

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

**Date of Hearing : 27.10.2022
Date of order : 09 .11.2022**

IN THE MATTER OF:

Haryana Electricity Regulatory Commission (Fee) Regulations, 2005 – 7th Amendment.

Intervenors

1. Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL)
2. Dakshin Haryana Bijli Vitran Nigam (DHBVNL)
3. Haryana Vidyut Prasaran Nigam (HVPNL)

Present on behalf of the Petitioner

Sou Motu

Present on behalf of the Intervenors

Ms. Sonia Madan, Advocate for UHBVN and DHBVN

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 the 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 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
 - v. 5th Amendment vide Haryana Government Gazette Notification dated 01.10.2021
 - vi. 6th Amendment vide Haryana Government Gazette Notification dated 31.08.2022
3. Rationale for amendments further proposed, in the Fee Regulations (7th Amendment) , are as under:
- i. In a few cases, the Commission observed that there have been some unidentified receipts for which the details are difficult and time consuming to trace. In order to link the unidentified receipts with respect to the filing fees of petitions/applications, fines, penalties, RTIs etc; timely reconciliation of receipts with the petitions/identified source is important. Therefore, the draft amendment proposes to amend Regulation 3 (3) to include the provisions that in case of payment made by RTGS/NEFT/IMPS, the petitioner shall inform, in writing, through email/post to the Commission, the computational detail along with subject matter of the case, amount, UTR no. and date of depositing the same. This amendment will enable reconciliation of the receipts in the Commission's account with the person depositing the amount and purpose for which the same has been done.
 - ii. It has been observed that the fee regulations in vogue needs to be amended to provide more clarity with regard to the fees for approval of source of power and to remove any possibility of duplicity of fees to be deposited in case separate petitions are filed for source approval and approval of Power Purchase Agreement (PPA). The amendment proposed specifically defines the fees to be levied in case of source approval (13.1) and PPA approval (13) and also provides a provision as Note 4 which states that the fees paid at the time of power purchase source approval will be counted towards PPA approval, if PPA approval is sought separately. To avoid possibilities any doubts it is made clear that in case approval of power purchase source and PPA with the proposed source(s) is sought together, fee will be payable for approval of source only. However, in case only PPA approval is sought e.g. CPSUs / interstate sources etc. fee for approval of PPAs as appearing in these Regulations shall be applicable.
 - iii. Additionally, the Commission observed that there is a mis-match between the expenses of the Commission on account of employee cost/terminal benefits and the revenue from various sources under these Regulations. Moreover, the State Government also does not provide grants/loans. Therefore, the Commission proposed to remove the cap / maximum limit of fees, wherever mentioned in the "Schedule of Fee".

Accordingly, the Commission had prepared a draft, Haryana Electricity Regulatory Commission (Fee) Regulations, 2005, 7th Amendment Regulations, 2022, for inserting the

changes mentioned at point no 3, for inviting objections/comments/suggestions on the proposed amendment to the Principal Regulations, 2005.

4. The Public Notice inviting objections / suggestions / comments from the stakeholders / general public was published in two newspapers i.e. Indian Express (English) and Amar Ujala (Hindi) on 7.10.2022. The last date for filing objections / comments etc. was 25.10.2022.

5. In response to the public notice issued by the Commission objections / comments were received from the two distribution licensees i.e. Uttar Haryana Bijli Vitran Nigam and Dakshin Haryana Bijli Vitran Nigam and the Transmission Licensee / STU viz. Haryana Vidyut Prasaran Nigam. The objections filed by the ibid intervenors and the Commission's view on the same is reproduced below:

6. Comments Filed by UHBVNL and DHBVNL / HPPC:

The Distribution Licensees i.e. UHBVNL, Vide Memo No.Ch-38/ RA/ F-194/Vol-IV dated: 21.10.2022 and DHBVNL vide its Memo No. Ch-110/SE/RA-236 dated 20.10.2022, filed its objections / comments. The objections / comments filed by the Discoms were identical and for the sake of brevity they are not being reproduced here. However, the sum and substance of the objections raised by the Discoms on the proposed amendments included that the enhanced fees will impose additional financial burden on the Discoms and to the ultimate electricity consumers of the State.

The specific objections were raised regarding the proposed amendment of fee for filing review petition and application fee for seeking prior approval of the Commission under section 17 of the Electricity Act, 2003 as under:

4.	<p>Sr, Particulars no</p> <p>7. Application seeking prior approval under section 17 of the Electricity Act, 2003. (Except sale of Scrap)</p>	<p>Prescribed fee</p> <p>0.01% 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</p>	<p>It is submitted that the capping of Rs. 30 Lakh may not be amended as it will eventually be a financial burden on Haryana Discoms.</p>
7.	<p>14. Petition for review of Order of the Commission. (Also see Note 2)</p> <p>i) Where fee is prescribed under this regulation</p>	<p>Rs. Two lakh or 50% of the Original Fee whichever is less subject to a minimum fee of Rs. 50,000/- (Fifty</p>	<p>It is requested that removing the capping of Rs. 2 lakhs may result in substantial additional financial burden to the Nigam. For example, in case fee capping is removed, for review of any Tariff Order, Nigam would have to pay 50% of the Original Fee. i.e. Rs. 3.40 Crore (50% of Rs. 6.80 Crore). Whereas the same is Rs. 2 lakhs currently. This is almost 17000% increase from current cost. This is clearly again not in best public interest and should not be</p>

	Thousand). However, exemption is granted to category of Small Consumers having a connected load below 20 kW for 20 (i) and 20 (ii)c	incorporated. Hence, It is kindly requested that the capping of Rs. 2 Lakh may not be amended.
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7. Comments filed by HVPNL

The transmission licensee i.e. HVPNL, vide memo no Ch-88/XEN/RAU/F-155/Vol-II dated 21.10.2022, HVPNL filed the comments as under:

Clause no	As per Existing Fee Regulation, 2005 (6th Amendment)	Amendment proposed vide Fee Regulation, 2005 (7th Amendment)	Comments/ Suggestions
14. Petition for review of Order of the Commission	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	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	1. Not to change the maximum ceiling of Rs. 2 Lakh (Two Lakh) 2. May change the ceiling to maximum of Rs 5 Lakh (Five Lakh) only.

9. Commission's Order

In line with the public notice, the Commission held a public hearing on 27.11.2022. The counsel for the Discoms / HPPC M/s Sonia Madan was present in the hearing. No other intervener or their representative / counsel were present. The learned counsel Ms. Madan argued that removing the ceiling limits from the filing fee payable will increase the filing fee manifolds including the fee for filing review petition in the Commission. She averred that the increase in filing fee will put avoidable burden on the electricity consumers of the State.

The Commission has carefully considered the written objections filed by the parties as well as the arguments advanced by the learned counsel appearing for the Discoms / HPPC.

At the onset, the Commission is quite sceptic about the public / consumers interest arguments. The proposed removal of ceiling limits with miniscule financial impact on the ARR of the Discoms may not impact the consumer tariff at all. Moreover, the Discoms is missing the woods for the trees i.e. there are

multiple issues raised by the consumers and also flagged by this Commission on various occasions that directly impact consumers / public interest i.e. timely release of electricity connections, load enhancement, replacement of dead / defective meters, addressing billing issue and refund of ACD, reducing feeder losses etc. that keep languishing year after year and the Discoms fail to meet the bare minimum benchmarks prescribed for the purpose

Moreover, petition filing fee is a pass-through expense for the Distribution licensees i.e. the intervener here in as well as the transmission licensee i.e. HVPNL. Such expenses for part of the O&M expenses in the ARR order of the power utilities. A perusal of the past three ARR orders i.e. from the FY 2018-19 to the FY 2020-21 reveals that the O&M expenses actually incurred by the Discoms, as also recorded, in the true-up order(s) have been lower than those approved by this Commission for the relevant year. Needless to add, that the consumer tariff is not revised retrospectively. Hence, the argument that any increase in fee would impact the electricity consumers is unfounded. Further, the plea that a few other SERCs have prescribed lower fee(s) is also not tenable as the requirements / organizational set up and resources available to different SERCs are not strictly comparable. Accordingly, the objections filed are devoid of merit and rejected as such.

The intervener UHBVNL has specifically cited application fees for filing review petition fixed by the Hon'ble SERCs of Punjab, Delhi, Gujarat and Rajasthan. On the same issue i.e. fee for petition for review of the order of the Commission, the intervener HVPNL, has submitted that the Hon'ble Commission may not change the maximum ceiling of Rs. 2 Lakh (two lakh) (Clause No. 14). The Commission, at this stage, given the fact that the proposed amendment has wider implication on the stakeholders other than the licensees and generators, accepts the submissions of UHBVNL and HVPNL. Hence, Clause 14 shall continue to remain the same. The Commission will revisit the issue at the time of reviewing the entire Fee Regulations.

Additionally, the proposed amendment of Clause 7 i.e. removing the maximum limit of Rs. 30 lakhs, which has been objected to by the Discoms, is also deferred, and will be taken up for consideration at a later stage while undertaking a comprehensive review of the Fee Regulations. It is made clear the fee for filing a petition for approval of power purchase source and Power Purchase Agreement (PPA) will be payable under one head only i.e. either for approval of source or for approval of PPA and not under both heads whether source approval and PPA approval is sought simultaneously or separately.

The 7th Amendment approved by the Commission is placed at **Annexure "A"**. The office of the Commission is directed to send the same for gazette notification without any delay.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 09.11.2022.

Date: 09.11.2022
Place: Panchkula

(Naresh Sardana)
Member

(R.K Pachnanda)
Chairman

“Annexure A”
HARYANA ELECTRICITY REGULATORY COMMISSION

Notification

The ***, 2022**

Regulation No. HERC/10/2005/7th Amendment/2022: - 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, 7th Amendment Regulations, 2022.
- (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 existing regulation 3 (3) in the principle regulation shall be amended and read as under:

3. (3) The fee payable to the Commission as specified under these Regulations shall be non-refundable and paid by means of bank draft/RTGS/NEFT/IMPS or banker's cheque, drawn in favor of Secretary, Haryana Electricity Regulatory Commission, payable at Panchkula. In case of RTGS/NEFT/IMPS, the petitioner shall furnish to the Commission in writing through email/post to the Commission, the computational detail along with subject matter of the case, amount, UTR no. and date of deposit.

3. The following Schedule of Fee shall replace the existing schedule of fee appended to the amendment notified on 31st August, 2022.

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.
2.	Annual Fee for Transmission/ Distribution/ Trading Licensees	
(a)	Annual Fees for determination of tariff / true-up and mid-term review for Transmission / Distribution/ Retail Supply / Trading Licensees.	

Sr. No.	Particulars	Prescribed Fee
i)	Transmission Licensee	¹ 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 lakhs
ii)	Distribution Licensee	¹ 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 lakhs
iii)	Intra-State Trading Licensee	¹ 0.05% of the value of power traded during the previous year subject to minimum of Rs. 25 lakhs
iv)	Inter-State Trading Licensee	¹ 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 lakhs
(b)	Licensees selected through competitive bid process	
i)	Transmission licensee	¹ 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 lakhs

Sr. No.	Particulars	Prescribed Fee
ii)	Distribution licensee	¹ 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 lakhs
(c)	Deemed Licensee(s)	¹ 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 lakhs
	<p>¹ For new applicant, first year projected ARR shall be the basis for determination of Annual Fee subject to revision of fee corresponding to ARR determined by the Commission.</p> <p>The annual fee shall be paid in advance at the commencement of the financial year.</p>	
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.

Sr. No.	Particulars	Prescribed Fee
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 lakhs.
	2 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 Lakhs

Sr. No.	Particulars	Prescribed Fee
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 Lakhs
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 Lakhs iii. Above 25 MW Rs 50,000/- per MW of the installed/ allocated Capacity subject to a Minimum fee of Rs. 1 crore
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 Lakhs iii. Above 25 MW Rs 25,000/- per MW of the installed/ allocated Capacity subject to a Minimum fee of Rs. 1 crore
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 Lakhs iii. Above 25 MW Rs 2,000/- per MW of the installed/ allocated

Sr. No.	Particulars	Prescribed Fee
		Capacity subject to a Minimum fee of Rs. 20 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 Lakhs iii. Above 25 MW Rs 1,000/- per MW of the installed/ allocated Capacity subject to a Minimum fee of Rs. 20 Lakhs
iii)	Transmission Service Agreement	Rs. 500 per MW with a Minimum fee of Rs. 50,000/- (Fifty thousand)
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)
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.50,000/- (Fifty thousand)
iii)	Transmission Service Agreement	Rs. 2000 per MW subject to a Minimum of Rs. 50,000/- (Fifty thousand)
13.1	Application / Petition for approval of source of Power	

Sr. No.	Particulars	Prescribed Fee
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)
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.50,000/- (Fifty thousand)
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 Motu 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 may be permitted.	Rs. Five per page subject to a minimum of Rs. Fifty.

Sr. No.	Particulars	Prescribed Fee
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)	³ 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
	³ Complaint is a petition before the appropriate for a under the Consumer Act,	

Sr. No.	Particulars	Prescribed Fee
	and therefore, borrowing the principle of law from there, its fee is kept as nil.	
21.	<p>Late Filing Fee: In case any party, in any proceedings, before this Commission fails to file reply, rejoinder, replication etc. in the Commission at least three days, or as may be directed by the Commission, prior to the scheduled date of hearing, the defaulting party(ies) shall be liable for the following late filing fee:</p> <p>First default : Rs. 5,000/- (Five Thousand)</p> <p>Second default : Rs. 10,000/- (Ten Thousand)</p> <p>Third default : Rs. 15,000/- (Fifteen Thousand)</p> <p>Provided, in any case of continued default, it shall be construed as non-compliance of the Commission's order and liable for penal action as per the provisions of Section 142 and Section 146 of the Electricity Act, 2003.</p>	
	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.
4. Provided that fees paid at the time of power purchase source approval will be counted towards PPA approval, if PPA approval is sought separately i.e. fees shall be paid either for source approval or for PPA approval and not for both.