

**BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION**

**BAYS No. 33-36, SECTOR-4, PANCHKULA- 134112, HARYANA**

**Date of Hearing : 22.09.2021**

**Date of Order : 30.09.2021**

**IN THE MATTER OF:**

Haryana Electricity Regulatory Commission (Fee) Regulations, 2005, 5th Amendment Regulations, 2021

**Interveners:**

1. Sh. Pankaj Bhalotia, Resident of Faridabad
2. Sh. B.K. Aggarwal, Gurugram
3. Sh. Gaurav Gupta, XEN/HPPC

**Quorum**

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

**Chairman  
Member**

**ORDER**

**Statement of Objects and Reasons**

1. The Haryana Electricity Regulatory Commission, in exercise of the powers conferred on it by section 86 (1) (g) read with section 181 of the Electricity Act 2003 (Act 36 of 2003) and all other powers enabling it in this behalf and after previous publication, had notified Haryana Electricity Regulatory Commission (Fee) Regulations, 2005 i.e. the Principal Regulations.
2. The following amendments were made to the Principal Regulations 2005, after following the due process:
  - i. 1st Amendment vide Haryana Government Gazette Notification dated 14.11.2013
  - ii. 2nd Amendment vide Haryana Government Gazette Notification dated 28.04.2017
  - iii. 3rd Amendment vide Haryana Government Gazette Notification dated 30.10.2017
  - iv. 4th Amendment vide Haryana Government Gazette Notification dated 11.01.2021
3. Regarding provision for fees exemption in the existing regulations, the Commission is of the considered view that all petitions/applications, filed in the Commission, directly/ indirectly touches upon public interest as it impacts the electricity consumers at large. Therefore, the Commission considered it appropriate to dispense with the redundant provision at Sr No 20(ii) and Note 3 of Schedule of Fees of the Regulations which states that in case application/petition is in larger public interest of the electricity consumers, the Commission shall have the discretion to exempt fees after holding preliminary hearing.
4. Accordingly, the Commission prepared a draft Haryana Electricity Regulatory Commission (Fee) Regulations, 2005, 5th Amendment Regulations, 2021 and invited objections/comments on the proposed amendment to the Principal Regulations, 2005.

## **Public Proceedings**

5. The draft Regulation was hosted on the website of the Commission for inviting comments/objections from the stakeholders/general public and a notice to this effect was published in two newspapers having wide circulation in Haryana. The said notice was published in The Indian Express (english) and Amar Ujala (hindi) on 06.08.2021.
6. In response to the public notice dated 06.08.2021 issued by the Commission for inviting comments/objections from the stakeholders/general public, the following comments/objections were received in the Commission: -
  - i) Shri Pankaj Bhalotia Flat No.1104, Gracious Tower, Imperial Estate, Sector 82, Faridabad, Haryana
  - ii) Shri. B.K. Aggarwal, D-503, Park View City-1, Sohna Road Sector-48, Gurugram.
7. **Comments/Objections filed by Shri Pankaj Bhalotia:**

### **Vide email dated 09.08.2021:**

- a. *How will it get determine that a petition/application filed before the Commission is directly/indirectly touching upon public interest as its impacting the electricity consumers at large. What is the criteria for the same? Is that defined anywhere in the Regulation of the Commission? For example, I may file a petition/application considering the same in the interest of public at large and Commission may decide otherwise and does not consider the same under interest of public at large of the State. Another example in this regard could be my review petitions/applications on the tariff orders and Single Point Supply Regulations, I consider them as filed under interest of public at large of the State, but Commission views was different and otherwise and accordingly it considered them as normal petition/application and filed in the Regular course of business and accordingly rejected all such my petitions/applications filed in past on account of non-payment of requisite fee. So, if criteria can also be prescribed by the Commission that will be great.*
- b. *To avoid any ambiguity at a later stage for fee payable/not payable for a petition application filed under interest of public at large of the State and accordingly if the Commission can continue with it under S. No. 20 (ii) and mention the fee as NIL, that will be great.*
- c. *Also, if the Commission would like to mention a fee as NIL by introducing a separate category/section in the draft regulation for petition/application that are being filed on the recommendation of a CGRF or Electricity Ombudsman. Due to lack of clarity or clarification or a clear guideline in an existing Regulation or an Order and while hearing a case if CGRF or Electricity Ombudsman advise the complainant to approach to the Commission and seek clarity or clarification or a clear guideline, in that case, the Commission should keep the fee as NIL.*

### **Commission's observations:**

The Commission has considered the above comments/suggestions and observes that the present proceeding is confined to the proposed amendment as mentioned in the draft. Hence, at this stage, the Commission is not inclined to consider any other comments/suggestions on

the provisions of the Principal Regulation including its subsequent amendments except that appearing in the proposed draft amendment.

As far as specific comment on “public interest” is concerned, it needs to be noted that admitting Public Interest Litigation (PIL), as in legal parlance, is not a power vested in this Commission as such. Hence, there is no requirement for retaining the provision of Sr No 20(ii) and Note 3. For any exigencies, the Commission has the inherent powers to relax/remove difficulty in implementing any regulation after recording the reasons in writing in exceptional cases. Hence, all the stakeholders are expected to file the petition(s) along with requisite fee as per the fee regulations in vogue.

**8. Comments/Objections filed by Shri B.K. Aggarwal:**

**Vide email dated 24.08.2021**

*That under comments by Mr. B.K. Aggarwal D-503 Flat owner cum Resident (out of 608 Flats/Dwelling Units) of Park View City-1, Sohna Road, Sector-48, Gurugram following comments are being provided in Short. That our Society is being taken over the maintenance, common areas had been taken over from the Developer PVAPL (Park View Apartments Private Limited) by PVCCA (Park View City Condominium Association) by a joint letter on 14.12.2011. That our society is having a contract of 5510 KW sanctioned load and CD 2000 KVA with Distribution Licensee (DHBVN) with latest Consumer Name PARK VIEW PVT. L. and DHBVN Latest A/c No. 6307821000.*

*The comments are limiting to our society and undersigned experience of Haryana Since 2008.*

- a) As being followed there should not be any (Zero) fees from the consumer under section 142 etc.*
- b) That in case of consumer Files against the RWA or Builder/ Developer the fees should not be more than Rs. 1000/-.*
- c) That Review orders by Licensees should be very limited and higher fees or no reduction of fees be applicable.*

**Vide email dated 22.09.2021**

- a) Clause No. 20 (iii) B: By Institution Association / Organization/ Company (Limited), Private Limited, Partnership), Proprietorship/ Trust/ Societies: “Should be clarified RWA’s Domestic /BULK Domestic are excluded”. Rs. 50,000/- “Should be increased as per escalation factor”.*
- b) Clause No. 20 (i): In Case the application/petition is filed by the residents of the Group Housing Societies against Management/Developer/ RWA: Rs. 1,000.*

*Fees should be Nil. “As HERC as per HERC Regulations No HERC 48/2020” the power of HERC had been transferred to CGRF/ Electricity Ombudsman”.*

- c) Self-Pleading Individual Consumer less than 20 kw: Rs.1000 should be Nil. This is for the fact as an example of Mr. R.K. Arora recently decided by HERC.*
- d) Complaint under section 142 or section 146 of electricity Act, 2003 provided that the person (complainant) consumes electricity for its own use and not for commercial purpose. Provided that the person (complainant) consumes electricity for its own use and not for commercial*

*purpose. Provided that in case review petition is filed by the complainant under 20 (iv) is Nil. "That power of 146 should as being must be provided in the Regulation 48/2020 for the reason HERC after investigation shall find consumers are being over charged by Distribution Licensees by applying wrong Regulations or Tariff as being amended by Licensee Billing and RAPDRP/IT divisions and shown as fictitious Arrears or subsequently adjusted Consumers Security against fictitious Arrears. Moreover, the status of Cases Decided by CGRF Gurugram / Hisar in case of Single Point Supply Bulk Supply Domestic may be circulated by HERC/ Ombudsman. The other question is whether DHBVN had overcharged the direct use of electricity consumer's of Single Point Supply BSDS consumers at 11 kV or Developers/Builders in alliance with utilities are paying due to hidden reasons?*

- e) *That other categories the Fees may be increased in other categories by Escalation percentage or being argued by other categories of consumers.*

**Commission's Observations:**

The Commission appreciates the efforts made by the intervener in filing the aforesaid comments. However, as observed earlier in the present order, the Commission has confined the present proceedings to the comments and objections received on the proposed draft only i.e. deletion of Sr No 20(ii) and Note 3 of Schedule of Fees of the Regulations which states that in case the application/petition is in larger public interest for retail supply consumers, the Commission shall have the discretion to exempt fees after holding preliminary hearing.

**Proceedings before the Commission:**

9. In order to afford an opportunity to the interveners/general public to present their views in person, the Commission held a public hearing through video conferencing, due to the Covid-19 pandemic, in the matter on 22.09.2021.
10. Sh. Gaurav, XEN/HPPC, intervener present in the hearing, made oral submissions on behalf of HPPC. The same is produced as under:

Existing fees under Schedule 13 i.e. application/petition for approval of Power Purchase Agreement/Power Sale Agreement/Transmission Service Agreement including in principle approval for conventional fuel based power plants, hydro stations (>25MW), non- conventional and/or renewable sources of energy including co-generation based power plants and hydro stations(< 25MW) may be fixed depending upon the tenure of the power purchase agreement i.e. fees for approval of Long term agreement may be fixed on MW basis whereas fees for medium term and short term agreements may be considered per application.

Keeping in view that in case HPPC seeks approval of Hon'ble Commission to purchase conventional/renewable power on short term or medium-term basis, existing fees structure in multiple of MW capacity has considerable implication for DISCOMs and ultimately to the consumers of the State in comparison to actual financial implication for purchase of power.

A request was made to consider the above submissions of HPPC.

**Commission's Observations:**

The Commission had invited comments/objections on the proposed deletion of Sr No 20(ii) and Note 3 of Schedule of Fee Regulations which states that in case the application/petition is in larger public interest for retail supply consumers, the Commission shall have the discretion to exempt fees after holding preliminary hearing. Hence, at this stage, the submissions of HPPC, pertaining to some other provisions of the Fee Regulations, cannot be considered.

11. The Commission has considered the written as well as oral objections raised by the interveners and observes that the statements of objects and reasons clearly brings out the need/reason for amending the Principal Regulation by deleting Sr No 20(ii) and related Note 3 thereto of Schedule of Fee Regulations in vogue.
12. Regarding the provision for fees exemption in the existing regulations, the Commission is of the considered view that all petitions/applications, filed in the Commission, directly/ indirectly touches upon public interest as it impacts the electricity consumers at large. Therefore, in the considered view of the Commission, it will be appropriate to delete Sr No 20(ii) and Note 3 of Schedule of Fee, appearing in the Principal Regulations.

In view of the above deliberations, the Commission approves the Haryana Electricity Regulatory Commission (Fee) Regulations, 2005, 5th Amendment Regulations, 2021 as per annexure "A" attached to the present order. The same be sent for Gazette Notification at the earliest.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 30<sup>th</sup> September, 2021.

**Date: 30.09.2021**

**Place: Panchkula**

**(Naresh Sardana)**

**Member**

**(R.K. Pachnanda)**

**Chairman**

## HARYANA ELECTRICITY REGULATORY COMMISSION

### Notification

The \*\* \*\*\*\*\*, 2021

**Regulation No. HERC/10/2005/5<sup>th</sup> Amendment/2021:** - In exercise of the powers conferred on it by section 86(1)(g) read with section 181 of the Electricity Act 2003 (Act 36 of 2003) and all other powers enabling it in this behalf and after previous publication, the Haryana Electricity Regulatory Commission makes the following regulations to amend the Haryana Electricity Regulatory Commission (Fee) Regulations, 2005 as under: -

**1. Short title, commencement, and interpretation.**

- (1) These Regulations may be called the Haryana Electricity Regulatory Commission (Fee) Regulations, 2005, 5<sup>th</sup> Amendment Regulations, 2021.
- (2) These Regulations shall come into force from the date of their publication in the Haryana Government Gazette.
- (3) These Regulations shall extend to whole of the State of Haryana.

**2. The following Schedule of Fee shall replace the existing schedule of fee appended to the amendment notified on 11<sup>th</sup> January, 2021.**

Sr. No.	Particulars	Prescribed Fee
1.	Application Processing fee for grant of license under section 14 of the Act as prescribed by the State Government vide "Payment of Fees for Processing of Application for Grant of License Rules, 2005".	As prescribed by Haryana Government and amended from time to time.
<b>2.</b>	<b>Annual Fee for Transmission/ Distribution/ Trading Licensees</b>	
(a)	Annual Fees for determination of tariff / true-up and midterm review for Transmission / Distribution/ Retail Supply / Trading Licensees.	
i)	Transmission Licensee	<sup>1</sup> 0.05% of the amount of the Annual Revenue Requirement (ARR) including non-tariff income of the previous year subject to minimum of Rs. 25 lakh and maximum of Rs. 3.5 Crore
ii)	Distribution Licensee	<sup>1</sup> 0.05% of the amount of the

Sr. No.	Particulars	Prescribed Fee
		Annual Revenue Requirement (ARR) including non-tariff income of the previous year subject to minimum of Rs.25 lakh and maximum of Rs. 3.5 Crore
iii)	Intra-State Trading Licensee	<sup>1</sup> 0.05% of the value of power traded during the previous year subject to minimum of Rs. 25 lakh and maximum of Rs. 3.5 Crore.
iv)	Inter-State Trading Licensee	<sup>1</sup> 0.05% of the value of power traded during the previous year in relation to the intra-state trading undertaken by the petitioner in the State of Haryana subject to minimum of Rs. 25 lakh and maximum of Rs. 3.5 Crore
(b)	Licensees selected through competitive bid process	
i)	Transmission licensee	<sup>1</sup> 0.05% of the amount of the Annual Revenue of the year based on bid adjusted for escalation factors, subject to a minimum of Rs. 25 lakh and maximum of Rs. 3.5 Crore.
ii)	Distribution licensee	<sup>1</sup> 0.05% of the amount of the Annual Revenue of the year based on bid adjusted for escalation factors, subject to a minimum of Rs. 25 lakh and maximum of Rs. 3.5 Crore.
(c)	Deemed Licensee(s)	<sup>1</sup> 0.05% of the amount of the Annual Revenue of the year based on the estimated energy to be handled at input periphery of the petitioner licensee and average ARR of Distribution Licensees of the State per unit of the input energy at input periphery of the Licensees for the previous year. Subject to a minimum of Rs.25 lakh and maximum of Rs. 3.5 Crore.
	<sup>1</sup> For new applicant, first year projected ARR shall be the basis for determination of Annual Fee subject to revision of fee corresponding to ARR	

Sr. No.	Particulars	Prescribed Fee
	determined by the Commission. The annual fee shall be paid in advance at the commencement of the financial year.	
3.	Petition for grant of deemed licensee status in Haryana	Rs. Two lakhs
4.	Petition for approval of Business Plan	Rs. One (1) lakh
5.	Petition for approval of Capital Investment Plan	Rs. One (1) lakh
6.	Petition for determination of additional surcharge/FSA or any other charges to be recovered from the consumers in case not submitted along with the ARR	Rs. One (1) lakh.
7.	Application seeking prior approval under section 17 of the Electricity Act, 2003. (Except sale of Scrap)	20.01% of the value of the transaction for which approval is sought, subject to a minimum of Rs. 1 lakh and maximum of Rs. 30 lakh.
	<sup>2</sup> when a part of asset is labelled as scrap by the licensees it is no longer part of the assets in use for the normal business activity of the utility and therefore out of the ambit of Section 17 of the Act.	
8.	Application for amendment of license under section 18 of the Electricity Act, 2003	Rs. Two Lakhs
9.	Petition for determination of rates, charges, terms and conditions under proviso to sub section (1) of section 36 of the Electricity Act, 2003	Rs. Two lakhs Fifty thousand (To be paid by each party)
10.	Petition for adjudication of disputes relating to providing of non- discriminatory open access (Long Term and Medium Term) under sub- section (47) of section 2 read with section 9, 40 and or 42 of the Electricity Act, 2003 and the regulations notified there under.	Rs. Two lakhs
11	Petition for determination of Tariff under provisions of clause (a) of sub-section (1) of section 62 of the Electricity Act, 2003	
A	Where annual determination of Tariff is involved	
i)	a) Conventional Fuel based power plants (coal, gas, liquid fuel etc.) b) Hydro Stations (more than 25 MW capacity)	i. Upto 5 MW      Rs. 1 Lakh ii. Upto 25 MW      Rs. 5 Lakh iii. Above 25 MW      Rs 10,000/- per MW of the Installed/ allocated Capacity subject to Minimum fee of Rs. 25 Lakh and Maximum fee of Rs. 3.5



Sr. No.	Particulars	Prescribed Fee
		Cr.
ii)	a) Non-conventional and/or Renewable sources of energy including co-generation-based power plants b) Hydro Stations (upto 25 MW capacity) (Also see Note 1)	i. Upto 5 MW      Rs. 1 Lakh ii. Upto 25 MW      Rs. 5 Lakh iii. Above 25 MW      Rs 5,000/- per MW of the Installed/allocated Capacity subject to a Minimum fee of Rs.25 Lakh and Maximum fee of Rs.1.75 Cr
B	Tariff determination for Generating Stations other than those covered under "A" above	
i)	a) Conventional Fuel based power plants (coal, gas, liquid fuel etc.) b) Hydro Stations (more than 25 MW capacity)	i. Upto 5 MW      Rs. 5 Lakh ii. Upto 25 MW      Rs. 50 Lakh iii. Above 25 MW      Rs 50,000/- per MW of the installed/allocated Capacity subject to a Minimum fee of Rs. 1 crore and Maximum fee of Rs. 3.5 Cr
ii)	a) Non-conventional and/or Renewable sources of energy including co-generation-based power plants b) Hydro Stations (upto 25 MW capacity) (Also see Note 1)	i. Upto 5 MW      Rs. 5 Lakh ii. Upto 25 MW      Rs. 50 Lakh iii. Above 25 MW      Rs 25,000/- per MW of the installed/allocated Capacity subject to a Minimum fee of Rs. 1 crore and Maximum fee of Rs. 3.5 Cr
12	Adoption of Tariff u/s 63 of the Act.	
i)	a) Conventional Fuel based power plants (coal, gas, liquid fuel etc.) b) Hydro Stations (more than 25 MW capacity) (Also see Note 1)	i. Upto 5 MW      Rs. 1 Lakh ii. Upto 25 MW      Rs. 10 Lakh iii. Above 25 MW      Rs 2,000/- per MW of the installed/allocated Capacity subject to a Minimum fee of Rs. 20 Lakh and Maximum fee of Rs. 70 lakhs.
ii)	a) Non-conventional and/or Renewable sources of energy including co-generation-based power plants b) Hydro Stations (upto 25 MW capacity) (Also see Note 1)	i. Upto 5 MW      Rs. 1 Lakh ii. Upto 25 MW      Rs. 10 Lakh iii. Above 25 MW      Rs 1,000/- per MW of the installed/allocated Capacity subject to a Minimum fee of Rs. 20 Lakh and Maximum fee of Rs. 35 lakhs.
iii)	Transmission Service Agreement	Rs. 500 per MW with a Minimum fee of Rs. 50,000/- (Fifty

Sr. No.	Particulars	Prescribed Fee
		thousand) and Maximum of Rs. 2 Lakh
13.	Application / Petition for approval of Power Purchase Agreement / Power Sale Agreement / Transmission Service Agreement including in principle approval. However, fee deposited in case of seeking in principle approval shall be adjusted when final approval is sought.	
i)	a) Conventional Fuel based power plants (coal, gas, liquid fuel etc.) b) Hydro Stations (more than 25 MW capacity) (Also see Note 1)	Rs. Ten thousand per MW of the Contracted capacity with a Minimum of Rs. 50,000/- (Fifty thousand) and Maximum of Rs. 25 Lakh.
ii)	a) Non-conventional and/or Renewable sources of energy including co-generation-based power plants b) Hydro Stations (less than 25 MW capacity) (Also see Note 1)	Rs. Five thousand per MW of the Contracted capacity subject to a Minimum of Rs.50000/- (Fifty thousand) and Maximum of Rs. 2 Lakh
iii)	Transmission Service Agreement	Rs. 2000 per MW subject to a Minimum of Rs. 50,000/- (Fifty thousand) and maximum of Rs. 2 Lakh
14.	Petition for review of Order of the Commission. (Also see Note 2)	
i)	Where fee is prescribed under this regulation	Rs. Two lakh or 50% of the Original Fee whichever is less subject to a minimum fee of Rs. 50,000/- (Fifty Thousand). However, exemption is granted to category of Small Consumers having a connected load below 20 kW for 20 (i) and 20 (ii)c
ii)	Where review is sought of Suo Motto Orders	Rs.50,000/ (Fifty thousand)
iii)	Where review is sought of Order under 20(iii) filed by any person other than the complainant covered under 20(iii)	As per category wise fee mentioned under 20 (ii) – Others
iv)	Where review is sought of Order under 20(iii) filed by the complainant covered under 20(iii)	Nil
15.	Adjudication of dispute u/s 86 (1) (f) or u/s 35	Rs. 2,00,000/- (Two Lakhs)
16.	Request for inspection of documents / petition disposed of or under consideration of the Commission if permitted to be inspected	Rs. Five hundred per file/ per day
17.	Request for obtaining certified copies of order/ petition disposed of or under consideration of the Commission as	Rs. Five per page subject to a minimum of Rs. Fifty.

Sr. No.	Particulars	Prescribed Fee
	may be permitted.	
18.	Petition by SLDC on any matter not covered above.	Nil
19.	Surcharge for delay in submission of the Petition	0.004% per day (15% p.a.) from due date (if prescribed by the Commission) up to the actual date of submission.
20.	Fee for any Application / Petition not covered above.	
i)	In case the application/petition is filed by the residents of the group housing society against Management/ Developer/ RWA	Rs.1,000/- (One thousand)
ii)	Others	
	a) By Utility / Licensee / deemed licensee / person granted exemption from license	Rs. 50,000/- (Rs. Fifty thousand)
	b) By Institution/ Association/ Organization/ Company (Limited, Private Limited, Partnership) Proprietorship/ Trust/Societies	Rs. 50,000/- (Rs. Fifty thousand)
	c) Self Pleading Individual Consumer less than 20 kw	Rs.1,000/- (Rs. One thousand)
	d) Interlocutory Applications (IA)	Rs. 5,000/ (Rs. Five thousand)
	e) Others than (a) to (d) above	Rs. 50,000/- (Rs. Fifty Thousand)
iii)	<sup>3</sup> Complaint under section 142 or section 146 of Electricity Act, 2003 provided that the person (complainant) consumes electricity for its own use and not for commercial purpose. Provided that in case review petition is filed by any person other than the complainant covered under 20(iv), fee for such review shall be as per clause 14(iii) Provided that in case review petition is filed by the complainant covered under 20(iv), fee is Nil	Nil
	<sup>3</sup> Complaint is a petition before the appropriate for a under the Consumer Act, and therefore, borrowing the principle of law from there, its fee is kept as nil.	
	The cost of advertisement of public notices by the Commission in the newspapers in petition(s) where comments/ objections of general public/ Stakeholders are required shall be borne by the parties concerned if so ordered by the Commission.	

## Notes

1. The classification of projects falling under Non-conventional and/or Renewable

sources of energy is based on the relevant provisions of the National Tariff Policy.

2. Petition under the clause of removal of difficulty is not an application for review of Order. Such cases will be covered in “20. Fee for any Application / Petition not covered above”
3. All fee should be rounded off to the nearest hundred Rupees except for fee at point 17.

By Order of the Commission  
(Sd.)

Date: \*\*. \*\*.2021  
Place: Panchkula

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Director/Tariff  
HERC.