

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

Case No. HERC/P. No. 20 of 2025

Date of Hearing : 21/05/2025

Date of Order : 22/05/2025

IN THE MATTER OF:

Petition under Regulations Section 86 (1) (e), 86 (1) (k) of the Electricity Act, 2003 read with Regulation 18,19, 20 of the Haryana Electricity Regulatory Commission (Deviation Settlement Mechanism and related Matters) Regulations, 2019 read with Regulation 65, 66, 67 and 68 of the Haryana Electricity Regulatory Commission (Conduct of Business) Regulations, 2019 seeking this Commission to exercise its power to relax/ power to remove difficulty or in the alternative power to amend the provisions of clause 6(v) of Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation as approved by the HERC in accordance with Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019 with respect to formula of net worth of qualified coordinating agency.

Petitioner

1. CMES POWER 2 PRIVATE LIMITED, First Floor, Cleanmax Enviro Energy Solutions Private Limited, The Peach Tree Complex, Sushant Lok Phase-1, Gurugram, Haryana- 122009
2. M/s ASK Automotive Limited, Plot No. 13-14, Sector-5, IMT Manesar, Gurugram, Haryana- 122050.

VERSUS

Respondent:

Haryana Vidyut Prasaran Nigam Limited, Shakti Bhawan, Plot No. C-4, Sector 6, Panchkula, Haryana- 134109

Present

On behalf of the Petitioner

1. Sh. Aditya K Singh, Advocate
2. Sh. Ashu Gupta, VP.

On behalf of the Respondent

1. Ms. Sonia Madan, Advocate
2. Sh. Ashok Muthria, XEN, HVPN

Others

1. Suyasna-Som, AVP, REConnect

QUORUM

**Shri Nand Lal Sharma, Chairman
Shri Mukesh Garg, Member**

ORDER

1. Petition:

- 1.1 The present petition is being preferred by the Petitioner CMES Power 2 Private Limited (hereinafter referred to as “CMES” or “Petitioner No. 1”) and M/s Ask Automotive Limited (“Ask Automotive/Petitioner No. 2”), hereinafter collectively called as Petitioners, praying this Hon’ble Commission to exercise its power to relax, power to remove difficulties with respect to formula for calculation of net worth under Clause 6 (v) of the Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation (hereinafter called as, “Detailed Procedure”) approved by the Hon’ble HERC in accordance with Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019 (hereinafter called as, “Forecasting Regulations”). The already existing formula is an impediment in successful implementation of the Forecasting Regulations and is thereby defying the objectives of the said regulations read/with Detailed Procedure. In the alternative, this Commission is being prayed to direct the HPVN to revise/amend its formula for calculation of net-worth or to exercise its inherent power to revise the same itself. Clause 6(v) of the Detailed Procedure provides for qualifying requirement for appointment of Qualified Coordinating Agency (hereinafter referred to as “QCA”) which states that the QCA must have a minimum net worth of Rs. 1.5 Crores. However, the formula provided under the Clause 6(v) for calculating Net worth of an entity to be eligible as a QCA is erroneous and unjust. It leads to double deduction of liabilities leading to disqualification of most agencies to be appointed as QCA’s for the purpose assigned under the Detailed Procedure and Forecasting regulation.
- 1.2 The formula given under the Detailed Procedure is unjust and has made implementation of the Forecasting Regulations read/with Detailed Procedure unimplementable.
- 1.3 The said formula is in contradiction with the formula for net worth given under the Companies Act, 2013 and is additionally leading to a double deduction of liabilities for determining the net worth of QCAs making it difficult for the petitioners to appoint a QCA. As a result, the solar power plants, such as that of Petitioner No. 2, are left stranded even after achieving commercial operation leading to huge losses suffered by Petitioner No. 2 as a generator.

DESCRIPTION OF PARTIES

- 1.4 Petitioner No. 1, CMES POWER 2 PVT. LTD., is a company incorporated under the Companies Act, 2013 having its corporate office at First Floor, Cleanmax Enviro Energy Solutions Private Limited, The Peach Tree Complex, Sushant Lok Phase-1, Gurugram, Haryana- 122009 and registered office at 13A, Floor 13, Plot-400, The Peregrine Apartment, Kismat Cinema, Prabha Devi, Mumbai City, Mumbai, Maharashtra-400025. It is a subsidiary of Cleanmax Enviro Energy Solutions Private Limited. Petitioner No. 1 is a Solar Power Park Developer (SPPD) developing a 70MW power park at Village- Chormar and Salamkheda,

Tehsil-Sirsa, District- Sirsa, Haryana with connectivity from 400kV s/station Nuhiyanwali at 132kV voltage.

- 1.5 Petitioner No. 2, M/s Ask Automotive Limited, having its registered office at Plot No. 1314, Sector-5, IMT Manesar, Gurugram, Haryana – 122050, is an embedded consumer of the state power utility. It has developed a solar power plant of capacity 6.6 MW within the 50MW solar power park of M/s. CMES Power 2 Pvt. Ltd. (Petitioner No. 1) at village-Chormar, District- Sirsa with connectivity from 400kv Nuhiyanwali Substation of HPVNL at 132kV voltage level.
- 1.6 Respondent, Haryana Vidyut Prasaran Nigam Limited (hereinafter referred to as, “Respondent” or “HVPNL”), is a company incorporated under the Companies Act, 1956 and has its registered office at Plot No. C-4, Shakti Bhavan, Sector-6, Panchkula. It was initially entrusted with the transmission and distribution business of erstwhile HSEB, however later, the distribution business was transferred to the distribution utilities of the State of Haryana. The Respondent holds the license issued by this Commission for transmission and bulk supply of power. The Respondent, HVPNL, issued *Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation* which is being challenged in this petition.

JURISDICTION

- 1.7 Section 86(1) (e) of the Act provides for this Hon’ble Commission to promote generation of electricity from renewable energy sources. Section 86(1)(k) empowers this Hon’ble Commission to discharge its functions in accordance with this Act. The relevant provisions read as follows:

“Section 86. Functions of State:

(1) *The State Commission shall discharge the following functions, namely:--...*

(e) promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;

(k) discharge such other functions as may be assigned to it under this Act.”

- 1.8 Regulation 18, 19 and 20 of the HERC (Deviation Settlement Mechanism and related matters) Regulations, 2019 provides Hon’ble commission the power to amend, power to remove difficulty and power to relax, respectively. The relevant provisions are quoted below:

“18. *Power to amend*

The Commission may, at any time, vary, alter, modify or amend any provisions of these Regulations.

19. *Power to remove difficulties*

If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by general or specific order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty.

20. *Power to Relax:*

The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected by grant of relaxation, may relax any of the provisions of these Regulations on its own motion or on an application made before it by an interested person.”

- 1.9 Regulation 65, 66, 67 and 68 of the HERC (Conduct of Business) Regulations, 2019 provide this Hon’ble Commission with inherent powers and general power to amend.

Relevant provisions are extracted below:

“Saving of inherent power of the Commission

65. Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for ends of justice or to prevent the abuse of the process of the Commission.

66. Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Act a procedure at variance with any of the provisions of these Regulations if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.

67. Nothing in these Regulations shall, expressly or impliedly, bar the Commission to deal with any matter or exercise any power under the applicable legal framework for which no Regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.

General power to amend

68. The Commission may, at any time and on such terms as to costs or otherwise as it may think fit, amend any defect or error in any Proceedings before it, and all necessary amendments shall be made for the purpose of determining the real question or issue arising in the Proceedings.”

Facts

The facts giving rise to the present Petition are briefly set out herein below for ready reference of this Hon’ble Commission:

- 1.10 The Electricity Act was enacted by Parliament under Schedule VII List 3 Item 38 and as such, the Central Government has the ability to make policies in a subject matter over which a Central law has been enacted. Therefore, the national policies both relating to climate change and governing electricity sector will have primacy. Also, since Electricity is an Item of Schedule VII List 3, it is also a State subject and therefore, the Government of Haryana and, as such, this Hon’ble Commission also has an obligation to ensure implementation of such policies.
- 1.11 The Act consolidated the laws relating to generation, transmission, distribution, trading and use of electricity and generally for taking measures conducive to development of electricity industry, promoting competition therein, protecting interest of consumers and supply of electricity to all areas, rationalisation of electricity tariff, ensuring transparent policies regarding subsidies, promotion of efficient and

environmentally benign policies, constitution of Central Electricity Authority, Regulatory Commissions and establishment of Appellate Tribunal and for matters connected therewith or incidental thereto.

- 1.12 Under Section 32, State Load Despatch Centre is mandated to ensure integrated operation of the power system in a State for reliability, economy and efficiency of the power system. This inter-alia requires forecasting of load and RE generation, load-generation balance in real-time as well as compilation and analysis of the Energy Balance Sheets, Deviation Statement and Transmission Losses at the grid level for every time block. The Act also mandates open access in transmission and distribution system. The transmission system has been recognised as a common carrier.
- 1.13 With the growing penetration of the Renewable Energy Sources/ Distributed Energy Sources coupled with manifold increase in the intra-state, inter-state, inter-regional and transnational bulk energy transactions, whether from renewable or conventional source, require scheduling, measurement of physical delivery, book-keeping, settlement etc.
- 1.14 In view of the same, this Hon'ble Commission issued the "*Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement and related matters for Solar and Wind Generation) Regulations, 2019*" ("Forecasting Regulations"), which were notified on 29.04.2019. As per Regulation 3, these regulations have been issued with the objective of facilitating grid integration of wind and solar energy generated in Haryana while maintaining grid stability. Further, SLDC is mandated to provide for inter-grid tie-lines to accommodate wind and solar energy generation to the largest extent possible subject to grid security. As per Regulation 4, these regulations shall apply to the wind and solar energy generators in the state of Haryana connected to the Intra-State Transmission/Distribution System, including those connected through pooling sub-station and using the power generated for self-consumption or sale within or outside the State. The relevant provisions of Forecasting Regulations are reproduced as under:

"3 Objective

3.1. These Regulations are intended to facilitate Grid integration of Wind and Solar energy generated in Haryana while maintaining Grid stability and security as envisaged under the Haryana Grid Code and the Act, through forecasting, scheduling and a mechanism for the settlement of deviations by such Generators. ..

3.3. The SLDC shall make use of the flexibility provided by conventional Generating Units and the capacity of inter-Grid tie-lines to accommodate Wind and Solar energy generation to the largest extent possible subject to Grid security.

4 Applicability

4.1 These Regulations shall apply to all Wind and Solar Energy Generators in Haryana connected to the Intra-State Transmission /Distribution System, including those connected through Pooling Sub-Stations, and using the power generated for self-consumption or sale within or outside the State: Provided that the combined installed capacity of the Solar or Wind Generators

connected to a particular Pooling Sub-Station, or that of an individual Generator connected to some other Sub-Station, shall not be less than 1 MW..
Regulation 5 Forecasting and Scheduling Code:

5.1. This Forecasting and Scheduling Code specifies the methodology for Day-Ahead scheduling of Wind and Solar Energy Generators connected to the intra-State Transmission /Distribution Network, its revisions on a one and a half hourly basis, and the treatment of their deviations from such Schedules.

The plan for data telemetry, formats of forecast submission and other modalities and requirements shall be stipulated in the Detailed Procedure to be submitted by the SLDC within two months, which the Commission shall endeavour to approve within a month thereafter.

5.2. The Wind and Solar Energy Generators at each Pooling Sub-Station shall appoint a QCA.

5.6. The QCA shall be appointed by the Generators for the purposes specified in these Regulations, including but not limited to the following:

a) Meter reading and data collection and its communication, and co-ordination with the Distribution Licensees, the SLDC and other agencies;
b) De-pooling of amounts payable/ recoverable on behalf of the constituent Generator of the Pooling Sub-Station to/ from the State Deviation Pool account and settling them with each Generator;

c) Settlement of the Deviation Charges specified in these Regulations with the SLDC on behalf of the Generators.

5.7. The QCA shall be the single point of contact between the SLDC and its Solar and/or wind Generators for the purposes of these Regulations.

5.13. The QCA shall aggregate the Schedules of all Generators connected to a Pooling SubStation and communicate them to the SLDC.

5.14. No Wind or Solar energy generation shall be considered for despatch by the SLDC if it is not scheduled by the QCA on behalf of the Generators in accordance with the provisions of these Regulations.”

1.15 Regulation 5- Forecasting and Scheduling Code specifies the methodology for day-ahead scheduling of wind and solar energy generators. Following are the key aspects of the same:

- Regulation 5.2 states that the wind and solar energy generators at each pooling substation shall appoint a QCA.
- As per Regulation 5.6, the QCA is to be appointed by the generators for the purposes specified therein, which includes meter reading and data collection, de-pooling of amounts payable/recoverable on behalf of the constituent generator of the pooling sub-station to/from the state deviation pool account and settling them with each generator etc.
- Regulation 5.7 states that QCA shall be single point of contact between the SLDC and its solar and/or wind generators for the purposes of these regulations.
- Regulation 5.13 states that QCA shall aggregate the schedules of all generators connected to a pooling sub-station and communicate them to the SLDC.
- Under Regulation 5.14, no wind or solar energy generation shall be considered for despatch by the SLDC if it is not scheduled by the

QCA on behalf of the generators in accordance with the provisions of these regulations.

- Regulation 5.20 inter alia provides for submission of detailed procedure containing plan for data telemetry, formats of forecast submission and other modalities and requirements by the SLDC.
- Regulation 5.21 specifies the aspects to be covered by the Detailed Procedure.

1.16 In accordance with Regulation 20, the HVPNL (Respondent No. 1 in the present case) framed and submitted the draft Procedure for Forecasting, Scheduling and Deviation settlement of Solar & Wind Generation vide their letter memo no. Ch-37/SE/RAU/F-155/Vol-II dated 08.05.2020 for consideration and approval of the Commission. After consideration of the objections received, the Detailed Procedure was approved by the Hon'ble Commission with suitable modifications vide its order dated 08.03.2021. A copy of this Commission's approval order dated 08.03.2021 is annexed

1.17 Pursuant to the same, Haryana Vidyut Prasaran Nigam Limited (HVPNL) issued the Detailed Procedure as approved by the HERC in accordance with the Forecasting Regulations. This Detailed Procedure is applicable to all wind and solar energy generators in Haryana connected to the Intra-State Transmission/ Distribution System, including those connected through Pooling Sub-Stations, and using the power generated for self- consumption or sale within or outside the State. A copy of the Detailed Procedure issued by the HPVNL is annexed

1.18 Under Clause 5 of the Detailed Procedure, the pool generators are under an obligation to appoint one amongst themselves or any other mutually agreed agency to act as a QCA for coordinating on their behalf with the State Load Dispatch Centre (SLDC). The Clause 5 states as follows:

"5. The Qualified Coordinating Agency (QCA):

- i) The Pool Generators shall appoint one amongst themselves or any other mutually agreed agency to act as Qualified Coordinating Agency (QCA) for coordinating on their behalf with SLDC. The pool generators shall give authorization/ consent at least for a period of 2 years as per Annexure-V for registration of QCA at SLDC.*

Provided that an individual pool generator may opt to function as a QCA on its own or appoint a separate entity as its QCA. Provided further that separate pools shall be formed for generators involved in intra-state and inter-state transactions.

- v) QCA shall be the single point of contact with SLDC on behalf of the pool*

generators for the following purpose:

- Provide schedules with periodic revisions as per the Regulations on behalf of all the pool Generators.*
- Responsible for coordination with STU/SLDC/ DISCOMs and other agencies for metering, data collection and its transmission and communication.*

- c. Undertake commercial settlements on behalf of the pool generators, of such charges pertaining to generation deviations including payments of Deviation Charges to the State pool account through SLDC.
- d. Undertake de-pooling of payments received/payable on behalf of the pool generators from/to the State Pool account and settling them with the individual pool generators in accordance with the Regulations.
- e. Undertake commercial settlement of any other charges on behalf of the pool generators of a pooling station, as may be mandated from time to time.
- f. All other ancillary and incidental matters.
- vi) The QCA shall be single point of contact between SLDC and its Solar and/ or Wind Generators.
- vii) The QCA and pool generators shall mutually decide commercial and other arrangements between them for forecasting, scheduling and deviation settlement as per their inter-se agreement or terms of engagement.
- viii) The pool generators shall provide all requisite details & data (including technical data, time-block wise schedule and actual injection and deviation details) to QCA for onward submission to SLDC. ...”

1.19 In view of the above background, it is stated that Petitioner No. 1 is a solar power park developer and has obtained in-principal approval for setting up of solar power park of 50MW on 06.05.2019, the connectivity of the pooling substation on 18.10.2019. Thereafter, its capacity was enhanced to 70MW as per the letter issued by the Respondent on 25.09.2024. A copy of the in-principal approval letter issued by HAREDA dated 06.05.2019, grant of connectivity document dated 18.10.2019 and capacity enhancement document dated 25.09.2024 issued by HVPN are annexed.

1.20 Further, the Petitioner No. 2, got itself registered with HAREDA (Haryana Renewable Energy Development Agency) on 28.03.2024. The Project of the Petitioner No. 2 was granted captive status by Dakshin Haryana Bijli Vitaran Nigam Limited on 27.08.2024, subject to the conditions stated therein. The Petitioner No. 2 was granted connectivity by the Respondent HPVNL on 22.10.2024 for its captive s power Plant in the Solar Park of Petitioner No. 2. The Project of Petitioner No. 2 was commissioned on 29.10.2024 in the CMES Solar Park connected through 132 V common pooling and evacuation system at 132 KV voltage level of 400/22/132KV Nuhiyanwali Substation, Sirsa, Grid Substation of HPVNL. Pertinently, the Petitioner No. 2 has been granted the long-term open access approval by the Respondent on 24.12.2024. A copy of the HAREDA Registration dated 28.03.2024, HPVNL letter for grant of captive status to the project of the Petitioner dated 27.08.2024, grant of connectivity letter dated 22.10.2024, letter for commissioning of

the Project dated 29.10.2024 and LTOA approval dated 24.12.2024 is attached.

- 1.21 Since the Petitioner No. 2 and other generators at the pooling substation of Petitioner No. 1 are under an obligation to appoint a QCA under Regulation 5 of the Forecasting Regulations and Clause 5 of the Detailed Procedure; it is to be ensured that QCA passes the eligibility criteria as mentioned under Clause 6 of the Detailed Procedure. Under sub-clause (v) of Clause 6 of the Detailed Procedure, the QCA must have a net worth of 1.5 crores in the previous financial year. The formula provided for calculation of net-worth is

Net worth= Share Capital + Reserve - Revaluation Reserve - Intangible Asset - Misc. Expenditure to the extent not written off - Carried Forward Losses – Liabilities

The relevant extract of Clause 6 is mentioned as follows:

“6. Qualifying Requirement for QCA:

In case of appointment of any mutually agreed agency other than the Generator(s), the pool generators shall consider following guiding principles for appointment of QCA. Adherence to these guiding principles for appointment of QCA would be in the interest of pool generators and would facilitate smooth implementation of F&S framework in the State. . Further, the QCA shall be appointed with the approval of at least 51 % of the generators at the pooling sub-station in terms of combined installed capacity.

Operational requirements:

i. The QCA shall be a company incorporated in India under the Companies Act, 1956/2013.

.....

v. The QCA shall have capability to handle multiple plant owners connected to a pooling station in order to be well positioned to de-pool deviation charges. The financial strength of the QCA shall be such that it shall be in a position to handle the risk of penalties due to deviation charges applicable to pool generator. Considering this, the net worth of the QCA shall be a least RS. 1.50 Crores in the previous financial year (Net worth = Share Capital + Reserve - Revaluation Reserve - Intangible Asset - Misc. Expenditure to the extent not written off - Carried Forward Losses - Liabilities), which shall reflect from its audited accounts duly certified by the Chartered Accountant.

- 1.22 It is important to point out that the said provision itself states that the financial eligibility criteria has been introduced so that QCA is in a position to handle the risk of penalties due to deviation charges applicable to pool generator. This means that the focus is essentially on the financial capability of the QCA to handle risk of payment of penalties of the pool generator.
- 1.23 However, due to this specific formula for calculation of net-worth applicable in the state of Haryana, as on date there is no single QCA which is eligible and can be appointed as QCA in Haryana under the Forecasting Regulations read with Detailed Procedure.
- 1.24 This is also evident from a petition filed by an acting QCA (for other states) but which could not be appointed as QCA in the State of Haryana

due to this unjust definition of net- worth. The said petition (bearing Petition No. HERC/RA 01 of 2023) was filed by Manikaran Analytics Limited (“MAL”) under wrong provisions of law and was rejected by this Commission on this ground alone. Pertinently, in this case, the Respondent also supported the cause of MAL. Relevant excerpts from the dismissal of review order dated 10.04.2023 is extracted below:

“3.9 That three entities, namely, (1) M/s Kreate Technologies Pvt. Ltd., (2) M/s Manikaran Analytics Pvt. Ltd. (being the Petitioner herein), and (3) M/s RE Connect Pvt. Ltd. had applied for registration as Qualified Co-ordinating Agency (QCA) with the Answering Respondent-SLDC. However, only one of these entities i.e. M/s RE Connect Pvt. Ltd. meets with the condition of Net worth of Rs. 1.50 Crore as per the formula prescribed under the Procedure duly approved by the Hon’ble Commission.

3.10 That, the present petition may kindly be decided keeping in view of the aforementioned factual aspect.”

- 1.25 Even though, then on 10.04.2023, REConnect Energy Solutions Ltd. (“REConnect Energy”) met with the eligibility criteria, on 20.12.2024, HPVN declared that REConnect Energy does not fulfil the condition applicable to QCA under the Detailed Procedure and the Forecasting Regulations. A copy of HPVN letter dated 20.12.2024 is annexed
- 1.26 Pertinently, the Petitioner No .1 vide its letter dated 28.01.2025 communicated its concern in relation to the formula for calculation of net worth to the Respondent and requested for modification accordingly. A copy of the Petitioner No. 1’s letter dated 28.01.2025 is annexed
- 1.27 Similar letters have been written by other entities such as Vedanjay Power Private Limited and Unilink Engineering Corporation Private Limited (Unilink) vide their letter dated 27.01.2025 and 29.01.2025, respectively. The problem in the formula is further evident as per a net-worth certificate issued by CA of Unilink on 28.12.2024. As per this document, Unilink’s net-worth is Rs. 2,99,15,893.00 which is well above the requirement of Rs. 1.5 crores, but still cannot qualify for appointment of QCA in Haryana due to its specific incorrect formula. A copy of Vedanjay Power Private Limited’s letter dated 27.01.2025 and Unilink Engineering Corporation Private Limited’s letter dated 29.01.2025 is annexed. A copy of certificate of net-worth issued by CA of Unilink on 28.12.2024 is annexed.
- 1.28 Therefore, as on date, there is not a single QCA which is able to qualify this net-worth criteria (due to the unjust formula) in the State of Haryana. This is affecting the deviation settlement coordination of the Petitioner No. 2 and all similarly placed generators in this solar power park of 50MW, on a daily basis. There is loss of renewable energy considering plants are stranded.
- 1.29 Consequently, the implementation of the provisions of the Detailed Procedure and the Forecasting Regulations has become difficult and unachievable.
- 1.30 It is submitted that the formula for calculation of net-worth provided for in the Detailed Procedure is incorrect which is evident from the literal meaning of net-worth, the definition of net-worth in the Companies Act, 2013 and SEBI laws. It is because of this reason, that even after being

able to commission the project on 29.10.2024, the petitioner no. 2 is unable to find a QCA who is eligible as per the criteria mentioned under the Detailed Procedure. As a result, the Project of the Petitioner No. 2 is left stranded, and it is losing money with each passing day. Petitioner No. 1, on the other hand, is unable to facilitate a QCA for the solar power generators in the park and is unable to fulfil its duties as a Solar Power Park Developer.

1.31 Hence, the present petition.

GROUND

1.32 The Petitioner by virtue of this Petition seeks indulgence of this Hon'ble Commission on the following grounds:

- A. That the Detailed Procedure, in its current form vis-à-vis formula for calculation of net-worth is unjust and has rendered the provisions of the Forecasting Regulations and Detailed Procedure in relation to appointment of QCA as redundant.
- B. That *Net worth* qualification criteria for appointment of QCA was primarily introduced in the Detailed Procedure to ensure the risk-taking capability of the QCA, meaning thereby that QCA should be in a position to handle the risk of penalties due to deviation charges applicable to pool generator.
- C. That 'Net-worth' is a key indicator of financial health and can be used to provide a snapshot of an individual's or organization's economic standing. The general definition of "net-worth" in Oxford Advanced Learner's Dictionary is *Asset (minus) Liabilities*. However, the present formula is such which is leading to a double deduction of liabilities for determining the net worth of QCAs thereby, making it difficult for the petitioners to appoint any QCA.
- D. That, under Companies Act, 2013, the definition of net worth given under Section 2(57) can be understood as follows:

Net worth = Paid-up Share Capital
 (+) Reserves (excluding revaluation reserves)
 (-) Accumulated Losses
 (-) Deferred/Miscellaneous Expenditure not written off

The analysis of the above definition indicates that net worth is the difference between assets and liabilities, which is nothing but shareholders' funds or equity and is represented in financial statements by way of share capital plus reserves.

However, calculation of Net Worth, as given under Detailed Procedure is given as follows: Net Worth = Share Capital

(+) Reserve
 (-) Revaluation Reserve
 (-) Intangible Asset
 (-) Misc. Expenditure to the extent not written off
 (-) Carried Forward Losses
 (-) Liabilities

- E. That, the layman's formula for calculating net worth i.e. Asset (-) Liabilities was converted into a formula by the Companies Act, 2013 which ensured that the liabilities are deducted from the assets in the form of Accumulated Losses as well as Deferred/Miscellaneous

Expenditure not written off. Thus, when the Detailed Procedure deducts liabilities again, it leads to a double deduction in the calculation of net worth. Now since the amount coming out at the end of the formula is lowered due to double deduction, the generators become ineligible for being assigned the role of a QCA. The difference in the formula leading to double deduction is given as follows:

	Companies Act, 2013	Detailed Procedure
	Paid-up Share Capital	Share Capital
Add	Reserves (excluding revaluation reserves)	Reserve (Minus Revaluation Reserves)
Minus	Accumulated Losses	Carried Forward Losses
Minus	Deferred/Miscellaneous Expenditure not written off	Misc. Expenditure to the extent not written off
Minus	---	Intangible Assets
Minus	---	Liabilities

- F. That a joint analysis reveals that the Respondent has included additional adjustments to the Companies Act definition, specifically:
- Intangible Assets Adjustment: Justifiable as goodwill from mergers or amalgamations should not inflate net worth.
 - Liabilities Adjustment: The addition of liabilities in the formula is inconsistent with the standard definition of net worth, which already accounts for liabilities. Subtracting liabilities again results in a double deduction and provides a distorted picture of financial health.
- G. That, similar to the above provision, there are other places where net-worth has been defined in law which shows that the formula provided for in the Detailed Procedure is incorrect and needs to be read down or modified:
- ☐ The Institute of Company Secretaries of India in its Guidance Note on AOC-4 (2016 Edition) had defined net-worth in Clause 2(xv), similar to that given under Companies Act, 2013. Clause 2(xv) states as follows:
“... “net worth” means the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation.”
 - ☐ Moreover, Regulation 2(1)(s) of the *Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015* also mentions that the meaning of ‘net worth’ is same as the one given under Section 2(57) of the Companies Act, 2013. Relevant extract is given as under:
*“2. Definitions
(1) In these regulations, unless the context otherwise requires:*

s. “net worth” means net worth as defined in sub-section (57) of section 2 of the Companies Act, 2013;”

- H. That, the Report No. 2 of the year 2020 i.e., Report of the Comptroller and Auditor General of India on Public Sector Undertaking (‘CAG Report 2020’) also refers the definition of Net worth as is pleaded for by the Petitioners herein. It states that ‘net worth means sum total of the paid-up capital and free reserves and surplus minus accumulated losses and deferred revenue expenditure. It does not reduce liabilities separately again as is done by the Respondent in the formula provided for in Detailed Procedure. Relevant extract from the CAG Report is reproduced below:

“Chapter 1 Functioning of Power Sector Undertakings

Erosion of Net Worth

1.14 Net worth means the sum total of the paid-up capital and free reserves and surplus minus accumulated losses and deferred revenue expenditure. Essentially, it is a measure of what an entity is worth to the owners. A negative net-worth indicates that the entire investment by the owners has been wiped out by accumulated losses and deferred revenue expenditure. As on 31 March 2019, the overall accumulated losses of the four Power Sector Undertaking were Rs. 28,657.21 crore as against the capital investment of Rs. 30,432.75 crore resulting in net worth of Rs. 1,775.54 crore (Appendix 11). Of the four Power Sector Undertakings, the net worth of UHBVNL was (-) 2,932.14 crore and DHBVNL (-) 2516.38 crore.”

A copy of the relevant pages of the CAG Report 2020 is annexed

- I. That, Audit Report No. 3 of 2021 i.e., Report of the Comptroller and Auditor General of India on Public Sector Undertaking (‘CAG Report 2020’) also refers the definition of Net worth as is pleaded for by the Petitioners herein and differentiates between the two separate formulae i.e., assets- liabilities and the other being aggregate of paid-up share capital, free reserves by the aggregate value of accumulated losses, deferred expenditure and miscellaneous expenditure not written off. Moreover, the Scope of Audit and Methodology under the report mentions that seven State Public Sector Enterprises including the respondent are required to follow the Indian Accounting Standards and such standards, adopts the following formula:

“6.6.4 Impact of adoption of Ind AS on net worth

Net worth is the difference between the value of assets and the liabilities of a company. Net worth is arrived at by reducing from the aggregate value of the paid-up share capital, free reserves by the aggregate value of accumulated losses, deferred expenditure and miscellaneous expenditure not written off. The impact of adoption of Ind AS on net worth for accounting periods beginning on or after 1

April 2016, with the comparative for the period ending 31 March 2016 in selected SPSEs is as follows:..”

Therefore, even though the respondent is bound to adopt the Indian Accounting standards;

the detailed procedure issued by the respondent did not adopt the same while providing for calculation of Net Worth.

A copy of the relevant pages of the CAG Report 2021 is annexed

- J. Interestingly, one of the power utilities of the State of Haryana i.e., Haryana Power Purchase Centre itself issued a request for selection document on 17.04.2023 wherein the definition of ‘net-worth’ is as per the Companies Act, 2013. The relevant excerpt is reproduced below:

“Net-Worth” means the Net-Worth as defined in Section 2 of the Companies Act, 2013.”

A copy of the relevant pages of the said Request for Selection document is annexed

- K. That the double deduction of liabilities is disabling the QCAs in the state to qualify for taking up the activity related to scheduling and forecasting, thus leading to practical difficulty to the generators and consumers. This leads to the Petitioner no. 2’s solar power plant remaining stranded and/or constrained to supply power deviations for which are unaccounted for.

- L. That there are other states such as Madhya Pradesh, Andhra Pradesh, Rajasthan, Gujarat, etc. wherein the formula for calculation of net-worth does not refer to such incorrect method. Therefore, while calculating the net worth for the eligibility of a QCA in these states, the Chartered Accountant will refer to the formula given under Section 2(57) of the Companies Act, 2013 which will make the generators, who actually have the net worth of say 1.5 Crores as per Companies Act (if their respective state Detailed Procedure mentions a minimum net worth of 1.5 Crores), eligible for being assigned as a QCA. Some of the excerpts of Detailed Procedure under different states is given as under:

OPERATING PROCEDURE FOR MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION (FORECASTING, SCHEDULING, DEVIATION SETTLEMENT MECHANISM AND RELATED MATTERS OF WIND AND SOLAR GENERATING STATIONS) REGULATIONS, 2018

“2(iii) The financial Strength of the QCA shall be such that it shall be in a position to handle risk of penalties due to deviation charges applicable to RE generator. Considering this, the net worth of the QCA shall be at least Rs. 1.50 Crores (One Crore and Fifty Lakhs Only) in the previous financial year which shall reflect from its audited accounts duly certified by the Chartered Accountants.”

PROCEDURE FOR IMPLEMENTATION OF DSM FOR WIND AND SOLAR GENERATION AS PER REGULATION. 4 OF 2017 OF

HON'BLE ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

"5.STEP-2: Qualified Coordinating Agency (QCA)

...

5.11 *The financial strength of the QCA must be such that it should be in a position to handle the risk of penalties due to deviation charges applicable to generator. Considering this the net worth of the QCA for forecasting & scheduling services must be in positive amounting to at least Rs. 2.75 Crores in the current financial year which should reflect from its audited balance sheet or CA"s certificate."*

PROCEDURE FOR IMPLEMENTATION OF THE FRAME WORK ON FORECASTING AND SCHEDULING FOR RENEWABLE ENERGY (RE) GENERATING STATIONS (WIND AND SOLAR) (RAJASTHAN ELECTRICITY REGULATORY COMMISSION)

"6.Qualifying Requirement for QCA:

f. The financial strength of the QCA shall be such that it shall be in a position to handle the risk of penalties due to deviation charges applicable to RE generator. Considering this, the net worth of the QCA shall be at least Rs. 1.50 Crores in the previous financial year which shall reflect from its audited accounts duly certified by the Chartered Accountant."

GUJARAT ELECTRICITY REGULATORY COMMISSION

(FORECASTING, SCHEDULING, DEVIATION SETTLEMENT AND RELATED MATTERS OF SOLAR AND WIND GENERATION SOURCES) REGULATIONS, 2019

"7.Qualifying Criteria for a QCA

7.1 ... (ii) *The financial strength of the QCA must be such that it should be in a position to handle the risk of penalties on account of deviation by the generator. Accordingly, the net worth of the QCA from forecasting & scheduling services must be positive amounting to at least Rs.2.5 Crores in the recent last financial year which should reflect from its audited balance sheet or from the certificate of a practicing Chartered Accountant"*

Therefore, the commission, by maintaining parity with other states, must not mention a calculation for Net worth which is inconsistent with the provisions of Companies Act, 2013 and the well-established definition/calculation of 'net worth'. As in the other States, the CAs are entrusted with the responsibility of assessing the net-worth (as per Companies Act, 2013), should be entrusted with the same duty in the state of Haryana too.

- M. That the Detailed Procedure of Haryana, along with other states, mention that the '*The QCA shall be a company incorporated in India under the Companies Act*' and thus, it is bound to follow the rules as given under the Companies Act. Therefore, by being a company, a QCA's net worth must be calculated by way of the calculation as given under the Companies Act, 2013.
- N. That, the calculation as given by the Respondent under the Detailed Procedure is not supported by any accredited methods of

calculating net-worth in the territory of India. The method so mentioned under the Detailed Procedure is incorrect when it comes to accounting system of India.

- O. That, in light of the current difficulty, the Distributed Solar Power Association (DISPA), of which the Petitioner No. 1 is a member, wrote a letter to the respondent requesting for *Removal of Difficulty and amendment of the methodology of the of Calculation of Net Worth of the QCA*, wherein DiSPA using an illustration explaining how the method mentioned in the Detailed Procedure is deflating the actual net worth of QCAs. However, no action was taken by the respondent in that direction. The illustration given by DiSPA is mentioned hereinbelow:

“We may consider below illustrate to demonstrate the HVPN formula error: Using the sample financial statements:

<i>Liabilities</i>	<i>Amount</i>	<i>Assets</i>	<i>Amount</i>
<i>Share Capital</i>	<i>5,00,000</i>	<i>Tangible Assets</i>	<i>7,00,000</i>
<i>Reserves</i>	<i>3,00,000</i>	<i>Intangible Assets</i>	<i>1,20,000</i>
<i>Revaluation Reserves</i>	<i>50,000</i>	<i>Misc. Expenditures (not written off)</i>	<i>10,000</i>
<i>Liabilities</i>	<i>4,00,000</i>	<i>Carried Forward Losses</i>	<i>20,000</i>
		<i>Current Assets</i>	<i>4,00,000</i>
	<i>12,50,000</i>		<i>12,50,000</i>

Based on the above illustrative financial statements, net worth under Companies Act as well as under HVPN formula would be computed as follows:

<i>Particulars</i>	<i>Companies Act</i>	<i>HVPN formula</i>
<i>Share capital</i>	<i>5,00,000</i>	<i>5,00,000</i>
<i>Reserves</i>	<i>3,50,000</i>	<i>3,50,000</i>
<i>Total net worth / equity</i>	<i>8,50,000</i>	<i>8,50,000</i>
<i>Less: Revaluation Reserves</i>	<i>50,000</i>	<i>50,000</i>
<i>Less: Intangible Assets</i>	<i>-</i>	<i>1,20,000</i>
<i>Less: Misc expenses</i>	<i>10,000</i>	<i>10,000</i>
<i>Less: Carry forward losses</i>	<i>20,000</i>	<i>20,000</i>
<i>Revised Net worth per Cos Act</i>	<i>7,70,000</i>	<i>6,50,000</i>
<i>Less: Liabilities</i>	<i>-</i>	<i>4,00,000</i>
<i>Revised Net worth per HVPN</i>	<i>-</i>	<i>2,50,000</i>

Even though for the time being, if we ignore the effect if intangible assets in Companies Act and adjust the same as per the HVPN definition, still this dual deduction of liabilities erroneously reduces net worth.

Same may we explained in below table:

<i>Particulars</i>	<i>Companies Act</i>	<i>HVPN formula</i>
<i>Share capital</i>	<i>5,00,000</i>	<i>5,00,000</i>
<i>Reserves</i>	<i>3,50,000</i>	<i>3,50,000</i>

<i>Total net worth / equity</i>	<i>8,50,000</i>	<i>8,50,000</i>
<i>Less: Revaluation Reserves</i>	<i>50,000</i>	<i>50,000</i>
<i>Less: Intangible Assets</i>	<i>1,20,000</i>	<i>1,20,000</i>
<i>Less: Misc expenses</i>	<i>10,000</i>	<i>10,000</i>
<i>Less: Carry forward losses</i>	<i>20,000</i>	<i>20,000</i>
<i>Revised Net worth per Cos Act</i>	<i>6,50,000</i>	<i>6,50,000</i>
<i>Less: Liabilities</i>	<i>-</i>	<i>4,00,000</i>
<i>Revised Net worth per HVPN</i>	<i>-</i>	<i>2,50,000</i>

The actual net worth of the Company is 6,50,000 which is further condensed down to 2,50,000 owing to the dual effect of liabilities reduction.

A copy of letter of DiSPA dated 24.01.2025 is attached

- P. That such double deduction is leading to disqualification of most of the generators as a QCA. As a result, projects, which have already achieved commissioning, such as the one of Petitioner No. 2, are being left stranded and leading to loss of power and money with each passing day. This results in captive consumers, such as the petitioner no. 2, being unable to consume the power from its own captive power plant due to want of providing scheduling and forecasting of the said power by the registered QCA. Resultantly, the solar power plant remains stranded and is constrained to supply infirm power which is being wasted. There is loss of renewable energy considering plants are stranded.
- Q. That the eligibility criteria as mentioned under clause 6(v) of the Detailed Procedure is prima facie unjust, unreasonable and has made the Forecasting Regulation and Detailed Procedure unimplementable with respect to the appointment of QCA and functions thereof.
- R. That this Commission has the jurisdiction to relax the provision of the Detailed Procedure or remove the apparent difficulty by reading down such eligibility requirement or direct the Respondent to amend/revise the net-worth requirement as is provided for in the Companies Act, 2013.
- S. That, the jurisdiction of the State Commission is not circumscribed in any manner to access such powers whatsoever and accordingly, it can pass directions to immediately initiate process of amendment. This has been done by this Commission and various coordinate Commissions, as in the following cases:
Order dated 13.09.2021 in HERC/Petition No. 18 of 2021
“In view of the above, the Commission, as also prayed for by the petitioner, directs the officer(s) concerned of the Commission to prepare a consultation paper for revisiting the MYT Regulations, 2019, including but not limited to the issue raised in the present petition. The Commission shall place the approved consultation paper in public domain for inviting objections / suggestions / comments from all stakeholders and any other interested persons. After holding

a public hearing in the matter, the Commission will take a final view in the matter.”

Maha Co-Gen Green Power Producers Association vs Maharashtra State Electricity Distribution Co. Ltd., MERC Case No. 29 of 2016

“1.M/s Maha Co-Gen Green Power Producers Association (‘the Association’), 6 th Floor, MET Complex, Bandra Reclamation, Bandra (West), Mumbai has filed a Petition on 9 February, 2016 citing Sections 79, 81 and 82 of the MERC (Terms and Conditions for Determination of Renewable Energy (RE) Tariff) Regulations (‘RE Tariff Regulations’), 2015 read with Regulation 95 of the MERC (Conduct of Business) Regulations, 2004 seeking amendment of certain provisions of the RE Tariff Regulations, 2015.

.....
6. The RE Tariff Regulations of 2010 and 2015 both require that, to be eligible for the preferential tariff, fossil fuel use by Non-Fossil Fuel (including Bagasse)-based Co-Generation Plants and Biomass-based Power Plants should not exceed 15%. However, the proviso to Regulation 46.2 read with Regulation 64 of the current RE Tariff Regulations, 2015 provides that, in periods in which this fuel use criterion is not met, the APPC rate would apply instead of the preferential tariff. The Association seeks that the current provisions be amended so as to restore the penalty of 50 paise/kWh reduction in the preferential tariff which was specified in Regulations 43.2 and 54.2 of the earlier RE Tariff Regulations, 2010. The respective default provisions are quoted at paras. 3(4) and 3(7) above.

.....
In view of the foregoing, the Commission is of the view that there is a prima facie case for amending the relevant provisions of the RE Tariff Regulations, 2015 to restore the earlier fuel use default provision of a reduction of 50 paise/kWh in the preferential tariff for the period of default. Consequently, the Commission will separately initiate the process for amending the Regulations accordingly.”

(Emphasis supplied)

M.P. Madhya Kshetra Vidyut Vitaran Co. Ltd, Petition No. Case No. 22 of 2015

“2. The petitioners, M.P. Madhya Kshetra Vidyut Vitaran Co. Ltd., M.P. Poorv Kshetra Vidyut Vitaran Co. Ltd. and M.P. Paschim Kshetra Vidyut Vitaran Co. Ltd. have jointly filed the petition for seeking amendment to the M.P. Electricity Supply Code, 2013 in respect of the contents of the application forms and introduction of release of connection on demand. The case was listed for motion hearing today.

.....
4. The Commission admits the petition and directs the Commission Secretary to initiate the process of amendment in the M.P. Electricity Supply Code, 2013.”

(Emphasis supplied)

M/s. Gamesa Wind Turbine Pvt. Ltd vs. M/s. Maharashtra Energy Development Agency (MEDA), MERC Case No. 153 of 2011

“7. Moreover, to promote the renewable energy sector in the State, the Commission is mandated by Section 86(1) (e) of the Electricity Act 2003, which is mentioned in Para 3(3.2) above. Furthermore, Regulation 26 of MERC RE Tariff Regulations provides norms for Capacity Utilization Factor, which is also mentioned in Para 3(3.4) above.

The proviso to Regulation 26 of MERC RE Tariff Regulations provides that the Commission may amend the schedule from time to time, based on the inputs provided by C-WET/MNRE. Whereas MNRE, Wind Energy Division, office letter dated 1st August, 2011, clearly states that after detailed discussions with wind power experts and policy makers, it has been observed that the provision for consideration of WPD of 200 W/m² at 50 m hub height as the minimum requirement for suitability of wind power project development, does not hold relevance any longer and with change in wind turbine technology and better efficiency, even the lower wind regimes have become exploitable. The said letter states that here after, no restriction will exist for WPD criteria as far as development of wind power projects are concerned.

Furthermore, the Commission observes that the Petitioner’s wind power projects do not fulfill the present WPD criteria and measurement criteria of WPD at 50 m hub height as provided under Regulation 26.1 & 26.2 of MERC RE Tariff Regulations. However, with the increase in hub height up to 80 m, the Petitioner’s wind power projects may qualify the WPD criteria required for Wind Zone -1 category, for which the Petitioner may get necessary certification from C-WET/MEDA. Moreover, in view of MNRE’s above findings and decisions and the Regulations 26 (26.3) & 76 (76.1) of MERC RE Tariff Regulations, the Commission will initiate suitable action to amend the MERC (Terms and Conditions for determination of RE Tariff) Regulations 2010 appropriately pertaining to this matter and any other incidental matters in connection therewith.”

(Emphasis supplied)

- T. It is submitted that on the above submission made it is evident that arbitrary nature of Clause 6(v) of the Detailed Procedure is severely impacting Petitioners.

PRAYER:

In view of the submissions made hereinabove and those made at the time of the oral hearing, it is humbly prayed that this Hon’ble Commission may be pleased to:

- a. Admit the present petition; and
- b. Exercise its powers under 20 of the HERC (Deviation Settlement Mechanism and related matters) Regulations, 2019 to relax the provision of Clause 6(v) of the Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation, for the petitioners, with

respect to net-worth requirement as per the formula provided for calculation of net worth of the QCA; or

- c. Exercise its power under Regulation 19 of the HERC (Deviation Settlement Mechanism and related matters) Regulations, 2019 by removing the difficulty by reading down the formula for calculation of net-worth provided for in Clause 6(v) of the Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation.
- d. In alternate to prayer a) & b) and without prejudice to relief available under prayer a) & b); direct the Respondent to amend the formula for net-worth of QCA provided in Clause 6(v) of the Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation in accordance with Section 2(57) of the Companies Act, 2013; or
- e. Exercise its inherent powers and amend the formula for net-worth of QCA provided in Clause 6(v) of the Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation in accordance with Section 2(57) of the Companies Act, 2013; or
- f. Pass any other order/direction as the commission may deem fit in the interest of justice.

2. IA-10 of 2025:

- 2.1 The captioned petition is being filed by CMES Power 2 Private Limited (hereinafter referred to as “CMES” or “Petitioner No. 1”) and M/s Ask Automotive Limited (“Ask Automotive/Petitioner No. 2”), hereinafter collectively called as Petitioners, praying this Hon’ble Commission to exercise its power to relax, power to remove difficulties with respect to formula for calculation of net worth under Clause 6 (v) of the Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation (hereinafter called as, “Detailed Procedure”) approved by the Hon’ble HERC in accordance with Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019 (hereinafter called as, “Forecasting Regulations”). The already existing formula for calculating net worth of a Qualified Coordinating Agency (hereinafter referred to as “QCA”) is an impediment in successful implementation of the Forecasting Regulations and is thereby defying the objectives of the said regulations read/with Detailed Procedure.
- 2.2 The detailed facts and circumstances giving rise to the filing of the captioned Petition are stated therein and are not being repeated herein for the sake of brevity and to avoid prolixity. The Applicants crave leave of this Hon’ble Commission to refer to and rely upon the contents of the captioned Petition at the time of hearing.
- 2.3 It is submitted that the existing formula of calculating net worth for the purpose of appointment of a QCA is leading to double deduction of liabilities and is making the existing QCAs ineligible to be appointed as a QCA for the purpose of Detailed Procedure as well as Forecasting Regulations in the State of Haryana.

- 2.4 In furtherance of which, the solar power plants in the Pooling Substation of Petitioner No. 1, who have achieved Commercial Operation Date, such as that of Petitioner No. 2, are left stranded and/or constrained to supply power deviations for which are unaccounted for.
- 2.5 In light of the above, there is a sense of urgency in the present matter and as such it is quintessential that such solar plant, being left stranded and losing money with each passing day, is provided some relief. It is unable to schedule its power in terms of the applicable regulations. It is leading to loss of renewable energy.
- 2.6 It is submitted that no prejudice would be caused to the Respondent if the captioned Petition is listed for urgent hearing and disposal. On the other hand, irreparable and irretrievable harm and loss will be caused to the Applicant if the relief(s) as prayed for in the captioned Petition and in the present Interim Application are not allowed timely and/or unduly delayed. Therefore, balance of convenience is in favour of the Applicant and against the Respondent.
- 2.7 The instant Application is being filed bona fide and in the interest of justice and equity.

PRAYER

In view of the aforesaid facts, circumstances, and submissions, it is most respectfully prayed that this Hon'ble Commission may graciously be pleased to:

- (a) Allow the present Application and direct urgent listing of the captioned Petition at an earliest date as per the convenience of this Hon'ble Commission; and
 - (b) Pass such other order(s) as this Hon'ble Commission may deem fit and proper in the facts and circumstances of the present case and in the interest of justice and equity.
3. The case was heard on 23/04/2025. Sh. Aditya Singh counsel of the petitioner re-iterated the contents of the petition and submitted that due to Net worth formula no agency has been able to qualify and as on date there is not a single registered qualified Co-ordinating Agency (QCA) available. The petitioner has filed petition for correction in formula for calculation of Net worth of qualified coordinating agency along with IA 10 of 2025 for early hearing of the case due to urgency as the petitioners are losing money with each passing day. The Commission enquired why only HVPNL has been made the party to the case whereas HPPC is power procurement agency of the State and its inputs are also required. Ms. Sonia Madan counsel for the respondent submitted that the main party in the case is HVPNL only as the QCA is to be registered/appointed by SLDC which is under HVPNL. The respondent-HVPNL is also in agreement with the proposed formula submitted by the petitioner but the Hon'ble Commission may implead other stakeholders to avoid any litigation at later stage. The Commission observes that the inputs / comments of other stakeholders are required in this case, thus decides to issue notice for public hearing on the proposed changes in the formula for qualification criteria of QCA.

4. Short Reply on behalf of HVPNL:

- 4.1 The present short reply is being filed through Executive Engineer Haryana Vidyut Prasaran Nigam Limited (hereinafter referred to as 'HVPNL'), who is competent to file the present reply and is also well conversant with the facts concerning the present matter. At the outset, it is submitted that the present reply suitably addresses the core issue raised by the Petitioner in the instant matter. In view thereof, the para-wise reply is not being made at present. However, if the Hon'ble Commission, observes that a detailed reply is necessitated in the matter, the Respondent shall be given liberty to file the same within a reasonable time.
- 4.2 The present petition has been filed by the Petitioner seeking inter-alia following reliefs—
- a. *Admit the present petition; and*
 - b. *Exercise its power under 20 of the HERC (Deviation Settlement Mechanism and related matters) Regulations, 2019 to relax the provision of Clause.6(v) of the Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation, for the petitioners, with respect to net-worth requirement as per the formula provided for calculation of net worth of the QCA; or*
 - c. *Exercise its power under Regulation 19 of the HERC (Deviation Settlement Mechanism and related matters) Regulations, 2019 by removing the difficulty by reading down the formula for calculation of net-worth provided for in Clause 6(v) of the Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation.*
 - d. *In alternate to prayer a) & b) and without prejudice to relief available under prayer a) & b): direct the Respondent to amend the formula for net-worth of QCA provided in Clause 6(v) of the Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation in accordance with Section 2(57) of the Companies Act, 2013; or*
 - e. *Exercise its inherent powers and amend the formula for net-worth of QCA provided in Clause 6(v) of the Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation in accordance with Section 2(57) of the Companies Act, 2013; or Settlement of Solar & Wind Generation in accordance with Section 2(57) of the Companies Act, 2013; or*
 - f. *Pass any other order/ direction as the Commission may deem fit in the interest of justice.*
- 4.3 At the outset, it is submitted that the core grievance leading to the instant petition is as regards the formula for determining the net-worth of Qualified Co-ordinating Agency (for brevity "QCA") provided in Clause 6(v) of the Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation (for brevity the "Detailed Procedure"). The Respondent had taken note of the grievance raised by the Petitioner and similarly placed generators. On deliberations, it had been observed that as per the current formula, the net worth is

calculated in such a manner that both direct liabilities and associated deductions are accounted for twice, thereby artificially reducing the computed net worth of the QCA. Consequently, several prospective QCAs, despite having adequate financial strength, are rendered ineligible under the said clause due to an artificially reduced net-worth when computed as per the prescribed formula.

- 4.4 It is further submitted that the inability of competent entities to qualify as QCAs due to the formula has a direct bearing on the ability of the State to integrate renewable energy (RE) sources into the grid at scale. QCAs play a pivotal role in ensuring reliable forecasting and scheduling, and in managing deviations in power generation from RE sources, which is critical for grid stability. HVPNL, being the State Transmission Utility, is charged with the core statutory function of ensuring the integrated and secure operation of the power system in Haryana. Any bottleneck in the registration or operationalization of QCAs hampers the ability of the grid to handle RE power, adversely affecting reliability and long-term sustainability of grid operations.
- 4.5 That the term 'Net Worth' has not been defined under the Electricity Act, 2003, however, "net-worth" has been defined under the Companies Act, 2013 as under:

"2. (57) "net worth" means the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation;

As such, even as per the Companies Act, 2013, there is no deduction of 'Liabilities' at the end and the same is calculated as under:

Net worth = (Total paid-up share capital + reserves out of profit + securities premium account) — (accumulated losses + expenditure + miscellaneous expenditures which are written off).

Furthermore, Section 50 of the Income Tax Act, 1961 defined the term net-worth as under:

"Explanation I—For the purposes of this section, —"net worth" shall be the aggregate value of total assets of the undertaking or division as reduced by the value of liabilities of such undertaking or division as appearing in its books of account:

Provided that any change in the value of assets on account of revaluation of assets shall be ignored for the purposes of computing the net worth. "

For ease of understanding, the following illustration using sample financial statements shows that the formula adopted gives varying result:

Liabilities	Amount	Assets	Amount
Share Capital	5,00,000	Tangible Assets	7,00,000
Total Reserves	3,00,000	Intangible Assets	1,20,000

Revaluation Reserves	50,000	Misc. Expenditure (not written off)	10,000
Liabilities	4,00,000	Carried Forward Losses	20,000
		Current Assets	4,00,000
	12,50,000		12,50,000

Based on the aforesaid sample statements, the calculation of 'net-worth' as per both the formulas i.e. the formula prescribed under the Detailed Procedure for DSM - Solar & Wind and the formula as per the Companies Act is as under:

Particulars	Companies Act, 2013	Detailed Procedure
Share Capital	5,00,000	5,00,000
Total Reserves	3,00,000	3,00,000
Less: Revaluation Reserves	50,000	50,000
Less: Intangible Assets	1,20,000	1,20,000
Less: Misc. Expenses	10,000	10,000
Less: Carry forward losses	20,000	20,000
Net worth as per Companies Act, 2013	6,00,000	6,00,000
Less: Liabilities		4,00,000
Net-worth as per Detailed Procedure for DSM - Solar & Wind		2,00,000

Even if the effect of intangible assets is ignored, even in such a scenario, a dual deduction of liabilities reduces the net-worth.

- 4.6 In light of the above, pursuant to deliberations held with the financial wing of the Respondent, it is respectfully submitted that the Hon'ble Commission may consider substituting Clause 6(v) of the Detailed Procedure with a definition of 'Net Worth' that is aligned with Section 2(57) of the Companies Act, 2013, which is a widely accepted and consistent accounting standard across financial, legal, and regulatory domains. Accordingly, Clause 6(v) may be redrafted as follows:

"The financial strength of QCA shall be such that it shall be in position to handle the risk of penalties due to deviation charges applicable to RE generator. Considering this the net worth of the QCA shall be at/least Rs. 1.50 Crores in the previous financial year (Net Worth shall be the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation), which shall be reflected from its audited balance sheet or CA's certificate. "

- 4.7 With respect to the prayer at sr. no. d. of the Petitioners, wherein a direction has been sought against the Respondent to amend the formula for Net Worth, it is respectfully submitted that the Respondent does not

have the authority to amend the Detailed Procedure without the approval of the Hon'ble Commission. The said Procedure has been notified under the approval of this Hon'ble Commission in terms of the HERC (DSM and Related Matters) Regulations, 2019, and any alteration or amendment thereto falls solely within the regulatory domain and powers vested in this Hon'ble Commission. HVPNL cannot on its own amend the formula or deviate from the approved Procedure.

- 4.8 The foregoing substitution of the formula under Clause 6(v) of the detailed Procedure would facilitate smoother onboarding of financially sound QCAs and help achieve the overarching objective of increased RE penetration, while maintaining the security and balance of the grid.
- 4.9 In light of the above submissions, the Respondent respectfully prays that the Hon'ble Commission may consider the Petitioner's request and may be pleased to exercise its regulatory powers to substitute the net-worth formula under Clause 6(v) of the Detailed Procedure as proposed above.

5. **Comments of M/S. Ask Automotive Limited:** To introduce M/S. Ask Automotive Limited is a Public Listed Indian auto ancillary major, having pioneered in providing Advanced Braking (AB) Systems and Solutions for the country's automobile market with state of art 18 manufacturing units in India not only to cater Indian market but also international market to a great extent.

- 5.1 The Company focuses on ESG with the CARE Framework for our Environment, Health & Safety, and with conscious efforts towards renewable energy, we progressed in setting up solar plant facilities to bring efficiencies and cost optimization in the energy cost.
- 5.2 As a responsible company towards nature and society at large and answerable to its hundreds and thousands of investors being a listed company is committed towards contributing towards the management of global warming and compliance of international sustainability norms by means of shifting its reliance from fossil fuels-based power to consumption of power from renewable energy sources.
- 5.3 In this commitment and fulfilment of obligation the company has invested its 100% equity in the development of a 6.6 MWac Solar Power Plant under Open Access in compliance with the Policies of the state governments and the regulations and orders of the hon'ble commission.
- 5.4 The said plant of 6.6MWac was successfully commissioned on 29/10/2024 and received Long Term Open Access from HVPNL on 24/12/2024.
- 5.5 After waiting for the acceptance of the QCA application by the HVPNL / SLDC for quiet some time and when nothing could move the applicant approached the Hon'ble Commission for the resolution of the matter which was on account of methodology of the calculation of the Net-Worth provided in the "Procedure For Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation as approved by the HERC In accordance with Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019", which was erroneous and different from

the methodology provided in the Indian accounting standards and the company's Act.

- 5.6 It is most humbly submitting after receiving the LTOA the applicant also received the login credentials from the power utilities and started scheduling the power from 24.03.2025.
- 5.7 Against which the company through its appointed QCA for the scheduling and forecasting on a day ahead basis for the generation and consumption schedule ensured the daily day ahead data punched to the said portal as provided by SE/SO, DHBVN, Hisar
- 5.8 The entire data of the scheduled generation and consumption from the said solar power plant totaling to 1.9 MUS and the consumer entities under LTOA is annexed along with the application.
- 5.9 Being a listed company and accountable to its investors and society at large the company is duty bound to comply with its commitment towards Decarbonization and other sustainability goals.
- 5.10 The company fears that the Office of the SE/SO, DHBVN, Hisar might not consider their day ahead schedules submitted on the portal as provided by SE/SO, DHBVN, Hisar from the date of generation with schedules for the settlement of the same in our monthly electricity bill which will not only cause of irreparable financial loss of around Rs. 1 1.4 Million but also a default in compliance in terms of Green Energy consumption for the FY 2025-26 which will further not only increase trouble in acceptance of their products by our principal buyers which are large automobile companies in India and abroad but a default to its thousands of shareholders.
- 5.11 Under the various power available to the hon'ble commission, it is humbly submitted that the hon'ble commission may direct that for the solar power generation for which day ahead schedules have been provided in the desired format from the time of LTOA to such period when hon'ble commission passes its order and QCAs are formally registered with HVPNL the same may be allowed to be adjusted in the energy bills of the consumer.
- 5.12 The present situation is a peculiar situation where the consumer has got an LTOA and was provided the consumer was doing day ahead scheduling and the same was also done by the QCA appointed by the generator / consumer, however due to non registration of a QCA on accounts of reasons beyond the control of the developer and not attributable to the developer, this Commission may take a considered view and a balanced approach may be taken.
- 5.13 It shall not be in the fitness of things to disallow the day ahead scheduled power and treat the energy generated by solar based captive generator as dumped energy and depriving the captive power generators from the same.
- 5.14 In order to balance the equity on both sides as a one-time measure, the Commission may be kind to direct the Discoms to allow energy account adjustment from 23.03.2025 upto the time when QCAs are registered, to the petitioner in accordance with the scheduling provisions contained in the HERC OA Regulations, 2012 and thereafter in accordance with the applicable provisions of the HERC GEOA Regulations, 2023.

- 5.15 Previously also this hon'ble commission has been kind and has taken balanced approach in matters of renewable energy, its generation and consumption.
- 5.16 We believe the hon'ble commission may be pleased to consider our submissions to accept the scheduled generation / injection for settlement of power against the scheduled consumption of the captive consumer and oblige.
- 5.17 For records the details of the schedules and generation / consumption for the month of March 2025 and April 2025 totalling to around 1.9 MUS are annexed along with this submission.

6. **Comments of M/s REConnect Energy Solutions Ltd:** The point-wise comments in the matter of proposed change in the Net Worth Formula as per Clause 6(v) of Detailed Procedures of HERC (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019 are as follows:

- 6.1 REConnect Energy Solutions Ltd was the first company to qualify as the Qualified Coordinating Agency (QVA) in the state of Haryana by HVPNL vide their letter Ch-3S/PC-23/A/SLDC/OP date 01.05.2023 with the Registration No. 01/QCA/HVPNL/RECONNECT Energy Solutions Limited/2023. The copy of the said letter is attached herewith for ready reference.
- 6.2 The Net Worth formula as per HERC regulations and Detailed Procedure is Share Capital + Reserves - Revaluation Reserve - Intangible Asset - Misc Expenditure to the extent not written off - Carried Forward Losses - Liabilities which is different from the Standard Accounting formula of Net Worth as defined in the Section 2(57) of Companies Act, 2013 which says Net worth is equal to Share Capital + Other Equity/Reserve and Surplus or in layman's terms Total Assets - Total Liabilities.
- 6.3 It is also to be noted that Share Capital + Other Equity/Reserve and Surplus is always equal to Total Assets Liabilities. So when as per the formula stated in the Clause 6 (v) of the Detailed Procedures, liability is again deducted from share capital and reserves, it leads to double deduction of single accounting head i.e., liabilities which creates a negative impact on overall calculation as well as technical/quantitative reduction in valuation of Net Worth for any company.
- 6.4 The Negative Impact of the said formula can be observed in the following example:

Particulars	Companies Act, 2013	Detailed Procedures
Share Capital	5,25,000	5,25,000
Total Reserves	2,50,000	2,50,000
Less: Revaluation Reserves	60,000	60,000
Less: Intangible Assets	1,00,000	1,00,000
Less: Misc. Expenses	30,000	30,000
Less: Carry Forward Losses	20,000	20,000
Net Worth as per Companies Act, 2013	5,65,000	5,65,000

Less: Liabilities		210,000
		3,55,000

- 6.5 The purpose of mentioning Net Worth as a qualifying requirement is to ensure that the appointed QCA should have the financial strength to handle the risk of penalties due to deviation charges applicable to generators and to facilitate the addition of renewable energy projects in the state at scale.

In other states, the net worth criteria for the QCA is simply defined in terms of monetary value. For eg, the net worth defined in the F&S regulations of the respective states is as follows:

State	Net Worth (INR)	Clause as per Regulation/RE Operating Procedure
Gujarat	Rs. 25 Crore	Clause 7.1.(ii) of Regulation
Rajasthan	Rs. 1.5 Crore	Clause 6.f of Procedure
Madhya Pradesh	Rs. 1.5 crore	Clause 3.1.(vi) of Procedure

- 6.6 The provisions of the Detailed Procedures which were meant to ensure the seamless and efficient integration of Renewable Energy Projects in the state of Haryana has now become a hindrance to the said objective.

- 6.7 There are multiple generators who are willing to appoint QCA and provide the forecasting and scheduling of Renewable Energy for implementation of the HERC F&S regulation and help in efficient management of the State Grid are unable to do so as this artificial reduction the Net Worth of prospective QCAs lead to disqualification of even the candidates who have the adequate financial strength.

- 6.8 It is important for the State to know exactly how much power is being injected on a 15-minute block basis and what is the demand against that. The activity is very important w.r.t. Grid management and considering REConnect is not being allowed to deliver its responsibilities as a QCA, the state is not getting a proper picture of renewable energy being injected into the grid.

- 6.9 In the same line REConnect Energy has written several communications to HVPNL mentioning the difficulty of this error in the Net Worth Formula and requesting the appointment as QCA for the project where we have submitted QCA registration applications to enable us to initiate schedule submission for these projects, thereby helping HVPNL and SLDC in implementing the

HERC F&S regulation. The details of the Letters/Emails are mentioned below and copy of the same are attached herewith for your ready reference:

Sr.No.	Subject or Synopsis of Email/Letter	Date of Email/Letter
	Email detailing the difference in the HERC Net Worth formula when compared to Standard Accounting Formula. Request to Accept the Net Worth as Certified by the Auditors	Email -15/07/2024

2.	Letter requesting approval on pending registrations	Letter - 06/12/2024
3.	Email Request for Reconsideration of QCA Application & Networth_REConnect Energy	Email - 30/01/2025

6.10 REConnect Energy is in concurrence with the request filed by the petitioners and supports the amendment of the Net Worth Formula in the Clause 6(v) of the Detailed Procedures to be in line with the Net Worth as defined in the Companies Act, 2013. This step will enable the generators to appoint the QCAs to undertake the implementation of the provisions of Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019 for their assets as well as support HVPNL in efficient Grid Management.

7. **Comments of Sh. Akshay Gupta Advocate:** As per the order passed by the Hon'ble Commission vide interim order dated 23th April-2025 I Akshay Gupta submitting the comments as below:

7.1 That the objective of these regulations and procedure was to maintain grid discipline and grid security as envisaged under the Grid Code through the commercial mechanism for Deviation Settlement for controlling drawl and injection of electricity by the users of the grid as per their schedules and dispatches within State of Haryana.

7.2 Before proceeding further, it is important to understand the whole concept behind bringing in such a Regulation and the role and responsibilities of the QCA. The Hon'ble Commission in the preface of the Regulation itself has elaborated the background and the necessity to put in place a system where integration of all the players in the power system and their positions viz.-a-viz. each other needs to be well articulated and defined under a legal framework.

7.3 It was the Availability Based Tariff (ABT) regime introduced by CERC at the national level which eventually enabled a credible settlement mechanism for intra-day power transfers from licensees with surpluses to licensees experiencing deficits. SERCs were advised to introduce the ABT regime at the State level. The Act of 2003 also mandated Open Access in Transmission and Distribution System wherein the transmission system had been recognized as a common carrier. Consequently, IPPs, Captive Power Plants, HT consumers and other utilities connected to the grid, could seek access to the network and pay the usage charges subject to margins in the system.

7.4 Subsequently with the passage of time and with the growing penetration of the Renewable Energy Sources (RES)/Distributed Energy Resources (DER) coupled with manifold increase in the intra-state, inter-state, interregional and transnational bulk electrical energy transactions, the bulk energy transactions whether from renewable or conventional ultimately required scheduling, measurement of physical delivery, book keeping, settlement and clearing in energy as well as in financial terms.

It became essential that the adopted systems and procedures at various Load Dispatch Centres should be compatible with each other.

7.5 Principles of appointment of QCA

The principles of appointment of QCA have also been elaborated in the Regulation as under:

6.1. The Generators at a Pooling Sub-Station may appoint one amongst themselves or any other entity as a QCA:

Provided that an individual Generator not connected through a Pooling Sub-Station may opt to be its own QCA or to appoint a separate entity.

6.2. The QCA shall be appointed with the approval of at least 51% of the Generators at a Pooling Sub-Station, in terms of their combined installed capacity.

Provided that QCA may undertake forecasting and scheduling at feeder level; however, deviation accounting shall be undertaken for Pooling Sub-Substation as a whole.

6.3. The Generators shall satisfy themselves that the QCA is technically and financially competent to undertake on their behalf the functions and discharge the obligations specified in these Regulations.

6.4. The terms of engagement of the QCA shall include provisions on the following aspects:

- a) The respective roles and responsibilities of the QCA and Generators;*
- b) The metering, billing and energy accounting arrangements;*
- c) The modalities for recovery of Deviation Charges from the Generators and their settlement, including the principles for de-pooling;*
- d) The payment security mechanism and related provisions;*
- e) The events of default and their mitigation.*

7.6 Clause No. 6. Qualifying Requirement for QCA:

In case of appointment of any mutually agreed agency other than the Generator(s), the pool generators shall consider following guiding principles for appointment of QCA. Adherence to these guiding principles for appointment of QCA would be in the interest of pool generators and would facilitate smooth implementation of F&S framework in the State. Further, the QCA shall be appointed with the approval of at least 51 % of the generators at the pooling substation in terms of combined installed capacity. Operational requirements-

- i The QCA shall be a company incorporated in India under the Companies Act, 1956/2013*
- ii The QCA shall have fully functional forecasting and scheduling tools to obtain the desired output.*
- iii The QCA shall have the experience in the field of Wind and/or Solar Power forecasting and scheduling for 50 MW projects (including cumulative pilot projects) and a minimum period of one (1) year with appropriate accuracy levels in forecasting.*
- iv The QCA shall have an experience in working in different terrain & regions, as Wind/Solar generation depends on these factors and such experience facilitates better scheduling.*

- v *The QCA shall have capability to handle multiple plant owners connected to a pooling station in order to be well positioned to de-pool deviation charges. The financial strength of the QCA shall be such that it shall be in a position to handle the risk of penalties due to deviation charges applicable to pool generator. Considering this, the net worth of the QCA shall be a least RS. 1.50 Crores in the previous financial year (Net worth = Share Capital + Reserve - Revaluation Reserve - Intangible Asset - Misc. Expenditure to the extent not written off - Carried Forward Losses - Liabilities), which shall reflect from its audited accounts duly certified by the Chartered Accountant.*
- vi *The QCA shall have a compatible system in place for seamless flow of information to and from SLDC in order to facilitate forecasting, scheduling and revision of schedule, intimation of outages/grid constraints etc. and it shall have capability to provide real time monitoring systems in place for seamless flow of information to and from SLDC.*
- vii *QCA shall have an established team of Renewable Resource Analysts, modeling Statisticians/ Data Scientists, Energy modelers and 24*7 operation and monitoring team.*
- Viii *QCA shall possess/provide the authorization/ consent letter and consent from all the pool generators connected to the pooling station or directly connected to the state network for being appointed as the QCA and from the concerned beneficiary (ies).*
- ix *The corresponding supporting certificates/ documents justifying qualification should be submitted along with the application for registration.*

7.7 While suggesting the above mentioned qualifying requirements, the HVPNL grossly erred in understanding the essence behind bringing in such a regulation, the essence of the CERC recommendations, the nature of work involved and almost nil availability of the mandated qualifying requirement / expertise in the market. The concept of introducing and appointing a QCA as an intermediary between the generators and the Load Dispatch Centers was new and techno-commercial in nature. The qualifying criteria, therefore, should have been much simpler and there should have been an effort to promote more and more agencies to take up the job of QCA. But on the contrary, the qualifying requirements have been designed in such a manner that till today, not even a single agency has been able to qualify as QCA in Haryana.

7.8 The present petition is filed by the petitioner for amendment in the provisions of clause 6(v) of Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation as approved by the HERC in accordance with Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019 with respect to formula of net worth of qualified coordinating agency but the time has come now to have a

relook at these qualifying requirements listed at Clause no. “6” of the “Procedure”

7.9 Taking up one by one, the qualifying requirements in the detailed procedure are discussed as under:

i) The QCA shall be a company incorporated in India under the Companies Act, 1956/2013

- a) HVPNL while recommending the above QR has failed to realize the nature of work involved and that as to why the QCA should be a company incorporated in India under the Companies Act
- b) As the name itself suggests i.e. Qualified Coordinating Agency (QCA), the eligible firm need not be a company registered under the Companies Act 1956/2013. The CERC Report as well as the HERC Regulation has carefully chosen to use the word “Agency” instead of “Company”
- c) Going by the general definition of “Agency”, the “Agencies are businesses that provide specialized services to clients, often acting on behalf of another company, group, or individual to manage a segment of their business”
- d) As far as Legal Structure of Agency is concerned, “the Agencies, like any businesses, can be structured as private limited company, a limited liability partnership (LLP), or a Proprietorship”
- e) The core difference between an Agency and a Company lies in their focus. “Companies typically produce and sell goods or services directly to consumers. Agencies on the other hand, act as intermediaries, providing specialized services to other companies of individuals”
- f) In law, “Agency is a legal relationship where one party, the principal, grants another party, the agent, the authority to act on their behalf and represent them in dealings with third parties. The agent's actions, when within their authority, are legally considered the actions of the principal. This relationship is often established through a contract, but it can also be implied by the actions of the parties”
- g) Another distinctive feature that makes an “Agency” different from “Company” is that under the provisions of law, “an individual can also be called an “Agency” particularly in context of the Indian Contract Act 1872 wherein an “Agent” is defined as a person employed to do any act for another, or to represent another in dealings with third persons. The person for whom the act is done or who is represented is called the “Principal”.

7.10 It is pertinent to mention here that the QCA will work on behalf of the Generating Company as an ancillary and most of the cases the generators are likely to be registered under companies act so there is no need of QCA to be registered under companies act.

7.11 Below is the comparative analysis qualifying requirements made by the adjacent state regulatory commissions under the Forecasting,

Scheduling and Deviation Settlement for Solar and Wind Generation Regulations.

S. No	State	Incorporation Clause	Experience Clause	Networth Clause
1	Rajasthan	Clause 6(a) on page no. 3 The QCA shall be a company incorporated in India under the Companies Act, 1956/2013 or any firm, Limited Liability Partnership (LLP), person or association of persons fulfilling the criteria given below	Clause 6(c) on page no. 3 The QCA shall have the experience in the field of Wind and/or Solar Power forecasting and scheduling for 500 MW projects (including cumulative pilot projects) and a minimum period of one (1) year with appropriate accuracy levels in forecasting.	Clause 6(f) on page no. 3 The financial strength of the QCA shall be such that it shall be in a position to handle the risk of penalties due to deviation charges applicable to RE generator. Considering this, the net worth of the QCA shall be at least Rs. 1.50 Crores in the previous financial year which shall reflect from its audited accounts duly certified by the Chartered Accountant.
2	Karnataka	Clause 3.2 on page no. 4 Any Agency/Entity, whether any company or body corporate or and association or body of individuals or an artificial hudicial person, whether incorporated or not, shall be eligible to act as a QCA.	Clause 3.2.2 on page no. 4 The QCA shall have the experience in the field of Wind/Solar Power forecasting and scheduling in different terrain and regions for minimum period of two (2) years including pilot project work with appropriate accuracy levels in forecasting. However, in case of the Wind Turbine Manufacturer or individual Wind/Solar generator is acting as QCA, the experience clause is not applicable.	Clause 3.2.3 on page no. 4 The financial strength of the QCA must be such that it should be in a position to handle the risk of penalties due to deviation charges applicable to generator. Considering this, the average Net Worth of the QCA for forecasting & scheduling services must be in positive amounting to at least Rs.2.75 Crores (Net worth = Share Capital + Reserve - Revaluation Reserve - Intangible Asset - Misc. Expenditure to the extent not written off - Carried

				Forward Losses - Liabilities) in the current financial year which should reflect from its audited balance sheet or CA' s certificate.
3	Gujarat	<p>Clause 5 on page no. 12</p> <p>Any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person shall be eligible to act as a QCA provided it satisfies the qualifying criteria as laid down hereunder</p>	<p>Clause 5.1 on page no. 12</p> <p>The QCA shall have the experience of minimum 1 year in the field of Wind / Solar Power forecasting and scheduling.</p>	<p>Clause 5.2 on page no. 12</p> <p>The financial strength of the QCA must be such that it should be in a position to handle the risk of penalties on account of deviation by the generator. Accordingly, the net worth of the QCA from forecasting & scheduling services must be positive amounting to at least Rs. 2.5 Crores in the recent last financial year which should reflect from its audited balance sheet or from the certificate of a practicing Chartered Accountant.</p>
4	Chhattisgarh	<p>Clause 6 on page no. 7</p> <p>The QCA shall be appointed by REGS which may be one of the generators amongst them or any mutually agreed agency, any company or body corporate or association or body of individuals, or artificial juridical person incorporated/ registered under</p>	<p>Clause 6 (iii) on page no. 7</p> <p>The QCA shall have the experience of minimum two (02) years in the field of RE forecasting and scheduling.</p>	<p>Clause 6 (iv) on page no. 8</p> <p>The financial strength of the QCA must be such that it should be in a position to handle the risk of penalties on account of deviations by the generators. The Minimum Annual Average Turnover (MAAT) of the QCA must be Rs.2.5 Crore or 10% of the project cost of the pooled partners whichever is more,</p>

		the company laws of India shall be eligible to act as a QCA.		in consecutive three (03) year from last five (05) years. The recent/ last financial year should reflect from its audited balance sheet or from the certificate of a practicing chartered accountant.
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As per the comparative analysis tabulated above it is well confirmed that there is no condition that QCA should be registered under companies act 2013.

7.12 It is worthwhile to mention here that the our country is moving with very good vision on generation of power through the Renewable Energy Sources i.e mainly wind and solar. In this situation there is a strict requirement of QCA and by amending the clause (6) of Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation as approved by the HERC in accordance with Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019 And relaxing the condition as per sub clause (i) incorporation under Companies Act-2013 , Sub clause (V) Net worth and allowing the Joint Ventures to apply as QCA will definitely serves the purpose of the regulation in the best interest of the Generators as well as QCA.

8. **Comments of M/s Saini Power Transactor:** Sh. Gaurav Saini from Saini Power Transactor also submitted his comments. Although, all the aspects of Aggregator in Power Sector were commented by the stakeholder but the relevant part to this petition was addressed as under:

8.1 Clause 6(v)

"The QCA shall have capability to handle multiple plant owners connected to a pooling station in order to be well positioned to de-pool deviation charges. The financial strength of the QCA shall be such that it shall be in o position to handle the risk of penalties due to deviation charges applicable to pool generator. Considering this, the net worth of the QCA shall be a least RS- 1.50 Crores in the previous financial year (Net worth = Share Capital + Reserve - Revaluation Reserve - Intangible Asset - Misc. Expenditure to the extent not written off- Carried Forward Losses - Liabilities), which shall reflect from its audited accounts duly certified by the Chartered Accountant. "

8.2 Comment: We are of the view that it is without a doubt that there should be some minimum criteria in order to ensure that the QCA has enough capital to invest in the required infrastructure and to execute day to day operation, but such a condition should also be there that the firm can overleverage such a provision. The criteria mention by the Hon'ble HERC is totally justified and creates a balance scenario. Further several State Commissions have similar net-worth criteria

....

- 8.3 Further it is also suggested that Hon'ble HERC should focus on promoting the local players more by providing options for local players which will help in generating employment, revenue, and expertise in the state, which will help the state in the long run. Already there are very few players as QCA, and this has created a monopolistic market where these few players are only one engaged in the forecasting services and no new players are entering into the market.
- 8.4 It is also informed that I am fulfilling the criteria of net-worth as mentioned in the clause 6(v) of the Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation but my firm is a proprietorship firm and also does not have the experience required. This has created a paradoxical situation where cannot gain experience until and unless i start providing forecasting services, but these forecasting services cannot be provided to the client until and unless I become a QCA.

9. **Commission's Analysis and Order:**

- 9.1 The Public Hearing was held on 21/05/2025, as scheduled, in the court room of the Commission.
- 9.2 At the outset, Sh. Aditya Singh counsel for the petitioner re-iterated the contents of the petition and submitted that the Hon'ble Commission in clause No. 6(v) of Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation (As approved vide order dated 08.03.21 in PRO 42 of 2020) approved the formula for calculating Net worth of prospective Qualified Co-ordinating Agency (QCA) as under:

"6. Qualifying Requirement for QCA:

In case of appointment of any mutually agreed agency other than the Generator(s), the pool generators shall consider following guiding principles for appointment of QCA. Adherence to these guiding principles for appointment of QCA would be in the interest of pool generators and would facilitate smooth implementation of F&S framework in the State. Further, the QCA shall be appointed with the approval of at least 51 % of the generators at the pooling sub-station in terms of combined installed capacity.

Operational requirements:

i. The QCA shall be a company incorporated in India under the Companies Act, 1956/2013.

.....

v. The QCA shall have capability to handle multiple plant owners connected to a pooling station in order to be well positioned to de-pool deviation charges. The financial strength of the QCA shall be such that it shall be in a position to handle the risk of penalties due to deviation charges applicable to pool generator. Considering this, the net worth of the QCA shall be a least RS. 1.50 Crores in the previous financial year (Net worth = Share Capital + Reserve - Revaluation Reserve - Intangible Asset - Misc. Expenditure to the extent not written off - Carried Forward Losses - Liabilities), which shall reflect from its audited accounts duly certified by the Chartered Accountant."

9.2.1 The said formula is not in consonance with any standard accounting procedure due to which very few QCA get qualified for registration with SLDC and further submitted:

9.2.2 That, under Companies Act, 2013, the definition of net worth given under Section 2(57) can be understood as follows:

Net worth = Paid-up Share Capital
 (+) Reserves (excluding revaluation reserves)
 (-) Accumulated Losses
 (-) Deferred/Miscellaneous Expenditure not written off

The analysis of the above definition indicates that net worth is the difference between assets and liabilities, which is nothing but shareholders' funds or equity and is represented in financial statements by way of share capital plus reserves.

However, calculation of Net Worth, as given under Detailed Procedure is given as follows: Net Worth = Share Capital

(+) Reserve
 (-) Revaluation Reserve
 (-) Intangible Asset
 (-) Misc. Expenditure to the extent not written off
 (-) Carried Forward Losses
 (-) Liabilities

9.2.3 That, the layman's formula for calculating net worth i.e. Asset (-) Liabilities was converted into a formula by the Companies Act, 2013 which ensured that the liabilities are deducted from the assets in the form of Accumulated Losses as well as Deferred/Miscellaneous Expenditure not written off. Thus, when the Detailed Procedure deducts liabilities again, it leads to a double deduction in the calculation of net worth. Now since the amount coming out at the end of the formula is lowered due to double deduction, the generators become ineligible for being assigned the role of a QCA. The difference in the formula leading to double deduction is given as follows:

	Companies Act, 2013	Detailed Procedure
	Paid-up Share Capital	Share Capital
Add	Reserves (excluding revaluation reserves)	Reserve (Minus Revaluation Reserves)
Minus	Accumulated Losses	Carried Forward Losses
Minus	Deferred/Miscellaneous Expenditure not written off	Misc. Expenditure to the extent not written off
Minus	---	Intangible Assets
Minus	---	Liabilities

9.2.4 That a joint analysis reveals that the Respondent has included additional adjustments to the Companies Act definition, specifically:

- Intangible Assets Adjustment: Justifiable as goodwill from mergers or amalgamations should not inflate net worth.
- Liabilities Adjustment: The addition of liabilities in the formula is inconsistent with the standard definition of net worth, which already accounts for liabilities. Subtracting liabilities again results

in a double deduction and provides a distorted picture of financial health.

- 9.2.5 Regulation 18, 19 and 20 of the HERC (Deviation Settlement for Solar and Wind Generation) Regulations, 2019 provides Hon'ble commission the power to amend, power to remove difficulties and power to relax, respectively. The relevant provisions are quoted below:

"18. Power to amend

The Commission may, at any time, vary, alter, modify or amend any provisions of these Regulations.

19. Power to remove difficulties

If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by general or specific order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty.

20. Power to Relax:

The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected by grant of relaxation, may relax any of the provisions of these Regulations on its own motion or on an application made before it by an interested person."

- 9.2.6 Regulation 65, 66, 67 and 68 of the HERC (Conduct of Business) Regulations, 2019 provide this Hon'ble Commission with inherent powers and general power to amend.

Relevant provisions are extracted below:

"Saving of inherent power of the Commission

65. Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for ends of justice or to prevent the abuse of the process of the Commission.

66. Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Act a procedure at variance with any of the provisions of these Regulations if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.

67. Nothing in these Regulations shall, expressly or impliedly, bar the Commission to deal with any matter or exercise any power under the applicable legal framework for which no Regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.

General power to amend

68. The Commission may, at any time and on such terms as to costs or otherwise as it may think fit, amend any defect or error in any Proceedings before it, and all necessary amendments shall be made for the purpose of determining the real question or issue arising in the Proceedings."

9.3 Ms. Sonia Madan counsel for the respondent HVPNL submitted that it had been observed that as per the current formula, the net worth is calculated in such a manner that both direct liabilities and associated deductions are accounted for twice, thereby artificially reducing the computed net worth of the QCA. Consequently, several prospective QCAs, despite having adequate financial strength, are rendered ineligible under the said clause due to an artificially reduced net-worth when computed as per the prescribed formula. The respondent-HVPNL agrees with the proposal for correction in the formula as per companies act.

9.4 The Intervener M/s REConnect in its representation submitted that Share Capital + Other Equity/Reserve and Surplus is always equal to Total Assets -Total Liabilities. So, when as per the formula stated in the Clause 6 (v) of the Detailed Procedures, liability is again deducted from share capital and reserves, it leads to double deduction of single accounting head i.e., liabilities which creates a negative impact on overall calculation as well as technical/quantitative reduction in valuation of Net Worth for any company. The Negative Impact of the said formula can be observed in the following example:

Particulars	Companies Act, 2013	Detailed Procedures
Share Capital	5,25,000	5,25,000
Total Reserves	2,50,000	2,50,000
Less: Revaluation Reserves	60,000	60,000
Less: Intangible Assets	1,00,000	1,00,000
Less: Misc. Expenses	30,000	30,000
Less: Carry Forward Losses	20,000	20,000
Net Worth as per Companies Act, 2013	5,65,000	5,65,000
Less: Liabilities		210,000
		3,55,000

REConnect Energy is in concurrence with the request filed by the petitioners and supports the amendment of the Net Worth Formula in the Clause 6(v) of the Detailed Procedures to be in line with the Net Worth as defined in the Companies Act, 2013. This step will enable the generators to appoint the QCAs to undertake the implementation of the provisions of Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019 for their assets as well as support HVPNL in efficient Grid Management.

9.5 The representative of M/s Ask Automotive (the co-petitioner) submitted that in order to balance the equity on both sides as a one-time measure, the Commission may be kind to direct the Discoms to allow energy account adjustment from 23.03.2025 upto the time when QCAs are

registered, to the petitioner in accordance with the scheduling provisions contained in the HERC OA Regulations, 2012 and thereafter in accordance with the applicable provisions of the HERC GEOA Regulations, 2023. The Commission observed that the averments being made are not relevant to the present petition, hence cannot be considered in this petition.

- 9.6 The Intervener Sh. Akshay Gupta, Advocate submitted that the present petition is filed by the petitioner for amendment in the provisions of clause 6(v) of Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation as approved by the HERC in accordance with Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019 with respect to formula of net worth of qualified coordinating agency but the time has come now to have a relook at these qualifying requirements listed at Clause no. "6" of the "Procedure". The Commission observes that objections filed by Sh. Akshay Gupta, Advocate are not relevant to the present petition hence cannot be considered. However, he has supported the amendment to clause 6(v) of the procedure in line with companies act.
- 9.7 The intervener M/s Saini Power Transactor has submitted in the written submissions that HERC should focus on promoting the local players more by providing options for local players which will help in generating employment, revenue, and expertise in the state, which will help the state in the long run. Already there are very few players as QCA, and this has created a monopolistic market where these few players are only one engaged in the forecasting services and no new players are entering into the market. It is also informed that I am fulfilling the criteria of net-worth as mentioned in the clause 6(v) of the Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation but my firm is a proprietorship firm and also does not have the experience required. This has created a paradoxical situation where I cannot gain experience until and unless I start providing forecasting services, but these forecasting services cannot be provided to the client until and unless I become a QCA. The criteria mention by the Hon'ble HERC is totally justified and creates a balance scenario. Further several State Commissions have similar net-worth criteria. The Commission observes that the Commission is liable to clear the ambiguity in interpretation of the formula if any.
- 9.8 Upon perusal of the records available and averments made by the parties, the Commission observes that the petitioners have made a prima facie credible case that there is some ambiguity in interpretation of the current net worth formula under Clause 6(v) due to which it is being interpreted that liabilities are required to be deducted twice which is inconsistent with both legal and accounting standards prevailing in India. The plea to clear the ambiguity by harmonizing the formula with the Companies Act, 2013 is reasonable and justified. Further, due to

existing formula of Net worth only few applicants are getting qualified for registration as QCA which is restricting competition. Therefore, the Commission in exercise of inherent power to amend, to remove difficulty and to relax the regulations/procedures, decides that the clause No. 6(v) of Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation clause shall be substituted as under:

“The QCA shall have capability to handle multiple plant owners connected to a pooling station in order to be well positioned to de-pool deviation charges. The financial strength of the QCA shall be such that it shall be in a position to handle the risk of penalties due to deviation charges applicable to pool generator. Considering this, the net worth of the QCA shall be a least RS. 1.50 Crores in the previous financial year (Net worth = Share Capital + Reserve - Revaluation Reserve - Intangible Asset - Misc. Expenditure to the extent not written off - Carried Forward Losses), which shall reflect from its audited accounts duly certified by the Chartered Accountant.”

9.9 The petition is disposed of in above terms.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 22/05/2025.

Date: 22/05/2025
Place: Panchkula

(Mukesh Garg)
Member

(Nand Lal Sharma)
Chairman