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

**HERC/Petition No. 56 of 2024**

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| **Date of Hearing** | **:** | **09.07.2025** |
| **Date of Order** | **:** | **28.07.2025** |

**In the Matter of**

**Petition under Section 86 (1)(e) and (f) of the Electricity Act 2003, read with Regulation 10 of the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 and Clause 5 of the Procedure for grant of Connectivity to Intra-State Transmission or Distribution System issued under Regulation 6 of the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023, Clause 3B(vii) of the Haryana Bio-energy Policy 2018 and Article 12.3 of the Power Purchase Agreement dated 22.02.2019, inter alia seeking direction for upgradation of the existing power evacuation system of the Petitioner's 15 MW Paddy Straw Based Biomass Power Project located at Village Chajjupur, Tehsil Pehowa, Distt. Kurukshetra, Haryana; and seeking damages on account of the frequent trippings of the Project being caused inter alia due to the inaction of the Respondents to provide appropriate evacuation system to properly cater the requirements of the Petitioner's Project.**

**Petitioner**

1. M/s. Hind Samachar Ltd.

**Respondents**

1. Haryana Power Purchase Centre (HPPC), Panchkula
2. Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL)
3. Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL)
4. Haryana Vidyut Prasaran Nigam Ltd (HVPNL), Panchkula
5. Haryana Renewable Energy Development Agency (HAREDA)

**Present on behalf of the Petitioner**

1. Shri Buddy Ranganathan, Advocate
2. Shri Aniket Prasoon, Advocate
3. Shri Aman Shikh, Advocate
4. Shri Adarsh Kumar Bhardwaj, Advocate
5. Shri Shubham Singh, Advocate
6. Ms. Shefali Tripathi, Advocate
7. Ms. Maulishree Gupta, legal representative for the petitioner
8. Shri Puneet Upneja, legal representative for the petitioner
9. Shri S.P. Bakshi, Plant Head of the petitioner

**Present on behalf of the Respondents**

1. Ms. Sonia Madan, Advocate for R-1 to R-4
2. Shri Lovepreet Singh, Advocate for R-1 to R-4
3. Shri Gaurav Gupta, Xen, HPPC

**Quorum**

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

**ORDER**

## Brief Background of the case

1. The present petition has been filed by M/s. M/s. Hind Samachar Ltd. claiming damages of Rs. 5.83 crore along with interest, on account of the frequent trippings of the Project

being caused inter alia due to the inaction of the Respondents to provide appropriate evacuation system to properly cater the requirements of the Petitioner's Project. Further, a prayer has been made to direct the respondents (UHBVNL/HVPNL) to carry out upgradation of the existing power evacuation system of 33 kV to 132 kV to ensure efficient evacuation of electricity from the Petitioner's Project and to specifically prevent the instances of trippings.

2. **Petitioner's submissions:-**

The petitioner has submitted as under:-

2.1 That the HAREDA issued the Request for Proposal ("*RfP*") "*For Setting up of Paddy Straw Based Biomass Power Projects on Build, Own & Operate (BOO) basis in Haryana*". In response, Hind Samachar submitted its proposal for setting up of the Project, and same was approved by HAREDA by way of its Letter of Intent dated 16.02.2018 ("*LOI*") for allotment of the Project to Hind Samachar.

2.2 That the HAREDA signed a Memorandum of Understanding dated 03.04.2018 ("MOU") with Hind Samachar for the implementation of the Project.

2.3 That the Government of Haryana on 09.03.2018 formulated the Bio Energy Policy to promote generation of energy from the surplus biomass in the State. The Government of Haryana implemented the said Policy upon considering that the State of Haryana has potential to generate about 1000 MW of power by utilizing the biomass from the residues of the crops which will aid in reducing air pollution on account of burning of the residues of the crops and will also create alternate stream of income to farmers and employment in rural areas. Further, the objective behind the said policy was to *inter alia* create a conducive environment to attract private investment in biomass projects. As per Chapter 3, Clause B(iii), the State Transmission Utility or the Transmission/Distribution Licensee shall bear the cost of Extra High Voltage ("*EHV*")/ High Voltage ("*HV*") transmission line up to a distance of 10 Kms. from the interconnection point. Further, as per Chapter 3, Clause (B)(vii), the Power utilities are required to keep on upgrading the capacity of transformer/evacuation facility including the substation from time to time as per the generation requirement. The relevant extract of the Bio Energy Policy is as under:

*The Haryana Government is committed to promote and develop biomass-based projects to harness clean power and safeguard environment. It will provide following incentives for such projects set up in the State to eligible project developers:*

*B. Grid Interfacing and Power Evacuation*

*(iii) The State transmission utility or the Transmission/Distribution Licensee shall bear the cost of Extra High Voltage (EHV)/ High Voltage (HV) transmission line up to a distance of 10 km. from the inter connection point. In case the distance between the inter connection, point and point of grid connectivity is more than 10 kms then the cost*

*of transmission line for the distance beyond the 10 kms shall be borne equally between the Independent Power Producer and the licensee.*

(vii) Power utilities will keep on upgrading the capacity of transformer/evacuation facility including the substation from time to time as per the generation requirement."

(Emphasis Supplied)

2.4 That Hind Samachar by way of its application dated 14.06.2018 to Haryana Vidyut Prasaran Nigam Limited ("HVPNL") sought for grid connectivity at 132 kV Malikpur S/s. However, HVNPL by way its letter dated 16.10.2018, apprised Hind Samachar application dated 14.06.2018 that connectivity approval of the Project is feasible at 33 kV Malikpur S/s.

2.5 That on 04.10.2018 the HPPC filed an application bearing Case No. HERC/PRO-45 of 2018 before this Hon'ble Commission seeking approval and signing of the PPA for procurement of 49.8 MW power from paddy straw biomass-based power projects under the RfP in Kurukshetra, Jind, Kaithal and Fatehabad.

2.6 That the Petitioner by way of its letter and email dated 27.12.2018 to the HVPNL, highlighted that the connectivity approval granted by HVPNL to the Petitioner's Project at 33 kV Bay in Malikpur S/s is not viable for its Project and that the same will result in losses to the tune of 5 lakh units/year.

2.7 That this Hon'ble Commission vide its order dated 03.01.2019 in Case No. HERC/PRO-45 of 2018 whilst approving the PPA exercised its power to relax stipulated under Regulation 65 of the HERC (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2017 ("*HERC RE Regulation*") and accorded '*Must Run'* status to the biomass projects to be implemented under the RfP including the Petitioner's Project. The relevant extract of the order dated 03.01.2019 issued by this Hon'ble Commission in Case No. HERC/PRO-45 of 2018 is as under:

*"11. Having approved the source of power procurement the Commission has perused the draft PPA(s) submitted by the petitioner as well as submissions made by the parties in the hearing held on 18.12.2018 in the matter.*

*The Commission observes as under: -*

*i) The Ld. Advocate appearing for M/s. Hind Samachar and M/s. Sukhbir Agro Energy argued at length that such projects ought to be accorded 'must run status' by relaxing any regulations in vogue to the contrary. The Commission has considered the submissions of the Ld. Counsel on this issue and observes that the RE Regulations in vogue provides for 'must run status' to RE Power Plants below 10 MW only. However, given the fact that neither intra-state ABT has been introduced in Haryana nor any Regulations including the Haryana Grid Code in vogue provides for deviation / energy settlement for intra-state RE Power Plants with single part tariff, moreover, the RE*

*Projects, including paddy straw based, are being encouraged in the State in fulfilment of RPO of the Discoms as well as to encourage green power due to environmental concerns, the Commission, in exercise of power vested in it under regulation 65 of the Haryana Electricity Regulatory Commission (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2017 and in public interest relaxes the provisions of regulation 10 of the ibid regulations. Hence, all such power projects shall have 'must run status'. It is added that for accounting purposes the SLDC shall maintain the requisite records of actual energy generated and injected by the RE Power projects into the Grid."*

(Emphasis Supplied)

2.8 That HPPC and Hind Samachar entered into a Power Purchase Agreement dated 22.02.2019 ("*PPA*") setting out the terms and conditions of the supply of power from the Project which will be procured by HPPC on behalf of UHBVNL and DHBVNL. As per Article 11.3, the Project is '*Must Run*' plant. Additionally, Article 15.2(b) of the PPA provides for the events of default of HPPC and states that failure to use reasonable diligence in operating, maintaining or repairing of the HVPNL's interconnection facilities. The relevant provision of the PPA is reproduced hereinbelow:

"*11.3 The generating plant of the Seller being a must run plant as per clause 10(1) of HERC Regulation 40/2018 (Terms & Conditions for determination of Tariff from Renewable Energy Source, Renewable Purchase Obligation and Renewable Energy Certificate) and its amendments from time to time, shall not be subject to 'merit order dispatch' principle.*

*15.2 EVENTS OF DEFAULT OF HPPC:-*

*b) Failure to use reasonable diligence in operating, maintaining or repairing the Nigam's interconnection facilities;*

(Emphasis Supplied)

2.9 That thereafter, HVPNL issued an evacuation and connectivity approval to the Petitioner's Project at 33 kV voltage level from 132 kV Malikpur S/s by way of its letter dated 04.07.2019 bearing Memo No. Ch-28/ISB 571. As per the said approval, 33kV Bay at 132 kV Malikpur S/s was to be installed by Petitioner and the 33 kV line for providing connectivity to the Petitioner from 132 kV Malikpur S/s was to be constructed by UHBVNL as per Regulation 59 of the Haryana Electricity Regulatory Commission (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2017.

2.10 That the Petitioner by way of its emails dated 14.11.2019 and 26.11.2019 addressed to the Respondents while referring to HERC RE Regulations (as amended) highlighted that the creation of 1 no. 33 kV Bay for power injection at 132 kV Malikpur S/s ought to

be developed by the Respondents and requested the Respondents for amendment of the said connectivity approval.

2.11 That thereafter, on September 2020, HVPNL by way of its letter cancelled the creation of 1 no. 33 kV Bay for power injection at 132 kV Malikpur S/s and allocated 1 no. 33 kV Bay at 132 kV Malikpur S/s spared on account of shifting of 33 kV Bodhni Substation to Petitioner's Project.

2.12 That the Project achieved commercial operational ("COD") on 14.02.2022. In this regard, a report of committee comprising of officers of HPPC was issued on 15.02.2022 ("COD Report").

2.13 That the Petitioner/Hind Samachar commenced supply of power from its Project from the COD i.e., 15.02.2022. However, from the very inception of the commencement of supply of power from the Project, the Petitioner started facing issues related to trippings on account of which the Project was not able to operate at its optimum capacity. Notably, the Petitioner was facing such issues on account of the following:

(a) The voltage level of the transmission system (i.e. 33 kV) from the Project to the Malikpur S/s is not sufficient to cater the evacuation of power from the Project.

(b) The quality of equipment (including but not limited to conductors, jumpers and clamps etc.) installed by UHBVNL/HVPNL in the evacuation system of the Project is substandard and is susceptible to breakdown.

(c) The outgoing feeder of the 33 kV Bay installed at the Malikpur S/s is being utilised by multiple agricultural consumers and the evacuation system of such consumers are not properly maintained and are poorly managed.

2.14 Consequently, a meeting was held on 11.07.2022, between the Petitioner and the representatives of HVPNL. During the meeting, it was highlighted by the Petitioner that there were significant variations in grid voltage on the 33 kV Bay at the 132 kV Malikpur S/s, ranging from 26 kV to 36.5 kV against the norm of 33 kV which had resulted in the 15 MW Turbo Generator set at the Petitioner's Project to frequently de-synchronize from the grid. The issues highlighted by the Petitioner was discussed/deliberated and was concluded as "*33kV Sainsa feeder (25 MVA) being fed from 16/20 MVA, 132/33 kV, T/F T-2, may be shifted on 20/25 MVA, 132/33 kV, T-4 at 33 kV Malikpur Bay and 33 kV Malikpur (10 MVA) likely to be augmented shortly may be shifted on 16/20 MVA 132/33 kV T/F T-2 at 33kV Sainsa Bay to overcome the problem of voltage fluctuations which has raised due to overlapping of grouping of feeder in PRMs. The system may be kept under observation to assess its impact*." The details of the said meeting held on 11.07.2022 was highlighted by the SE/TS Circle, HVPNL to the Chief Engineer/TS, HVPNL by way of its letter dated 12.07.2022.

2.15 Despite discussions and proposed solutions, such as shifting loads to different transformers and feeders, and keeping the system under observation to assess its impact, the voltage fluctuation issue remains unresolved.

2.16 That thereafter, Petitioner by way of its letter dated 01.01.2023 inter alia highlighted that the Project is experiencing multiple trippings due to the poor workmanship of the evacuation system associated with the Petitioner's Project and the undersized capacity of the transformer.

2.17 Further, a meeting was convened between the representatives of the Petitioner and HVPNL on 17.01.2023, wherein the issues faced by the Petitioner (as highlighted in its letter dated 01.01.2023) was deliberated and discussed. It was inter alia agreed that the maintenance of substation would be carried out with proper coordination of the utilities i.e., HVPNL and the Petitioner.

2.18 That thereafter, the Petitioner by way of its emails dated 24.05.2023 and 25.05.2023 requested UHBVNL to convene a meeting to discuss the issue in relation to evacuation of power from the Project.

2.19 That the Petitioner by way of its email dated 21.06.2023 highlighted that the Petitioner had set up the Project under the Bio Energy Policy and the Project comes under the 'Must Run' category as per the PPA. Further, the Petitioner also stated that its Project could only achieve 70 % Plant Load Factor ("PLF") in the first-year post COD as against the required 80% PLF under the PPA. The Petitioner also highlighted that since the COD, the Project is facing frequent trippings issues due to variation in the down the line distribution at 11 kV. The Petitioner in the said email also stated that the main issue of frequent trippings at the Project is due to the under-capacity 132/33 kV-16/20 MVA transformer at Malikpur S/s, which needs to be replaced with a 20/25 MVA transformer to ensure maximum injection of power.

2.20 That thereafter, a meeting was held on 23.06.2023 between the concerned representatives of the Petitioner, HVPNL and UHBVNL wherein the issue with regard to trippings faced by the Petitioner's Project was discussed and deliberated and it was *inter alia* concluded as: *(a)* The trippings data provided by the Petitioner will be reviewed jointly by HVPNL, UHBVNL and the Petitioner; *(b)* Joint inspection of 33 kV transmission line from the Project to 33 kV Bay at Malikpur S/s will be carried out by UHBVNL and the Petitioner; (c) The proposal for augmentation of transformers will be explored according to anticipated load growth in the area/generation capacity of the Petitioner's Project.

2.21 Thereafter, the Petitioner by way of its email dated 28.06.2023 to the Respondents reiterated its concern of frequent/multiple trippings of the Project on account of

outgoing rural feeders and poor quality of the transmission line. In addition, the Petitioner requested for upgradation of its evacuation system of 33 kV to 132 kV.

2.22 Further, the Petitioner again sent an email dated 01.07.2023 to UHBVNL wherein it highlighted that due to the issue of trippings the PLF of the Project is not meeting the parameters as per the PPA. The Petitioner in the said email also reiterated that, due to poor components of the 33 kV power evacuation line, i.e., poor quality of conductors, pin insulators, jumpers, etc. installed by UHBVNL, trippings usually take place in the Project.

2.23 Further, a memorandum seeking administrative approval of the augmentation from 16/20 MVA 132/33kV T/F T-2 to 20/25 MVA 132/33kV T/F at 132 kV Malikpur S/s under TS Division HVPNL Kurukshetra for strengthening and reliability of power system was issued by HVPNL on 06.07.2023. Meeting was convened on 07.07.2023 to discuss grid trippings data from December, 2022 to May 2023 of the Petitioner's Project. Thereafter, while referring to the said meeting, the Executive Engineer, TS Division, HVPNL Kurukshetra by way of its letter dated 19.07.2023 to the Superintending Engineer, TS Circle, HVPNL Karnal forwarded the abovementioned memorandum dated 06.07.2023 and requested to take necessary action towards the same.

2.24 That the Petitioner by way of its e-mails dated 15.07.2023 to UHBVNL highlighted the issues with regard to constant trippings at the Project on account of 33 kV evacuation system and poor quality of equipments at the transmission line from the Project to the Malikpur S/s.

2.25 That thereafter, upon availing no positive response from UHBVNL, the Petitioner vide its letter dated 10.07.2024 to Additional Chief Secretary Power, Haryana brought the attention the ongoing issues with the poor quality of the 33 kV power evacuation line from Petitioner's Project to the 132 kV Malikpur S/s, which was constructed by UHBVNL as per the Bio Energy Policy. The Petitioner further highlighted that despite more than two years since the COD of the Project, the Petitioner has been facing regular problems of trippings due to the substandard quality of the 33 kV line. The Petitioner also highlighted the said issues of trippings have been repeatedly reported to UHBVNL and HVPNL, and despite the same no fruitful results have been achieved. In addition, the Petitioner emphasized the critical role of its Project, including annual consumption of 1,50,000 tons of paddy straw, reducing fire incidents in Kurukshetra district, providing employment, and generating regular income for farmers. Accordingly, the Petitioner requested an upgrade of the existing 33 kV power evacuation line to ensure the survival and efficient operation of its Project.

2.26 That the Hind Samchar is submitted that on account of the foregoing issues being faced by the Petitioner at its Project from February 2022 to August 2024, the Project

experienced a total of 430 instances of tripping. Out of these; 94 instances (22%) were due to grid supply failures; 240 instances (56%) were due to earth faults from the common 33 kV bus (i.e., outgoing feeder being utilized by agricultural consumer); 31 instances (7%) were due poor quality of equipment installed by UHBVNL in the transmission evacuation system; and 65 instances (15%) were due to voltage fluctuations at Malikpur S/s. Pertinently, these trippings have resulted in substantial generation loss in terms of the number of units which in the present instance is equivalent to 1,05,58,100 kWh.

Notably, the said generation loss in terms of units corresponded to the revenue losses amounting to Rs. 5,83,78,800/- (Rupees Five Crores Eighty-Three Lakhs Seventy-Eight Thousand & Eight Hundred only) which is calculated as on 31.08.2024. The aforesaid details are being set out in a tabular form hereinbelow for the ease of reference:

| **SUMMARY FROM COD (2022) TO 31 AUGUST -2024 OF HSL PLANT TRIPPING FROM GRID AND HSL TRANSMISSION LINE FAULTS** | | | | | | |
|---|---|---|---|---|---|---|
| **S. No** | **Equipment Installed** | **Tripping instances** | **Total Tripping Nos.** | **Generation loss (MWH)** | **Revenue loss (in Rs)** | **Remarks w.r.t. required Upgraded/New equipments** |
| **1.** | Turbine Generator De - Synch. | 33 kV Grid Supply failed from 132 KV GSS, Malikpur | 94 | 1762 | 100.38 | Required 132 KV transmission line and Bay |
| **2.** | Turbine Generator De - Synch. | Earth Fault from 33 KV Common Bus at 132 KV GSS, Malikpur | 240 | 6549.1 | 363.79 | Required 132 KV Bus at GSS, Malikpur |
| **3.** | Turbine Generator De - Synch. | Breakdown in 33 KV HSL Transmission line / Poor Wolf Conductor and accessories | 31 | 1332 | 67.33 | Required 200 SQMM Panther Conductor with accessories |
| **4.** | Turbine Generator De - Synch. | Under Voltage / Voltage Fluctuation/Jerk in 33 KV Voltage from 132 KV GSS, Malikpur | 65 | 915 | 52.31 | Required Trafo upgradation 132 KV/33KV Transformer 16/20 MVA to 20/25 MVA |
| | | **Total** | **430** | **10558.1** | **583.81** | |

2.27 That the Petitioner is constrained to approach this Hon'ble Commission inter alia seeking upgradation of the power evacuation system of its Project having connectivity at 33 kV Bay at Malikpur S/s through 33 kV transmission line from the Project to the Malikpur S/s and for claiming losses suffered by the Petitioner on account of the lackadaisical approach on part of the Respondents.

2.28 For that, as per Chapter 3 Clause (B)(vii) of the Bio-Energy Policy, the power utilities are required to continually upgrade the capacity of transformers and evacuation facilities, including substations, as per the generation requirements. In addition, as per Chapter 3 Clause B (v) of the Bio-Energy Policy, the cost of any augmentation required after the interconnection point in the grid system of the Transmission/Distribution Licensee shall also be borne by the concerned Transmission/Distribution Licensee.

2.29 That as per Regulation 67 of the HERC Regulation 2021 envisages that the State Transmission Utility or the Transmission/Distribution Licensee shall bear the cost of EHV/HV transmission line up to a distance of 10 Km. from the interconnection point and therefore, UHBVNL is ought to provide the Petitioner's Project with an upgraded connectivity line for evacuation of power from the present 33 kV power evacuation line till the Malikpur S/s to 132 kV line. Notably, a similar provision has been incorporated in the Chapter 3 Clause B(iii) of the Bio Energy Policy.

2.30 That the Respondents (at their own cost) has an obligation to rectify the issues faced by the Petitioner's project by carrying out necessary upgradation of the power evacuation system of Petitioner's Project having connectivity at 33 kV Bay at Malikpur S/s through 33 kV transmission line from the Project to the Malikpur S/s.

2.31 That UHBVNL has the authority to upgrade the existing 33 kV power evacuation system to 132 kV. It is submitted that Section 21 of the General Clauses Act, 1897 states that power to issue, includes a power to add, amend, vary or rescind. In this regard, reliance is placed on the following judgments of the Hon'ble Supreme Court:

a. ***Shree Sidhbali Steels Ltd. and Ors. v. State of U.P. and Ors.***, (2011) 3 SCC 193

"*38.* ***Section 21 is based on the principle that power to create includes the power to destroy and also the power to alter what is created. Section 21, amongst other things , specifically deals with power to add to, amend, vary or rescind the notifications. The power to rescind a notification is inherent in the power to issue the notification without any limitations or conditions. Section 21 embodies a rule of construction. The nature and extent of its application must be governed by the relevant statute which confers the power to issue the notification, etc. However, there is no manner of doubt that the exercise of power to make subordinate legislation includes the power to rescind the same. This is made clear by Section 21.*** *On that analogy an administrative decision is revocable while a judicial decision is not revocable except in special circumstances. Exercise of power of a subordinate legislation will be prospective and cannot be retrospective unless the statute authorities such an exercise expressly or by necessary implication."*

(Emphasis Supplied)

b. ***D. Swamy Vs. Karnataka State Pollution Control Board and Ors.***, 2022 SCC Online 1278

"*23.* ***Section 21 of the General Clauses Act, 1897 provides that where any Central Act or Regulations confer a power to issue notifications, orders, Rules or bye-laws, that power includes the power, exercisable in the like manner, and subject to like sanction and conditions, if any, to add to, amend, vary or rescind any***

***notification, order, Rule or bye-law so issued. The authority, which had the power to issue Notifications dated 27th January 1994 and 14th September 2006 undoubtedly had, and still has the power to rescind or modify or amend those notifications in like manner. As held by this Court in Shree Sidhbali Steels Ltd. and Ors. v. State of Uttar Pradesh and Ors. MANU/SC/0219/2011: (2011) 3 SCC 193, power Under Section 21 of the General Clauses Act to amend, vary or rescind notifications, orders, Rules or bye-laws can be exercised from time to time having regard to the exigency.***"

(Emphasis Supplied)

2.32 That HVPNL as an authority has been conferred the power to upgrade the existing power evacuation system of 33 kV to 132 kV.

**Re. Poor quality of equipment installed by HVPNL in the evacuation system relating to the Petitioner**

2.33 That the reliability of the operation of the Petitioner's Project hinges not only on upgrading the power evacuation system of the Project from 33 kV to 132 kV but also on the quality of the equipment utilized, including conductors, clamps, and jumpers installed by UHBVNL/HVPNL. Notably, the quality in these components installed by UHBVNL/HVPNL are substandard and have regrettably contributed to frequent trippings of the project.

2.34 That, the conductors in the existing evacuation system are Wolf Conductors, which are specified for lower capacity transmission. This is in stark contrast to the other more robust Panther Conductor used in other successful projects. The technical specifications indicate that Panther Conductor have a larger cross-sectional area (261.50 $mm^2$ vs. 150 $mm^2$ for Wolf Conductor), higher tensile strength (89.67 kN vs. 67.34 kN for Wolf Conductor), and better current-carrying capacity, making them more suitable for high-capacity transmission lines.

2.35 That, considering the frequent trippings and significant operational losses faced by the Petitioner's Project, it is imperative to upgrade the power evacuation system by replacing the Wolf Conductor to the Panther conductors. This upgrade will align the infrastructure with the successful standards witnessed by the Petitioner at its other projects in the State of Rajasthan and Uttar Pradesh.

**Re. Utilization of 33 kV Bay installed at Malikpur S/s to undertake supply of power by way of common feeder to multiple agricultural consumers at 11 kV**

2.36 That, the 33 kV Bay at Malikpur S/s is being utilised for supplying power to numerous agricultural consumers at 11 kV has caused significant operational challenges, primarily stemming from the suboptimal maintenance of rural feeders and has led to the frequent tripping issues, disrupting the consistent supply of electricity. Moreover,

the voltage fluctuations caused by the varying power demands of agricultural consumers at the 11 kV level exacerbate these problems, further, compromising the stability of the supply of power from the Project.

2.37 That, it is further submitted that the Hon'ble National Green Tribunal ("NGT") by way of its order dated 10.12.2015 titled '*Vikrant Kumar Tongad v. Environment Pollution (Prevention & Control) Authority and Ors.*' has observed that "*the agriculture residue burning causes serious environmental hazards. It pollutes the air as excessive matters combine with other pollutants, causing serious issues in relation to public health.*" While observing so, the Hon'ble NGT directed the State Governments in the vicinity of National Capital Territory (i.e., Government of Rajasthan, Uttar Pradesh, Haryana and Punjab) to *inter alia* educate farmers regarding utilization of agricultural residues as a raw material for power generation and to ensure that small land holding farmers are provided with the aid and machines for extracting agricultural crop residue in their respective fields and transport them to the designated sites in the respective districts where either it is used as a fuel in the plants.

2.38 In addition, the Hon'ble NGT by way of its order dated 29.11.2023 in Original Application No.632/2023 titled 'News Item titled "Pollution takes a front seat as stubble fires spike in Punjab" appearing in Hindu dated 06.10.2023' upon considering the adverse impact of burning of crops residues had directed the State of Punjab and Haryana to prepare a time bound action plan to deal with the same. Pertinently, the action plan submitted by the State of Punjab highlights that Ministry of New and Renewable Energy ought to encourage promotion of use of paddy straw as fuel in biomass power plants and take necessary steps including policy interventions for promoting the establishment of such plants.

2.39 That, biomass power project (such as the Petitioner's Project) plays a crucial role in the global energy landscape due to their significant environmental, economic, and social benefits. Environmentally, biomass offers a renewable energy source derived from organic materials like agricultural residues and forestry by-products, contributing to reduced waste, lower greenhouse gas emissions compared to fossil fuels, prevents soil degradation and exponentially reduces air pollution resulting from burning of crop residue. Economically, biomass enhances energy security by providing a domestic energy source and stimulating rural economies through job creation and market opportunities for agricultural products. Bio-mass power project produces sustainable source of energy as the biomass used in the said power projects are derived from renewable and regenerative sources.

2.40 That, the operational challenges on account of trippings faced by the Petitioner's Project impede its ability to realize long-term benefits and is ought to be addressed by

the Respondents in order to maximize the optimization of Petitioner's Project which is not only environmentally benign but also entails sustainability of agricultural residues.

**Re. Liability of the Respondents to pay damages to the Petitioner on account of generation losses suffered by the Petitioner**

2.41 For that, Section 39(2)(c) and Section 40(a) of Electricity Act, casts a statutory obligation upon the STUs/ Transmission Licensees to ensure development, build, operate and maintain an efficient, coordinated and economical system of intra-state transmission lines for smooth flow of electricity from a generating station to the load centers. The relevant extract of the Electricity Act is as under:

"*Section 39. (State Transmission Utility and functions):*
*(2) The functions of the State Transmission Utility shall be*
***(c) to ensure development of an efficient, co-ordinated and economical system of intra-State transmission lines for smooth flow of electricity from a generating station to the load centre****;*
*Section 40. (Duties of transmission licensees):*
*It shall be the duty of a transmission licensee –*
***(a)to build, maintain and operate an efficient, co-ordinated and economical inter-State transmission system or intra-State transmission system, as the case may be;***"

(Emphasis Supplied)

2.42 That the Respondents (UHBVNL/HVPNL) ought to carry out necessary upgradation of the evacuation system of the Petitioner's Project to enable the Petitioner to operate its Project without any hinderances/transmission constraints leading to tripping. In addition, the Respondents (UHBVNL/HVPNL) ought to compensate the Petitioner towards the revenue losses to the tune Rs. 5,83,78,800/- (Rupees Five Crores Eighty-Three Lakhs Seventy-Eight Thousand & Eight Hundred only) which is calculated as on 31.08.2024 along with interest, suffered by it on account of Respondents inactions to upgrade the evacuation system of the Project which led to persistent trippings of the Project.

2.43 That the following prayers have been made: -

a) Admit the Petition;

b) Direct the Respondents (UHBVNL/HVPNL) to forthwith carry out necessary and appropriate upgradation of the existing power evacuation system of 33 kV to 132 kV to ensure efficient evacuation of electricity from the Petitioner's Project and to specifically prevent the instances of trippings;

c) Direct the Respondents to forthwith upgrade the evacuation infrastructure of the Project by way of installing better quality of conductors, jumpers and clamps and such other equipment necessary to ensure efficient evacuation of electricity from the Petitioner's Project and to specifically prevent the instances of trippings;

d) Direct the Respondents to compensate the Petitioner towards the revenue losses equivalent to Rs. 5,83,78,800/- (Rupees Five Crores Eighty-Three Lakhs Seventy-Eight Thousand & Eight Hundred only) which is calculated as on 31.08.2024 suffered by the Petitioner on account the constant trippings of the Project resulting into generation losses; and any additional revenue losses that the Petitioner may suffer till the actual payment of the losses by the Respondents in terms of the directions of this Hon'ble Commission

e) Direct the Respondents to pay interest on the principal amount of revenue losses to be paid in terms of the Prayer 7.4 above at the rate equivalent to the rate of LPS specified in Article 3.7 of the PPA;

f) Pass such other/further order(s) as the Hon'ble Commission may deem fit and proper in the facts and circumstances of the present case and in the interest of justice.

**Proceedings in the Case**

3. The case was initially heard on 16.12.2024. The Commission, vide its Interim Order dated 26.12.2024, allowed the respondents to file their reply and the petitioner was allowed to file its rejoinder on the same.

4. Reply filed by Respondents No. 1 to 4:-

The respondents no 1 to 4 filed their joint reply dated 06.02.2025, since the Distribution Network of Respondent No. 2 & 3– Uttar Haryana Bijli Vitran Nigam Ltd. ("UHBNL") and Dakshin Haryana Bijli Vitran Nigam Ltd. ("DHBNL") and the transmission system of Respondent No. 4 – Haryana Vidyut Prasaran Nigam Ltd. ("HVPNL") is involved for the onward sale of power from the plant of the Petitioner to Respondent No. 1- HPPC. The sum and substance of the submissions of the respondents are as under:-

4.1 That the Petitioner's plant is already connected to the grid, hence any reference made to Section 86(1)(e) of the Electricity Act, 2003, with respect to *"…providing suitable measures for connectivity with the grid"*, has no applicability to the facts and circumstances of the present case.

4.2 That insofar as the adjudication of the dispute between the parties, in terms of Section 86(1)(f) of the EA, 2003 is concerned, the Petitioner has never raised any 'dispute' with respect to the purported trippings or the compensation for the loss of revenue. The Petitioner has appended copies of Minutes of Meetings which shows that the action was taken by the Answering Respondents time and again only to address the issues raised. The same also been admitted by the Petitioner in its letter dated 01.01.2023 wherein the Petitioner has stated that certain problems earlier faced were *"taken care of"* by the Answering Respondents. Further, in email dated 21.06.2023, it has been

admitted by the Petitioner that – *"Although, a few problems have been resolved by the concerned officials but the following still remains to be looked into…."* Thereafter, meeting dated 23.06.2023 took place between the Petitioner and the Answering Respondents. A perusal of the Minutes of Meeting appended by the Petitioner shows that as per point no. 3, reproduced below, the action was required to be taken by the Petitioner:

*"3. It was decided that the M/s HSL (33 kV Biomass plant) shall conduct the protection audit of the relays installed at 33 kV Bio mass plant by the third party. Also, M&P wing of UHBVNL and HVPNL shall witness the testing after concurrence from the higher authority of HVPNL and UHBVNL. UHBVN shall conduct the inspection of 33 KV substation distribution protections."*

However, without conducting any protection audit, the Petitioner kept on writing emails to the Managing Director seeking upgradation/ replacement of the transformers. It is submitted that such emails could not be looked into unless the Petitioner took action in terms of Minutes of Meeting dated 23.06.2023. The Petitioner cannot be permitted to push the Answering Respondents to make changes to the existing system while refusing to take corrective measures on its own. The term 'dispute' means assertion of rights/claim/ demand by one party and rejection of the same by the other. In the present case though there has been an assertion of claim for upgradation of system, however, there has not been any explicit denial on the part of the Answering Respondents, as it was mutually resolved vide the Minutes of Meeting dated 23.06.2023 that the Petitioner would conduct protection audit, which has not been done till date. In fact, the claim with respect to the loss of revenue have been raised by the Petitioner for the very first time by way of the present petition. It is the case of the Answering Respondents that existence of a 'dispute' is a pre-condition for the applicability of Section 86(1)(f) of the EA, 2003. In the present, case there is no 'dispute' as the Petitioner has straightaway approached the Hon'ble Commission without raising all the issues with the Respondents. As such, the present petition is also not maintainable under Section 86(1)(f) of the EA, 2003.

4.3 That the provision with respect relaxation of power, provided under Regulation 10 of the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 (hereinafter "OA Regulations, 2023"), has been invoked; however, it is unclear as to which proviso of the OA Regulations, 2023 is the Petitioner seeking relaxation of.

4.4 That non-availability of requisite system and/or system/ technical constraints are pre-requisites for grant of connectivity at voltage level other than the voltage level specified by the Commission.

Clause 5 of the Procedure for grant of Connectivity to Intra-State Transmission or Distribution System, provides as under:-

*"In case where connectivity cannot be given at the voltage level specified in this regulation due to non-availability of requisite system or on account of some system / technical constraints, then connectivity shall be given at an appropriate voltage level irrespective of the load of the consumer or the installed capacity of a generating station seeking the connectivity subject to fulfilment to the technical requirement as per the Grid Code or specified by the Commission."*

Connectivity at voltage level of choice cannot be granted. Such a precedent would result in multiple consumers/ generators coming forth seeking grant of connectivity at voltage of choice, in ignorance of the system constraints.

4.5 That the claim with respect to the 'loss of revenue' being raised by the Petitioner are contrary to the clause 2.7 of the Connectivity Agreement, which provides as under:

*"The applicant shall not be entitled for any claim on account of loss of generation in case of any break down/ force majeure. Further, the instructions of SLDC shall be binding on the applicant to back down generation on consideration of grid security and stability without any claim to HVPNL/SLDC/DISCOMs"*

Further, Article 5.6 of the PPA provides as under:

*"Notwithstanding the provisions of this agreement, the HVPNL/DISCOMs will not be responsible for any damage that may occur to the Seller's generating system for any reason whatsoever."*

4.6 That the tripping/ breakdown data of the Petitioner feeder emanating from 132 kV S/stn Malikpur for the period of 2022-24 has been reviewed and cross-verified with the record of the 132 kV S/stn and it was found that the data of tripping projected by the Petitioner is a mis-match to the data as per the logbooks maintained by the Answering Respondents. As per the record maintained by the Answering Respondents, the number and reason for the alleged tripping and unscheduled power outages is succinctly tabulated as under:

| Sr No. | Detail of events | Jan-22 to Dec-22 | Jan-23 to Dec-23 | Jan-24 to April-24 | TOTAL |
|---|---|---|---|---|---|
| 1 | There is no tripping of 33 kV HSL at 132 kV S/Stn Malikpur end. There has been TG desynchronization due to generator's fault | 156 | 83 | 24 | 263 |
| 2 | Tipping/Shutdown attributable to HVPNL due to change over activity at 220v Pehowa (Main feeding station) | 11 | 10 | 4 | 25 |
| 3 | Tripping due to operation of df/dt relay operation/testing for Grid Stability (HVPNL) | 9 | 9 | 6 | 24 |
| 4 | Shutdowns for the Line and Substation maintenance (HVPNL) | 5 | 6 | 3 | 14 |
| 5 | Tripping with No Fault (UHBVNL) | 8 | 31 | 15 | 54 |

| | | | | | |
|---|---|---|---|---|---|
| 6 | Tripping due to Heavy Windstorm | 0 | 3 | 2 | 5 |
| 7 | Break down/ tripping due to line fault (UHBVNL) | 12 | 11 | 9 | 32 |
| 8 | Scheduled shutdown taken for maintenance by UHBVNL | 4 | 7 | 2 | 13 |
| 9 | Total No. of trippings as claimed by the Petitioner | 205 | 160 | 65 | 430 |
| 10 | Availability of the 33 kV HSL line during this period | 99.58% | 99.14% | 99.32% | |

A perusal of the aforesaid table shows that out of alleged 430 trippings, only 167 were due to tripping/ breakdown/ fault of 33 kV HSL line reported at 132 kV S/Stn Malikpur end. This clearly shows that TG desynchronisation at the Petitioner's end may be due to the hypertensive relays installed by the Petitioner or fault in the equipment settings at Petitioner end, which can only be known after conduct of Protection Audit from NABL accredited Labs. As is evident from foregoing details, there were 263 incidents when the 33kV Line was available upto the Plant end. For alleged 54 nos. of tripping, no fault was found on 33 kV line during patrolling. These could be due to transient issues, issues at generator end or external factors. For planned shutdowns/ PTW taken by UHBVNL or HVPNL for maintenance, a prior intimation was sent to the Petitioner. As such, the apprehension of the Petitioner that the tripping is being caused due to faulty infrastructure/ equipment at Respondent's end is incorrect. A perusal of the above-mentioned data reveals that the overall availability of the Petitioner's line during this period was over 99%, with the Plant Load Factor (PLF) of more than 80%. As such, the whole basis of the present petition is factually incorrect.

4.7 That wrong and incorrect data has been projected by the Petitioner to mislead the Commission. The generation loss calculations by the Petitioner have inaccuracies. For instance, a 6-minute tripping on 27.01.2022 has been incorrectly attributed to a generation loss of 8.1 MWh, which cannot exceed 1.5 MWh even at 100% PLF. There are numerous such instances in the data given by the Petitioner, a few of them is being tabulated hereunder for reference:-

| Sr.No. | DATE | TIME (Hrs.) | | | Export power Loss in MWH Claimed By HSL | Maximum possible Export power Loss in MWH |
|---|---|---|---|---|---|---|
| | | De-Sync | Sync | Duration | | |
| 1 | 15-06-2022 | 23:37 | 23:46 | 0:09 | 7.6 | **2.25** |
| 2 | 16-06-2022 | 13:21 | 13:27 | 0:06 | 8.1 | **1.5** |
| 3 | 25-06-2022 | 13:13 | 13:32 | 0:19 | 12.5 | **4.75** |
| 4 | 27-06-2022 | 10:32 | 11:02 | 0:30 | 11.4 | **7.5** |
| 5 | 28-06-2022 | 6:15 | 6:25 | 0:10 | 10.8 | **2.5** |
| 6 | 29-06-2022 | 11:29 | 11:47 | 0:18 | 13.6 | **4.5** |
| 7 | 30-06-2022 | 15:08 | 15:13 | 0:05 | 7.1 | **1.25** |
| 8 | 11-09-2022 | 15:17 | 15:38 | 0:21:00 | 14.5 | **5.25** |
| 9 | 10-11-2022 | 14:39 | 14:49 | 0:10:00 | 10.2 | **2.5** |
| 10 | 14-03-2023 | 10:00 | 10:42 | 0:42:00 | 17 | **10.5** |
| 11 | 03-04-2023 | 12:59 | 13:09 | 0:10:00 | 8.3 | **2.5** |
| 12 | 14-08-2023 | 11:55 | 11:58 | 0:03:00 | 7.4 | **0.8** |

| | | | | | | |
|---|---|---|---|---|---|---|
| 13 | 18-10-2023 | 13:46:00 | 13:56:00 | 00:10:00 | 9.6 | **2.5** |
| 14 | 14-12-2023 | 10:12 | 10:21 | 0:09:00 | 10.4 | **2.3** |
| 15 | 04-01-2024 | 21:45 | 21:56 | 0:11:00 | 8.10 | **2.8** |
| 16 | 07-01-2024 | 6:46 | 7:00 | 0:14:00 | 10.2 | **3.5** |
| 17 | 19-01-2024 | 21:02 | 21:10 | 0:08:00 | 6.7 | **2.0** |
| 18 | 29-03-2024 | 17:37 | 17:44 | 0:07:00 | 10.9 | **1.8** |
| 19 | 26-04-2027 | 11:19 | 11:59 | 0:40:00 | 42.6 | **10.0** |
| 20 | 22-05-2024 | 18:56 | 19:14 | 0:18:00 | 22.6 | **4.5** |
| 21 | 25-06-2024 | 16:45 | 16:56 | 0:11:00 | 8.1 | **2.8** |
| 22 | 05-07-2024 | 14:11 | 14:38 | 0:27:00 | 23.4 | **6.8** |
| 23 | 07-07-2024 | 13:30 | 13:50 | 0:20:00 | 17.9 | **11.0** |
| 24 | 17-08-2024 | 18:42 | 18:48 | 0:06:00 | 7.5 | **1.5** |

Even otherwise, the Petitioner is not entitled for any generation loss due to breakdowns or grid stability measures mandated by HVPNL in view of Clause 2.7 of the Connection Agreement. The same are required to adhered to for grid security.

4.8 That the Answering Respondents have been proactively undertaking maintenance activities as and when concerns were raised by the Petitioner. Most of the maintenance is scheduled during the scheduled shutdowns taken by HVPNL/ Petitioner to minimize the power evacuation loss. Further, the following preventive measures have already been taken by the Answering Respondents as and when requested by the Petitioner such as:

a. Initially, the Petitioner had raised the issue with respect to the grid voltage variation. The 33 kV line of the Petitioner was initially connected to the Power Transformer (T/F) T-2 (116/20 MVA, 132/33 kV) at 132 kV substation (S/Stn.) Malikpur alongwith the 33 kV Sainsa line. The length of the 33 kV Saina Line was approximately 9 Km. To resolve this issue 33 kV Sainsa Line has been shifted to power T/F T-4 and 33 kV Malikpur Line being fed from power T/F T-4 capacity 20/25 MVA, 132/ 33 KV has been shifted to T-2.

b. Further, an additional power T/F capacity 20/25 MVA, 132/ 33 kV already stands approved for FY 2024-25 by HVPNL.

c. The protection setting was reviewed and earth fault Hi-set was changed from 200% to 50% with the intent to minimize the instances of tripping.

d. Regular maintenance and checking is being carried out. It is submitted that the O/C setting of relay of 33 KV line was reviewed by HVPNL on 21.06.2023 at 132 kV S/Stn. Malikpur in the presence of the officials of the Petitioner and the same was found to be in order. Similarly, all the protection relays installed at 132 kV S/Stn. were found to be in order.

e. Regular maintenance of 33 kV feeder line is being carried out to avoid trippings/breakdowns. The maintenance work includes the proper pruning of trees/ branches along the line.

As such, it can be safely presumed that no tripping is being caused due to any default on the part of the Answering Respondents. The corrective measures such as the change of setting of the hypersensitive relay/ settings of other equipment installed by the Petitioner and maintaining an effective fuel storage system, are required to be implemented at Petitioner's end.

4.9 That it is the Petitioner who is required to ensure its internal systems and procedure mechanisms are adequately designed to meet the grid requirements and withstand the operational disturbances. Any shortcomings at Petitioner's end would also result in tripping incidents. Hence, it was decided in the meeting held on 23.06.2023 as well as on 12.09.2024 that a protection audit shall be conducted by the Petitioner of the relays installed at 33 kV Petitioner plant by a third party and review the setting of the hypersensitive relays of the Petitioner. It was decided that the audit would be jointly witnessed by officials of both UHBVNL and HVPNL. However, while failing to take any corrective measure and without carrying out any correctional audit at its own end, the Petitioner straightaway proceeded to file the present petition. Pursuant to filing of the Petition, vide email dated 09.12.2024, the Petitioner informed that Third Party Audit will be conducted on 12.12.2024 and sought presence of Respondent officials for the same. Thereafter, the officials of UHBVNL as well as HVPNL visited the Plant of the Petitioner. However, it was observed that as was expressly communicated in the minutes of meeting dated 23.06.2023, the Petitioner had not arranged any third-party agency affiliated from Quality Council of India for testing of protection relays. M/s Amtek and Sales Services (Hartek Group) i.e. original panel supplier was engaged to carry out the said testing. On asking, M/s Amtek failed to produce calibration certificate of testing equipment. Even the testing results were not shared with Respondent officials during the said visit. The Petitioner also refused to sign the minutes of meeting dated 12.12.2024. A copy of said minutes are appended herewith marked as Annexure R-1/2. The entire act and conduct of the Petitioner were inflicted with *malafides*. The alleged third-party audit was a mere cover-up job, which was not conducted in terms of the industry standards. Further thereto, on 13.12.2024, the Petitioner visited the Respondent office in Pehowa to submit report of testing. The said report has no authenticity and are apparently self-serving, which cannot be given any consideration. Even the Certificate of calibration subsequently appended along with report is not authenticated by any third-party agency and therefore, the same cannot be considered as authentic. Though PTWs were issued regularly on the request of

the Petitioner, however, the action for reduction of tripping is pending at Petitioner's end. No further action is liable to be taken by the Answering Respondents

4.10 That apart from the hypersensitive relay installed by the Petitioner, the generation of a paddy straw based power plant is influenced by serval factors beyond the tripping of power evacuation lines. Amongst them is the high moisture content of the paddy straw due to rain and fog which significantly effects the combustion efficiency. Similarly, Silica content and Clinker formation in the boilers reduces the combustion efficiency and also demands frequent maintenance. Addressing these challenges on the part of the Petitioner is essential to ensure that efficient and suitable operation of power plant. The Petitioner ought to have carried out a third-party protection audit of its generating plant from a NABL accredited laboratory. However, without even analysing the root cause, the Petitioner has straightaway proceeded to file the present petition.

4.11 Despite the trippings, the PLF of 80% or more is being maintained. The PLF of the Plant for the last two years is as under –

| **FY** | **PLF %** |
|---|---|
| 2023-24 | 84.841% |
| 2024-25 (till November, 2024 | 84.81% |

4.12 That the Petitioner has also incorrectly contended that there are significant voltage fluctuations caused by the varying power demands of agricultural consumers at 11 KV level. The Indian Electricity Grid Code specify the permissible limits of voltage fluctuation as 30kV rms to 36 kV rms. The Respondent has analyzed data for the voltage fluctuation and the same is well within the limits of 30-36 kV rms.

4.13 That the petitioner had not even been facilitating the Respondent for carrying out prevention maintenance of 33 KV line as and when required. The Respondent had been asking for shut down to carry out preventive maintenance. However, the Petitioner did not adhere to such requests and provides shut down at their own convenience. Reliance in this regard is placed upon a recent email dated 29.11.2024, whereby Respondent sought shutdown for 30.11.2024 to carry out preventive maintenance of 33KV line. However, no such shutdown has been provided till date. A copy of the email of the Respondent dated 29.11.2024 is appended herewith marked as Annexure R-1/4**.** The hegemony in the conduct of the Petitioner is way evident and the contentious raised here for apparently vague and frivolous.

5. **Petitioner' rejoinder:-**

The petitioner filed its rejoinder dated 15.04.2025 to the reply dated 06.02.2025, filed by the respondent no 1 to 4, submitting as under:-

**The present Petition filed by the Petitioner is maintainable before this Hon'ble Commission**

5.1 That Section 86 (1) (e) of the Electricity Act is applicable, as it mandates this Commission to promote cogeneration and renewable energy generation inter-alia by ensuring *"suitable measures for connectivity with the grid'.* Suitable measures for connectivity does not mean mere grant of connectivity to the grid but encompasses taking suitable measures for connectivity to facilitate seamless and efficient power evacuation inter-alia by issuing suitable directions towards the maintenance and upgradation of the power evacuation infrastructure.

5.2 That a connectivity which is inadequate to cater the requirement of power project for power evacuation, leading to frequent tripping and generation losses, defeats the very purpose of promoting co-generation and generation of electricity from the renewable sources. Therefore, this Hon'ble Commission ought to ensure that the connectivity granted to such projects are not just connectivity in physical form but are also effective and robust for seamless evacuation of power.

5.3 That a narrow interpretation of Section 86(1)(e) of the Electricity Act, as contended by the Respondents, is contrary to the purport and legislative intent behind the provision. Section 86(1)(e) of the Electricity Act is aimed at promoting cogeneration and generation from renewable energy sources by ensuring appropriate measures for their integration into the grid. The term "*suitable measures for connectivity with the grid*" is to be interpreted in a purposive and expansive manner to ensure that the evacuation of power from cogeneration plants is not merely facilitated but also made efficient and reliable.

5.4 That it is a trite proposition of law that although courts should ordinarily refrain from reading words into a statute that are not expressly enacted, however, a broader, harmonious interpretation may be adopted where the context and the object of the legislation demand such an interpretation in order to give effect to the legislative intent. In this regard, reliance is placed upon ***Hameedia Hardware Stores v. B. Mohan Lal Sowcar*** reported as (1988) 2 SCC 513, wherein the Hon'ble Supreme Court observed as under:

***"10. It is no doubt true that the court while construing a provision should not easily read into it words which have not been expressly enacted, but having regard to the context in which a provision appears and the object of the statute in which the provision is enacted the court should construe it in a harmonious way to make it meaningful."***

(Emphasis Supplied)

5.5 That similar observation has been rendered by the Hon'ble Supreme Court in ***Eera v. State (NCT of Delhi)*** reported as (2017) 15 SCC 133, wherein the Hon'ble Supreme Court, held as under:

"*65. I have perceived the approach in Hindustan Lever Ltd. [Hindustan Lever Ltd. v. Ashok Vishnu Kate, (1995) 6 SCC 326 and Deepak Mahajan Directorate of Enforcement v. Deepak Mahajan, (1994) 3 SCC 440, Pratap Singh [Pratap Singh] v. State of Jharkhand, (2005) 3 SCC 551] and many others. I have also analysed where the Court has declined to follow the said approach as in R.M.D. Chamarbaugwalla [R.M.D. Chamarbaugwalla v. Union of India, AIR 1957 SC 628] and other decisions.* ***The Court has evolved the principle that the legislative intention must be gatherable from the text, content and context of the statute and the purposive approach should help and enhance the functional principle of the enactment.*** *That apart, if an interpretation is likely to cause inconvenience, it should be avoided, and further personal notion or belief of the Judge as regards the intention of the makers of the statute should not be thought of.* ***And, needless to say, for adopting the purposive approach there must exist the necessity.*** *The Judge, assuming the role of creatively constructionist personality, should not wear any hat of any colour to suit his thought and idea and drive his thinking process to wrestle with words stretching beyond a permissible or acceptable limit. That has the potentiality to cause violence to the language used by the legislature. Quite apart from, the Court can take aid of casus omissus, only in a case of clear necessity and further it should be discerned from the four corners of the statute. If the meaning is intelligible, the said principle has no entry. It cannot be a ready tool in the hands of a Judge to introduce as and what he desires*."

(Emphasis Supplied)

5.6 Therefore, it is amply clear that this Hon'ble Commission under Section 86(1)(e) of the Electricity Act is required to promote co-generation and generation of electricity from the renewable sources such as the Petitioner's Project by inter alia providing connection to the grid which is sufficient for continuous and uninterrupted evacuation of power from its Project.

5.7 That in addition, it is imperative to highlight that that the Petitioner by way of its application dated 14.06.2018 had applied for the connectivity for its Project at 132 kV voltage level from Malikpur S/s. However, on 16.10.2018, Haryana Vidyut Prasaran Nigam Limited ("HVPNL") by way of its letter stated that the connectivity for the Petitioner's Project is feasible at 33 kV Bay at Malikpur S/s.

5.8 That the Petitioner's Project has achieved its commissioning on 14.02.2022. Ever since the commissioning of the Project, the Petitioner has been facing multiple incidents of trippings on account of. *(a)* The voltage level of the transmission system (i.e., 33 kV) from the Project to the Malikpur S/s is not sufficient to cater the evacuation of power from the Project; *(b)* The quality of equipment (including but not limited to conductors,

jumpers and clamps etc.) installed by HVPNL/ UHBVNL in the evacuation system of the Project is substandard and is susceptible to breakdown; and *(c)* The outgoing feeder of the 33 kV Bay installed at the Malikpur S/s is being utilised by multiple agricultural/rural consumers at 11 kV and the evacuation system of such consumers are not properly maintained and are poorly managed, which leads to earth fault, and the Petitioner's Project being the nearest to the bus-bar suffers for constant and multiple trippings.

5.9 That the abovementioned reasons of trippings are not attributable to the Petitioner, rather, the same are on account of Respondents' failure to provide a suitable connectivity with the grid which is sufficient to cater the evacuation of power from the Petitioner's Project.

5.10 Therefore, this Hon'ble Commission has the jurisdiction to adjudicate the present Petition under Section 86(1)(e) of the Electricity Act, as it pertains to ensure that the connectivity which has been granted to the Petitioner is not just granted in form but is also effective to support cogeneration and renewable energy integration into the grid.

**Re. Applicability of Section 86(1)(f) of the Electricity Act**

5.11 That the Petitioner has consistently raised concerns regarding inadequate power evacuation infrastructure through multiple written communications, and even multiple meetings were also convened between the Petitioner and the Respondent(s) to resolve the same. In this regard, reliance is placed upon the gist of communications/meetings which are set out in a tabular format hereinbelow: -

| S.No | Date | Event |
|---|---|---|
| 1. | 27.12.2018 | The Petitioner by way of a letter to HVPNL requested approval for power injection at 132 kV at Malikpur substation instead of 33 kV, as proposed by HVPNL. The Petitioner further informed that injection of power at 33kV would *inter alia* result in an annual loss of approximately Rs. 20 lakhs due to line losses, which can be avoided with connectivity at 132kV level. |
| 2. | 11.07.2022 | A meeting was convened between the representatives of the Petitioner and HVPNL, during which the Petitioner raised serious concerns regarding persistent and significant fluctuations in grid voltage at the 33 kV Bay of the 132 kV Malikpur S/s.<br>The Petitioner stated that voltage instability in the grid is leading to de-synchronization of the 15 MW Turbo Generator installed at the Petitioner's project. The aforementioned issues, along with their adverse impact on the Project, were deliberated upon in detail during the said meeting. |
| 3. | 01.01.2023 | The Petitioner issued a letter to HVPNL highlighting that the project is experiencing frequent trippings due to the poor workmanship of the evacuation system associated with the Petitioner's Project, as well as the undersized capacity of the transformer. |
| 4. | 17.01.2023 | A meeting was held between the Petitioner and the representatives of HVPNL to discuss the issue of tripping of the Petitioner's Project wherein it was discussed and agreed that the maintenance of the 132 kV Malikpur S/s would be carried out by the Respondents. |
| 5. | 21.06.2023 | The Petitioner by way of its email to HVPNL, informed that the Project experiencing frequent trippings caused by issues in the 33kV evacuation line and fluctuations in the downstream 11kV network from the 33kV Mandi substation, particularly during the paddy season, and resultantly, the Project was able to achieve only 70% PLF in the first year of operation. |

| | | |
|---|---|---|
| | | Additionally, the Petitioner further highlighted the need to replace the undersized 15/20 MVA transformer at Malikpur substation with a 20/25 MVA transformer, which remains pending despite ongoing discussions with HVPNL officials. |
| 6. | 23.06.2023 | A meeting was held between the concerned representatives of the Petitioner, HVPNL, and Uttar Haryana Bijli Vitran Nigam Limited ("UHBVNL") to discuss the tripping issues faced by the Petitioner's Project.<br><br>It was concluded that: (a) The tripping data provided by the Petitioner will be jointly reviewed by HVPNL, UHBVNL, and the Petitioner; (b) A joint inspection of the 33 kV transmission line from the Project to the 33 kV Bay at Malikpur Substation will be conducted by UHBVNL and the Petitioner; and (c) The proposal for augmentation of transformers will be explored based on anticipated load growth in the area and the generation capacity of the Petitioner's Project. |
| 7. | 28.06.2023 | The Petitioner, through its email to HVPNL, highlighted the frequent trippings faced by the Project due to issues arising from outgoing rural feeders and the poor quality of the transmission line.<br><br>Additionally, the Petitioner requested for the upgradation of the evacuation system from 33 kV level to 132 kV level to ensure stable and reliable power evacuation. |
| 8. | 01.07.2023 | The Petitioner, again sent an email to HVPNL, highlighting that due to frequent trippings, the Project's PLF is not meeting the parameters specified under the PPA. The Petitioner further reiterated that these trippings are primarily caused by the poor quality of components in the 33 kV evacuation line, including substandard conductors, pin insulators, and jumpers installed by UHBVNL. |
| 9. | 06.07.2023 | HVPNL issued a memorandum acknowledging the need for upgradation of Malikpur S/s and sought for administrative approval for augmentation at the 132 kV Malikpur Substation under TS Division, HVPNL Kurukshetra, for strengthening and improving the reliability of the power system which will ensure uninterrupted evacuation of the power from the Project. |
| 10. | 15.07.2023 | The Petitioner by way its e-mail to UHBVNL, highlighted the constant tripping issues at the Project caused by the 33 kV evacuation system and the poor quality of equipment installed on the transmission line from the Project to the Malikpur Substation. |
| 11. | 22.07.2023 | The Petitioner, through an email to UHBVNL, once again highlighted the frequent trippings at the Project due to unresolved issues with the 33 kV power evacuation line and requested UHBVNL to take necessary action, emphasizing that the Project falls under the 'Must Run' category. |
| 12. | 01.08.2023 | The Petitioner, through its email to UHBVNL, requested urgent intervention to address the tripping issues, stating that these disruptions were preventing the Project from maintaining the required 80% PLF under the PPA. |
| 13. | 06.01.2024 | The Petitioner, through its email to UHBVNL, reiterated the various issues faced by the Project, including constant trippings caused by grid connectivity at 33 kV, downstream rural distribution feeders at 11 kV, and poor-quality equipment along the 33 kV line. |
| 14. | 22.02.2024 | The Petitioner, through emails to UHBVNL, highlighted the persistent tripping issues caused by the 33 kV power evacuation line from the 132 kV Malikpur Substation. The Petitioner also requested the urgent upgradation of the 33 kV Malikpur-Chajjupur line without further delay. |

5.12 That despite multiple correspondences and discussions, the Respondents have failed to take concrete and effective steps to resolve the problem faced by the Petitioner i.e., multiple instances of trippings of the Project, thereby exacerbating the difficulties faced by the Petitioner. Therefore, the argument taken by the Respondents that the Petitioner has failed to raise any dispute which is a pre-requisite of invoking Section 86(1)(f) holds no merit. Due to inaction on the part of the Respondents in addressing grievances, the

Petitioner was left with no choice but to seek appropriate relief before this Hon'ble Commission by way of filing the present Petition. Therefore, the present dispute squarely falls within the ambit of Section 86(1)(f) of the Electricity Act and thus is maintainable.

**Re: Invocation of Regulation 10 of the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023, and applicability of Clause 5 of the Connectivity Procedure**

5.13 That the Petitioner has explicitly invoked Regulation 10 of the GEOA Regulations, 2023 seeking relaxation of Clause 5 of the Connectivity Procedure, which has been issued under Regulations 6, 11, and 14 of the GEOA Regulations, 2023. Notably, the default voltage level for projects ranging from 5 MW to 20 MW is specified as 33 kV level, however, the same can be granted at an enhanced appropriate voltage level in case of system or technical constraints. The Petitioner has consistently highlighted that due to technical constraints and inefficiencies in the existing evacuation system, the power evacuation infrastructure at 33 kV level is inadequate, leading to frequent trippings and significant generation losses. Therefore, in exercise of its regulatory powers, this Hon'ble Commission is well within its authority to grant relaxation under Regulation 10 and direct an appropriate enhanced voltage level to ensure seamless evacuation of power from the Petitioner's Project.

5.14 That clause 5 of the Connectivity Procedure contemplates situations where connectivity at the prescribed voltage level is either infeasible or impractical due to system or technical constraints, connectivity at an appropriate level may be granted.

**Re. Applicability of Clause 3B(vii) of the Bio-Energy Policy**

5.15 That the Respondents' assertion that they have been upgrading the evacuation system from time to time as per the load requirement is unsubstantiated and is devoid of merit. Clause 3B(vii) of the Bio-Energy Policy requires the power utilities to keep on upgrading the capacity of transformer/ evacuation facility including the substation from time to time as per the generation requirement. However, the Respondents have failed to provide an adequate power evacuation facility, which is ex facie evident from the multiple instances of tripping being faced by the Petitioner on account of the Respondents' failure to provide sufficient evacuation infrastructure, leading to generation losses and causing financial distress.

5.16 That the Petitioner has repeatedly raised concerns regarding the inadequacy of the existing evacuation infrastructure, which has led to frequent tripping and financial losses. Despite multiple representations, the Respondents have failed to discharge

their obligation to upgrade the system in accordance with the Petitioner's generation requirements as envisaged under Clause 3B(vii) of the Bio-Energy Policy.

**Re: Compliance with Article 12 of the Power Purchase Agreement**

5.17 That the Respondents' contention that the Petitioner has not followed the dispute resolution procedure under Article 12 of the PPA is factually and legally incorrect. In this regard, it is reiterated that the Petitioner has duly issued multiple letter(s) to the Respondents highlighting its grievances, and even a meeting was also convened between the parties to discuss and address the issues. The same unequivocally demonstrates that the Petitioner has made repeated/genuine attempts at resolving the dispute before approaching this Hon'ble Commission.

5.18 That the procedural laws are intended to serve as a handmaid of justice and should not be used as a tool to defeat substantive rights. The Respondents' contention that the Petitioner has not followed the dispute resolution mechanism under Article 12 of the PPA is both factually and legally untenable. It is further submitted that a party cannot be refused relief merely because of the transgression of rules of procedure. A court can overlook a mere irregularity or a trivial breach in the observance of any procedural law for doing real and substantial justice. This position has been upheld by the Hon'ble Supreme Court in its Judgement in ***Bhagwan Swaroop v. Mool Chand,*** reported as [(1983) 2 SCC 132]. The relevant extracts of the said judgement have been culled out hereinbelow for the ready reference of this Hon'ble Commission:

"*12. It is no doubt true that a code of procedure "is designed to facilitate justice and further its ends and it is not a penal enactment for punishment and penalty and not a thing designed to trip people up". Procedural laws are no doubt devised and enacted for the purposes of advancing justice. Procedural laws, however, are also laws and are enacted to be obeyed and implemented.* ***The laws of procedure by themselves do not create any impediment or obstruction in the matter of doing justice to the parties. On the other hand, the main purpose and object of enacting procedural laws is to see that justice is done to the parties. In the absence of procedural laws regulating procedure as to dealing with any dispute between the parties, the cause of justice suffers and justice will be in a state of confusion and quandary.*** *Difficulties arise when parties are at default in complying with the laws of procedure.* ***As procedure is aptly described to be the hand-maid of justice, the court may in appropriate cases ignore or excuse a mere irregularity in the observance of the procedural law in the larger interest of justice. It is, however, always to be borne in mind that procedural laws are as valid as any other law and are enacted to be observed and have not been enacted merely to be brushed***

***aside by the Court. Justice means justice to the parties in any particular case and justice according to law.*** *If procedural laws are properly observed, as they should be observed, no problem arises for the court for considering whether any lapse in the observance of the procedural law needs to be excused or overlooked.* ***As I have already observed depending on the facts and circumstances of a particular case in the larger interests of administration of justice the Court may and the Court in fact does, excuse or overlook a mere irregularity or a trivial breach in the observance of any procedural law for doing real and substantial justice to the parties and the Court passes proper orders which will serve the interests of justice best****.*"

(Emphasis Supplied)

5.19 That additionally, the Respondents reliance upon ***M.P. Power Management Company Jabalpur vs. M/s. SKR Power Southeast Solar India Pvt. Ltd.*** (SLP (C) No. 4609-4610 of 2021) are misplaced and misconstrued. It is submitted that the facts in M.P. Power Management Company (*Supra*) are distinguishable from the present set of facts. The issue therein was pertaining to termination of the agreement, whereas, in the present matter, the issue pertains to compensation for generation losses due to trippings, which occurred on account of Respondents failure to provide an adequate evacuation system. However, the Petitioner has on multiple occasions, brought to the Respondents' attention through formal correspondence and discussions the issue in relation to the instances of multiple trippings being faced by it. Hence, the factual circumstances in the present case differ significantly from M.P. Power Management (*Supra*), rendering the Respondents' reliance on the said judgment inapplicable.

5.20 That in addition, and without prejudice, PPA does not contain any negative covenant that prohibits the Petitioner from approaching this Hon'ble Commission in the absence of a formal notice under Article 12.2 of the PPA. The Respondents' attempt to impose a rigid interpretation of the dispute resolution mechanism cannot override the Petitioner's substantive right to seek relief for its grievances. A procedural requirement cannot be used as a shield to deny adjudication of a legitimate claim, particularly when the Respondents were well aware of the Petitioner's concerns through extensive communication and meetings.

**Trippings are not attributable to the Petitioner**

5.21 The contentions of the Respondent that the occurrence of trippings were due to: (i) hypersensitive relay; (ii) high moisture content of the paddy straw which affects combustion efficiency; and (iii) Silica content and Clinker formation in the boilers reduces the combustion efficiency; are ill-founded and devoid of any merit.

5.22 That the setting of relays installed by the petitioner are a critical safety equipment designed to detect fault conditions and protect the equipment of both the utilities and the generator including the Turbine Generator ("TG") and the transformer.

5.23 That higher moisture content / Silica content and Clinker formation, only reduces boiler efficiency and does in any manner results into trippings.

5.24 Therefore, the Respondents' repeated attempts to challenge the relay settings and questioning the Petitioner's failure to conduct a third-party protection audit of the really setting are merely an attempt to mislead this Hon'ble Commission and evade their responsibility to maintain the transmission system.

**The Petitioner is entitled to claim for loss of revenue**

5.25 That the Respondents' contention that the Petitioner's claim for loss of revenue is barred under the Connection Agreement and the PPA is legally and factually flawed. The reliance on the provisions cited by the Respondents, namely Clause 2.7 of the Connection Agreement dated 22.12.2020 ("Connection Agreement") and Article 5.6 of the PPA are also misplaced and inapplicable to the present case.

5.26 That Clause 2.7 of the Connection Agreement specifically deals with a scenario where generation losses occur due to force majeure events or damage to the generating system. However, in the present case, the generation loss is neither attributable to a force majeure event nor due to any damage of the Petitioner's generating system. Instead, the frequent trippings of the Project are primarily caused by the Respondents' inaction in providing an adequate power evacuation system to effectively meet the operational requirements of the Petitioner's Project.

5.27 That the 'Force Majeure' events are caused inevitably for reasons beyond the control of the parties to the contract. However, in the present case, the poor condition of the HVPNL/UHBVNL network has led to frequent trippings, resulting into frequent restarts of the equipment, causing significant damage to some of the rotating parts. Additionally, the generation loss in the present case is not on account of the Petitioner's defaults in maintaining its generating system. In view of the same, it is clear that the damage to the equipment installed at the Petitioner's Project is on account of inadequate power evacuation infrastructure provided by HVPNL/UHBVNL.

5.28 That the Respondents have referred to Article 5.6 of the PPA stating that they are not responsible for any damage. However, it is pertinent to note that Article 5.6 of the PPA specifically deals with any damages that may occur to the Petitioner's Project. In this regard, it is submitted that the present Petition has been filed by Petitioner for seeking generation loss on account of trippings which is being caused due to the Respondents'

failure to provide adequate power evacuation facilities, which is distinct from any damage to the Petitioner's generation system.

5.29 That Section 39(2)(c) read with Section 40(a) of the Electricity Act, mandates that the State Transmission Utility/Transmission Licensees (i.e., HVPNL/UHBVNL) will build, maintain and operate an efficient, co-ordinated and economical system of intra-State transmission lines for smooth evacuation of electricity from a generating station to the load centres. The relevant extracts of the Electricity act have been culled out hereinbelow for the ready reference of this Hon'ble Commission.

"*Section 39. (State Transmission Utility and functions):*
*(1) The State Government may notify the Board or a Government company as the State Transmission Utility:*
*……..*
*(2) The functions of the State Transmission Utility shall be –*
*……..*
*……..*
*(c) to ensure development of an efficient, co-ordinated and economical system of intra-State transmission lines for smooth flow of electricity from a generating station to the load centres;*
*……*
*Section 40. (Duties of transmission licensees):*
*It shall be the duty of a transmission licensee –*
*(a) to build, maintain and operate an efficient, co-ordinated and economical inter-State transmission system or intra-State transmission system, as the case may be;*"

(Emphasis Supplied)

**Rebuttal to the Respondents' contentions on data mismatch and tripping causes**

5.30 That the Respondents' contention that the data provided by Petitioner is incorrect, self-serving and unmindful, is unfounded and devoid of merit. In this regard, the Respondents have contended that 263 instances of tripping were due to TG de-synchronization caused by the Petitioner's fault. In this regard, the Respondents have provided log sheets stating merely that "there is no trippings of 33 kV HSL at 132 kV s/stn, Malikpur end".

5.31 That the primary reasons for the persistent instances of tripping in the Petitioner's Project is on account of faults in the down-the-line 33/11 kV feeders, which are primarily utilized by agricultural and rural consumers, and are not properly maintained by UHBVNL. Since the data provided by the Respondents pertains only to tripping instances at the 132 kV Malikpur S/s and does not include trippings at the down-the-line feeders at 33/11 kV Malikpur S/s, 33/11 kV Sainsa S/s, and 33/11 kV Mandi S/s, their claim that the Petitioner's data is inaccurate lacks merit.

5.32 That following any tripping event, even of a few minutes or seconds, the Project requires approximately 30-40 minutes to restore generation to its full capacity. Consequently, while a tripping event of 6 minutes may not directly result in a generation

loss exceeding 1.5 MWh, the time required for the Project to achieve stabilization to its full generational capacity, leads to an actual generation loss of 8.1 MWh.

**The Petitioner is entitled to claim unliquidated damages under Section 73 of the Indian Contract Act, 1872, due to HPPC's breach of its obligations under Article 15.2(b) of the PPA.**

5.33 That the Petitioner is entitled to claim damages under Article 15.2(b) of the PPA due to the default committed by HPPC in maintaining the grid infrastructure and providing proper power evacuation facilities to the Petitioner's project. Article 15.2(b) of the PPA explicitly states that failure to use reasonable diligence in operating, maintaining, or repairing the Nigam's interconnection facilities constitutes an event of default. The relevant extracts of the PPA have been culled out hereinbelow for the ready reference of this Hon'ble Commission:

*"ARTICLE 15*
*EVENTS OF DEFAULTS AND TERMINATION*

*……...*

*15.2 EVENTS OF DEFAULT OF HPPC:*

*a) ……..*

*b) failure to use reasonable diligence in operating, maintaining or repairing the Nigam's interconnection facilities;"*

5.34 That in addition to the contractual provisions under the PPA, the Petitioner is entitled to claim damages under Section 73 of the Contract Act, which governs unliquidated damages. These damages arise from the generation losses suffered by the Petitioner's Project due to persistent trippings, resulting from the inadequate and inefficient power evacuation system/infrastructure provided by the Respondent(s). The relevant extracts of the Contract Act have been culled out hereinbelow for the ready reference of this Hon'ble Commission:

***"73.Compensation for loss or damage caused by breach of contract**.—When a contract has been broken, the party who suffers by such breach is entitled to receive, from the party who has broken the contract, compensation for any loss or damage caused to him thereby, which naturally arose in the usual course of things from such breach, or which the parties knew, when they made the contract, to be likely to result from the breach of it. Such compensation is not to be given for any remote and indirect loss or damage sustained by reason of the breach."*

5.35 That, it is relevant to refer to the observations of the Hon'ble Supreme Court of India in ***Ghaziabad Development Authority v. Union of India*****,** reported as (2000) 6 SCC 113, wherein the Hon'ble Apex Court clarified that a party suffering a breach of contract is entitled to claim damages from the defaulting party. The Hon'ble Apex Court further analysed that such damages may be either liquidated or unliquidated. The unliquidated

damages require assessment based on the actual losses suffered and the underlying principle in assessing damages is to place the aggrieved party, as far as possible, in the same financial position it would have been in had the contract been duly performed. The relevant extracts of the judgment have been culled out hereinbelow for the ready reference of this Hon'ble Commission:

***"5.*** *When a Development Authority announces a scheme for allotment of plots, the brochure issued by it for public information is an invitation to offer. Several members of the public may make applications for availing benefit of the scheme. Such applications are offers. Some of the offers having been accepted subject to rules of priority or preference laid down by the Authority result in a contract between the applicant and the Authority. The legal relationship governing the performance and consequences flowing from breach would be worked out under the provisions of the Contract Act and the Specific Relief Act except to the extent governed by the law applicable to the Authority floating the scheme.* ***In case of breach of contract damages may be claimed by one party from the other who has broken its contractual obligation in some way or the other. The damages may be liquidated or unliquidated.*** *Liquidated damages are such damages as have been agreed upon and fixed by the parties in anticipation of the breach.* ***Unliquidated damages are such damages as are required to be assessed. Broadly the principle underlying assessment of damages is to put the aggrieved party monetarily in the same position as far as possible in which it would have been if the contract would have been performed.*** *Here the rule as to remoteness of damages comes into play. Such loss may be compensated as the parties could have contemplated at the time of entering into the contract. The party held liable to compensation shall be obliged to compensate for such losses as directly flow from its breach. Chitty on Contracts (27th Edn., Vol. 1, para 26.041)"*

(Emphasis Supplied)

Notably, the Hon'ble Supreme Court of India, in its various judgments, while interpreting Section 73 of the Contract Act has observed that even if actual damages are not quantifiable, the aggrieved party is still entitled to reasonable compensation if a breach of contract is established. In the present case, Respondent's failure to maintain the interconnection facilities constitutes a fundamental breach of its contractual obligations under the PPA.

Furthermore, it is a settled principle of law that a party's failure to adhere to contractual obligations results in liability for damages. The Hon'ble Supreme Court has consistently held that compensation must be awarded to an affected party where a breach of contract results in financial harm. In the present case, the Respondents'

failure to exercise reasonable diligence in maintaining interconnection facilities has disrupted the Petitioner's ability to fulfil its contractual commitments. Therefore, the financial losses suffered by the Petitioner are a direct consequence of the Respondent's (including HPPC) default, and as such, the Petitioner is entitled to seek appropriate compensation in accordance with Article 15.2(b) of the PPA read with Section 73 of the Contract Act.

6. **Respondent's reply:-**

The respondents no 1 to 4 filed their additional submissions dated 23.06.2025, in compliance of the order of the Commission dated 10.06.2025. The same are as under:-

6.1 That the complete daily shift tripping logbooks for the period January 2022 to April 2025 are being appended herewith marked as Annexure R-1/5.

6.2 That in furtherance of the Hon'ble Commission's direction contained in para 4 of the interim order dated 09.05.2025, Respondent No. 4, i.e., Haryana Vidyut Prasaran Nigam Limited (HVPNL), has examined the feasibility of evacuating power from the Petitioner's project at the 132 kV substation. The Chief Engineer/SO & Commercial, HVPNL, Panchkula, vide letter vide office memo no. 69/15B-571 dated 03.06.2025, addressed to the Chief Engineer/Commercial, UHBVN, Panchkula, forwarded a copy of the letter vide memo no. Ch-305/407/K-146 dated 30.05.2025 received from SE/Planning, HVPNL, Panchkula, enclosing therewith the feasibility report received from Executive Engineer, TS Divn. HVPNL, Kurukshetra, vide office memo no. Ch-81//SS-44 dated 30.05.2025, regarding evacuation of power from M/s Hind Samachar Ltd. at 132 kV level. The feasibility for evacuation at 132 kV level has been duly explored, and the following has been observed:

*"(i) At present power generated by 33kV Hind Samachar Limited Bio mass plant is being evacuated at 33kV level through the 132/33kV, 16/20MVA T-2 power Transformer at 132KV S/Stn. Malikpur;*

*(ii) As far as availability of space is concerned, 1 No. 132kV Bay Space is available at 132KV S/Stn. Malikpur. The GELO of 132KV S/Stn. Malikpur duly marked with Red ink showing 132KV Line Bay proposed to be utilized for evacuation of power at 132KV Level from M/s HSL is attached herewith;*

*(iii) Spare 132KV Bay space may be utilized for evacuating of power from M/s Hind Samachar Limited Bio mass Plant at 132KV level subject to Right of Way (ROW) for the construction of new 132KV transmission line (tentative route length is 3.5 Km) to be made available by M/s Hind Samachar Limited and other issues related to Planning wing; and*

*(iv) The matter regarding procedure for grant of connectivity/ Green Energy Open Access relates to Planning/Commercial wing."*

7. **Petitioner's additional affidavit:-**

The petitioner has filed its additional affidavit dated 04.07.2025, in compliance of the interim order of the Commission dated 09.05.2025. The same are as under:-

7.1 That the Respondent Nos.1-4 (Respondents) in their Reply dated 06.02.2025 have alleged that the details of tripping(s) presented by the Petitioner are unilaterally prepared and are factually incorrect. The Respondents have further argued that out of total of 430 trippings events claimed by the Petitioner during the period from January 2022 to August 2024: ***(i)*** 263 trippings were caused on account of the reasons attributable to the Petitioner; ***(ii)*** 167 were due to tripping/ breakdown/ fault of 33 kV HSL line reported at 132 kV Malikpur S/s end which includes planned shutdown for maintenance of the line and substation. Additionally, the Respondents, in their Reply, have furnished daily shift report logbooks for certain periods from 20.01.2022 up to 31.08.2024, however, admittedly, the same has not been provided for the entire period till 31.08.2024.

7.2 That this Hon'ble Commission by way of its Interim Order dated 09.05.2025, directed the Respondents to file on affidavit the following:

a) The complete tripping logbooks from the Commercial Operation Date (CoD) to till date, of HVPNL grid as well as down the line UHBVNL distribution system of 33/11 KV; and

b) The feasibility of evacuating the power of the Petitioner's Project at 132 KV level (instead of the present 33 kV level) and submit the concrete action plan. Pertinently, this was specifically sought from HVPNL.

In addition, this Hon'ble Commission also directed the Petitioner to file its response to the abovementioned requisite information filed by the Respondents.

7.3 That the Petitioner received the logbooks highlighting the instances of the tripping in the 33 kV feeders at the Malikpur S/s maintained by HVPNL and the down-the-line feeders at the 33/11 kV Malikpur maintained by UHVBNL.

7.4 That on 03.06.2025, the captioned petition was listed before this Hon'ble Commission, wherein the Petitioner submitted that Respondents had failed to file the daily shift report logbook, as directed by this Hon'ble Commission vide Order dated 09.05.2025. Accordingly, this Hon'ble Commission once again directed the Respondents to furnish the requisite information, including the complete daily shift report logbook, within a period of three days from the date of the said Order dated 03.06.2025.

7.5 That the Respondents in compliance to the aforesaid Interim Order have filed their Additional Affidavit dated 23.06.2025, whereby they have provided the complete daily shift report logbook of the trippings along with the feasibility report of evacuating the power from the Petitioner's Project at 132 kV level.

7.6 Accordingly, the Petitioner is filing the present Affidavit, along with the relevant supporting documents, in compliance with the Interim Order issued by this Hon'ble Commission in the present Petition.

***Re. The details provided by HVNPL and UHBVNL highlighting the instances of trippings in the 33 kV or 11 kV feeders at the Malikpur S/s and the down-the-line feeders at the 33/11 kV Malikpur S/s***

7.7 That it has been the considered stand of the Petitioner that the one of the primary reasons for tripping of the Project is on account of earth fault travelling to the Project on account trippings/fault occurring in the 33 kV or 11 kV feeders at the Malikpur S/s (maintained by HVPNL) and the down-the-line feeders at the 33/11 kV level (maintained by UHBVNL).

7.8 That the Petitioner has compared the tripping incidents observed at the Project with those reported by HVPNL at the 33 kV or 11 kV feeders of Malikpur S/s and by UHBVNL at the multiple 33/11 kV feeders at the Malikpur S/s. Based on the analysis of the daily shift report logbooks/tripping logbooks shared by HVPNL and UHBVNL by way of their Reply and the Additional Affidavit; and RTI responses; it is clear that most of tripping(s) at the Project happen when fault(s) occur in these external feeders. This clearly demonstrates that the trippings at the Project are mainly due to earth fault in the 33 kV or 11 kV feeders which travel to the Project and result in the multiple tripping(s). Accordingly, such tripping(s) are primarily caused on account of reasons which are neither attributable to the Petitioner nor are within its control.

7.9 That between January 2022 and August 2024, approximately 74.36% of the tripping incidents recorded by the Petitioner correspond with trippings reported by HVPNL at the 33 kV and 11 kV feeders of Malikpur S/s and by UHBVNL at the multiple 33/11 kV feeders at the Malikpur S/s. During this period, the Petitioner recorded a total of 430 tripping events. Notably, 319 of these tripping events match the data provided by the Respondents through the Reply, RTI responses, and Additional Affidavit. This clearly establishes that the Project has suffered generation losses due to external faults, despite being categorized as a 'must-run' plant as per this Hon'ble Commission's Order dated 03.01.2019.

7.10 That in addition, at this stage, the Petitioner also deems it appropriate to provide the updated tripping(s) details for its Project for the period from January 2022 to April 2025. During the aforesaid period, a total of 478 tripping instances were recorded at the

Petitioner's Project end. Pertinently, the Petitioner has also undertaken comparative analysis of these updated instances of tripping(s) at its Project's end with the tripping(s) related data furnished by the Respondents through their Reply; RTI disclosures; and Additional Affidavit respectively. However, it is submitted that out of 478 instances of tripping recorded by the Petitioner at its Project's end from January 2022 till April 2025, 367 instances of tripping match with the trippings recorded by HVPNL and UHBVNL which corresponds to approximately 76.78%. Resultantly, the Petitioner has incurred a generation loss of Rs. 6,27,29,100.00 (Rupees Six Crore Twenty Seven Lakh Twenty Nine Thousand One Hundred Only) up to April 2025.

7.11 That considering the majority of the trippings recorded by the Petitioner correspond to some or the other fault at any other feeders/bus at the Malikpur S/s, it is amply clear that such fault travels to the Petitioner's Project (being the nearest generating station). Therefore, the trippings at the Petitioner's Project is not attributable to the Petitioner, rather, the same is on account of failure on the Respondents including HVPNL and UHBVNL to provide appropriate infrastructure for evacuation of power from the Project which is not only their contractual right under the PPA but is also their statutory obligation under the Electricity Act, as well as the regulations framed by this Hon'ble Commission.

***Re. Feasibility of evacuating power from the Petitioner's Project at the 132 kV level***

7.12 That the Respondents have furnished a feasibility report assessing the evacuation of power from the Petitioner's Project at 132 kV level. The Respondents have noted that: (i) a single bay space is available at the 132 kV Malikpur S/s for establishing a dedicated 132 kV line bay for the Petitioner; (ii) the GELO for the substation has been prepared, and the proposed bay space for the Petitioner has been highlighted in red ink on the action plan; and (iii) the spare 132 kV bay space may be utilized for evacuating power from the Project at 132 kV level subject to Right of Way for construction of the new 132 kV dedicated transmission line (3.5 km) to be made available by the Petitioner.

7.13 That while the availability of a dedicated 132 kV bay at the Malikpur S/s has been confirmed by the Respondents, the responsibility of securing the Right of Way (*RoW*) for setting up the transmission line from the Petitioner's Project to the Malikpur S/s ought to be arranged/provided by HVPNL in terms of the applicable laws including: *(a)* Clause B(iii) of chapter 3 of the Haryana Bio-Energy Policy, 2018 (*Bio- Energy Policy)* and; *(b)* Regulation 67 of the HERC (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase obligations and Renewable Energy Certificates) Regulations, 2021 (*HERC Regulations, 2021*).

8. **Respondent's additional written submissions:-**

The respondents no 1 to 4 filed their additional written arguments on 15.07.2025, in addition to the written submissions filed and oral arguments advanced during the hearing dated 09.07.2025 on limited issues that cropped up during the course of arguments. The same are as under:-

**WRONGFUL PROJECTION OF TRIPPING DATA IN THE ADDITIONAL AFFIDAVIT SUBMITTED BY THE PETITIONER ON 04.07.2025 –**

8.1 That the Petitioner, in its additional affidavit filed on 04.07.2025, has contended that one of the primary reasons for tripping of the Project is on account of earth fault travelling to the Project on account of tripping/fault in the 33KV or 11KV feeders at the Malikpur Sub-Station and down-the-line feeders at the 33/11 kV level, which is fundamentally incorrect and mis-projected. The affidavit attempts to correlate standard operational occurrences in the distribution network—such as transient faults, scheduled maintenance, and routine switching—with the desynchronization and tripping of the Petitioner's generator. This correlation is technically incorrect and misleading.

8.2 That the 132 kV substation at Malikpur, from which the Plant of the Petitioner is being fed, is a major node in the power distribution network. It supplies power to three 33 kV substations which further feed total 25 no. of 11 KV Feeders down the line and directly 10 numbers 11 kV feeders. In total, this network extends to 35 number of 11 kV feeders downstream, collectively serving approximately 8000 consumers, including domestic, industrial, and agricultural categories. In such a complex system, numerous switching operations and minor disturbances occur regularly as part of load management, maintenance, and system optimization. These routine and transient events are inherent to the functioning of a large-scale power distribution system.

8.3 That the Petitioner, instead of conducting a proper protection coordination study with respect to its own relays at generator end, has chosen to attribute these normal field-level events to faults of Respondents, claiming that such events are the reason for generator's repeated trippings. This assertion is strongly refuted. It has been repeatedly pointed put that the petitioner's generator protection system is hypersensitive and not technically synchronized or graded with the protection and operational parameters of distribution and transmission network it is connected to. It is imperative to take cognizance of the same and draw an adverse inference against the Petitioner for deliberately not conducting relay audit from NABL accredited laboratory. In a well-coordinated power system, minor fluctuations or transient faults should not cause generator tripping unless the internal settings are either too sensitive or

improperly configured. The absence of any relay coordination charts, protection audit reports, or third-party technical validation in the Petitioner's submission underscores the speculative nature of their claims.

8.4 That the Petitioner raised an argument to the effect that they are not bound to adjust their relay settings in view of clause B (vii) of Haryana Bio Policy, 2018 which provides that "*Power Utilities will keep on upgrading the capacity of transformer/evacuation facility including the substation from time to time as per the generation requirement."* The contention of the Petitioner is based on selective reading of the policy and is grossly misrepresented. At the outset, it is to be noted that the Haryana Bio Policy, 2018 had been notified with intent of encouraging private investment in biomass-based power generation by providing various incentives. These include exemptions on land conversion, stamp duty, and external development charges, as well as potential access to canal/groundwater at reduced rates. It does not deal with the core technical specifications of the Plant or connectivity of the same with State's Grid. However, even the conditions of 'Grid Interfacing and Power Evacuation' as contained in Clause B of Policy begins with "*The Power Producers shall meet with all the requirements, as per the State Grid Code for setting up their projects*." Further, it specifies that *all arrangements for power evacuation i.e. voltage set up, synchronizing equipment etc. shall be done by Project Developer as per technical specifications, guidelines and regulation issued by the HERC*. Meaning thereby, if the regulation permit connectivity at a specified voltage only, the equipment at generator end shall be synchronized suitably to have operational efficiency at such voltage level. The reading of expression *'generation requirement'* under clause B (vii) does not in any manner permit the Petitioner to contend that it will continue to have its own relay settings and attribute fault on to Respondents for the tripping effected owing to its hypersensitive relays. The upgradation of facility as per generation requirement refers to upgradation of the system by installation of additional T/F, shifting of load, creation of bay etc. to accommodate additional injection of power, which the Respondent had been constantly doing.

8.5 That the revenue loss data presented in the affidavit is derived solely from internal estimations and lacks any independent verification, such as SLDC-approved export loss records or certified Event Log Records. It is asserted that there is no violation of the HERC Standards of Performance regulations, as no delays or failures in fault restoration or supply resumption, as applicable under the regulations, have been reported or substantiated by the Petitioner. Petitioner's allegations are based on misconstrued data interpretations, inadequate technical design of their own system, and an incorrect understanding of the functioning of the interconnected power network.

8.6 That there is no specific letter pointing out/alleging the issue of constant tripping owing to the respondent infrastructure. The Petition filed before the Hon'ble Commission is only an attempt to seek connectivity at higher voltage level beyond the regulations of the Hon'ble Commission for personal gains at the cost of the consumers of the State.

8.7 That the petitioner fails to specify any specific operational lapse attributable to the Respondent and the Petitioner's hypersensitive protection settings and lack of coordination with grid behaviour are the proximate cause of its generation tripping. In view thereof, any claims against Respondents shall be dismissed as being based solely on generalized field event logs and internal tripping correlations without technical substantiation.

**Regarding grant of connectivity at higher voltage level to the Petitioner –**

8.8 That during the course of the arguments, the Petitioner, while relying upon clause B (iii) of Haryana Bio Policy, 2018 contended that the connectivity shall be given to them at 132 KV level and the cost of augmentation of requisite infrastructure to ensure such connectivity shall be borne by the Respondents. In this regard, it is submitted that the connectivity in the instant case had already been given to the Petitioner as per the regulations of the Commission and while granting such connectivity, no cost has been charged from the Petitioner towards transmission line. In the event the Hon'ble Commission considers grant of connectivity to the Petitioner at 132 KV level now, then the same shall be subject to relaxation of the regulations and the cost thereof on the augmentation of the system, if any, shall be borne by the Petitioner. A relief though untenable, unsubstantiated and unjustified in view of the Respondent, if allowed for any reasons by the Hon'ble Commission, the associated cost thereof cannot be fastened on to the entire consumers of the state, more so when there is no fault of the Respondent. This is against the scheme of the regulatory framework of the State. Reliance is also placed upon Clause 6(8) of Haryana Electricity Regulatory Commission (Terms and conditions for grant of connectivity and open access for intra-State transmission and distribution system) Regulations, 2012, which reads as under:-

"*6. Procedure for grant of connectivity. –*

*xxx*

*(8) In case a dedicated line in the transmission system or distribution system is required to be constructed or* ***where augmentation of the transmission system and or distribution system is to be carried out for grant of connectivity,*** *the nodal agency shall, within 30 days from the date of receipt of application, inform the applicant about the broad design features, estimated cost and the timeframe for completion of*

*the dedicated line or the system augmentation.* ***The cost of construction of dedicated line or the augmentation of the transmission or distribution system and associated facilities shall be borne by the applicant****. Requisite steps to be taken in this regard shall be as mentioned in the detailed procedure."*

8.9 That Clause 8 of the Procedure for making application for grant of connectivity in Transmission/Distribution System provides the similar provision as under –

*"8. Dedicated System for Connectivity: 8.1 In case a dedicated line in the transmission system or distribution system is required to be constructed or where augmentation of the transmission system and or distribution system is to be carried out for grant of connectivity, the nodal agency shall, within 30 days from the date of receipt of application, inform the applicant about the broad design features, estimated cost and the timeframe for completion of the dedicated line or the system augmentation. The cost of construction of dedicated line or the augmentation of the transmission or distribution system and associated facilities shall be borne by the applicant.*

*8.2 The provisions regarding construction of transmission line for providing connectivity to generator."*

8.10 That in case of consumers seeking connectivity at level other than the level prescribed under the regulations, the Haryana Supply Code specifies that the cost of augmentation of additional infrastructure shall be borne by the consumer. In the instant case, if such relaxation of connectivity at higher voltage level is considered for generator, the same principle shall be applied. The passing of such cost on to the consumers of the State in the instant case shall therefore, be unjust, unreasonable and outside the regulatory framework of the State.

**Distinguishing the case relied upon by the Petitioner –**

8.11 That the Petitioner, during the course of the arguments, relied upon the order dated 14.09.2021 passed by Karnataka Electricity Regulatory Commission in the matter of Solitaire Powertech Private Limited Vs. Karnataka Power Transmission Corporation Limited and Anr. The said order is not applicable to the facts of the instant case is clearly distinguishable. In the said case, it was the case of the Petitioner that the transmission line was not completed that prevented them from injecting entire power into the grid. The entire issue in the said case was premised on the 'tentative evacuation scheme', which stated that the evacuation of the power from the project would commence only after completion of strengthening work of upstream transmission lines. The said case therefore, predicates on an acknowledgement that the work of transmission lines were incomplete. In the instant case, however, it is the categoric of the Respondents that there is no incomplete work or insufficient

infrastructure for evacuation of power or to cater to the load of the area. As is elucidated in the written submissions during the course of hearing dated 09.07.2025, the substation connected to the plant of the Petitioner has more than adequate capacity that can consume all the power generation of the 33kv biomass plant. It was specifically mentioned that the power generated by power plant of the petitioner is injected in the grid through the transformer which is capable of injecting 18MW power consumption whereas the maximum power that the plant can generate is only 15MW. The respondents have submitted that the present petition may kindly be dismissed with exemplary cost.

9. **Petitioner's additional written submissions:-**

The petitioner has filed its additional written submissions dated 19.07.2025, in compliance of the interim order of the Commission dated 09.05.2025. The same has been taken on record.

**Commission's Analysis and Order**

10. The Commission heard the arguments of the parties at length as well as perused the written submissions placed on record by them. The sum and substance of the present petition before this Commission is the inadequate power evacuation system to the grid provided by the respondents (UHBVNL/HVPNL) leading to generation loss of Rs. 5.83 crore (revised to Rs. 6.27 crore up to April, 2025).

11. In order to examine the same, the Commission has framed the following issues for consideration and decision in the matter:-

**Issue No. 1: Whether the voltage level at which connectivity has been granted to the generator by the respondents (UHBVNL/HVPNL), is in line with the regulations in vogue?**

**Issue No. 2: Whether the existing power evacuation system has resulted in generation loss of Rs. Rs. 5.83 crore (revised to Rs. 6.27 crore up to April, 2025)?**

**Issue No. 3: Whether it is a fit case to invoke 'power to relax' provided under Regulation clause 10, 12 & 13 of the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 as well as Regulation clause 55, 58 & 59 of the Haryana Electricity Regulatory Commission (Terms and conditions for grant of connectivity and open access for intra-State transmission and distribution system) Regulations, 2012?.**

**Issue No. 4: Whether the cost of evacuation system upgradation up to a distance of 10 KM from the inter connection point is to be borne by the State transmission utility (HVPNL)/Distribution Licensee (UHBVNL)?**

After hearing the learned counsels for the parties and going through the record of the appeal, the findings of the Commission on the issues framed above, are as under:-

11.1 **Issue No. 1: Whether the voltage level at which connectivity has been granted to the generator by the respondents (UHBVNL/HVPNL), is in line with the regulations in vogue?**

The Commission has closely examined the relevant provisions of clause 2 of 'Procedure for making application for grant of connectivity in Transmission/Distribution System' issued under Regulation clause 6 Haryana Electricity Regulatory Commission (Terms and conditions for grant of connectivity and open access for intra-State transmission and distribution system) Regulations, 2012. The relevant clauses are reproduced hereunder:-

Regulation clause 6 Haryana Electricity Regulatory Commission (Terms and conditions for grant of connectivity and open access for intra-State transmission and distribution system) Regulations, 2012, provides as under:-

*"6. Procedure for grant of connectivity. - (1) Nodal agency for grant of connectivity shall be the STU and application for grant of connectivity shall be submitted to the nodal agency in the form and manner prescribed in the detailed procedure.*

*Provided that till such time the detailed procedure prepared by the coordination committee is approved by the Commission, the application for grant of connectivity shall be processed by the nodal agency in accordance with the existing procedure.*

*……"*

Clause 2 of 'Procedure for making application for grant of connectivity in Transmission/Distribution System' issued under Regulation clause 6 Haryana Electricity Regulatory Commission (Terms and conditions for grant of connectivity and open access for intra-State transmission and distribution system) Regulations, 2012, provides as under:-

*"2. Eligibility for grant of connectivity can be made by:*

*2.1 A consumer or a person seeking connectivity for a load of 10 MW and above or a generating station or a captive generating plant having installed capacity of 10 MW and above shall be eligible to obtain connectivity at 33 kV or above. A consumer or a person seeking connectivity for a load of less than 10 MW or a generating station or a captive generating plant having installed capacity of less than 10 MW shall be eligible to obtain connectivity at 33 kV or below.*

*Generally, the connectivity to the generator shall be given at voltage level as per table given below. However, quantum of injection of power on grid substation shall be examined on case to case basis:*

| *Sr. No.* | *Power to be injected* | *Voltage level* |
|---|---|---|
| *1.* | *Upto 5MW* | *11 KV* |
| *2.* | ***More than 5 MW and upto 20MW*** | ***33 KV*** |
| *3.* | *More than 20 MW and upto 60MW* | *66 KV* |
| *4.* | *More than 20 MW and upto 70MW* | *132 KV* |
| *5.* | *More than 70 MW and upto 250MW* | *220 KV* |

*In case 33 kV level is not available, the generator can also inject at 66/132kV level for injection in such case.*

*In case where connectivity cannot be given at the voltage level specified in this regulation due to non-availability of requisite system or on account of some system / technical constraints then connectivity shall be given at an appropriate voltage level irrespective of the load of the consumer or the installed capacity of a generating station seeking the connectivity subject to approval of the Commission.*

*Further, in case of the consumer or a generating station already connected (before notification of the Regulation, HERC 25/2012) either to transmission system or the distribution system at voltage level other than that specified in the regulation then such consumer or the generating station shall continue to remain connected at the same voltage level."*

Similarly, Clause 6 of the 'Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023', provides as under:-

***"6. Procedure for grant of Green Energy Open Access:***

*(1) The detailed procedure for grant of connectivity and Green Energy Open Access including the application format and applicable Bank Guarantees/Fee/Charges etc., shall be prepared by the State Nodal agency, within a period of 30 days from the date of notification of these regulations and filed in this Commission for approval. The STU may be guided by the procedure prepared by POSOCO (The Grid Controller of India Ltd.) for grant of green energy open access."*

Clause 5 of the 'Procedure for grant of Connectivity to Intra-State Transmission or Distribution System' issued under Regulation clause 6 of the 'Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023', provides as under:-

***"5. Eligibility for grant of Connectivity****:*

*A consumer or a person seeking connectivity for a load of 10 MW and above or a generating station or a captive generating plant having installed capacity of 10 MW and above shall be eligible to obtain connectivity at 33 kV or above. A consumer or a person seeking connectivity for a load of less than 10 MW or a generating station or a captive generating plant having installed capacity of less than 10 MW shall be eligible to obtain connectivity at 33 kV or below*

*Generally, the connectivity to the generator may be given at voltage level as per table given below. However, quantum of injection of power on grid substation shall be examined on case-to-case basis:*

| ***Sr. No.*** | ***Power to be injected*** | ***Voltage level*** |
|---|---|---|
| *1.* | *Up to 5 MW* | *11 kV* |
| *2.* | ***More than 5 MW and up to 20 MW*** | ***33 kV*** |
| *3.* | *More than 5 MW and up to 60 MW* | *66 kV (where 33 kV system is not available)* |
| *4.* | *More than 20 MW and up to 70 MW* | *132 kV* |
| *5.* | *More than 70 MW and up to 250 MW* | *220 kV* |
| *6.* | *More than 250 MW* | *400 kV* |

*In case where connectivity cannot be given at the voltage level specified in this regulation due to non-availability of requisite system or on account of some system / technical constraints, then connectivity shall be given at an appropriate voltage level irrespective of the load of the consumer or the installed capacity of a generating station seeking the connectivity subject to fulfilment to the technical requirement as per the Grid Code or specified by the Commission.*

*Further, in case of the consumer or a generating station already connected either to transmission system or the distribution system at voltage level other than that specified in the regulation then such consumer or the generating station shall continue to remain connected at the same voltage level.*

The petitioner has averred that in its application dated 14.06.2018 it had applied for the connectivity for its Project at 132 kV voltage level from Malikpur S/s. However, HVPNL ("R-4"), vide its letter dated 16.10.2018, submitted that the connectivity for the Petitioner's Project is feasible at 33 kV Bay at Malikpur S/s and thereafter granted said connectivity to the Petitioner's Project on 31.10.2019.

Per-contra, respondents argued that the petitioner was entitled to connectivity at higher voltage level than specified in the ibid regulations in case of non-availability of requisite system or on account of some system / technical constraints. However, in the present

case, since connectivity at the prescribed level of 33 KV was feasible, it was so granted.

From the examination of the regulations reproduced above it is apparent that the respondents (UHBVNL/HVPNL) were required to provide connectivity in respect of 15 MW biomass power plant of the petitioner at 33 KV level.

**In view of the above discussion, the Commission answers this issue in affirmative i.e. the voltage level at which connectivity has been granted to the generator by the respondents (UHBVNL/HVPNL), is in line with the regulations in vogue.**

11.2 **Issue No. 2: Whether the existing power evacuation system has resulted in generation loss of Rs. 5.83 crore (revised to Rs. 6.27 crore up to April, 2025)?**

The petitioner has submitted that the respondents (UHBVNL/HVPNL) have provided inadequate power evacuation system being supported by substandard quality of equipment (including but not limited to conductors, jumpers and clamps etc.) installed by UHBVNL/HVPNL which are susceptible to breakdown. Further, the outgoing feeder of the 33 kV Bay installed at the Malikpur S/s is being utilised by multiple agricultural consumers and the evacuation system of such consumers are not properly maintained and are poorly managed. Resultantly, the Petitioner recorded a total of 430 tripping events, between January 2022 and August 2024. 319 of these tripping events match the data provided by the Respondents through the Reply, RTI responses, and Additional Affidavit. The one of the primary reasons for tripping of the Project is on account of earth fault travelling to the Project on account trippings/fault occurring in the 33 kV or 11 kV feeders at the Malikpur S/s (maintained by HVPNL) and the down-the-line feeders at the 33/11 kV level (maintained by UHBVNL). This clearly establishes that the Project has suffered generation losses due to external faults, despite being categorized as a 'must-run' power plant.

The Respondents have further argued that out of total of 430 trippings events claimed by the Petitioner during the period from January 2022 to August 2024: *(i)* 263 trippings were caused on account of the reasons attributable to the Petitioner; *(ii)* 167 were due to tripping/ breakdown/ fault of 33 kV HSL line reported at 132 kV Malikpur S/s end which includes planned shutdown for maintenance of the line and substation.

The Commission observes that the 132 kV substation at Malikpur, from which the Plant of the Petitioner is being fed, supplies power to three 33 kV substations which further

feed 25 no. of 11 KV Feeders down the line and directly 10 numbers 11 kV feeders. Thus, the network feeds 35 number of 11 kV feeders downstream, serving domestic, industrial, and agricultural category of consumers. Considering the complexity of the system, disturbed by operational issues of 11 KV feeders particularly feeding agriculture tube well supply, the trippings are bound to travel up to the level of 33 KV inter-connected bay of the petitioner. However, the Commission has further observed that the despite the trippings, the power plant of the petitioner was able to achieve PLF of around 84% in last two years. The tariff determined for these power plants, allows them to recover full fixed cost at 80% PLF level. Therefore, it can be safely concluded that the petitioner has not suffered any generation loss due to frequent trippings.

Further, the claim with respect to the 'loss of revenue' are contrary to the clause 2.7 of the Connectivity Agreement as well as Article 5.6 of the duly executed PPA, which provides as under:-

Clause 2.7 of the Connectivity Agreement, provides as under:-

*"The applicant shall not be entitled for any claim on account of loss of generation in case of any break down/ force majeure. Further, the instructions of SLDC shall be binding on the applicant to back down generation on consideration of grid security and stability without any claim to HVPNL/SLDC/DISCOMs"*

Article 5.6 of the PPA provides as under:

*"Notwithstanding the provisions of this agreement, the HVPNL/DISCOMs will not be responsible for any damage that may occur to the Seller's generating system for any reason whatsoever."*

Thus, trippings occurs due to break-down in the transmission/distribution system or preventive maintenance to ensure grid security and stability. The Generator is backed down in order to address these issues. The connectivity agreement specifically provides that it is not entitled to any claim on account of loss of generation on account of these events. In this regard, it is relevant to note the submissions of the respondent that it is carrying out regular maintenance of 33 kV feeder line and the protection setting are reviewed from time to time. Even the earth fault Hi-set was changed from 200% to 50% with the intent to minimize the instances of tripping. Some of the trippings might have also occurred due to setting of the hypersensitive relay/ settings of other equipment installed by the Petitioner.

**In view of the above discussion, the Commission answers this issue in negative i.e. the existing power evacuation system has not resulted in generation loss of Rs. 5.83 crore (revised to Rs. 6.27 crore up to April, 2025).**

11.3 **Issue No. 3: Whether it is a fit case to invoke 'power to relax' provided under Regulation 10 of the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 and Clause 5 of the Procedure for grant of Connectivity to Intra-State Transmission or Distribution System issued under Regulation 6 of the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 as well as Haryana Electricity Regulatory Commission (Terms and conditions for grant of connectivity and open access for intra-State transmission and distribution system) Regulations, 2012?.**

The Commission observes the present projects were conceived to curb the menace of paddy straw burning in the fields. The Commission has also considered the order of Hon'ble National Green Tribunal ("NGT") dated 10.12.2015 titled '*Vikrant Kumar Tongad v. Environment Pollution (Prevention & Control) Authority and Ors.*', wherein taking cognizance of the environmental hazardous agriculture residue burning, following directions were issued:-

"…….

*b. All these State Governments and NCT Delhi shall immediately take steps to educate and advise the farmers through media, Gram Panchayats and Corporations that crop residue burning is injurious to human health, causes serious air pollution and is now banned or prohibited by law. They shall also be educated that the agriculture residue can be extracted and utilized for various purposes including manufacturing of boards, fodder, rough paper manufacturing and as a raw material for power generation etc.*

*……*

*h. Every State will provide Machines, Mechanism and Equipments or its cost to the farmers to ensure that agricultural residue in the field in these states are removed, collected and stored at appropriate identified sites in each district.*

** Such equipments like happy seeders would be provided to small farmers having land area less than 2 Acres free of Cost.*

** For the farmers possessing area of more than 2 Acres but Less than 5 Acres, the cost for such machines is to be Rs. 5000/-.*

** For land owners having land area more than 5 Acres the cost for such machines is to be Rs. 15,000/-.*

*These costs are for each crop growing season only once.*

*i. We hereby direct and prohibit agricultural residue burning in any part of the NCT of Delhi, State of Rajasthan, State of Punjab, State of Uttar Pradesh and State of Haryana.*

*……...*

*n. The District Magistrates shall further ensure from the Gram Panchayat that farmers are educated by holding special program of public hearing, circulating pamphlets and by practically demonstrating to the farmers the amount of pollution caused and consequential harm to public health, including that of their children from agricultural residue burning in open, as well as the possible ways for disposing agricultural crop residue by even providing benefit in terms of money. In some of the policies declared by the States, even some incentive and aid can be provided. Let the States implement this with greater sincerity and effectiveness.*

*m. We hereby direct all the State Governments and the Pollution control Boards should ensure that small land holding farmers are provided with the aid and machines for extracting agricultural crop residue in their respective fields and transport them to the designated sites in the respective districts where either it is used as a fuel in the plants or it is used for manufacturing of Straw/Fiber Boards and it can also be converted into a manure wherever it is possible."*

Thus, it is imperative that paddy-straw based power plants are promoted to consume maximum paddy straw in order to prevent its burning in the fields. Therefore, in case an existing power plant is capable of generating up to a level of 100% PLF, it should be facilitated by providing adequate power evacuation infrastructure as well as improving the quality of other associated equipment. Undoubtedly, the common feeder which is being utilised to serve agricultural tube well supply, will have constraints of shut down in specific hours of the day as well as crop harvesting season. Similar view was expressed by the Commission in its order dated 09.05.2025, wherein it was observed as under:-

"*The Commission further observes that power generated by an environmentally benign paddy-straw based power plant cannot be allowed to be stranded for want of upgradation of power evacuation system. Prima-facie, it appears that evacuation of power at 132 KV substation shall reduce the tripping; which will help the respondents in fulfilling their social responsibility. Accordingly, HVPNL (R-4) is directed to examine the feasibility of evacuating the power of the petitioner at 132 KV substation and submit its concrete action plan within two weeks from the date of this order with copy to the petitioner……."*

Undoubtedly, clause 2 of 'Procedure for making application for grant of connectivity in Transmission/Distribution System' issued under Regulation clause 6 Haryana Electricity Regulatory Commission (Terms and conditions for grant of connectivity and open access for intra-State transmission and distribution system) Regulations, 2012

(OA Regulations), as well as clause 5 of the 'Procedure for grant of Connectivity to Intra-State Transmission or Distribution System' issued under Regulation clause 6 of the 'Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 (GEOA Regulations)', provides that a generating station having installed capacity more than 5 MW and up to 20 MW shall be eligible to obtain connectivity at 33 kV or above. However, Regulation clause 55, 58 & 59 of the OA Regulations as well as Regulation clause 12 & 13 of the GEOA Regulations, bestows powers on the Commission to remove difficulties/relax provision of the respective regulations, in public interest. The relevant regulation clauses are reproduced hereunder:-

*"**55. Saving of inherent powers of the commission.** - Nothing contained in these regulations shall limit or otherwise affect the inherent powers of the Commission from adopting a procedure, which is at variance with any of the provisions of these regulations, if the Commission, in view of the special circumstances of the matter or in public interest or class of matters and for reasons to be recorded in writing, deems it necessary or expedient to depart from the procedure specified in these regulations.*

***58. Powers to remove difficulties.** - If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by a general or special order, not being inconsistent with the provisions of these regulations or the Act, do or undertake to do things or direct to do or undertake such things which appear to be necessary or expedient for the purpose of removing the difficulties.*

***59. Power of relaxation.** - The Commission may in public interest and for reasons to be recorded in writing, relax any of the provision of these regulations."*

***10. Power to Relax.:** The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected may suo moto relax any of the provisions of these regulations or on an application made before it by an interested person.*

***12. Power to amend**.: The Commission may, at any time, add, vary, modify or amend any of the provisions of these regulations.*

***13. Power to remove difficulties.:** If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by general or special order, make such provisions, which in the opinion of the Commission are necessary or expedient to do so."*

**In view of the above discussions, in order to circumvent the difficulty faced in promoting the environmentally benign paddy-straw based power plant, in public**

**interest, the Commission answers this issue in affirmative i.e. it is a fit case to invoke 'power to relax' provided under Regulation clause 10, 12 & 13 of the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 as well as Regulation clause 55, 58 & 59 of the Haryana Electricity Regulatory Commission (Terms and conditions for grant of connectivity and open access for intra-State transmission and distribution system) Regulations, 2012.**

11.4 **Issue No. 4: Whether the cost of evacuation system upgradation up to a distance of 10 KM from the inter connection point is to be borne by the State transmission utility (HVPNL)/Distribution Licensee (UHBVNL)?**

Having invoked its inherent powers and relaxed the provisions of ibid regulations, specific to the petitioner herein, being a paddy-straw based power generator, the Commission has now proceeded to examine the responsibility as well as cost of ensuring dedicated evacuation of power generated by the petitioner to 132 KV level.

In this regard, the Commission has examined the relevant provisions of Haryana Bio-energy Policy, 2018 notified on 09.03.2018 as well as Haryana Electricity Regulatory Commission (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2021 (RE Regulations, 2021) notified on 27.04.2021.

Chapter 3, Clause (B) of Haryana Bio-energy Policy, 2018, provides as under:-

***B. Grid Interfacing and Power Evacuation***

*(i) The Power producers shall meet with all the requirements, as per the State Grid Code for setting up their projects. For connectivity with grid, the project developers shall connect the Power Plant with the nearest Sub-Station of Transmission/Distribution Licensee and inject the electricity at appropriate voltage of the Sub-Station.*

*(ii) For biomass power projects installed for captive use or sale of power to power utilities/third party sale through open access, all arrangements for power evacuation i.e. voltage step up, synchronizing equipments, metering within the project premises shall be done by the Project Developer as per the technical specifications, guidelines and regulation issued by HERC.*

*(iii) The State transmission utility or the Transmission/Distribution Licensee shall bear the cost of Extra High Voltage (EHV)/ High Voltage (HV) transmission line up to a distance of 10 km. from the interconnection point.*

*In case the distance between the inter connection point and point of grid connectivity is more than 10 kms then the cost of transmission line for the distance beyond the 10 kms shall be borne equally between the Independent Power Producer and the licensee.*

*(iv)All expenses for power evacuation, Transmission, distribution line and synchronizing equipment required for installation will be as per the orders of the Haryana Electricity Regulatory Commission on Renewable Energy Tariff & other issues, as modified from time to time.*

*(v) The cost of any augmentation required after the interconnection point in the grid system of the Transmission/Distribution Licensee shall also be borne by the concerned Transmission/Distribution Licensee.*

*(vi) For implementation of such projects, electricity connection shall be provided by the power utilities within seven day from the date of application and it will be ensured that the electricity connection is provided on priority basis so that the project implementation schedule is not delayed.*

*(vii)Power utilities will keep on upgrading the capacity of transformer/evacuation facility including the substation from time to time as per the generation requirement.*

(Emphasis supplied)

Regulation clause 67 of RE Regulations, 2021, provides as under:-

***67. Cost of Evacuation System.*** *– The State transmission utility or the Transmission/Distribution Licensee shall bear the cost of Extra High Voltage (EHV)/ High Voltage (HV) transmission line up to a distance of 10 km. from the inter-connection point, in case power is supplied to DISCOMs under PPA. In case the distance between the inter connection point and point of grid connectivity is more than 10 KMs then the cost of transmission line for the distance beyond the 10 KMs shall be borne equally between the Independent Power Producer and the licensee. However, for canal based solar power projects, the transmission lines shall be provided by the utilities, free of cost, irrespective of the distance of the project from the substation, subject to the conditions that the solar power is generated and utilized within the state of Haryana and is counted towards RPO of the Distribution Licensee(s). Transmission/Distribution Licensee shall bear the cost of Extra High Voltage (EHV)/ High Voltage (HV) transmission line up to a distance of 10 km and shared cost after 10KM, only in the case where the power is to be supplied to DISCOMs under approved PPA. RE Power producers installed by Independent Power Producers (IPP) for*

*merchant sale or captive consumption, should bear the cost themselves. It is further clarified that the terms & conditions for cost of evacuation of power in respect of PPA entered into by DISCOMs/HPPC with RE Power Producers under competitive bidding, shall be governed by the terms of such PPA."*

(Emphasis supplied)

From the examination of the above, it is apparent that the State transmission utility/ Distribution Licensee (HVPNL/UHBVNL) shall bear the cost of Extra High Voltage (EHV)/ High Voltage (HV) transmission line up to a distance of 10 km and even the cost of any augmentation required after the interconnection point in the grid system of the Transmission/Distribution Licensee shall also be borne by the concerned Transmission/Distribution Licensee.

The Commission has also examined the emphasis laid down by the respondents over Clause 6(8) of Haryana Electricity Regulatory Commission (Terms and conditions for grant of connectivity and open access for intra-State transmission and distribution system) Regulations, 2012 as well as Clause 8 of the Procedure for making application for grant of connectivity in Transmission/Distribution System. The relevant clauses are reproduced hereunder:-

"*6. Procedure for grant of connectivity. –*

*xxx*

*(8) In case a dedicated line in the transmission system or distribution system is required to be constructed or where augmentation of the transmission system and or distribution system is to be carried out for grant of connectivity, the nodal agency shall, within 30 days from the date of receipt of application, inform the applicant about the broad design features, estimated cost and the timeframe for completion of the dedicated line or the system augmentation. The cost of construction of dedicated line or the augmentation of the transmission or distribution system and associated facilities shall be borne by the applicant. Requisite steps to be taken in this regard shall be as mentioned in the detailed procedure."*

(Emphasis supplied)

*"8. Dedicated System for Connectivity: 8.1 In case a dedicated line in the transmission system or distribution system is required to be constructed or where augmentation of the transmission system and or distribution system is to be carried out for grant of connectivity, the nodal agency shall, within 30 days from the date of receipt of application, inform the applicant about the broad design features, estimated cost and the timeframe for completion of the dedicated line or the system augmentation. The*

*cost of construction of dedicated line or the augmentation of the transmission or distribution system and associated facilities shall be borne by the applicant."*

(Emphasis supplied)

The Commission is of the considered view that although clause 6(8) OA Regulations, 2012 as well as Clause 8 of the Procedures made thereunder provides that the cost of construction of dedicated line or the augmentation of the transmission or distribution system and associated facilities shall be borne by the applicant, but it is a trite law that the special laws prevails upon the general laws. Therefore, provisions of Haryana Bio-energy Policy, 2018 as well as Haryana RE Regulations, 2021, being special laws promulgated to promote RE power shall prevail over the OA Regulations 2012 which is general in nature and is applicable to non-RE generators also. Further, the reliance by the respondents on Haryana Supply Code is misplaced being not applicable on the generator supplying power under the PPA to State Discoms, as the same governs the terms and conditions of supply of power by Discoms to its consumers.

**In view of the above discussions, the Commission answers this issue in affirmative i.e the cost of evacuation system upgradation up to a distance of 10 KM from the inter connection point is to be borne by the State transmission utility (HVPNL)/Distribution Licensee (UHBVNL).**

**Conclusion:-**

Having answered the above issues and invoked its inherent powers and relaxed the provisions of extant regulations, specific to the petitioner herein, being a paddy-straw based power generator, R-2 and R-4 (UHBVN/HVPNL) are directed to carry out appropriate upgradation of the existing power evacuation system by way of installing better quality of conductors, jumpers and clamps and such other equipment necessary to ensure efficient evacuation of electricity from the Petitioner's Project and to specifically prevent the instances of trippings. The Respondents are further directed to ensure dedicated evacuation of the power generated by the petitioner at 132 kV level and to prevent the instances of trippings. In this regard, UHBVN/HVPNL are directed to explore the following options:

i To evacuate the power of the petitioner at 132 KV level by constructing dedicated 132 KV transmission line and Bay at its 132KV S/Stn. Malikpur, at its own cost with full responsibility of taking care of Right of Way (RoW) issues within a timeframe of one year from the date of this order.

ii To install a new step up transformer of 22.5 MVA at 132 kV bay at Malikpur sub-station exclusively for the Petitioner's Project, in order to step up the power from 33 kV level to 132 kV level, by utilising the existing 33 KV HSL line, within a timeframe of six months from the date of this order. HVPNL has already clarified that by way of their affidavit dated 23.06.2025 that there is space available at Malikpur sub-station to construct a new 33/132 kV bay.

iii To utilise the existing 33 KV HSL line, which is connected to a 33 kV bus bar, by isolating other outgoing feeders in 33 kV Malikpur sub-station, which are currently also connected to the same 33 kV bus bar as that of the Petitioner. The 33 kV line from the Petitioner's Project will continue to stay independently connected to the existing transformer of 16 / 20 MVA while other outgoing feeders at Malikpur sub-station will be shifted to the under construction transformer of 20 / 25 MVA at Malikpur sub-station. The whole exercise may be completed within a timeframe of six months from the date of this order.

The R-2 and R-4 (UHBVN/HVPNL) shall intimate the option so adopted by them to the petitioner under copy to this Commission, within one month from the date of this order.

12. The present petition is disposed of in terms of the above order.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 28.07.2025.

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| Date: 28.07.2025<br>Place: Panchkula | (Mukesh Garg)<br>Member | (Nand Lal Sharma)<br>Chairman |