

**BEFORE HARYANA ELECTRICITY REGULATORY COMMISSION,**

**AT PANCHKULA**

**FILING NO. OF 2014**

**HERC/RA/ OF 2014**

**IN THE MATTER OF:**

Petition under Section 86 (1) (f) read with Section 50 of the Electricity Act, 2003 and Regulation 16 (Power to Remove Difficulties) and Regulation 17 (Power to Amend) of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014, filed by Uttar Haryana Bijli Vitran Nigam Ltd., through its authorized representative having its registered office at Vidyut Sadan, Sector - 6, Panchkula, Haryana on behalf of both the Distribution Licensees of the State of Haryana that is Uttar Haryana Bijli Vitran Nigam Ltd. (UHBVN) and Dakshin Haryana Bijli Vitran Nigam Ltd.(DHBVN) seeking removal of difficulties and/or amendment of certain clauses of the above mentioned regulation.

**AND IN THE MATTER OF:**

**1. Uttar Haryana Bijli Vitran Nigam Ltd.,**

through its authorized representative

Vidyut Sadan, Sector -6,

Panchkula, Haryana

**2. Dakshin Haryana Bijli Vitran Nigam Ltd.,**

C-Block, Vidyut Sadan,

Vidyut Nagar, Hissar,

Haryana – 125 005.

.....Petitioners

**Petition on behalf of Distribution Licensees of the State of Haryana  
seeking removal of difficulties and/or amendment of certain clauses**

**of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 notified on 08.01.2014.**

**MOST RESPECTFULLY SHOWETH:**

1. By way of present Petition, the Petitioners are seeking removal of difficulties and/or amendment of certain clauses of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 (herein after referred as “**Supply Code, 2014**” for the sake of brevity) framed by this Hon’ble Commission in exercise of power conferred by Section 50 and Clause (x) of Sub-clause (2) of Section 181 of the Electricity Act, 2003 (herein after referred as “**Electricity Act**” for the sake of brevity). The difficulties put forth and amendments sought are in public interest and arise due to certain inconsistencies and technical difficulties being faced by the distribution licensees.

A true copy of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 is annexed herewith and marked as **Annexure A-1**.

2. That the petitioners Uttar Haryana Bijli Vitran Nigam Ltd (hereinafter referred to as “**UHBVN**” for sake of brevity) and Dakshin Haryana Bijli Vitran Nigam Limited (herein after referred as “**DHBVN**” for the sake of brevity) are Public Sector Companies owned by Government of Haryana and have been granted licenses to distribute electricity by this Hon’ble Commission under Section 14 of the Electricity Act, 2003 and as such are engaged in the distribution of electricity within the State of Haryana. The present petition is being filed by UHBVN on behalf of both the distribution licensees of the State of Haryana.

3. That the present petition is being instituted through Mr. B. S. Garg who is a Superintendent Engineer in the Petitioner Organisation and is duly authorised to institute the present petition vide authorisation dated .....

A copy of the authorisation dated ..... empowering Mr. .... to institute the present proceedings is annexed herewith and marked as **Annexure A-2** to this present petition.

4. It is submitted that Section 50 read with Clause (x) of Sub-clause (2) of Section 181 of the Electricity Act, 2003 empowers the State Regulatory Commission's to frame regulations to specify an electricity supply code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply of electricity for non-payment thereof, restoration of supply of electricity etc. Section 50 and Section 181 (2) (x) of the Electricity Act is reproduced herein below for ready reference:

***Section 50. (The Electricity Supply Code):***

*The State Commission shall specify an electricity supply code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply of electricity for non-payment thereof, restoration of supply of electricity; measures for preventing tampering, distress or damage to electrical plant, or electrical line or meter, entry of distribution licensee or any person acting on his behalf for disconnecting supply and removing the meter; entry for replacing, altering or maintaining electric lines or electrical plants or meter and such other matters.*

***Section 181. (Powers of State Commissions to make regulations): --- (1) The State Commissions***

*may, by notification, make regulations consistent with this Act and the rules generally to carry out the provisions of this Act.*

*(2) In particular and without prejudice to the generality of the power contained in sub-section (1), such regulations may provide for all or any of the following matters, namely: -*

*(a) \*\*\**

*(b)\*\*\**

*.....*

*(x) electricity supply code under section 50;*

5. This Hon'ble Commission i.e. Haryana Electricity Regulatory Commission (herein after referred as "**HERC**" for the sake of brevity) in exercise of the above powers, circulated the Draft Electricity Supply Code, 2013 and invited objections from the general public. The Petitioners herein filed their objections to the Draft Supply Code, 2013 vide its Memo. No Ch-6/TR-90/HERC/DESC/2/CGM/C1 dated 16.11.2013 pointing out various difficulties with regards to the draft Supply Code and suggestion for the same. This Hon'ble Commission conducted public hearing on ..... wherein the Petitioners apprised this Hon'ble Commission regarding various difficulties with respect to the Draft Supply Code & extra financial burden to be borne by the distribution licensee in implementing the provisions of the draft Regulations proposed by this Hon'ble Commission.

A true copy of the objections filed by the Petitioners before this Hon'ble Commission vide its memo no.....dated .....is annexed herewith and marked as **Annexure A-3**.

6. On 08.01.2014 this Hon'ble Commission notified the "Electricity Supply Code Regulations, 2014". It is pertinent to note that the various difficulties and suggestions pointed out by the distribution

licensees at the time of framing of these Regulations did not find adequate mention in the notified Supply Code, 2014. In these circumstances, the Petitioners herein are constrained to approach this Hon'ble Commission under Regulation 16 (Power to Remove Difficulties) and Regulation 17 (Power to Amend) of the Supply Code, 2014 seeking removal of difficulties and/or necessary amendment in the Supply Code, 2014. Regulation 16 and 17 of the Supply Code, 2014 is reproduced herein below for ready reference:

***16 Powers to remove difficulties***

*If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, give the necessary clarifications, not being inconsistent with the Electricity Act, 2003, which appears to the Commission to be necessary or expedient for the purpose of removing difficulties.*

***17 Power to amend***

*The Commission may, at any time vary, alter, modify or amend any provision of these Regulations after following the due process.*

7. The Petitioners would like to submit that the certain clauses/regulations of the Supply Code, 2014 do not match with the actual ground realities and would resultantly impose extra financial burden on the consumers of the State of Haryana. It is submitted that the provisions of Supply Code, 2014 are not only contrary to the scope and objective of the Electricity Act, 2003 but also creates confusion with regards to the other Regulations framed by this Hon'ble Commission in exercise of its power conferred under the provisions of Electricity Act. It is submitted that considering the nature of difficulties faced by distribution licensees while implementing the same, it is technically and practically not feasible or possible to implement the certain clauses of the Supply Code, 2014. It is submitted that the Petitioners are putting forth before

this Hon'ble Commission the difficulties being faced by the Petitioners.

### **Classification of Supply (Regulation 3.2)**

8. It is respectfully submitted that this Hon'ble Commission did not adequately consider the available transformer capacity, installed supply infrastructure and already procured distribution supply material while deciding the classification of supply under the Supply Code, 2014. Hence, the current classification needs to be revised considering the technical difficulties faced by the distribution licensees. At present the technical conditions of the distribution system is technically feasible to cater the load more than what is specified by the Hon'ble Commission. However, the present regulations restricts the distribution licensee to supply the load lower than its available capacity. In these circumstances, the licensee has to develop extra infrastructure when the current infrastructure is capable of supplying the load. It may not be out of place to mention that being a revenue neutral entity; the said cost of building infrastructure will be ultimately borne by the consumers of the State of Haryana. It is submitted that the additional financial burden can be saved by redefining the classification of supply. Therefore, it is in the larger public interest to reconsider the current classification of supply (Regulation 3.2). The relevant Regulation is reproduced herein below for ready reference:

#### ***3.2 Classification of Supply***

*3.2.1 Supply shall generally be given at the following voltages on the basis of contracted load:*

<b><i>Category</i></b>	<b><i>System of Supply</i></b>
<b><i>Low Tension</i></b>	
<i>Contracted load upto 5 kW</i>	<i>Single phase at 230 V</i>
<i>Contracted load above 5 kW and up to 50 kW</i>	<i>3 Phase 4 wire at 400 V</i>
<b><i>High Tension</i></b>	
<i>Contracted load exceeding 50 KW and up to 2000 kVA</i>	<i>3 Phase at 11 kV</i>

<i>Contracted load exceeding 2000 kVA and up to 5000 kVA</i>	<i>3 Phase at 11 kV or 33 kV</i>
<i>Contracted load exceeding 5000 kVA and up to 15000 kVA</i>	<i>3 Phase at 33 kV or 66 kV</i>
<i>Contracted load exceeding 15000 kVA and upto 70000 kVA</i>	<i>3 Phase at 66 kV or 132 kV</i>
<i>Contracted load exceeding 70000 kVA and upto 200000 kVA</i>	<i>3 Phase at 220 kV</i>
<i>Contracted load exceeding 200000 kVA</i>	<i>3 Phase at 400 kV</i>

*3.2.2 Provided that in case where supply, depending upon the technical conditions of the transmission/distribution system and / or the requirement of the consumer, has to be given at a voltage higher than those specified above, the licensee may give the same subject to the Commission's approval.*

*3.2.3 The existing LT connections having sanctioned load above 50 kW and up to 70 kW would continue to be categorized as LT connections till these are converted to HT connections.*

9. It is submitted that the current demand classification of supply does not match with the available capacity of the sub-stations, transformers and other installed technical specifications of the distribution licensees. For an instance third entry under High Tension in the above mentioned table provides supply to be given at 3 phase at 33 kV or 66 kV for Contracted demand exceeding 5000 kVA and up to 15000 kVA. However, through 33 kV or 66 kV lines supply can be given up to contract demand of 25000 kVA with the help of two 12.5 MVA transformers. Likewise, in the next entry of the abovementioned table supply can be given up-to 100000 kVA as against 70000 kVA (as provided in the current Regulations) with the help of additional transformers at 66 kV lines. Therefore, the current classification of supply is compelling the Distribution Licensee to procure and build additional technical infrastructure when the available infrastructure is technically capable of giving supply. Therefore, the extra burden of building infrastructure when

the current infrastructure is capable of supplying the required load is totally unreasonable and unjustified and against the purpose and objective of the Electricity Act.

10. It is submitted that the technical problem faced by the distribution licensee with regards to current system of classification is as follow:

<b>Current system of classification as per Supply Code, 2014</b>		<b>Remarks</b>
<b>Category</b>	<b>System of supply</b>	
<b>High Tension</b>		
Contracted load exceeding 5000 kVA and upto 15000 kVA	3 phase at 33 KV or 66 KV	Presently, for 33/66 KV sub-stations, 12.5 MVA transformers are designed and available in the market and hence the same were procured/purchased by the distribution licensee. Therefore, 33 kV sub-station is technically feasible upto 25000 kVA load. Also if the range is restricted to 15000 kVA then the distribution licensees will be compelled to construct extra 66 or 132 KV sub-stations which will ultimately resulted into unnecessary financial burden on the distribution licensees and ultimately on the consumers.
Contracted load exceeding 15000 KVA and upto 70000 KVA	3 phase at 66 KV or 132 KV	Presently, for 66/132 KV sub-station 25/31.5 MVA transformers are designed and available in the market and hence the same were procured/purchased by the

		transmission licensee. Hence, 132 KV sub-station is technically feasible upto 94.5 MVA. Also if the range is restricted to 70 MVA then the distribution licensees will be compelled to construct extra 132 or 220 KV sub-stations unnecessary financial burden on the distribution licensees and ultimately on the consumers.
Contracted load exceeding 70000 KVA and upto 200000 KVA	3 phase at 220 KV	Presently, for 220/132 and 220/66 KV sub-station, 160 MVA transformers are designed and available in the market and hence the same were procured/purchased by the transmission licensee. Hence 220 KV sub-station is technically feasible upto 320 MVA. Also if the range is restricted to 200 MVA then the distribution licensees will be compelled to construct extra 400 KV sub-stations unnecessary financial burden on the distribution licensees and ultimately on the consumers.
Contracted load exceeding 200000 KVA	3 phase at 400 KV	As above

11. If the current Regulations are not amended then the distribution licensee will be compelled to build extra sub-stations. In this regard it is noteworthy to mention approximate cost of building additional infrastructure (sub-stations) due the current system of classification is as follow:

<b>S. No.</b>	<b>Description</b>	<b>Cost in Lacs. (Approximate)</b>
1.	1x10 MVA New 33 KV S/Stn.	196.85
2.	1x12.5 MVA New 33 KV S/Stn.	223.16
3.	New 33 KV line per KM.	8.56
4.	2x 20/25MVA 132/33 KV S/Stn. Alongwith 1x 0.2 MVA33/0.4 KV T/F	1600 Lacs.
5.	New 132 KV line per KM.	28-30 lacs per KM.
6.	New 220 KV AIS Sub-Station with 2x100 MVA 220/132 KV transformer	2700 Lacs
7	220 KV and 66 KV Multi circuit line with ACSR Zebra Conductor	110 Lacs per KM

It is clear from the above mentioned figures that building additional infrastructure will have substantial impact on the financial condition of the licensees and ultimately escalate the tariff for the subsequent years.

Further, the Regulations 3.2.2 of the Supply Code, 2014 provides a window for such type of situations that is where supply, depending upon the technical conditions of the transmission/distribution system and / or the requirement of the consumer, has to be given at a voltage higher than those specified above, the licensee may give the same subject to the Commission's approval. However, the current classification is affecting the day to day business of the distribution licensee and if the licensees are required to approach this Hon'ble Commission for his day to day business then this commission will be flooded with such application and precious time of this Hon'ble Commission will be wasted in analyzing and deciding each and every application and that too for a situation which can be solved by redefining the classification. Therefore, it is

not practicably feasible to approach the Hon'ble Commission on a daily basis when the same can be avoided by reconsidering the system of classification and/or by removing the difficulties to give effect to the same. It is further submitted that the requirement under Regulation 18 of the Supply Code, 2014 further mandates that all the Forms / Formats / Notices, as referred to in these Regulations, shall be devised by the licensees and shall be submitted to the Commission for its approval. It is submitted that such a requirement under the Supply Code, 2014 is completely onerous and will simply result in everything being micro managed as the supply code completely regulates most of the business aspects of the distribution licensee. The utilities in the real case & practical scenario have to collect diverse information from the operation circles in different forms and at various time of the year depending upon the need and requirement of the tasks. Under such a scenario, it would be very cumbersome and time consuming for the utilities to approach the Hon'ble Commission for such approvals, especially when the matter requires an urgent effort. Thus, the utilities request the Hon'ble Commission to empower the Nigams for managing such Forms/ Formats/ Notices for optimal time utilization and process simplification.

12. It is respectfully submitted that this Hon'ble Commission did not adequately consider the available transformer capacity, installed supply infrastructure and already procured distribution supply material while deciding the classification of supply. It is submitted that the additional financial burden can be saved by redefining the classification of supply. Therefore, it is in the larger public interest to amend the current classification of supply.

13. In light of the technical difficulties, financial hardship and in larger consumer's interest, petitioners herein would like to propose the following classification of supply instead of current classification.

<b>Category</b>	<b>System of Supply</b>
<b>Low Tension</b>	
Contracted load upto 5 kW	Single phase at 230 V
Contracted load above 5 kW and up to 50 kW	3 Phase 4 wire at 400 V
<b>High Tension</b>	
Contracted load exceeding 50 KW and up to 2000 kVA	3 Phase at 11 kV
Contracted load exceeding 2000 kVA and up to 5000 kVA	3 Phase at 11 kV or 33 kV
Contracted load exceeding 5000 kVA and up to 25000 kVA	3 Phase at 33 kV or 66 kV
Contracted load exceeding 25000 kVA and upto 100000 kVA	3 Phase at 66 kV or 132 kV
Contracted load exceeding 100000 kVA and upto 3200000 kVA	3 Phase at 220 kV
Contracted load exceeding 3200000 kVA and above	3 Phase at 400 kV

#### **Demand Notice and release of new connections**

14. It is submitted that the Regulation 4 of the Supply Code, 2014 provides for the procedure for release of new connection and modification in the existing connection. It is submitted that under the Electricity Act, 2003, the distribution licensee is under a universal obligation to supply. It is submitted that the Supply Code, 2014 does not deal with the issue of supply to unauthorized colonies. It is submitted that the Govt. of Haryana vide its letter dated 10.04.2013 has directed that no development work should be carried out in unauthorized colonies. It is submitted that there are many unauthorized colonies within the State of Haryana and some of those colonies have working connections. It is submitted that in unauthorized colonies where connections are not legally provided,

there is widespread unauthorized use and theft of electricity. It is submitted that this Hon'ble Commission may examine the present issue and guide the distribution licensees with respect to the supply of electricity to unauthorized colonies in light of section 43 of the Electricity Act, 2003. It is submitted that unauthorized colonies result in huge losses to the distribution licensees & therefore, supply to such unauthorized colonies may be regulated in some way by this Hon'ble Commission. It is submitted that with respect to unauthorized colonies a meeting was held under the Chairmanship of the Chief Secretary to Government of Haryana at 4:00 PM on 29.05.2014. In the said meeting it was decided that:

- i) No power connection shall be released to persons/premises which are constructed/located on encroached land.
- ii) Regarding irregular/unauthorized colonies, it was decided that supply/power connection can be released provided the following conditions are met:-
  - a) A specific notice to the concerned official/local competent authority like the commissioner or executive officer of municipal corporation or municipal council or Secretary of the Municipal Committee has to be given providing atleast four weeks' time before the connection is actually released.
  - b) It would be ensured that such connections are not released unless there is atleast 25% habitation in that particular unauthorized/irregular colony/slum.
  - c) A detailed affidavit as well as indemnity bond shall be taken from the consumers stating clearly that he shall be liable for any legal action regarding his premises by the urban local bodies department or town and country planning department or Panchayat Department or any other legal authority as the case may be. Release of the connection shall, in no way

whatsoever, entitle him to strengthen his claim for regularization of his premises/colony. The contents of such an affidavit and indemnity bond may be got vetted from the Legal Remembrance, Haryana.

- d) All the electricity bills of such consumer will have a detailed disclaimer clearly stating that release of power connection to the concerned premises/individuals does not confer on them any occupation or ownership rights on the concerned property and that it is simply a payment for the electricity actually consumed and nothing more.

It is submitted that this Hon'ble Commission may guide the distribution licensees and resolve the difficulty faced by them in public interest.

A copy of letter dated 10.04.2013 issued by the Govt. of Haryana and Minutes of meeting dated 29.05.2014 are annexed herewith and marked as **Annexure A-4 (Colly)** to this petition.

15. It is further submitted that with respect to transfer of connections and change of ownership as contemplated under Regulation 4.7, it is submitted that an audit of dues should be made compulsory in order to transfer the connection. It is submitted that the audit should be done within a period of 30 days from the request and should be made mandatory for the issuance of no dues certificate. It is submitted that based on the past experience of the licensees, it has been seen that subsequent to the transfer of ownership, sometimes past recoverable dues emerges which after transfer of connection and issuance of relevant documents become losses for the licensees. It is submitted that the audit should be made

mandatory for the licensees before any transfer or change in connection to discover past dues.

16. It is submitted that Regulation 4.4.3 provides for issue of demand notice for extension of distribution system for providing supply of electricity. It is submitted that as per Section 43 (1) of the Electricity Act, 2003, Distribution Licensee is under obligation to supply electricity on request. This Hon'ble Commission in exercise of the power conferred under Sub-Section 2 (t) & (v) of Section 181 read with Section 43, 46 & 47 of the Electricity Act framed Regulations vide its Regulation No. HERC/12/2005 notified on 26.07.2005 titled as Haryana Electricity Regulatory Commission (duty to supply on request, Power to recover expenditure incurred in providing supply & power to require security) Regulations, 2005 (herein after referred as “**2005 Regulations**” for the sake of brevity). As per 2005 Regulations, a distribution licensee is under obligation to supply to LT consumer within 45 days of receipt of application. However, Regulation 4.15.2 of the Supply Code, 2014 provides for 2 months validity of the demand notice that is more than 60 days. The said situation creates confusion/difficulty with regards to the release of new connections and extension of distribution system. The relevant regulations with regards to issue of demand notice, time line etc. is reproduced herein below for ready reference:

**4.4.3 Issue of demand notice**

*(1) If on inspection it is found that it is technically feasible (including the clearance from the transmission licensee, if required) to release the connection, the licensee shall sanction the load determined in accordance with Annexure-I to these Regulations or the load applied for, whichever is higher, and issue a demand notice in writing under acknowledgment within the timeline specified below.*

*Time line for issue of demand notice*

<b>Particulars</b>	<b>Number of days from the date of inspection of</b>
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	<b>premises</b>
<i>Cases where extension of distribution mains not required</i>	<i>Within 7 days</i>
<i>Cases where extension of distribution mains / system required</i>	
<i>(1) In case of LT connections</i>	<i>Within 7 days</i>
<i>(2) In case of HT connections a) 11 KV supply b) 33 KV supply c) Above 33 KV supply</i>	<i>a) Within 14 days b) Within 20 days c) Within 25 days</i>

*(2) The demand notice shall include the following details:*

*(a) Details of the works (including service line) to be undertaken for providing electric supply.*

*(b) Charges to be paid in case the work is to be carried out by the licensee.*

*(c) In case the applicant opts to carry out the work at his own cost, he shall get the same carried out through a Licensed Electrical Contractor and pay supervision charges to the licensee. In such case, the consumer himself shall procure the material and equipment. The material and equipment shall conform to relevant BIS specifications or its international equivalent and should bear the ISI mark or its successor mark as provided by BIS, wherever applicable. The material procured and the design of the installation shall also conform to the standards and specifications of the distribution/transmission licensee.*

*Note:- In case of LT connections (other than domestic supply connections) , where the transformer has been installed by the consumer and is exclusively for his supply, the transformer if and when required to be replaced/repared for any reason including theft, shall be so replaced/repared by sharing equally the cost between the consumer and the licensee except when the damage is due to natural events including cyclone, floods, storms or other occurrences beyond consumer's control, in which case the licensee shall bear the full cost of repair/replacement.*

*Provided that if the applicant chooses to get the work done at his cost, the licensee shall charge only supervision charges at the rate of 1.5% of the estimated cost of such works as are to be finally handed over to the distribution/transmission licensee or as approved by the Commission.*

*Provided further that if the applicant chooses to get the work done on his own, he shall get the work done within the timeframe specified under Regulations 4.4.6 and 4.4.7, subject to proviso under Regulations 4.4.4 (5) and 4.4.7, failing which the licensee may, on giving 15 days' notice, treat the application for supply as cancelled.*

*(d) The amount of security which includes advance consumption deposit as per rates specified by the Commission from time to time.*

*(e) Requirement of wiring contractor's test report as required under Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010.*

(f) Details of agreements to be executed.

(g) An intimation to the applicant that if the compliance of the demand notice is not done by the applicant, within the time specified or extended under Regulation 4.15.2, the demand notice and the application shall lapse/cancelled.

(3) The validity period of demand notices for various categories of applicants shall be as mentioned as under Regulation 4.15.2. The licensee's obligation to energize the connection shall arise only after receipt of full payment and all required documents.

(4) Any excess/deficient payment made by the consumer shall be adjusted in the first two bills.

**Regulation 4.4.7** The timeline for different activities mentioned under Regulations 4.4.3 to 4.4.6, for different voltage level consumers, are tabulated hereunder:-

Sr. No	Regulation	Activity	Time Allowed (in days) for connections on			
			LT	11 kV	33 kV	Above 33 kV
1	4.4.3 (1)	To issue the demand notice.	7	14	20	25
2	4.4.3 (3)	Time limit for complying with the demand notice by the applicant.	As prescribed under Regulation 4.15.2			
3	4.4.4 (5)	To carry out inspection & testing of consumer's installation by the licensee.	05	15	20	25
4	4.4.5	To issue service connection order.	05	05	05	10
5	4.4.6	Time limit for licensee/applicant to complete the work required for providing electric supply.	10	30	45	100
6	4.4.6	Time	3	7	7	7

		limit for release of connection to the applicant after completion of the work.				
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**Note:-** (i) As given under proviso of Regulation 4.4.4 (5), the time limit may get modified to the extent extra time is taken by the Electrical Inspector in inspection and testing of the consumer installation.

(ii) In case, where the applicant fails to complete the work referred in Regulation 4.4.6 within the prescribed period, connection may be released earlier to the next junior applicant(s), whose work has been already completed by the licensee/applicant.

Provided that where the licensee feels that for reasons beyond its control, the work is not likely to be completed within the given time limits, then the licensee shall:-

(1) If the delay is upto 15 days from the stated time, inform the Commission giving reasons for the delay.

(2) If the delay is expected to be more than 15 days from the time limit, seek prior approval of the Commission at least 15 days before the expiry of the above stated time limits.

### **Regulation 4.15 General condition for Supply**

#### **Regulation 4.15.2 Demand Notice**

1) The demand notices would be issued by the licensee as per the seniority list of the applicants maintained by the licensee for different categories of consumers. Separate seniority list would be maintained for each category of connections.

2) The demand notice shall be prepared as per the provisions of these Regulations and on the basis of charges approved by the Commission from time to time. The demand notice, once issued for an applicant, shall be valid for two months in case of LT connections and three months in case of HT connections and AP connections.

3) Extension in validity period of a demand notice shall be accorded if the applicant applies for extension in validity before expiry of the due date. The licensee shall accord extension in validity period of a demand notice after charging the fee as detailed below.

a) In case of LT connections

i) For extension upto three months = Rs. 100 per kW of load applied

ii) For extension beyond three months for further three months = Rs. 200 per kW of load applied

b) In case of HT connections

i) For extension upto three months = Rs. 200 per kVA of load applied subject to a maximum of One lac

- ii) *For extension beyond three months for further three months = Rs. 200 per kVA of load applied subject to a maximum of Two lac*

*The extension in validity period of the demand notice shall be accorded by the same authority as is competent for issue of demand notice.*

*4) At a given time, the demand notice shall be issued based upon the spare capacity available at feeding substation from which a particular connection is to be given supply and the material available with the licensee. The additional capacity in the offing and expected to be added during the validity of the demand notices shall be accounted for while issuing the demand notices.*

*Provided that the demand notice for a load upto 20 KW for domestic supply connections and upto 10 KW in other cases, shall invariably be issued on turn of the applicant.*

*5) In cases, where there is capacity constraint and the connection cannot be released immediately, the applicant would be suitably informed and asked to wait till such time the capacity to meet with his load demand is available with the licensee. The period by which the demand notice is likely to be issued shall also be informed to the applicant.*

*Provided that the details of such applicants including place of connection, load applied for and constraint for issue of demand notice, likely date by which demand notice shall be issued, shall be put on the website of the licensee and shall be removed only after the demand notice has been issued to the applicant.*

*6) As per seniority list of a particular category of connections, if the demand notice of an applicant cannot be released owing to capacity constraint at the feeding station but connection to applicant(s) junior to him can be released because of feeding source being different and where spare capacity is available, the demand notice(s) to such applicant(s) shall be issued under proper intimation to such senior applicant. As soon as the capacity constraint is removed, such senior applicant shall be placed above any other applicant(s).*

*7) After issue of demand notices, the seniority list of applicants in each category of connections would be prepared in the order in which the complete documents / charges as mentioned in the demand notices are received by the licensee.*

*8) In cases, where an applicant does not comply with the conditions of the demand notice within the validity period of the demand notice, his application would stand cancelled and demand notice would be issued to the next applicant in line.*

17. The 2005 Regulations provides for the timeline & framework to the Distribution Licensee to fulfill its universal supply obligation. Regulation 3 of the said Regulations provides for the process to be followed by the distribution licensee for supply of electricity. Regulation 3 of the 2005 Regulations is reproduced herein below for ready reference:

### **3. Duty of Licensee to supply on request**

3.1 Where supply of electricity does not require any Extension of distribution system, every distribution Licensee shall, on receipt of an application from the owner or occupier of any premises, give supply of electricity to such premises, within one month of receipt of the application, complete in all respects along with the nonrefundable application processing fee as given hereunder and documents as required by the Licensee.

S. No.	Connected Load	Application Processing Fee
1	Upto 2 KW	Rs 10/-
2	Above 2 KW	Rs. 25/- per KW or part thereof subject to the maximum of Rs. 10,000

The time schedule to achieve this is as under:

3.1.1 **The Licensee shall issue Demand Note** after ascertaining the technical feasibility of giving supply of electricity to the applicant within ten days of receipt of application,.

3.1.2 **The applicant shall deposit the charges, security, meter & documents as per the Demand Note** within ten days of the date of despatch of the Demand Note by the Licensee.

3.1.3 **The Licensee shall issue the service connection order** within three days of the receipt of the charges, Security, meter & documents as per the Demand Note.

3.1.4 **The Licensee shall release the electric connection** to the applicant within Seven days of issue of Service Connection Order.

3.2 Where supply of electricity requires any Extension of Distribution System and the applicant opts for self-execution of work for such Extension of Distribution System, he shall inform the licensee in writing about his readiness for availing

power supply after getting the work executed. The licensee shall issue the service connection order within 15 days from the date of receipt of the intimation from the consumer regarding his readiness for availing power supply. Thereupon, the time frame for release of electric connection to such consumer and completion of applicable outstanding activities shall be as specified under regulations 3.1.

3.3 Where supply of electricity requires any Extension of distribution system and the applicant opts for getting the work of such extension executed through the licensee, the Licensee shall give supply of electricity to such premises within the time frame specified below reckoned from the date of receipt of the application, complete in all respects along with the prescribed non refundable application processing fee and documents as required by the Licensee.

<i>Rated System Voltage of service connection applied</i>	<i>Period (in days) within which supply of electricity is to be provided from the date of receipt of the application</i>
<i>Low Tension (LT)</i>	<i>45</i>
<i>11KV</i>	<i>65</i>
<i>33KV</i>	<i>95</i>
<i>Extra High Tension (EHT)</i>	<i>180</i>

*The time schedule to achieve this is as under:*

**3.3.1 The Licensee shall issue Demand Note** after ascertaining the technical feasibility of giving supply of electricity to the applicant within *{[ten days, in case of Low Tension (LT) Supply], [twenty days, in case of 11 KV Supply], [twenty five days, in case of 33KV Supply] and [thirty days, in case of Extra High Tension (EHT) Supply]}* of receipt of application.

**3.3.2 The applicant shall deposit the charges, security, meter & documents as per the Demand Note** within *{[ten days, in case of Low Tension (LT) Supply], [ten days, in case of 11 KV Supply], [twenty days, in case of 33KV Supply] and [forty days, in case of Extra High Tension (EHT) Supply]}* of date of despatch of the Demand Note by the Licensee..

**3.3.3 The Licensee shall issue the service connection order** within *{[five days, in case of Low Tension (LT) Supply], [five days, in case of 11 KV Supply], [five days, in case of 33KV Supply] and [ten days, in case of Extra High Tension (EHT) Supply]}* of the receipt of the charges, security, meter & documents as per the Demand Note.

**3.3.4 The Licensee shall release the electric connection** to the applicant within *{[twenty days, in case of Low Tension (LT) Supply], [thirty days, in case of 11 KV Supply], [forty five days, in case of 33KV Supply] and [one hundred days, in case of Extra High Tension (EHT) Supply]}* of issue of Service Connection Order.

*The activities under regulation 3.3.1 to 3.3.4 for different voltage level consumers are tabulated hereunder :*

<i>Activity under sub regulation</i>		<i>Time Allowed (in days) ) for consumers on</i>			
		<i>LT</i>	<i>11 KV</i>	<i>33 KV</i>	<i>Extra High tension (EHT)</i>
<i>3.3.1</i>	<i>To issue demand notice</i>	<i>10</i>	<i>20</i>	<i>25</i>	<i>30</i>

3.3.2	To deposit the charges and documents as demanded in the Demand Notice	10	10	20	40
3.3.3	To issue service connection order	05	05	05	10
3.3.4	To release the electric connection to the applicant	20	30	45	100
	Total	45	65	95	180

*Provided where the magnitude of works is such that it requires more time than as specified above, the Licensee may approach the Commission for extension of time, duly furnishing the reasons in support of such claim and accompanied by a document laying down the time frame to be followed for activities specified under this regulation. The licensee shall file the petition within 15 days of the receipt of complete application where such extension is covered under the investment plan approved by the Commission. In other cases the petition may be filed within a period of 12 weeks of receipt of the complete application.*

*3.4 It shall be the responsibility of the Licensee to have necessary commercial arrangements with the respective transmission Licensee(s) to ensure that the required supply at Extra High Tension (EHT), i.e. above 33 KV, is made available within the time frame specified under regulation 3.3 above.*

*3.5 The Licensee shall not be held responsible for the delay in extending supply if the same is on account of problems relating to statutory clearances, right of way, acquisition of land, or the delay in consumer's obligation to obtain approval of Chief Electrical Inspector for his High Tension or Extra High Tension installation, over which the Licensee has no reasonable control.*

*3.6 In case where the village or hamlet or area is not electrified earlier, the Licensee shall give supply of electricity to such applicants after the village or hamlet or area is targeted for electrification under any programme of electrification of habitations covered in the investment plan approved by the Commission. The supply shall be extended within the time frame specified in such investment plan approved by the Commission.*

*3.7 No person shall be entitled to demand, or to continue to receive, from a Licensee, a supply of electricity for any premises having a separate supply unless he has agreed with the Licensee to pay him such price as determined by the Commission.*

18. It is pertinent to note that Regulation 3 of 2005 Regulations and Regulation 4.4.3 of the Supply Code, 2014 provides for two different sets of time line for issuance of demand notices. On the one hand,

as per 2005 Regulations, distribution licensee has to supply electricity within 45 days for LT connection and on the other hand as per Supply Code, 2014 the demand notice itself is valid for 60 days which can be extended subject to payment of prescribed fees. It is noteworthy to mention here Supply Code, 2014 (Regulation 19) only repeals the earlier Supply Code that is Electricity Supply Code, 2004. Regulation 19 of the Supply Code, 2014 is reproduced herein below for ready reference:

**Regulation 19 - Repeal**

*The Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2004 issued vide Regulation No. HERC/05/2004 and notified on 10th August, 2004, including its amendments issued subsequently, are hereby repealed.*

19. It is submitted that the Electricity Act, 2003 empowers the State Commission to frame regulations with regards to both the subject matters that is Supply Code and duty to supply to request. The empowering provisions of the Electricity Act is reproduce herein below for ready reference:

<b>Subject matter</b>	<b>Provisions of Electricity Act, 2003 empowering State Commission to frame Regulations.</b>
Supply Code	Section 181 (2) (x) read with Section 50 of the Electricity Act.
Duty to supply on request	Section 181 (2) (t) read with Section 43 of the Electricity Act.

It is submitted that this Hon'ble Commission enacted 2005 Regulations and Supply Code, 2014 after following the due procedure. **Therefore, both the Regulations are intended to be followed and compiled with until and unless superseded and amended. Further, Regulation 19 of the**

**Supply Code, 2014 only repeals earlier Supply Code (Supply Code, 2004). It is submitted that 2005 Regulation neither repealed nor amended by this Hon'ble Commission and therefore, both the enactments are valid and required to be obeyed.** In these circumstances, this Hon'ble Commission may please to clarify/remove the difficulty faced by the licensees with regards to the time frame for release of new connection and extension of existing connection. It is submitted that even the period taken by the transmission licensee under Regulation 4.4.3 may be excluded by this Hon'ble Commission. It is further submitted that the supervision charges should be increased to 3% from 1.5% as the said amount is very less and many times will not even cover actual expenditure incurred by the licensee.

**Clubbing of load in the same premises (Regulation 4.9)**

20. It is submitted that the Regulation 4.9 of the Supply Code, 2014 provides for the clubbing of load in the same premises. Regulation 4.9 is reproduced herein below for ready reference:

***4.9 Clubbing of loads in the same premises***

*4.9.1 Where there is a request for merger of two connections in the same premises, the lower capacity connection shall be disconnected and the capacity of the second connection shall be raised to the level of total load of both the connections. In such case the advance consumption deposit of the disconnected supply shall be adjusted and any additional advance consumption deposit, if required, shall be recovered.*

*4.9.2 If such up-gradation of one connection is not technically feasible, then both the connections shall be disconnected and a third connection shall be given treating it as a new connection.*

*4.9.3 In both the cases, any expenditure to be incurred by the licensee shall be borne by the applicant.*

21. A bare reading of the above mentioned Regulations states that the clubbing of load can only be done when consumer makes a request for the merger of the load in same premises. It is pertinent to note that that said Regulation nowhere specifically provides for the

clubbing of load by the licensee. It is submitted that the licensee should be empowered by way of present Regulation to merge the load if on inspection, it is found that the consumer has taken two connections by dividing its actual load for the same premises to avoid charges/tariff as applicable to its category depending upon the load. It is submitted that the consumers should not be allowed to take benefit of some other category.

22. As stated above, it is to be noted that the consumer can take two or more separate connections to avoid various charges and tariff applicable for his actual load. For example: if a consumer's requirement is 40 kW then he can apply for two separate connection of 20 kW each to avoid fixed charges (above 20 kW of load fixed charges are applicable) and other applicable charges. It is submitted that the following charges can be avoided by the consumer's by dividing the actual load in separate connections.

- (i) HT Connection tariff/charges
- (ii) Fixed charges
- (iii) PLE charges, if applicable etc.

23. Additionally, it is to be noted that the domestic consumer can take two or more separate connections to avoid charges of higher slab and tariff applicable for his actual load. For example, a Domestic consumer is having monthly consumption more than 800 units. The applicable tariff would be Rs. 5.98 per kWh. However, if he takes two separate connections and eventually his consumption comes in the range of 400-500 units (for each meter in the same premise) then, the applicable tariff would be Rs. 5.25 per kWh. It is submitted that tariff slab can be manipulated and actual higher energy charges can be avoided by consumer illicitly. It thus becomes necessary to empower the licensee to detect such cases

and merge the connections if such misuse of the provisions of the supply code are detected.

24. In these circumstances, it is therefore requested that this Hon'ble Commission may exercise its power as envisaged under Regulation 16 and 17 of the Supply Code, 2014, in the larger public interest by reconsider and clarify the difficulty with regards to Regulation 4.9 and enable the distribution licensee to merge the load, if on inspection it is found that the consumer has taken separate connections for the same premises to avoiding various charges/tariff applicable for its category as per its actual load requirement and taking benefit meant for subsidized category.
  
25. Further, there is no direction as what to consider as "within the same premises" cases. For example, if two or more consumer are located in the closed boundary wall premise having no adjacent wall, should it be a case of same premise or should it be interpreted differently. In this regard, to bring out clarity in the issue, DHBVN has issued Sales circular No. D-18/2014 dated 18.04.2014 to govern grant of more than one connection in the same premises. It is therefore requested that this Hon'ble Commission may include the provision made in the above mention circular in the Supply Code Regulation -14, as it would avoid associated ambiguity in dealing with such cases in the field.

A copy of framed Sales circular No. D-18/2014 dated 18.04.2014 is annexed herewith and marked as **Annexure A-5** to this petition.

**Restoration of Supply in case of Burnt Meters (Regulation 5.8)**

26. Regulation 5.8 of the Supply Code, 2014 provides for the procedure to be followed with regards to restoration of supply in case of burnt meters. The Regulation 5.8 is reproduced herein below for ready reference:

**5.8 Restoration of Supply in case of Burnt Meter**

*(a) For LT Supply Consumers*

*In case a meter is found burnt either on consumer's complaint or upon inspection by the licensee, the licensee shall restore the supply within 24 hours by providing a tested meter. If it is not possible to provide a tested meter immediately, then direct supply shall be given within 24 hours and the consumer shall be charged for the period of direct supply on average basis. The licensee shall ensure that the direct supply shall not continue for more than 72 hours and within this period a tested meter shall be installed.*

*(b) For HT supply consumers*

*Direct supply shall not under any circumstances be provided to HT supply consumers.*

27. The above mentioned Regulation provides for the supply of electricity in case of burnt meter and the same is divided into two categories namely (i) For LT Supply Consumers and (ii) For HT Supply Consumers. It is submitted that the LT Consumer category should also be further divided into LT Domestic Supply and LT Industrial Supply and there should not be any direct supply of electricity to LT industrial category as the same will result in immense losses to the licensees. It is submitted that the petitioners herein appreciate the concern of this Hon'ble Commission and understand the nature and requirement of the supply of electricity supply to the domestic category and hence it is in the public interest to provide direct supply to the domestic consumers in case of burnt meter. However, for all other categories (except Domestic and AP) there should not be any direct supply of electricity in case of burnt meters as the same may result in unauthorized use. It is submitted that the HT industry category consumers have been rightly not permitted direct supply and with respect to other categories except Domestic and AP consumers the same reasons and concerns exist

for such a direct supply and the same should not be permitted by this Hon'ble Commission.

28. It is further submitted that regulation Sub-Regulation (b) of Regulation 6.1.2 states that the bill shall be served to a consumer immediately after the meter reading in case of spot billing system and in other cases within a period of one week from the bill issue date. However, it is not practically possible for the distribution licensee to serve the bill within one week from the date of meter reading and the minimum time required to serve bill after meter reading should be 15 days from the date of meter reading.

Regulation 6.1.2 reads as follows:

*6.1.2 The consumer shall be informed, at the time of releasing the connection, the periodicity of billing for his service, date in the calendar month when his meter will be read, bill issue date in the calendar month and due date for payment in the calendar month. It shall be obligatory on the part of licensee to take meter reading of a consumer within four days of the prescribed date.*

*(a) The bill issue date shall be the date of meter reading for spot billing system and in other cases it shall be within one week from the date of the meter reading.*

***(b) The bill shall be served to a consumer immediately after the meter reading in case of spot billing system and in other cases within a period of one week from the bill issue date.***

*If any consumer contests that he did not receive the bill within a period of one week from the bill issue date, the burden of proving that the bill was delivered during the said period of one week shall be on the licensee. In case the licensee cannot discharge this burden, the payment period shall start from the date the consumer contests that he received the bill.*

*(c) The licensee shall obtain acknowledgement of receipt of bill from the consumer as far as possible but it is a must in case of HT connections.*

29. As per Regulation 6.1.2 (a), the bill issue date shall be the date of meter reading for spot billing system and in other cases it shall be within one week from the date of the meter reading. It is submitted that as per prevailing billing system followed by the distribution licensees, it is not practically possible to serve the bill within one

week from the date of the meter reading. The billing system followed by the distribution licensees is as follow:

- Meter reading conducted by authorized office/person.
- Meter reading submitted to the SDO. The concerned SDO **within 3 days** has to get it checked all the codes i.e. I, N, S, B, D, PL in respect to their genuineness.
- Thereafter billing agency after receipt of the reading will punch the reading data within **next seven 7 days** and inception report have to be given by the billing agency within next **three (3) days**, the SDO has to confirm with regard to inception report that the data punched is correct and the bills are generated.

Hence, as detailed above, the entire billing process requires minimum 15 days to serve to the consumer after meter reading date.

30. As detailed above, it is not practically possible for the distribution licensee to serve the bill within one week from the date of meter reading and the minimum time required to serve bill after meter reading should be 15 days from the date of meter reading. Therefore, this Hon'ble Commission may please to reconsider the existing regulation 6.1.2 (b) considering the difficulties face by the Distribution Licensee.

**Voluntary declaration of tampered meters/seals  
(Regulation 7.9)**

31. It is submitted that Regulation 7 of the Supply Code, 2014 is contrary to the scheme and provisions of the Electricity Act, 2003 and hence this Hon'ble Commission may suitably modify/amend the same inconsonance with the objective and the provisions of the

Electricity Act, 2003. Regulation 7.9 of the Supply Code, 2014 provides for the assessment in case of voluntary declaration of tampered meters/seals by the consumer. The Regulation 7.9 is reproduced herein below for ready reference:

***7.9 Voluntary declaration of tampered meters / seals***

*In case a consumer comes forward and voluntarily declares that his meter and / or seals are tampered:*

*(1) If the licensee finds with reference to the abnormality in consumption pattern and the sanctioned load or otherwise that the meter and/or seals were tampered with malafide intent, then the licensee shall raise the assessment bill at two times the normal tariff for the period of last two months in case of domestic supply and for the period of last six months in case of other categories, reckoned from the date of declaration.*

*In case of AP connections, the assessment bill shall be raised at two times the AP tariff determined by the Commission without subtracting the subsidy component for the period of last two months, reckoned from the date of declaration.*

*The tampered meter/seals shall be replaced with new meter/seals at the consumer's cost immediately.*

*Thereafter the licensee shall not raise any other issue including action under Sections 126 & 135 of the Act.*

*(2) The energy bill, for the period the meter is not replaced, shall be sent as per the procedure for defective meters.*

32. It is submitted that tampering of meter is covered under Part XIV (Offences and Penalty), Section 135 of the Electricity Act. Section 135 of the Electricity Act talk about the 'theft of electricity' and provides for the punishment for the same. Section 135 of the Electricity Act is reproduced herein below for ready reference:

***“135. Theft of electricity.- (1) Whoever, dishonestly,-***

*(a) taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee or supplier, as the case may be; or*

*(b) tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or*

*(c) damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity; or*

*(d) uses electricity through a tampered meter; or*

*(e) uses electricity for the purpose other than for which the usage of electricity was authorised, so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine or with both:*

***Provided that*** in a case where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use-

*(i) does not exceed 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction the fine imposed shall not be less than six times the financial gain on account of such theft of electricity;*

*(ii) exceeds 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction, the sentence shall be imprisonment for a term not less than six months, but which may extend to five years and with fine not less than six times the financial gain on account of such theft of electricity:*

***Provided further that*** in the event of second and subsequent conviction of a person where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use exceeds 10 kilowatt, such person shall also be debarred from getting any supply of electricity for a period which shall not be less than three months but may extend to two years and shall also be debarred from getting supply of electricity for that period from any other source or generating station:

***Provided also that*** if it is proved that any artificial means or means not authorised by the Board or licensee or supplier, as the case may be, exist for the abstraction, consumption or use of electricity by the consumer, it shall be presumed, until the contrary is proved, that any abstraction, consumption or use of electricity has been dishonestly caused by such consumer.

*(1A) Without prejudice to the provisions of this Act, the licensee or supplier, as the case may be, may, upon detection of such theft of electricity, immediately disconnect the supply of electricity:*

***Provided that*** only such officer of the licensee or supplier, as authorised for the purpose by the Appropriate Commission or any other officer of the licensee or supplier, as the case may be, of the rank higher than the rank so authorised shall disconnect the supply line of electricity:

**Provided further that** such officer of the licensee or supplier, as the case may be, shall lodge a complaint in writing relating to the commission of such offence in police station having jurisdiction within twenty-four hours from the time of such disconnection:

**Provided also that** the licensee or supplier, as the case may be, on deposit or payment of the assessed amount or electricity charges in accordance with the provisions of this Act, shall, without prejudice to the obligation to lodge the complaint as referred to in the second proviso to this clause, restore the supply line of electricity within forty-eight hours of such deposit or payment.

(2) Any officer of the licensee or supplier as the case may be, Authorized in this behalf by the State Government may--

(a) enter, inspect, break open and search any place or premises in which he has reason to believe that electricity has been or is being, used unauthorisedly;

(b) search, seize and remove all such devices, instruments, wires and any other facilitator or article which has been or is being, used for unauthorised use of electricity;

(c) examine or seize any books of account or documents which in his opinion shall be useful for or relevant to, any proceedings in respect of the offence under sub-section (1) and allow the person from whose custody such books of account or documents are seized to make copies thereof or take extracts therefrom in his presence.

(3) The occupant of the place of search or any person on his behalf shall remain present during the search and a list of all things seized in the course of such search shall be prepared and delivered to such occupant or person who shall sign the list:

**PROVIDED that** no inspection, search and seizure of any domestic places or domestic premises shall be carried out between sunset and sunrise except in the presence of an adult male member occupying such premises.

(4) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to search and seizure shall apply, as far as may be, to searches and seizure under this Act.”

33. Section 151 B of the Electricity Act states that the offence committed under Section 135 of the Electricity Act is cognizable and non-bailable. Section 151B of the Electricity Act is reproduced herein below for ready reference:

**“Section 151B. Certain offences to be cognizable and non-bailable.-** Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under sections 135 to 140 or section 150 shall be cognizable and non-bailable.”

34. It is submitted that tempering with electricity meter constitute the cognizable and non-bailable offence of theft as envisaged under Section 135 of the Electricity Act. Further, Part XV (Section 153 to Section 157) of Electricity Act talks about the establishment, power and function of the Special Courts for the purpose of providing speedy trial of offences referred to in **Sections 135** to 140 and Section 150 of the Electricity Act. Part XV of the Electricity Act is reproduce herein below for ready reference:

**“153. Constitution of Special Courts:-** (1) *The State Government may, for the purposes of providing speedy trial of offences referred to in sections 135 to 140 and section 150, by notification in the Official Gazette, constitute as many Special Courts as may be necessary for such area or areas, as may be specified in the notification.*

*(2) A Special Court shall consist of a single Judge who shall be appointed by the State Government with the concurrence of the High Court.*

*(3) A person shall not be qualified for appointment as a judge of a Special Court unless he was, immediately before such appointment, an Additional District and Sessions Judge.*

*(4) Where the office of the Judge of a Special Court is vacant, or such Judge is absent from the ordinary place of sitting of such Special Court, or he is incapacitated by illness or otherwise for the performance of his duties, any urgent business in the Special Court shall be disposed of--*

*(a) by a Judge, if any, exercising jurisdiction in the Special Court;*

*(b) where there is no such other Judge available, in accordance with the direction of District and Sessions Judge having jurisdiction over the ordinary place of sitting of Special Court, as notified under sub-section (1).*

**154. Procedure and power of Special Court.-**

*(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under sections 135 to 140 and section 150 shall be triable only by the Special Court within whose jurisdiction such offence has been committed.*

*(2) Where it appears to any court in the course of any inquiry or trial that an offence punishable under sections 135 to 140 and section 150 in respect of any offence that the case is one which is triable by a Special Court constituted under this Act for the area in which such case has arisen, it shall transfer such*

*case to such Special Court, and thereupon such case shall be tried and disposed of by such Special Court in accordance with the provisions of this Act:*

***PROVIDED that*** *it shall be lawful for such Special Court to act on the evidence, if any, recorded by any court in the case of presence of the accused before the transfer of the case to any Special Court:*

***PROVIDED FURTHER that*** *if such Special Court is of opinion that further examination, cross-examination and re-examination of any of the witnesses whose evidence has already been recorded, is required in the interest of justice, it may resummon any such witness and after such further examination, cross-examination or reexamination, if any, as it may permit, the witness shall be discharged.*

*(3) The Special Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the Code of Criminal Procedure, 1973 (2 of 1974), try the offence referred to in sections 135 to 140 and section 150 in a summary way in accordance with the procedure prescribed in the said Code and the provisions of sections 263 to 265 of the said Code shall, so far as may be, apply to such trial:*

***PROVIDED that*** *where in the course of a summary trial under this sub-section, it appears to the Special Court that the nature of the case is such that it is undesirable to try such case in summary way, the Special Court shall recall any witness who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the said Code for the trial of such offence:*

***PROVIDED FURTHER that*** *in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding five years.*

*(4) A Special Court may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to, any offence tender pardon to such person on condition of his making a full and true disclosure of the circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof, and any pardon so tendered shall, for the purposes of section 308 of the Code of Criminal Procedure, 1973 (2 of 1974), be deemed to have been tendered under section 307 thereof.*

*(5) The Special Court shall determine the civil liability against a consumer or a person in terms of money for theft of energy which shall not be less than an amount equivalent to two times of the tariff rate applicable for a period of twelve months preceding the date of detection of theft of energy or the exact period of theft if determined whichever is less and the amount of civil liability so determined shall be recovered as if it were a decree of civil court.*

*(6) In case the civil liability so determined finally by the Special Court is less than the amount deposited by the consumer or the person, the excess amount so deposited by the consumer or the person, to the Board or licensee or the concerned person, as the case may be, shall be refunded by the Board or licensee or the concerned person, as the case may be, within a fortnight from the date of communication of the order of the Special Court together with interest at the prevailing Reserve Bank of India prime lending rate for the period from the date of such deposit till the date of payment.*

***Explanation :*** *For the purposes of this section, "civil liability" means loss or damage incurred by the Board or licensee or the concerned person, as the case may be, due to the commission of an offence referred to in sections 135 to 140 and section 150.*

***155. Special Court to have powers of Court of session.***- *Save as otherwise provided in this Act, the Code of Criminal Procedure, 1973, insofar as they are not inconsistent with the provisions of this Act, shall apply to the proceedings before the Special Court and for the purpose of the provisions of the said enactments, the Special Court shall be deemed to be a Court of Session and shall have all powers of a Court of Session and the person conducting a prosecution before the Special Court shall be deemed to be a Public Prosecutor.*

***156. Appeal and revision.***- *The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 (2 of 1974), as if the Special Court within the local limits of the jurisdiction of the High Court is District Court, or as the case may be, the Court of Session, trying cases within the local limits of jurisdiction of the High Court.*

***157. Review.***- *The Special Court may, on a petition or otherwise and in order to prevent miscarriage of justice, review its judgment or order passed under section 154, but no such review petition shall be entertained except on the ground that it was such order passed under a mistake of fact, ignorance of any material fact or any error apparent on the face of the record:*

***PROVIDED that*** *the Special Court shall not allow any review petition and set aside its previous order or judgement without hearing the parties affected.*

***Explanation :*** *For the purposes of this Part, "Special Courts" means the Special Courts constituted under sub-section (1) of section 153."*

35. It is submitted that Section 152 of the Electricity Act provides for the compounding of offence of theft by any consumer or person

who commits and who is reasonably suspected of having committed offence of theft of electricity punishable under the Electricity Act.

Section 152 reproduced herein below for ready reference:

**Section 152. (Compounding of offences):** --- (1) *Notwithstanding anything contained in the Code of Criminal Procedure 1973, the Appropriate Government or any officer authorized by it in this behalf may accept from any consumer or person who committed or who is reasonably suspected of having committed an offence of theft of electricity punishable under this Act, a sum of money by way of compounding of the offence as specified in the Table below:*

<i>Nature of Service</i>	<i>Rate at which the sum of money for Compounding to be collected per Kilowatt(KW)/Horse Power(HP) or part thereof for Low Tension (LT) supply and per Kilo Volt Ampere(KVA) of contracted demand for High Tension (HT)</i>
<i>(1)</i>	<i>(2)</i>
<i>1. Industrial Service</i>	<i>twenty thousand rupees;</i>
<i>2. Commercial Service</i>	<i>ten thousand rupees;</i>
<i>3. Agricultural Service</i>	<i>two thousand rupees;</i>
<i>4. Other Services</i>	<i>four thousand rupees:</i>

*Provided that the Appropriate Government may, by notification in the Official Gazette, amend the rates specified in the Table above.*

*(2) On payment of the sum of money in accordance with sub-section (1), any person in custody in connection with that offence shall be set at liberty and no proceedings shall be instituted or continued against such consumer or person in any criminal court.*

*(3) The acceptance of the sum of money for compounding an offence in accordance with sub-section (1) by the Appropriate Government or an officer empowered in this behalf empowered in this behalf shall be deemed to amount to an acquittal within the meaning of section 300 of the Code of Criminal Procedure, 1973.*

*(4) The Compounding of an offence under sub-section (1) shall be allowed only once for any person or consumer.*

36. However the Govt. of Haryana had amended the rates specified under the provisions of Section 152 of Electricity Act – 2003 (in exercise of the power conferred under Section 152 Compounding of offences of the Electricity Act-2003) vide Haryana Government Gazette, dated the 26.11.2013 and thus in continuation of the same the DISCOM – UHBVN & DHBVN notified the same vide Sales Circular Nos. U-60/2013 dated 10.12. 2013 and D-67/2013 dated 19/11/2013 respectively (copy attached as **Annexure - A6**). The revised rates are as follows:

<i>Nature of Service</i>	<i>Revised Rate at which the sum of money for compounding to be collected per Kilowatt (KW) / Horse Power (HP) or part thereof for Low Tension (LT) supply and per Kilo Volt Ampere (KVA) of contracted demand for High Tension (HT)</i>
<i>(1)</i>	<i>(2)</i>
<i>1. Industrial Service</i>	<i>Rs. 10,000 per KVA of contract demand</i>
<i>2. Commercial Service</i>	<i>Rs. 5,000 per KW</i>
<i>3. Agricultural Service</i>	<i>Rs. 2,000 per BHP</i>
<i>4. Other Services</i>	<i>Rs. 2,000 per KW</i>

37. It is submitted that the compounding with regards to the theft of electricity can only be done in the manner as prescribed by the Section 152 of the Electricity Act. Therefore, the assessment in case of voluntary disclosure of tampered meter as provided by this Hon'ble Commission under Regulation 7.9 of the Supply Code, 2014 is against the scheme and spirit of the Electricity Act and hence is not sustainable in the eye of law. It is pertinent to note that the tampering of meter is a criminal offence as per the provisions of the Electricity Act and Special Courts are constituted to adjudicate the same. It is submitted that the law is settled on the issue that the Rules are subservient to the Act and Scope of the Statute cannot be enlarged by the Regulations. It is further submitted that Regulation

7.9 will result in great mischief and will be a counter productive and will be contrary to the larger public interest.

38. Further, the para 4 of Regulation 7.9 states that distribution licensee shall not raise any other issue including action under Section 126 and 135 of the Electricity Act with respect to the consumer except whatever is provided under Regulation 7.9. It is submitted that the Electricity Act provides for the complete procedure (cognizance of offence, punishment & penalty, establishment of special court, compounding etc.) with regards to theft of electricity (includes tempering of meters) and therefore the offence of theft of electricity should be assessed and adjudicated as per the provision of the Electricity Act. However, the Supply Code, 2014 provides for the separate mechanism of assessment in case of voluntary declaration of theft and moreover the prohibitory clause as envisaged under para 4 of the Regulation 7.9 prohibiting the operation of the provisions of the empowering statute and hence the said provisions is totally against the basic principle of delegated legislation and hence not tenable in the eye of law.
39. In this regard, reliance is placed on the judgment passed by the Hon'ble Supreme Court in the matter of ***Additional District Magistrate (Rev.) Delhi Admn. Vs. Siri Ram, (2000) 5 SCC 451*** the relevant para is reproduced herein below for ready reference:

*16. It is well recognised principle of interpretation of a statute that conferment of rule making power by an Act **does not enable the rule making authority to make rule which travels beyond the scope of the enabling Act or which is inconsistent therewith or repugnant thereto.** From the above discussion, we have no hesitation to hold that by amending the Rules and Form P. 5, the rule making authority have exceeded the power conferred on it by the Land Reforms Act.*

40. In view of the above, it is submitted that the Regulation 7 of the Supply Code, 2014 is contrary to the provisions of the Electricity Act, 2003 and hence this Hon'ble Commission may suitably amend/delete the same in consonance with the objective and the provisions of the Electricity Act, 2003. It is submitted that this Hon'ble Commission may also consider a review of assessment by a competent authority to check the discretion of assessment in line with the regulations framed by Joint Electricity Regulatory Commission and Punjab Electricity Regulatory Commission. It is further submitted that as per GOH notification No.1/12/2003-1 power dated 9 Dec. 2003, SDO & JE are authorized to enter the premises for inspection (for cases including but not limited to theft, unauthorized use and general checking). As such no permission of SDO or XEN is required. It is submitted that the licensee has framed Sales Circular No.U-60/2013 and the same may be considered by this Hon'ble Commission for the purposes of the procedure followed by the licensees.
41. It is submitted that Regulation 8.4.1 restricts the right of the licensee to question the order passed and restricts judicial review and as such is unconstitutional and should be considered by this Hon'ble Commission.
42. It is submitted that Regulation 4.15.5 needs to be clarified by this Hon'ble Commission. It is submitted that the aspect of interest on security is covered by various regulations framed by this Hon'ble Commission. It is submitted that the HERC MYT Regulations-2012 clause no 21.4 provides that:
- “Interest shall be allowed on the amount held as security deposit held in cash from Transmission System Users, Distribution System Users and Retail consumers, at the Bank Rate as on 1st April of the financial year in which the*

*petition is filed provided it is payable by the transmission/distribution licensee.”*

Whereas, as per the Duty to supply electricity on request, Power to recover expenditure incurred in providing supply & Power to require security, Regulations, 1st Amendment, 2009 provide as under:

*“The licensee shall pay interest on consumption security and meter security deposited by the consumer equivalent to the Bank Rate as determined by the Reserve Bank of India on 1st April of each year or such higher rate as the Commission may fix from time to time. The interest accruing to the consumer shall be adjusted in energy bill of April or May of every year calculated on annual basis or in the final bill if permanent disconnection is sought by the consumer during the year.”*

It is submitted that this Hon'ble Commission may prescribe which regulations will be applicable for payment of interest on security by the distribution licensees.

43. It is submitted that this Hon'ble Commission may also reconsider Regulation 6.8 as the same will hamper recovery of dues by the distribution licensee. It is submitted that installments should not be permitted for current bills as the same will hamper working capital requirements of the licensees and will result in carrying costs which shall ultimately be passed on to consumers.
44. In view of the above circumstances and difficulties faced by the Petitioners herein, this Hon'ble Commission may exercise its power as envisaged under Regulation 16 (Power to Remove Difficulties) and Regulation 17 (Power to Amend) of the Haryana Electricity

Regulatory Commission (Electricity Supply Code) Regulations, 2014 in the large public interest.

**PRAYER**

In light of the submissions made hereinabove and in the interest of justice this Hon'ble Commission may be pleased to:

- A. Remove the Difficulties faced by the distribution licensees as explained above with regards to the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 to give effect to the provisions of the Electricity Act, 2003 and the said Regulation; and/or
- B. Amend the provisions of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 in the larger public interest; and/or
- C. Approve the procedure for assessment to be followed by the distribution licensees; and/or
- D. Pass any other order(s) and or direction(s), which the Hon'ble Commission may deem fit and proper in the facts and circumstances of the case.

**AND FOR THIS ACT OF KINDNESS AND JUSTICE THE PETITIONER SHALL AS IN DUTY BOUND EVER PRAY**

PETITIONER  
THROUGH COUNSEL

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Date:  
Place: