBVN + Rs. 412.56 Crore for DHBVN) as claimed by the petitioner in its Tariff Petition. Accordingly, the revised calculation as proposed by the petitioner is as below:

Revised Computation of Standalone Gap of FY 2021-22 (in Rs. Crore)				
Particular	Approved in T.O. dt. 30.03.2021	Actual	Approved in True-Up FY 2021-22	Corrected Surplus / (Gap)
UHBVNL	12,911.06	14,121.71	14,015.40	14,015.40
DHBVNL	17,075.30	18,192.22	18,129.42	18,129.42
Total ARR for FY 2021-22 (A)	29,986.36	32,313.93	32,144.82	32,144.82
Revenue at current tariff on intrastate sale	23,051.79	23,458.47	23,458.47	23,458.47
Revenue from FSA from Non- AP Consumers		611.65	611.65	611.65
Revenue from Interstate sale		683.09	270.53	683.09
Total Revenue FY 2021-22 (B)	23,051.79	24,753.21	24,340.65	24,753.21
Subsidy for AP supply at LT	6,393.47	6,248.35	6,067.21	6,067.21
Other Subsidy	460.00	491.32	491.32	491.32
Total Revenue including Subsidy (C)	29,910.3	31,492.88	30,899.18	31,311.74
Standalone Revenue Surplus/(Gap) for FY 2021-22 (A)-(B)-(C)	(76.01)	(821.05)	(1,245.64)	(833.08)

**ii. Error apparent in consideration of rate of holding cost for 1.5 years of the FY 2020-21 and consequential impact on True-Up Revenue Surplus / (Gap) for the FY 2021-22**

It has been submitted that the Hon'ble Commission, in the table Revenue Surplus / (Gap) for 2021-22 on True-Up, has inappropriately calculated the rate of holding cost for 1.5 years on surplus of the FY 2020-21. Additionally, the interest rate to assess the holding cost, works out @8.5% as per the Tariff Order dated 30.03.2022 on page no. 160, instead of @9.5% considered by the Commission. Hence, it can be seen that the Commission in its Tariff Order dated 30.03.22 has computed holding cost for surplus of the FY 2020-21 for 1.5 years, which was actually to be dealt in the FY 2022-23. Since, the Commission has adjusted this surplus in the FY 2021-22, holding cost shall ideally be applicable for 0.5 year. The revised and

corrected holding cost has been worked out as in Table below:

Holding cost computation on revenue surplus of FY 2020-21	
Approved by Commission	Rs. Cr.
Revenue surplus for FY 2020-21	2,133.94
Holding cost for 1.5 years @ 9.5% (A)	304.09*
Correction Required	Rs. Cr.
Holding cost for 0.5 years @ 8.5% (B)	90.69

As seen above, the corrected holding cost is Rs. 214.4 Crore less than what has been estimated and approved by the Commission in the ibid tariff order.

**Re-estimation of Revenue Surplus / (Gap) for the FY 2021-22 on True-Up after considering the above issue:**

The revenue gap at Haryana level has been re-estimated as below based on the correct calculation of the holding cost:

**Re-estimation of Revenue Surplus/(Gap) for the FY 2021-22 on True-Up after considering above issue (in Rs. Crore)**

Particular	Approved in T.O. dt. 30.03.2021	Actual	Approved in True-Up FY 2021-22	Corrected Surplus / (Gap)
Standalone Revenue Surplus/(Gap) for FY 2021-22 (as per Table -1 of this Petition)	(76.01)	(821.05)	(1,245.64)	(833.08)
Revenue surplus for FY 2019-20		210.00	210.00	210.00
Holding cost @ 9.5%		29.93	29.93	29.93
Revenue surplus for FY 2020-21		445.00	2,133.94	2,133.94
Holding cost for 1.5 years @ 9.5%		18.91	304.09	90.69^
Net Revenue Surplus/(Gap) for FY 2021-22		(117.21)	1,432.31	1,631.48

Note: ^Holding cost for 0.5 years @ 8.5%.

It is requested that the Revenue Surplus / (Gap) for the FY 2021-22 on True-Up after considering the above issue may kindly be allowed by the Hon'ble Commission.

**iii. Error apparent in approved Sales for UHBVN for the FY 2023-24.**

The review petitioner has submitted that the Hon'ble Commission has approved the sales of 25,263 MUs for UHBVN for the FY 2023-24. However, the sum of category-wise sales comes to 24,963 MUs which is 299 MUs less than approved sales. The corrected approved sales are provided below:

**Corrected Energy Sales of UHBVN for FY 2023-24 (MUs)**

Category	DH	UH	Haryana
Domestic	9454	7656	17110
Non-Domestic	3920	2346	6266
HT Industry	8946	8014	16960

LT Industry	1235	2077	3312
Lift Irrigation	217	64	281
Agriculture Tube Well	5215	3669	8884
Bulk Supply	1299	347	1646
Railway Traction / DMRC	95	0	95
Street Lighting	86	73	159
MITC	0	4	4
Public Water Works (PWW)	816	713	1529
Total Sales	31283	24963	56246

In view of the above, it has been submitted that the approved sales of UHBVN for the FY 2023-24 may please be corrected. Accordingly, the Hon'ble Commission is requested to approve the revised Energy Balance and Power Purchase for DHBVN and UHBVN.

**iv. Tariff Schedule Related Issues**

In the tariff order dated 15.02.2023, it seems that the Tariff for Argo Industry / FPO for the FY 2023-24 has not been provided inadvertently. The petitioner has requested that the Commission may provide the Tariff for the said category. The Tariff Schedule for the FY 2023-24 has been placed with the petition.

**C. UHBVNL: Issues for review**

**i. Error apparent in consideration of rate of holding cost for 1.5 years on surplus of the FY 2020-21 and consequential impact on True-Up Revenue Surplus / (Gap) for the FY 2021-22**

The petitioner has submitted that the Hon'ble Commission, in the table on Revenue Surplus / (Gap) for 2021-22 on True-Up, has inappropriately calculated the rate of holding cost for 1.5 years on surplus of the FY 2020-21. In addition, the interest rate to assess the holding cost comes out @8.5% as per the Tariff Order dated 30.03.2022 on page no. 160, instead of @9.5% considered by the Commission. Hence, it can be seen that the Commission in its Tariff Order dated 30.03.22 has computed holding cost for surplus of the FY 2020-21 for 1.5 years, which was actually to be dealt in the FY 2022-23. Since, the Commission has adjusted this surplus in the FY 2021-22, holding cost shall ideally be applicable for 0.5 year. The revised and corrected holding cost has been worked out as in the table below:

Approved by Commission	Rs. Cr.
Revenue surplus for FY 2020-21	2,133.94
Holding cost for 1.5 years @ 9.5% (A)	304.09*
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Correction Required	Rs. Cr.
Holding cost for 0.5 years @ 8.5% (B)	90.69

As seen above, the corrected holding cost is Rs. 214.4 Crs less than what

has been estimated and approved by the Commission in the ibid tariff order.

**Re-estimation of Revenue Surplus / (Gap) for the FY 2021-22 on True-Up after considering above issue:**

The revenue gap at Haryana level has been re-estimated as below based on correct calculation of holding cost:

Rs. Cr.

Particular	Approved in T.O. dt. 30.03.2021	Actual	Approved in True-Up FY 2021-22	Corrected Surplus/ (Gap)
UHBVNL	12,911.06	14,121.71	14,015.40	14,015.40
DHBVNL	17,075.30	18,192.22	18,129.42	18,129.42
Total ARR for FY 2021-22	29,986.36	32,313.93	32,144.82	32,144.82
Revenue at current tariff on intrastate sale	23,051.79	23,458.47	23,458.47	23,458.47
Revenue from FSA from Non- AP consumers		611.65	611.65	611.65
Revenue from Interstate sale		683.09	270.53	270
Total Revenue (Rs. Crore)	23,051.79	24,753.21	24,340.65	24,340.65
Subsidy for AP supply at LT	6,393.47	6,248.35	6,067.21	6,067.21
Other Subsidy	460.00	491.32	491.32	491.32
Total Revenue including Subsidy	29,910.3	31,492.88	30,899.18	30,899.18
Standalone Revenue Surplus/(Gap) for FY 2021-22	(76.01)	(821.05)	(1,245.64)	(1,245.64)
Revenue surplus for FY 2019-20		210.00	210.00	210.00
Holding cost @ 9.5%		29.93	29.93	29.93
Revenue surplus for FY 2020-21		445.00	2,133.94	2,133.94
Holding cost for 1.5 years @ 9.5%		18.91	304.09	90.69^
Net Revenue Surplus/(Gap) for FY 2021-22		(117.21)	1,432.31	1,218.92

**Note: ^Holding cost for 0.5 years @ 8.5%.**

It is requested that the Revenue Surplus / (Gap) for the FY 2021-22 on True-Up after considering above issue may kindly be allowed by the Hon'ble Commission.

**ii. Error apparent in approved Sales for UHBVN for the FY 2023-24.**

The Hon'ble Commission has approved the sales of 25,263 MUs for UHBVN for the FY 2023-24. However, the sum of category-wise sales comes to 24,963.00 Mus which is 299 MUs less than approved sales. The corrected approved sales are provided below:

**Corrected Energy Sales of UHBVN for FY 2023-24**

Category	MUs		
	DH	UH	Haryana
Domestic	9454	7656	17110
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HT Industry	8946	8014	16960
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Lift Irrigation	217	64	281
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Railway Traction / DMRC	95	0	95
Street Lighting	86	73	159
MITC	0	4	4
Public Water Works (PWW)	816	713	1529
Total Sales	31283	24963	56246

In view of the above, it is therefore submitted that the approved sales of UHBVN for the FY 2023-24 may please be corrected.

**iii. Inappropriate consideration of Rate of Interest for Capex and Working Capital Loans for ARR Year (FY 2023-24):**

It has been submitted that the Hon'ble Commission has approved the rate of interest for capex loans @ 6.77% and 8.75% for UHBVN and DHBVN respectively. Further, the rate of interest on working capital loans has been approved @7.30% and 9.55% for UHBVN and DHBVN respectively.

The UHBVNL has proposed interest rate of 9.26% for capex loans against which the Commission has approved the rate of interest (6.77%) of capex loans of the FY 2021-22. MCLR of the bank have increased by 2% to 2.5% as compared to rate of interest of the FY 2021-22. Similarly, rate of interest of working capital loans has also increased.

The rate of interest as approved by the Commission for working capital loans for UHBVN shall be revised to normative rate of 9.55% i.e 1.50% over MCLR, as approved for DHBVNL (9.55%) in line with the MYT Regulations 2019 and its amendments thereof.

In view of the above, it is therefore requested that the rate of interest for capex and working capital loans may please be revised accordingly.

**iv. Revision of Approved Revenue Surplus / (Gap) for the FY 2023-24**

The Hon'ble Commission in its Tariff Order at page no. 122 has stated the following:

*“The Commission observes that there is a revenue surplus of Rs. 1432.30 on true up for the FY 2021-22 from the purpose of the present order and the same shall be adjusted in the ARR of the FY 2023-24.”*

In view of the above it is clear that the impact of Revenue Surplus / (Gap) of the FY 2021-22 will be taken in Revenue Surplus / (Gap) of the FY 2023-24. Therefore, after considering the same the revised Revenue Surplus / (Gap) of the FY 2023-24 has been provided below:

Rs. Cr.

Particular	Proposed Petition 2023-24	in FY	Approved ARR FY 2023- 24	in FY 2023- 24	Corrected / Revised
Aggregate Revenue Requirement	36,524.87		38,686.15		38,686.15
UHBVN	15,591.99		16,592.20		16,592.20
DHBVN	20,932.88		22,093.95		22,093.95
Total Revenue	30,144.24		30,944.11		30,944.11
Revenue from Interstate sale	-		-		-
Revenue from Intrastate sale	30,144.24		30,944.11		30,944.11
Total Sales for FY 2023-24 (MUs)			56,546.00		56,546.00
Revenue Gap	6,380.63		7,742.04		7,742.04
CoS at LT level			6.62		6.62
AP sales for the FY 2023-24 MU			8,884.26		8,884.26
Estimated revenue from AP sales (assuming subsidized tariff)			108.15		108.15
AP Subsidy at LT CoS	6,115.42		5,769.94		5,769.94
Domestic & other Subsidy	-		-		-
Total revenue including subsidy	36,259.66		36,714.05		36,714.05
Total Revenue surplus/(Gap) for FY 2023-24 at current tariff	(265.21)		(1,972.10)		(1,972.10)
Revenue Surplus / (Gap) for FY 2021-22	(117.21)		1432.3		1,218.92
Holding cost for 1.5 Years @ 8.5%	(14.94)		182.62		155.41
Revenue Surplus/(Gap)	(397.36)		(357.18)		(597.77)

The Hon'ble Commission is requested herewith to revise the Revenue Surplus / (Gap) for the FY 2023-24 as per the above submission.

**v. Tariff Related Issues**

**1. Applicable Fixed Charges on Consumers covered under erstwhile NDS category.**

1.1. That the Hon'ble Commission in its ARR/Tariff order has merged few consumer categories with other categories. Amongst them, NDS consumers having sanctioned load above 50 KW and existing consumers having sanctioned load above 50 KW and upto 70 KW



(on LT Supply) have been merged with the HT industrial consumers in newly created Consumer's category names "HT Supply".

- 1.2. These consumers have not declared their contract demand. But now the fixed charges to such consumers are to be charged @ Rs. 165/ KVA. In the absence of declared contract demand in KVA / MVA, it is difficult to assess that how fixed charges are to be calculated for such consumers.

## 2. Charging of LT Supply Tariff

- 2.1. That the Hon'ble Commission in its ARR/Tariff orders for the FY 2021-22 and FY 2022-23 determined tariff for LT Supply consumers having a sanctioned load of up to 20KW both in terms of kWh as well as in terms of kVAh as reproduced below:

Tariff for 2022-23 (w.e.f. 01.04.2022)			
Category of consumers	Energy Charges (Paisa / kWh or/ kVAh)	Fixed Charge (Rs. per kW per month of the connected load / per kVA of sanctioned contract demand (in case supply is on HT) or as indicated	MMC (Rs. per kW per month of the connected load or part thereof)
LT supply – up to 50 kW			
Upto 10 KW	635/ kVAh or 705/ kWh	Nil	Rs. 185/kW
Above 10 KW & upto 20 kW	665/ kVAh or 738/ kWh	Nil	Rs. 185/kW
Above 20 KW and upto 50 KW	640/ kVAh	Rs 160/KW of 80% of Connected Load	Nil

- 2.2. However, the intent of defining tariff in both the parameters has not been specified and thus it has become open for interpretation. One such case has come into the notice of the Nigam where a consumer named Sh. Ashish Singla R/o village Barwala has approached the Consumer Grievances Redressal Forum (CGRF) contending that it is optional for the consumer to pay consumption charges either as per kVAh consumption or kWh consumption. Therefore, it is very important that rationale for defining tariff both in terms of kVAh as well as kWh parameter is available to Discoms for correct implementation of the tariff order.
- 2.3. It is needless to mention that the prime objective of the kVAh based billing is to encourage the consumers to maintain near unity Power factor for loss and reactive power reduction.
- 2.4. The kVAh billing is not only beneficiary for the DISCOMs but also for the consumers. At one hand, it assists DISCOMs in maintaining

system stability, power quality, voltage profile apart from optimizing capital expenditure. On the other hand, it helps the consumers who utilize the power efficiently by paying less energy charges as compared to others who are not using the power efficiently. The kVAh based billing is in the larger interest of consumers as this will not only pass on the benefit of efficiency gain directly to consumer but also help in optimum utilization of asset and better capital expenditure planning for subsequent years.

- 2.5. Based on the above submissions, the petitioner is of the concerted view that to avoid any doubt of applicability of right tariff, it should be notified that LT supply consumers (having sanctioned load up to 20 KW) shall be billed only on kVAh tariff with billing in kWh to be undertaken as an exception and only when the installed meter at consumer premises is not kVAh compliant.

### **3. Tariff for fish farming units connected on AP feeders.**

- 3.1. It is submitted that fish farming units are covered in Agro-Industries/FPO category for which tariff is defined to be Rs.4.75/kWh. However, there are several fish farming units which are connected on AP feeders where they shall be billed on agriculture tariff as per the clarification given by the Hon'ble Commission in its corrigendum dated 29.06.2020 in connection to ARR/Tariff order for the FY 2020-21 as under: -

*"Sr. No.7*

*Fish farming units connected on AP feeders shall continue to be billed on AP subsidized tariff. However, fish farming on other than AP feeders shall be included in the new tariff category i.e. Agro Industries/FPO (New Category upto 20 kW)."*

- 3.2. However, such provision of billing Fish farming units connected on AP feeders on AP subsidized tariff has not been provided in the ARR/Tariff Order for the FY 2022-23.

The Hon'ble Commission is requested that the above Tariff Related issues may please be addressed in this Review Petition.

#### **vi. Tariff Schedule Related Issue**

In the tariff order dated 15.02.2023, it seems that the Tariff for Agro Industry/FPO for the FY 2023-24 has not been provided inadvertently. The Commission is therefore requested to provide the Tariff for the said category.

**D. Prayer:** In view of the above submissions, the petitioner(s) have prayed as under:

- i. Review the issues given above and make necessary changes in the Tariff Order for True-Up for the FY 2021-22, Annual (mid-year) Performance Review for the FY 2022-23, Aggregate Revenue Requirement of UHBVNL and DHBVNL for the FY 2023-24 and Distribution and Retail Supply Tariff for the FY 2023-24, dated 15.02.2023 to the extent of the submissions made by the petitioner(s) in the present Review Petition(s).
- ii. Clarify and amend the retail tariff supply related matters and categorization of consumers as solicited above.
- iii. Condone any inadvertent omissions/errors/shortcomings and permit the petitioner to add/change/modify/alter this filing and make further submissions as may be required;
- iv. Pass such Order, as the Hon'ble Commission may deem fit and appropriate keeping in view the facts and circumstances of the case submitted by the petitioner(s).

### **Proceedings in the Case**

3. The case(s) was heard by the Commission on 05.07.2023, as scheduled, in the court room of the Commission.
4. The learned counsel/representative of the Nigam(s), appearing for the petitioner(s) reiterated the contents of the review petition(s). The same are not being reproduced herein for the sake of brevity and to avoid prolixity.

### **Commission's Analysis and Order**

On consideration of the facts placed on record and issues raised by the petitioners on the Distribution Retail Supply Tariff Order dated 15.02.2023 related to Aggregate Revenue Requirement of UHBVNL and DHBVNL for the FY 2023-24, the Commission has decided to pass a common order for both the cases i.e. Review Petition no 4 of 2023 and Review Petition no 5 of 2023, as the revenue gap for both the Discoms is assessed jointly and not separately in the impugned order and the tariff determined is also the same.

5. Upon hearing the parties at length, the Commission considered it appropriate to examine the issue of maintainability, under each head, of the present order in the light of the scope of review jurisdiction, as per the provisions of Regulation 57 and 58 of the HERC (Conduct of Business) Regulations, 2019. The relevant Regulation

is extracted 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.”

Additionally, the relevant clause of Order no. XLVII of the Code of Civil Procedure 1908, has also been examined. The same 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 perused the judgment of the Hon'ble Delhi High Court in *Aizaz Alam Versus Union of India and Others* (2006 (130) DLT 63: 2006(5) AD (Delhi) 297. The relevant extract from the aforesaid judgment is reproduced below: -

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

*The review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47, Rule 1, CPC. The review petition has to be entertained on the ground of error apparent on the face of record and not on any other ground (emphasis added). An error apparent on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on points where there may conceivably 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 and 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*”.*

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

**A. Regarding True up of the FY 2021-22**

**i. Error apparent in computation of Standalone Gap of the FY 2021-22:**

DHBVNL has submitted that the Hon'ble Commission vide its Tariff Order dated 15.02.2023 has approved the interstate sale revenue of Rs.270.53 Crore for the FY 2021-22, against the claimed revenue of Rs. 683.09 Crore for the FY 2021-22 (i.e. Rs.270.53 Crore for UHBVN + Rs.412.56 Crore for DHBVN). And further requested to approve the interstate sale revenue of Rs.683.09 Crore for the FY 2021-22 (i.e. Rs.270.53 Crore for UHBVN + Rs.412.56 Crore for DHBVN) as claimed by the petitioner in its Tariff Petition.

The Commission has examined the error apparent in computation of "Standalone Gap" of the FY 2021-22 and finds that there is some inadvertent variance in the inter-state sales figures that have been used to calculate the revenue despite taking note of Rs. 683.09 Crore as revenue from interstate sale of power in the order under review. This in effect would increase the revenue of Discoms by Rs.412.56 crore and will reduce the revenue gap. **Accordingly, the Commission, based on the approved interstate revenue figures of Rs.683.09 crores, has recalculated the "Revenue Gap" for the FY 2021-22 to arrive at a figure of Rs.833.08 crores instead of Rs.1,245.64 crore.**

**ii. Error apparent in consideration of rate of holding cost for 1.5 years on surplus of the FY 2020-21 and consequential impact on True-Up Revenue Surplus / (Gap) for the FY 2021-22**

Both the Discoms, in their review petition(s), have submitted that the interest rate to assess the holding cost works out @8.5% as per the Tariff Order dated 30.03.2022 on page no. 160, instead of @9.5% considered by the Commission. The Commission has computed holding cost for surplus of the FY 2020-21 for 1.5 years, which was actually to be dealt in the FY 2022-23. Since, the Commission has adjusted this surplus in the FY 2021-22, holding cost shall ideally be applicable for 0.5 year.

Approved by the Commission	Rs. Cr.
Revenue surplus for FY 2020-21	2,133.94
<b>Holding cost for 1.5 years @ 9.5% (A)</b>	304.09*
Correction Required	Rs. Cr.
<b>Holding cost for 0.5 years @ 8.5% (B)</b>	90.69

Additionally, the Discoms have requested that the “Revenue Surplus / (Gap)” for the FY 2021-22 on True-Up after considering the above issue may be allowed by the Hon’ble Commission.

The Commission has considered the submissions of the petitioner(s) and observes that the holding cost for the FY 2020-21 has been computed, based on the precedent followed by the Commission. Therefore, the Commission is of the considered view that there is no merit on the review sought by the Discoms in the above matter as the same is beyond the scope of review petition, the underlying dispensation of 1.5 years (18 month) is now a well-established axiom.

The restated ‘revenue surplus’ for the FY 2021-22, based on revised interstate sale, is presented below:

Total ARR for FY 2021-2022		As per Order-15.02.2023	Revised
UHBVNL	Rs. Crore	14015.40	14015.40
DHBVNL	Rs. Crore	18129.42	18129.42
Total ARR for FY 2021-22 (A)	Rs. Crore	32144.83	32144.83
Revenue at current tariff on intrastate sale (B)	Rs. Crore	23458.47	23458.47
Revenue from FSA	Rs. Crore	611.65	611.65
Revenue from Interstate sale	Rs. Crore	270.53	683.09
Total Revenue (C)	Rs. Crore	24340.65	24753.21
Total Sales for FY 2021-22 (D)	MU	45357.14	45357.14
Average Cos for 2021-22 (E= A/D*10)	Rs per unit	7.09	7.09
COS at LT level (F)	Rs per unit		
Adjusted Cost of Supply for AP consumers (G)	Rs per unit	7.20	7.20
AP sales for the FY 2021-22 (H)	Rs. Crore	8688.22	8688.22
Revenue from AP sales (I)	Rs. Crore	187.14	187.14
Subsidy for AP supply at LT COS (J= (H*G)-I)	Rs. Crore	6067.21	6067.21
Subsidy for other consumers (K, as per audited)	Rs. Crore	491.32	491.32
Total revenue incl Subsidy (C-J-K)	Rs. Crore	30899.18	31311.74
Revenue surplus/(Gap) for FY 2021-22 at current tariff	Rs. Crore	-1245.65	-833.09
Revenue surplus for FY 2019-20	Rs. Crore	210.00	210.00
Holding cost for 1.5 years @ 9.5%	Rs. Crore	29.93	29.93
Revenue surplus for FY 2020-21	Rs. Crore	2133.94	2133.94
Holding cost for 1.5 years @ 9.5%	Rs. Crore	304.09	304.09
Net Revenue Surplus/Gap for the FY 2021-22	Rs. Crore	<b>1432.30</b>	<b>1844.87</b>

## B. Regarding ARR for the FY 2023-24

### i. Error apparent in approved Sales for UHBVN for the FY 2023-24.

It has been submitted by the review petitioner(s) herein that the Hon’ble Commission has approved the sales of 25,263 MUs for UHBVN for the FY 2023-24.

However, the sum of category-wise sales works out to 24,963 MUs which is 299 MUs less than approved sales. Accordingly, the Discoms have requested the Hon'ble Commission to approve the revised Energy Balance and Power Purchase for DHBVN and UHBVN.

**The Commission observes that the estimated sales for the FY 2023-24, approved by the Commission for the purpose of calculating the ARR, have been calculated based on the methodology explained at length in the order under review. It needs to be noted that while calculating revenue realization, at the tariff in vogue, correct category wise sales have been taken. Hence, lowering the sale by 299 Mus will not make any difference to the projected revenue requirement as well as AP Tube well sales and subsidy thereto. Accordingly, the Commission finds no justification in revising the sales figures for UHBVNL, as the same will be taken up consequently as per actuals for truing up. The review petitioner(s) may note that these figures of sales are projected figures, based on assumptions, including past trend, and subject to true up based on audited accounts being uncontrollable items as per MYT Regulations.**

**ii. Inappropriate consideration of Rate of Interest for Capex and Working Capital Loans for ARR Year (FY 2023-24):**

UHBVNL has submitted that the Commission has approved the rate of interest for capex loans @ 6.77% and 8.75% for UHBVN and DHBVN respectively. Further, the rate of interest on working capital loans has been approved @7.30% and 9.55% for UHBVN and DHBVN respectively. UHBVNL has proposed interest rate of 9.26% for capex loans against which the Commission has approved the rate of interest (6.77%) of capex loans of the FY 2021-22. MCLR of the bank have increased by 2% to 2.5% as compared to rate of interest of the FY 2021-22. Similarly, rate of interest of working capital loans has also increased.

The rate of interest as approved by the Commission for working capital loans for UHBVN shall be revised to normative rate of 9.55% i.e 1.50% over MCLR, as approved for DHBVNL (9.55%) in line with the MYT Regulations 2019 and its amendments thereof.

In view of the above, UHBVNL requested that the rate of interest for capex and working capital loans may be revised.



The Commission has allowed the rate of Interest as per regulations occupying the field; hence, no review can be preferred against the provisions of a dispensation flowing from a duly notified Regulation. The Commission had examined the rate of interest proposed by the licensee, actual rate of interest as per the audited accounts, normative rate of interest as per the MYT regulations in vogue and the data submitted by the licensee during the ARR filing. The Commission, in its order, had considered the rate of interest at which UHBVNL was actually borrowing the funds, since it was lower than the normative rate of interest as well as the rate of interest proposed by the licensee.

The Commission, therefore, is of the considered view that the review sought on this issue is not admissible as the same is beyond the scope of review jurisdiction as no new facts / figures or error apparent on the face of record has been put forth by the petitioner. The Commission finds no merit regarding this issue and rejects the same as un-sustainable. These figures are projected figures, based on actual audited accounts and data submitted by the licensee during the ARR, and is subject to true up based on audited accounts as per the MYT Regulations.

**iii. Revision of Approved Revenue Surplus / (Gap) for the FY 2023-24**

The Discoms in their petition(s) have submitted that the impact of Revenue Surplus / (Gap) of the FY 2021-22 will be taken in Revenue Surplus / (Gap) of the FY 2023-24. Accordingly, the Hon'ble Commission is requested to revise the Revenue Surplus / (Gap) for the FY 2023-24 as per the above submission.

**The review petitioner(s) may note that these figures of sales/expenses are projected figures, based on assumptions, including past trend, and subject to true up based on audited accounts being uncontrollable items as per the MYT Regulations. So, there is no point in replacing a set of projected figures with another set of estimates, as the same will be finalized during true up.**

**C. Tariff/Tariff Schedule Related Issues**

**i. Tariff for fish farming units connected on AP feeders.**

UHBVNL in its review petition has submitted that fish farming units are covered in Agro-Industries/FPO category for which tariff is defined to be Rs.4.75/kWh. However, there are several fish farming units which are connected on AP feeders where they shall be billed on agriculture tariff as per the clarification given by the

Hon'ble Commission in its corrigendum dated 29.06.2020 in connection to ARR/Tariff Order for the FY 2020-21 as under: -

“Sr. No.7

*Fish farming units connected on AP feeders shall continue to be billed on AP subsidized tariff. However, fish farming on other than AP feeders shall be included in the new tariff category i.e. Industries/FPO (New Category upto 20 kW).”*

However, such provision of billing Fish farming units connected on AP feeders on AP subsidized tariff has not been provided in the ARR/Tariff Order for the FY 2022-23. And have requested the Hon'ble Commission that the above Tariff Related issues may be addressed in this Review Petition.

**The Commission has considered the submissions of the petitioner and observes that necessary clarification has been issued vide Memo no 583-84/HERC/Tariff/No966/967 dated 01/02.05.2023. The Commission again clarifies that the fish farming units connected on AP feeder shall continue to be billed on AP subsidized tariff. However, fish farming on other than AP feeder shall be included in the new Tariff Category i.e. Agro Industries/FPO.**

ii. **Applicable Fixed Charges on Consumers covered under erstwhile NDS category.**

UHBVNL in its review petition has submitted that the Hon'ble Commission in its ARR/Tariff order has merged few consumer categories with other categories. Amongst them, NDS consumers having sanctioned load above 50 KW and existing consumers having sanctioned load above 50 KW and upto 70 KW (on LT Supply) have been merged with the HT industrial consumers in newly created Consumer's category named as “HT Supply”.

These consumers have not declared their contract demand. But now the fixed charges to such consumers are to be charged @ Rs. 165/ KVA. In the absence of declared contract demand in KVA / MVA, it is difficult to assess that how fixed charges are to be calculated for such consumers.

**The Commission has considered the review sought on this issue and observes that in the absence of declared contract demand, as well cumbersome process of asking all such consumer to declare their contract demand, it would be appropriate, given the nature of NDS usage, that the sanctioned load of such consumers available with the Discoms, is considered for levy of Fixed Charges.**

**iii. Charging of LT Supply Tariff**

UHBVNL in its review petition has submitted that the Hon'ble Commission in its ARR/Tariff orders for the FY 2021-22 and FY 2022-23 determined tariff for LT Supply consumers having sanctioned load up to 20KW both in terms of kWh as well as in terms of kVAh.

However, the intent of defining tariff in both the parameters has not been specified and thus it has become open for interpretation. It is important that rationale for defining tariff both in terms of kVAh as well as kWh parameter be made available to Discoms for correct implementation of tariff order. UHBVNL further submitted that it is needless to mention that the prime objective of the kVAh based billing is to encourage the consumers to maintain near unity Power factor for loss and reactive power reduction.

**The Commission has considered the review sought on this issue and observes that the UHBVNL has sought clarification on the rationale for defining tariff both in terms of kVAh as well as kWh.**

**The Commission, on several occasions, have directed the Discoms to prefer the kVAh based billing as it is beneficial for both consumers and Discoms. kVAh billing includes a mechanism that incentivizes or penalizes consumers based on their power factor. The goal of kVAh-based billing is to encourage consumers to maintain near-unity power factor in order to reduce losses, enhance system stability, power quality, and voltage profile. Energy conservation, energy efficiency, and demand side management (DSM) should be prioritized and promoted by Discoms to optimise energy usage. Through kVAh billing, the consumers will be encouraged to adopt energy efficiency programs and will be benefited by reduced electricity bills.**

**In view of above, to avoid any confusion in billing, the Commission clarifies that that LT supply consumers (having sanctioned load up to 20 KW) shall be billed only on kVAh tariff with the exception of billing in kWh only when the installed meter at consumer premises is not kVAh compliant.**

**iv. Tariff for Agro Industry / FPO**

Both the Discoms in the tariff order dated 15.02.2023 submitted that the Tariff for Agro Industry/FPO for the FY 2023-24 has not been provided inadvertently. Accordingly, they have requested the Commission requested to provide the Tariff for the said category.

The Commission has considered the submissions of the petitioner(s) and observes that necessary clarification has already been issued vide Memo no 583-84/HERC/Tariff/No966/967 dated 01/02.05.2023. The Commission observed that the tariff for Agro Industries/FPO was erroneously omitted to be mentioned in the schedule. It is again clarified that the tariff for Agro Industries/FPO is same as last year as under:

Energy Charges (Paisa/kWh)	Fixed Charge	MMC
475 / kWh	Nil	Nil

7. In terms of the above findings/decisions, the review petition(s) preferred by the UHBVNL and DHBVNL against the Commission's Order dated 15.02.2023 (Case No. HERC/RA-4 of 2023 and Case No. HERC/RA-5 of 2023) is disposed of.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 18.07.2023.

**Date: 18.07.2023**  
**Place: Panchkula**

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

**(R.K. Pachnanda)**  
**Chairman**