

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

**Case No. HERC/PRO- 30 of 2019**

**Date of Hearing : 04.08.2020**

**Date of Order : 07.08.2020**

**IN THE MATTER OF:**

Petition under Regulation 5.5 of HERC Single Point Supply Regulation 2013 read with Section 94 of Electricity Act 2003 & HERC Supply Code 2014 seeking direction for restraining the private respondents from charging beyond applicable electricity tariff and further direction for refunding the excess recovered amount along with interest to petitioner which has been illegally recovered by respondent No. 1 to 3 and also further Directions to Respondent no. 1 to 3 to obtain permanent electricity connection from the respondent DHBVNL at the earliest and at the same time directing the respondent DHBVNL to ensure compliance of Regulation 4.5.2 of HERC Supply Code from Respondent No.1 to 3.

**Petitioner**

Kapil Sethi R/o Paras Irene, Flat No 1003,  
Tower N-7, Gurugram & Others

**V/s.**

**Respondent**

1. The Managing Director, Paras Buildtech India Private Limited, Gurugram
2. Classic Infra solutions Private Limited, New Delhi
3. The Managing Director, Paras RE Facilities Management Pvt. Ltd., Gurugram
4. The Chairman-cum-Managing Director, Dakshin Haryana Bijli Vitran Nigam Limited

**PRESENT**

**On behalf of the Petitioner:**

Shri Sunil Kumar Nehra, Advocate

**On behalf of the Respondent:**

1. Shri Ashutosh, XEN, OP Division, DHBVN, Sohna
2. Shri Manuj Koushik, Advocate for DHBVN
3. Shri Jagdeep Rana, Advocate for Respondent 2 & 3
4. Shri Dharmender Ruhil, SDO,OP, S/D- Badshahpur

## **QUORUM**

**Shri D.S. Dhesi, Chairman**

**Shri Pravindra Singh, Member**

**Shri Naresh Sardana, Member**

## **Order**

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

The Petitioner submitted as under:

- 1.1. That the petitioners are resident of Paras Irene Group Housing Society, Sector 70A, Gurugram (Haryana) and competent to invoke the jurisdiction of this Hon'ble Commission for redressal of their grievances.
- 1.2. That Paras Irene, Group Housing Society has been developed by respondent no.2 on behalf of respondent no.1. Respondent no.3 is the sister concern of Respondent no.1 and electricity charges are being levied and collected by respondent no.3 from the residents of the Paras Irene Group Housing Society.
- 1.3. That the respondent builder/developer is charging for electricity supplied by the DHBVN at as high as Rs. 7.09/ Unit in addition to other illegal charges devised by the respondent developer/builder and thus charging the consumers/ petitioners at as high as 4 times the rate applicable in blatant disregard to tariff determined by the Hon'ble Commission and applicable to consumer/petitioners. As per law, the consumers/petitioners are liable to be charged at Domestic Supply (DS) Category rate but the respondent no.3 is charging at much higher rate than applicable. Further no rebate or concession as applicable to DS consumer is being given to the petitioners/residents. It is also pertinent to mention here that pre-paid consumers are entitled to 5% rebate on applicable tariff but no such rebate is extended to consumers/petitioners. Relevant Regulation i.e. Regulation 8 of HERC (Prepaid Metering) Regulations, 2014 "8. Rebate for prepaid meter - A rebate of 5% shall be allowed on the applicable tariff for the consumers availing supply through prepaid meters".
- 1.4. That the respondent in the name of maintenance charge for consumption of electricity in Common Area is charging at the rate of 55 paise/ sq. ft. and in order to illegally extort money from the petitioners/consumers. There is no accountability of electricity consumption in the common area as no meter has been installed for the consumption of electricity in common area. Thus respondent builder in illegal and arbitrary manner in the name of maintenance charge for consumption of electricity in common area is charging every consumer occupying a 3BHK flat @ Rs. 1182.5 without there being any such provision in law and thus cheating the consumer owing to

connivance of authorities of DHBVN in Gurugram. A perusal of bill for the month of February and March 2019 show that consumer has been charged at as high as 4 times the applicable rate. The Hon'ble Commission vide its order dated 15.11.2018 had determined the new tariff which is applicable from 01.11.2018. In view of the tariff determined a consumer having consumption between 150 to 250 units per month is required to be charged at rate of Rs. 5.25/Unit and rate for consumption below 150 unit but more than 100 unit is Rs. 4.5/Unit and for consumption between 251 to 500 unit is Rs. 6.3/Unit and from 501 to 800 is 7.10/unit.

Month	Billed units	Total Amount Charged	Applicable Rate w.e.f. 01.11.2018	Rate / Unit charged from consumer
February 2019	163.1 + 9 =172.1	3358.8	Rs. 5.25/ Unit	<b>Rs. 19.51</b>
March 2019	165.7 + 0.1 =165.8	3199.31	Rs. 5.25/ Unit	<b>Rs. 19.29</b>

- 1.5. That the temporary connection is released by the respondent DHBVN for the purpose of constructions and other activities mentioned in the Regulation 4.5 of HERC Supply Code. Once the construction of the building is complete and possession is offered then developer is required to obtain the permanent connection for use of supply in the constructed building. As per regulation 4.5.2 of HERC Supply Code the respondent developer was bound to apply for permanent connection to licensee within one month from the date of effective completion/ offer of possession. Further, as per this regulation, temporary connection had to be removed within in three months after the date of such effective completion/ offer of possession of the building. But developer is acting in collusion with officers of the licensee i.e. DHBVN and therefore the respondent licensee is not ensuring the compliance of the regulation 4.5.2, as a result of which the permanent connection has not been obtained by the respondent developer/builder so far and due to which petitioners/ consumers are suffering as a consequence of which consumers/petitioners are compelled to pay at exorbitant rate. It is evident from the bill issued by the DHBVN that electricity connection is of temporary category which had to be converted into permanent connection long ago. Possession to the residents has been offered in June2017 but still permanent connection has not been obtained and in this no compliance has been ensured by the authorities of DHBVN because they are in collusion with the private respondents. Relevant part of the Regulation 4.5 is reproduced hereunder:

#### “4.5 Procedure for Providing Temporary Supply

4.5.1 *Temporary supply shall be given for short-term requirements including construction, dewatering, marriages, religious functions, cultural functions, exhibitions, touring cinemas, theatres and circuses, provided that the said activity/premises is duly authorized by the competent authority, wherever required.*

4.5.2 *Temporary supply connection shall be granted for a period of up to 3 months at a time, which can be further extended depending upon the requirement. For extension of the period of temporary supply, the procedure detailed in Regulation 4.5.12 shall be applicable.*

*Provided that in case of construction of buildings (both residential and non-residential), where it would take longer time for completion of the same or other such projects, the temporary supply connection shall be given for a period as under:*

*For construction of buildings = Two years*

*For other projects = One year*

*The above period shall be extended by six months at a time on the request of the developer if the project/building is not completed by that time.*

*Provided further that when any part of the building / project has been effectively completed and possession offered to a prospective occupant, then the developer/occupant of such building/portion shall apply for a permanent connection to the licensee within one month from the date of such effective completion/offer of possession. The temporary connection shall be removed three months after the date of such effective completion / offer of possession.”*

- 1.6. That it is pertinent to mention here that respondent builder/developer has charged Rs. 17250/- (Rs. 15,000 for Electricity Connection + Rs. as Service Charge + Rs. 150 SBC & KKC) as Electricity Connection Charge from every consumer on in contravention of the electricity laws. Builder/Developer in contravention of HERC Regulations has charged such a hefty amount and thus resorting to extortion from the respondents which is not permissible under Electricity Act and Regulations framed by the Hon’ble Commission.
- 1.7. That the respondent builder/developer is charging fixed charge @ Rs.100 per Kilowatt/ per month against the sanctioned load of the consumer which is evident from the bill annexed. Fixed charge from consumer is not chargeable from the individual consumer and levying of such charge is impermissible in the law. The Hon’ble Commission in order dated 10.01.2019 passed in the matter of Avenue 71 Apartment Owners Welfare Association in PRO 21 of 2018 has held that Fixed Charge is not chargeable from the individual consumer and they are to be charged as per DS category of consumer. The observation of the Hon’ble Commission with regard to levy of fixed charge to individual consumer is as reproduced hereunder:

*“Commission observes that the Respondent No. 2 has been charging the backup supply and the discoms supply at a common rate by intermixing the expenditure which is absolutely wrong and needs to be dealt separately and the appropriate tariff as per the Regulation is to be applied. Commission further observes that the claim of the Respondent No. 2 in his reply that fix charges have been collected as per norms, rule and regulations, is incorrect and misconceived. The fixed charges are applicable on Single Point Supply of the society under bulk supply tariff and are not applicable on individual consumers who are to be charged as per the tariff chargeable to domestic category of consumer. The submission made by the Respondent in his reply, that the charges being collected by him are based upon the approvals by the appropriate Commission and / or distribution licensee, are misconceived and misplaced. Thus the Respondent No. 2 is directed not to levy the fixed charges in the bill henceforth.”*

- 1.8. That the private respondent is charging the petitioner beyond the rate applicable to DS category of consumer which is impermissible in the law and as held supra by the Hon’ble Commission.
- 1.9. That the bills issued by the respondent are not reflecting the details of rates/ charges applicable to consumer and rebate available to the consumer. It also does not reflect the energy consumption for common area.
- 1.10. That the respondent is charging Rs. 40/ dwelling unit as service charge. There is no provision for levying the service charge under electricity law. As held by the Hon’ble Commission in order dated 10.01.2019 passed in the matter of Avenue 71 Apartment Owners Welfare Association in PRO 21 of 2018 has held that no service charge on the grid supply is permissible and further held that bill served to the resident/user should clearly show the energy consumed, tariff applicable and all relevant details. Operative part of order is reproduced here as - *“The Commission therefore directs the Respondent No. 2 & 3 to levy electricity charges from the residents/users of the society/complex strictly as per Regulation no. 5.5 of HERC Single Point Supply Regulations (Regulation No. HERC/27/2013). The electricity bill served to the residents/users should clearly show the energy consumed and tariff applicable including all the relevant details. The Commission however directs the Respondent No. 2 & 3 to separately specify the charges for Grid Supply used for common area in the Common area Maintenance Charges CAM charges and no service charges on this Grid Supply component be charged.”*
- 1.11. That there is fluctuation in the supply and it causes damages to electricity appliances of residents/consumers. Erratic supply and fluctuation is mainly due to not having the permanent electricity connection as per requirement load this fact is corroborated from the bill issued by the DHBVN. Money collected by the respondent builder @ Rs. 17250/ allottee has been misappropriated by him and he has failed to obtain the permanent connection for the Group Housing Society.
- 1.12. That by resorting to such illegal means, Private Respondents have committed cheating with residents/petitioners ranging to several hundred lacs rupees. A calculation of amount paid by the Private Respondents to

Respondent No. 3, DHBVN and amount recovered from the residents/petitioners would reveal that there has been embezzlement to the extent of several hundred lacs of rupees. No accounting in this regarding and statement of expenditure and recovery is shown to the petitioners.

- 1.13. That there is no accounting for back up supply provided by the Private Respondent and no meter has been installed for the electricity consumptions for the common area and therefore there is no accounting of consumption and Private Respondents are charging the residents/petitioners as per their wish and whims in utter illegal and arbitrary manner.
- 1.14. That the Private Respondents as well as Official Respondents have failed to discharge their duties as mandated by the applicable regulation and their failure is leading to extortion of the residents/petitioners.
- 1.15. That the meter installed at each dwelling unit are faulty and have not been got calibrated from the DHBVN and these faulty meters reflect excess consumption and thus private respondents are charging beyond the actual consumption of electricity by installing the faulty meters. Some of the meters reflect balance amount so excessive or negative which is far away from real balance amount.
- 1.16. That, Relevant statutory provisions necessary for adjudication of the case in hand are reproduced hereunder:

Regulation 5.5 of Haryana Electricity Regulatory Commission (Single Point Supply to Employers' Colonies, Group Housing Societies and Residential or Commercial cum Residential Complexes of Developers) Regulations, 2013

*"5.5 The GHS/Employer /Developer/RWA will not charge the residents for electricity supplied by the Distribution Licensee at a tariff higher than the rates for Domestic Supply (DS) category approved by the Commission from time to time. In case any GHS/Employer/Developer/RWA charges the residents for electricity supplied by the Distribution Licensee at rates higher than the Domestic supply tariff, the aggrieved residents can jointly file a complaint against such GHS/Employer/Developer/RWA with the Commission through a petition for redressal of their grievance.*

*In case backup supply from the generator has also been made available for the residents, the Group Housing Society/Employer /Developer/RWA will be free to charge the residents separately for the same either in the form of annual charges for backup supply or based on individual consumption of backup supply by each resident/user by providing separate meters for backup supply. It will, however, be mandatory for the Group Housing Society/Employer /Developer/RWA to install a meter at their cost, to record total energy generation by such backup supply generator, which will be got duly tested and sealed from the Distribution Licensee by payment of requisite charges."*

## **Prayer**

- 1.17. *To accept the Petition in the present form;*
- 1.18. *To direct the Respondent No.1 to 3 obtain the permanent electricity connection from the DHBVN at the earliest.*
- 1.19. *To direct the Respondent No.1 to 3to immediately stop recovery of illegal & arbitrary charges as reflected in bills issued to residents/petitioners.*
- 1.20. *To direct the Respondent No.1 to 3 to raise the electricity bill and recover the charges strictly in accordance with tariff applicable as per HERC Regulations.*
- 1.21. *To direct the Respondent No.1 to 3to refund the illegally recovered amount in the garb of illegal and arbitrary charges reflected in the bills as well as amount recovered @ of Rs. 17250/- per resident/consumer for obtaining connection from DHBVN.*
- 1.22. *To direct the Respondent No.1 to 3 to pay interest at the rate of 18% per annum to the Petitioner on illegally recovered amount in the garb of illegal and arbitrary charges reflected in the bills as well as on the amount recovered @ of Rs. 17250/- per resident/ consumer for obtaining connection from DHBVN.*
- 1.23. *To direct the Respondent No.1 to 3to produce the entire statement of account showing the details of amount recovered from the residents/ consumers and expenditure thereof including the amount collected @ Rs. 17250/- from every consumers.*
- 1.24. *To direct the Respondent No. 4for ensuring the compliance of Single Point Supply Regulations and HERC Supply Code from respondent no. No.1 to 3.*
- 1.25. *To direct the Respondent No.1 to 3 to issue bills to petitioners mentioning therein applicable tariff and other information as contained in the bill issued by the Respondent No.4 to its DS Category consumers.*
- 1.26. *To direct the respondent no. No.1 to 3to get the meter calibrated from the DHBVN Laboratory for ensuring the accuracy of the meters.*
- 1.27. *To award cost of petition in favour of the petitioner.*
- 1.28. *To allow any other relief deemed proper.*

## **2) Submissions by the Respondent No. 2 & 3:**

Following preliminary objections/submissions are made:

- 2.1 That the instant petition is liable to be set aside in as much as the same is misconceived and based upon self-perceived notions. The charges being collected by the respondent No.3 who is the service provider are based upon the guidelines issued by the appropriate commission and/or the distribution licensee. The perception of the petitioner as regards the status of fact and the averments contained therein are without any tangible material or any objective considerations. The unsubstantiated, uncorroborated and unsupported averments have been raised in the petition to prejudice the minds of the Hon'ble Commission. It is further submitted that the petitioners have not paid their electricity bills from the month of February 2019 till date. Hence, the petitioners itself in default and the answering respondent be directed to disconnect the electricity supply of the petitioners.

- 2.2 That the instant petition is liable to be dismissed since the charges for the common area services being availed by the residents are being claimed on the basis of pro-rata/actual consumption. Consequently, the petitioner or the members of the association cannot deny payment of the liability incurred towards the common facilities and services availed by the residents. There is nothing on record even to remotely suggest that the collection is not on the basis of actual figures collected by the answering respondent No.3. It is thus evident that the petition has been filed as a means of harassment. The petitioners herein are not interested in furthering the interest of the residents and are rather interested in creating unnecessary disputes. The grievances being alleged through the instant petition are neither supported nor substantiated by any cogent and admissible material. Thus, the instant petition deserves to be dismissed outrightly.
- 2.3 That it is further submitted that this Hon'ble Commission vide its sales circular No. D-27/2017 dated 20.07.2017 whereby tariffs were approved for distribution and retail supply of electricity for the financial year 2017-18.
- 2.4 That it is further submitted that on getting the occupation certificate from the Director Town and Country Planning, Haryana, the answering respondent applied for approval of electrification with the respondent No.4 and which was duly granted in favour of the answering respondent developer vide approval dated memo No. Ch-7 dated 12.09.2017. It is evident from the letter dated 12.09.2017 that immediately on receiving the occupation certificate, the answering respondent applied for approval of electrification plan with ultimate load of 3032 KW / 3369 KVA with sanction of partial load of 1000 KVA to Group Housing Society in the name of M/s Classic Infrastructure Private Limited, Sector 70A, Gurugram.
- 2.5 That further as per Clause No.3 incorporated in letter dated 12.09.2017, "all the co-developers" shall construct 33 kV Switching Station jointly with the arrangement of providing electric connection to the developers of the scheme. Thus, in view of the aforesaid clause duly incorporated in the approval dated 12.09.2017, all the developers were jointly bound to construct a 33 kV Switching Station. It is significant to mention herein that since near about 1 kanal land was to be kept for the purposes of construction of switching station, the respondent No.4 asked on various occasions to its co-developers for the purposes of getting the land and get it done. However, the other co-developer could not get it done well within the time.
- 2.6 That thereafter all the co-developers sent a letter dated 30.12.2017 to the SE (OP) Circle-II, DHBVN, Gurugram and informing that on the following terms, they are ready to install the Switching Station, the terms are as under: -
- (1) *The proposed switching station will be fed by 1 No. 33 kV Feeder with double run 33 kV XLPE HT cable 3x300 sq.mm to cater MVA load of 4 Nos. consumer.*



- (2) *The Electrical infrastructure including 33 kV Double run cable, 33 kV Bay charges & 33 kV switching station will be commissioned by the M/s Classic Infrastructure Pvt. Ltd..*
- (3) *The work will be executed by M/s Classic Infra solutions Pvt. Ltd. through A-Class Contractor as approved by the Nigam under self-execution scheme and the corresponding supervision charges shall be deposited as per Nigam.*
- (4) *Per MVA cost including 33 kV cable, 33 kV Bay, 33 kV Bay, 33 kV Switching station and other charges (supervision charges etc) will be shared by all beneficiary.*
- 2.7 That it is further submitted that the SE (OP) Circle-II, DHBVN, Gurugram vide its letter dated 04.01.2017 prepared the estimate of the work and asked the developers to pay inspection charges @ 1.5% of the sanctioned amount. The sanctioned amount was Rs.2,49,74,360/-. In response to the same, the answering respondent deposited an amount of Rs.3,74,615/- in favour of DHBVN vide receipt dated 10.01.2017.
- 2.8 That it is significant to mention herein that the respondent No.2 has already erected the line for the purposes of commission of the Switching Station and cable has already been laid down by the answering respondent for the said work. The answering respondent has made huge investment i.e. amounting to Rs.3 crores approximately. It is humbly submitted that the Respondent No. 2 has fulfilled all the obligation on their part, however, the Switching Station could not be commissioned / augmented since the other co-developers have to fulfil their obligation Thus, apparently there is no lapse on the part of the answering respondent and no violation of any regulations or orders passed by this Hon'ble Commission. Further it is wrongly averred in the petition that the respondent has not applied for permanent connection. In fact, the answering respondent applied for the permanent connection well within the stipulated time and same has already been approved by BHVBN. It is pertinent to mention that the Respondent is charging as per the tariff provided by the authority. The Respondent has not charged any amount in excess from the petitioners. The answering respondent will demonstrate through appropriate bills issued to the persons who are residing in the said dwelling unit.
- 2.9 That it is further submitted that the averments which have been made in the petition are contrary to the record and without any cogent and trustworthy evidence / document. Needless to mention that nothing has been attached by the petitioners with the petition to support their contentions in the absence of any such documents, the averments are misconceived and the petition deserved to be dismissed outrightly.

**Pointwise Reply on merits:**

- 2.10 That the averments contained in this para are needs no reply from the answering respondent. The petitioner be put to strict proof of the averments

raised herein. The grounds taken in the preliminary submissions may kindly be read as part of reply to the instant para.

2.11 That the averments contained in this para needs no reply from the answering respondent. The answering respondent company has been collecting the electricity charges as per the norms and the regulations guidelines by the appropriate commission. There has been no illegal collection of charges and the averments contained in this para are denied as wrong and misconceived. The detail with respect to the electrical energy charges are being collected as per the regulations. There is no contrariness in the action of the respondent No.3 company which is acting within the parameters of the rights conferred upon it.

2.12 That the averments contained in this para are wrong, misconceived and hence denied. It is pertinent to mention herein that the answering respondent had been charging from the consumers in accordance with the tariff regulations having been framed by this Hon'ble Commission. It is further submitted that the answering respondent is charging as per the sale circular No.27 of 2017 which specifically provides the rates to be charged from the consumers. The respondents also seeks the liberty to produce the bills which have been collected by it. A perusal of the bills clearly shows that the answering respondent has been charging the electricity charges as per the prescribed norms. Therefore, there is no violation of any nature whatsoever on the part of the answering respondent. The averments to the effect that 5% rebate to be given i.e. not applicable to the matter in hand. It is needless to mention herein that the same is applicable to bulk supply consumers. The averments as contained in the preliminary submissions may also be read as a part and parcel of this para. It is humbly submitted that the Respondent have charged CAE (Common Area Electricity) charge at a lower slab as applicable under law, however the same has been inadvertently shown as fixed charges applicable, it is pertinent to mention that same had been rectified since May 2019. The "electricity fixed charge" has been collected by respondent No.3 as per the norms, rule and regulations framed by the Hon'ble Haryana Electricity Regulatory Commission and notified Sales Circular No.27 of 2017 dated 20.07.2017 whereby it has been observed in para No.7 to 11 of the said circular as under:-, Para No.7 to 11

*Fixed charges for bulk supply domestic are in Rs./kW of the recorded demand.*

*Under Bulk Supply (Domestic) category no benefit of lower slab shall be admissible in the higher consumption slabs. Total consumption shall be charged at a single tariff depending upon the average consumption/flat/residential unit for that month.*

.....

*In addition to the tariff as above, the Discoms shall levy FSA as per HERC (Terms and Conditions for Determination & Retail Supply under Multi Year Tariff Framework) Regulations, 2012.*

*The above tariff does not include Electricity Duty, Municipal Tax and FSA.”*

It is thus evident that the answering respondent could have collected the said charges from the ultimate consumer. Moreover, the said charges are being billed by the distribution company to the answering respondent and the same is thus being collected from the consumers.

- 2.13 That the averments contained in this para are wrong, misconceived and hence denied. The averments made in this paragraph are self-explanatory and bundle of lies. It is relevant to submit herein that in support of the averments, the petitioners have not annexed any document to the effect that the charges which have been collected for maintenance charge and common facilities are illegal and arbitrary. It is relevant to submit herein that there was some inadvertent error in the bill pertaining to the month February and March 2019 which has now been corrected by the answering respondent. The answering respondent are attaching the bills issued to the consumers which clearly shows that there is no violation of any nature whatsoever of the guidelines issued by this Hon'ble Commission. The electricity charges for consumption of electricity towards common area have to be borne by the residents. It is essential to point out that common areas are essential and integral part of projects of the present nature and the basic amenities in the form of lighting and other facilities have to be provided even at the said areas. Hence, the energy consumed towards providing lighting of common areas such as corridors, street lights, parks, maintaining power back up, water supply, lifts etc. are for common use and enjoyment of the society/colony and expenses incurred in the form of electricity consumed for the common areas have to be borne by the residents. It is incorrect on the part of the petitioners to contend that any false/exorbitant charges are recovered for the electricity consumed. It is submitted that the petitioner deliberately mis-stated the unit rate.
- 2.14 That the averments contained in this para are admitted to the extent of reproduction of regulation 4.5.1, 4.5.2, the rest of the contents are wrong, misconceived and hence denied. It is respectfully submitted before this Hon'ble Commission that the answering respondent had applied with the DHBVN Gurugram for the purposes of getting the permanent connection. It is significant to submit herein that on getting the occupation certificate from the Director Town and Country Planning, Haryana. The answering respondent applied for approval of electrification with the respondent No.4 and which was duly granted in favour of the answering respondent developer vide approval dated memo No.Ch-7 dated 12.09.2017. It is evident from the letter dated 12.09.2017 that immediately on receiving the occupation certificate, the answering respondent applied for approval of

electrification plan with ultimate load of 3032 KW / 3369 KVA with sanction of partial load of 1000 KVA to Group Housing Society in the name of M/s Classic Infrastructure Private Limited, Sector 70A, Gurugram. It is relevant to submit herein that as per Clause No.3 incorporated in letter dated 12.09.2017, "all the co-developers" shall construct 33 kV Switching Station jointly with the arrangement of providing electric connection to the developers of the scheme. Thus, in view of the aforesaid clause duly incorporated in the approval dated 12.09.2017, all the developers were jointly bound to construct a 33 kV Switching Station. It is significant to mention herein that since near about 1 kanal land was to be kept for the purposes of construction of switching station, the respondent No.4 asked on various occasions to its co-developers for the purposes of getting the land and get it done. However, the other co-developer could not get it done well within the time. Now, the answering respondent has taken up the matter at its own and undertakes to complete the work pertaining to commissioning of the Switching Station as soon as possible. In view of the same, this petition is not maintainable and it is to be dismissed outrightly. The grounds taken in the preliminary submissions may kindly be read as part of reply to the instant para.

- 2.15 That the averments contained in these paras are denied as wrong and misconceived. It is relevant to submit herein that a maintenance agreement had been signed between the parties wherein it has been incorporated that Rs.15000/- has to be paid for electricity connection that includes meter & meter board cost, cables, electrical panel software etc. and the petitioners have signed and accepted the same without any protest at the given time. Since the petitioners have accepted all the terms and conditions of the maintenance agreement in toto now after a lapse of more than 02 years, the petitioners cannot raise such a challenge at this belated stage. The grounds taken in the preliminary submissions and preceding paras may kindly be read as part of reply to the instant para.
- 2.16 That the averments contained in these paras are denied as wrong and misconceived. It is respectfully submitted before the Hon'ble Court that the answering respondent has rectified its bill and are not charging anything beyond the permissible charges.
- 2.17 That the averments contained in these paras are denied as wrong and misconceived. The averments made in this para are self-explanatory and bundle of lies. The petitioner be put to strict proof of the same as to how and in what manner, the answering respondent has charged beyond the rate applicable to domestic supply category of consumers. The grounds taken in the preliminary submissions and preceding paras may kindly be read as part of reply to the instant para.
- 2.18 That the averments contained in these paras are denied as wrong and misconceived. The respondents are attaching the bills giving the details of

the breakup of amount. The petitioners have not attached anything with the contention to support its version to the petition.

- 2.19 That the averments contained in this para are admitted to the extent of order passed by this Hon'ble Court in the matter of Avenue 71 Apartment Owners Welfare Association in PRO No.21 of 2018 however same is misplaced hence is not applicable to present petition. The petitioner deserves to be dismissed outrightly. The grounds taken in the preliminary submissions and preceding paras may kindly be read as part of reply to the instant para.
- 2.20 That the averments contained in this para are misconceived in as much as there is no failure on the part of the answering respondent in adhering to the applicable rules/regulations and the answering respondent No.3 has been collecting charges in accordance with the permissible norms as approved guidelines by the distribution licensee or the appropriate commission. The present petition is misconceived and based upon conjectural assumptions of the petitioner. It is needless to submit herein that the answering respondent has already applied for the purpose of getting the approval of Switching Station undisputedly approval has been granted and charges has been deposited, bay line has been erected which shows the readiness and willingness of the answering respondent. In view of the same, it can safely be assumed that there is no lapse on the part of the answering respondent and the averments are bundle of lies.
- 2.21 That the averments contained in this para are denied as wrong and misconceived. It is worthwhile to submit herein that the answering respondents are supplying to the consumers through DG set. The averments pertaining to embezzlement are wrong, misconceived and denied. The petitioners be put to strict proof of the same. The grounds taken in the preliminary submissions and preceding paras may kindly be read as part of reply to the instant para.
- 2.22 That the averments contained in this para are denied as wrong and misconceived. It is relevant to submit herein that the answering respondent has already installed DG set and are supplying the electricity to the consumers. The grounds taken in the preliminary submissions and preceding paras may kindly be read as part of reply to the instant para.
- 2.23 That the averments contained in this para are denied as wrong and misconceived. The averments made in this para are self explanatory and bundle of lies. There is no such proof has been attached with the petition to support the contention. Thus the petitioners be put to strict proof of the same. The grounds taken in the preliminary submissions and preceding paras may kindly be read as part of reply to the instant para.
- 2.24 That the averments contained in this para are denied as wrong and misconceived. It is worthwhile to submit herein that the meter installed in

the dwelling units are tried and tested and are made of ISI marks. The grounds taken in the preliminary submissions and preceding paras may kindly be read as part of reply to the instant para.

- 2.25 That the averments contained in this para needs no reply since it is only reproduction of Regulation 5.5 of the Haryana Electricity Regulatory Commission.

### 3) **Proceedings:**

- 3.1 The Case was 1<sup>st</sup> heard on 18/06/2019 and the Ld. Counsel appeared on behalf of the Petitioners submitted that Respondents No. 1,2 & 3 are violating various provisions of HERC Single Point Supply Regulation 2013 and are levying Fixed Charges, Non-Telescopic Tariff, Maintenance Charges and Service Charges in the electricity bills of the consumers. The Commission observed from the documents placed on record by the Petitioner that though the said charges are indicated in the bill but the same has not been paid by the consumer. Therefore, the Petitioner was directed to submit the recent bills along-with the payment receipts.
- 3.2 The temporary electricity connection was released by DHBVN for construction purpose as per the Regulation 4.5 of HERC supply Code. Since the construction work is over, the respondent developer is required to obtain permanent connection and the temporary connection was to be removed within three months after the offer of possession of the building. But the developer in collusion with DHBVN is maintaining temporary connection in violation of the provision laid down in the Regulation 4.5.2 due to which the consumers have to pay at exorbitant rate.
- 3.3 The Ld. Counsel appeared on behalf of the Respondent No. 4 submitted that the Petitioner has concealed various facts related to its licence and requested the time for submitting their reply. Acceding to his request, the Commission granted time till next date of hearing to file their replies.
- 3.4 Further, other respondents were also directed to submit their reply before next date of hearing.
- 3.5 The matter was again listed on 25/06/2019. The Ld. Counsel for the Petitioner submitted the recent bills along-with the payment receipts, in compliance to the Interim Order dated 19/06/2019. Further, he reiterated its grievances related to levy of Fixed Charges, Non-Telescopic Tariff, Maintenance Charges and Service Charges in the electricity bills of their consumers. It was also submitted that neither their meters are calibrated nor their electricity bills are received as per the Commission's Regulations.

- 3.6 The Ld. Counsel appeared on behalf of the Respondent Nos. 2 & 3 and sought 15 (fifteen) days' time to file its reply. Further, the Ld. Counsel informed that they have already submitted their application for release of permanent connection to DHBVN, however, till date the connections has not been released. The specific queries raised by the Commission related to its electrification plan could not be answered by the Counsel. The Commission took a serious note of this and observed that prima facie the Respondent Nos. 2 & 3 are at fault of non-compliance of the Commission's Regulations, in using temporary electricity connection even after issuance of occupation certificate by appropriate authority in violation of the Regulations 4.5.2 of *The Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014*. The Commission directed to Respondent No. 2 & 3 that further non-compliance of the Commission's directions and/or Regulations shall lead to initiation of proceedings under Section 142 of the Electricity Act, 2003.
- 3.7 The Ld. Counsel appearing on behalf of the Respondent Nos. 4 i.e., DHBVN submitted that connection for part load of 3379 kVA was sanctioned to the developer for 8.5 Acre. However, on account of various issues in their licence, the application for permanent connection has yet not been processed due to noncompliance of requisite formality.
- 3.8 The Commission directed the Respondent No. 2 & 3 to submit Bank Guarantee as computed by DHBVN and mandated 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* and further as specified in Note 14 of Tariff Schedule in Tariff Order for ARR of FY 2019-20 of DHBVN dated 7/03/2019. The Commission again directed the Respondent No. 2 & 3 to charge the consumers as per Temporary Tariff which is Non-Domestic Tariff as per Tariff Schedule of FY 2019-20 w.e.f. 01/05/2019.
- 3.9 The Commission heard the parties and granted 10 (ten) days' time to the Respondents to file their reply and exchange the same with each other during same time period.
- 3.10 The matter was again listed for hearing on 18-07-2019. The representatives of DHBVN were not present during the hearing.
- 3.11 The Ld. Counsel for the Petitioner reiterated its grievances related to levy of Fixed Charges, Non-Telescopic Tariff, Maintenance Charges and Service Charges in the electricity bills of their consumers. He further submitted that the Commission's directions to Respondent Nos. 2 & 3 in its Interim Order dated 28/06/2019 to charge the consumers as per Temporary Tariff which is Non-Domestic Tariff w.e.f. 01/05/2019 is against the judgement of Hon'ble APTEL in Appeal No. 117 of 2012.

3.12 The Ld. Counsel appeared on behalf of the Respondent Nos. 2 & 3 and submitted their reply in compliance of the Commission's directions in Interim Order dated 28/06/2019. Further, Ld. Counsel submitted that the original licence is for the area of 27 Acres, however, they are co-developer for 8.4 Acres of land and the co-developers have filed an application before The Department of Town & Country Planning, Haryana for suitable amendments in the original licence. The Ld. Counsel further submitted that they agree to submit Bank Guarantee for electrification plan of their 8.4 Acres land and not for whole 27 Acres.

3.13 Having heard the matter, the Commission observed that the Petitioner is supplied electricity through Temporary Connection and as submitted by DHBVN in last hearing held on 25/06/2019, the application of permanent connection has yet not been processed due to non-submission of complete documents by Respondent Nos. 2 & 3 required to ascertain electrification of total area.

3.14 The Temporary Connection is released for the purpose of constructions and other activities mentioned in the Regulation 4.5.1 of *The Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014*. Further, as per Regulation 4.5.2 of the *ibid* Regulations, once the construction of the building is complete and possession is offered then developer is required to obtain the permanent connection for use of supply in the constructed building within one month from the date of effective completion/ offer of possession. Further, as per this Regulation, temporary connection had to be removed within 3 (three) months after the date of such effective completion/ offer of possession of the building. The relevant Regulations in this regard are as follows:

*“4.5.1 Temporary supply shall be given for short-term requirements including construction, dewatering, marriages, religious functions, cultural functions, exhibitions, touring cinemas, theatres and circuses, provided that the said activity/premises is duly authorized by the competent authority, wherever required.*

*4.5.2 Temporary supply connection shall be granted for a period of up to 3 months at a time, which can be further extended depending upon the requirement.*

....

*Provided further that when any part of the building / project has been effectively completed and possession offered to a prospective occupant, then the developer/occupant of such building/portion shall apply for a permanent connection to the licensee within one month from the date of such effective completion/offer of possession. The temporary connection shall be removed three months after the date of such effective completion / offer of possession.”*



- 3.15 Accordingly, the Commission directed the Respondent Nos. 2 & 3 to submit Bank Guarantee for electrification of the total area as per the existing licence in force within 15 (fifteen) days from the issuance of this Order so that Single Point Connection be issued. The non-compliance of this Commission's directions shall lead to initiation of proceedings under Section 142 of the Electricity Act, 2003. Further, till Single Point Connection is energized, the Respondents are directed to bill the consumers as per the applicable tariff.
- 3.16 Further, the Commission observed that till date DHBVN has not yet submitted their reply in the matter despite directions in the Interim Order dated 28/06/2019. The Commission again directed DHBVN to submit the reply along-with list of officers/officials responsible for allowing usage of Temporary Connection to the Respondents till date and progress for release of permanent connection, within 21 (twenty-one) days from the issuance of this Order.
- 3.17 The case was again heard on 10/09/2019, The Ld. counsel appeared for the Petitioner reiterated the following directions issued in the Interim Order dated 22<sup>nd</sup> July 2019 and submitted that they have yet not been complied by the Respondents:
- “6. Accordingly, the Commission directs the Respondent Nos. 2 & 3 to submit Bank Guarantee for electrification of the total area as per the existing licence in force within 15 (fifteen) days from the issuance of this Order so that Single Point Connection be issued. The non-compliance of this Commission's directions shall lead to initiation of proceedings under Section 142 of the Electricity Act, 2003. Further, till Single Point Connection is energized, the Respondents are directed to bill the consumers as per the applicable tariff.*
- 7. Further, the Commission observes that till date DHBVN has yet not submitted their replies in the matter despite directions in the Interim Order dated 28/06/2019. The Commission again directs DHBVN to submit the replies along-with list of officers/officials responsible for allowing usage of Temporary Connection to the Respondents till date and progress for release of permanent connection, within 21 (twenty-one) days from the issuance of this Order.”*
- 3.18 The Ld. counsel appeared for Respondents No.2 and 3 stated that they have submitted a letter to DHBVN indicating that they agree to furnish the Bank Guarantee for electrification infrastructure of total area of the Land measuring 27.413 acres.
- 3.19 The Ld. counsel appeared for Respondent No.4 admitted that they have received the said copy of the letter from Respondents No. 2 and 3 and agreed to release Single Point Connection for total area after completing due formalities. Further, a letter dated 09/09/2019 bearing Memo. No. CH-

10/SE/R-APDRP/OLNC-HT/GGM-II/SOL-365 was submitted by DHBVN mentioning revocation of approval of electrification plan with ultimate load 3032kW/3369 kVA along with sanction of partial load of 1000kVA to Respondents No. 2. In aforesaid letter, it has been indicated in the letter that M/S Hamid Real Estate Pvt. Ltd. New Delhi had obtained License No. 16 of 2009 from DTCP for the development of Group Housing Society on the land measuring 27.4713 acres in Sec-70, Manesar, Gurugram and he sold land to the following 4 nos. developers/entities along with the development rights:

- i) M/s Classic Infr solutions Pvt. Ltd.
- ii) M/s Rapid Infracom Pvt. Ltd.
- iii) M/s Capital Heights.
- iv) M/s Advance India Pvt. Ltd.

Since M/s Classic Infra does not have the license from DTCP so it has been decided to revoke the electrification plan with ultimate load approved earlier.

- 3.20 Having heard the submissions of the Petitioner and the Respondents, the Commission directed DHBVN that the detailed electrification plan of total area shall be submitted by the Respondents No. 2 and 3 to the Respondent 4 within 7(seven) days from issue of this order. Then, the same shall be got approved/sanctioned by Nigam's authority within 15(Fifteen) days.
- 3.21 Further, Respondents No. 2 and 3 are directed to submit the said Bank Guarantee to DHBVN within seven (7) days from the date of intimation by DHBVN. Thereafter, DHBVN is directed to release the connection within seven (7) days. Further also, the parties are directed that status quo be maintained in electricity supply to avoid any hardship to the consumers at large.
- 3.22 The matter was again heard on 03/12/2019, as scheduled. The representatives of all parties were present during the hearing. During the hearing, the Respondent XEN, stated that electrification plan was approved on 15.11.2019. On further review of pending issues before release of the final connection, it is deemed fit to direct Respondent No.4 to communicate to Respondent No.2 and 3 to submit bank guarantee of requisite amount within 3(three) days. The Respondent No. 2 and 3 shall submit Bank Guarantee within seven (7) days thereof. The connection will be released by the Respondent No. 4 within 15(Fifteen days) of submission of Bank Guarantee and completion of other due formalities.
- 3.23 The case was heard on 14/01/2020, as scheduled. Representatives of Respondents were present during the hearing. Petitioner/counsel for the petitioner is not present as he has requested for adjournment. However, the follow up action on the orders dated 03.12.2019 was reviewed with counsel for respondent Nos. 2, 3 and 4. It has emerged that the following actions need to be taken before electric supply is made available to the consumers:-

- i. Furnishing of Bank Guarantee (BG) by respondent Nos. 2 and 3.
- ii. Allocation of 33 KV bay for 33 KV Switching Station from HVPNL.

Commission felt that both these activities can be completed within a period of 2 months. Accordingly, directions are issued to respondent Nos. 2, 3, 4 and HVPNL to ensure compliance within the above-mentioned time period. Chief Electrical Inspector is also directed to carry out the inspection of the transformers and allied equipment within a week of application/request, so that, requisite bank guarantee is submitted. The matter was to come up on 07/04/2020 but hearing could not be held due to Covid-19 Lockdown.

4) **Commission's Analysis and Order:-**

The matter was finally heard on 04/08/2020. Mr. Ashutosh, XEN, DHBVN, Sohna has submitted that the required action regarding allocation of 33 kV bay for 33 kV switching station has been completed. Details regarding internal installation are being prepared which will be furnished to the petitioner.

Counsel for petitioner does not dispute the statement made by respondent. He also stated that electrification plan and load stand sanctioned. He made prayer that time bound directions may be given for completing the action.

Commission has taken note of the progress and the Petition is disposed off with the direction that the pending action be completed within 3 months. Bank guarantee if required shall be furnished by the Petitioner. The bills of the residents shall be issued strictly as per the provisions of the Haryana Electricity Regulatory Commission (Single Point Supply to Employers' Colonies, Group Housing Societies and Residential or Residential cum Commercial/ Commercial Complexes of Developers and Industrial Estates/IT parks/SEZ) Regulations, 2020.

This Order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 07/08/2020.

**Date: 07/08/2020**

**(Naresh Sardana)**

**(Pravindra Singh)**

**(D.S. Dhesi)**

**Place: Panchkula**

**Member**

**Member**

**Chairman**