

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

Case No. HERC/ Petition No.-11 of 2021 &  
Petition No.-14 of 2021

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**DATE OF HEARING** : 05.01.2022  
**DATE OF ORDER** : 10.01.2022

**IN THE MATTER OF:**

**Petition for waiver of revision of Advance Consumption Deposit (ACD) for FY 2019-20 & FY 2020-21 on the electricity consumers of DHBVN in Haryana (P.NO-11 of 2021)**

**And**

**Petition under Regulation 10 of HERC (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to recover security) Regulations 2016, regarding deferment/postponement of the revision of Consumption Security Deposit recoverable from consumers during the FY 2020-21 & FY 2021-22 (P.No-14 of 2021)**

**Petitioner(s)**

DHBVN and UHBVN

**Present**

**On behalf of the Petitioner(s)**

1. Sh. R.K.Sodha Director OP DHBVN, Hissar
2. Sh. S.K. Bansal, Director OP UHBVN, Panchkula
3. Sh. Samir Malik, Advocate

**QUORUM**

**Shri R.K. Pachnanda, Chairman**

**Shri Naresh Sardana, Member**

## **ORDER**

### **Brief background of the Case:**

The issues in the petition No.-11 and 14 of 2021 are same i.e. prayer for deferment of annual revision of Advance Consumption Deposit, as per the HERC Regulation, the Commission decided to club and hear both the petitions together.

1. DHBVN in petition no.-11 of 2021 has submitted as under:

- 1.1 That DHBVN is a State-Owned Power Distribution Company and registered under the companies Act, 1956, formed under corporatisation/restructuring of erstwhile Haryana State Electricity Board (HSEB) and is holder of distribution and retail supply of electricity License (License No. DRS-2 of 2004) in the Southern Zone of Haryana.
- 1.2 Pursuant to the Regulation nos. 4.15.4 and 4.15.6 of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 and its 2nd amendment dated 08.01.2020, a security deposit equivalent to estimated power consumption for 2 billing cycles is to be collected by the distribution licensee from the electricity consumers and the same needs to be revised annually as per the procedure defined under Regulation 4.15.6 (1).
- 1.3 The present submissions filed before the Hon'ble Commission for approval for waiver of revision and recovery from the consumers the Advanced Consumption Deposit on the electricity consumers of DHBVN in Haryana
- 1.4 Regulation nos. 4.15.4 and 4.15.6 of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 and its 2nd amendment dated 08.01.2020 adopted as Sales Circular D-07/2020 dated 28.03.2020 stipulate the Advance Consumption Deposit (ACD) review process as elaborated under:

*Regulation no.4.15.4:*

*“A security deposit shall be made by all the consumers to cover:*

- (a) The estimated power consumption for two billing cycles (Advance Consumption Deposit). Initially the applicant shall deposit the consumption security at the flat rates as mentioned in the HERC (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply & Power to require security) Regulations, 2005 or its subsequent amendments. Subsequently*

*the security shall be revised annually as per the procedure defined under Regulation 4.15.6.*

*As stated under Regulation, the security deposit shall be revised annually as per the procedure defined in under regulation 4.15.6 (1). Any excess/deficient amount shall be adjusted within two subsequent bills of the consumer.*

Regulation no.4.15.6 (1) states:

*At the beginning of the financial year, the licensee shall review the consumption pattern of the consumer for the adequacy of the security deposit from April to March of the previous year. A consumer, except the HT industrial supply consumer, is required to maintain a sum equivalent to his average payment for the period of two billing cycles. An HT industrial supply consumer, is required to maintain a sum equivalent to his average payment for the period of one and half billing cycles. Where 'average payment' shall be equal to the average of actual bills paid in the last financial year:*

*Provided that for a consumer whose electricity connection is less than one year old, the security deposit shall not be revised at the beginning of the ensuing financial year.*

*Provided further that average payment shall not include the arrears of any kind recovered in the last financial year pertaining to the prior period”.*

- 1.5 The Hon’ble HERC, in its public hearing dated 19.11.2020 on directives issued in the Tariff Order dated 30.06.2020, issued notice to DHBVN, Hisar vide order dated 19.11.2020 under section 142 for non-implementation of the ACD review process for the FY 2019-20.
- 1.6 Subsequently, based on the directions of the Hon’ble HERC, DHBVN started charging revised ACD from the electricity consumers in line with the HERC regulations.
- 1.7 However, subsequent to the imposition of ACD, various representations have been received from the Resident Welfare Associations of Hisar and Industry bodies/industries/Resident Welfare Associations of Gurugram/

Bhiwani etc. in the state raising concerns on the revision of the ACD charged in the bills.

- 1.8 Various Residents Welfare Associations and Industrial Associations of Gurugram met the Hon'ble Power Minister, Government of Haryana on 12.04.2021 and raised concerns regarding the charging of revised ACD in the bills.
  - 1.9 Consumers have complained that they have been paying bills regularly in the past and given their clean track record, the ACD being charged by the Haryana State Discoms should be discontinued. A number of consumers have also submitted that the COVID-19 pandemic has resulted in loss of income to businesses and salaried, alike, and hence, the ACD may be discontinued on immediate basis.
  - 1.10 Accordingly, DHBVN vide Sales Circular No. D-10/2021 with Memo No. Ch-10/SE/Comml. R-16/357/2005/Vol-II dated 27.04.2021 after taking cognizance of the widespread resentment amongst the consumers and the hardships being faced by various categories of consumers in the state on account of widespread COVID-19 pandemic has decided to defer the ACD review process for all the categories of consumers. The decision of deferment of the ACD review process is with the prior approval of the Haryana Government.
  - 1.11 Further, it was also decided and conveyed vide Sales Circular No. D-10/2021 that additional ACD amount charged in the bills (paid/unpaid) may be adjusted in subsequent bills in the following manner:
  - 1.12 For the consumers whose bills haven't been issued but are in process will be temporarily stopped and will be started only after rolling back of the revised ACD.
  - 1.13 For the consumers who have already deposited the bills along with ACD, the contra entry will be passed and refund/charging as the case may be on account of revision of ACD will reflect in next billing cycle. Similar will be the case for those consumers whose due date has already passed but they have not deposited their current bills.
  - 1.14 It is submitted before the Hon'ble Commission that the ACD revision may be deferred for all the categories of consumers for the FY 2019-20 and FY 2020-21 to ease the burden and post facto approve the instant petition.
2. UHBVN in petition no.14 of 2021 submitted as under:
- 2.1 UHBVNL is a State-Owned Power Distribution Company and registered under the companies Act, 1956, formed under corporatisation/

restructuring of the erstwhile Haryana State Electricity Board (HSEB) and is holder of distribution and retail supply of electricity License (License No. DRS-1 of 2004) in the North Zone of Haryana.

- 2.2 Pursuant to the Regulation 5.5 and 5.9 (1) of the HERC (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to recover security) Regulations, 2016, a distribution licensee is required to revise consumption security deposit of consumers on annual basis, any excess/deficient of it to be adjust within three subsequent bills of the consumer.
- 2.3 In view of the hardship being faced by the consumers under prevailing situations of the COVID-19 pandemic, UHBVN in the interest of the public at large, has taken a stand for deferment/postponement of the revision of consumption security deposit to be recovered from the consumers during the FY 2020-21 and FY 2021-22.
- 2.4 Consequent to the above, under the Regulation 10 titled as “Power to Relax” of the HERC (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to recover security) Regulations, 2016, the current petition is submitted before the Hon’ble Commission to grant their approval for deferment/postponement of revision of consumption security deposit recoverable from consumers during the FY 2020-21 and FY 2021-22.
- 2.5 Other related information regarding deferment/postponement of the consumption security deposit is detailed in the subsequent sections of this current petition.

### **Regulatory Provisions**

- 2.6 Regulation 5.5 and 5.9 (1) of the HERC (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to recover security) Regulations, 2016, provide provisions for revision of consumption security deposit recoverable from the consumers. The relevant excerpts of the aforesaid regulations are provided as under:

#### **“5.5 Security Deposit**

- (1) *In pursuance of Regulation 5.1, a security deposit shall be made by all the consumers to cover:*

- (a) *The estimated power consumption for two billing cycles for all categories of consumers except the HT industrial supply consumers. In case of HT industrial supply consumers, it would be estimated power consumption for one and half billing cycles.*

*Initially the applicant shall deposit the consumption security at the flat rates as mentioned under Regulation 5.6.*

**Subsequently the security shall be revised annually as per the procedure defined under Regulation 5.9 (1)**

- (b) *The cost of electric meter that is to be provided for supplying electricity to a premise.*

### **5.9 Review of Security Deposit for power consumption (ACD)**

- (1) **At the beginning of the financial year, the licensee shall review the consumption pattern of the consumer for the adequacy of the security deposit from April to March of the previous year.** *A consumer, except the HT industrial supply consumer, is required to maintain a sum equivalent to his average payment for the period of two billing cycles. An HT industrial supply consumer is required to maintain a sum equivalent to his average payment for the period of one and half billing cycles. Where 'average payment' shall be equal to the average of actual bills paid in the last financial year:*

*Provided that for a consumer whose electricity connection is less than one year old, the security deposit shall not be revised at the beginning of the ensuing financial year.*

*Provided further that average payment shall not include the arrears of any kind recovered in the last financial year pertaining to the prior period.*

- (2) *The security deposit available with the licensee in respect of each consumer shall be shown in the bill issued to the consumer. Refund of excess security to the consumer by the licensee, as and when arises, shall be made by way of adjustment in subsequent energy bills showing negative amount where necessary.”*

2.7 Regulation 10 of the HERC (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to recover security) Regulations, 2016, provides the power to the Hon'ble Commission to relax any of the provisions of regulations referred above after recording its reasons in writing. The relevant regulation is given as under:

**“10 Power to Relax**

*The Commission may by general or special order, for reasons to be recorded in writing and after giving an opportunity of hearing to the parties likely to be affected, may relax any of the provisions of these Regulations.”*

2.8 As the situations reeling under the COVID-19 pandemic has led to an economic slowdown and resulted in liquidity crisis in almost all the sectors. It is most humbly prayed that in the interest of public at large the provisions for revision of consumption security deposit may kindly be exempted for the FY 2020-21 to FY 2021-22.

2.9 Furthermore, the kind attention of the Hon'ble Commission is brought on the prescribed application fee specified under Regulation 3 of the HERC Fee Regulations, 2005 and amendment thereof, wherein fees for filing petition in larger public interest may be exempted by the Commission. The instant petition regarding deferment/postponement of the revision of the consumption security deposit recoverable from the consumers during FY 2020-21 and FY 2021-22 is the matter of larger public interest. Therefore, it is requested that the fees for the instant petition may kindly be exempted. The relevant excerpts of the aforesaid regulations are reproduced as under:

**“Regulation: 3 (Fee)**

*2. The following Schedule of Fee shall replace the existing schedule of fee appended to the principle regulation notified on 6th January, 2005.*

<b>Sr. No.</b>	<b>Particulars</b>	<b>Prescribed Fee</b>
<b>20</b>	<b>Fee for any Application / Petition not covered above.</b>	
i)	<i>In case the application/petition is filed by the residents of the group housing society against</i>	<i>Rs.1,000/- (One thousand)</i>

<b>Sr. No.</b>	<b>Particulars</b>	<b>Prescribed Fee</b>
	<i>Management/ Developer/ RWA</i>	
ii)	<b><u>In case the application/petition is in larger public interest for retail supply consumers. (Also see Note 3)</u></b>	<b><u>Discretion of the Commission to exempt</u></b>

2.10 The members of Welfare Associations and Industrial Associations have met the Hon'ble Power Minister, Government of Haryana on 12.04.2021 and raised their concerns regarding the economic slowdown and consequential impact of revision of consumption security deposit on their business cash flows.

2.11 Further, a few consumers have also requested that the grim situations prevailing under the COVID-19 pandemic has resulted in a loss in their businesses and salaries; therefore, revision of consumption security deposit should be discontinued on immediate basis.

2.12 Therefore, taking into cognizance, the widespread resentment among the consumers and hardships being faced on account of the economic slowdown under the COVID-19 pandemic, it has been decided that the revision of consumer security deposit should be deferred/postponed for the FY 2020-21 and FY 2021-22.

2.13 Thus, it is most respectfully submitted that the Hon'ble Commission in consideration to the hardship being faced by the consumers under the COVID-19 pandemic, may kindly grant the approval for deferment/postponement of revision of consumer security deposit for the FY 2020-21 and FY 2021-22 in the interest of the public at large.

**PRAYER:**

The DHBVN in petition no-11 of 2021 respectfully prayed the Hon'ble Commission as under:

2.14 Take the submission and prayer of DHBVN on record and allow post facto approval for deferment of waiver/revision of ACD for the FY 2019-20 and FY 2020-21 on the electricity consumers of DHBVN in Haryana;

2.15 Condone any inadvertent omissions/errors/shortcomings and permit DHBVN to add/change/modify/alter the submissions and make further submissions as may be required during the course of these proceedings;



2.16 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 DHBVN.

The UHBVN in petition. no-14 of 2021 respectfully prayed the Hon'ble Commission as under:

2.17 Take the submission and prayer of petitioner on record and allow the approval for deferment/postponement of revision of consumption security deposit to be recoverable from the consumers during FY 2020-21 and FY 2021-22;

2.18 Exempt the application fees as the subject matter of concern is of larger public interest;

2.19 Condone any inadvertent omissions/errors/shortcomings and permit the petitioner to add/change/modify/alter the submissions and make further submissions as may be required during the course of these proceedings;

2.20 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 petitioner.

### **3. Interlocutory Application from UHBVN in PRO-14 of 2021**

3.1 UHBVNL is a State-Owned Power Distribution Company and registered under the companies Act, 1956, formed under corporatisation/restructuring of the erstwhile Haryana State Electricity Board (HSEB) and is holder of distribution and retail supply of electricity License (License No. DRS-1 of 2004) in the North Zone of Haryana.

3.2 In view of the hardship being faced by the consumers under prevailing situation of the COVID-19 pandemic, UHBVN in the interest of the public at large, has taken a stand for deferment/postponement of the revision of consumption security deposit to be recovered from the consumers during the FY 2020-21 and FY 2021-22.

3.3 Pursuant to the Regulation 10, 5.5 & 5.9 (1) of the HERC (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to recover security) Regulations, 2016, petition requesting deferment of revised consumption security deposit of consumers is submitted before the Hon'ble Commission.

- 3.4 In consideration to the Regulation 3 of the HERC Fee Regulations, 2005 and amendment thereof, application fees of the petition related to the larger public interest may be exempted by the Commission. The instant petition regarding deferment/postponement of the revision of the consumption security deposit recoverable from the consumers during FY 2020-21 and FY 2021-22 is of similar kind and relates to the larger public interest.
- 3.5 It is most respectfully submitted that in view of the aforesaid regulations and the issues highlighted above, the application fees for the petition regarding deferment/postponement of the revision of consumption security deposit recoverable from the consumers during the FY 2020-21 and FY 2021-22 may kindly be exempted.
- 3.6 Other related information regarding waiver of application fees of the petition for deferment/postponement of the consumption security deposit are detailed in the subsequent sections of this petition.

### **Regulatory Provisions**

- 3.7 Regulation 3 of the HERC Fee Regulations, 2005 and amendment thereof, states that the application fees for petition related to larger public interest may be exempted by the Commission. The relevant excerpt of the regulations is reproduced as under:

**“Regulation: 3 (Fee)**

*2. The following Schedule of Fee shall replace the existing schedule of fee appended to the principle regulation notified on 6th January, 2005.*

<b>Sr. No.</b>	<b>Particulars</b>	<b>Prescribed Fee</b>
<b>20</b>	<b><i>Fee for any Application / Petition not covered above.</i></b>	
i)	<i>In case the application/petition is filed by the residents of the group housing society against Management/ Developer/ RWA</i>	<i>Rs.1,000/- (One thousand)</i>
ii)	<b><i><u>In case the application/petition is in larger public interest for retail supply consumers. (Also see Note 3)</u></i></b>	<b><i><u>Discretion of the Commission to exempt</u></i></b>

- 3.8 The consumers faced severe financial crisis during the economic slowdown under the COVID-19 pandemic. In consideration to the hardship being faced by the consumers, petition for

deferment/postponement of revision of the consumption security deposit recoverable from consumers during FY 2020-21 and FY 2021-22 is submitted for the kind permission of the Hon'ble Commission.

- 3.9 As the subject matter of concern in the petition relates to the larger public interest, it is requested that the Hon'ble Commission in consideration to the aforesaid submission, may kindly waive off the application fees.

#### **4.Proceeding:**

- 4.1 The case was initially heard by the Commission on 01.07.2021, as scheduled, through video conferencing in view of the Covid-19 pandemic. SE/RA, DHBVN submitted that a request has been made to grant post facto approval for deferment of ACD revision for the FY-2019-20 and FY 2020-21 on electricity consumers of DHBVN in Haryana to ease the burden of the consumers due to the pandemic. As the Regulations to revise ACD are in vogue since 08.01.2014, the Commission desired to know as to when was the ACD last revised and the reasons thereof, if it was not revised. The Commission was of the view that if the ACD had been revised every year, there would not have been any burden on the consumers due to the annual revision.
- 4.2 The Commission directed the Discoms to submit the details of the ACD revised every year on affidavit and also directed the Director and Chief Engineer concerned to be present during the next date of hearing.
- 4.3 The case was next heard by the Commission on 29.07.2021. Since, the issues in PRO-11 and PRO-14 of 2021 are the same i.e. prayer for deferment of revision of the Advance Consumption Deposit, as per the decision of the State Government, the Commission decided to club and hear both the petitions together.
- 4.4 The Commission pointed out that in the petition, DHBVN has prayed for waiver of revision of Advance Consumption Deposit (ACD) for the FY 2019-20 and FY 2020-21, whereas UHBVN has prayed for the FY 2020-21 and FY 2021-22. If the waiver is being sought as per directions of the State Government, the DISCOMs need to clarify the different periods in their respective prayers.
- 4.5 The Commission observed that during the last hearing, DHBVN was directed to submit the year-wise details of ACD revised, in respect of DS and NDS consumers since 08.01.2014 on affidavit, with number of

consumers and amount of ACD charged. In response, DHBVN has submitted the amount of ACD charged/adjusted without mentioning the number and category of the consumers for the FY 2017-18 and FY 2018-19 only. Both the DISCOMs were again directed to submit the desired information on affidavit within a week.

- 4.6 The case was next heard by the Commission on 12.08.2021. The Commission enquired whether the information sought in the previous hearings, as per the interim order dated 29.07.2021, has been provided or not? The Director 'OP' DHBVN reiterated that the prayer has been made for approval for waiver/revision of ACD for the FY 2020-21 and FY 2021-22 on the pattern of UHBVN. He further submitted that the relevant details of DS and NDS consumers for the FY 2017-18 to FY 2019-20 have also been provided.

The Chief Engineer, UHBVN, submitted that the data of ACD revised since 08.01.2014 is being compiled by various sections, although some details in respect to ACD revision for FY 2015-16 and 2016-17 have been received in respect of four circles from Commercial Back Office, indicating an amount of approx. Rs. 21 crores which has been charged and the remaining detail is yet to be received. The Commission further asked as to why a notice under Section 142 of the Electricity Act, 2003 may not be issued for the non-compliance by UHBVN? CE/UHBVN again sought time for compilation of data.

- 4.7 On enquiring about the status of ACD revision before the FY 2017-18, Director 'OP' DHBVN submitted that the ACD revision was carried out in respect of HT and LT consumer for the FY 2017-18 to 2018-19 only as ACD data for DS/NDS could not be updated. The Commission further enquired about the officers/officials responsible for not revising the ACD as per the regulations in vogue. DHBVN submitted that as such no individual officer/official can be pinpointed since a huge amount of work was involved in reconciliation of ACD of DS/NDS consumers, due to the number in lakhs and the issue was also referred to the audit wing. When the Commission further enquired about whether there had been an audit objection for non-compliance of regulations to revise ACD on yearly basis, DHBVN could not give any satisfactory answer to the Commission. Discoms were again advised to

submit the requisite details within 7 days' along with an explanation for non-compliance of the regulations in vogue.

- 4.8 The case was next heard by the Commission on 25.08.2021. In the hearing, the Discoms submitted that the revision of ACD could not be accomplished in the timeline prescribed for the purpose as the underlying data was voluminous in nature and required updating. The petitioners admitted that there has been non-compliance of the regulations/order of the Commission.
- 4.9 The Commission noted that DHBVN had sought ex- post facto waiver of the revision i.e. for the FY 2019-2020 and FY 2020-2021 (subsequently clarified to include FY 2022), which is long over. Hence, seeking a waiver for relinquishing the duty to undertake revision of ACD for the financial years already over serves no purpose. UHBVN, while seeking a similar waiver, has included the FY 2022 as well, which is almost half way through. The Commission has taken note of the submissions of UHBVN that the data of ACD revised since 08.01.2014 is being compiled and some details in respect of ACD revision for the FY 2015-16 and FY 2016-17 have been received in respect of four circles. The submissions of the Director 'OP' DHBVNL that the ACD revision was carried out for the HT and LT consumers for the FY 2017-18 to FY 2018-19 only, as ACD data for DS / NDS could not be updated, has also been taken on record.
- 4.10 The Commission has considered the above submissions, including the assertion of DHBVN that no individual officer/official can be pinpointed since huge work is involved in reconciliation of ACD of DS/NDS consumers due to their number running into lakhs. The Commission has taken strong exception to the indifferent and casual approach in dealing with the statutory provisions on ACD and its revision thereto, something that has been in vogue for over 15 years now. Hence, such negligence and inaction for a prolonged period of time cannot be considered as inadvertent. The officers concerned are guilty of depriving the Nigam of the additional revenue in the form of ACD, that had it been done timely, interest costs could have been saved on working capital and the burden on the consumers would have been much less.

The Commission has taken a serious note of the fact that the senior management including the BoD(s) of both the Discoms failed to put in place a system, since 2005 to assess, review and accordingly

revise ACD in a timely manner as per the Regulations in vogue. At this stage, without even quantifying the ACD adjustments required across all consumer categories, the Discoms have sought ex-post facto waiver of the regulatory requirement qua ACD review for the FY 2020 to 2022, as the same was required to be undertaken at the beginning of the financial year. Such negligence leads to reconciliation problems and the inability to review ACD as required which not only impacts the liquidity of the Discoms but may also lead to an enormous and unavoidable financial burden on the electricity consumers, in case of revision of the ACD amount after a gap of several years instead of a minor impact every year. Had this been done timely, it would not have burdened the consumers at this stage.

As far as the concerns regarding the revised ACD expressed by the consumers and consumer association is concerned, the Discoms need to note that the Regulations are notified by the Commission keeping in view the interest of all the stakeholders including the power utilities and electricity consumers as well. Hence, any deviations to be taken from the regulations/order in vogue, has to be necessarily with the prior approval of the Commission. However, in the present case, the Discoms have sought ex-post facto approval to the waiver of a statutory provision regarding ACD revision that has already been given effect by them by issuing commercial circular(s). Further, the ex-post facto approval was sought after the Commission issued a notice under section 142 of the Electricity Act for non-compliance of the regulation on revision of ACD for the FY 2019-20. Additionally, it is observed that the revision in ACD for the FY 2019-20, as per the regulation, should have been accomplished in the beginning of the said financial year i.e. 1<sup>st</sup> April, 2019 and at that time Covid-19 and its repercussions had not touched the shores of India.

In view of the admitted non-compliance and in the considered view of the Commission, wilful negligence as well as system failure leading to the present situation of lack of updated information in giving effect to a statutory provision, the Discoms are liable for the penal action u/s 142 and 146 of the Electricity Act, 2003. However, before proceeding with the penal action, the Commission has taken cognizance of the contention of the Dakshin Haryana Bijli Vitran Nigam Limited

and Uttar Haryana Bijli Vitran Nigam Limited that responsibility for non-compliance in the present case cannot be “pinpointed”. In such a situation, the Commission is constrained and has no alternative but to direct the Chairman of the Dakshin Haryana Bijli Vitran Nigam Limited and Uttar Haryana Bijli Vitran Nigam Limited to investigate as to why the revision of ACD of individual consumers, as intended in the Regulations in vogue since 2005, was not carried out. Had this been done every year, even after amendment in 2013, the issue of hardship to the consumers after the onset of Covid-19 would not have arisen at all. The Chairman of the Dakshin Haryana Bijli Vitran Nigam Limited and Uttar Haryana Bijli Vitran Nigam Limited must submit a report to the Commission, within 15 days from the date of this order.

- 4.11 The case was again heard by the Commission on 10.11.2021, as scheduled, through video conferencing, in view of the Covid-19 pandemic. At the outset, the Commission noted with concern that as per the interim order dated 01.09.2021, the investigation report on, “as to why revision of ACD as per the regulations in vogue since 2005 has not been carried out”, has not been submitted by the Chairman of UHBVN and DHBVN.
- 4.12 Director Finance, UHBVN, submitted that there is no role of the Chairman of the DISCOMs in the matter. Director OP DHBVN submitted that DHBVN has submitted a report, duly approved by the ACS Power, Government of Haryana, in compliance of the order dated 01.09.2021.
- 4.13 Upon hearing the contentions of the Director(s) of both the distribution licensees, the Commission observes that it is the statutory duty to comply with the order/directions of the Commission in letter and spirit. However, the licensees have tried to circumvent the Commission order supra i.e. by filing a report, with the approval of the ACS/Power instead of filing the investigation report of the Chairman of the DISCOMs for not revising the ACD as per regulations, as directed by the Commission.
- 4.14 Further, it is unfortunate to note the averment of Director Finance, UHBVN that the Chairman of the licensees has no role in the matter. Is he trying to say that the Chairman of the DISCOMs is symbolic and has abdicated his responsibility and duty? It needs to be noted that in the matter of revision of ACD, there has been a systematic failure in

compliance at all levels. Resultantly, the Chairman was directed and expected to investigate the matter threadbare and submit a report. Needless to say that the orders/directions issued by the Commission have the force of law behind it and hence, these ought to be acted upon accordingly.

4.15 Had revision of ACD of individual consumers, as specified in the Regulations in vogue since 2005, been carried out every year, the issue of hardship to consumers after the onset of Covid-19 would not have arisen at all. Hence, the Chairman was directed to investigate and submit his report to the Commission.

4.16 In view of the above, the Commission reiterates its directions, as issued in its order dated 01.09.2021. As a last opportunity, the requisite report be filed by the Chairman of the DISCOMs within 7 days from the date of this order, failing which the Commission shall be constrained to initiate action as per the Electricity Act, 2003.

4.17 The Chairman, UHBVN and DHBVN, conducted the requisite investigation qua the status of revision of ACD since 2005 in the State. The outcome of the said investigation was submitted vide UHBVN letter dated 02.12.2021.

4.18 The case was again came for hearing on 15.12.2021, wherein the matter was adjourned on the request of counsel appearing on behalf of the DISCOMs as the arguing counsel was not available for argument in the case on the said date.

## **5. Commission's Order:**

5.1. The matter finally came for hearing on 05.01.2022, as scheduled, through video conferencing, in view of the Covid-19 pandemic.

5.2. At the outset, Sh. Samir Malik, counsel for the DISCOMs, reiterated the prayer seeking approval of the Hon'ble Commission for deferment/postponement of revision of Advanced Consumption Security Deposit recoverable from the consumers during the FY 2020-21 and FY 2021-22, in the public interest at large, in view of the hardship being faced by the consumers under the prevailing situation of the COVID-19 Pandemic. He further submitted that the requisite report of the Chairman, DISCOMs has been submitted vide UHBVN reply dated 02.12.2021 in compliance of the Hon'ble Commission's direction. In the



ibid report, the Chairman UHBVN and DHBVN, conducted the investigation for both the DISCOMs qua the status of revision of ACD since 2005 in the State.

- 5.3. It is concluded in the said report that the Discoms had undertaken a major drive for updating the existing ACD of consumers so that the revision of ACD does not cause any unjustified impact to the consumer and the DISCOMs had made sincere efforts to comply with the directions of the Hon'ble Commission for review of ACD of consumers since the beginning and assures the Hon'ble Commission to complete the process of reconciliation of ACD data for all consumer categories, including DS and NDS category, across the State by 30.06.2022. The report further stated that it will comply with the directions for review of ACD of all the consumers till the current year, in consultation with the State Govt, and requested to consider the report and accord post facto approval for deferment of the ACD review as per the prayers made in PRO-11 and 14 of 2021, filed by the DISCOMs.
- 5.4. The Commission observed that it is an admitted fact that the DISCOMs failed to review the ACD of consumers annually as per the regulations in vogue despite the concerted efforts, as enumerated in the report of the Chairman of the DISCOMs. However, considering the prevailing situation of Covid-19 and the assurance given by the Discoms to complete the process of reconciliation of the ACD data for all consumer categories, including DS and NDS category, across the State by 30.06.2022 and further, to comply with the directions to review ACD of all the consumers, the Commission allows the petitions.
- 5.5. The present petitions i.e PRO 11 and 14 of 2021 are accordingly disposed off.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 10/01/2022.

**Date: 10.01.2022**  
**Place: Panchkula**

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

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