

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

Case No. HERC/P. No. 84 of 2025

Date of Hearing : 05/03/2026

Date of Order : 27/03/2026

IN THE MATTER OF:

Petition under Section 43, 45, 46 , 47, 86(1)(i)(k) and Section 181(1) and (2)(x) of the Electricity Act 2003 and Regulations 16 & 17 of the HERC Electricity Supply Code Regulation 2014 read with Regulations 9, 10 & 11 of the Haryana Electricity Regulatory Commission (Duty to Supply Electricity on Request and Power to Recover Expenditure and Power to Require Security) Regulations, 2016 (Regulation no. 34) and its 3rd Amendment dated 27.09.2023 and Regulations 65, 68, 69, 70 & 71 of HERC (Conduct of Business Regulations, 2019 seeking requisite amendments / clarification removal of difficulty and quashing of the memo no. Ch-51/GC-149 dated 16.12.2024 and other memos issued by the respondents Dakshin Haryana Bijli Vitran Nigam demanding a sum of Rs.1,97,29,558/- towards differential cost of external infrastructure between 33 kV and 11 kV as per 33kV estimates whereas the connection is feasible only at 11 kV voltage level for which the estimated cost of Rs. 1,16,96,495/- has already been borne by the petitioner as per 11kV estimates made therein for release of single point connection comprising of ultimate load of 2640.64 kW or 2934.04 kVA as against sanctioned load of 5742.19 kW or 6380.21 kVA for its IT Park project and to grant stay on the disconnection of electricity supply during pendency of this petition.

Petitioner

M/s Realtech Infrastructure Ltd., Anangpur Village, Sector 37, Faridabad.

VERSUS

Respondent:

Dakshin Haryana Bijli Vitran Nigam Through its Officers

1. The Chief Engineer / Commercial, Vidyut Sadan, Vidyut Nagar, Hisar.
2. The Chief Engineer / Operation, DHBVN Delhi Zone, HETRI IDC, Sector-16, Gurgaon.
3. The Superintending Engineer / Operation Circle, DHBVN Complex, Sector-23, Faridabad.
4. Executive Engineer / Operation, Old Faridabad Division, DHBVN, BSNL Building, Sector-15, Faridabad.
5. Sub Divisional Officer / Operation, Mathura Road Sub-Division, DHBVN, Mathura Road, 220 kV S/Stn., Palla, Faridabad.

Present

On behalf of the Petitioner

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

On behalf of the Respondent.

1. Ms. Aerika Singh, Advocate
2. Sh. Lovepreet Singh, Advocate
3. Sh. Naresh Kumar, SDO, DHBVN

QUORUM

Shri Nand Lal Sharma, Chairman
Shri Mukesh Garg, Member
Shri Shiv Kumar, Member

ORDER

1. **Petition:**

MOST RESPECTFULLY SHOWETH:

- 1.1 That the Petitioner M/S Realtech Infrastructure Ltd, is a company based in Delhi NCR, incorporated as a limited Company registered under Companies Act, having its registered office at D-22, Defense Colony, New Delhi.
- 1.2 That the Petitioner company is engaged in development of Infrastructure Projects.
- 1.3 That Mr. Yogesh Gupta (hereinafter referred to Authorized Signatory) is Director of the company and has been authorized by the Board, through Board Resolution, to file the present case.
- 1.4 That M/S Realtech Infrastructure Ltd has developed an IT Park in the name "FBD One" located at, Khasra No. 601, Faridabad Bye Pass Road, Village: Anangpur, Sector - 37, Opposite: Sarai Khwaja Village, Faridabad-121003, Haryana.
- 1.5 Respectfully, it is submitted that this petition is filed for the removal of difficulties and is not an adversarial filing against the respondents. The petition has been prepared with an objective of enabling the Hon'ble Commission to consider the issue in a manner that supports the factual position, promote investment and ultimately benefiting the goals of the State.

1.6 JURISDICTION:

That the Hon'ble Commission has the jurisdiction to entertain the present petition as the present petition falls under the following provisions of the Electricity Act, 2003 (hereinafter referred to as 'the Act')

That this Hon'ble Commission has the power to make and amend regulations under Section 181 of the Electricity Act 2003 and as per Section 50 of Electricity Act, the function of the Hon'ble State Commission to specify or enforce the Supply Code for Distribution Licensees. In this regard the reliance is being placed on the following provisions:

A. Section 43. Duty to supply on request

(1) Every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:

Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission:

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

(2) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1):

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission.

If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default.

B. Section 45. Power to recover charges

(1) Subject to the provisions of this section, the prices to be charged by a distribution licensee for the supply of electricity by him in pursuance of Section 43 shall be in accordance with such tariffs fixed from time to time and conditions of his licence.

(2) The charges for electricity supplied by a distribution licensee shall be—
(a) fixed in accordance with the methods and the principles as may be specified by the concerned State Commission;

(b) published in such manner so as to give adequate publicity for such charges and prices.

(3) The charges for electricity supplied by a distribution licensee may include—

(a) a fixed charge in addition to the charge for the actual electricity supplied;

(b) a rent or other charges in respect of any electric meter or electrical plant provided by the distribution licensee.

(4) Subject to the provisions of Section 62, in fixing charges under this section a distribution licensee shall not show undue preference to any person or class of persons or discrimination against any person or class of persons.

(5) The charges fixed by the distribution licensee shall be in accordance with the provisions of this Act and the regulations made in this behalf by the concerned State Commission.

C. Section 46. Power to recover expenditure The State Commission may, by regulations, authorise a distribution licensee to charge from a person requiring a supply of electricity in pursuance of Section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply.

D. Section 47. Power to require security: (1) Subject to provisions of this section, a distribution licensee may require any person, who requires a supply of electricity in pursuance of Section 43, to give him reasonable security, as may be determined by regulations, for the payment to him of all monies which may become due to him:-

(a) In respect of the electricity supplied to such person; or

(b) Where any electric line or electrical plant or electric meter is to be provided for supplying electricity to such person, in respect of the provision of such line or plant or meter.

E. Section 86 Functions of the State Commission (1) The State Commission shall discharge the following functions, namely :- (i) specify or enforce standards with respect to quality, continuity and reliability of service by

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

F. Section 181 (1)

Powers of State Commissions to make regulations (1) The State Commissions may, by notification, make regulations consistent with this Act and the rules generally to carry out the provisions of this Act.

Section 181(2) (2) In particular and without prejudice to the generality of the power contained in sub-section (1) such regulations may provide for all or any of the following matters, namely:— (X) electricity supply code under Section 50;

G. Section 50 of the Electricity Act, 2003 provides for enactment of the Supply code, which reads as under:

“Section 50 - The Electricity Supply Code

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

H. Regulation 16 and 17 of the HERC Supply Code provides for the power of the Hon’ble State Commission to remove difficulties and to amend / alter the provision of the HERC Supply Code, 2015 and the same reads as under:

“16. Powers to remove difficulties:

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

17. Power to amend:

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

I. Regulation 9, 10 and 11 of the HERC Duty to Supply Regulations (Regulation 34 read with its 1st, 2nd and 3rd Amendments) also provides for the power of this Hon’ble Commission to remove difficulties, to relax and to amend / alter the provision of the Supply Regulations.

That powers enumerated above are sufficient for this Hon’ble Commission to afford complete relief to the Petitioner herein.

J. Conduct of Business Regulations 2019

- 65- Saving of inherent power of the Commission- 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.

- 68- General power to amend - 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. Power to remove difficulties
- 69- If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, do anything not being inconsistent with the provisions of the Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty.
- 70- In case of any difficulty in interpretation of these Regulations the same shall be done by the Commission in accordance with the provisions of the Electricity Act, 2003. In case of any conflict between the provisions of these regulations and the provisions of the Electricity Act, 2003, the provisions of the Act shall prevail in all case.
- Power to dispense with the requirement of the Regulations 71- The Commission shall have the power, for reasons to be recorded in writing and with notice to the affected parties, to dispense with the requirements of any of the Regulations in a specific case or cases subject to such terms and conditions as may be specified.

1.7 DESCRIPTION OF RESPONDENTS

- i) The Petitioner M/S Realtech Infrastructure Ltd, is a company based in Delhi NCR, incorporated as a limited Company registered under Companies Act, having its registered office at D-22, Defense Colony, New Delhi and engaged in development of Infrastructure Projects.
- ii) Respondents Dakshin Haryana Bijli Vitran Nigam (hereinafter referred to as "DHBVN") are 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.

1.8 FACTUAL BACKGROUND

- I. That M/S Realtech Infrastructure Ltd has developed an IT Park in the name "FBD One" located at, Khasra No. 601, Faridabad Bye Pass Road, Village: Anangpur, Sector - 37, Opposite: Sarai Khwaja Village, Faridabad-121003, Haryana.
- II. That LOI for the above mentioned IT Park was issued by the office of Director, Town & Country Planning, Haryana vide LOI memo no. 5(II)/2007/28753 dated 13.11.2007 and the license was issued vide License no. 281 of 2007 dated 28.12.2007 for development of IT Park on 8.50 acres of land out of the total project land of 8.73 acres in favour of M/S Dove Infrastructure Pvt. Ltd. (DIPL), hereinafter to referred as "IT Project"
- III. That DIPL was formed as a special purpose vehicle (SPV) created by its shareholders for the development of the IT Park Project. Shareholders of DIPL are M/S ABW Infrastructure Limited (54% shareholding), M/S Realtech Infrastructure Ltd. (36% shareholding) and M/S BNB Construction Pvt. Ltd (10% shareholding). All these shareholders entered into a "Shareholders' Agreement" on dated 29th February 2008.

- IV. That subsequently, M/S BNB Construction Pvt. Ltd. Transferred/ assigned its complete 10% shares in the FAR to M/S Realtech Infrastructure Ltd. (RIL), thereby increasing the share of M/s RIL to 46% in FAR.
- V. That the petitioner M/S RIL has developed its portion of project i.e.46% of its share in the above named IT Project and has also obtained the Occupation Certificate from the office of DTCP, Haryana for 30.65% of the FAR out of 46% of share.
- VI. That so far as development of remaining 54% of FAR of above said IT Project by M/S ABW Infrastructure Ltd is concerned, it is at a standstill and has been attached by the Enforcement Directorate (ED). There is no immediate possibility of completion of construction and therefore, there is no need to undertake electrification for the said 54% part of M/S ABW Infrastructure Limited. The following two orders are attached for kind reference:
- (A) Order dated 12.09.2019 in Company Petition No. (IB) 375 (PB)/ 2018 passed by the Hon'ble NCLT, Delhi directing commencement of insolvency proceedings of ABW Infrastructure Ltd. along with a copy of the latest order dated 25-08-2025 in the said proceedings (fixing the next date of hearing as 19.09.2025).
- (B) Order dated 18.05.2022 passed by the Enforcement Directorate attaching 54% of the sanctioned Floor Space Index (FSI) is attached.
- VII. That under present circumstances, even though the license stands issued in the name of M/S Dove Infrastructure Pvt. Ltd. (DIPL), which has M/S ABW (54%) and M/S RIL & BNB (46%) as the two shareholders group, the shareholding of M/S ABW is attached by the Enforcement Directorate and liquidation proceedings against them have been initiated by the NCLT. Therefore, the possibility of M/S ABW developing their part (share) of project in immediate future, possibly for next 5 years, is very remote, contingent and subject to orders of various courts and law enforcement agencies. As of now, only the petitioner is left to develop its share (46% of total) of the area, and the petitioner has developed most of its area in the project for which it now requires revision of the electrification plan.
- VIII. That for all legal intents and purposes, the DTCP Haryana has already recognized the project of M/s RIL having 46% FAR, as a separate and distinct project for compliance for all the statutory compliances. The Real Estate Regulatory Authority (RERA) Haryana has also recognized RIL as a separate developer.
- IX. That at the time of filing an application for approval of electrification plan to the discom, the petitioner was informed that it was mandatory to apply for the entire project area covered under the license issued by DTCP as the respondents would not sanction the electrification plan in a phased manner against the construction. It is pertinent to mention here that the petitioner was also asked to deposit an additional estimated cost Rs. 46.92 lacs against differential cost of 33 kV and 11 kV as EESDC charges. In the larger interests of the project, the petitioner applied for the sanctioning of 5742.19 KW OR 6380.21 KVA Load despite the fact that its share of area warranted an ultimate load of 2640.64 KW or 2934.04 KVA only. The petitioner also deposited Rs.46.92 lacs. However, before the final approval of electrification plan, the Respondents raised a new demand of Rs. 1,97,29,558/- (Rupees One Crore Ninety Seven Lac Twenty Nine

Thousand Five Hundred Fifty Eight Only) without following the HERC Regulation of "Power to recover expenditure (3rd Amendment)" and/or giving any opportunity to be heard and or allowing the petitioner to file a revised electrification plan for ultimate load of 2640.64 KW or 2934.04 KVA.

- X. The petitioner M/s RIL is already struggling with the commercial degradation of its project FBD-One, on 46% of the FAR due to the suspension of the development of Gateway Tower on 54% of the FAR by M/s ABW. The applicant M/s RIL is unable to bear the cost attributable to M/s ABW. Moreover, like DTCP Haryana, the respondents should also have recognized the petitioner as an independent developer, to treat the project "FBD-One" and "Gateway Tower" as two separate and distinct projects and approving the electrification plan separately for "FBD One" of the petitioner until the 54% is developed by another developer.
- XI. That the special situation created by legal actions against M/S ABW and their suspension of development in the licensed IT Park Project, must be understood by the Respondents DHBVN and its officers while demanding the charges against internal and external infrastructure for complete FAR.
- XII. That the total FAR area of the project at the time of issue of license was 82007.553 sq. meters which was sum of 3 nos. blocks "A", "B" and "C" as under:
- a) Block A = 4159.17 sq. meters
 - b) Block B = 32792.931 sq. meters
 - c) Block C = 3055.42 sq. meters
- Since, as per the division of property as per Share Agreement, Block A belonged to M/S ABW and the rest Blocks B & C belonged to M/S RIL (the petitioner), the FAR share of the petitioner comes to 35848.351 sq. meters. After including the FAR of common area that cannot be divided into proportion of the shares, the petitioner's 46% share of the total FAR of 82007.553 sq. meters is calculated as follows: $82007.553 \times 0.46 = 37723.47$ sq. meters
- XIII. That as per the latest load norms of 14 kW per 100 sq. meters and a load factor of 0.5, the ultimate load requirement for the project's total FAR of 82007.553 sq. meters amounts to 5740.53 kW or 6378.36 kVA. However, due to unprecedented situation arising from the legal actions against M/S ABW, the practical FAR which has been left for development comes to only the petitioner's share of 37723.47 sq. meters, which consequently reduces the ultimate load calculation has also reduced to 2640.64 kW or 2934.04 kVA
- XIV. That as per the latest Regulations, the ultimate load of 2640.64 kW is entitled to be fed at 11 kV level. Since the load has already been released at 11 kV through an 11 kV line erected by the petitioner, the demand of differential cost of 33 kV and 11 kV, considering it as the total ultimate load of 6378.36 kVA, is not at all justified on the part of respondents
- XV. That *Section 46 (Power to recover expenditure) of the Electricity Act 2003 states "The State Commission may, by regulations, authorise a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply".*
- XVI. That as per the Act, the distribution licensee can recover only those cost from the consumers which are reasonably incurred in providing any

electric line or electrical plant used for the purpose of giving that supply. However, in the instant case, the respondent DHBVN, the distribution licensee, is demanding a cost of 33 kV infrastructure despite the fact that they have neither they have created any 33 kV infrastructure nor will they create it in future to give supply to the petitioner. Therefore, to demand a cost which they would not incur is not legal and is liable to be declared as null and void

- XVII. That *Regulation 4.17.10 of Haryana Electricity Regulatory Commission (Duty to Supply Electricity on Request and Power to Recover Expenditure and Power to Require Security) Regulations, 2016 (3rd Amendment) Regulations, 2023* is “The charges shall be deposited with the distribution licensee. If any infrastructure is required to be created by transmission licensee to cater such load then its expenditure shall be claimed through ARR by the transmission licensee”.
- XVIII. That it is clear from section 46 of Electricity Act and the above mentioned Regulation 4.17.10 that the area where 33 kV system is not available, the supply must be provided at 11 kV level. if any infrastructure of 66 kV needs to be created or augmented, the transmission licensee must claim the expenditure only through ARR, and the Distribution licensee cannot demand any such charges from the consumer
- XIX. That on the basis of facts explained above, it can be summed up that demand of differential cost of 33 kV and 11 kV level is not justified on two grounds:
One, because the respondents would not be creating any 33 kV infrastructure to give connection to the petitioner, they cannot demand any cost of 33 kV infrastructure as per section 46 of Electricity Act., and;
Two, because the ultimate load of the petitioner’s FAR share is lesser than 5000 kVA, the connection is liable to be given at 11 kV level only
- XX. That the respondents have neither acknowledged the special and Force Majeure situation that has arisen nor they have understood the obligation of the petitioner to develop the infrastructure as per the Share Agreement between M/S ABW and M/S RIL. Instead, the respondents have raised a demand of Rs. 1,97,29,558 – Rs. 46,92,714 = Rs.1,50,36,844/- from the petitioner against the differential cost of 33 kV and 11 kV infrastructure.
- XXI. That despite all the above facts being presented to the respondents, including the senior officers, the respondents have persisted in asking to deposit the remaining differential cost of Rs. 1,50,36,844 in their letter below:

TABLE-A

Dates	Events
11-07-2024	The SE/Commercial for CE/Commercial Hisar of the Respondent issued Memo No. Ch-72/OLNC-HT/FBD/EP-405 dated 11-07-2024 giving clarifications with reference to applicability of Sales Circular No. D-07/2020 for sanction of electrification plan of the Petitioner.
16-12-2024	Respondent SDO issued Memo No. Ch-52/GC-149 dated 16-12-2024, demanding deposit of a sum of Rs. 1,50,36,844/-.
15-02-2025	Respondent through SDO ‘OP’ S/Divn, M/Road, DHBVN, Faridabad reiterated demand notice of Rs.1,50,36,844/-.

21-04-2025	The Petitioner made submission to the Respondent through SDO 'OP' S/Divn, M/Road, for review of the demand notice.
15-05-2025	Respondent through SDO 'OP' S/Divn, M/Road, DHBVN, Faridabad reiterated demand notice of Rs.1,50,36,844/-.
09-06-2025	The Petitioner submitted Representation Letter dated 09-06-2025 to the Respondent through CE/Commercial, DHBVN, HISAR seeking review of the demand letter dated 16.12.2024.
11-07-2025	Respondent reiterated demand notice of Rs.1,50,36,844/- through CE/Commercial, DHBVN, HISAR while disposing off the representation dated 09.06.2025 filed by the Petitioner.
12-08-2025	Respondent through SDO 'OP' S/Divn, M/Road, DHBVN, Faridabad reiterated demand notice of Rs.1,50,36,844/-.
28-08-2025	Respondent through Chief Engineer/ OP Delhi forwarded the letter dated 12-08.2025 issued by SDO 'OP' S/Divn, M/Road, DHBVN, Faridabad reiterating demand notice of Rs.1,50,36,844/-.
04-09-2025	The Petitioner has submitted a Representation dated 03-09-2025 to the Respondent through CE/Commercial, DHBVN, HISAR specially seeking approval of the reduced ultimate load of 2641.41 KW or 2934.90 KVA.

- XXII. That it is evident from the detail above that the respondents have not understood the special situation that has arisen. They have not appreciated the fact that the petitioner never ever wanted to violate any Regulation or the Sales Circular. However, due to situation in which M/S ABW share-land possession has been attached by the Enforcement Directorate and the Insolvency proceedings initiated before the NCLT, the petitioner could only take care of its share of land and has developed it as per norms and obtained the NOC from DTCP.
- XXIII. That the Director TCP has also acknowledged the 46% beneficiary status of the petitioner for all intents and purposes
- XXIV. That in light of above facts and figures, the present petition is being filed before this Hon'ble Commission under sections 181(1)(2)(x) of the Electricity Act 2003 and Regulations 16 & 17 of the HERC Electricity Supply Code Regulations 2014 read with Regulations 9, 10 & 11 of the Haryana Electricity Regulatory Commission (Duty to Supply Electricity on Request and Power to Recover Expenditure and Power to Require Security) Regulations 2016 (REGULATION NO. 34) and its 3rd Amendment dated 27.09.2023 seeking quashing of the memo no. Ch-51/GC-149 dated 16.12.2024 and its subsequent reminders issued by the respondents whereby a balance sum of Rs. 1,50,36,844/- (One Crore Fifty Lac Thirty-Six Thousand Eight Hundred Forty Four) has been demanded towards differential cost of 33 kV and 11 kV infrastructures and also to refund Rs. 46,92,714/- (Forty Six Lac Ninety Two Thousand Seven

Hundred Fourteen Only) already charged on this account even though 33 kV level is neither available nor they are going to create it. The petitioner has already erected 11 kV line and accessories at his own cost for release of Single Point Connection against a sanctioned load of 5742.19 kW or 6380.21 kVA for IT Park Building, which has now reduced to 2640.64 kW or 2934.04 kVA as per his 46% share.

XXV. That the present petition though lists out the difficulties faced by the petitioner in the instant case, it is submitted that the resolution of these difficulties by the Hon'ble Commission would not only help him in getting the relief for his electricity connection but also benefit many other consumer/ applicants in specific area of Faridabad, where the constraints to provide supply at 33 KV level is the responsibility of the respondents, not the applicants, Thus, the decision of the Hon'ble Commission would ultimately serve a larger public interest.

1.9 Related Facts of the Case:

I. The respondents sanctioned the ultimate load 5742.19 kW or 6380 kVA since the 33 kV level is not available in the project area, so they approved the electricity plan (EP) at 11 kV voltage level and agreed to release the load through 2 nos. 11 kV feeders with appropriate type / size of conductor, provided the cost of such feeders and EESDC applicable were paid by the Petitioner. They communicated this vide Memo No. 10324 dated 19.03.2024 read with Memo No. Memo No. CH48/ GC-149 dated 04.06.2024. The Petitioner accordingly deposited the following amounts as per the Regulation:

- (i) Cost of Line @ 34 Lakh per MVA above 5000 MVA [6380.21 - 5000 KVA = 1380.21 KVA equivalent to 1.38021 MVA multiplied by Rs.34.00 lakh = Rs.46,92,714/- as the differential cost of 33 kV and 11 kV
- (ii) Bank Guarantee for Advance Consumption Demand (ACD): Rs.42,43,000/-
- (ii) Bank Guarantee for External Infra: Not required.
- (iii) Bank Guarantee for Internal Infra: Rs.11,39,871/-

II. The Respondent then served a fresh notice vide Memo No. Memo No.CH-51/GC-149 dated 16.12.2024 demanding a balance amount of Rs.1,50,36,844/- towards the balance differential cost of 33 kV and 11 kV voltage levels for release of single point connection against an ultimate load of 5742.19 kW or 6380.21 kVA. The Respondents have computed the aforesaid amount in the following manner:

TABLE-B

Sl. No.	Particulars	Amount in Rs.
(A)	Cost of 33 kV Line without GST	3,14,26,053/-
(B)	Cost of 11 kV Line without GST	1,16,96,495/-
(C)	Differential Cost to be deposited by Consumer/ Petitioner [C = A minus B]	1,97,29,558/-
(D)	Amount already deposited by the Petitioner for obtaining single point connection	46,92,714/-
(E)	Differential Cost to be deposited by the Consumer/Petitioner [E = C minus D]	1,50,36,844/-

III. The above additional burden on the petitioner is not justified on following Grounds and therefore it has been necessitated to knock the doors of this Hon'ble Commission for removal of difficulties. The respondents have not appreciated the special situation which has arisen and which is a Force Majeure condition beyond the control of the petitioner, as also explained in above paras, the respondent still consider 5742.19 kW or 6380.21 kVA as the ultimate load of the project. Whereas the actual ultimate load has reduced to 2640.64 kW or 2934.04 kVA only. By not considering it as a Force Majeure Situation, the respondents are relying their actions on the following regulation:

(A) *Regulation No. HERC/29/2014 (2nd Amendment on dated 08.01.2020) In exercise of the powers conferred by Section 50 and clause (x) of sub-section (2) of Section 181 of the Electricity Act, 2003 (36 of 2003) (hereinafter referred to as 'the Act') and all other powers enabling it in this behalf, the Haryana Electricity Regulatory Commission hereby makes the following Regulations on Electricity Supply Code.*

1.1 *These Regulations shall be called 'The Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014*

3.2.2 *In case where supply, depending upon the technical conditions of the transmission/distribution system and / or the requirement of the consumer, has to be given at a voltage other than specified in Regulation 3.2.1/ approved plan, the licensee may accept the request of the applicant with the approval of the Commission. Further, in case 33KV voltage level is not available in the area of supply than load above 5 MVA up to 8 MVA may be served through 11 KV feeder with appropriate type/size of conductor. Provided, the difference of cost of 33 KV substation at the consumer end along with its connectivity from the distribution / transmission licensee's substation including the bay and the actual cost of connection of 11 KV is borne by the consumer*

1.10 The Difficulty:

The above regulation 3.2.2. does not differentiate between the following situations:

- i) Situation 1: Where the system constraints do not allow the connection to be given on 33 kV level at present
- ii) Situation 2: Where the system allows the connection to be given on 33 kV level but the consumer wants the connection to be released at 11 kV level
- iii) Situation 3: Where the system constraints presently do not permit connection at 33 kV level but the 33 kV level would be created in due course and the connection would finally be shifted from 11 kV to 33 kV level
- iv) Situation 4: Where the system constraints neither permit the connection at 33 kV level at present nor there is any possibility of creation of 33 kV level in future and the connection would continue to run at 11 kV level
- v) In the above situation "4", if there is no possibility of creation of 33 kV level even in future and the load of 5 MVA to 8 MVA can be fed from 11 kVA, there is no justification, economic or otherwise for

DHBVN to demand the difference of cost of 33 kV and 11 kV levels. As a matter of law also, as also explained in paras above, if no expenditure is to be incurred, it cannot be demanded and any recovery on account of such demand would violate the principles of natural justice whilst causing unjust enrichment of DHBVN at the cost of the legitimate rights of the Petitioner and other similarly placed consumers at large. That is to say that DHBVN cannot demand any cost for an infrastructure which they are not going to create at all. And for the 11 kV system which DHBVN has created and from where the connection has been permitted, the cost has already been recovered from the petitioner.

- vi) In the present petition, the status of the Petitioner falls under Situation "4" above. The petitioner has never refused to take the connection at 33 kV level but it is the system constraints at the respondents' side, which have necessitated the connection to be sanctioned at 11 kV level.

INTERIM RELIEF:

The petitioner humbly prays that the Hon'ble Commission may be pleased to take a fair and equitable view, keeping in mind the extreme hardship faced due to a undue, illegal notice issued by the respondent, allow the interim relief as prayed below till the outcome of the present petition.

- (i) Direct the respondent to do not disconnect the present connection and;
- (ii) Direct the respondent to do not add the impugned notice amount in current bill.

MAIN PRAYER

In view of the submissions made herein above and data furnished along with the present Petition; the Petitioner prays for the following relief(s):

- (i) To admit the present petition.
- (ii) Exercise its power under Regulation 16 and 17 of the supply code And direct the respondent to revise the Electrification plan of petitioner for his complete share i.e 46% of the total FAR and the for the load requirement of 2640.64 KW / 2934.04 KVA.
- (iii) Exercise its inherent power as per Electricity Act and the code of conduct business regulations direct the respondents to accept the special situation which has got created as a Force Majeure condition and to accept the ultimate load of the project as 2640.64 kW or 2934.04 kVA instead of 5742.19 kW or 6380.21 kVA and to regularize the connection at 11 kV level only;
- (iv) Direct the respondents to do not raise the demand Rs. 1,97,29,558/- against differential cost of 33 kV and 11 kV infrastructures.
- (v) Direct the respondents to refund the amount of Rs. 46,92,714/- which has already been deposited by the petitioner as 1st instalment of the differential cost of 33 kV and 11 kV infrastructure with 18% P/a interest from the date of depositing these till the adjustment in consumer's account.
- (vi) Direct the respondents to withdraw their Demand Notice issued vide Memo No.CH-51/GC-149 dated 16.12.2024 for recovery of Rs.1,50,36,844/- towards balance differential cost of 33 kV and 11 kV systems.
- (vii) Direct the respondent to refund the court fee along with litigation expenses Rs, 3,00,000 (Three Lac)

(viii) Any other relief that may be considered fit and appropriate by this Hon'ble Commission.

2. The case was heard on 12/11/2025, Sh. Akshay Gupta Counsel for the petitioner re-iterated the contents of the petition and submitted that IA No. 36 of 2025 has been filed for restricting respondents from any coercive action during the pendency of the main petition. Ms. Aerika Singh, proxy counsel for respondents submitted that the notice for deposit of due amount was sent on 15/02/2025 and after 9 months the petitioner is seeking urgent relief without waiting for the reply of respondents. She further requested for three weeks' time for filing the reply to petition. The Commission adjourns the matter and directs the respondent to maintain the status quo towards power supply to the petitioner with respect to the notice dated 15/02/2025 and subsequent correspondences and to submit their replies with in 4 weeks with advance copy to the petitioner.

3. Reply submitted on 28/01/2026:

3.1 That the present reply is being filed through Shri Devender Kumar , Executive Engineer 'OP' Division, Old Faridabad, Dakshin Haryana Bijli Vitran Nigam Limited ("DHBVNL"), who is duly authorized to file the reply on behalf of Respondent Nos. 1 to 5 and is otherwise well conversant with the facts of the case on the basis of knowledge derived from the recordandis also duly authorized to submit, aver and sign the present reply.

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.

3.2 That the present petition has been filed one M/s Realtech Infrastructure Ltd. seeking requisite amendments/ clarification/ removal of difficulty and quashing of the memo no. Ch-52/GC-149 dated 16.12.2024 issued by the Respondent herein seeking a sum of Rs. 1,50,36,844/- (Rupees One Crore Fifty Lac Thirty Six Thousand, Eight Hundred and Forty Four Only) whereby the differential cost of the external infrastructure between 33Kv to 11 kV has been sought by the Respondents herein.

The Petitioner has alleged that it is not liable to pay the differential cost between the 33 kV and 11 kV systems, due to alleged *special circumstances*, namely, the attachment of land belonging to the co-developer M/s ABW Infrastructure by the Enforcement Directorate and the initiation of insolvency proceedings before the Ld. NCLT. It has been contended by the Petitioner that the overall development of the project has been disrupted and as a result, the electricity connection can presently be provided only at the 11 kV voltage level. The Petitioner has stated that it has already deposited the estimated charges for the 11 kV system and therefore should not be required to pay any additional/ differential amount towards the 33 kV infrastructure.

PRELIMINARY SUBMISSIONS/ OBJECTIONS:

SPECULATIVE AND UNVERIFIED CLAIMS, PETITION BASED ON SELF-CERTIFIED FACTS WITHOUT ANY PROOF:

3.3 That, it is humbly submitted that entire petition is premised on the unilateral assertion of the Petitioner that, out of the approved project area of the IT Park/ Project, namely- “FDB One”, (“the Project”) the Petitioner is responsible only for 46% of the Project, which has already been developed. The Petitioner has placed reliance on the Shareholders’ Agreement of the Special Purpose Vehicle (“SPV”)- M/s Dove Infrastructure Pvt. Ltd. (“DIPL”) which has been incorporated for the purpose of development of the Project in question. The Petitioner has contended that the remaining 54% share, attributed to one M/s ABW Infrastructure, is at a standstill due to resolution proceedings and attachment by the Enforcement Directorate. Attention in this regard is brought towards para no. 8 V. and VI. of the petition reproduced below:

“V. That the petitioner M/s RIL has developed its portion of project i.e. 46% of its share in the above named IT Project and has also obtained Occupation Certificate from office of DTCP, Haryana for 30.65% of the FAR out of 46% of share.

VI. That so far as development of remaining 54% of FAR of above said IT Project by M/s ABW Infrastructure Ltd. is concerned, it is at a standstill and has been attached by the Enforcement Directorate (ED). There is no immediate possibility of completion of construction and therefore, there is no need to undertake electrification for the said 54% part of M/s ABW Infrastructure Limited.”

However, before proceeding, the attention of the Hon’ble Commission is invited towards the statutory disclosures made by the Petitioner under the Real Estate (Regulation and Development) Act, 2016. It is submitted that the Petitioner is mandatorily required to upload Quarterly Progress Reports for its RERA-registered project “FDB One” (Registration No. HRERA-PKL-FBD-202-2020). One such Quarterly Report, dated 12.08.2025, has been uploaded by the Petitioner and is available in the public domain i.e. on the official website of the Haryana Real Estate Regulatory Authority (“HRERA”) being <https://haryanarera.gov.in>. Along with this report, the Petitioner has uploaded - *“A certificate of the registered engineer certifying percentage of infrastructure work carried out. The infrastructure work includes roads, sewerage system, storm water drainage system, water supply, and electricity supply.”*

A perusal of the said Engineer’s Certificate, pertaining to the quarter ending 31.03.2025 (i.e., January to March 2025), shows that it has been recorded that:

“...30% of the infrastructural work and 65% of civil construction work has been completed including Roads, Storm line, Sewer Line, Electricity etc. as on 31.03.2025.”

Meaning thereby, only 30% of the infrastructural work has been completed. Assuming without admitting, that the Petitioner is responsible only for 46% of work, it is submitted that the Petitioner has not completed even its own portion of infrastructure, contrary to what is asserted in the petition. A copy of “Quarterly Schedules” dated 12.08.2025 submitted by the Petitioner with Ld. HRERA along with the copy of the Engineer’s Certificate showing the status of the infrastructural work is annexed. It is pertinent to mention here

that the said reports, for the complete Project, have been uploaded by the Petitioner himself, as is evident from a bare perusal of the Order dated 12.06.2024 passed by the Ld. HRERA, Panchkula in Complaint No. 1942 of 2022, annexed.

In view of the above contradictions, the Petitioner's self-certified assertions cannot be relied upon. The Petitioner may be directed to produce the latest Quarterly Progress Report demonstrating 100% completion of infrastructure, if such claim is to be maintained.

3.4 That further the Petitioner's contention that the 33 kV network will not be created in future is wholly speculative and beyond its competence to assert. The creation of electrical infrastructure is solely within the domain of the distribution/transmission licensee and must conform to the norms prescribed under the HERC Regulations and the Supply Code. The differential demand raised is strictly in accordance with the Supply Code. It is the case of the Answering Respondents that the Regulations of the Hon'ble Commission mandate uniform treatment of all consumers, irrespective of internal arrangements between landowners, developers or SPVs. The Petitioner cannot, under the guise of a "special situation," seek unilateral alteration of the voltage level or evade statutory charges. The alleged attachment of land belonging to M/s ABW Infrastructure Ltd. or initiation of insolvency proceedings before the Hon'ble NCLT are internal commercial issues between co-developers and cannot be invoked to seek relaxation of regulatory provisions or exemption from statutory charge.

3.5 That at this stage, attention of the Hon'ble Commission is brought towards para no. 8(II) of the present petition wherein the Petitioner has admitted as under:

"II. That LOI for the above mentioned IT park was issued by the office of Director, Town and Country Planning, Haryana vide LOI Memo No.5(II)/2007/28753 dated 13.11.2007 and the license was issued vide License No. 281 of 2007 dated 28.12.2007 for development of IT Park on 8.50 acres of land out of the total project land of 8.73 acres in favour of M/s Dove Infrastructure Pvt. Ltd. (DIPL), hereinafter to referred as "IT Project".

It is humbly submitted that the License has been issued by DTCP for the complete 8.50 acres of land. As such, for release of any Temporary/ Permanent Connection to the Colonizer/ Builder/ Developer the License/ Layout plan for complete scheme is liable to be taken into account. Attention in this regard is brought towards Sales Circular No. D-21/2020 wherein it has been stated as under:

"(I) Temporary Connection:

... ..

(b) Application for temporary connection at the project site of the colonizer/ developer shall only be allowed, if it is submitted along with approved electrification plan. Where electrification plan has been submitted for approval, the application for temporary connection shall only be considered when all the valid documents i.e. license, layout plan, undertakings have been submitted and there is no deficiency on the part of the applicant and the approval is pending on part of Nigam for

finalization of electrification plan and technical feasibility. Concerned SE (OP) shall ensure that the pending electrification plan is approved within one month by following up with various offices.

The electrification plan shall be considered for approval for complete scheme and not based on individual license which forms part of scheme & lay out plan. Further where the approval of electrification plan required approval of HVPN like allocation of Bay, augmentation of Sub-station/ Line approval for connecting load at 33kv level and above on already laid system, the electrification plan shall only be approved after the approval from competent authority of HVPN i.e. after issue of R-Code for Bay, augmentation etc., as the case may be.

Attention is also brought towards the following provisions of the Haryana Electricity Regulatory Commission (Single Point Supply to Employers' Colonies, Group Housing Societies and Residential or Residential cum Commercial/ Commercial Complexes of Developers and Industrial Estates/ IT parks/SEZ) Regulations, 2020, reproduced below:

“2. Definitions

In these Regulations, unless the context otherwise requires: -

... ..

(5) “Developer” means a person or a company, duly registered with appropriate authority, engaged in the business of developing residential/residential cum commercial complexes/Malls/IT Parks/Industrial Estates/SEZ under the license obtained from the Town & Country Planning Department Govt. of Haryana or any other appropriate authority.

... ..

6 Terms & Conditions for Single Point Supply

... ..

General terms and conditions:

e) Distribution Licensee shall supply electricity to these consumers at the required voltage level at a Single Point and the same shall be covered under Urban supply Category. The Developer/User Association intending to avail Single Point Supply for their area shall be required to submit the requisite documents for approval of the load and electrification plan of his licensed area. The total ultimate load for Single Point Supply shall be estimated based on the norms/guidelines issued by licensee in this regard from time to time.

i) The phase wise development of the Electrical Infrastructure of such area/complex/colony as per requirement shall be permitted by the licensee provided the phase wise development of area is approved by the Authority issuing the Licensee i.e. Town & Country Planning Department, Haryana/HRERA. In case the developer/Users

Association requests for supply at a lower voltage than the specified voltage as per approved plan for meeting the partial load/demand, the request may be accepted by the Distribution Licensee subject to deposit of cost of works for supply at the lower voltage and furnishing Bank Guarantee (BG)equivalent to as provided in Regulation 6.1(a) for the cost of specified voltage level transmission line bay and , Sub-Station at his end including the cost of balance incomplete electrical infrastructure to be installed. The amount of Bank Guarantee shall keep on reducing with the completion of remaining works of the transmission line, sub-station and the electrical infra structure in the Complex/ colony.

Provided, in case of phase wise development approved by the appropriate authority the connection for phase wise load shall be released to meet the requirement of such complex on completion of electrical infrastructure of the respective phase as per the approved electrification plan of the developer.”

It is respectfully submitted that a conjoint reading of the applicable instructions as well as the Regulations in vogue, leaves no manner of doubt that the electrification plan is required to be approved for the complete licensed area and the entire scheme, and not for a fragmented or bifurcated portion thereof. In the present case, the Petitioner admittedly seeks supply for only a part of the licensed area, without there being any bifurcation or phase-wise development approved by the Town & Country Planning Department (DTCP). In the absence of such approval by the competent planning authority, the request for supply to a part of the licensed area is contrary to the statutory framework and, therefore, the relief sought is not maintainable. It if futher submitted that grant of such relief would also lead to a serious regulatory anomaly i.e.if Developers are permitted to seek electricity supply bifurcating their licensed areas on the basis of their own internal arrangements (for instance the Shareholders Agreement in the present case), it would enable multiple fragmented portions of the same licensed area to independently seek release of load at lower voltage levels, such as 11 kV. This would defeat the very intent of the Regulations, which contemplate assessment of load and feasibility for the complete licensed area, and where release of supply at 11 kV level for the entire area may not be technically or systemically feasible. Such an interpretation would open the floodgates for circumvention of approved electrification norms and undermine orderly planning of distribution infrastructure.

- 3.6 That be that as it may, the Petitioner may be directed to clarify whether any claim pertaining to, or arising out of, the obligation of M/s ABW Infrastructure Ltd. to develop external infrastructure, and the corresponding financial liability, has been filed by the Petitioner before the Resolution Professional in the corporate insolvency proceedings of M/s ABW Infrastructure Ltd. If the Petitioner has sought credit or adjustment before the Resolution Professional while simultaneously seeking exemption from payment in the present proceedings, the same would result in a double benefit and unjust enrichment, which is impermissible in law.

THE PETITIONER HAS LONG BEEN AWARE OF ITS LIABILITY TO PAY THE DIFFERENTIAL COST AND IS ESTOPPED FROM FILING THE PRESENT PETITION:

3.7 That it is respectfully submitted that the Petitioner has attempted to mislead this Hon'ble Commission by projecting an urgency in the matter and has also sought grant of interim relief. However, it is an admitted fact that the demand for the deposit of ₹1,50,36,844/- was raised vide Memo No. Ch-52/GC-149 dated 16.12.2024 (Annexure P-6, Page 65 of the Petition), i.e., in December 2024. Despite this, the Petitioner has approached this Hon'ble Commission only after a delay of about a year. It is the case of the Answering Respondents that the Petitioner cannot be permitted to sleep over a year and at the same time seek grant of interim relief alleging urgency in the matter. It is therefore humbly submitted that there exists no urgency in the matter, and accordingly, no interim relief is warranted in the Petitioner's favour.

Furthermore, the liability regarding the payment of the differential cost had already accrued upon the Petitioner and was duly communicated vide Memo dated 23.01.2024 (Annexure P-5), wherein it was explicitly stated as follows:

“IV. As per clause 3.2 of HERC Regulation “Electricity Supply Code” circulated vide Sales Circular no. D-07/2020, any load greater than 5 MVA shall be released at 33 kV level for which an appropriate capacity of 33 kV Sub-station needs to be created by the developer in the development area. However, as intimated by you, there is no 33 kV level available in the vicinity of the instant projects of the Builder/ Developer, as such, load of 5281.21 kW or 5868 kVA be served through an 11 kV feeder with the appropriate type/ size of conductor as provisioned in clause no. 3.2.2 of HERC Regulation “Electricity Supply Code” circulated vide Sales Circular no. D-07/2020. However, the difference in cost of the substation (as per HERC Electricity Supply Code Regulation 3.2.2 & Sales Circular no. D-10/2023) at the consumer end along with its connectivity from the distribution/ transmission licensee’s substation including the aby and the actual cost of connection on 11 kV is to be borne by M/s Dove Infrastructure Pvt. Ltd.”

It is submitted that the Resolution Proceedings against M/s ABW Infrastructure Pvt. Ltd. have commenced way back in the year 2019 i.e. by way of passing of the judgment dated 12.09.2019 (Annexure P-2). Further, the Petitioner was well-aware of its liability to pay differential cost in view of the Memo dated 23.01.2024 (Annexure P-5). However, the Petitioner did not agitate the issue by approaching this Hon'ble at the relevant point in time. The Petitioner neither sought any relaxation nor requested any amendment to the terms and conditions duly communicated vide letter dated 23.01.2024. As such, the Petitioner is estopped from approaching the Hon'ble Commission at such a belated stage.

3.8 That, be that as it may, the demand had was raised in accordance with Regulation 3.2.2 of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 (“Supply Code”) as amended upto date and its subsequent clarification issued by the Hon'ble Commission vide order dated 15.02.2023 in Petition No. 60 of 2022. The said Regulation and its clarification was circulated vide Sales Circular No. D-10/2023 dated 23.02.2023. Accordingly, any cause of action, if at all, accrued in favor of the

Petitioner upon the notification of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 (2nd Amendment) Regulations, 2019, dated 08.01.2020, whereby the amended Regulation 3.2.2 came into effect. As such, the present petition is liable to be dismissed in view of the act and conduct of Petitioner who is estopped from seeking exemption from payment of cost calculated vide the Memo dated 16.12.2024. RELIEF BEING SOUGHT IS CONTRARY TO THE MADATORY PROVISIONS OF LAW:

- 3.9 That, it is further submitted that the relief which is being sought by way of the present petition i.e. release of load without deposit of differential cost is contrary to the express provisions of the Supply Code. The Regulation 3.2.2 of the Supply Code as amended upto date is reproduced below for ready reference:

“3.2.2 In case where supply, depending upon the technical conditions of the transmission/distribution system and / or the requirement of the consumer, has to be given at a voltage other than specified in Regulation 3.2.1/ approved plan, the licensee may accept the request of the applicant with the approval of the Commission.

Further, in case 33KV voltage level is not available in the area of supply than load above 5 MVA upto 8 MVA may be served through 11 KV feeder with appropriate type/size of conductor. Provided, the difference of cost of 33 KV substation at the consumer end along with its connectivity from the distribution / transmission licensee’s substation including the bay and the actual cost of connection of 11 KV is borne by the consumer.

Provided further that, in case intermediate voltage level between 33 KV and 220 KV is not available in the area of supply of the licensee, the load upto 37.5 MVA may be served through 33 KV feeder with appropriate type/ size of conductor provided the difference of cost of substation as per Regulation 3.2.1 at the consumer end along with its connectivity from the distribution / transmission licensee’s substation including the bay and the actual cost of connection on 33 KV is borne by the consumer.

- 3.10 That attention in this regard is also brought towards the decision in the case of Sharad Farms & Holdings Pvt. Ltd. Vs. the Managing Director & Ors.[HERC/ PRO-30 of 2020, Decided on 11.07.2022], whereby this Hon’ble Commission did not grant exemption to the Petitioner from payment of differential cost in terms of Regulation 3.2.2 of the Supply Code while holding as under:

“2.8 Therefore, in view of the settled principle of laws as discussed above and the provisions of the extant regulations, such an exemption from payment of cost cannot be granted to the petitioner.

2.9 However, it is noteworthy that a reasonable differential cost is to be recovered in terms of the Regulations occupying the field. The Commission therefore, directs the Discom to calculate such cost difference only on the basis of difference in cost in terms of line, the bay and other electrical infrastructure from the already approved feeding source i. e. 132 KV sub-station, sector 3 Rohtak from where the 3 Nos.

33 KV sub-stations were approved by the respondent Nigam. The respondent is further directed to furnish this calculation of difference in cost before the Commission within a period of 30 days from the date of passing this order.

2.10 It needs to be noted that a distribution licensee is duty bound to adhere to the 'Universal Supply Obligation' as cast upon it under Section 43 of the Electricity Act, 2003. Moreover, when the conditions imposed by the proviso to sub-section (2) to Section 43 of the Act, are explicitly addressed by this Commission by way of a specific order or duly notified regulations i.e. regulation 3.2.2. In that case the distribution licensee has to necessarily make arrangement for supply of the electricity to the applicant. Needless to add, that the said approval ought not to be seen in isolation but in conjunction with the Commission's directions dated 27.01.2020 i.e. do the needful without insisting on upfront payment of cost differential. Admittedly, the prime concern of the Commission was to expeditiously alleviate the hardships and inconvenience of the electricity consumers within a reasonable time period of a month and then settle the 'cost' issue in the due course within the four corners of the statute / Regulations occupying the field.

... ..

2.12 In view of the foregone discussions and circumstances, the Commission deems it appropriate to hold that the petitioner is required to follow the regulations in vogue and as such is required to bear such costs as envisaged in the regulation 3.2.2, of the HERC (Supply Code) Regulations 2nd amendment, notified on 08.01.2020. However, such cost shall be recovered in the manner mentioned in para 2.9 above."

Thus, the notice for deposit of the difference of cost has been rightly issued in view of the Regulations in vogue read with the orders passed by this Hon'ble Commission from time to time. It is submitted that the now the Petitioner has approached this Hon'ble Commission seeking waiver of this cost, however, it is the case of the Answering Respondents, that the grant of relief being sought to the Petitioner may result in conflicting decisions of favouring one consumer over the other i.e. denial of exemption for M/s Sharad Farms Pvt. Holding while allowing the same to the Petitioner. It is humbly submitted that the same may result in disparity and violation of the principle of equality of law. In fact, the present petition is liable to be dismissed solely on the ground that the relief sought by the Petitioner is in direct contravention of the express provisions of law.

FINANCIAL DIFFICULTY FACED BY THE PETITIONER CANNOT BE A GROUND FOR INVOCATION OF THE POWER TO REMOVE DIFFICULTIES:

3.11 That further, a perusal of the headnote of the petition reveals that the Petitioner has approached this Hon'ble Commission seeking "requisite amendments/clarification/removal of difficulty" purportedly under Regulations 16 and 17 of the Supply Code. In this regard, it is humbly submitted that Regulation 16 empowers the Hon'ble Commission to remove difficulties only in situations where "any difficulty arises in giving effect to

any of the provisions of these Regulations.” It is respectfully submitted that no such difficulty has arisen in implementing the Regulations, under which the applicable charges are liable to be recovered. The only impediment cited is the Petitioner’s own financial incapacity, which cannot be construed as a difficulty in giving effect to the provisions themselves. Attention in this regard is brought towards the judgment dated 30.01.2019 passed by the Ld. CERC in Petition No. 267/MP/2017 titled Tamil Nadu Generation and Distribution Corporation Ltd. Vs. NLC India Limited & Ors. wherein the Ld. CERC, while referring to the judgments passed by the Hon’ble Apex Court as well as Hon’ble APTEL, has observed as under:

“2. The petitioner in its plea has submitted that it has been under financial stress due to the unscheduled infirm power injection by non-conventional energy sources in the State of Tamil Nadu and has filed this petition seeking relief under following grounds

... ..

29. It is the settled law that the power to remove difficulties is conferred upon the Commission to remove difficulties in implementation of provisions of a Regulation and does not include the power to amend the Regulations. In addition to above, the said power to remove difficulty can be exercised to the extent necessary only for giving effect to a particular Regulation. The Tribunal in its judgment dated 25.3.2011 in Appeal No.130 of 2009 (RGPPL V CERC &ors) had held that the power to remove difficulties is to be exercised when there is difficulty in effecting the Regulations and not when difficulty is caused due to application of the Regulations. In M.U.Sinai Vs Union of India (1975) 2 SCR 640, the Supreme Court had held as under:-

“The existence or arising of a difficulty is the sine qua non for the exercise of power. If this condition precedent is not satisfied as an objective fact, the power under this clause cannot be invoked at all. Again, the “difficulty” contemplated by the clause must be a difficulty arising in giving effect to the provisions of the Act and not a difficulty arising all under, or an extraneous difficulty. Further, the Central Government can exercise the power under the clause only to the extent it is necessary for applying or giving effect to the Act etc., and no further. It may slightly tinker with the Act to round off angularities, and smoothen the joints or remove minor obscurities to make it workable, but it cannot change, disfigure or do violence to the basic structure and primary features of the Act. In no case, can it, under the guise of removing a difficulty change the scheme and essential provisions of the Act.”

Similarly, insofar as the reliance placed by the Petitioner on Regulation 17 of the Supply Code is concerned, it is humbly submitted that the Regulations cannot be amended on the mere asking of an effected party. The Petitioner’s prayers i.e. seeking a downward revision of load, a change in voltage level, and exemption from differential cost, constitute a de facto amendment of the Supply Code, which is impermissible. It is a settled principle that subordinate legislation cannot be tailored to grant individual relief. Any such

relaxation would amount to a prohibited, consumer-specific amendment of the Regulations and would violate principles of uniformity, non-discrimination, and regulatory certainty. As such, the present petition is liable to be dismissed on the sole ground that the same is not maintainable under any of the Sections/ Regulations referred to by the Petitioner.

3.12 That it is further submitted a procedure which is at variance with any of the provisions of Act/Rules/Regulations cannot be adopted with the sole intent of giving benefit to a particular person. Reliance in this regard is placed on the order dated 26.06.2019 passed in Petition no. 13 of 2018 filed by Haryana Chamber of Commerce and Industries, Panipat whereby the request regarding relaxation/ amendment of Regulations was rejected by the Hon'ble Commission while holding as under:

“The Petitioner has primarily raised a challenge to ibid Regulations under the garb of seeking relaxation thereto. Any such exercise cannot be undertaken by the Commission in an adjudicatory framework. The same is more in the nature of exercising legislative function of the Commission as the Regulations framed by it are in the nature of subordinate (delegated) legislation. Hence, ordinarily relaxation in the Regulations cannot be considered on a Petition filed by the Petitioner comprising particular category of consumers.”

3.13 That, it is pertinent to mention here that the Petitioner has throughout the petition contended that the Memo dated 16.12.2024, whereby the differential cost has been sought is liable to be quashed in view of the “*Force Majeure*” condition. In this regard, it is humbly submitted that *Force Majeure* refers to extraordinary events or circumstances, such as natural disasters, war, or governmental prohibitions, that prevent a party from performing its contractual obligations. Even in contractual settings, force majeure applies only where performance has become impossible, and not merely onerous or inconvenient. In the present case, the Petitioner’s attempt to invoke force majeure is entirely misplaced, as the statutory requirements under the Electricity Act, the Supply Code, and HERC Regulations cannot be suspended or waived on this basis. The circumstances cited by the Petitioner, namely attachment of land belonging to M/s ABW Infrastructure Ltd. and insolvency proceedings before the Ld. NCLT, are private commercial developments that do not impede or render impossible the Petitioner’s compliance with regulatory obligations. Hardship, financial strain, or disputes among co-developers do not constitute force majeure in law. As such, any submission made by the Petitioner alleging any Force Majeure situation, is liable to be rejected outrightly.

PETITION LIABLE TO BE DISMISSED ON ACCOUNT OF NON-JOINDER OF NECESSARY PARTIES:

3.14 That it is further submitted that the relief sought by way of the present petitioner, namely, non-payment of differential cost towards external infrastructure has a direct bearing on the rights, responsibilities, and statutory functions of the Transmission Licensee- Haryana Vidyut Prasaran Nigam Limited (“HVPNL”), responsible for development, augmentation, and maintenance of the upstream transmission network. Further, the reliefs sought by the Petitioner, particularly those seeking alteration of the sanctioned load, modification of the voltage level of supply,

and exemption from payment of differential infrastructure charges, directly affect the rights, obligations, and liabilities of M/s ABW Infrastructure Ltd., which is stated to be responsible for the remaining portion of the project area and corresponding infrastructure development. Any adjudication in favour of the Petitioner would inevitably have a bearing on the share of liability attributable to M/s ABW Infrastructure Ltd. and may alter the regulatory and financial consequences arising out of its role in the project. However, neither HVPNL nor M/s ABW Infrastructure Ltd. has been impleaded as a party Respondent in the present proceedings. As such, the present petition, is liable to be dismissed solely on the ground of non-joinder of necessary parties.

PRESENT STATUS AND PENDING PAYMENTS ON THE PART OF THE PETITIONER:

3.15 That at present, the amount of Rs 15,00,000/- deposited against ACD and BG of Rs.11,39,871/- against internal infrastructure & BG of Rs 42,43,000 against ACD, stands deposited as the Project in question.. However, the difference cost of Rs. 1,50,36,844/- (Rupees One Crore Fifty Lac Thirty Six Thousand, Eight Hundred and Forty Four Only) is yet to be deposited and is still pending on the part of Petitioner. It is submitted that various notices were given to the Petitioner seeking deposit of the difference of the cost, however, to no avail. In view of the preliminary submissions/ objections detailed above, the para-wise reply is as under:

3.16 PARA-WISE REPLY:

- 3.16.1 That the contents of para no. 1 do not call for any reply being a matter of record.
- 3.16.2 That the contents of para no. 2 do not call for any reply.
- 3.16.3 That the contents of para no. 3 do not call for any reply.
- 3.16.4 That the contents of para no. 4 are a matter of record. It is pertinent to mention here that the Petitioner's Project "FDB One" having RERA Registration No. HRERA-PKL-FBD-202-2020 is obligated to upload Quarterly Progress Report of the project, which are available in the public domain i.e. at <https://haryanarera.gov.in>. Attention in this regard is brought towards the information provided by the Petitioner for the Quarter Ending on 31.03.2025 i.e. for the period of January to March 2025. A perusal of the said report shows that it has been specifically mentioned by the Petitioner therein that- "...30% of the infrastructural work and 65% of civil construction work has been completed including Roads, Storm line, Sewer Line, Electricity etc. as on 31.03.2025." The Petitioner may kindly be directed to provide the updated quarterly report evincing that the work has been 100% complete has have been alleged throughout the present petition.
- 3.16.5 That the contents of para no. 5 are wrong and denied. It is denied that any difficulty is being faced by the Petitioner or the present petition is not an adversarial filing against the Respondents. It is wrong and denied that the present petition is prepared with the objective that enables Hon'ble Commission to consider the matter in the manner it supports the factual position, promote investment or benefit the goals of the State. It is humbly submitted that the present petition only furthers the financial interest of

the Petitioner as the only difficulty detailed in the petition is the commercial/ financial difficulty being faced by the Petitioner.

3.16.6 REPLY TO “JURISDICTION”:

That the contents of para no. 6 of the present petition are wrong and denied, as the grievance raised by the Petitioner is a ‘consumer grievance’ as have defined under the HERC (Forum & Ombudsman) Regulations, 2020 reproduced below for ready reference:

“(g) “consumer grievance” means & includes any complaint relating to any fault, imperfection, short coming, defect or deficiency in the quality, nature and manner of service or performance in pursuance of a license, contract, agreement or under Electricity Supply Code or in relation to Standards of Performance specified by the Commission including payment of compensation or billing disputes of any nature or recovery of charges by the licensee and matters relating to the safety of the distribution system having potential of endangering the life or property. However, the matters pertaining to Open Access granted under the Act and Section 126, 127, 135 to 140, 142, 143, 146, 152 and 161 of the Act shall not form grievance under these regulations.”

The Petitioner is a consumer in terms of Section 2(15) of the Act, 2003. As such, the Petitioner may kindly be directed to approach the Ld. Consumer Grievance Redressal Forum established by the Respondent herein in terms of Section 42(5) of the Act, 2003. Further, the Petitioner’s reliance on Section 43, 46, 45 of the Act, 2003 is misplaced, as the said provision expressly empowers the Hon’ble Commission to authorize the licensee i.e. the Answering Respondent herein to recover expenses reasonably incurred or to be incurred in providing supply. The differential cost in question falls squarely within this scope. It is humbly submitted that the Hon’ble Commission has specified the Supply Code and the same is liable to be enforced. No relaxation/ amendment of the same is permissible on the mere asking of the Petitioner.

Further, with respect to the Petitioner’s reliance on Regulations 16 and 17 of the Supply Code, it is submitted that Regulation 16 empowers the Hon’ble Commission to remove difficulties only in situations where “*any difficulty arises in giving effect to any of the provisions of these Regulations.*” It is respectfully submitted that no such difficulty has arisen in implementing the Regulations, under which the applicable charges are liable to be recovered. The only impediment cited is the Petitioner’s own financial incapacity, which cannot be construed as a difficulty in giving effect to the provisions themselves. Reliance in this regard is placed on the decision of the Hon’ble Apex Court in M.U.Sinai Vs Union of India[(1975) 2 SCR 640] Similarly, the Regulations cannot be amended on the mere asking of an effected party. As such, the present petition is liable to be dismissed on the sole ground that the same is not maintainable under any of the Sections/ Regulations referred to by the Petitioner in the corresponding para.

3.16.7 That the contents of para no. 7 relating to “DESCRIPTION OF PARTIES” do not call for any reply being a matter of record. Be that as it may, it is relevant to mention here that HVPNL has not been impleaded as a party respondent to the present proceedings. As such, the present petition is

liable to be dismissed on the sole ground of non-joinder of necessary parties.

3.16.8 REPLY TO “FACTUAL BACKGROUND”:

- I. That in reply to the contents of para no. I, it is humbly submitted that the, as is evinced from a perusal of the documents uploaded by the Petitioner on at <https://haryanarera.gov.in>, the project is stated to be “ONGOING” i.e. under-development. As such, the project of the Petitioner cannot be stated to be “developed”.
- II. That the contents of para no. II are denied for the want of knowledge.
- III. That the contents of para no. III, do not call for any reply being a matter of record.
- IV. That the contents of para no. IV are denied for the want of knowledge.
- V. That the contents of para no. V are denied for the want of knowledge.
- VI. That the contents of para no. VI insofar as it relates to the proceedings/orders concerning ABW Infrastructure Ltd., the same is a matter of record. However, it is wrong and denied that “*there is no need to undertake the electrification for the said 54% of M/s Infrastructure Ltd.*” It is submitted that such a submission cannot be accepted as true without any verification. Further, the sub-para wise reply is as under:
 - (A) That the contents of para (A) insofar as it relates to the order passed by the Hon’ble NCLT, the same is a matter of record. However, it is humbly submitted that the Petitioner may kindly be called upon to place on record any claim raised by the Petitioner before the Resolution Professional regarding the electrification charges, or any such charges being claimed from ABW Infrastructure Ltd. by the Petitioner.
 - (B) That the contents of para (B) do not call for any reply being a matter of record.
- VII. That in reply to the contents of para no. VII it is submitted that submission of the Petitioner that the possibility of M/s ABW developing their part (share) of project in immediate future, possibly for next 5 years, is very remote etc. cannot be accepted as true without verification, especially when the Resolution Professional stands appointed and the resolution proceedings are going on.
- VIII. That the contents of para no. VIII are denied for the want of knowledge.
- IX. That the contents of para no. IX insofar as it relates to the approval of the electrification plan for the entire project area covered under the license issued by DTCP, is a matter of record. Further, the contents of the para insofar as it relates to the deposit of the estimated cost by the Petitioner and the demand raised by the Respondents towards the final cost is a matter of record. However, it is wrong and denied that that the Regulations have not been followed. It is further denied that any opportunity of hearing was liable to be granted to the Petitioner prior to the raising of the demand. It is submitted that once the Petitioner had deposited the estimated cost, it is estopped from raising any objection once the final estimate is prepared by the Respondent. It is further denied that any revised electrification plan is liable to be filed in the present case. It is pertinent to mention here that due clarification was sought prior to the process the demand. Attention in this regard is brought towards the Memo No. Ch-72/OLNC-HT/FBD/EP-406 dated 11.07.2024 (copy enclosed herewith as Annexure R-4) wherein

it had been clarified that – “... .. licenses were issued to M/s Vatika IT Parks Pvt. Ltd. and M/s Dove Infrastructure Pvt. Ltd. before 03.10.2023 and accordingly, the Electrification Plans of both the cases were approved (referred at Sr. No. 1 & 2 above) as per the provisions contained in clause no. 3.2.2 of HERC Supply Code circulated vide Sales Circular no. D-07/2020. As such, you are therefore requested to further process the subject cited cases as per the clause no. 3.2.2 of HERC Supply Code circulated vide Sales Circular No. D-07/2020.”

- X. That the contents of para no. X are wrong and denied. It is denied that the Petitioner is struggling with the commercial degradation of the project due to any reason. It is further denied that the Petitioner is unable to bear the cost attributable to M/s ABW Infrastructure. It is further denied that the Petitioner is liable to be treated as a separate entity especially in view of the fact that the electrification plan for the whole area was approved. Be that as it may, even as per the admitted case of the Petitioner, the Petitioner is responsible for 46% of the project as such, the Petitioner cannot refuse to may 46% of the demand raised, as per its own case.
- XI. That the contents of para no. XI are misleading in nature, wrong and hence denied. It is humbly submitted that the Answering Respondents are bound by the Regulation of the Hon’ble Commission and no action as against the Regulations can be taken by the Answering Respondents.
- XII. That the contents of para no. XII are a subject-matter of verification.
- XIII. That in reply to the contents of para no. XIII, it is humbly submitted that in view of the HERC (Electricity Supply Code) Regulations, 1st Amendment, 2014, the supply is required to be released at 33kV level.
- XIV. That the contents of para no. XIV are wrong and denied. Admittedly, even as per the case set up by the Petitioner, the load of the Petitioner’s project has been reduced to 2934.04 kVA. Attention in this regard is brought towards the HERC (Electricity Supply Code) Regulations, 1st Amendment, 2014 which provides as under:

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

<i>Category</i>	<i>System of Supply</i>
<i>Low Tension</i>	
<i>Contracted load upto 5 kW</i>	<i>Single phase at 230 V</i>
<i>Contracted load above 5 kW and up to 50 kW</i>	<i>3 Phase 4 wire at 400 V</i>
<i>High Tension</i>	
<i>Contracted load exceeding 50 KW and up to 5000 kVA</i>	<i>3 Phase at 11 kV</i>
<i>Contracted load exceeding 2000 kVA and up to 25000 kVA</i>	<i>3 Phase at 33 kV</i>
<i>Contracted load exceeding 5000 kVA and up to 75000 kVA</i>	<i>3 Phase at 66 kV</i>
<i>Contracted load exceeding 25000 kVA and upto 100000 kVA</i>	<i>3 Phase at 132 kV</i>
<i>Contracted load exceeding 75000 kVA and upto 320000 kVA</i>	<i>3 Phase at 220 kV</i>

Contracted load exceeding 320000 kVA	3 Phase at 400 kV
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As such, it is wrong and denied that the demand of differential cost of 33kV and 11kV, is not justified.

- XV. That the contents of para no. XV insofar as it relates to the reproduction of Section 46 of the Act, 2003, the same is a matter of record. It is humbly submitted that all actions have been taken by the Answering Respondents in accordance with the Regulations in vogue.
- XVI. That the contents of para no. XVI are wrong and denied as the Answering Respondents are well-within their right to seeking the difference of cost in terms of Regulation 3.2.2 of the Supply Code (2nd Amendment) Regulations, 2019 reproduced below:
“Further, in case 33KV voltage level is not available in the area of supply than load above 5 MVA upto 8 MVA may be served through 11 KV feeder with appropriate type/size of conductor. Provided, the difference of cost of 33 KV substation at the consumer end along with its connectivity from the distribution / transmission licensee’s substation including the bay and the actual cost of connection of 11 KV is borne by the consumer.”
- Rest of the contents of the para are wrong and denied. It is wrong and denied that the 33kV infrastructure will not be created in the future to give supply to the Petitioner. It is further denied that the cost demanded would not be incurred in future or is not legal or is liable to be declared as null or void.
- XVII. That the contents of para no. XVII do not call for any reply being a matter of record.
- XVIII. That the contents of para no. XVIII are misleading in nature as the differential of cost has been rightly demanded by the Petitioner in terms of Regulation 3.2.2 of the Supply Code.
- XIX. That the contents of para no. XIX are wrong and denied. In this regard it is submitted that firstly, the differential cost has been rightly demanded by the Petitioner in terms of Regulation 3.2.2 of the Supply Code. Secondly, insofar as the ultimate load is concerned, it is submitted that a perusal of the Memo dated 23.01.2024 (Annexure P-5) shows that the Electrification Plan has been applied for by M/s Dove Infrastructure Pvt. Ltd. and not the Petitioner in its individual capacity. It is submitted that the demand has been raised and payable by M/s Dove Infrastructure Pvt. Ltd. As such, the ultimate load cannot be reconsidered on mere asking of the Petitioner being one of the shareholders of M/s Dove Infrastructure Pvt. Ltd.
- XX. That the contents of para no. XX are wrong and denied. Attention in this regard is brought towards the Memo No. Ch-63/OLNC-HT/GL-15/Vol-X dated 16.10.2025 addressed by the Answering Respondent to M/s Dove Infrastructure Pvt. Ltd., annexed herewith and marked as Annexure R-5, wherein it has been stated as under:

“3. Your assertion regarding the differentiation of the project into two parts (46% and 54% of FAR) and the contention that the 54% parts is under attachment by the Enforcement Directorate and thus excluded from the electrification requirement has been

considered. While the status of the 54% portion is acknowledged, the Electricity Supply and Cost Recovery norms mandate that the sanctioned load and related charges correspond to the approved electrification plan, inclusive of the entire project, as per regulatory compliance.

4. *The demand for differential cost for providing connection at 33 kV against a fully paid and operational 11 kV connection arises on account of technical necessities and infrastructure costs as reflected in the Sale Circular D-072020 and HERC regulations. The fact that 33 kV supply is not presently available, and supply is being provided at 11 kV does not exempt the developer from the differential cost recovery under the approved norms and present regulatory framework.”*

A perusal of the above shows that the Answering Respondents have duly acknowledged the case of the Petitioner and has appropriately replied to the same. However, it is wrong and denied that any *Force Majeure* situation has arisen in the present case. It is settled law that hardship or commercial impracticability does not constitute force majeure, nor does it justify exemption from statutory charges. The alleged circumstances relating to the corporate insolvency of M/s ABW Infrastructure Ltd. or attachment of its assets are private commercial disputes between entities involved in the real estate project. Such events do not impede the implementation of the Regulations nor create any impossibility for the Petitioner to comply with the requirements prescribed therein. The Hon'ble Supreme Court has consistently held that force majeure must relate to events that prevent performance, not events that merely make performance onerous or inconvenient. Rest of the contents of the para insofar as it relates to the raising of the demand by the Answering Respondents, the same is a matter of record.

XXI. That the contents of the para no. XXI insofar as it relates to the various letters addressed by the Answering Respondents to the Petitioner are a matter of record. It is pertinent to mention here that, a bare perusal of the para no. XXI shows that as per the Petitioner's own case, letters were being addressed to the Petitioner since 11.07.2024. However, the present petition has been preferred by the Petitioner only in September, 2025 i.e. after a delay of one year. As such, the present petition is liable to be dismissed on the sole ground of delay and laches.

XXII. That the contents of para no. XXII are wrong and denied. The so-called "special situation" pleaded by the Petitioner is not recognized under the Supply Code. The alleged attachment of land belonging to M/s ABW Infrastructure Ltd. or initiation of insolvency proceedings before the Hon'ble NCLT are internal commercial issues between co-developers and cannot be invoked to seek relaxation of regulatory provisions or exemption from statutory charges. It is denied that the Respondents have failed to appreciate any special circumstance; rather, the Respondents have acted strictly in accordance with the Regulations. Even assuming the Petitioner has developed its own share of land and obtained NOC from DTCP, the

same does not detract from or override the obligations arising under the Supply Code. The Petitioner's attempt to characterize a private commercial dispute as a justification for avoiding regulatory compliance is wholly misconceived and untenable.

- XXIII. That the contents of para no. XXIII, insofar as it relates to the letter dated 03.12.2020 (Annexure P-4) of DTCP, the same is a matter of record. However, it is pertinent to mention here that at para no. 4 of the said letter, the Petitioner has been referred to as a "joint developer". As such, the said letter cannot be construed to limit, reduce, or apportion statutory liabilities relating to sanctioned load, voltage level, or differential infrastructure cost of the Project in question. It is reiterated that the internal arrangements between developers are irrelevant for regulatory compliance.
- XXIV. That the contents of para no. XXIV are wrong and denied. As have been detailed in the preliminary submissions/ objections, the present petition is not maintainable under any of Sections/ Regulations referred to by the Petitioner in the corresponding para.
- XXV. That the contents of para no. XXV are wrong and denied. It is reiterated that the so-called "difficulties" narrated by the Petitioner pertain entirely to its own commercial and developmental circumstances and do not reflect any systemic or regulatory impediment warranting intervention by this Hon'ble Commission. The attempt to project a private dispute as a matter of larger public interest is misplaced and unsupported by any material. The responsibility to provide supply at the appropriate voltage level, 33 kV or otherwise, is determined strictly in accordance with the Supply Code, load requirements and not on the basis of convenience or financial considerations of individual consumers. The Petitioner cannot transform its personal grievances into an issue of public interest, particularly when the statutory framework is clear and uniformly applicable to all consumers in the area. Accordingly, the contention that granting relief to the Petitioner would benefit other consumers or serve public interest is incorrect and denied.
- 3.16.9 That the sub-para wise reply to the "Related Facts of the Case" is as under:
- I. That the contents of para no. I, relating to the amount already paid by the Petitioner, is matter of record and do not call for any reply. However, it is respectfully submitted that, having already deposited the requisite costs and furnished the bank guarantee in accordance with the applicable Regulations, the Petitioner is now estopped from challenging the very obligations it has previously accepted and acted upon. The present petition is thus barred by the Petitioner's own conduct.
 - II. That the contents of para no. II are a matter of record.
 - III. That the contents of para no. III are wrong and vehemently denied. e allegation that any "additional burden" imposed on the Petitioner is unjustified is misconceived, as all charges have been levied strictly in accordance with the Supply Code and applicable Regulations. The Petitioner's assertion that a "special situation" or a "force majeure condition" has arisen is wholly untenable. Circumstances relating to the insolvency or attachment of assets of a co-developer are private commercial matters and cannot be construed as force majeure for the purpose of exempting a consumer from statutory obligations. The determination of the ultimate load of the project is based on sanctioned

planning parameters and cannot be unilaterally reduced by the Petitioner. The Respondents have rightly considered the load of 5742.19 kW / 6380.21 kVA in accordance with the approved Electrification Plan. The Petitioner's attempt to substitute this with a self-determined figure of 2640.64 kW / 2934.04 kVA is contrary to the Regulations and impermissible in law. The contention that non-acceptance of the Petitioner's plea amounts to ignoring a force majeure situation is baseless and denied. Detailed reply has already been given in the preliminary submissions/ objections, the contents of which are not being repeated here for the sake of brevity.

3.16.10 That the contents of para no. 10 relating to "The Difficulty" allegedly being faced by the Petitioner are incorrect, misleading, and contrary to the express provisions of the Supply Code. The Petitioner's interpretation of Regulation 3.2.2, including the categorization of hypothetical "situations," is a unilateral construct and finds no support in the Regulations. Regulation 3.2.2 does not contemplate or require the licensee to evaluate consumer-specific scenarios in the manner suggested; rather, it mandates that consumers seeking supply above prescribed thresholds must take supply at the corresponding voltage level and bear the applicable cost of infrastructure, irrespective of interim system constraints or the consumer's preference. It is specifically denied that the Petitioner falls within any self-created "Situation 4." The Petitioner has placed no material on record to demonstrate that 33 kV infrastructure "will not" or "cannot" be created in the future. The Petitioner's assumption regarding impossibility of future creation of 33 kV infrastructure is speculative and beyond its competence to assert. Further, the contention that no differential cost is payable because alleged future 33 kV works "may not be created" is legally untenable. The cost recovery mechanism under the Supply Code not contingent upon whether an individual consumer's infrastructure is created immediately, later, or jointly with system augmentation. Further, the allegation that recovery of differential cost would violate natural justice or lead to "unjust enrichment" is baseless. The cost structure prescribed in the Supply Code is a legislative determination and applies uniformly to all consumers seeking supply at similar load levels. Compliance with statutory norms cannot constitute unjust enrichment. The Petitioner has already been provided connection at 11 kV based on system feasibility, but such interim arrangement does not extinguish or dilute its statutory liability arising from its sanctioned load. In reply to the rest of the contents of the para, it is submitted that the Petitioner cannot be exempted from compliance of Regulations. The Petitioner's attempt to reinterpret Regulation 3.2.2 to avoid differential charges is contrary to law and therefore liable to be rejected.

Prayer clause for interim and main relief are denied.

PRAYER:

3.17 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.

4. **Rejoinder received on 29/01/2026:**

- 4.1 At the outset, the Petitioner most respectfully reiterates and reaffirms the contents of the Petition. The Petitioner denies and disputes all averments, allegations, submissions, and contentions made by the Respondents in their reply, save and except those specifically admitted herein. Nothing stated in the Reply shall be deemed to be admitted merely for want of specific traverse. The Reply filed by Respondent Nos. 1 to 5 is evasive, misleading, and fails to address the core issue raised by the Petitioner, namely, the illegality and arbitrariness of the demand of Rs. 1,50,36,844/- raised vide Memo No. Ch-52/GC-149 dated 16-12-2024. towards alleged differential cost of external infrastructure.
- 4.2 The contents of paragraphs 1 and 2 do not require a rejoinder. The contents of paragraph 2 merely reproduce the grounds already urged in the petition and thus need no separate response.

REJOINDER TO PRELIMINARY OBJECTIONS AND SUBMISSIONS:

- 4.3 The contents of para 3 of the reply pertaining to the preliminary submissions ax-3 denied as being incorrect and 'misconceived'. It is respectfully submitted that the contents of Quarterly Schedule dated 12-08-20'25 (Annexure R-I) is an estimated cost of the project as per project report which is submitted for obtaining the environment clearance. The Engineer's certificate confirms that 30% infrastructure work has been completed meaning thereby that 30% out entire 100%, i.e. 30% which includes the 46% belonging to the petitioner. This is also evident from occupancy certificate dated 22-05-2020. Similarly, the statement that 65% of the civil construction work has been completed meaning thereby that 65% out of total 100%, i.e., entire 46% out: of 46% of the Petitioner's share has been completed. In other words, development of 100% of the common area pertaining to the Petitioner and 30.65% of the sanctioned FAR has been completed.

Similarly, the Order dated 12-06-2024 passed by Ld. RERA, Panchkula (marked as Annexure R-2) has been misinterpreted by the Respondents. The order pertains to the penalty imposed by Ld. RERA for delay in filing of quarterly reports. It is respectfully submitted that the order dated 16-09-2019 and 13-01-2020 passed by the Ld. RERA prior to grant of registration certificate on 02-06-2020 would reconfirm that only 46% of the Project has been registered by RERA.

- 4.4 The contents of para 4 of the reply pertaining to the so called preliminary submissions are denied as being incorrect. It is specifically denied that averments of the Petitioner about non creation of the 33 kV network are speculative. The Respondents have admitted that there was no 33 kV network at present. It is denied that the relief sought by the Petitioner is arising out of "internal arrangement" between the land owners and developers.
- It is also denied that there exists no "special situation". The insolvency proceedings pending against M/S ABW Infrastructure Ltd. before the Hon'ble NCLT, coupled with attachment of its project area, constitute an exceptional and undisputed circumstance, which directly impacts the feasibility and legality of imposing composite infrastructure liability upon the Petitioner. The Petitioner is therefore fully entitled to seek appropriate regulatory relief from this Hon'ble Commission.

It is respectfully submitted that the Petitioner is entitled to seek appropriate relaxation from this Hon 'ble Commission having regard to the ground reality of the project and business failure of one of the co-developers.

In this regard, it is respectfully submitted that this Hon 'ble Commission has ample jurisdiction and authority under Section 86(1)(0 of the Electricity Act, 2003 to adjudicate disputes and grant appropriate relief. The wide regulatory powers of this Hon'ble Commission under Section 86 read with Section 181 enable it to provide relief in deserving cases, such as waivers, reductions in penalties or adjustments in deserving circumstances, keeping in view ground realities, consumer hardship, and the overarching objectives of the Act.

Significantly, this Hon'ble Commission has exercised such discretion in Final Order dated 16.01.2026 passed in Case No. HERC/P. No. 11 of 2025, RPS Infrastructure Ltd. vs Dakshin Haryana Bijli Vitran Nigam Ltd., wherein the Commission categorically held that no differential cost can be recovered for a 33 kV infrastructure which is neither existing nor proposed to be created in future, and that any such recovery would amount to unjust enrichment of the distribution licensee and would violate principles of natural justice .

In this matter the order of the HERC is held as under:

"6. On a considered evaluation of the pleadings, averments, and statutory framework, the Commission notes that Regulation 3.2.2 intends recovery of differential cost where supply is given at a voltage other than the specified level. However, the regulation proceeds on the premise that such higher voltage infrastructure is available or is to be created. In the present case, the material on record, including the sanctioned electrification plans and correspondence, clearly establishes that 33 kV infrastructure is not available in the vicinity and, as stated by the petitioner without specific rebuttal, HVPN has taken a policy decision not to allow further 33 kV bays at existing 66 kV substations in Faridabad. In such a situation, no expenditure is either incurred or proposed to be incurred by the respondents towards creation of 33 kV infrastructure for the petitioner. Demand of differential cost in respect of an infrastructure which is admittedly not going to be created amounts to recovery which results in unjust enrichment of the distribution licensee.

7. Further the ultimate sanctioned load of 5029.73 kVA is marginally above threshold of 5000 kVA and No additional bay or extra investment is required for ultimate load as no 2nd 11 kV feeder is needed.

8. The reliance placed by the respondents on the decision in Sharad Farms is distinguishable on facts. In that case, the Commission itself emphasized that differential cost must be reasonable and relatable to the actual infrastructure from the approved feeding source. In the present matter, the demand of Rs. 3,11,25,012/- is based on a hypothetical comparison with 33 kV infrastructure which is neither available nor feasible, while the entire 11 kV feeder has already been created at the cost of the petitioner.

9. In view of the above facts and statutory provisions of the Electricity Act, 2003, the HERC (Electricity Supply Code) Regulations, 2014, the (Single Point Supply) Regulations, 2020, and the principles laid down in earlier orders of the Commission, the Commission observes that the petitioner falls in a category where supply at 11 kV has been necessitated solely due to system constraints of the licensees and where there is no likelihood of creation of 33 kV infrastructure in future. In such circumstances, insistence on payment of differential cost of Rs. 3, 11,25,012/- is arbitrary, lacks legal justification and causes undue hardship.

10. Accordingly, The Commission allows the petition. The demand raised by the respondents towards differential cost between 33 kV and 11 kV supply is deferred till the creation of 33 kV infrastructure in future avoiding undue burden on the petitioner for network deficiency attributable to respondent.

The respondents are directed to release the sanctioned load and proceed further in accordance with law, without insisting upon differential cost at present. Upon 33 kV readiness notice by respondent, the petitioner shall be liable to pay differential cost prevailing at that time irrespective of petitioner opting either to shift to 33 kV or to retain 11 kV supply.

The Hon'ble Commission further recognized that where supply at a lower voltage is necessitated due to system constraints at the licensee's end, the consumer cannot be penalized by imposing an artificial and inequitable financial burden. The present case stands on identical footing and squarely attracts the ratio laid down in the aforesaid judgment.

This Hon'ble Commission has exercised such discretion in many such cases. The only restriction is that any relief must be reasoned, non-discriminatory (per Section 62(3)), and within the framework of the Act and HERC's own regulations (e.g., Electricity Supply Code or Duty to Supply Regulations).

This Hon'ble Commission is vested with the power to grant relief under Section 86 of the Electricity Act, 2003 which includes inter alia determining tariff for generation, supply, transmission, and wheeling of electricity; regulating electricity purchase and procurement processes of distribution licensees; adjudicating disputes between licensees and generating companies and issuing orders or directions as necessary to achieve the objectives of the Act.

It is therefore submitted that the present case is fit and deserving case for exercise of regulatory discretion by this Hon'ble Commission, and the objections raise by the Respondents deserve to be rejected outright.

- 4.5 The contents of para 5 of the reply pertaining to the preliminary submissions are denied as being incorrect. It is denied that the terms set out in para (I) (b) of the Sale Circular No. D-21/2020 dated 07-09-2020 (marked as Annexure R-3 in the respondents reply) creates any restrictions on granting relief to the petitioner. It is further denied that the terms "*the electrification plan Shall be considered for approval for complete scheme and not based on individual license which forms part of scheme & lay out plan*" is against the petitioner given the facts and circumstances narrated in the petition

It is denied that the provisions of HERC "Single Point Supply to Employers' Colonies Group Housing Societies, Residential Colonies, Office cum Residential Complexes and Commercial Complexes of Developers, and Industrial Estates/ IT Park/ SEZ Regulations, 2020." Notified on 22nd April 2020 creates an impediment and deprive the petitioner from seeking relief.

It is further denied that the Regulation 6 pertaining to Terms & Conditions for Single Point Supply, particularly clause (e) (i) is against the Petitioner. The relevant para is reproduced hereunder:

- 4.6 *Terms & Conditions for Single Point Supply*

6.1 *Employers' Colonies, Group Housing Societies, Developers' Commercial Complexes/ Shopping Malls/ Industrial Estate/ IT Parks/ SEZ covered under Regulation 3.1, Regulation 4.1, Regulation 5.1 and Regulation 5.2 respectively.*

General terms and conditions:

- e) *Distribution Licensee shall supply electricity to these consumers at the required voltage level at a Single Point and the same shall be covered under Urban supply Category. The Developer/ User Association intending to avail Single Point Supply for their area shall be required to submit the requisite documents for approval of the load and electrification plan of his licensed area. The total ultimate load for Single Point Supply shall be estimated based on the norms/ guidelines issued by licensee in this regard from time to time.*
- i) *The phase wise development of the Electrical Infrastructure of such area/ complex/ colony as per requirement shall be permitted by the licensee provided the phase wise development of area is approved by the Authority issuing the Licensee i.e. Town & Country Planning Department, Haryana/HREERA. In case the developer/ Users Association requests for supply at a lower voltage than the specified voltage as per approved plan for meeting the partial load/ demand, the request may be accepted by the Distribution Licensee subject to deposit of cost of works for supply at the lower voltage and furnishing Bank Guarantee (BG) equivalent to as provided in Regulation 6.1 (a) for the cost of specified voltage level transmission line bay and, Sub-Station at his end including the cost of balance incomplete electrical infrastructure to be installed. The amount of Bank Guarantee shall keep on reducing with the completion of remaining works of the transmission line, substation and the electrical infra structure in the Complex/ colony. Provided, in case of phase wise development approved by the appropriate authority the connection for phase wise load shall be released to meet the requirement of such complex on completion of electrical infrastructure of the respective phase as per the approved electrification plan of the developer.*
- ii) *It is denied that the aforesaid regulation requires approval of electrification plan for the entire licensed area irrespective of development. The term "his licensed area contend in clause (e) permits approval of the electrification plan relating to the developer. Further clause (i) also permits approval of electrification plan in a "phase wise development of the area". The Hon'ble High Court, Hon'ble NCLT and Ld. DTCP as well as Ld. RERA have already recognized petitioner's project as spate project. The mere fact that there is only one license of the two projects, would not entitle the Respondents to demand approval of one electrification plan for two distinct projects.*

The Respondents have selectively referred to Para 8 of the Petition while ignoring the overall factual and legal context. It is reiterated that the Petitioner never consented to, nor became liable for, a 33kV system and the required load for petitioner's project can be served from a 11kV system.

- 4.7 The contents of para 6 of the reply pertaining to the preliminary submissions are denied as being incorrect. It is denied that the clarification pertaining to claims arising out of M/S ABW Infrastructure Ltd. to develop external infrastructure or corresponding financial liability is necessary for the adjudication of this dispute. It is denied that any adjustment before the Resolution Professional and relaxation in the present proceedings would result in double benefit for the Petitioner. These are two distinct proceedings having relevant but different causes of action. It is submitted that the Respondents have conspicuously failed to point out any provision under the Electricity Act, 2003, the HERC Regulations or the applicable Supply Code which ousts the jurisdiction of this Hon'ble Commission to examine an illegal and arbitrary demand raised by a distribution licensee, particularly one involving alleged infrastructure costs which is admittedly not going to be

created and amounts to recovery which results in unjust enrichment of the distribution licensee.

- 4.8 The contents of para 7 of the reply pertaining to the preliminary submissions are denied as incorrect. It is denied that the "the Petitioner has long been aware of its liability to pay differential cost and is estopped from filing the present petition". It is denied that rule of estoppel is applicable in the present case. It is denied that there is delay of about a year in approaching this Hon'ble Commission. It is respectfully submitted that after receipt of demand for deposit of Rs. 1,50,36,844/- vide Memo No. Ch52/CG-149 dated 16-12-2024 (Annexure P-6, pg. 65 of the Petition), the Petitioner was pursuing the dispute with the Officers of the Respondent by way of various representation dated 21-04-2025, 09-06-2025, and 03-09-2025 besides regular follow up through authorised representatives including appearance before the Consumer Grievance Forum. It is only after the non-consideration of the representations that the Petitioner has approached this Hon'ble Commission.

It is denied that the liability regarding the payment of differential cost had already been accrued upon the Petitioner in terms of clause IV of the Memo dated 23-01-2024 (Annexure P-5). It is also denied that Petitioner is estopped from approaching this Hon'ble Commission on the plea that insolvency of the ABW infrastructure Pvt. Ltd. commenced way back in the year 2019.

It is respectfully submitted that it is the Respondent who have been forcing the Petitioner to apply for approval of the electrification plan for 100%, i.e., both the projects. The Petitioner in good faith tried to deposit the amount. However, it is only after the change of stand taken by the Respondents, the Petitioner had approached the Respondents to approve electrification plan for only its part of the project, i.e., 46% of total FAR.

- 4.9 8. The contents of para 8 of the Reply, pertaining to the preliminary submissions, are denied as being incorrect, misleading, and misconceived. It is specifically denied that the clarification issued by this Hon'ble Commission to Regulation 3.2.2 of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014, circulated vide Sales Circular No. D10/2023 dated 23.02.2023, in any manner militates against or defeats the Petitioner's request for downsizing of load. On the contrary, the said clarification presupposes availability or creation of higher voltage infrastructure, which is admittedly absent in the present case.

Further, reliance is placed upon the judgment passed by this Hon'ble Commission in RPS Infrastructure Ltd. vs Dakshin Haryana Bijli Vitran Nigam Limited (Supra), wherein the Hon'ble Commission, upon a considered evaluation of the pleadings, averments, and the statutory framework, categorically held that Regulation 3.2.2 contemplates recovery of differential cost only where supply is given at a voltage other than the specified level and where such higher voltage infrastructure is available or is proposed to be created. The Commission further held that where 33 kV infrastructure is neither available in the vicinity nor proposed to be created, and no expenditure is either incurred or proposed to be incurred by the distribution licensee towards creation of such infrastructure, demand of differential cost in respect of an infrastructure which is admittedly not going to be created amounts to recovery resulting in unjust enrichment of the distribution licensee.

The ratio laid down in the aforesaid judgment squarely applies to the facts of the present case, and therefore, the reliance placed by the Respondents on

Regulation 3.2.2 and the said Sales Circular is wholly misplaced and liable to be rejected.

4.10 The contents of para 9 of the reply pertaining to the preliminary submissions are denied as incorrect. It is denied that the "*relief being sought is contrary to the mandatory provisions of law*". It is denied that the Petitioner is seeking release of 33 kV voltage level without deposit of differential cost of single point connection, rather the Petitioner seeks to continue with the 11 kV system, since the actual load of the Petitioner is only 2640.64 kW/ 2934.04 kVA, costs for which have already been deposited. It is submitted that the relief sought in the Petition are in consonance with mandatory statutory provisions and seek enforcement thereof.

4.11 The contents of para 10 of the reply pertaining to the preliminary submissions are denied as incorrect and misleading. It is denied that Sharad Farms & Holdings Pvt. Ltd. Vs. the Managing Director & Ors. [HERC/ PRO-30 of 2020 Decided on 11.07.2022] has any bearings on the present petition seeking downsizing of the load. The Petitioner is seeking relaxation to continue with the 11 kV feeder system rather than exemption from payment of differential cost. The Petitioner have claimed refund on the ground that the Petitioner is not required to pay differential cost.

Hon'ble Commission in RPS Infrastructure Ltd. vs Dakshin Haryana Bijli Vitran Nigam Limited (Supra), wherein the Hon'ble Commission, upon a considered evaluation of the pleadings, averments, and the statutory framework, categorically held that Regulation 3.2.2 contemplates recovery of differential cost only where supply is given at a voltage other than the specified level and where such higher voltage infrastructure is available or is proposed to be created. The Commission further held that where 33 kV infrastructure is neither available in the vicinity nor proposed to be created, and no expenditure is either incurred or proposed to be incurred by the distribution licensee towards creation of such infrastructure, demand of differential cost in respect of an infrastructure which is admittedly not going to be created amounts to recovery resulting in unjust enrichment of the distribution licensee. The Hon'ble Commission further held that reliance placed by the respondents on the decision in Sharad Farms is distinguishable on facts. In that case, the Commission itself emphasized that differential cost must be reasonable and relatable to the actual infrastructure from the approved feeding source. In the present matter, the demand of differential cost of Rs. 1,50,36,845/- is based on a hypothetical comparison with 33 kV infrastructure which is neither available nor feasible, while the entire 11 kV feeder has already been created at the cost of the petitioner.

4.12 The contents of para 11 of the reply pertaining to the preliminary submissions are denied as incorrect. It is denied that the 'financial difficulty faced by the petitioner cannot be a ground for invocation of the power to remove difficulties". It is submitted that Regulations 16 & 17 of the Supply Code empowers the Hon'ble Commission to remove difficulties in giving effect to the regulations as in the case only 46% of the sanctioned project is in use given the force majeure arising from Insolvency Proceedings of M/S ABW Infrastructure Ltd. The Petitioner only requires supply of sanctioned load of 11 kV as its load requirement is only 2640.64 kW/ 2934.04 kVA. It is denied that judgement passed by Ld. CERC in "Tamil Nadu Generation and Distribution Corporation Ltd. vs. NLC India Limited & Ors." is relevant to the facts and case of the Petitioner. The Petitioner is seeking quashing of

impugned demand dated 16.12.2024 to continue with existing 11 kV system, since only 46% of sanctioned project is operating and actual ultimate load is 2640.64 kW or 2934.04 kVA which falls within the domain of adjudication of disputes relating to interpretation of the regulations.

- 4.13 The contents of para 12 of the reply pertaining to the preliminary submissions are denied as being incorrect and misconceived. It is denied that the order dated 26.09.2019 in Petition No. 13 of 2018 filed by Haryana Chamber of Commerce and Industries, Panipat is relevant in the present proceedings. It is submitted that the order was made against amendment of Regulations. The Petitioner herein does not seek any amendment of Regulation, nstead is seeking adjudication on the illegality of impugned demand raised on basis of unjustified higher load of 5742.19 kW / 6380.21 kVA even when the actual requirement of the Petitioner is limited to 2640.64 kW/ 2934.04 kVA.
- 4.14 The contents of para 13 of the reply pertaining to the preliminary submissions are denied as incorrect. It is denied that the averment of the Petitioner regarding Force Majeure is entirely misplaced and cannot be considered in view of statutory requirements under Electricity Act, Supply Code, and HERC Regulations. None of the Acts and Regulations are required to be suspended. The Respondents are wrongly interpreting the provisions of the Act and Regulations. It is denied that the attachment of land belonging to M/ s ABW Infrastructure Ltd. and insolvency proceedings before NCLT does not give rise to sufficient reasons/ grounds for seeking relief from this Hon 'ble Commission. It is respectfully submitted that the Petitioner is operating on 46% of sanctioned project and the remaining area has been attached by the Enforcement Directorate in relation to the proceedings of M/S ABW Infrastructure Ltd. The said attached portion of the land is distinct from the share of the Petitioner. There are no justified reasons for approving electrification plans inclusive of the 54% area/ land belonging to ABW which has neither approached the Respondents nor filed any application seeking electricity supply.
- 4.15 The contents of para 14 of the reply pertaining to the preliminary submissions are denied as being incorrect. It is denied that the "Petition is liable to be dismissed on account of non-joinder of necessary parties" namely Haryana Vidyut Prasaran Nigam Limited (HVPNL) and the other co-developer M/S ABW Infrastructure Ltd. (under insolvency). The Petitioner being a consumer of DHBVNL is not required to deal with HVPNL. Similarly, the ABW Infrastructure Ltd. has neither approached the Respondents nor filed any application for sanction of the load.
- 4.16 The contents of para 15 of the reply pertaining to the preliminary submissions are denied as being incorrect except the admission by the Respondents that the Petitioner has already deposited Rs. 15,00,000/- against ACD, and bank guarantees of Rs.42,43,000/- and Rs. 11,39,871/- towards ACD and internal infrastructure respectively. It is denied that differential cost of Rs.1,50,36,844/- is required to be deposited by the Petitioner given the facts and circumstances of the case. It is respectfully submitted that even if the plea of Respondents is to be accepted by this Hon'ble Commission, the load quantification cannot be thrust upon the consumer. If it is proven that the actual ultimate load requirement is only of 2640.64 KW / 2934.04 KVA, the consumer cannot be burdened with

unwanted load of 5742.19 kW or 6380.21 kVA. A comparative computation is given in the following table for ease of reference.

SI.	Particulars	As per Respondent Demand Letter dt. 16-12-2024 for 5742.19 kW or 6380.21 kVA	As per Petitioner's Alternative Calculation load requirement of 2640.64 KW / 2934.04 KVA.
a.	Total Amount for 33 KV line without GST	3,14,26,054	1,44,55,985
b.	Total Amount for 11 KV line without GST	1,16,96,495	1,16,96,495
c.	Differential Cost	1,97,29,559	27,59,490
d.	Differential Cost Already deposited by the Consumer	46,92,714	46,92,714
e.	Differential Cost to be deposited by the Consumer	1,50,36,845	(-)19,66,224

It is respectfully submitted that the Petitioner is not required to pay the differential cost.

4.17 REJOINDER TO PARA WISE REPLY:

4.17.1 -3 The contents of para 1 to 3 do not call for any rejoinder.

4.17.2 The contents of para 4 of the para wise reply is denied as incorrect and misconceived. The contents of reply to para 3 of the preliminary submissions hereinabove are reiterated. It is denied that the Quarterly Progress Report has any bearing in the present petition.

4.17.3 The contents of para 5 of the para wise reply is denied as incorrect and misconceived. It is denied that the petition only furthers the financial interest of the Petitioner. The contents of para 5 of the petition are reiterated. It is denied that the present petition only furthers the financial interest of the Petitioner and difficulty is only in the nature of commercial financial difficulty. It is respectfully submitted that the Respondents are bound to consider only the load requirement of the petitioner and should not consider the load requirement of another party which has neither approached the Respondents nor likely to seek electricity supply in immediate future. The Petitioner being a separate consumer is required to be considered separately.

4.17.4 The contents of para 6 of the para wise reply is denied as misleading. It is denied that the grievances raised by the Petitioner is only a "consumer grievance" and thus not entitled to approach this Hon'ble Commission. It is respectfully submitted that the Petitioner had already approached the "Consumer Grievances Redressal Forum" and has approached this Hon'ble Commission after exhausting all options. Moreover, this Hon 'ble Commission has appropriate jurisdiction to adjudicate disputes relating to infrastructure cost, voltage level determination and compliance with the Supply Code. It is denied that Regulation 16 & 17 are against the Petitioner. It is further denied that the Apex Court Judgement in M.U.

Sinai vs Union of India[1975] is applicable in present case since the Petitioner does not pray for amendment in Regulations. The dispute pertains to interpretation of the Regulation and issuance of necessary directions to the Respondents.

4.17.5 The contents of para 7 of the para wise reply is denied. It is denied that HVPNL is required to be impleaded as a party to the present proceedings. The contents of reply to para 14 of the preliminary submission hereinabove are reiterated.

REJOINDER TO REPLY TO "FACTUAL PARA WISE REPLY:

4.17.6 The contents of para 8 sub para I to XXV are denied unless expressly admitted.

I. The content of para I are denied. It is denied that the project is "Ongoing, i.e., under developed". It is submitted that the project has already been developed, Occupancy Certificate issued in favour of the Petitioner and possession has been handed over to respective allottees.

II. to V.

The contents of para II to V do not call for a reply

VI. The contents of para VI are denied to extent of sub para-A. It is denied that the Petitioner is required to place on record any claim raised before Resolution Professional regarding electrification charges.

The remaining averments are matter of record and do not warrant a reply.

VIII to XII.

The contents of para VIII to XII are denied. With reference to the contents of para IX, it is specifically denied that after depositing the estimated cost, the Petitioner is estopped from raising any objection to final estimate prepared by the Respondent. The contents of reply to para 7 of preliminary submission hereinabove are reiterated. With reference to Para X, it is respectfully submitted that once the load requirement of the Petitioner alone pertaining to 46% is considered, the entire computation of demand will change.

The contents of para VIII, XI, and XII do not call for a specific rejoinder.

XIII to XV.

The contents of para XIII to XV are denied. It is denied that "in view of the HERC (Electricity Supply Code) Regulations, 1st Amendment, 2014, the supply is required to be released at 33 kV level." It is submitted that the Respondents themselves have admitted that there is no 33 kV system at present. The contents of para XIV are denied. It is denied that the HERC (Electricity Supply Code) Regulations, 1st Amendment, 2014 is against the Petitioner. It is submitted that the actual ultimate load of the Petitioner is only 2640.64 kW/ 2934.04 kVA as against the assumed ultimate load of 5742.19 kW/ 6380.21 kVA. It is further submitted that as per provision 3.2.1 of the Code, the Petitioner falls under contracted load exceeding 50 kW and up to 5000 kVA. As per the provision, the system of supply is II system. Consequently, no 33 kV system is currently available in the area as admitted by the Respondent. It is submitted that the Petitioner should not be forced to pay differential cost for a future 33 kV system which does not exist as of now. With reference to para XV, it is specifically denied that "all actions have been taken by the Answering Respondents in accordance with the Regulations in vogue".

XVI to XVIII.

The contents of para XVI to XVIII are denied. With reference to para XVI, it is specifically denied that the impugned demand is legally justified and as per the terms of Regulation 3.2.2 of the Supply Code (2nd Amendment) Regulation, 2019. It is denied that the Answering Respondents are well-within their right to seeking the difference of cost stated in the demand notice. With reference to para XVIII it is specifically denied that the differential C'0St has been rightly demanded in terms of Regulation 3.2.2 of the Supply Code.

XIX to XXII.

The contents of para XIX to XXII of the reply are denied. With reference to para XIX, it is denied that the Petitioner who has been recognized as developer by the DTCP is not entitled to approach this Hon'ble Tribunal seek appropriate relief. It is the Respondent which has forced the Petitioner to apply only in the name of the licensee and that too for the entire project on the ground that co-developers cannot apply separately. The entire dispute has been created due to this anomaly in the policy and approach of the Respondent. With reference to para XX, it is specifically denied that the Answering Respondents have duly acknowledged the case of the Petitioner. With reference to para XXI, it denied that Petitioner has knowingly delayed the filing Of this Petition. The Petitioner has on multiple occasions communicated to the Respondents via letters regarding unlawful enhancement of load. With reference to para XXII, it denied that the Petitioner is making an "attempt to characterize a private commercial dispute as a justification for avoiding regulatory compliance".

XXIII to XXV

The content of para XXIII to XXV are denied as incorrect. With reference to para XXIII, it is specifically denied that the Petitioner cannot be treated separately despite recognition by the DTCP on the ground of being an 'internal arrangement'. With reference to para XXIV, it is specifically denied that the petition is not maintainable. Similarly, with reference to para XXV it denied that difficulty narrated by the Petitioner is only a commercial issue and no larger public interest in involved. It is denied that the present petition involves personal grievances.

The contents of reply to preliminary submission and pleas in the petition are reiterated in support of the maintainability of the present petition before this Hon'ble Commission.

4.17.7 The contents of sub para I to III of para 9 of the reply to "Related Facts of the Case" are denied. With reference to sub-para I it is specifically denied that petitioner is estopped from challenging the demand. With reference to sub-para II, it is denied that the impugned demand is as per the Supply Code. It is denied that demand raised by the Petitioner is ultimate requirement of the load of the Petitioner. It is denied that load cannot be reduced by the Respondents having regard to the facts and circumstances stated in the petition.

The contents of reply to preliminary submission and pleas in the petition are reiterated in support of the maintainability of the present petition before this Hon'ble Commission.

4.17.8 The contents of para 10 are denied as incorrect. The averments are mere repetition of the points raised by the answering respondents in preliminary

submission. The contents of reply to preliminary submission hereinabove and pleas in the petition are reiterated.

The Difficulty expressed by the Petitioner in the Petition are genuine and justified requiring indulgence and adjudication by this Hon'ble Commission. In view of the above it is respectfully prayed that the petition file by the petitioner be allowed and the relight sought by the petitioner be granted.

5. The case was heard on 03/02/2026, Ms. Aerika Singh, counsel for respondents submitted that the copy of the rejoinder submitted by the petitioner has not been received and requested for some time to go through the same to advance her final arguments. Acceding to request of the respondents, the Commission adjourns the matter and directs the parties to appear for final arguments on next date of hearing.
6. The case was heard on 05/03/2026. At the outset, Shri Akshay Gupta, Counsel for the Petitioner submitted that Petitioner has developed only its 46% share of the project, whereas the remaining 54% FAR, earmarked for development by M/s ABW, could not be developed on account of the said entity being under insolvency proceedings and is not likely to be developed in the foreseeable future. In view of the fact that the ultimate load corresponding to the Petitioner's 46% share is less than 5 MVA, the Petitioner prays that the Electrical Plan may be re-approved for supply at 11 kV based on this reduced load, and that the differential cost between 11 kV and 33 kV infrastructure, earlier computed on the basis of the full-project load exceeding 5 MVA, may not be recovered from the Petitioner. He further submitted that 33 kV infra is neither available nor likely to be made available in near future in the area by the DISCOM.

Ms. Aerika Singh, counsel for respondents submitted that the electrification plan was originally approved for the entire project, considering the total load envisaged as exceeding 5 MVA, which warranted supply at 33 kV. The applicable Regulations in force mandate the deposit of the differential cost between 11 kV and 33 kV external infrastructure in such cases, and the Respondents therefore contend that the Petitioner is liable to pay the said differential cost in accordance with the approved plan and the extant regulatory framework, irrespective of the fact that only a part of the project has been physically developed at present.

To the query of the Commission, the concerned SDO intimated that HVPN has proposed a 220/33 kV sub-station in the area but the development of same will take another 2-3 years.

The arguments advanced by both parties being inconclusive, the Commission directs them to submit their written arguments, supported by relevant documents, within two (2) weeks. The order is reserved.

7. **Written Submissions of petitioner received on 19/03/2026:**

7.1 The Petitioner, Realtech Infrastructure Limited, is developer of an IT Park Building Complex named as “FBD One” located at, Khasra No. 601, Faridabad Bye Pass Road, Village: Anangpur, Sector - 37, Opposite: Sarai Khwaja Village, Faridabad-121003, Haryana.

BRIEF BACKGROUND

- 7.2 The Letter of Intent [LOI] for the above mentioned IT Park was issued by the office of Director, Town & Country Planning, Haryana in the name of M/S Dove Infrastructure Pvt. Ltd. (hereinafter “DIPL”) vide LOI memo no. 5(II) / 2007 / 28753 dated 13.11.2007 and the license was issued vide License no. 281 of 2007 dated 28.12.2007 for development of IT Park on 8.50 acres of land out of the total project land of 8.73 acres.
- 7.3 DIPL was formed as a special purpose vehicle (SPV) created by its shareholders for the development of the IT Park Project. The shareholders of DIPL were M/S ABW Infrastructure Limited (54% shareholding), M/S Realtech Infrastructure Ltd. (36% shareholding) and M/S BNB Construction Pvt. Ltd (10% shareholding). All these shareholders entered into a “Shareholders’ Agreement” on dated 29th February 2008.
- 7.4 Subsequently, M/s BNB Construction Pvt. Ltd. transferred/assigned its complete 10% share in the FAR to M/S Realtech Infrastructure Ltd. (RIL), thereby increasing the share of M/s RIL to 46% in FAR.
- 7.5 The Petitioner M/S RIL has developed its own portion of the project, i.e., 46% of its share in the above-named IT Project and has also obtained the Occupation Certificate from the office of DTCP, Haryana for 30.65% of the FAR out of 46% of share.
- 7.6 As far as development of remaining 54% of FAR of the above said IT Project by M/S ABW Infrastructure Ltd is concerned, it is at a standstill and has been attached by the Enforcement Directorate (ED). There is no immediate possibility of start of construction and therefore, there is no situation to start electrification for the said 54% part of M/S ABW Infrastructure Limited. Also, the liquidation process of M/S ABW is under way before the NCLT due to which it has not been possible to develop 54% of the licensed land by its owner M/S ABW.
- 7.7 In the year 2018 The Hon’ble High Court of Delhi initiated insolvency proceedings against M/s ABW which subsequently got transferred into insolvency proceedings. Since the insolvency proceedings were initiated against ABW which held 54% FAR, 100% [54% + 46%] of the project could not be registered under RERA as one project. The Petitioner, having only 46% FAR in the project, approached the Ld. RERA, Haryana seeking recognition of 46% of the FAR as separate project and allowing registration of the same. The Petitioner also sought renewal of license and issuance of occupation certificate of the completed area, to protect the interest of the allottees.
- 7.8 That HRERA PKL took cognizance of the genuine grievances of the Petitioner and passed the resolution as below on 13.01.2020.
“The Authority observes that the promoter-developer has discharged his obligations i.e. he has developed the colony as per the approved plans, they have got the license renewed not only of the portion for which application has been filed but the other part of the colony which has come to the share of the ABW Infrastructure Ltd.; all

environmental clearances have been obtained, and occupation certificate has been applied for. As soon as the occupation certificate is granted by the Department, possession can be handed over to the allottees. They have also deposited requisite administrative charges for transfer of the beneficial interest in their favour.

3. Keeping in view above facts, the Authority deems it appropriate to ask the Town and Country Planning Department to consider the application of the applicant-promoter for transfer of beneficial interest and grant occupation certificate on priority. Promoter-Developer is also directed to follow this matter in the Department.”

- 7.9 That the DTCP has issued the OC on 22-05-2020
- 7.10 That the HRERA PKL approved for change in beneficial interest on 2-06-2020.
- 7.11 That the DTCP has issued the sanction letter recognizing the creation/existence of the beneficial interest of 46% share in FAR in favour of the Petitioner vide approval letter dated 3-12- 2020 thereby recognizing the Petitioner as a separate developer under License No. 281of 2007 dated 28.12.2007.
- 7.12 That the Electrification plan comprising of ultimate load of 8042.50 kW or 8465.79 kVA was approved in the name of Dove Infrastructure Pvt Limited by the CE Commercial vide his office memo number Ch-24/SE/R-APDRP/OLNC-HT/FBD/EP/171 dated 08-12-2021.
- 7.13 That the Petitioner applied for permanent electricity connection in the name of M/s. Realtech Infrastructure Limited partial ultimate load (46%) i.e., 3700 kW or 3894.74 kVA out of full ultimate load (100%) i.e., 8042.50 kW or 8465.79 kVA as per electrification plan approved vide Memo no. Ch-24/SE/R- APDRP/OLNC-HT/FBD/EP-171 Dt. 08-12-2021 in the name of M/s. Dove Infrastructure Pvt. Ltd. for IT park over an area measuring 8.50 acres in sector -37, Faridabad, Haryana” on 21- 12-2021. That the XEN Op Division DHBVN Old Faridabad vide his office memo no Ch-22/ GC-149 dated 03-03-2022 sent a letter to M/s Realtech Infrastructure P Ltd where he submitted that “ *In reference to your email regarding the correction in calculation of BG and name, it is intimated that due to typographic error, the amount that has been mentioned as 7,76,44,001/- in point no. 4 of the ibid memo issued by this office may kindly be treated as 7,06,72,061 (Seven Crore Six Lac Seventy Two Thousand Sixty One Only) (copy attached). However the actual amount was also mentioned in the previous letter issued vide memo no. Ch-149/GC-149 dated: 09.02.2022 by this office.*

Further you have also mentioned in request regarding change of name as per share % of ownership. In correspondence to this it is intimated that your request has been considered by this office and also the same stands considered by the office of SE/R-APDRP which has also issued a letter of sanctioned of load vide memo no. Ch- 47/SE/R-APDRP/ONLC-HT/FBD/EP-171 dated: 21.01.2022.

DIFFICULTY BEING FACED BY PETITIONER

- 7.14 Difficulty being faced by the Petitioner is at the hands of distribution licensee DHBVN (Respondents). “DOVE” was incorporated with all good intentions and purposes and the licensed area was legally shared as 54% of M/S ABW and 46% of M/S RIL (Realtech Infrastructure Limited).
- 7.15 The electricity requirement i.e. ultimate load for the project as a whole, as per latest load norms, was re-calculated and re-approved by the Respondents

at 5742.19 kW or 6380.21 kVA. If calculated separately for the Petitioner's area, the ultimate load comes to 2640.64 kW or 2934.04 kVA only.

- 7.16 As per Regulations and Sales Circulars, 6380.21 kVA warrants release of load at 33 kV whereas 2934.04 kVA (the actual load requirement as per the beneficial interest) can be released at 11 kV voltage level.
- 7.17 It is undisputed fact that 33 kV level is not available in the area and therefore the complete load of 6380.21 kVA has been sanctioned at 11 kV. But the Respondents, citing the Regulation in this regard, are demanding differential cost of 33 kV and 11 kV from the Petitioner, who has been practically left as the sole developer instead of in partnership with M/S ABW and that too for less than half of the actual licensed land.
- 7.18 It is pertinent to mention here that the respondent has already recognized the beneficial interest issued by the authorities and accordingly issued the connection in the name of Realtech Infrastructure Limited.
- 7.19 In the aftermath of the Legal proceedings against M/S ABW, may it be the attachment of property by ED or the liquidation proceedings before NCLT, the 54% FAR of M/S ABW has neither been developed nor there is any immediate possibility of its development.
- 7.20 Petitioner M/S Realtech Infrastructure Limited, therefore, is pleading before the Respondents to accept the Force Majeure conditions which have arisen and to consider recalculation of ultimate load only for 46% share of FAR, which comes to only 2640.64 kW or 2934.04 kVA
- 7.21 The Respondent has already recognized the beneficial interest of the Petitioner by issuing connection in the name of "Realtech Infrastructure Ltd. instead of Dove Infrastructure Pvt. Ltd." and raising bills in the said name. But surprisingly the Respondents are unduly charging the difference of infrastructure cost of entire 100% FAR from the Petitioner, i.e., Realtech Infrastructure Limited, and the Respondent are not accepting the plea and are not ready to accept the bifurcation of 54% and 46% shares between M/S ABW and the Petitioner. The Respondents insist that license being one, they won't treat Petitioner's share of 46% as a distinct and different identity out of the total licensed land.
- 7.22 The Petitioner's submission has been that since the Town & Country Planning department, the RERA Haryana, the Enforcement Directorate and the NCLT have accepted and recognized Petitioner's 46% share as a distinct and different identity, there is no reason for the Respondents to deny the facts on ground. Further the Respondents are not ready to accept the ground situation, and they insist that the ultimate load still stands at 5742.19 kW or 6380.21 kVA, which mandates the supply at 33 kV and in the absence of which, the Petitioner is bound to pay the differential cost
- 7.23 The Petitioner is rightfully demanding withdrawal of notice of differential cost on the following two grounds:
- i) 46% share of the licensed land now being distinct and separately identifiable, the ultimate load stands at 2640.64 kW or 2934.04 kVA which entitled for sanctioning at 11 kV level and therefore there is no question of demanding the differential cost
 - ii) Even if the Respondents insist that ultimate load would still remain at 5742.19 kW or 6380.21 kVA, the load has been released at 11 kV not because of Petitioner's request but because of the technical constraints on the part of Respondents. Therefore, for an infrastructure which has not been created, the Respondents cannot demand the differential cost. This has been held

recently by the hon'ble Commission in RPS case.

7.24 On the basis of above facts, the Petitioner has made the following prayers in the petition:

- (i) *To admit the present petition.*
- (ii) *Exercise its power under Regulation 16 and 17 of the supply code and direct the respondents to revise the Electrification plan of petitioner for his share in the property i.e. 46% of the total FAR and the corresponding load requirement of 2640.64 kW / 2934.04 kVA.*
- (iii) *Exercise its inherent power as per Electricity Act and the code of conduct business regulations direct the respondents to accept the special situation which has got created as a Force Majeure condition and to accept the ultimate load of the project as 2640.64 kW or 2934.04 kVA instead of 5742.19 kW or 6380.21 kVA and to regularize the connection at 11 kV level only;*
- (iv) *Direct the respondents not to raise the demand Rs. 1,97,29,558/- against differential cost of 33 kV and 11 kV infrastructures.*
- (v) *Direct the respondents to refund the amount of Rs. 46,92,714/- which has already been deposited by the petitioner as 1st installment of the differential cost of 33 kV and 11 kV infrastructure with 18% P/a interest from the date of depositing these till the adjustment in consumer's account.*
- (vi) *Direct the respondents to withdraw their Demand Notice issued vide Memo No.CH-51/GC-149 dated 16.12.2024 for recovery of Rs.1,50,36,844/- towards balance differential cost of 33 kV and 11 kV systems.*
- (vii) *Direct the respondent to refund the court fee along with litigation expenses Rs, 3,00,000 (Three Lac)*
- (viii) *Any other relief that may be considered fit and appropriate by this Hon'ble Commission.*

7.25 To apprise the hon'ble Commission further, in the 1st round of calculation, the Respondent had demanded a sum Rs.46,92,714/- towards differential cost, the ultimate load being more than 5000 kVA, along with the two bank guarantees of Rs.42,43,000/- and Rs.11,39,872/- towards Advance Consumption Deposit [ACD] and the Balance Electrical Internal Infrastructure respectively. The Petitioner complied with the direction and deposited the same.

7.26 Thereafter, the Respondent revised their demand by increasing the Differential Cost from Rs. 46,92,714/- to Rs.1,97,29,558/- and thus demanded a further deposit of Rs.1,50,36,844/- against the full ultimate load of 5742.19 kW or 6380.21 kVA. The Respondent vide Memo No. No.CH51/GC-149 dated 16.12.2024 computed the aforesaid demand in the following manner:

Sl.No.	Particulars	Amount in Rs.
A)	Cost of 33 kV Line without GST	3,14,26,053/-
B)	Cost of 11 kV Line without GST	1,16,96,495/-
C)	Differential Cost to be deposited by Consumer/ Petitioner [C = A minus B]	1,97,29,558/-
D)	Amount already deposited by the Petitioner for obtaining single point connection	46,92,714/-

E)	Differential Cost to be deposited by the Consumer/Petitioner [E = C minus D]	1,50,36,844/-
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- 7.27 Being aggrieved, the Petitioner made several representations to the Respondents explaining that the remaining ultimate load pertains to 54% FAR, earmarked for development by M/s ABW, which has not yet taken place on account of the said entity being under insolvency proceedings and not likely to be developed in the near future.
- 7.28 The Petitioner has filed the present petition seeking directions for approval of the electrification Plan by release of the Single Point Connection comprising of ultimate load commensurate with the area/project developed by the Petitioner only. Since the area developed by the petitioner is only 46% share in FAR, the ultimate load requirement is only 2640.64 kW or 2934.04 kVA which is less than 5 MVA
- 7.29 The Petitioner further submitted that 33 kV infra is neither available nor likely to be created in near future in the area by the Respondents, as also admitted by them during arguments.

8. Written Submissions of respondents received on 20/03/2026:

- A. Preliminary objection regarding maintainability of prayer for refund-
- i. At the outset, it is submitted that the Petitioner has sought multiple substantive reliefs, including revision of the electrification plan, reduction of the sanctioned load, regularization at the 11 kV level, quashing of the differential cost demand, and refund of amounts deposited. However, insofar as the prayer seeking refund of Rs. 46,92,714/- along with interest @18% per annum is concerned, the same had admittedly been raised for the first time in the present proceedings and is clearly belated and an afterthought. The said relief does not form part of the original challenge to the Demand Notice dated 16.12.2024 and is beyond the scope of the dispute initially projected by the Petitioner.
 - ii. It is further submitted that the Petitioner is not even duly authorized to raise such a claim. A perusal of the Board Resolution dated 15.01.2025 (Page 27 of Petition) demonstrates that the authorization granted to the authorized representative is expressly limited to initiating proceedings for quashing, revision, review, or setting aside of the Demand Notice issued by the Respondent. The resolution did not contemplate or permit the raising of any independent monetary claim, including a claim for refund of amounts already deposited. In the absence of a specific authorization, the authorized representative lacks the competence to agitate such a claim on behalf of the Petitioner.
 - iii. In these circumstances, it is submitted that the prayer seeking refund of Rs. 46,92,714/- along with interest is not maintainable, being both beyond the scope of the original proceedings and unsupported by proper authorization. The same is therefore, liable to be rejected outrightly.
- B. Petition liable to be dismissed for non-joinder of necessary parties (M/s DIPL, M/s ABW and HVPNL)-
- i. That, admittedly, the Electrification Plan, License etc. have been approved in the name of M/s Dove Infrastructure Pvt. Ltd. (M/s DIPL). However, M/s DIPL has not been impleaded as a party to the present proceedings.

- ii. The present petition is liable to be dismissed at the threshold on account of non-joinder of necessary parties. The reliefs sought by the Petitioner, particularly those pertaining to exemption from payment of differential cost towards external infrastructure, had a direct and substantial bearing on the rights, functions, and statutory obligations of the transmission licensee, namely Haryana Vidyut Prasaran Nigam Limited (HVPNL), which is responsible for development, augmentation, and maintenance of the upstream transmission network. Any adjudication in respect of infrastructure planning, voltage level, or associated cost implications cannot be effectively undertaken in the absence of the said entity.
- iii. The submission with respect to the availability of infrastructure is also to be provided by HVPNL. However, during the course of the proceedings the Hon'ble Commission has sought status of the 33 kV infrastructure. In furtherance of the query so raised a letter dated 12.03.2026 was addressed by the Respondent to HVPNL. The contents of this letter are as under:-

“To

*The Superintending Engineer,
T&S Circle, HVPNL, Sector-18, Faridabad.*

Memo no.Ch- 183 /GC-41

Date: 12/3/2026

*Subject:- Availability of 33 kV Bay/Space/load at 220 kV Sub-Station,
Palla.*

In this connection, it is intimated that the SDO (OP), Sub-Division, Mathura Road, vide Memo No. 1289 dated 06.03.2026 has informed that the re-approved electrification plan of M/s Dove Infrastructure Pvt. Ltd. was sanctioned for a load of 5742.19 KW with Contract Demand (CD) of 6380.21 KVA at 11 KV level by CE/Commercial, DHBVN, Hisar vide memo No. Ch-80/OLNC-HT/FBD/EP-171 dated 23.01.2024 due to the non-availability of 33 KV bay at that time, which was intimated by SE/TS, HVPNL, Faridabad vide Memo No. Ch-106/D-58/33KV/Vol-IV dated 24.11.2023 (copy attached). However, as per Clause No. 3.2.2 of Sales Circular D-07/2020, a demand of Rs. 1.50 crore was raised towards the difference of cost. Thereafter, the consumer filed an appeal before the Hon'ble HERC vide Case No. HERC/PRO-84 of 2025. During the hearing held on dated: 05.03.2026, the Hon'ble Commission sought the present status within two weeks regarding the availability of the 33 KV bay/space/load and the proposal in this regard, if any, along with the expected timeline for completion of the work.

You are, therefore, requested to kindly provide the current status regarding the availability of the 33 KV bay/space/load and also intimate the proposal in this regard, if any, along with the expected timeline for completion of the work.

This is for your kind information, please.

*Executive Engineer
(OP) Division, DHBVN
Old Faridabad”*

- iv. Thereafter, HVPNL submitted its reply vide Memo dated 19.03.2026 which is also reproduced hereunder:-

“To

XEN/OP,
DHBVNL, Old Division,
Faridabad.

Memo no. Ch- 85/S-1

Date: 19/3/2026

Subject:- Availability of 33 kV Bay/Space/load at 220 kV S/StnPalla.
In continuation to this office memo no. Ch-82/S-1 dated 19.03.2026 and refer to SE/TS, HVPNL, Faridabad office memo no. Ch-46/D-58/33kV/Vol-VI dated 17.03.2026 (copy attached) on the above noted subject, it is intimated that there is no space available in 33kV Bay at 220kV S/StnPalla. The loading position of 22.5/30 MVA, 66/33kV T/F at 220kV S/StnPalla is mentioned as under:

Sr.no.	Name of 33kV Feeder	Sanction Load (in MVA)	Released Load (in MVA)	Max load (in MVA)	Remarks
1	33kV IAC	20	20	17	At present there is no equipment installed for 33kV IAC except 33kV Isolator. For new 33kV IAC bay, work has been approved by Planning wing of HVPNL
2	33kV CIM	3.2	3.2	3	
3	33kV Omaxe	14.172	8	3	
4	33kV NHPC	6.1	6.1	--	Only Bay equipments installed, 33kV line work is pending
	TOTAL	43.72	37.3	23	

Further, it is intimated that 22.5/30 MVA, 66/33kV T/F T-6 is being replaced with 20/25 MVA, 66/33kV as approved by Planning of HVPNL and Transformer had already been received at site in September, 2025

Apart from the above, it is intimated that work of Augmentation of 220 KV substation Palla from (1x160-2x100) MVA, 220/66kV+3x25/31.5MVA, 66/11kV + 1x 20/25 MVA, 66/33kV T/Fs to (1x160+ 2x100) MVA, 220/66kV+ (1x100), MVA,220/33kV + 3x25/31.5, 66/11kV + 1x 20/25 MVA, 66/33kV T/Fs by HVPNL during FY-2025-26 has already been approved by Planning wing of HVPNL vide R.no. 2069/Ch-39/NCR/FBD-712/Vol. 1 dated 24.02.2025 which is likely to be completed by 31.03.2027. After commissioning of 100 MVA, 220/33kV T/F at 220kV S/StnPalla, space for 33kV Bay shall be available.

This is for your information and further necessary action please.

XEN/TS Division
HVPNL, Faridabad”

- v. The reliefs sought by the Petitioner, including alteration of sanctioned load, change in voltage level of supply, and avoidance of differential infrastructure charges, also directly impacts M/s ABW Infrastructure Ltd., which, as per the Petitioner's own case, is responsible for the remaining portion of the Project. Any determination in favour of the Petitioner would necessarily have a bearing on the allocation of liability and regulatory obligations attributable to the said co-developer. The absence of M/s ABW Infrastructure Ltd. from the present proceedings would, therefore, render any adjudication incomplete and potentially prejudicial.
- vi. It is thus, submitted that HVPNL, M/s ABW Infrastructure Ltd. and M/s DIPL are necessary parties whose presence is indispensable for complete and effective adjudication of the issues involved. In their absence, the present petition suffered from a fundamental defect of non-joinder of necessary parties and is liable to be dismissed.

C. Preliminary submissions on status of the Petitioner as co-developer and consequent obligations-

- i. The entire case set up by the Petitioner proceeds on a fundamentally flawed premise that it was responsible only to the extent of 46% of the Project and could, therefore, restrict its obligations, including electrification, to such limited portion. This assertion is not only self-serving but also contrary to the statutory and regulatory framework governing the Project. The Petitioner itself had relied upon internal arrangements under a Shareholders' Agreement of the SPV, i.e., M/s Dove Infrastructure Pvt. Ltd. (DIPL), to contend that the remaining 54% share of the Project, attributed to M/s ABW Infrastructure Ltd., was at a standstill. However, such internal arrangements between co-developers could not override statutory obligations attached to the licensed project as a whole.
- ii. In this regard, it is specifically submitted that the Directorate of Town & Country Planning, Haryana, vide its letter dated 03.12.2020 (Annexure P-4 at Page 55 of Petition), while considering the application for change in beneficial interest to the extent of 46% in favour of the Petitioner, had categorically recognized the Petitioner as a joint/co-developer in respect of Licence No. 281 of 2007. The said approval was expressly subject to conditions, *inter alia*, that the licensee company i.e. DIPL would remain responsible for compliance of all provisions of the Haryana Development and Regulation of Urban Areas Act, 1975 and the Rules framed thereunder, till completion of the Project. It is further stipulated that the Petitioner, being a joint developer, shall not violate any terms and conditions of the licence and applicable statutory provisions.
- iii. It is further submitted that the said approval was granted under the Haryana Development and Regulation of Urban Areas Act, 1975, which expressly contemplated only a transfer of beneficial interest and not a transfer of licence itself. Consequently, the licence continued to vest solely with M/s Dove Infrastructure Pvt. Ltd., and the Project remained a single, indivisible licensed entity in the eyes of law. Reliance in this regard is placed on the decision in the case of *Maximal Infrastructure Pvt. Ltd. Vs. State of Haryana & Ors.* [CWP No. 12971 of 2023, Decided on 29.10.2024] wherein the Hon'ble Punjab and Haryana High Court after taking note of the provisions the Act, 1975 as well as the Policy, 2015 held as under:

"63. It is, therefore, clear that the 2015 Policy was introduced for allowing change in 'beneficial interest' without transfer of licence. A perusal of the 2015 Policy shows that the detailed procedure was specifically laid down in Clause 4.1 and it was laid down in Clause 4.1 (xi) that the developer would continue to be solely responsible for compliance of the provisions of the Act/ Rules as well as the terms and conditions of the licence."

- iv. It is, therefore, evident that the Project continued to be treated as a single integrated licensed development, and the obligations arising therefrom, including infrastructure and electrification requirements, cannot be artificially segregated on the basis of inter se arrangements between co-developers. The Petitioner, having stepped into the shoes of a co-developer, is bound by the same regulatory framework and could not selectively disown obligations by attributing delay or non-development to another co-developer. It is submitted that temporary connection was also issued in the name of the co-developers.
 - v. Without prejudice to the above, it is further demonstrated from the Petitioner's own statutory disclosures made before HRERA that even the infrastructure pertaining to the Project had not been completed. The Engineer's Certificate for the quarter ending 31.03.2025 clearly recorded that only 30% of the infrastructural work had been completed. Thus, even assuming, without admitting, that the Petitioner was responsible only for 46% of the Project, it had failed to complete even its proportionate infrastructure. The contradictory stand taken by the Petitioner in the present proceedings and before the statutory authority renders its assertions wholly unreliable.
 - vi. It is further submitted that the Petitioner's contention that electrification of the remaining 54% area would not be required in future is entirely speculative and beyond its competence. The planning and development of electrical infrastructure, including the determination of voltage level (11 kV or 33 kV), is within the exclusive domain of the distribution licensee and was governed strictly by the applicable Supply Code and Regulations. The Petitioner could not, on the basis of alleged disputes or proceedings concerning M/s ABW Infrastructure Ltd., seek dilution or exemption from statutory requirements.
 - vii. Even otherwise, a perusal of the list of date and events enumerated above shows that liquidation proceedings were initiated way back in May, 2018.
 - viii. In view of the above, it is submitted that the Petitioner, being a co-developer in a composite licensed project, remains bound by the regulatory obligations applicable to the Project as a whole. The attempt to compartmentalize liability and avoid compliance on the basis of internal disputes between co-developers was legally untenable and liable to be rejected.
- D. Submissions on statutory mandate of differential cost under the Supply Code-
- i. The principal relief sought by the Petitioner, namely release of load without deposit of differential cost, is in the teeth of the express provisions of the applicable Supply Code and, therefore, wholly untenable in law. Regulation 3.2.2 of the Supply Code, as amended from time to time, clearly mandates that in cases where supply was to be provided at a voltage level other than that prescribed, the difference in cost of infrastructure, including substation, bay and connectivity, was necessarily to be borne by the consumer. The

- language of the Regulation is unequivocal and leave no scope for waiver or exemption from such statutory liability.
- ii. The proviso to Regulation 3.2.2 specifically contemplated a situation where supply at 11 kV was permitted in lieu of 33 kV, and in such circumstances, it was a mandatory requirement that the consumer bear the differential cost between the two systems. Thus, the very situation being relied upon by the Petitioner is already envisaged under the Regulations, subject to the condition of payment of such differential cost. The Petitioner, therefore, cannot selectively rely upon the beneficial part of the provision while seeking to evade the corresponding financial obligation attached thereto.
 - iii. Attention is also invited to the judgment of this Hon'ble Commission in *Sharad Farms & Holdings Pvt. Ltd. vs. Managing Director & Ors. (HERC/PRO-30 of 2020, decided on 11.07.2022)*, wherein it was categorically held that exemption from payment of differential cost cannot be granted in view of the binding nature of Regulation 3.2.2. The Hon'ble Commission had unequivocally observed that the consumer is required to bear such costs as envisaged under the Regulations, and any relaxation in this regard would be contrary to the statutory framework governing supply of electricity.
 - iv. In light of the above, it is submitted that the demand notice issued by the Respondents for deposit of differential cost is strictly in accordance with the applicable Regulations and binding precedents. The Petitioner, by way of the present proceedings, is effectively seeking a waiver of a statutory charge, which is impermissible in law.
 - v. It is further submitted that granting such a relief to the Petitioner would result in discriminatory treatment and would be in direct conflict with the decision rendered in the case of *Sharad Farms & Holdings Pvt. Ltd. (supra)*, wherein a similarly placed consumer had been denied such exemption. Any deviation in the present case would amount to unequal treatment of similarly situated consumers and would violate the settled principle of equality before law.
 - vi. In view of the foregoing, it is submitted that the present petition, insofar as it seeks exemption from payment of differential cost, is liable to be dismissed outrightly, being in direct contravention of the express provisions of the Supply Code as well as the binding decisions of this Hon'ble Commission.
- E. Financial difficulty cannot be a ground for invocation of power to remove difficulties-
- i. A bare perusal of the petition would reveal that the Petitioner had invoked Regulations 16 and 17 of the Supply Code under the guise of seeking "amendments/clarification/removal of difficulty." However, the invocation of such provisions is misconceived and untenable. Regulation 16 empowers the Hon'ble Commission to remove difficulties only in a situation where any difficulty arises in giving effect to the provisions of the Regulations. In the present case, no such difficulty in implementation had either arisen or been demonstrated by the Petitioner. The provisions of the Supply Code are clear, workable, and capable of being implemented without any ambiguity.
 - ii. The only ground projected by the Petitioner is its alleged financial hardship or inability to bear the differential cost. Such a ground does not constitute a "difficulty" within the meaning of Regulation 16. Financial incapacity of a consumer cannot be equated with a statutory or operational difficulty in giving effect to the Regulations. Permitting such an interpretation would

defeat the very scheme of the Regulations and open the floodgates for similar claims by other consumers seeking exemption from statutory charges.

- iii. In this regard, reliance is placed upon the judgment dated 30.01.2019 passed by the Central Electricity Regulatory Commission in *Tamil Nadu Generation and Distribution Corporation Ltd. vs. NLC India Limited & Ors. (Petition No. 267/MP/2017)*, wherein it was categorically held that the power to remove difficulties is limited to addressing issues in implementation of the Regulations and does not extend to amending or diluting their substantive provisions. It was further held that such power could be exercised only when a difficulty arose in giving effect to the Regulations, and not where the difficulty was a consequence of the application of the Regulations themselves.
- iv. The said position had also been affirmed by judicial precedents, including the judgment of the *Hon'ble Supreme Court in M.U. Sinai vs. Union of India (1975) 2 SCR 640*, wherein it was held that the existence of a difficulty in giving effect to the provisions is a *sine qua non* for invocation of such power, and that the same cannot be exercised to alter or defeat the substantive scheme of the statute.
- v. Similarly reliance placed by the Petitioner on Regulation 17 of the Supply Code is equally misconceived. The Petitioner, under the garb of invoking the said provision, is in effect seeking a substantive alteration of the existing regulatory framework. The reliefs sought namely downward revision of sanctioned load, change in voltage level, and exemption from payment of differential cost, clearly amounts to a *de facto* amendment of the Supply Code. It is a settled principle that subordinate legislation cannot be tailored or modified to grant relief to an individual consumer. Any such exercise would violate the principles of uniformity, non-discrimination, and regulatory certainty which are foundational to the functioning of a statutory regulatory regime. Consequently, the present petition is not maintainable under Regulation 17 or any other provision relied upon by the Petitioner.
- vi. It is further submitted that a procedure at variance with the provisions of the Act, Rules, and Regulations cannot be adopted merely to extend benefit to a particular party. In this regard, reliance is placed upon the order dated 26.06.2019 passed by this Hon'ble Commission in *Petition No. 13 of 2018 (Haryana Chamber of Commerce and Industries, Panipat)*, wherein it was categorically held that relaxation of Regulations cannot be undertaken in an adjudicatory proceeding, as the same would amount to exercising legislative functions. The Hon'ble Commission specifically observed that such Regulations, being in the nature of delegated legislation, cannot be relaxed on a petition filed by a particular category of consumers. The ratio of the said decision squarely applies to the present case.
- vii. Petitioner's repeated reliance on the plea of "Force Majeure" is also misplaced and unsustainable. Force majeure, in law, refers to extraordinary circumstances such as natural disasters, war, or statutory prohibitions, which rendered performance impossible. Even in contractual contexts, the doctrine applies only where performance is rendered impossible and not merely burdensome or commercially inconvenient. In the present case, the circumstances cited by the Petitioner, namely attachment of land belonging to M/s ABW Infrastructure Ltd. and pendency of insolvency proceedings before the Hon'ble NCLT, are purely private commercial issues between co-developers and does not in any manner prevent compliance with statutory

obligations under the Electricity Act, the Supply Code, and the applicable Regulations.

- viii. It is thus, evident that the Petitioner is seeking to invoke the doctrine of force majeure to evade statutory liabilities, which is impermissible in law. Financial hardship, internal disputes, or commercial impediments cannot be elevated to the status of force majeure so as to defeat regulatory mandates. Accordingly, the plea of force majeure, as raised by the Petitioner, is liable to be rejected.
- ix. In view of the above, it is submitted that the Petitioner is, in effect, seeking a substantive waiver of statutory charges under the guise of "removal of difficulty," which is impermissible in law. The present petition, therefore, amounts to an indirect attempt to amend or bypass the applicable Regulations and is liable to be rejected on this ground alone.

Commission's view & order:

1. The petition has been examined in detail along with the reply, additional submissions and rejoinder on record and heard the arguments of the Petitioner and Respondents in the above matter concerning the revision of Electrification Plan for the Petitioner's 46% share in the IT Park project under License No. 281 of 2007. The EP for ultimate load of 5742.19 kW/ 6380.21 kVA for entire project stands approved. The core issue arises from the insolvency of the co-developer, M/S ABW Infrastructure Ltd, which holds a 54% share and has been under insolvency proceedings since 12.09.2019, with its assets attached by the Enforcement Directorate on 18.05.2022. RIL contends that because the ABW portion is at a standstill, the project's ultimate load should be downsized to reflect only RIL's 46% share—reducing the load from 6380.21 kVA to 2934.04 kVA—thereby allowing for a permanent 11 kV connection without the burden of "differential costs" associated with 33 kV infrastructure.
2. The first legal question concerns the bifurcation of the electrification plan and the downsizing of load. The Petitioner argues that since the Town & Country Planning (DTCP) and Haryana Real Estate Regulatory Authority (HRERA) have recognized them as a separate developer for 46% of the FAR, the distribution licensee should similarly treat the project as two distinct entities. RIL asserts that under the reduced load of 2934.04 kVA, they are entitled to a connection at the 11 kV level as per Regulation 3.2.1 of the Supply Code, which specifies 11 kV for loads up to 5000 kVA. Conversely, the Respondents argues that the electrification plan must be approved for the complete scheme as per Sales Circular No. D-21/2020 and the Single Point Supply Regulations, 2020, regardless of internal shareholder agreements or the transfer of beneficial interest and a fragmented approach would create a "regulatory anomaly" where developers could evade load-based infrastructure requirements through internal land-sharing arrangements.
3. The second major issue involves the validity of the demand for differential costs. RIL argues that this demand constitutes "unjust enrichment" for the licensee because there is no 33 kV infrastructure currently available or likely to be

created in the area. They rely on the recent judgment in *RPS Infrastructure Ltd. vs. DHBVN* (Case No. 11 of 2025, decided 16.01.2026), where the Commission deferred the recovery of differential cost. The Respondents counter this by citing *Sharad Farms & Holdings Pvt. Ltd. vs. Managing Director & Ors.* (2022), where the Commission affirmed that consumers must bear costs as envisaged under Regulation 3.2.2, emphasizing that the distribution licensee is duty-bound to adhere to the Universal Supply Obligation under Section 43 of the Electricity Act.

4. The third issue pertains to Force Majeure and the invocation of "Power to Remove Difficulties" under Regulations 16 and 17 of the Supply Code and Section 181 of the Electricity Act. RIL pleads that the insolvency of their partner is a "special situation" beyond their control that warrants regulatory relaxation. The Respondents argue that commercial hardship or insolvency of a co-developer is a private commercial dispute and does not constitute Force Majeure in law and the power to remove difficulties cannot be used to amend the basic structure of a regulation or to grant relief simply because a regulation's application has become financially onerous.
5. The Commission took note of the letter from HVPNL dated 19.03.2026 indicating that while 33 kV space is currently unavailable at the Palla sub-station, augmentation is approved and expected to be completed by 31.03.2027. This factual update suggests that 33 kV infrastructure is indeed "proposed to be created," potentially distinguishing this case from the *RPS* precedent. The Respondents highlighted that RIL's own HRERA filings from 31.03.2025 showed only 30% of infrastructure work was complete, contradicting RIL's claim of full development of their share.
6. The Commission observes that the matter rests on the principle that statutory regulations cannot be set aside for individual commercial hardships. Since the License (No. 281 of 2007) remains a single integrated entity, the Petitioner remains legally liable for the differential costs as a joint developer under the currently approved electrification plan. However, given the genuine impasse created by the NCLT and ED proceedings against the majority shareholder, the Commission finds that enforcing total liability at this stage would be unduly burdensome. Therefore, the Commission direct that
 - 6.1 DISCOM shall consider and approve the revised EP considering the reduced load of 2640.64 kW / 2934.04 kVA for the project as a whole being the project in the name of one licensee only. As this load qualifies for 11 kV supply under the Haryana Electricity Regulatory Commission (Electricity Supply Code Regulation), or as amended, the differential cost between 33 kV and 11 kV infrastructure will not be applicable.
 - 6.2 This arrangement shall be provisional and revocable in case the co-shareholder's area (M/s ABW Infrastructure Ltd.) commences development at any stage, resulting in the ultimate project load qualifying for the 33-kV

category, whereupon the project shall be reassessed holistically under the single license and proportionate differential cost shall become applicable.

6.3 The amount of ₹46,92,714/- (Rupees Forty-Six Lakhs Ninety-Two Thousand Seven Hundred Fourteen only), which was previously deposited by the Petitioner as the first instalment toward the differential cost of 33 kV and 11 kV infrastructure, shall be adjusted against any existing liabilities or, in the alternative, refunded to the Petitioner in accordance with the applicable rules. The Demand Notice issued via Memo No. CH-51/GC-149 dated 16.12.2024, amounting to ₹1,50,36,844/- (Rupees One Crore Fifty Lakhs Thirty-Six Thousand Eight Hundred Forty-Four only) for the recovery of the balance differential cost of 33 kV and 11 kV infrastructure, is hereby declared infructuous and stands set aside.

7. The petition is disposed of in above terms.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 27/03/2026.

Date: 27/03/2026	Sd/- (Shiv Kumar)	Sd/- (Mukesh Garg)	Sd/- (Nand Lal Sharma)
Place: Panchkula	Member	Member	Chairman