

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

**Case No. HERC/P. No. 43 of 2025**

**Date of Hearing : 05/08/2025**

**Date of Order : 20/08/2025**

**IN THE MATTER OF:**

**Petition Under Section 86 (1) (C), 86 (1) (K) of The Electricity Act, 2003 read with Regulation 57, 58, 59 of the HERC (Terms and Conditions for Grant of Connectivity and Open Access For Intra-State Transmission and Distribution System) Regulations, 2012 read with Regulation 18, 19, 20 of the HERC (Deviation Settlement Mechanism and Related Matters) Regulations, 2019 read with Regulation 65, 66, 67 And 68 Of The HERC (Conduct Of Business) Regulations, 2019 seeking this commission to exercise its power to relax/ power to remove difficulty or in the alternative power to amend the provisions of clause 2 & 8 of HERC (Terms and Conditions for Grant of Connectivity and Open Access for Intra-State Transmission and Distribution System) Regulations, 2012 and clause 3 of Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation as Approved by the HERC in accordance with HERC (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019 with respect to relaxation in applicability of long term open access (LTOA) and QCA on preferential tariff solar power plant executed under PM KUSUM scheme.**

**Petitioner**

1. M/s Sunphotronics Private Limited, DCG2-901, Tower-2, DLF Corporate Greens, Sector-74A, Gurgaon Through its Director Mr. Satish Kumar
2. M/s JLTm Energy India Private Limited, AB/03, Second Floor ( S/F) Market Safdarjung Enclave, Near Kamal Cinema, New Delhi Through its Director Mr. Manu Bishnoi

**VERSUS**

**Respondents:**

1. Haryana Vidyut Prasaran Nigam Limited, Shakti Bhawan, Plot No. C-4, Sector-6, Panchkula Through its Managing Director
2. Dakshin Haryana Bijli Vitran Nigam Limited, Vidyut Sadan, Vidyut Nagar, Hisar Through its Managing Director
3. Haryana Power Purchase Corporation Limited, Sector-6, Panchkula Through its Chief Engineer

**Present**

**On behalf of the Petitioner**

1. Sh. Akshay Gupta, Advocate
2. Sh. Sanjeev Kumar Chopra, Representative

## **On behalf of the Respondent**

1. Ms. Sonia Madan, Advocate for R1 & R3
2. Sh. Raheel Kohli, Advocate for R2
3. Ms. Rajvinder Kaur, Advocate
4. Ms. Abha, XEN, UHBVN
5. Sh. Gaurav Gupta, XEN, HPPC
6. Sh. Vijay Upadhyay, AEE, HVPN
7. Sh. Vikram Dahiya, Consultant DHBVN

## **QUORUM**

**Shri Nand Lal Sharma, Chairman**

**Shri Mukesh Garg, Member**

## **ORDER**

### **1. Petition:**

#### **CONSPECTUS OF THE CASE**

- 1.1 That the present petition is being preferred by the Petitioners Sunphotronics Pvt. Limited (herein referred to as "Petitioner 1") and JLTm (herein referred to as "Petitioner 2"), collectively called as Petitioners, praying before this Hon'ble Commission to exercise its power to relax, power to remove difficulties with respect to applicability of Clause 2 & 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 and Clause 3 of Procedure for Forecasting, Scheduling And Deviation Settlement Of Solar & Wind Generation (hereinafter may be referred as DSM) as approved by the HERC in accordance with Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019 ( hereinafter may be referred as Forecasting Regulations)
- 1.2 That the petitioners are in the process of installing their respective Solar Power projects in the state of Haryana under Pradhan Mantri Kisan Urja Suraksha evam Utthan Mahabhiyan (PM KUSUM) Scheme introduced by Government of India (GoI), whereby the respective DISCOMs shall buy the generated power on Pre-fixed levelized tariff as determined by Hon'ble Commission. Under PM KUSUM scheme, the Renewable Energy Generation Plants having capacity up to 2 MW can be set up by individual farmers / group of farmers / cooperatives / panchayats / Farmer Producer Organizations (FPO) / Water User Associations (WUA) in the vicinity of rural grid substations under Component-A of the scheme. But there are two such conditions/ difficulties in the present framework of regulations, which interdicts the petitioners to go ahead and take advantage of the central government scheme ( PM KUSUM). One is that the petitioners must have in place a Long Term Open Access (herein after referred to as LTOA) agreement with the transmission licensee and the second one is that they must appoint some Qualified Coordinating Agency (QCA) before injecting power at the nearby DISCOM substation.

- 1.3 That before proceeding further, let us understand the essence of the PM KUSUM scheme which has been introduced with a motive to secure the availability of power and to discourage the use of diesel by the peasantry.

Salient features of the scheme are as under:

*“Pradhan Mantri Kisan Urja Suraksha evam Utthan Mahabhiyan (PM-KUSUM) Scheme for de-dieselisation of farm sector and enhancing the income of farmers. Under the Scheme, central government subsidy upto 30% or 50% of the total cost is given for the installation of standalone solar pumps and also for the solarization of existing grid-connected agricultural pumps. Further, farmers can also install grid-connected solar power plants up to 2MW under the Scheme on their barren/fallow land and sell electricity to local DISCOM at a tariff determined by state regulator. This scheme is being implemented by the designated departments of the State Government”*

COMPONENT - A

- *Small Solar or other Renewable Energy based Power Plants (REPP) of capacity upto 2MW can be set-up by individual farmers/ cooperatives / panchayats / Farmer Producer Organisations (FPO) on barren/fallow/marshy/ pasture or cultivable lands.*
- *The plant can be installed by the farmer or he can provide his land on lease to a developer, who will install the plant*
- *The SIA will be eligible to get service charge of Rs. 0.25 Lakh per MW after commissioning of the projects.*
- *It has been estimated that farmers will earn up to Rs. 25,000 per acre per year if the plant is installed by a developer/ CPSU on the land leased by the farmer*
- *Up to Rs. 65,000 per acre per year if they install the plant themselves by taking loan from the banks.*
- *The RBI has included this Component under priority sector lending and therefore Banks will provide loan at competitive rates and on soft terms.*
- *The Solar or other Renewable Energy based Power Plants (REPP) will be preferably installed within five km radius of the notified sub-stations in order to avoid high cost of transmission lines and losses.*
- *The central Government will provide an incentive of 40 paise/kWh or Rs.6.60 lakhs/MW/year, whichever is lower to the DISCOMs, for buying the power produced under this Component for a period of five years from the Commercial Operation Date of the plant.*

- 1.4 That it can be seen from the above that the intention behind bringing in such a scheme was to promote the installation of solar power projects on farmers' land and to enhance the income of the farmers but while formulating the scheme, probably the cost of QCA, decrease in the efficiency of the solar panels every year and selling of power at the same rate for 25 years under Long Term Open Access was not factored into. As far as peasantry in general is concerned, they understand the mechanism in simple terms and any hidden charges would obviously be hard for them to bear. The necessity to bring this petition before the hon'ble Commission has arisen from the fact that the Regulations as mentioned in the above para "1" need to be relooked into from fresh perspective and keeping in view the essence of PM KUSUM Scheme and the expertise cost which normally a farmer would have to bear for next 25 years. Presently, the Long-Term Open Access (LTOA) Agreement is necessary for

Open Access Consumers, Captive Power Generators & Embedded Consumers only where wheeling of power from Generator to User/consumers by using transmission and or distribution network as the case may be, whereas PM-KUSUM Component-A focusses only on setting up grid-connected solar or other renewable energy-based power plants on rural agriculture land (up to 2 MW capacity) and where the generated power would be supplied directly to the DISCOM under a Power Purchase Agreement (PPA) without any option for the generator to sell power to any other consumer through Open Access. And because the generator under PM KUSUM scheme has no option but to sell the power to DISCOMs only, this Hon'ble Commission is being prayed to direct the HVPNL & DHBVN to review the applicability clause of LTOA on these preferential tariff projects being executed under PM KUSUM scheme.

- 1.5 That as per Clause 3 of the Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation, as approved by the HERC in accordance with Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019( Regulation No -43 dated 29<sup>th</sup> April-2019), the Regulation is applicable on the all Solar power plants having capacity above 1 MW and therefore as per the ibid conditions of the regulation, the appointment of QCA becomes mandatory for such solar power projects also which are installed and run under PM KUSUM scheme.
- 1.6 As already mentioned above, the PM KUSUM scheme was notified for welfare of farmers by MNRE and to enhance their monthly incomes from the projects which they may install against a PPA on a levelized tariff of Rs.3.11/unit- for next 25 years in the state of Haryana. Making it mandatory for them to appoint a QCA would be a big difficulty for them. Appointing a QCA in itself is a very complicated process and then the daily work including documentation / updates involved of the QCA is even more complicated. It involves heavy penalties for deviations and any wrong assessment on the part of QCA would eventually travel down to farmers thereby defeating the very purpose bringing in PM KUSUM scheme. The scheme has been brought in to enhance the income of farmers whereas actually, it would turn into eating up of their already saved incomes from farming and other sources. As of now, in most of the states in India, the Solar power plants having capacity 5 MW and above only need to appoint a QCA and therefore the plants installed there under PM KUSUM automatically get exempted from the obligation to appoint a QCA. But same is not the case in Haryana because here it is mandatory to appoint an Aggregator / QCA for a plant of 1 MW and above. Also, the Deviation Settlement Mechanism in most of the states is applicable only on the Solar power plants having capacity above 5 MW. In ibid view, this Hon'ble Commission is being prayed to direct the HVPNL to review the applicability clause "3" of Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation as approved by The HERC in accordance with Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019 on the solar power plants being executed under PM KUSUM Scheme.

#### DESCRIPTION OF PARTIES:

- 1.7 Petitioner-1, Sunphotronics Private Limited (hereinafter referred to as Sun photonic) having its registered office at DCG2-901, Tower-2, DLF Corporate Greens, Sector-74A, Gurgaon and is involved in the renewable power generation field from the last 12 years.

- 1.8 Petitioner-2, JLTm Energy Private Limited (hereinafter referred to as JLTm) having its registered office at AB/03, Second Floor (S/F) Market, Safdarjung Enclave, Near Kamal Cinema, New Delhi, and is involved in the renewable power generation field from the last 12 years.
- 1.9 Respondent No. 1 Haryana Vidyut Prasaran Nigam Limited (hereinafter referred to as "HVPNL") is a company incorporated under the Companies Act, 1956 and has its registered office at Plot No. C-4, Shakti Bhavan, Sector-6, Panchkula. It was initially entrusted with the transmission and distribution business of erstwhile HSEB, however later, the distribution business was transferred to the distribution utilities of the State of Haryana. The Respondent holds the license issued by this Commission for transmission and handling bulk supply of power. The Respondent HVPNL issued Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation and Nodal agency for open access as per Haryana Electricity Regulatory Commission (Terms and Conditions for Grant of Connectivity and Open Access for Intra-State Transmission and Distribution System) Regulations, 2012 which is being challenged in this petition.
- 1.10 Respondent No. 2 Dakshin Haryana Bijli Vitran Nigam (hereinafter referred to as "DHBVN") is a company incorporated under the Companies Act, 1956 and has its registered office at Vidyut Sadan, Vidyut Nagar, Hisar (Haryana). The company is engaged in the business of electricity distribution in Dakshin Haryana area and is governed by the provisions of the Electricity Act, 2003. The Respondent, DHBVN, issued tender and LOA (Letter of approval) under PM KUSUM Scheme.
- 1.11 That Respondent No.3 is the Haryana Power Purchase Centre which is the holding company for all electricity distribution utilities in the State of Haryana involved in electricity transmission and distribution within the State of Haryana and for that purpose, procures power from various sources including from the State/ Central Government owned power generators and Independent Power Producers (IPPs) through Power Purchase Agreements (PPAs) entered into with them so as to ensure power supply to its consumers in a cost-effective manner.

#### JURISDICTION

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

*"Section 86. Functions of State:*

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

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

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

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

*"18. Power to amend*

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

*19. Power to remove difficulties*

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

*20. Power to Relax:*

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

- 1.14 Regulation 57, 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 provides Hon'ble commission the power to amend, power to remove difficulty and power to relax, respectively. The relevant provisions are quoted below:

*"57. Power to amend. –*

*The Commission, for reasons to be recorded in writing, may at any time vary, alter or modify any of the provision of these regulations by specific order.*

*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."*

- 1.15 Regulation 65, 66, 67 and 68 of the HERC (Conduct of Business) Regulations. 2019 provide this Hon'ble Commission with inherent powers and general power to amend. Relevant provisions are extracted below:

*"Saving of inherent power of the Commission*

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

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

*67. Nothing in these Regulations shall, expressly or impliedly, bar the Commission to deal with any matter or exercise any power under the applicable legal framework for which no Regulations have been framed, and the*

*Commission may deal with such matters, powers and functions in a manner it thinks fit.*

*General power to amend*

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

Facts:

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

- 1.16 The Electricity Act was enacted by Parliament under Schedule VII List 3 Item 38 and as such, the Central Government has the ability to make policies in a subject matter over which a Central law has been enacted. Therefore, the national policies both relating to climate change and governing electricity sector will have primacy. Also, since electricity is an Item of Schedule VII List 3, it is also a State subject and therefore, the Government of Haryana and, as such, this Hon'ble Commission also has an obligation to ensure implementation of such policies.
- 1.17 The Act consolidated the laws relating to generation, transmission, distribution, trading and use of electricity and generally for taking measures conducive to development of electricity industry, promoting competition therein, protecting interests of the consumers and supply of electricity to all areas, rationalization of electricity tariff, ensuring transparent policies regarding subsidies, promotion of efficient and environmentally benign policies, constitution of Central Electricity Authority, Regulatory Commissions and establishment of Appellate Tribunal and for matters connected therewith or incidental thereto.

**BACKGROUND:**

- 1.18 Dakshin Haryana Bijli Vitran Nigam Limited (DHBVN) invited Walk in applications on "First Come First Serve Basis" from the interested farmers, group of farmers, Panchayats, Co-operatives, Farmer Producer Organizations (FPO), and Water User Associations (WUA) for setting up of decentralized grid connected ground / stilt solar PV power plants of capacity of 500 KW to 2 MW to be connected to respective nearby sub-stations of rural areas as notified by DHBVN vide Walk In application/02/SE/C/PM KUSUM Component A Dated 25.10.2024 whereby Solar Power Plants could be developed, preferably by individual farmers, utilizing their barren /uncultivable /pasture /marshy land. Agricultural land is also permitted under the scheme provided that solar plants are installed in stilt fashion.
- 1.19 That as per the tender clause 9.9, "*DHBVN shall be responsible for providing connectivity to the solar power plant at the 11KV side of the nearest sub-station. SPG ( Solar Power Generator) has to comply with the Grid Code and other related Regulations as applicable.*" and clause 13.5, "*All applicable CERC / HERC / CEA regulations, codes, and applicable guidelines of MNRE/DHBVN or any other applicable entity shall have to be adhered by the SPG for the installation and operation of the solar power plant.*"
- 1.20 Accordingly, LOAs have been issued to the present Petitioners by DHBVN after completing all the usual formalities of tendering and accordingly, Haryana

Power Purchase Corporation (HPPC) on behalf of DHBVN has signed the PPA with the Petitioners at the pre-fixed levelized tariff of Rs.3.11/kWh, as notified by Hon'ble Haryana Electricity Regulatory Commission, for purchase of power for a period of 25 years from the Commercial Operation Date (COD) of the Solar plant.

- 1.21 That as per MNRE timelines of PM KUSUM Scheme, the sunset mentioned is March 2026 while project commissioning timeline shall be till 31st December 2025. DHBVN has given 31.12.2025 as the targeted completion timelines for the projects. While going through the process, it has come to notice of Petitioners that these projects would also go through the process of signing of LTOA and QCA appointment which is an impediment/ complication in execution/operations of these projects.

#### APPLICABILITY OF LTOA AGREEMENT

- 1.22 Clause 2 & 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 is re-iterated as under:

*"2. Scope and extent of application. –*

*These regulations shall apply where an application has been made for grant of connectivity for the purpose of open access to the intra-state transmission and or distribution system and or where an application has been made for long term open access, medium term open access or short term open access for use of the intra-State transmission and or distribution system including when such system is used in conjunction with inter-State transmission system.*

*Provided that a generating station, including captive generating plant, or a consumer / person shall not be eligible to apply for long term or medium term or short term open access unless he has the connectivity or he applies for connectivity to the intra-State transmission or distribution system as the case may be.*

*Provided further that a person may apply for connectivity as well as long term or medium term or short term open access simultaneously."*

*"8. Eligibility and other conditions for open access. –*

*(1) Any licensee, generating company, captive generating plant and consumer / person other than consumer of the distribution licensee, having a demand of 1 MW and above and connected at 11 KV or above, shall be eligible for availing open access to the intra-State transmission of STU and or transmission licensee other than STU and or distribution system of the distribution licensee on payment of various charges as per chapter VI of these regulations.*

*(2) Any consumer of the distribution licensee having a contracted demand of 1 MVA or above and connected to the distribution system of the licensee at 11 kV or above, shall be eligible for seeking open access provided he is connected through an independent feeder emanating from a grid sub-station.*

*Provided that the Commission may consider allowing open access to individual consumers with contracted demand of less than 1 MVA at such time it may consider feasible having regard to operational constraints and other factors.*

*(3) A group of two or more consumers of the distribution licensee having a combined contracted demand of 1 MVA or above and connected to the distribution system of licensee at 11 kV or above through an independent feeder*

*emanating from a grid sub-station, shall also be eligible for seeking open access if all such consumers collectively apply for open access through a group leader to be nominated by all such consumers on that feeder and also agree to the rostering restrictions that may have to be imposed by the utility.*

*Provided that a person covered by a policy of the State Government, existing on the date of coming into force of these regulations, relating to captive generation or generation from non-conventional energy sources, shall be eligible to avail open access irrespective of contract demand.*

*(4) The consumers with contracted demand of 1 MVA or above who are not on independent feeders shall be allowed open access subject to the condition that they agree to the system constraints as well as the power cut restrictions imposed by the utility serving them. In such cases the duty of the distribution licensee shall be of a common carrier providing non – open access as per section 42 (3) of the Act.*

*(5) A person having been declared insolvent or bankrupt or having outstanding dues against him for more than two months billing of the distribution / transmission licensee at the time of application shall not be eligible for open access.”*

1.23 That it is evident from above, the Long-Term Open Access (LTOA) Agreement with the Transmission licensee is necessary for those Open Access Consumers, Captive Power Generators & Embedded Consumers only wherein wheeling of power from Generator to User/consumers is involved by using transmission network and or distribution network, as the case may be. But there is no requirement for LTOA Agreement for the solar power generators under PM KUSUM scheme who shall supply power to DISCOMs without using any transmission network of HVPNL. Under PM KUSUM component-A, the focus is on setting up grid-connected solar or other renewable energy-based power plants (up to 2 MW capacity) nearby DISCOM substations wherein the generated power shall be supplied directly to the DISCOM on 11 kV under a Power Purchase Agreement (PPA). The transmission network would not be used under this arrangement and therefore LTOA with the transmission licensee should not be required in the case.

1.24 The basic intent of a LTOA Agreement is to facilitate the transmission licensee to plan its strengthening of network keeping in view the volume of power which it has to handle over the next years, typically exceeding 12 years, while ensuring operational, technical, and financial clarity between the stakeholders. Primary purposes and requirements for an LTOA Agreement are as under:

*A. When a generator or consumer needs to utilize the transmission network (either intra-state or inter-state) for power transport, a Long-Term Open Access (LTOA) agreement is typically mandatory.*

*B. LTOA is required when power is sold to a third party or used for captive purposes across state or regional boundaries.*

*C. If a PPA involves the long-term flow of power over the transmission network, an LTOA agreement is required to formalize and facilitate this arrangement.*

Therefore, an LTOA agreement is necessary only for:

- a. Open Access Consumers (with demand above 1 MW)
- b. Captive Power Generators
- c. Embedded Consumers

Where the generators have to use transmission network for reaching their buyers

But LTOA has no significance for the Solar Power Generators (SPGs) supplying renewable energy under PM-KUSUM Component-A.

#### 1.25 Key Justifications for Exemption from LTOA

##### 1. Purpose of the Scheme

Component-A of the PM-KUSUM scheme supports the installation of grid-connected solar or other renewable energy-based power plants (up to 2 MW capacity) from near substations. The generated power is supplied directly to the local DISCOM under a Power Purchase Agreement (PPA) without using any transmission network in between.

##### 2. Network Connectivity

These SPGs shall connect to the distribution network, not the transmission network. Since the power flow remains within the jurisdiction of the DISCOM, LTOA applicable only to transmission network usage is not relevant.

##### 3. Regulatory Framework

The scheme's guidelines explicitly state that the PPA governs all commercial and operational terms for supplying power to the DISCOM. Open access mechanisms, including LTOA, are not applicable because there is no wheeling of power to third-party consumers or cross-state transmission involved.

1.26 In the instant case, SPGs under PM KUSUM Component-A are selling power to the DISCOMs by executing a preferential tariff PPA with HPPC through a pre-defined tender notice based on scheme of MNRE and SPGs is bound to sell power to DISCOMs regulated by conditions of PPAs. SPGs is not allowed to sell power through open access to any other utility or consumer or any other person or through exchange. Hence, LTOA should not be applicable on the Solar Power projects being executed under PM KUSUM Scheme.

#### 1.27 Applicable Agreements Instead of LTOA

The following agreements are typically required in place of LTOA:

- Connectivity/Connection Agreement: Ensures technical compliance for connecting and synchronizing the SPG with the distribution network.
- Power Purchase Agreement (PPA): Defines the commercial and operational terms of energy supply to the DISCOM.

#### APPLICABILITY OF QCA

1.28 Under Section 32, State Load Dispatch Centre is mandated to ensure integrated operation of the power system in a State for reliability, economy and efficiency of the power system. This inter-alia requires forecasting of load and RE generation, load-generation balance in real-time as well as compilation and analysis of the Energy Balance Sheets, Deviation Statement and Transmission Losses at the grid level for every time block. The Act also mandates open access in transmission and distribution system. The transmission system has been recognized as a common carrier.

1.29 The growing penetration of the Renewable Energy Sources/Distributed Energy Sources coupled with manifold increase in the intra-state, inter-state, inter-regional and transnational bulk energy transactions, whether from renewable

or conventional source, require scheduling, measurement of physical delivery, book-keeping, settlement etc.

- 1.30 In view of the same, this Hon'ble Commission issued the "*Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement and related matters for Solar and Wind Generation) Regulations, 2019*" ("*Forecasting Regulations*"), which were notified on 29.04.2019. As per Regulation 3, these regulations have been issued with the objective of facilitating grid integration of wind and solar energy generated in Haryana while maintaining grid stability. Further, SLDC is mandated to provide for inter-grid tie-lines to accommodate wind and solar energy generation to the largest extent possible subject to grid security. As per Regulation 4, these regulations shall apply to the wind and solar energy generators in the state of Haryana connected to the Intra-State Transmission/Distribution System, including those connected through pooling sub-station and using the power generated for self-consumption or sale within or outside the State.

The relevant provisions of Forecasting Regulations are reproduced as under:

*"4 Applicability*

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

*Provided that the combined installed capacity of the Solar or Wind Generators connected to a particular Pooling Sub-Station, or that of an individual Generator connected to some other Sub-Station, shall not be less than 1 MW."*

- 1.31 Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019, is applicable on the all Solar power plants having capacity above 1 MW, and as a consequence, QCA becomes necessary for the solar projects being executed under PM KUSUM scheme also. As already mentioned above, PM KUSUM scheme was notified for welfare of farmers by MNRE and projects are being installed by farmers in Haryana on a levelized tariff of Rs.3.11/- unit. The QCA is a complicated process and involves levying of heavy penalties on the Generators which cannot be handled by the farmers because the farmers are not qualified enough to handle these and which may actually lead to net losses on the farmers instead of earnings which will ultimately defeat the very purpose of the PM Kusum Scheme.
- 1.32 In most of the States of India, to keep the process simple, appointment of QCAs has been done away with on the projects being executed under PM KUSUM scheme. Also, Deviation Settlement Mechanism is applicable on the Solar power plants having capacity 5 MW and above.
- 1.33 The obligations provided under the Procedure is burdensome for the solar generators with the combined installed capacity of whom is less than 1 MW. The capability of the generators should be such that it should be in position to comply with the mandatory obligations as well as to handle the risk of high penalties which may arise due to deviations. While such minimum installed capacity does not create huge burden on grid efficiency due to deviations, the high penalties resulting from it does impact the small generators financially and will defeat the very purpose of the PM Kusum scheme. There are multiple states which prescribes application of forecasting, scheduling and deviation settlements regulations and their respective procedures to generators above 5

MW capacity namely Punjab, Rajasthan, Madhya Pradesh, Maharashtra, Karnataka among others

The relevant clause of the orders passed by other state Electricity Regulatory Commission(s) are given as under:

1.34 Uttar Pradesh Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement and Related Matters of Solar and Wind Generation Sources) Regulations, 2017

*“3. Applicability of the Regulations: (2)*

*(2) For solar power generators supplying power to the Discoms, or to the third party consumers through Open Access (OA) or for captive consumption through OA within or outside the State:*

*(a) Solar power generators having Individual or combined capacity of 5 MW and above whether connected to the State Grid independently or through pooling stations and/or solar parks;*

*b) Solar power generators of any capacity connected to the State Grid through pooling station and /or solar park with total capacity of 5 MW and above.*

*( Emphasis Supplied)*

1.35 Rajasthan Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement and Related Matters of Solar and Wind Generation Sources) Regulations, 2017

*“4. Applicability of the Regulations:*

*(2) For solar power generators supplying power to the Discoms, or to the third party consumers through Open Access (OA) or for captive consumption through OA within or outside the State:*

*(a) Solar power generators having Individual or combined capacity of 5 MW and above whether connected to the State Grid independently or through pooling stations and/or solar parks;*

*(b) Solar power generators of any capacity connected to the State Grid through pooling station and /or solar park with total capacity of 5 MW and above.”*

*( Emphasis Supplied)*

1.36 Punjab Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement and Related Matters of Solar and Wind Generation Sources) Regulations, 2019

*“3 Applicability”:*

*These procedure shall be applicable to all wind and solar generators with individual capacity of 5 MW and above connected to the State Transmission System or distribution system or wind and solar generators of any capacity connected through pooling stations to the State Transmission System or distribution system with combined capacity of 5 MW and above, supplying power to the distribution company (ies) or to the third party through open access or for captive consumption through open access within or outside the State.”*

*( Emphasis Supplied)*

1.37 Karnatka Electricity Regulatory Commission (Forecasting, Scheduling, Deviation settlement and related matters for Wind and Solar Generation sources) Regulations, 2015

## 2.1 Applicability

*This procedure shall be applicable to all wind generators having combined installed capacity of 10 MW and above and Solar Generators having combined capacity of 5 MW and above at the pooling station level coming under the purview of Deviation and Settlement Mechanism in accordance with the regulation 3.2 of the RE DSM Regulations 2015 (excluding rooftop PV Solar Power Projects) supplying power to the ESCOMs or to third party consumers through open access or for captive consumption through open access within or outside the State*

*( Emphasis Supplied)*

### 1.38 Maharashtra Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement of Solar and Wind generation) Regulations, 2018

#### 1.2 Applicability

*All Wind and Solar Energy Generators in Maharashtra connected to the intra-state Transmission System, on or after the date notified by the Commission of coming into force of the Regulations, including those connected through Pooling Substations, and using power generated for self-consumption or sale within or outside the state.*

*Provided that the combined installed capacity of the Solar or Wind Generators connected to a particular Pooling Substation, or that of an individual Generator connected to some other Substation, shall not be less than 5 MW.*

*( Emphasis Supplied)*

### 1.39 Madhya Pradesh Electricity Regulatory Commission (Forecasting, Scheduling, Deviation settlement and related matters for Wind and Solar Generation sources) Regulations, 2018

#### 3 Scope & Objective

*(2) These Regulations shall be applicable to Seller(s) and Buyer(s) involved in the transactions facilitated through short term open access or medium term open access or long term open access in intra-state transmission or distribution of electricity(including intra-state wheeling of power), as the case may be, in respect of all wind generators having a combined installed capacity of 10 MW and above and solar generators with an installed capacity of 5 MW and above including those connected via pooling stations and selling power within or outside the State*

*( Emphasis Supplied)*

### 1.40 HARYANA ELECTRICITY REGULATORY COMMISSION (DEVIATION, SETTLEMENT MECHANISM AND RELATED MATTERS) REGULATIONS, 2019 (Regulation No. 43) NOTIFIED ON 29<sup>TH</sup> APRIL 2019

#### 3. Objective

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

#### 4. Applicability

*These regulations shall apply to the transactions of conveyance of electricity through short- term open access or medium-term open access or long-term open access using intraState transmission system or distribution system of electricity*

*(including inter-state wheeling of power), subject to following conditions: - (A) Deviation Settlement Mechanism under these Regulations shall be applicable for all Seller(s), including Open Access Generators, Captive Generators re-generators with capacity 10 MW and above (excluding In-Situ Captive Generators) connected to Intra-State Transmission system but excluding Wind and Solar Generating Station(s).*

The above regulation notified by this hon'ble Commission has no provision of appointment of QCA by the generator despite the fact that the volume of power transfer is much higher and which can directly affect the grid stability and security. Even the deviation settlement mechanism is applicable on the generating plants of 10 MW and above. The hon'ble Commission on one hand in its Regulation no. 43 has not asked the generators of even large installed capacities to appoint the QCA whereas in its Regulation no. 44 has made it mandatory for a generator of even 1 MW to appoint a QCA despite the fact that the objectives of both these Regulations 43 and 44 are exactly the same. Therefore, it is prayed before this hon'ble Commission to review its Regulation no. 44 and to amend it to the extent that QCA would not be required to be appointed for solar & wind power projects of below 5 MW capacity

- 1.41 As per the Comparative analysis ibid view, the applicability of clause 3 of Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation as approved by the HERC in accordance with Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019 on solar power plants being executed under PM KUSUM scheme be reviewed and relaxed / amended to the extent that appointing QCA shall not be mandatory on the solar power projects installed under PM KUSUM scheme.
- 1.42 It is submitted that in light of the explanations and justifications given above, the Clauses 2 & 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 and Clause 3 of Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation as approved by The HERC in accordance with Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019 need to be amended to the extent envisaged in the above paras
- 1.43 Under PM KUSUM scheme, it has been made mandatory for the respective DISCOMs to buy the power from such solar power plants (not exceeding 2 MW) at Commission's approved rates and also, in order that the DISCOMs proactively come forward to promote such solar projects in their respective areas of jurisdiction, the Central Government has offered an incentive of 40 paise/kWh or Rs.6.60 lakhs/MW/year, whichever is lower to the DISCOMs, for buying the power produced under this Component A for a period of five years from the Commercial Operation Date of the plant. But because it has been made mandatory for the solar power generator to appoint and bear the expenses of QCA and also to bear the risk of penalty on account of deviation settlement, the present Regulation is proving counter-productive to the main thought and essence behind bringing in the PM KUSUM scheme. In case the DISCOMs remain adamant on the appointment of QCA citing Grid Security as the reason behind, the DISCOMs may themselves appoint QCAs at their own cost for all such solar power plants installed under PM KUSUM scheme.

## PRAYER

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

- i) Admit the present petition; and
  - ii) Exercise its powers under Clauses 19 & 20 of the HERC (Deviation Settlement Mechanism and related matters) Regulations, 2019 to amend the provision under Clause 3 of the Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation and to amend the provision of appointment of QCA by the generator of solar power plant installed under PM KUSUM scheme; and
  - iii) Exercise its powers under 57 & 58 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 to amend the provision of Clauses 2 & 8 of the regulations, and to relax the provision of mandatory LTOA between the transmission licensee HVPNL and the generator of solar power plant installed under PM KUSUM scheme and
  - iv) To allow any other relief as deemed fit by the Hon'ble Commission.
2. The case was heard on 10/06/2025. Ms. Sonia Madan counsel for the respondents requested for two weeks' time for filing the reply to the petition. Sh. Sanjeev Kumar Chopra submitted that the plant is going to be commissioned in mid of July 2025 and requested for early hearing in the case. He further requested for time of one week for filing the rejoinder. The Commission observes that any decision in the matter will be affecting the consumers in whole state of Haryana. The UHBVN has not been impleaded in the present case. Further any amendment in the regulations will require comments of the stakeholders. Acceding to requests of the parties, the Commission directs the respondent to submit its reply with in two (2) weeks with advance copy to the petitioner and the petitioner may file rejoinder, if any, with in one week thereafter. The Commission further decides to issue public notice for inviting the comments of the stakeholders on the petition and the public Hearing in the case will be held on 16/07/2025.
3. The case was heard on 16/07/2025, as scheduled, in the court room of the Commission. No other stakeholder except UHBVN submitted any comments / attended the Public hearing. At the outset, Ms Himangini Mehta counsel for respondent DHBVN submitted that the reply is ready and she will file the same today itself. Ms. Sonia Madan counsel for the respondent R1 & R3 requested for two (2) weeks' time to file the reply for HVPN. Sh. Sanjeev Kumar Chopra, representative of the petitioner

submitted that the plant is going to be commissioned by mid of Dec. 2025 and requested for early hearing in the case. He further requested for time of one week for filing the rejoinder in case the respondent is allowed time to file reply. Acceding to requests of the parties, the Commission directs the respondent-1 to submit its reply with in two (2) weeks with advance copy to the petitioner and the petitioner may file rejoinder, if any, with in one week thereafter.

**4. Reply of DHBVN dated 16/07/2025:**

- 4.1 The present reply is being filed on behalf of Dakshin Haryana Bijli Vitran Nigam Limited ("Respondent No.2"), to the captioned petition ("Petition") filed by M/s Sunphotronics Pvt. Ltd. ("Petitioner No.1") and M/s JLTm Energy India Pvt. Ltd. ("Petitioner No.2"), *hereinafter collectively referred to as "Petitioners"*. The Petition has been filed *inter alia* seeking amendment of Clause 2 and 8 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 ("HERC Open Access Regulations"); and amendment of Clause 3 of the HVPNL Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation ("HVPNL DSM Procedure").
- 4.2 The Petitioners herein are solar power developers, who are in the process of setting up solar power projects under the Pradhan Mantri Kisan Urja Suraksha evam Utthan Mahabhiyan ("PM Kusum Scheme"), which has been introduced by the Government of India with an intent to enhance the income of farmers and de-dieselise the farm sector. The PM Kusum Scheme provides subsidies for installation of solar pumps and solarization of existing agricultural pumps. Further, the farmers have been provided with an option of setting up grid-connected solar power plants upto 2MW on their barren/ fallow land and sell the power thus generated to DISCOMS at a tariff determined by the State Regulator.
- 4.3 Vide the Petition, the Petitioners are broadly seeking two reliefs with regard to the proposed solar power projects being set up by the Petitioners, *firstly*, that the requirement of signing of a Long-Term Open Access ("LTOA") agreement be removed, and *secondly*, that condition of appointment of a Qualified Coordinating Agency ("QCA") be done away with. It is the case of the Petitioner that these two conditions defeat the intent and purpose of the PM Kusum Scheme, as farmers would have to bear costs associated with application/ execution of LTOA agreements, and deal with the technical and expensive process of appointment of QCA.
- 4.4 The Respondent No.2 is filing the present short reply to the issues raised by the Petitioners in the Petition. The Respondent No.2 craves leave of this Hon'ble Commission to file a detailed, para-wise reply at a later stage, or as may be directed by this Hon'ble Commission.  
Re: Exemption from signing LTOA Agreement
- 4.5 The Respondent No.2 issued 'Walk-In Application' dated 23.02.2024 under Component-A of the PM Kusum Scheme, inviting applications from farmers/ group of farmers/ panchayats/ cooperatives, Farmer Producer Organizations and Water User Associations on 'First Come First Serve' basis, for setting up of decentralized, grid connected, ground/stilt solar PV power plants of

capacity 500 KW to 2 MW, to be connected to respective sub-stations of rural areas notified by the Respondent No.2 ("Walk-In Application").

- 4.6 The Petitioners herein applied under the Walk-In Application, and were awarded Letter of Award dated 26.12.2024, 03.04.2025, 24.04.2025, 24.01.2025 by the Respondent No.2. Thereafter, the Petitioners have executed PPAs dated 21.03.2025, 20.05.2025, 06.06.2025 & 19.06.2025 with the Respondent No.3.
- 4.7 It is pertinent to highlight that as per Clause 13.5 of the said Walk-In Application, all applicable CERC/ HERC/ CEA regulations, codes and applicable guidelines of MNRE/ DHBVN shall have to be adhered to by the developer, for installation and operation of the solar power plant. The said provision implies that the the HERC Open Access Regulations as well as the HVPNL DSM Procedure would also be applicable to projects being set up under the PM Kusum Scheme.
- 4.8 It is submitted that the HERC Open Access Regulations provide for terms and conditions for open access, with a view to ensure optimal grid planning. These terms and conditions allow the DISCOMS and transmission utilities to plan necessary upgrades and reinforcements to the transmission and distribution infrastructure, to maintain grid stability and reliability, and also to ensure compliance with uniform technical and safety standards for all grid-connected generators, regardless of project size or policy incentives. The primary aim is thus to ensure safe, secure, and reliable operation of the power system.
- 4.9 In the present facts and circumstances, however, the power generated from the solar power plants of the Petitioners would be supplied directly to the Respondent No.2 under the PPA, and would thus be injected into the distribution system of the Respondent No.2. Since the Petitioners would be connected to the distribution network of the Respondent No.2, the power flow would remain within the jurisdiction of the DISCOM i.e. the Respondent No.2. As such, open access agreements would have no relevance/ significance, since there is no wheeling of power to third-party consumers or use of the transmission network.
- 4.10 Therefore, with a view to further the mandate of the PM Kusum Scheme, the Respondent No.2 herein respectfully submits that this Hon'ble Commission may consider granting the Petitioners and other solar power developers under the PM Kusum Scheme Component A, exemption from signing of the LTOA Agreement.
- 4.11 However, in order to ensure compliance with technical standards for connecting/synchronizing the SPG to the distribution network, a connectivity agreement may be executed, in addition to execution of the PPA as has been stipulated under the 'Walk-In Application' and the Guidelines for implementation of Pradhan Mantri Kisan Urja Suraksha evam Utthan Mahabhiyan Scheme dated 22.07.2019 issued by the Ministry of New and Renewable Energy ("MNRE Guidelines").

Re: Exemption from appointing QCA

- 4.12 The Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2019 ("HERC DSM Regulations") were notified by this Hon'ble Commission with a primary objective of ensuring integrated operation of power system for its reliability, economy and efficiency. To this end, forecasting of load and RE generation; load-generation balance in real-time as well as compilation and

analysis of the Energy Balance Sheets, Deviation Statement and Transmission Loss at the grid level for every time block, are essential.

- 4.13 Regulation 2(s) of the HERC DSM Regulations define QCA as *the agency appointed by the Wind or Solar Energy Generators connected to a Pooling Sub-Station, or by an individual Generator connected directly to a Sub-Station, to perform the functions and discharge the obligations specified in these Regulations*. The said regulations further set out the role and functions of the QCA, along with the procedure for its registration and appointment. Some of the relevant provisions of the HERC DSM Regulations are set out hereunder:

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

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

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

(emphasis supplied)

- 4.14 A bare perusal of the HERC DSM Regulations make it abundantly clear that the QCA plays an instrumental role in forecasting, scheduling, and deviation settlement, which are essential for maintaining grid discipline, ensuring system reliability, and avoiding imbalance charges under the Deviation Settlement Mechanism. Moreover, the detailed provisions set out under the said guidelines with regard to the eligibility criteria for appointment of QCA indicate the significance of the appointment of a QCA.
- 4.15 Further, as per Regulation 4.1 of the HERC DSM Regulations, these regulations would apply to all Wind and Solar Energy Generators in Haryana connected to the Intra-State Transmission /Distribution System, including those connected through Pooling Sub-Stations, and using the power generated for self-consumption or sale within or outside the State. The applicability is subject to the condition that the installed capacity of an individual generator or the combined capacity connected to a pooling sub-station is not less than 1 MW. As such, the HERC DSM Regulations would be applicable on projects being developed under the PM Kusum Scheme as well, if they have a capacity of 1 MW or more.
- 4.16 In light of the above, it is evident that the appointment of a QCA forms an integral part of the process to ensure safety, reliability and smooth functioning of a power system. It is thus submitted that the condition of appointment of QCA cannot be waived, as the same would have very serious ramifications on grid safety and security. Pertinently, the MNRE Guidelines also do not provide for any such waiver or exception to be granted to projects being set up under the PM Kusum Scheme.
- 4.17 It is respectfully submitted that while facilitating the interests of the solar power developers under the PM Kusum Scheme is important, the same should not be at the risk and cost of the safety of the grid. It is thus imperative to ensure balance of equities of all parties/ stakeholders involved.

- 4.18 In view thereof, it is respectfully prayed that the requirement of appointment of QCA, as set out under the HVPNL Procedure and the HERC DSM Regulations, should not be waived.
- 4.19 In light of the submissions made hereinabove, it is submitted that this Hon'ble Commission may consider to allow prayer clause (iii) of the Petition, and disallow prayer clause (ii) of the Petition.
- 4.20 The Respondents reserves its right to amend, add or alter this Reply, if necessary and/or to file additional/supplemental pleadings and/or documents, if required or if directed by this Hon'ble Commission.

## **5. Reply of HVPN dated 23/07/2025:**

- 5.1 That the present reply is being filed through Shri Vikas Malik, Executive Engineer/ISMC, Haryana Vidyut Prasaran Nigam Limited ("HVPNL"), who is duly authorized and is otherwise is well conversant with the facts of the case on the basis of knowledge derived from the record.

All submissions made by the way of the present reply are in the alternative and without prejudice to each other. All allegations made by the Petitioner are denied in totality and the same may be treated as a denial as if it was made in seriatim. Nothing submitted herein shall be deemed to be admitted unless the same has been admitted thereto specifically.

- 5.2 That the present petition has been filed one M/s Sunphotonics Private Limited and M/s JLTm Energy India Private Limited seeking that the applicability of Regulation 2 & 8 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 ("OA Regulations, 2012") and Clause 3 of the Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation ("the DSM Procedure") be relaxed and the Petitioners be exempted from appointment of Qualified Coordinating Agency ("QCA") and also exempted from entering into a Long Term Open Access Agreement ("LTOA") with the Transmission Licensee.

### PRELIMINARY SUBMISSIONS/ OBJECTIONS:

#### A. ISSUES BEING RAISED BY THE APPELLANT ALREADY STANDS SETTLED BY THE HON'BLE COMMISSION:

- 5.3 That at the outset, it is humbly submitted that the issue raised by the Petitioners herein, both with respect to the applicability of the DSM Regulations as well as the LTOA, already stands decided by this Hon'ble Commission vide its earlier orders. Attention in this regard is brought towards the following orders:
- i. Order dated 08.03.2021 in HERC/PRO-42 of 2020: Vide the said order, the Hon'ble Commission had approved the Draft DSM Procedure submitted by HVPNL. A perusal of the order dated 08.03.2021 shows that the Hon'ble Commission had already considered the submission raised by one M/s Manikaran Analytics Ltd. w.r.t. exemption of solar and wind generators having capacity upto 5 MW. The relevant part of the order dated 08.03.2021 is reproduced below:

"Comments by Manikaran Analytics Ltd.:

*Rationale: The obligations provided under the Draft Procedure will be burdensome for the solar or wind generators the combined installed capacity of whom is less than 1 MW. The capability of the generators should be such that it should be in position to comply with the mandatory obligations as well as to handle the risk of high penalties which may arise due to deviations. While such minimum installed capacity does not create huge burden on grid efficiency due to deviations, the high penalties resulting from it does impact the small generators financially. There are multiple states which prescribes application of forecasting, scheduling and deviation settlements regulations and their respective procedures to generators above 5 MW capacity namely Punjab, Rajasthan, Madhya Pradesh, Maharashtra, Karnataka among others.*

*Suggestion: It is suggested that proviso to Point 3 be replaced with as follows:*

*" .. the combined installed capacity of the Solar or Wind Generators connected to a particular Pooling Sub-Station, or that of an individual Generator connected to some other Sub-Station, shall not be less than 5 MW.*

*...*

*Commission's Observation: The Commission observes that ibid provision of procedure is in line with clause no. 4.1 of HERC, Principal Regulation i.e. Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement and related matters for Solar and Wind Generation) Regulations, 2019, therefore, the provision as per regulations in-vogue shall prevail."*

*A copy of the order dated 08.03.2021 passed by the Hon'ble Commission is annexed.*

- ii. Order dated 17.10.2023 in HERC/PRO-21 of 2023: The said petition was filed a number of small RE generators. One of the prayers raised by the Petitioners therein was – "Pass an order to exempt from aforesaid regulations and procedure i.e. connectivity and open access Regulations 2019 and procedure for forecasting scheduling and deviation settlement of solar and wind generation of the petitioners solar plant of 1 MW capacity which are connected to rural substation at 11/33 KV line." However, vide the order dated 17.10.2023, the Hon'ble Commission had rejected the petition while holding as under:

*"6. Commission's Order:*

*... ..*

*6.9. In view of the above, it is observed that no justified reasons have been submitted by the petitioner to relax the provisions, to give the benefit to them and for considering exemption from the applicability of the DSM Regulations, 2019.*

*The petition is therefore, dismissed."*

*A copy of the order dated 17.10.2023 passed by the Hon'ble Commission is annexed.*

Thus, the submissions which are now being raised by the Petitioners have already been considered and rejected by the Hon'ble Commission and as such, the present petition being a repetition of the issues already adjudicated by this Hon'ble Commission is liable to be dismissed. In case the present petition is proceeded with, the same would amount to re-opening of the matter which already stands decided.

**B. RELIEF BEING SOUGHT BY THE APPELLANT IS NOT CONDUCTIVE TO MAINTAINING OVERALL GRID STABILITY:**

- 5.4 That it is further brought to the notice of this Hon'ble Commission that, at present, Haryana Power Purchase Centre ("HPPC") has signed Power Purchase Agreements ("PPA") aggregating to approximately 100 MW for the PM-KUSUM Projects. It is pertinent to highlight that these PM-KUSUM Projects, though relatively small in individual capacity, cumulatively form a significant portion of the RE generation in the state. In case the present petition is allowed and exemption is granted to the Petitioners, the same may set a precedent for all similarly placed PM-KUSUM developers to seek similar reliefs. This could result in a large number of such generators operating outside the ambit of deviation discipline, which in turn would adversely affect the real-time balancing of supply and demand on the grid. Granting such exemptions, therefore, would not only undermine the regulatory framework governing grid discipline but would also pose a substantial threat to the stability and reliability of the state and regional power grids. Accordingly, the relief sought by the Petitioners is neither sustainable in law nor in the interest of maintaining grid security, stability and discipline. A list of the PPAs signed by HPPC relating to the projects set up under the PM Kusum Scheme is annexed.

**C. NO RELIEF IS LIABLE TO BE GRANTED FOR A TIME-BARRED AND BELATED PETITION:**

- 5.5 That it is respectfully submitted that the present petition has been filed by the Petitioners only after the issuance of the Letters of Award (LOAs) and execution of the Power Purchase Agreements (PPAs) by the Answering Respondents with the Petitioners. In fact, Petitioner No. 2, M/s JLTM Energy India Private Limited, has already commissioned multiple projects under the PM-KUSUM Scheme, as evidenced by the list annexed (Annexure R-1/3) to this reply. The Answering Respondents submit that if the Petitioners had any grievance regarding the applicability of the relevant Regulations, they ought not to have participated in the tender issued by DHBVN, thereby signifying their acceptance of the prevailing Regulations. Such a petition cannot be entertained belatedly.
- 5.6 That it is further submitted that the Walkin Walk in applications on 'First Come First Serve Basis' for "*Installation of Decentralized Ground/ Stilt Mounted Grid Connected Solar Power Plants of capacity 500 KW to 2 MW on barren /fallow/uncultivable /pasture /marshy land/Agricultural land falling within a radius of 5 kms from substations notified by DHBVN under Component-A of PM KUSUM Scheme*" contained specific clauses regarding the compliance of the Regulations. The copy of the Tender Ref: Walk In application/02/SE/C/PM KUSUM Component A dated 25.10.2024 is annexed, the relevant clauses of which are reproduced below:

*"9.8. DHBVN shall be responsible for providing connectivity to the solar power plant at the 11KV side of the nearest sub-station. SPG has to comply with the Grid Code and other related Regulations as applicable.*

... ..

13.5. All applicable CERC / HERC / CEA regulations, codes, and applicable guidelines of MNRE/DHBN or any other applicable entity shall have to be adhered by the SPG for the installation and operation of the solar power plant.

Similarly, the Standard PPA appended with the Tender document also provided as under:

*“1.1. Definitions:*

*... ..*

“Electricity Laws”	<u>shall mean the Electricity Act, 2003 and the rules and regulations made there under from time to time along with amendments thereto and replacements thereof and any other Law pertaining to electricity including regulations framed by the Appropriate Commission;</u>  ... ..
"Law"	<u>shall mean in relation to this Agreement, all laws including Electricity Laws in force in India and any statute, ordinance, regulation, notification, or code, rule, or any interpretation of any of them by an Indian Governmental Instrumentality and having force of law and shall further include without limitation all applicable rules, regulations, orders, notifications by an Indian Governmental Instrumentality pursuant to or under any of them and shall include without limitation all rules, regulations, decisions, and orders of the Appropriate Commissions;</u>

*4.1 RPG’s Obligations*

*... ..*

*c) Designing, constructing, erecting, commissioning, completing, and testing the Power Project in accordance with the applicable Law, the Grid Code, the terms and conditions of this Agreement and Prudent Utility Practices.*

*... ..*

*g) The RPG shall be responsible to for directly coordinating and dealing with the DISCOM, and other authorities in all respects regarding declaration of availability, scheduling, and dispatch of Power and due compliance with deviation and settlement mechanism and the applicable Grid code/State Regulations.*

*... ..*

*4.3.2 In case at any point of time, the peak of capacity reached is higher than the contracted capacity and causes disturbance in the system at the point where power is injected, the RPG will have to forego the excess generation and reduce the output to the contract capacity and shall also have to pay the penalty/ charges (if applicable) as per applicable regulations.*

*... ..*

4.9.2 Off take constraints due to Backdown: The RPG and DISCOM shall follow the forecasting and scheduling process as per the regulations in this regard by the Appropriate Commission. In the eventuality of backdown, subject to the submission of documentary evidence from the competent authority, the RPG shall be eligible for a minimum generation compensation, from DISCOM, restricted to the following and there shall be no other claim, directly or indirectly against DISCOM: ... ..

... ..

#### 6.1 Dispatch and Scheduling

6.1.1 The RPG shall be required to schedule its power as per the applicable regulations of SERC /SLDC or any other competent agency and same being recognized by the SLDC or any other competent authority / agency as per applicable regulation/ law / direction and maintain compliance to the applicable Codes/ Grid Code requirements and directions, if any, as specified by concerned SLDC from time to time. Any deviation from the Schedule will attract the provisions of applicable regulation / guidelines / directions and any financial implication on account of this shall be on the account of the RPG.

6.1.2 The RPG shall be responsible for directly coordinating and dealing with the DISCOM, State Load Dispatch Centers, and other authorities in all respects in regard to declaration of availability, scheduling and dispatch of Power and due compliance with deviation and settlement mechanism and the applicable Grid code Regulations.

... ..

#### 17.11 Compliance with Law

*Despite anything contained in this Agreement but without prejudice to this Article, if any provision of this Agreement shall be in deviation or inconsistent with or repugnant to the provisions contained in the Electricity Act, 2003, or any rules and regulations made there under, such provision of this Agreement shall be deemed to be amended to the extent required to bring it into compliance with the aforesaid relevant provisions as amended from time to time."*

It is the case of the Answering Respondents that the Petitioners by way of the present petition are, in essence, seeking amendment to the terms of the PPA which is sacrosanct in nature, binding and enforceable by law. It is submitted that the Petitioners had/has signed the PPA with eyes open and had not made any reservations to this effect. The present petition has been filed once the PPA has been executed between the parties. Such an act on the part of the Petitioners i.e. to approach the Hon'ble Commission belatedly i.e. once the PPA already stands signed is liable to be viewed strictly.

- 5.7 That, be that as it may, as have been stated above, the issue being raised by the Petitioners herein already stands settled by the Hon'ble Commission vide its earlier order. It is further submitted that the DSM Regulations, 2019 were notified by the Hon'ble Commission on 29.04.2019. As such, the cause of action, if any, to file the present petition accrued in the favour of Petitioners, (especially Petitioner No. 2 who is already executing a number of PM-KUSUM projects) at the time the Regulations were notified or at the time the DSM

Procedure was approved i.e. vide order dated 08.03.2021. However, the present petition has been filed after a lapse of over five years from the date of notification of the DSM Regulations, 2019.

Attention in this regard is placed on the judgment of Hon'ble Apex Court in the case of A.P. Power Coordination Committee v. Lanco Kondapalli Power Ltd. [(2016) 3 SCC 468], wherein it has been observed as under:

*"In our considered view a statutory authority like the Commission is also required to determine or decide a claim or dispute either by itself or by referring it to arbitration only in accordance with law and thus Section 174 and 175 of the Electricity Act assume relevance. Since no separate limitation has been prescribed for exercise of power under Section 86(1)f) nor this adjudicatory power of the Commission has been enlarged to entertain even the time barred claims, there is no conflict between the provisions of the Electricity Act and Limitation Act to attract the provisions of Section 174 of the Electricity Act. In such a situation on account of provisions in Section 175 of the Electricity Act or even otherwise the power of adjudication and determination or even the power of deciding whether a case requires reference to arbitration must be exercised in a fair manner and in accordance with law. In the absence of any provision in the Electricity Act creating a new right upon a claimant to claim even monies barred by law of limitation, or taking away a right of the other side to take a lawful defence of limitation, we are persuaded to hold that in the light of nature of judicial power conferred on the Commission, claims coming for adjudication before it cannot be entertained or allowed if it is found legally not recoverable in a regular suit or any other regular proceeding such as arbitration, on account of law of limitation. We have taken this view not only because it appears to be more just but also because unlike Labour laws and Industrial Disputes Act, the Electricity Act has no peculiar philosophy or inherent underlying reasons requiring adherence to a contrary view."*

Reliance is also placed on the judgment of the Division Bench of Hon'ble Delhi High Court in the case of M.S. Shoes East Ltd. Vs. M.R.T.P. [2004 (52) SCL 628] where in the Hon'ble High Court held:

*"26. ... There are large number of similar Acts where the legislature in its wisdom has not specified a period of limitation. On proper analysis of various judgments of the Apex Court and the other courts, the ratio which clearly emerges is that all those cases where the legislature has not specified any statutory time limit, the claim has to be filed within reasonable time. In aforementioned judgments of the Apex Court particularly in the case of Corporation Bank (Supra) the Supreme Court observed that Act in which no statutory limitation has been prescribed that does not mean that claim petition can be entertained anytime. The ratio of the judgment is that the claim ought to be made within reasonable period. What is the reasonable time to lay a claim depends upon the facts of each case. In the legislative wisdom, three years period has been prescribed to lay a claim for money. The court observed that the period of three years is the reasonable period to raise a claim in a matter of this nature. The claim of the petitioner is in the nature of a money claim and on the analogy of the Corporation Bank (Supra) the claim ought to have been filed within the statutory limit for filing such claims by way of civil suits, i.e., three years. In the Corporation Bank's (Supra) case their Lordships of the Supreme Court examined*

*the facts of the case in detail and thereafter observed that the claim involved in that case was essentially for money. In this view of the matter, the court observed that the period of three years is the reasonable time to raise a claim in a matter of this nature. This is also in consonance with the provisions of the Limitation Act.”*

- 5.8 That it is further submitted that the DSM Procedure was approved by the Hon’ble Commission vide detailed and reasoned order dated 08.03.2021, only after a public hearing. It is the case of the Answering Respondent, that the Petitioners cannot be permitted to seek review of the order dated 08.03.2021 after a lapse of over 5 years as against the prescribed time line of 45 days as per Regulation 57 of the Haryana Electricity Regulatory Commission (Conduct of Business Regulation), 2019. Attention in this regard, is brought towards the order dated 10.04.2023 passed in RA-01 of 2023, wherein the Hon’ble Commission, while taking into account a number of judgments of the Hon’ble Apex Court, had dismissed a review petition against the order dated 08.03.2021 being time-barred. A copy of the order dated 10.04.2023, passed in RA-01 of 2023 is annexed. Thus, the present petition essentially seeking review of the issues decided by this Hon’ble Commission vide its earlier order dated 08.03.2021, is liable to be dismissed being hopelessly time-barred.

D. RELIEF BEING SOUGHT BY THE PETITIONERS IS AGAINST LAW/ BASED ON MIS-INTERPRETATION OF LAW AND/ MISLEADING FACTS:

- 5.9 That a number of submissions made by the Petitioners vide the present petition are contrary the law and/or amount to mis-interpretation of law. For instance:

- iii. At para 23 of the present petition, the Petitioners have stated that – “...there is no requirement for LTOA Agreement for the solar power generators under PM KUSUM scheme who shall supply power to DISCOMs without using any transmission network of HVPNL. Under PM KUSUM is on setting up grid-connected solar or other renewable energy-based power plants (up to 2 MW capacity) nearby DISCOM substations wherein the generated power shall be supplied directly to the DISCOM on 11 kV under a Power Purchase Agreement (PPA). The transmission network would not be used under this arrangement and therefore LTOA with the transmission licensee should not be required in the case.”

In this regard, it is submitted that the relief being sought by the Petitioner is contrary to the explicit provisions of Regulation 2 of the OA Regulations, 2012 which provides as under:

*“2. Scope and extent of application. – These regulations shall apply where an application has been made for grant of connectivity for the purpose of open access to the intra-state transmission and or distribution system and or where an application has been made for long term open access, medium term open access or short term open access for use of the intra-State transmission and or distribution system including when such system is used in conjunction with inter-State transmission system.”*

Similarly, Regulation 1(4) of the Green OA Regulations, 2023, also provides as under:

*“(4) This Regulations shall be applicable for allowing connectivity and open access to electricity generated from green energy sources as defined under*

clause (i) of Regulation 2, including the energy from non-fossil fuel based Waste-to-Energy plant, notwithstanding anything to the contrary containing in any other regulations, for the time being in force for use of intra-state transmission system (InSTS) or distribution system or both including when such system is used in conjunction with inter-State transmission system:

... ..

*Provided that other conditions of grant of connectivity and open access in respect of green energy generation, purchase and consumption, to which no express provision has been made in these regulations, shall be in accordance with the provisions of HERC Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation Regulations, 2019, Haryana Electricity Regulatory Commission (Terms and conditions for grant of connectivity and open access for intra-State transmission and distribution system) Regulations, 2012 and Haryana Electricity Regulatory Commission (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2021, as amended from time to time.”*

Even otherwise, the aforesaid issue has already been taken note of by the Hon'ble Commission, at the time of passing of the order dated 17.10.2023 (Annexure R-1/2), the relevant part of which is reproduced below:

“6.5. The petitioners further alleged that they are connected to the distribution network of the State and, therefore, they shall not be asked to apply for Open Access Connectivity to HVPNL.

*The counsel for the respondent, on this aspect, referred to the terms and conditions of the PPA which mandates the generator to comply with all the statutory laws as well as the direction of the SLDC, clause 8.10 of the PPA was referred to.*

... ..

*6.9. In view of the above, it is observed that no justified reasons have been submitted by the petitioner to relax the provisions, to give the benefit to them and for considering exemption from the applicability of the DSM Regulations, 2019.*

*The petition is therefore, dismissed.”*

PETITIONER IS NOT AN ‘UNQUALIFIED FARMER’ BUT A PVT. LTD. COMPANY FOUNDED BY IIT ALUMNI AND CLAIMS ITSELF AS LEADER IN SOLAR ENERGY PROVIDER FOR OVER 11 YEARS –

- iv. At para 31 of the present petition, the Petitioners have stated that- *“The QCA is a complicated process and involves levying of heavy penalties on the Generators which cannot be handles by the farmers because the farmers are not qualified enough to handle these and which may actually lead to net losses on the farmers instead of earning which will ultimately defeat the very purpose of the PM Kusum Scheme”* It is submitted that the purpose of DSM Regulation, 2019 is to maintain system security, stability and reliability. Further, the applicability of any binding Regulations cannot be ousted on the ground of its complexity or financial incapability of the Petitioners.

- v. In fact, the Petitioners have also misled the Hon'ble Commission while stating that loss is being caused to the small farmers whereas the Petitioners cannot be equated with "small farmers" or "peasantry" being big RE company. Further, at para 6 of the petition has stated that the Scheme would – *"... turn into eating up of their already saved incomes from farming and other sources."* Similarly, the Petitioners have stated that – *".. any wrong assessment on the part of the QCA would eventually travel down to farmers thereby defeating the very purpose of bringing in PM KUSUM scheme"*. Such statements made by the Petitioner is without any basis and completely incorrect. They are only based on mere apprehensions without any actual instance. Such similar baseless statements made throughout the present petition are worthy of no credence. Be that as it may, the Petitioners have entered into PPA at their own free will and at this stage cannot seek amendment of the terms of the PPA or the Regulations for any financial benefit.
- vi. At para no. 33 of the present petition, the Petitioners have alleged that – *"The capability of the generators should be such that it should be in position to comply with mandatory obligations as well as to handle the risk of high penalties which may arise due to deviations."* In this regard, it is submitted that penalty is imposed only when there is deviation of scheduled energy. The same is not applicable in case of any grid outage i.e. reasons not attributable to the Petitioners. The relevant clause of the DSM Procedure is reproduced as under: *"xvii) In case of any grid disturbance, the schedule generation of all the generating stations and schedule drawl of the discom shall be deemed to have been revised to be equal to their actual generation/drawl for all the time blocks affected by the grid disturbance and its duration shall be done by SLDC."*

As such, there is alleged 'risk of penalties' only in case incorrect data is submitted by the Petitioners and not otherwise. It is submitted that the Schedule is to be provided by generators bases on weather condition & other technical parameters available with generator. As such there is no difficulty in preparations of DSM account by the Petitioners or any risk associated with the same.

**E. CHALLENGE TO VIRES OF THE REGULATIONS IS NOT TENABLE BEFORE THIS HON'BLE COMMISSION:**

- 5.10 That the Petitioners have throughout the petition stated the DSM Regulations, 2019 as well as the Procedure made thereunder to be against the intent of the PM Kusum Scheme, the Grid Code etc. however, it is submitted that any challenge on the ground that the Regulations/Procedure is against the provisions of law can only be raised before the Hon'ble High Court in in exercise of its extra-ordinary writ jurisdiction under Article 226 of the Constitution of India. Reliance in this regard is placed on the judgment of the Hon'ble Supreme Court in the case of *Reliance Infrastructure Limited Vs. State of Maharashtra* [2019 AIR (SC) 567] wherein the Apex Court while relying on the constitution bench judgment in the case of *PTC India Limited v. Central Electricity Regulatory Commission*, [(2010) 4 SCC 603] has held that the challenge to the validity of the Regulations lies only before the Hon'ble High Court.
- 5.11 That it is humbly submitted that the Petitioners cannot be permitted to bypass the express provisions of law that too for their financial benefit. It is further submitted that in case the present petition is allowed, the same would result in similar petitions on behalf of similarly placed generators claiming parity. As such, the present petition is liable to be dismissed outrightly as the Petitioners

are seeking grant of special treatment and exemption from compliance of the applicable Regulations.

F. TECHNICAL FEASIBILITY AND LTOA CONSENT OF DISCOMS IN THE LOA WILL EXPEDITE GRANT OF CONNECTIVITY AND LTOA TO PM KUSUM PROJECTS -

- 5.12 The Petitioner, in its Petition, has contended that the grant of connectivity from HVPNL entails complex procedure, procedural delays and documentation. In that view, the HVPNL is of the considered view that this process can be expedited if the technical feasibility and the consent for the grant of LTOA can be given by the Discoms together at the time of issuance of Letter of Award (LoA). Letter of Award is issued by DISCOMs (UHBVNL & DHBVNL) to the applicants willing to install grid connected solar power plants under PM KUSUM scheme Component-A. The same clearly specifies capacity of the project & name of DISCOM grid substation from which the project is proposed to be connected. Accordingly, it is suggested that to further expedite and simplify the process of grant of connectivity AND LTOA for projects under PM KUSUM scheme Component-A, the Hon'ble Commission may issue suitable directions to DISCOMs to incorporate Approval of technical feasibility and consent for LTOA in the LoA itself. This will facilitate grant of connectivity as well as execution of LTOA agreement simultaneously for PM KUSUM projects.

In view of the foregoing, it is submitted that the present petition is liable to be dismissed being non-maintainable and also being devoid of merit.

PARA-WISE REPLY:

CONCEPTUS OF THE CASE

1. That the contents of para no. 1 insofar it relates to the filing of the present petition is a matter of record. However, it is wrong and denied that any difficulty has arisen with respect to the applicability of the OA Regulations, 2012, the DSM Regulations, 2019 or the DSM Procedure. It is further submitted that any alleged difficulty being faced by the Petitioners in implementation of the Regulations, be it financial or otherwise cannot be a ground for seeking relaxation/ amendment to the same.
2. That the contents of para no. 2 insofar as it relates to the installation of the project by the Petitioner for sale of power at pre-fixed levelized tariff under the PM KUSUM scheme is a matter of record. However, it is wrong and denied that LTOA Agreement or the appointment of QCA is a difficulty being faced by the Petitioners or the same interdicts the Petitioners to go ahead and take advantage of the scheme of the central government. It is pertinent to mention here that the Petitioners were well aware of the Regulations, the relaxation of which is being sought by way of the present petition, despite which the Petitioners have applied for setting up of the power plants. At this stage i.e. once the PPA has been signed at own free will, the Petitioners cannot be permitted to take a U-turn and seek amendment/ relaxation of the Regulations/ PPA subsisting between the parties.
3. That the contents of para no. 3 are a matter of record. However, as have been stated in the para – *“The plant can be installed by the farmer or he can provide his land on lease to a developer, who will install the plant”* Once, the farmers have leased their land to Developers such as the Petitioners herein, the question of complexity or the matter/ financial viability, or other such concerns for small farmers does not arise.

4. That the contents of para no. 4 are misleading in nature, wrong and denied. Though it is a matter of record that the scheme was intended to promote the installation of solar power projects on farmer's land, however it is wrong and denied that the cost of QCA, the alleged decrease in efficiency of solar power etc. was not factored in. Insofar as the submissions made by the Petitioners with respect to "farmers"/ "peasantry" is concerned, it is reiterated that the project is being set up by the big corporations such as the Petitioners and as such the question of inability to understand the mechanism etc. does not arise. It is wrong and denied that the Regulations need to be re-looked from a fresh perspective. Be that as it may, admittedly the Petitioners are seeking review of the earlier orders passed by the Hon'ble Commission whereby the Regulations were notified/ Procedures approved, however, such a review is hopelessly time-barred. Rest of the contents of the para are also misleading in nature as the LTOA is required in case the power is sold to the utilities as well. The same does not necessarily require sale of power to third party. As such, it is wrong and denied that any review of the applicability clause of LTOA on projects executed under PM KUSUM scheme is required.
5. That the contents of para no. 5 are a matter of record.
6. That the contents of para no. 6 insofar as it relates to the objective of the Scheme, the same is a matter of record, however it is wrong and denied that mandatory appointment of QCA is a big difficulty. It is further denied that appointing QCA is very complicated process and daily work includes documentation/ updates. It is submitted that the alleged arduous nature of the Regulations is not a ground for seeking its relaxation. The Regulations cannot be amended merely because they are 'difficult' to comply. Rest of the contents of the para are based on mere apprehensions of the Petitioners. It is wrong and denied that it involves heavy penalties for deviations and any wrong assessment on the part of the QCA would travel down to farmers or defeat the purpose of PM KUSUM Scheme. It is further denied that the scheme would turn up eating up the farmers saved incomes. Such a submission of the Petitioners is completely baseless. Insofar as the Regulations of other States are concerned, the same is a matter of record. However, the Regulations of the other States cannot be a ground for 'review' of the Clause 3 of the DSM Procedure or the DSM Regulations, 2019. It is pertinent to mention here that as per the Tender Ref: Walk In application/02/SE/C/PM KUSUM Component-A dated 25.10.2024 and the draft PPA appended thereto, it is mandatory on the part of the Petitioners to comply with the DSM Regulations, 2019. The Petitioners cannot be permitted to seek amendment of binding terms of the PPA, especially when the PPA has been signed by the Petitioners without any reservations.

DESCRIPTION OF THE PARTIES:

7. – 11. That the contents of para 7 to 11 relating to description of the Petitioner companies and the Respondents herein are a matter of record. However, anything stated contrary to the record, is wrong and vehemently denied. It is pertinent to mention that the Petitioners, by their own admission, are companies with over 12 years of experience in power generation. Therefore, the allegations raised by them concerning the applicability of LTOA or the complexity of the DSM Regulations hold no merit, given their long industry experience.

JURISDICTION:

12. – 15. The contents of para no. 12 to 15 being reproduction of the Regulations, is a matter of record, however none of the Regulations reproduced by the Petitioners have any applicability to the facts and circumstances of the present case as no cause of action has arisen in the favour of the Petitioners for seeking invocation of any of the powers/ Regulations enumerated in the corresponding paras. It is humbly submitted that the Petitioners are, in essence, seeking review of the issues which already stand decided by the Hon'ble Commission vide reasoned decisions. Be that as it may, the challenge to the validity of the Regulations lies only before the Hon'ble High Court in exercise of its extraordinary writ jurisdiction under Article 226 of the Constitution of India.
16. – 17. That the contents of para no. 16 and 17 are a matter of record and do not call for any reply.

BACKGROUND:

18. That the contents of para no. 18 are a matter of record. It is pertinent to mention here that various clauses of the said Tender document dated 25.10.2024, reproduced in the 'preliminary submissions/ objections', hereinabove, specifically prescribed the applicability of the DSM Regulations.
19. That the contents of para no. 19 are a matter of record.
20. That the contents of para no. 20 are a matter of record. It is pertinent to mention here that the PPA was signed by the Petitioners out of own free will and without any reservation.
21. That the contents of para no. 21 are wrong and vehemently denied. It is vehemently denied that while doing through the process, it has come to notice of Petitioners that these projects would also go through the process of signing of LTOA and QCA appointment. It is further denied that the same is an impediment/ complication in execution/ operation of these projects. In this regard it is submitted that the Tender document as well as the PPA prescribed the applicability of the Regulations. Given the experience of the Petitioners in execution of the RE projects, such a submission is apparently false and misleading. Even otherwise, ignorance of law cannot be an excuse to seek relaxation of the Regulations.

APPLICABILITY OF LTOA AGREEMENT

22. That the contents of para no. 22 are a matter of record.
23. That the contents of para no. 23 are misleading in nature, wrong and hence denied. As have been detailed in the preliminary submissions/ objections hereinabove, LTOA is required in the present case as well.
- 24.- 25. That the contents of para no. 24 and 25 insofar as it relates to the purpose of LTOA agreement, the same is a matter of record however, it is wrong and vehemently denied that LTOA has no significance for SPGs supplying renewable energy under the PM-KUSUM scheme. It is submitted that LTOA is required even in cases where distribution network is being used by the Petitioner. Be that as it may, such similar submissions raised by similarly placed RE Generators regarding non-use of Transmission Network has been rejected by the Hon'ble Commission vide its order dated 17.10.2023 in HERC/PRO-21 of 2023.
26. That the contents of para no. 26 insofar as it relates to the selling of the power to DISCOM is a matter of record, however, it is wrong and denied that LTOA should not be applicable on Solar Power projects under PM KUSUM Scheme. In case the logic and argument of the Petitioners is accepted, the same would

mean that all and any generator selling power to the Haryana Power Utilities would not require LTOA. Such an argument raised by the Petitioners is illogical, arbitrary and against the provisions of the law.

27. That in reply to the contents of para no. 27, it is submitted that the agreements enumerated in the corresponding para are required in addition to the LTOA.

APPLICABILITY OF QCA:

28. – 30. That the contents of para no. 28 to 30 are a matter of record.

31. That the contents of para no. 31 insofar as it relates to the applicability of QCA on projects under PM KUSUM scheme, the same is a matter of record. However, it is wrong and denied that the QCA is a complicated process and involves the levying of heavy penalties on the Generators or the same cannot be handled by the farmers because the farmers are not qualified enough to handle these. It is further denied that the same may lead to net losses on the farmers. It is further denied that the same would defeat the purpose of PM KUSUM Scheme. In this regard, it is submitted that the submissions made by the Petitioners are based only on mere apprehensions without any actual proof of loss being caused to the farmers. Secondly, it does not lie in the mouth of the Petitioner being companies which have already executed a number of PM KUSUM projects to state that QCA is a complicated process. Detailed reply has already been given in the preliminary submissions/ objections, the contents of which are not repeated here for the sake of brevity.

32. That the contents of para no. 32 are wrong and denied. It is denied that in 'most' States the appointment of QCA has been done away with. Be that as it may, any such Regulations of other States are not binding on the Hon'ble Commission.

33. That the contents of para no. 33 are wrong and denied. It is denied that the DSM Procedure is burdensome for the solar generators. It is further denied that the generators are not capable to comply with mandatory obligations or handle the risk of high penalties which may arise due to deviations. It is submitted that penalties are imposed only in case of deviation from data submitted by the Petitioners and not otherwise. Further, the contents of the preliminary submissions/ objections may also be read as part and parcel of the reply to the present para, which is not being repeated here for the sake of brevity.

34. – 39. The contents of para no. 34 to 39 being reproduction of Regulations of other States are matter of record. It is submitted that the said Regulations were duly brought to the notice of the Hon'ble Commission in Petition No. 21 of 2023 by similarly placed solar generartors. However, the reliance placed by the generators on the Regulations of other States already stands rejected by the Hon'ble Commission vide order dated 17.10.2023. Further, the contents of the preliminary submissions/ objections may also be read as part and parcel of the reply to the present para, which is not being repeated here for the sake of brevity.

40. That in reply to the contents of para no. 40, it is reiterated that the Regulations were notified by the Hon'ble Commission way back in the year 2019, after calling for comments from general public. However, the 'review' of Regulations sought by the Petitioners at such a belated stage is impermissible.

41. - 42. That the contents of para no. 41 & 42 are wrong and denied as no ground has been made out by the Petitioners for relaxation or amendment of any of the Regulations/ Procedure.
43. That in reply to contents of para no. 43 it is submitted that promotion of solar power plants cannot be at the cost of the grid discipline. It is submitted that the Petitioners have throughout the petition emphasised that Regulations are liable to be relaxed for small power plants, however, it is submitted that as on date, the HPPC has entered into PPAs aggregating to approximately 100 MW under the PM-KUSUM Scheme. These agreements pertain to decentralized solar power projects intended to supply electricity to the distribution system at the local level. It is pertinent to highlight that these PM-KUSUM projects, though relatively small in individual capacity, cumulatively form a significant portion of the distributed generation in the state. In case the petition is allowed, the same would result in a large number of such decentralized generators operating outside the ambit of deviation discipline, which in turn would adversely affect the real-time balancing of supply and demand on the grid. As such, it is wrong and denied that any of the Regulations are counter-productive to the main thought or essence behind the PM-KUSUM scheme. Insofar as the cost of installation of QCA is concerned, the Regulations cast obligation on the generator to appoint QCA. As such, all action has been taken by the Answering Respondents in terms of the Regulations in vogue.

Prayer clause is denied.

PRAYER:

In view of the submissions made hereinabove, it is respectfully prayed that the present petition being non-maintainable and also devoid of merit may kindly be dismissed, in the interest of justice.

**6. Rejoinder of Petitioner dated 30/07/2025:**

- 6.1 That at the outset it is submitted that unless hereinafter specifically admitted, each averment in the reply of respondents shall be deemed to have been denied in its entirety as though herein specifically set forth and traversed. A bare perusal of the reply filed by the respondents makes it clear that it is nothing but an abuse of the process of law and devoid of merits.
- 6.2 That the Petitioner reserves the right to file additional evidence, including, but not limited to, additional documents and witnesses as well as the expert opinion, should the same become inevitable at any stage of the proceedings and/or arising out of the further submissions made by the respondents.
- 6.3 That the petition basically mentions the difficulties which the petitioner and many more such consumers / applicants are facing in the process of installing their respective Solar Power projects in the state of Haryana under Pradhan Mantri Kisan Urja Suraksha Evam Utthan Mahabhiyan (PM KUSUM) Scheme introduced by Government of India (GoI), whereby the respective DISCOMs shall buy the generated power on Pre-fixed levelized tariff as determined by Hon'ble Commission. But there are two such conditions / difficulties in the present framework of regulations, which interdict the petitioners to go ahead and take advantage of the central government scheme (PM KUSUM). One is that the petitioners must have in place a Long Term Open Access (herein after referred to as LTOA) Agreement with the transmission licensee and Two is that

they must appoint a Qualified Coordinating Agency (QCA) before injecting power at the nearby DISCOM substation.

- 6.4 That the petitioner has performed his part of the obligations with full honesty and integrity, as per directions of the respondents from time to time, has not violated any rules or regulations of the respondents, has faithfully followed the terms and conditions of the regulations and procedures and has not asked for any additional technical or financial favor. But at the same time, the petitioner has a legitimate right to appeal before the hon'ble Commission if some provision is causing hindrance and is proving detrimental to the basic essence of the PM KUSUM scheme
- 6.5 That before replying to the para-wise contents of the reply filed by the respondents, the petitioner herein would like to set out certain preliminary submissions and objections.
- 6.6 Before submitting further, some basic points concerning the two issues are elaborated as under:

Long Term Open Access (LTOA) and its impact

- i. LTOA in the context of KUSUM: The first point states that LTOA is signed by consumers because they pay for it, while the complainant's are the generator supplying power to the DISCOM at a fixed price, implying LTOA might not be directly applicable in the way it is for direct consumers and the same has already been accepted by the DHBVN in his reply.
- ii. LTOA Application Delays: Some LTOA applications have been pending for 4-6 months despite the directions to process such applications in time and on priority. Such delays have not only created uncertainty among the prospective solar power generators in the state but also it has impacted execution of projects under PM KUSUM scheme. This is also like putting an un-necessary burden on such generators.

Discoms as Nodal Agencies and HVPNL's role

- i. MNRE guidelines and DISCOMs: As per MNRE guidelines, the DISCOMs have been made the Nodal Agencies for implementation of PM KUSUM scheme and the transmission licensees have no role to play, whatsoever, in the process
- ii. HVPNL and KUSUM voltage level: KUSUM projects are connected at 11 kV, which fall under the jurisdiction of DISCOMs. Therefore, how the transmission licensee HVPNL has self-assumed its role of signing an LTOA Agreement is not understood. DISCOM here in their reply have also endorsed this view that because the transmission network of HVPNL is not going to be used, there was no relevance for such SPGs to sign any LTOA with HVPNL.

QCA and Project Feasibility under KUSUM

- i. PM-KUSUM is a centrally-designed program with common guidelines across the country. To encourage setting up of small solar power projects under PM KUSUM scheme, it is the duty of state DISCOMs to implement it as such and in accordance with the common guidelines.
- ii. Deviation from the minimum capacity under QCA for KUSUM: Many states, including Rajasthan, are implementing PM KUSUM projects in a big way. In these states, because the appointment of QCA is mandated for the solar power projects above 5 MW, the projects under PM KUSUM scheme are automatically exempted from the obligation to appoint the QCA. This saves the farmers or small enterprises to avoid penalties associated with QCA regulations.

- iii. QCA regulations and their impact on feasibility: The deviation settlement mechanism (DSM) and QCA regulations can significantly impact the project feasibility due to penalties for deviations.
- iv. Challenges and Delays in Haryana: Haryana's overall KUSUM allotment is 100 MW, but only 11 MW have been executed so far, the delays mainly attributed to the long processes of getting connectivity and getting LTOA Agreement signed from the State Transmission Utility (HVPNL). This warrants an urgent need to redesign the processes to eliminate unnecessary hurdles

#### State-specific KUSUM implementation

- i. Rajasthan's success in KUSUM implementation: Rajasthan is executing 5 GW under PM KUSUM scheme, and these projects are out of the QCA ambit,
- ii. Scale of implementation in other states: Maharashtra (7GW) and Uttar Pradesh (3GW) are also implementing KUSUM on a large scale without mandating for such SPGs to appoint a QCA

#### PRELIMINARY SUBMISSIONS AND OBJECTIONS AGAINST THE REPLIES SUBMITTED BY THE RESPONDENT(S).

- 6.7 That a bare perusal of the reply filed by the respondents would show that submissions made by them are totally vague, full of baseless submissions and denials and without any specific answers to the issues raised in the petition. The respondents have not answered to the points of substance of the dispute in hand. It is evident from their replies that they are only trying to escape their wisdom and technical competence by false, vague and baseless submissions and denials.
- 6.8 That the petition filed by the petitioner is bona fide and is in the interest of justice whereas the defense taken by the respondents is completely baseless and without any merit in fact or in law. It is imperative to note that the grounds of present petition and prayer are purely technical in nature to which the respondents have deliberately skipped to answer and instead have repeatedly reiterated their stand to go ahead and justify the present provisions in the existing regulations / procedures. It can be seen from the reply of respondents that they have nothing to defend except that they have cited the same grounds over and over again without critically analyzing the issues raised by the petitioner in the petition
- 6.9 That the reply filed by the respondents does not cover all the issues and facts stated in the petition. It is evident from the reply of the respondents that they have either not understood the technical issues involved or have deliberately tried to shrub them off by putting in some unrelated and irrelevant legal submissions. The half-hearted and half-cooked replies of the respondents have only added to the confusion and have aggravated the dispute rather than resolving it
- 6.10 That the first issue raised in the petition is about the requirement of Long Term Open Access (LTOA) Agreement. Whereas this issue is purely technical in nature and should have been answered to by the respondents either by justifying or non-justifying the petitioners' submission on technical grounds, the respondents at many places in their reply have only referred to the existing provisions of the Regulation and Procedure without commenting even once as to why should there be a need to sign LTOA Agreement when the transmission network is not going to be used. One of the respondents DHBVN (respondent

no. 2) in their reply have admitted that there is no relevance of signing any LTOA Agreement with HVPNL because the transmission network is not going to be used in the process. But the other respondent HVPNL (respondent no. 1) in their reply have vehemently opposed the prayer of the petitioner and have insisted upon continuance of this provision. The respondent no. 1 HVPNL have failed to understand that the solar plants installed under PM KUSUM scheme have no option but to sell the power only to the DISCOM at 11 kV level. The 11 kV line also has to be erected by the Solar Power Generator at his own cost and has to bear all the expenses of the connectivity from his site up to the nearest substation of the DISCOM including the regular maintenance of 11 kV line. The rate of buying of power has also been fixed at Rs. 3.11 per unit for next 25 years and any disruption of supply due to breakdown of 11 kV feeder will also be to the generator's account. When connectivity has been granted by the DISCOM and a PPA has been signed with HPPC and the transmission network of HVPNL is not going to be used anywhere in the whole process, then why should there be any need technically to sign LTOA Agreement with the transmission licensee or to pay any fee for that. The state power utilities should have made the procedure and process simpler so that the essence of PM KUSUM scheme was not lost and the prospective SPGs did not get discouraged. It is not only the fee which the SPG has to deposit against the LTOA but it is the time also which gets consumed in the whole process and his running around to get all the loose ends tied. The respondent has also not explained in their reply as to what advantage they would earn out of LTOA specially when their system is not going to be used, the capacity of their network is not going to be overloaded and they are not going to get any wheeling charges.

- 6.11 That the second issue raised in the petition is about the requirement of Qualified Coordinating Agency (QCA). Whereas this issue is purely technical in nature and should have been answered by the respondents either by justifying or non-justifying the petitioners' submission on technical grounds, the respondents at many places in their reply have only referred to the existing provisions of the Regulation and Procedure and the Grid Stability without commenting even once as to how the stability of Grid would get affected if there was no QCA in place. Appointing a QCA for solar power plants in India and specially of capacity below 5 MW is absolutely not required. QCA could be of some use in some Scandinavian and Nordic Countries like Norway, Sweden, Denmark, Finland and Iceland which have traditionally high wind speeds and have a substantial share of wind energy in their total power requirements. In Denmark, the total grid capacity is 18.8 GW (Gigawatt) out of which around 60% (11.28 GW) comes from wind and around 10% (1.88 GW) comes from solar power. As such, the renewable power being more than 70% of the capacity of the grid, and also the grid capacity there being too small, they could justifiably need an agency to monitor and control various data and revenue management. But in India, the capacity of our national power grid is 417.68 GW which is most likely to touch 500 GW by 2030. Given the size of grid here, the stability is far more assured as compared to the smaller grids of Scandinavian and Nordic countries where the concept of QCA originated. But here, 1 MW addition or deletion in India's national grid makes a difference of only 0.00000024% and 5 MW addition or deletion makes a difference of only 0.0000012%. Therefore, to make it mandatory to appoint a QCA in solar plants of less than 5 MW here makes no sense. But instead of speaking on the issue technically and instead of telling how the grid would become unstable, the respondents in their replies have simply emphasized that they have demanded

the appointment of QCA only because the regulation says so. Therefore, if the appointment of QCA is exempted in case of such small solar power plants, it will give a boost to the common farmer and such other small enterprises which intend to take advantage of the schemes like PM KUSUM and contribute towards the goal set by the government of India to achieve at least 250 GW of the solar power installed by 2030.

PARA WISE SUBMISSION TO THE REPLY FILED BY RESPONDENT NO. 1 (HVPNL) DATED 26.07.2025 (Preliminary Submissions / Objections)

6.12 Para No. 3 (Page no. 2)

Here in the para of their reply, the respondents have referred to an order of the hon'ble Commission dated 08.03.2021 in PRO 42 of 2020 regarding applicability of the DSM Regulations and Procedure to the Renewable Energy Generating Plants of 1 MW capacity and above. They have reproduced the comments by one of the stakeholder M/S Manikaran Analytics and the observations of the hon'ble Commission. But they have not reproduced their own response in their reply, which is now reproduced as under for ready reference:

*Comments by M/S Manikaran Analytics Ltd.*

Rationale: *The obligations provided under the Draft Procedure will be burdensome for the solar or wind generators the combined installed capacity of whom is less than 1 MW. The capability of the generators should be such that it should be in position to comply with the mandatory obligations as well as to handle the risk of high penalties which may arise due to deviations. While such minimum installed capacity does not create huge burden on grid efficiency due to deviations, the high penalties resulting from it does impact the small generators financially. There are multiple states which prescribes application of forecasting, scheduling and deviation settlements regulations and their respective procedures to generators above 5 MW capacity namely Punjab, Rajasthan, Madhya Pradesh, Maharashtra, Karnataka among others.*

Suggestion: *It is suggested that proviso to Point 3 be replaced with as follows: " .. the combined installed capacity of the Solar or Wind Generators connected to a particular Pooling Sub-Station, or that of an individual Generator connected to some other Sub-Station, shall not be less than 5 MW"*

*Response / Reply of HVPNL: "The clause no. 3 of draft procedure is as per clause 4.1 of HERC Regulation. It is opined to stick with the regulation i.e. 1MW & above However, change in the regulation is in the purview of the Commission."*

Whereas a genuine technical issue had been raised by M/S Manikaran Analytics and whereas it was in the knowledge of the respondents that their response / reply would mean a lot to the hon'ble Commission, the respondents should have come out clearly on the issue stating technical facts and figures either in support or in opposition to the suggestion put forth by M/S Manikaran Analytics. But they simply chose to respond without saying even a word in technical terms. Simply by saying that "it is opined to stick with the regulation" and "however, change is in the purview of the Commission", the respondents did not do justice to a genuine problem raised and which probably led to the situation where we are in today.

The respondents here have also referred to another order of the hon'ble Commission dated 17.10.2023 in PRO of 21 of 2023. Here again, some of the Solar Power Generators had pleaded exemption from appointment of QCA for plants lesser than 5 MW capacity but again, instead of taking the things

positively and instead of understanding the real problems being faced by generators, the respondents cited several judgments, including those of the Apex Court and instead of opposing it technically, they insisted throughout in their reply to reject the petition on grounds of non-maintainability and having become time barred. Despite being a highly technical department, the respondents have been trying to handle technical issues legally without saying even a single word as to why the demand of the petitioners were wrong and if accepted, how would it be harmful for the respondents. We are therefore in a situation where the petitioners have been subjected to explain and elaborate the technical issues to the highly technical department of respondents whereas actually it should have been otherwise.

**6.13 Para No. 4 (Page no. 5)**

Contents of the para are totally wrong, not placed on facts and hence denied. In their reply here also, the respondents instead of coming out with any technical reasoning of the threat posed to the grid discipline and the stability, have simply stated that since there is a clause in the signed PPA about compliance of all the CERC / HERC regulations, the provision cannot be reversed. The capacity of our national power grid is 417.68 GW to which our all generating plants are connected. This is most likely to touch 500 GW by 2030. Given the size of grid here, the respondents have failed to explain as to how an addition or deletion of 1 or 2 or 5 MW in our national grid would threaten the grid discipline and its stability. 1 MW addition or deletion makes a difference of only 0.00000024% and 5 MW addition or deletion makes a difference of only 0.0000012%. Therefore, to make it mandatory to appoint a QCA in solar plants of less than 5 MW here makes no sense. But instead of speaking on the issue technically and instead of telling how the grid would become instable, the respondents in their reply have simply emphasized that they have demanded the appointment of QCA only because the regulation says so.

**6.14 Para No. 5 (Page no. 5)**

Contents of the para are totally baseless, incorrect and not on sound footing. The respondents here again, instead of dealing with a technical issue technically have tried to defend it on legal grounds by saying that since PPA has been signed and because it should have been known to the petitioners what they were signing, the petitioners should not have accepted the terms and conditions of the PPA in the first instance. It is pertinent to mention here that PPA is drafted by the respondents only and if a person or group of persons install a solar power generation plant, what option does he have except signing the PPA. But the respondents should have tried to understand the actual problems being faced by such generators and should have tried to resolve them instead of opposing them on legal grounds of contractual binding due to signing of PPA

**6.15 Para No. 6 (Page no. 6)**

Contents of the para are totally baseless, incorrect and not on sound footing. The respondents here again, instead of dealing with a technical issue technically have tried to defend it on legal grounds by saying that conditions of the contract were well in the knowledge of the petitioners and that if any of the provisions or condition of the bid were not acceptable to them, they could have easily opted out of the bid and should not have installed the solar power

plants. Also, because PPA has been signed with full knowledge of what they were signing, they cannot plead any amendment or change in the bid conditions at this belated stage. In their submission in the para, the respondents have listed terms and conditions of the bid but have not tried to resolve the issue. It is pertinent to mention here that PPA is drafted by the respondents only and if a person or group of persons install a solar power generation plant, what option does he have except signing the PPA. But the respondents should have tried to understand the actual problems being faced by such generators and should have tried to resolve them instead of opposing them on legal grounds of binding due to signing of PPA and prior knowledge of the terms and conditions of contract

**6.16 Para No. 7 & 8 (Page no. 9 & 11)**

Contents of the two para are totally baseless, incorrect and not on sound footing. The respondents here again, instead of dealing with a technical issue technically have tried to defend it on legal grounds by saying that because the hon'ble Commission had passed a reasoned order on 08.03.2021 and because 5 years have elapsed since then, the petitioner cannot approach the hon'ble Commission for any amendment, the matter having become time barred. They have cited in their reply certain judgments of the courts to justify their submission. If the respondents say that the problems which are being faced by many of such solar power generators cannot be brought before the hon'ble Commission, then to whom and to which authority of the state the petitioners should go and submit their case. The respondents should understand that problems arise only when the laws are put to test in due course of time. And to address the problematic issues, even the Parliament brings in amendments and addresses them. Not only the laws but even the Constitution of India has been amended several times to bring in new concepts and necessary changes with time to address the problems faced by the society. In fact, the respondents should have tried to understand the actual problems being faced by such generators, should have designed a simple procedure and should have tried to resolve the issues instead of opposing them on legal grounds of time limitation and non-maintainability

**6.17 Para No. 9 (Page no. 11)**

Contents of the para are totally baseless, incorrect, mischievous and not on sound footing. The respondents in their reply have questioned the very integrity of the petitioners by saying that incorrect facts have been brought before the hon'ble Commission and that the petitioners have demanded something which is not as per law. Here again, instead of dealing with a technical issue technically have tried to defend it on the grounds that the contents of petition are not bonafide. It is pertinent to mention here that only the facts and the problems being faced have been listed in the petition expecting such a highly technical department to oppose or support the petition on logical reasoning and on technical grounds and not that they have to oppose any petition brought before the hon'ble Commission. After all, all the power entities of the state are duty bound to be consumer friendly and make laws and procedures in such a manner that the basic intent of the government policies and schemes gets a boost. It seems that the respondents in their reply have made up their mind to be punitive in nature rather than making an effort to understand and resolve the issues. Also, instead of acting

as guide to the hon'ble Commission, and because the Commission highly depends and relies upon feedback from power utilities, the respondents should have come out clearly as to what harm would be caused to them if some genuine problems of small solar power generators gets addressed. Just for the sake opposing any petition should not be the approach of the respondents. To say that the petitioners are not poor farmers but the registered firms owned by IIT engineers and therefore the problems being faced by them should not be heard is absolutely against the basic essence of PM KUSUM scheme. The government of India has allowed such formations of small companies and groups of persons understanding the state of peasantry in the country and coming forward of such technically qualified professionals should be welcomed by the state power utilities instead of finding faults with them

6.18 Para No. 10 (Page no. 15)

Contents of the para are totally baseless, incorrect, mischievous and not on correct understanding of the contents of the petition. The respondents in the reply have said that the petitioners should have gone to the hon'ble High Court instead of coming before the Commission. But it seems the respondents have not correctly understood the contents and intention of the petition. Nowhere in the petition the present law or the regulation or the procedure has been challenged. The petitioners have simply tried to bring to the kind notice of the hon'ble Commission the genuine problems being faced by the small capacity solar power generators in the state of Haryana because the Regulatory body of the state is the right authority to plead before. Here again, it seems that instead of trying to guide the hon'ble Commission on the technical issues being faced by small generators, the respondents have not come out of their punitive mindset

6.19 Para No. 11 (Page no. 16)

Contents of the para are totally baseless, incorrect, mischievous and not on correct understanding of the contents of the petition. The respondents in the reply have said that the petitioners cannot be allowed to bypass the laws for financial benefit. The respondents having raised the issue of financial benefit have failed to notice that PM KUSUM scheme has been brought in to enhance the farmers' income only and to better their financial position. The respondents have also expressed the fear that if the petition is allowed and decided in petitioners' favour, many more such petitions would be filed. Again, the respondents have not understood the basic intent of the issues raised in the petition. The changes / amendments / relaxation being pleaded before the hon'ble Commission would apply to all such generators and hardly there would be any petition coming again, if the real problems are addressed by the hon'ble Commission in this petition. Instead of expressing their fear of more petitions in this regard, the respondent should have explained what loss they would incur if the two prayers of the petitioners were accepted. But the respondents have not correctly understood the issues raised in the petition. Whereas the petitioners have simply tried to bring to the kind notice of the hon'ble Commission the genuine problems being faced by the small capacity solar power generators in the state, the respondents are expected to guide the hon'ble Commission on the technical issues being faced by small generators rather than finding invalid reasons to oppose the petition

6.20 Para No. 12 (Page no. 16)

Contents of the para are self-explanatory and an admission by the respondents to the fact that there are delays in processing of the applications for LTOA Agreement. The respondents have suggested that such delays and bottlenecks can be eased out if certain steps are taken by the DISCOMs in the initial stages of the applications because everything is already predefined including the capacity and the connecting substation. But while admitting that there are delays and bottlenecks in the smooth signing of LTOA Agreement, the respondents have still not explained as to why the LTOA Agreement is required at all and why should they demand a fee when they are not in picture, their network is not going to be used, they are not mandated to charge any wheeling charges, the generator cannot sell power to any other party but the DISCOM, voltage level is fixed, the price is fixed for next 25 years and so on.

Despite having no valid reason to oppose the issues raised in the petition, the respondents have throughout said in their reply that the petition should be dismissed. Not even at one place in the reply so far, the respondents have come out as to what loss they would incur or what harm would be caused to their system or what would be the suffering on their part if the two prayers of the petitioners are accepted.

PARA WISE REPLY AGAINST THE REPLY SUBMITTED BY THE HVPNL ( RESPONDENT-1)

6.21 Para no. 1 Contents of this para are not conclusive. The respondents have said here that no problems have been faced while implementing the provisions of Open Access or DSM Regulations and therefore have opposed any amendments / changes in the existing provision. But here also, the respondents have not come out as to what loss they would incur or what harm would be caused to their system or what would be the suffering on their part if the two prayers of the petitioners are accepted.

6.22 Para no. 2 Contents of this para are not conclusive and not based upon the situation on the ground.

The respondents have said that no problems have been faced while implementing the provisions of LTOA Agreement or appointing of QCA and therefore have opposed any amendments / changes in the existing provision. But again, the respondents have not come out as to what loss they would incur or what harm would be caused to their system or what would be the suffering on their part if the two prayers of the petitioners are accepted. They are again not acting as a true guide to the hon'ble Commission and have neither shown any inclination nor any due diligence towards resolution of the problems.

6.23 Para no. 3 Contents of the para are wrong, baseless and hence denied. The government of India must have factored into all the aspects before bringing in the scheme. The basic purpose of the scheme is to decrease the farmers' dependence on utility power in rural areas and help them in earning out from their fallow / waste land. Allowing some companies to take up the job neither diminishes the importance of the scheme nor it means that problems would not be there. In the petition here, only the genuine problems have been brought before the hon'ble Commission

- 6.24 Para no. 4 Contents of the para are wrong, baseless and contrary to the facts. The respondents here also have opposed the petition on the grounds of PPA, terms and conditions of the bid, non-maintainability based upon previous orders of the Commission and time limitation. But they have not come out with any technical reasoning and also as to what loss they would incur or what harm would be caused to their system or what would be the suffering on their part if the two prayers of the petitioners are accepted.
- 6.25 Para no. 5 Matter of record. No comments.
- 6.26 Para no. 6 Contents of the para are wrong, contrary to facts and baseless. The respondents in their reply have said that some regulation cannot be amended or changed just because it is difficult to comply. This shows the intention of the respondents not to be consumer friendly, to be punitive in nature and an adamant approach and that too when the necessity of LTOA Agreement and QCA have not been justified anywhere in their reply. Respondents have not come out with any technical reasoning and also as to what loss they would incur or what harm would be caused to their system or what would be the suffering on their part if the two prayers of the petitioners are accepted.
- 6.27 Para 7 – 11 Matter of record. No comments
- 6.28 Para 12 – 15 Matter of record. But contents of respondent's submission are totally wrong and baseless. Again, instead of acting as a true guide to the hon'ble Commission and instead of opposing or supporting the issues on technical grounds have tried to take shelter of the previous orders passed by the hon'ble Commission.
- 6.29 Para 16 – 17 Matter of record. No Comments
- 6.30 Para 18 – 20 Matter of record. But in replies to these paras, the respondents have again tried to defend themselves on the grounds that bid conditions were known, PPA has been signed and OA as well as DSM Regulations mandate the signing of LTOA Agreement and appointing of QCA. But they have not stated anywhere as to why they are opposing the prayer of the petitioner and as to loss they would suffer if the prayer is accepted
- 6.31 Para 21 Contents of this para are wrong, baseless and contrary to the facts. The respondents here again have opposed the petition on the grounds of PPA, terms and conditions of the bid, non-maintainability based upon previous orders of the Commission and time limitation. But they have not come out with any technical reasoning and also as to what loss they would incur or what harm would be caused to their system or what would be the suffering on their part if the two prayers of the petitioners are accepted
- 6.32 Para no. 22 Matter of record. No comments
- 6.33 Para no. 23 The respondents here have simply said that LTOA Agreement is required but why it is required has not been explained and what purpose it would serve for them has not been elaborated
- 6.34 Para 24 – 25 Contents of the para are not conclusive. Instead of explaining the necessity of signing LTOA Agreement, the respondents have again relied upon the previous order passed by the hon'ble Commission dated 17.10.2023 in PRO 21 of 2023. It is very unfortunate to note that the respondents in their replies to different paras of the petition have not explained even once as to why the LTOA is required especially when their network is not going to be used. Time and again they have repeated that because Regulation says so,

nothing can be changed or amended. It would have been better if they had tried to resolve the issue logically.

- 6.35 Para 26 Contents of the para are vague in nature. Same argument has been put forth again that if the present petition is decided in petitioners' favour, it would lead to other generators also following the same. Such fears grip the situation when someone does not try to resolve the technical issues by scientific and technical reasoning. Instead of expressing such fear, the respondents should have come out with logical reasoning as to why an LTOA was required for the projects installed under PM KUSUM scheme. Because they do not have even a single reason to justify it technically or commercially, the respondents all through have been repeating and relying upon the existing provisions of the Regulations and because the hon'ble Commission has passed certain orders in the past against the prayer of the petitioners, no change or amendment is possible at this stage. It is again reiterated that instead of adopting an adamant and punitive attitude, the respondents should respond technically and logically and should guide the hon'ble Commission in the matter in the right spirit.
- 6.36 Para 27 Here again, the respondents have expressed the necessity of LTOA Agreement without giving any valid reason for that or without submission of any supportive documents on technical aspects.
- 6.37 Para 28 – 30 Matter of record. No comments
- 6.38 Para 31 Contents of this para are wrong, baseless and vague in nature. The respondents not have come out with logical reasoning as why a QCA was required for the projects installed under PM KUSUM scheme or for that matter for the solar projects below 5 MW. The respondents have argued in their reply that there is no proof or evidence available for the loss having been suffered by the farmers. But at the same time the respondents should have known that so far, not even one agency or company has been able to qualify as QCA in Haryana. Instead of getting into the issue of whether any loss has been suffered or not or that the stakeholders are the companies and not the farmers, the respondents should have come out with at least one logical reasoning as to why a QCA was required in such small solar power plants and as to what benefit they would earn out of the QCA. It is again reiterated that instead of adopting an adamant and punitive attitude towards the small entrepreneurs, the respondents should respond technically and logically and should guide the hon'ble Commission in the matter.
- 6.39 Para 32 Contents of the para are wrong and vague in nature. The petitioners have nowhere said in the petition that the regulations of other states in India are a binding on the Haryana Electricity Regulatory Commission also. But only some references have been placed before the hon'ble Commission to look into those and to decide if the regulations being followed in the other states could also be made applicable in Haryana in the best interest of consumers as well as of the state. Here again, instead of speaking something logical, the respondents have made up their mind to justify what they have already done. The respondents should see to the problems with an open mind and in order to help the state in achieving the solar power targets by 2030
- 6.40 Para 33 Contents of the para are wrong, baseless and hence denied. Instead of justifying the penalties against deviations and the settlement mechanism thereof, the respondents as a highly technical department should speak out clearly as to why the deviations in such small solar power plants should attract penalties and how their system would get affected due to these small deviations. It was expected of the respondents to express their views with an

open mind and should have set an example by guiding the hon'ble Commission and in correction of the provisions of the existing regulations. But the adamant and punitive attitude of the respondents has further complicated the issue and made it even more difficult for the hon'ble Commission to decide

- 6.41 Para 34 – 39 Matter of record. No specific comments by the respondents have been put forth except that these regulations of other states were already in the knowledge of the hon'ble Commission. But when the hon'ble Commission in PRO 42 of 2020 asked the respondents to record their comments on the submissions made by M/S Manikaran Analytics, the respondents instead of acting as a true guide on such a relevant technical matter, simply said *"The clause no. 3 of draft procedure is as per clause 4.1 of HERC Regulation. It is opined to stick with the regulation i.e. 1MW & above However, change in the regulation is in the purview of the Commission."*

Whereas a genuine technical issue had been raised by M/S Manikaran Analytics and whereas it was in the knowledge of the respondents that their response / reply would mean a lot to the hon'ble Commission, the respondents should have come out clearly on the issue stating technical facts and figures either in support or in opposition to the suggestion put forth by M/S Manikaran Analytics. But they simply chose to respond as above without saying even a word technically. Simply by saying that *"it is opined to stick with the regulation"* and *"however, change is in the purview of the Commission"*, the respondents did not do justice to a genuine problem raised and which probably led to the situation where we are in today.

- 6.42 Para 40 Contents of the para are wrong and without any logical reasoning. Simply by saying that it has become time barred, the respondents have again tried to bypass the real issues involved and have chosen not to respond to technical issues technically

- 6.43 Para 41 – 42 Contents of the para are vague and it is not clear on what grounds the respondents are opposing the prayer made by the petitioners in their petition

- 6.44 Para 43 Contents of the para totally wrong, baseless, misleading and not based technical prudence. Whereas this issue is purely technical in nature and should have been answered by the respondents either by justifying or non-justifying the petitioners' submission on technical grounds, the respondents have referred to the Grid Stability without commenting even once as to how the stability of Grid would get affected if there was no QCA in place for such smaller solar power plants. Appointing a QCA for solar power plants in India and specially of the capacity below 5 MW is absolutely not required. QCA could be of some use in some Scandinavian and Nordic Countries like Norway, Sweden, Denmark, Finland and Iceland which have traditionally high wind speeds and have a substantial share of wind energy in their total power requirements. In Denmark, the total grid capacity is 18.8 GW (Gigawatt) out of which around 60% (11.28 GW) comes from wind and around 10% (1.88 GW) comes from solar power. As such, the renewable power being more than 70% of the capacity of the grid, and also the grid capacity there being too small, they could justifiably need an agency to monitor and control various data and revenue management, especially due of unpredictable behavior of wind velocity and durations. But in India, the capacity of our national power grid is 417.68 GW which is most likely to touch 500 GW by 2030. Given the size of grid here, the stability is far more assured as compared to the smaller grids. 1 MW addition or deletion in India's national grid makes a difference of only 0.00000024% and 5 MW addition or deletion makes a difference of only

0.0000012%. Therefore, to make it mandatory to appoint a QCA in solar plants of less than 5 MW here makes no sense. But instead of speaking on the issue technically and instead of telling how the grid would become unstable, the respondents in their reply have simply emphasized that they have demanded the appointment of QCA only because the regulation says so. Therefore, if the appointment of QCA is exempted in case of such small solar power plants, it will give a boost to the common farmer and such other small enterprises which intend to take advantage of the schemes like PM KUSUM and contribute towards the goal set by the government of India to achieve at least 250 GW of the solar power installed by 2030.

PARA WISE SUBMISSION TO THE REPLY FILED BY RESPONDENT NO. 2 (DHBVN) DATED 16.07.2025 (Preliminary Submissions / Objections)

- 6.45 Para 1 – 4 (Page nos. 1 & 2) No comments. Matter of record only.  
(Exemption from signing LTOA Agreement)
- 6.46 Para 1 - 4 (Page no. 2 & 3) No comments. Matter of record only
- 6.47 Para 5 – 7 (Page no. 3) Contents of the paras are correct, based upon facts and technical prudence of the respondents. The respondents have rightly admitted that because there is no wheeling of power through the network of transmission licensee, there is no relevance of signing any LTOA Agreement with them. The respondents have thus endorsed the prayer of the petitioners.  
(Exemption from appointing QCA)
- 6.48 Para 8 - 9 (Page no. 3 & 4) Contents of the paras are only reproduction of DSM Regulations (44 of 2019). No comments.
- 6.49 Para 10-15 (Page nos. 4 to 5) Contents of the paras are simply reproduction of the provisions of the DSM Regulations (44 of 2019) and the respondents have tried to justify the appointment of QCA only because it is mandated by the Regulation to ensure grid safety and stability. The respondents do not seem to have understood the issues raised in the petition so far as exemption from appointment of QCA is concerned. The respondents have referred to the Grid Stability without commenting even once as to how the stability of Grid would get affected if there was no QCA in place for such smaller solar power plants. Appointing a QCA for solar power plants in India and specially of the capacity below 5 MW is absolutely not required. QCA could be of some use where the grids are smaller, are primarily dependent of wind energy. In India, the capacity of our national power grid is 417.68 GW which is most likely to touch 500 GW by 2030. Given the size of grid here, the stability is far more assured as compared to the smaller grids. 1 MW addition or deletion in India's national grid makes a difference of only 0.00000024% and 5 MW addition or deletion makes a difference of only 0.0000012%. Therefore, to make it mandatory to appoint a QCA in solar plants of less than 5 MW here makes no sense. But instead of speaking on the issue technically and instead of telling how the grid would become unstable, the respondents in their reply have simply emphasized that they have demanded the appointment of QCA only because it is mandated by the DSM Regulation. Therefore, if the appointment of QCA is exempted in case of such small solar power plants, it will give a boost to the common farmer and such other small enterprises which intend to take advantage of the schemes like PM KUSUM and contribute towards the goal set by the government of India to achieve at least 250 GW of the solar power installed by 2030.
- 6.50 Para 16 No comments. Matter of record

It is evident from the replies submitted by the respondents 1 & 2, as also explained above, the respondents despite being highly technical departments, have not dealt with issues with an open mind and have not played their true role as a guide to the hon'ble Commission in order to resolve the technical issues and hindrances which are coming in the way of installing small solar power plants under PM KUSUM scheme of the government of India. Whereas the respondent no. 2 (DHBVNL) have clearly admitted that there was no relevance of signing any LTOA Agreement with HVPNL, the respondent no. 1 (HVPNL) have opposed any amendment in the existing provision. On the issue of QCA, both the respondents have only emphasized that because the Regulations mandate its appointment, they would not recommend any amendment in the existing provision. The respondents actually should have given their free and fair opinions irrespective of the outcome of the present petition or numerous other such petitions decided in the past. The discussion and arguments could have been much healthier had the respondents not adopted an adamant and punitive attitude.

#### PRAYER

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

- i) Exercise its powers under Clauses 19 & 20 of the HERC (Deviation Settlement Mechanism and related matters) Regulations, 2019 to amend the provision under Clause 3 of the Procedure for Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation and to do away with the provision of appointment of QCA by the generator of solar power plant installed under PM KUSUM scheme; and
- ii) Exercise its powers under 57 & 58 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 to amend the provision of Clauses 2 & 8 of the regulations, and to relax the provision of mandatory LTOA between the transmission licensee HVPNL and the generator of solar power plant installed under PM KUSUM scheme; and
- iii) Pass any other order as this Hon'ble Commission may deem fit

### **7. Objections / suggestions / comments filed by UHBVN and Commission's decision thereto:**

#### **Comments of UHBVN.**

In this regard, the Comment/ suggestion on the Petition No. 43 Of 2025 with respect to relaxation in applicability of long-term open access (LTOA) and QCA on preferential tariff solar power plant executed under PM Kusum scheme on behalf of UHBVN is as under:

#### **7.1 Applicability of LTOA**

The Haryana Electricity Regulatory Commission (Terms and Conditions for Grant of Connectivity and Open Access for Intra-State Transmission and Distribution System) Regulations, 2012 provide that generating plants having a capacity of 1 MW and above connected at 11 kV Or higher voltage are eligible

to apply for Open Access, including Long-Term Open Access (LTOA), when they intend to inject power into the grid for sale or captive consumption.

LTOA agreement is essential from the perspective of grid planning and operation, as it allows the utilities to plan for adequate network upgrades and ensures the safety, reliability, and security of the system. This requirement is applicable regardless of the nature of the sale, whether to a third party or to the distribution licensee, as it establishes a clear framework for connectivity, power evacuation, and coordination.

Accordingly, generators falling within the scope of the above-stated regulations should comply with the statutory framework to maintain consistency & transparency.

#### **7.2 Applicability of Qualified Coordinating Agency (QCA)**

As per Regulation 4.1 Of the HERC (Forecasting, Scheduling and Deviation Settlement and related matters for Solar and Wind Generation) Regulations, 2019, all solar and wind generators connected to the intra-state transmission or distribution system with an individual capacity or pooled capacity of 1 MW and above are required to comply with these regulations.

The QCA is mandated to coordinate forecasting, scheduling, and deviation settlement to maintain grid discipline and prevent imbalance charges under the DSM framework.

Considering that many PM-KUSUM Component A plants are of 1 MW or higher capacity, and connect to the distribution system, they fall squarely within the applicability of these regulations.

### **8. Commission's Order**

8.1 The Case was heard on 05/08/2025. Sh. Sanjeev Kumar Chopra, representative of the petitioners and Sh. Akshay Gupta counsel for the petitioners submitted that:

- i) Most of the Solar Plants under PM KUSUM Scheme could not be commissioned due to the difficulties which the petitioner and many more such consumers / applicants are facing in the process of installing their respective Solar Power Projects in the State of Haryana under PM KUSUM Scheme introduced by Government of India (GoI), whereby the respective DISCOMs shall buy the generated power on Pre-fixed levelized tariff as determined by Hon'ble Commission. Haryana's overall KUSUM allotment is 100 MW, but only 11 MW have been executed so far, the delays mainly attributed to the long processes of getting connectivity and LTOA Agreement signed from the State Transmission Utility (HVPNL) and appointment of a Qualified Coordinating Agency (QCA) before injecting power at the nearby DISCOM Substation. The arguments were advanced on the following two issues:

a) Long Term Open Access (LTOA) and its impact:

The petitioners are the generators supplying power to the DISCOM at a fixed price, implying LTOA might not be applicable in the way it is for other generators and the same has already been accepted by the DHBVN in its reply. Some LTOA applications have been pending for 4-6 months, such delays have not only created uncertainty among the prospective solar power generators in the state but also it has impacted execution of projects under PM KUSUM scheme. This is also like putting an un-necessary burden on such generators. They further submitted that no transmission network for wheeling of the power is to be used after connectivity of the Solar Plants, commissioned under PM KUSUM Scheme, as connectivity is to be given at 11 kV, which fall under the jurisdiction of DISCOMs. Hence, there is no need for LTOA with HVPNL.

b) Qualified Co-ordinating Agency (QCA) and Project Feasibility under KUSUM:

The Clause 3 of the Haryana Electricity Regulatory Commission (HERC) (Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation) Regulations, 2019, mandates QCA appointment for all solar power plants above 1 MW in Haryana. The Petitioners assert that this requirement is overly burden farmers and small enterprises. The QCA process is complex, involves daily documentation, and imposes significant penalties for deviations, which could financially cripple small farmers and undermine the scheme's objective. Accordingly, the deviation settlement mechanism (DSM) and QCA regulations can significantly impact the project feasibility due to penalties for deviations.

- ii) In many other States of India like Uttar Pradesh, Rajasthan, Punjab, Karnataka, Maharashtra and Madhya Pradesh, to keep the process simple, appointment of QCAs has been done away with on the projects being executed under PM KUSUM scheme. Also, Deviation Settlement Mechanism is applicable on the Solar power plants having capacity 5 MW and above. This saves the farmers or small enterprises to avoid penalties associated with QCA regulations. PM KUSUM Scheme is being implemented in those States at good pace. However, QCA appointment for solar power plants above 1 MW in Haryana has become hurdle in implementation of PM KUSUM Scheme as stated above.

iii) That as per MNRE timelines of PM KUSUM Scheme, the sunset mentioned is March 2026 while project commissioning timeline shall be till 31st December 2025. DHBVN has given 31.12.2025 as the targeted completion timelines for the projects. The process of signing of LTOA and QCA appointment is an impediment/ complication in execution/operations of these projects.

iv) The Solar Power Plants under this scheme will be installed within five km radius of the notified sub-stations by the DISCOM in order to avoid high cost of transmission lines and losses, which implies that connectivity on such substation is feasible.

8.2 Ms. Sonia Madan counsel for the respondents (HVPNL, HPPC and UHBVNL) submitted as under:

i) That LTOA is required in term of rules in vogue, however, concerns of the petitioners can be addressed by allowing deemed LTOA in a time bound period of one month, if HVPNL could not do needful in the meantime.

ii) That purpose of applicability of QCA and DSM on Solar Plants of 1MW and above in term of the HERC (Forecasting, Scheduling and Deviation Settlement of Solar & Wind Generation) Regulations, 2019 is to maintain system security, stability and reliability. Further, the applicability of any binding Regulations cannot be ousted on the ground of its complexity or financial incapability of the Petitioners.

iii) That respondent no. 3 has, at present, executed over 100 PPAs under the PM-KUSUM Scheme While individual projects may be small, collectively, they constitute a significant share of the State's renewal energy portfolio. Granting the resumption sought would set a precedent encouraging others PM-KUSUM developers to seek similar relief, potentially leading to a large number of generators operating outside the ambit of the DSM. The MNRE guidelines do not provide any such waiver or exemption to be granted to the projects being set up under the PM KUSUM Scheme.

On reply to the query, the counsel stated that Solar plants having capacity of 13.7 MW against target of 106.21 MW have been installed till now in Haryana.

8.3 Sh. Raheel Kohli Counsel for DHBVN submitted that the contention of the petitioner is correct up to the extent that the entity to manage the connectivity and allied affairs is DISCOM only and there is no

intervention of the transmission utility as the projects are connected at 11 kV level only. With regard to appointment of QCA the DHBVN is not agreeing to the petitioner's contention.

- 8.4 In view of the above discussions, the Commission observes that PM-KUSUM (Pradhan Mantri Kisan Urja Suraksha evam Utthaan Mahabhiyan) Scheme is aimed at ensuring energy security for farmers in India, along with honouring India's commitment to increase the share of installed capacity of electric power from non-fossil-fuel sources to 40% by 2030 as part of Intended Nationally Determined Contributions (INDCs). Component-A of PM-KUSUM schemes aims at setting up of 10,000 MW of Decentralized Grid Connected Renewable Energy Power Plants, of capacity from 500 kW to 2 MW to be setup by individual farmers/ group of farmers/ cooperatives/ panchayats/ Farmer Producer Organisations (FPO)/Water User associations (WUA) on barren/fallow land, within five km radius of the sub-stations in order to avoid high cost of sub-transmission lines and to reduce transmission losses. The power generated will be purchased by local DISCOM at pre-fixed tariff.
- 8.5 Further, Under Component A of PM KUSUM Scheme, small scale power plants of 0.5 MW to 2 MW, are decentralized and located near 33/11 kV substations i.e. the point of consumption, leading to savings in transmission infrastructure and losses. Power is typically evacuated at the 11-kV level directly into the local distribution grid under a Power Purchase Agreement (PPA), not the state transmission network. Because these projects are designed for local injection into the nearest substation at 11 KV level, they fall under the purview of the DISCOM rather than the STU.
- 8.6 The Commission is constrained to note the minuscule progress made in achieving the target of 106.21 MW by December, 2025 as Solar Power plants with aggregate capacity of 13.7 MW only could only be commissioned since 2020. While, the State of Haryana is struggling to achieve the target of 106.21 MW, other States like Rajasthan, Maharashtra and Uttar Pradesh, are executing huge capacity of 5 GW, 7 GW and 3 GW, respectively. The main reason being treatment of generators covered under a specific scheme at par with other generators. In the fitness of things, special relaxations should have been granted by Discoms, who are the implementing agency of the scheme,

to attract developers covered under the scheme. However, the requirement of scheduling either independently or through QCA and signing of LTOA including delay in signing of the same, has proved to be a nail in the coffin for the project developers already reeling under red tapism of seeking various approvals and compliances.

- 8.7 The petitioner (s) herein have sought relief from applicability of two specific regulatory requirements i.e. signing of LTOA agreement and appointment of a QCA on the grounds of ease of doing business for the power developer covered under a National Scheme and to avoid heavy penalties for deviations which could lead to net losses for farmers, thus defeating the basic objective of the scheme. The Commission has also considered the arguments of the petitioner (s) that in most of the other States in India, the DSM Regulations including the provisions of scheduling, are applicable on solar and wind developers with a capacity of 5 MW and above.
- 8.8 The Commission has also considered the arguments of Respondent no. 2 (DHBVNL) that the power generated from the solar power plants of the Petitioner (s), covered under PM-KUSUM scheme, is directly injected into the distribution system of the Respondent No. 2 and the power flow remains within the jurisdiction of the DISCOM i.e. the Respondent No.2..
- 8.9 Undoubtedly, 'Procedure for Intra-State Medium Term Open Access and Long Term Open Access' issued under Regulation clause 12, 13 and 14 of 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), provides that a generating station to obtain long term open access. Further, Regulation Clause 3 of Procedure for Forecasting, Scheduling And Deviation Settlement of Solar & Wind Generation (DSM), provides for scheduling by a solar and wind generator above 1 MW either themselves or through a QCA as well as applicability of deviation mechanism. However, Regulation clause 55, 58 & 59 of the OA Regulations as well as Regulation clause 19 & 20 of the DSM 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:-

Regulation 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 provides as under:

*"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."*

Similarly, Regulation 19 and 20 of the HERC (Deviation Settlement Mechanism and related matters) Regulations, 2019 provides as under:

*"19. Power to remove difficulties*

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

*20. Power to Relax:*

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

Regulation 65 of the HERC (Conduct of Business) Regulations. 2019 provide as under:

*"Saving of inherent power of the Commission*

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

8.10 The Commission is of the considered view that the PM KUSUM scheme introduced with a motive to secure the availability of power, to discourage the use of diesel and to increase the income of farmers, should be encouraged in true letter and spirit by eliminating the bottlenecks to the extent possible.

8.11 In view of the above discussions, in order to circumvent the difficulty faced in promoting a farmers centric scheme of the Central Government, in larger public interest, the Commission considers it a fit case to invoke 'power to relax' provided under Regulation clause 19 &

20 of the Haryana Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2019 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.

8.12 Having invoked its inherent powers and relaxed the provisions of extant regulations, specific to the project developers covered under PM-KUSUM Scheme, the Commission decides that the requirement of Long-Term Open Access (LTOA) and the scheduling either self or through a Qualified Coordinating Agency (QCA), shall not be applicable.

8.13 In terms of the above order, the present petition is disposed of.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 20/08/2025.

**Date: 20/08/2025**  
**Place: Panchkula**

**(Mukesh Garg)**  
**Member**

**(Nand Lal Sharma)**  
**Chairman**