BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION AT PANCHKULA

Case No. HERC/P. No. 75 of 2025

Date of Hearing	**:**	**09/04/2026**
Date of Order	**:**	**30/04/2026**

IN THE MATTER OF:
Petition Under Section 142 read with Section 146 of the Electricity Act, 2003 read with Regulation 22 of the Haryana Electricity Regulatory Commission (Conduct of Business) Regulations, 2019 seeking directions against the Respondent inter-alia against the unlawful levy of the M.D.I penalty on the Petitioner and consequential reliefs.

Petitioner
M/s BML Educorp Services, 67th Milestone, NH-8, Sidhranwali, Bhora Kalan
Through its Authorised Representative,

VERSUS

Respondent:
Dakshin Haryana Bijli Vitran Nigam Limited Through Its SDO, OP-Sub Div, Bhora Kalan.

Present
On behalf of the Petitioner
Sh. Tushar Mathur, Advocate

On behalf of the Respondent.
1. Ms. Aerika Singh, Advocate
2. Sh. Lovepreet Singh, Advocate

QUORUM

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

ORDER

1. **Petition:**

The Petitioner, M/s BML Educorp Services most respectfully states and submits as under:

I. THE CONSPECTUS:

1.1 The Petitioner is filing the present Petition seeking action against the Respondent for grossly violating the terms and conditions of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 [hereinafter "the Supply Code"] and Haryana Electricity Regulatory Commission (Standards of Performance of

Distribution Licensees and Determination of Compensation) Regulations, 2020 by issuing unjustified, arbitrary, and illegal notices to the Petitioner regarding alleged short assessment and unauthorized use of electricity under Section 126 of the Electricity Act, 2003. The Respondent, instead of adhering to the prescribed process and timelines under the above Regulations, has acted in complete derogation thereof by treating an alleged increase in consumption beyond the contracted demand or sanctioned load as a case of unauthorized use of electricity under Section 126 of the Act. This is despite the fact that the Respondent itself inordinately delayed processing the Petitioner's pending application for enhancement of sanctioned load.

1.2 Thus, while being in gross violation of the regulations, the Respondent has wrongfully imputed violations onto the Petitioner and sought to levy unjustified penalties, effectively reaping benefits from its own defaults. The Petitioner, therefore, is constrained to approach this Hon'ble Commission to highlight the illegal and arbitrary actions of the Respondent, which have resulted in constant harassment of the Petitioner—a not-for-profit organization dedicated to higher education.

1.3 The Petitioner beseeches this Hon'ble Commission to consider its case and issue strict directions against the Respondent. Specifically, the Petitioner seeks directions from this Hon'ble Commission for:

(i) Quashing of the illegal demands placed by the Respondent.

(ii) A declaration that the enhancement of the sanctioned load to the Petitioner shall be deemed effective from the date of its application, given the inordinate delay on the part of the Respondent in processing the same.

II. PARTIES TO THE PRESENT PETITION:

1.4 The Petitioner, BMU Edu. Corp. Services is a company incorporated in the year 2011 and registered under the Companies Act, 1956. The Petitioner operates BML Munjal University, a fully residential and co-educational private university located in Sidhrawali, Gurgaon district, Haryana, India. The University was founded in 2014 by the promoters of the Hero Group and is named after the group's chairman and founder, Brijmohan Lall Munjal. It offers B.Tech, B.Com (Honours), BBA, MBA, Law, Ph.D. degrees, etc.

1.5 The Respondent, Dakshin Haryana Bijli Vitran Nigam Ltd., is a distribution licensee as defined under Section 2(17) of the Electricity Act, 2003 [hereinafter "the Act"] and is responsible for the distribution and retail supply of electricity in the south zone of Haryana, comprising Hisar, Fatehabad, Bhiwani, Sirsa, Faridabad, Gurugram-I, Gurugram-II, Palwal, Rewari, Jind, and Narnaul circles.

1.6 The Petitioner has been a consumer of the Respondent, bearing Account No. 9866433000, since the year 2012 and currently has a sanctioned load of 2800 kW receiving supply at 11kV level.

III. REGULATORY BACKGROUND

1.7 Considering that the present dispute revolves around the obligations of the Petitioner and the responsibility of the Respondent regarding

the maintenance of the consumption pattern within the contract demand and not increasing the MDI, the process of levying a penalty in cases of exceedance of MDI, if any, and the related rights of the Petitioner under the HERC Supply Code, the following provisions thereof are of utmost importance:

"4.6 Procedure for Modification / Change in Existing Connection

4.6.1 Application

(1) The applicant shall apply for modification/change in the existing connection in the prescribed form, on account of the following:

(a) Change in name of registered consumer due to change in ownership/occupancy.

(b) Conversion of services / re-classification of consumer category / shifting of meter or service connection in the same premises.

(c) Load enhancement/reduction.

(2) Application forms shall be available at the local office of the licensee on payment of prescribed charges.

(3) The licensee shall also provide alternative avenues for applying for modification in existing connection through website, customer care centres and other technological means, which minimize the applicant's interface with the licensee during the process.

(4) Application forms for modification/change in existing connection must be accompanied with a photograph of the applicant, identity proof of the applicant, proof of applicant's ownership or legal occupancy over the premises for which change in connection is being sought, proof of applicant's current address and the no dues certificate mentioned in Regulation 4.3.1 or in its absence undertaking to pay outstanding dues of the previous owner and in specific cases, certain other documents as detailed in Regulations 4.4.1 (7) to 4.4.1 (11).

4.6.2 Processing of Applications

(1) The licensee shall verify the application along with required documents and if found deficient, shall inform the applicant of the same either at the time of receipt of application or within two (2) working days from the date of receipt of application. If the application is complete, the licensee shall acknowledge its receipt.

(2) An application shall be deemed to be received on the date of receipt of consumer's request for electricity connection in the prescribed application form, complete in all respects including all the required documents and having deposited all applicable charges.

(3) The licensee shall maintain a permanent record of all applications received in a Service Register/Database. Each application shall be allotted a permanent application number (for identification) serially in the order in which it was received. The licensee shall keep the registers/databases updated with stage-wise status of disposal of each application. The updated status of applications received shall be displayed on the licensee's website and the notice board kept at the local office of the licensee, to be updated on first and sixteenth day of each month.

(4) In all cases of modification/change in existing connection, a new account number shall be allotted except in case of a request for change in load where the consumer remains in the same tariff category after the change.
4.12 Load Enhancement
4.12.1 The applicant shall apply for load enhancement to the licensee in the prescribed format along with the following documents:
(1) Details of alteration/modification/addition of electrical installation with work completion certificate and test report from a Licensed Electrical Contractor.
(2) Reason(s) for enhancement of sanctioned load/contract demand.
The licensee shall process the application in accordance with Regulation 4.6.2. For site inspection and issuance of demand notice for such change and for the cost and charges, if any, both the licensee and applicant shall follow the procedure and timeline as laid down in Regulations 4.4.2 (5) to 4.4.5.
4.12.2 The licensee's written intimation sent along with the demand notice to the consumer shall cover the following:
(1) The voltage at which the enhanced load can be given supply.
(2) Addition or alterations, if any, required to be made to the system and the cost to be borne by the consumer.
(3) Amount of additional security deposit, cost of additional infrastructure and the system strengthening charges or capacity building charges, if any, to be deposited.
(4) Change in classification of the consumer category and applicability of tariff, if required.
4.12.3 The application for enhancement of load shall not be accepted if the consumer is in arrears of payment of the licensee's dues. However, the application may be accepted if such payment of arrears has been stayed by a Court of law or the authority competent to do so.
4.12.4 If the demand notice is accepted by the consumer, then he shall:
(1) Pay the cost and charges as per the demand notice within the time limit specified in the demand notice.
(2) Execute a revised Agreement.
4.12.5 Supply to enhanced load shall be provided as per the timeline specified in Regulation 4.4.7.

1.8 In terms of the above, the following is the regulatory process governing load enhancement of a consumer under the Supply Code:

i. Applicants must submit a prescribed form with a completion certificate, test report, and justification for the load increase.
ii. The licensee will process the application as per Regulation 4.6.2, including verification and acknowledgment.
iii. The licensee will conduct a site inspection and issue a demand notice within the timeline specified in Regulations 4.4.2 (5) to 4.4.5.
iv. If approved, the licensee's demand notice will specify system alterations, costs, and security deposits.

v. The applicant must pay charges and execute a revised agreement within the deadline specified in the demand notice.
vi. Supply for enhanced load will be provided as per the timeline in Regulation 4.4.7.

1.9 Pertinently, timelines for Processing Load Enhancement Applications in terms of Regulation 4.4.7) are as under:

(i) Issuance of Demand Notice (Regulation 4.4.3(1)):
- Low Tension (LT) Supply: Within 7 days
- 11 kV Supply: Within 14 days
- 33 kV Supply: Within 20 days
- Above 33 kV Supply: Within 25 days

(ii) Compliance with Demand Notice by Applicant (Regulation 4.4.3(3)):
- The applicant must comply within the period specified under Regulation 4.15.2.

(iii) Inspection and Testing of Consumer's Installation by Licensee (Regulation 4.4.4(5)):
- LT Supply: Within 5 days
- 11 kV Supply: Within 15 days
- 33 kV Supply: Within 20 days
- Above 33 kV Supply: Within 25 days

(iv) Issuance of Service Connection Order (Regulation 4.4.5):
- LT, 11 kV, and 33 kV Supplies: Within 5 days
- Above 33 kV Supply: Within 10 days

(v) Completion of Work Required for Providing Electric Supply (Regulation 4.4.6):
- LT Supply: Within 10 days
- 11 kV Supply: Within 30 days
- 33 kV Supply: Within 45 days
- Above 33 kV Supply: Within 100 days

(vi) Release of Connection to the Applicant After Completion of Work (Regulation 4.4.6):
- LT Supply: Within 3 days
- High Tension (HT) Supply: Within 7 days

Thus, the Respondent is duty bound to process the application of load enhancement of any applicant within the timelines provided as above. A copy of relevant extracts of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 are annexed

1.10 It may also be mentioned here that adherence to these timelines have also been mandated under the Haryana Electricity Regulatory Commission (Standards of Performance of Distribution Licensees and Determination of Compensation) Regulations, 2020 [hereinafter the "Standards of Performance Regulations"] wherein the following has been provided:

"3. Standards of Performance of Distribution Licensees
3.1 The Standards of Performance specified herein shall be the minimum acceptable standard of service with reference to quality, continuity and reliability of services that a Licensee shall achieve and maintain in discharge of his obligations as a Distribution

Licensee. The Standards of Performance may be different across the area of a Distribution Licensee and across the Distribution Licensees based on the concentration of population, local environment and conditions. The categorization shall be applicable to both Urban as well as rural areas;
3.2 Any failure by the Distribution Licensee to achieve and maintain the standards of performance specified in these Regulations shall render the Distribution Licensee liable to payment of compensation under the Act, as specified in Schedule I, to an affected person claiming such compensation.
3.3.1 Standards of Performance specified in Schedule-I relates to Guaranteed Standards of Performance for which consumers against whom no arrear other than of billing current cycle is pending on the date of violation are eligible for claiming the compensation in the manner provided in the Schedule-I in case the Licensee fails to provide services as per the Standards of Performance.
3.3.2 The concerned officer (SDO in charge, who fails to comply with the time-lines for rendering services as mandated under this regulation, without prejudice to any penalty which may be imposed or prosecution be initiated, he shall be liable to pay a fine of Rs 1000 (Rupees one thousand) per day for each day of delay subject to Rs 10,000 (Rupees ten thousand) maximum, in each case and such fine shall be payable by both SDO and XEN in charge of the sub division concerned in equal proportion.
Provided that complaint against non-compliance of the time-lines have to be filed by aggrieved person before the Commission and the Commission may after providing an opportunity of being heard to the parties shall impose the penalty thereafter.
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4. Period for Giving Supply
4.1 New Connection/Additional Load/ Reduction in Load/Temporary Connection/Shifting of meters/service lines/Equipment
The Distribution Licensee shall follow the procedure and timelines specified under Electricity Supply Code, Regulations, 2014 including any amendments thereto in force from time to time for effecting services including new connection/additional load/reduction in load/ temporary connection/Shifting of meters / service lines/Equipment."

Thus, the Standard of Performance Regulations establish minimum service standards for quality, continuity, and reliability that a Distribution Licensee must maintain. Failure to meet these standards makes the Licensee liable to compensate affected consumers, as per Schedule I. Additionally, if an SDO (Sub-Divisional Officer) in charge fails to comply with service timelines, they may face a fine of ₹1,000 per day, up to a maximum of ₹10,000 per case, payable equally by both the SDO and the XEN in charge. Complaints regarding non-compliance must be filed with this Hon'ble Commission, which may impose penalties after hearing the parties. For services like new

connections, load changes, meter shifts, and temporary connections, the Distribution Licensee must follow the procedures and timelines set under the Supply Code, including any amendments.

1.11 A perusal of the above said Schedule I of the Standard of Performance Regulations shows the following timelines and compensation mechanism for breach of timelines for applications for loan enhancement:

Process	Timeline	Penalty for Delay
Inspection of applicant's premises	Within 7 days of receiving a complete application with prescribed charges	₹200 per day (subject to Section 44 of the Act)
Issue of demand notice	From the date of inspection: 7 days	
- Supply from existing network		
- Extension/augmentation required:		
LT supply	7 days	
11 kV supply	14 days	
HT at 33 kV supply	20 days	
Above 33 kV supply	25 days	
- Reduction of load	7 days	
Release of supply (after compliance with demand notice & payment)		
LT supply	Within 23 days	
11 kV supply	Within 57 days	
HT at 33 kV supply	Within 77 days	
Above 33 kV supply	Within 142 days	
Where no change in CT, PT, or other equipment is needed	Within 7 days	
If CTs/PTs/Transformers need replacement	Same timeline as for load extension	

As per the above mandate, failure of the Respondent in complying g with the timelines while processing any application for new connection/load enhancement, attracts levy of a penalty of Rs.200/- per day of delay. Additionally, the concerned SDO is also held liable for compensation in accordance with Regulation 4.1 of the Standards of Performance Regulations. A copy of relevant extracts of the Haryana Electricity Regulatory Commission (Standards of Performance of Distribution Licensees and Determination of Compensation) Regulations, 2020 are annexed.

1.12 As regards, tackling the issue of unauthorised use of electricity, the Supply Code further provides as under:

"8 UNAUTHORIZED USE OF ELECTRICITY UNDER SECTION 126 OF THE ACT

8.1 Procedure for Booking a Case of Unauthorized Use of Electricity

8.1.1 The State Government shall designate the assessing officers of the licensee as per Section 126 of the Act.

8.1.2 The licensee shall display the list of such assessing officers in all its offices and on its website. Photo identity cards shall be issued to such officers.

8.1.3 An assessing officer designated by the State Government under Section 126(6) of the Act, shall, on receipt of reliable information regarding "unauthorized use of electricity" as per Explanation 126(6)(b) of the said Section, promptly inspect such premises.

8.1.4 The members of the inspection team of the licensee shall carry their visiting cards and Photo Identity Cards (indicating that they are authorized assessing officers under Section 126 of the Act). These shall be shown, and visiting cards handed over to the owner of the premises or his representative before entering the premises.

8.1.5 If on inspection of any place, premises, equipment, gadgets, machines, or devices, or after inspecting records maintained by any person, the assessing officer concludes that unauthorized use of electricity is taking place, an inspection report shall be prepared. The report shall include details of:

- *Connected load for unauthorized use of electricity,*
- *Condition of meter and its seals,*
- *Evidence substantiating the unauthorized use of electricity as per Explanation (b) of Sub-section (6) of Section 126 of the Act.*

The event shall be photographed or videographed with cameras that record the date and time.

Provided that if a tampered meter is used for unauthorized use of electricity, such a meter shall be confiscated, and supply shall be disconnected until a new meter is installed.

8.1.6 The inspection report shall clearly indicate whether sufficient evidence substantiating unauthorized use of electricity was found. The material/device used for unauthorized use shall be confiscated and kept as proof along with photographs/videographs of the premises. All documents must be legible.

8.1.7 The assessing officer shall sign the inspection report. The person present on-site may also sign the report. A copy shall be handed over to the owner/occupier or his representative under proper receipt.

8.1.8 If the person refuses to accept the report, a copy shall be pasted at a conspicuous place outside the premises and photographed. Another copy shall be sent by registered post/speed post on the same day or the next day.

8.2 Notice to the Consumer

8.2.1 If the assessing officer concludes that unauthorized use of electricity has occurred, he shall provisionally assess the electricity charges payable and serve, within seven days of inspection, a provisional assessment order along with a notice to the person for a show-cause response.

The notice shall include:

- *The computed amount payable per Sub-Section 5 read with Sub-Section 6 of Section 126 of the Act.*
- *The procedure specified in Annexure-II to these Regulations.*
- *The time and date by which the reply must be submitted.*
- *The designation and address of the recipient of the reply.*

8.2.2 If the person accepts the provisional assessment, it shall be treated as final. The assessed amount must be deposited with the licensee within seven days.

8.2.3 If the person does not accept the provisional assessment, they may file objections within seven (7) days before the assessing officer.

8.3 Personal Hearing

8.3.1 Within four (4) days of receiving objections, the assessing officer shall arrange a personal hearing.

8.3.2 If a consensus is reached, the assessing officer shall pass a final speaking order. If not, the officer shall consider the facts and issue a speaking order within fifteen (15) days, outlining:

- *A summary of the inspection report,*
- *The written and oral submissions made,*
- *Reasons for acceptance or rejection,*
- *The final assessment."*

The Supply Code thus provides for a comprehensive process for issuance of notices under Section 126 and processing the issues of unauthorised use of electricity which are liable to be scrupulously followed. Suffice it to say when such process is not followed, any action in this regard is vitiated in law.

1.13 Importantly, the Supply Code also provides for detailed mechanism to tackle any unauthorised extension of load and provides as under:

"9. Unauthorized Extension of Load

9.1 General

Unauthorized extension of load, wherever detected, shall not be considered as a case of unauthorized use of electricity under Sections 126 & 135 of the Electricity Act, 2003, but shall be penalized in the following manner.

9.2 Checking of Unauthorized Extension of Load at the Consumer Premises

9.2.3 In Cases of All HT Connections Other Than Domestic Supply Connections

(a) The physical checking of the premises, if required, would be carried out by an officer not below the rank of SDO. A policy of "pick and choose" by junior officials shall not be followed. If there is specific information or a complaint, the SDO himself will conduct the checking in the presence of the consumer.

(b) In case the consumption of a consumer is not commensurate with the sanctioned load and is consistently and abnormally high in three consecutive billing cycles, as indicated by the energy bill, then the JE, with prior approval of the SDO, may conduct the checking.
(c) In cases where the maximum demand has exceeded the sanctioned load/contract demand by more than 5%, the licensee shall issue a notice to the consumer intimating that he has exceeded his sanctioned load/contract demand. The consumer must either remove the additional load or get the same regularized after completing the formalities for the extension of load as per Regulation 4.12.
9.3 Levy of Penalty on Account of Unauthorized Extension of Load
In addition to action under Regulation 9.2 above, the following penalties shall be applicable:
9.3.1 In Case of Domestic Supply Connections / Bulk Domestic Supply Connections

- *If the billing has been on minimum monthly charges for three consecutive billing cycles, and if, upon physical checking or through MDI reading, the connected load is detected to be exceeding by more than 10% of the sanctioned load, a one-time penalty of ₹400 per KW (or as amended by the Commission) shall be levied on the excess load, including 10%.*
- *The licensee shall issue a notice to the consumer intimating that he has exceeded his sanctioned load and that his load is being enhanced based on physical checking.*
- *The consumer shall be given 30 days to deposit the penalty amount and enhanced security deposit for such an increase in sanctioned load.*
- *If the consumer fails to do so, the penalty amount and enhanced security deposit shall be included in the next bill, with reasons for such inclusion indicated in the bill. The consumer's load shall be considered enhanced from the successive billing cycle.*
- *In all other cases where billing has not been on minimum monthly charges for three consecutive billing cycles, there shall be no penalty if the load exceeds the sanctioned load; only the procedure under Regulation 9.2.1(b) shall be followed.*
- *Every consumer shall have the option to get an energy meter with MDI facility installed for his electrical connection.*

  9.3.2 In Case of Non-Domestic Supply Connections, Independent Hoarding / Decorative Lighting Connections, Bulk Supply Connections, and Street Lighting Supply Connections
- *If, upon physical checking or through MDI reading, the connected load is detected to be exceeding by more than 10% of the sanctioned load, a one-time penalty of ₹500 per KW (or as amended by the Commission) shall be levied on the excess load, including 10%.*
- *The licensee shall issue a notice to the consumer intimating that he has exceeded his sanctioned load and that his load is being enhanced based on physical checking/MDI reading.*

- *The consumer shall be given 30 days to deposit the penalty amount and enhanced security deposit.*
- *If the consumer fails to comply, the penalty and enhanced security deposit shall be included in the next bill, with reasons for such inclusion indicated in the bill. The consumer's load shall be considered enhanced from the successive billing cycle.*
- *In cases where the consumer's load exceeds 20 KW, an additional penalty of ₹130 per KW per month (or as amended by the Commission) shall be levied on the excess load, including 10%, for the preceding six months or for the period from the date of last checking or from the date of release of connection, whichever is less.*

  9.4 General

  9.4.1 Submission of Revised Test Report

  In all consumer categories mentioned under Regulations 9.3.1 to 9.3.6, the consumer must submit a revised test report (wherever applicable) along with all relevant documents.
- *The competent authority shall sanction the revised load within one month of receiving the complete documents from the consumer.*
- *Load enhancement shall be sanctioned subject to technical feasibility.*

  9.4.2 Change in Category Due to Excess Load

  In all consumer categories mentioned under Regulations 9.3.1 to 9.3.6, if there is a change in category due to excess load (i.e., from LT supply to HT supply) and it is not possible to regularize it as HT supply, then the consumer will have the option to:
- *Have the load sanctioned up to 50 kW and remove the excess load.*

  9.4.3 Unauthorized Extension of Load is Not Unauthorized Use of Electricity

Unauthorized extension of load shall not be considered as unauthorized use of electricity under Sections 126 & 135 of the Electricity Act, 2003. However, it shall attract penalties as prescribed under these Regulations.

1.14 From an examination of the above, the following regulatory position is manifest:

i. Use of electricity beyond the sanctioned load is not 'Unauthorized Use of Electricity' under Sections 126 & 135 of the Electricity Act, 2003. However, it attracts penalties and procedural actions under Regulation 9.

ii. Inspection for Unauthorized Load
   a. HT connections (except domestic): Inspections must be conducted by officers not below SDO rank.
   b. If abnormal consumption is noted for three consecutive billing cycles, the JE may inspect with SDO's prior approval.
   c. If maximum demand exceeds the sanctioned load by more than 5%, the consumer must either reduce or regularize the excess load.

iii. Penalties for Unauthorized Load Extension
   a. Non-Domestic & Bulk Supply Connections

- If the load exceeds by more than 10%, a one-time penalty of ₹500/kW is imposed.
- If total load exceeds 20 kW, an additional monthly penalty of ₹130/kW is charged for six months or since the last inspection/release of connection.

iv. Regularization and Load Enhancement

a. Consumers must submit revised test reports and documents for regularization.
b. Authorities must approve load enhancement within one month, subject to feasibility.
c. If a category change from LT to HT occurs due to excess load and cannot be regularized, consumers can reduce their load to 50 kW.

In the above regulatory background, the facts of the present case are liable to be viewed by the Hon'ble Commission.

IV. BRIEF FACTUAL BACKGROUND

1.1 On 30.10.2012, the Petitioner applied for an electricity connection to the Respondent with a load of 1200 kW and Contract Demand (CD) of 1200 KVA vide Application bearing A&A No. 18754/HT/NDS under the Non-Domestic High-Tension Category. The Respondent granted the said sanction to the Petitioner vide its Sanction Letter dated 12.11.2012. A copy of Sanction Letter dated 12.11.2012 issued by the Respondent to the Petitioner is annexed

1.2 In furtherance of the said sanction, vide notices dated 01.03.2013 and 05.03.2013, the Respondent raised a demand of Rs. 41,62,349/- and Rs. 62,435/- towards charges for providing an 11kV Independent Feeder and Supervision Charges, respectively. The Petitioner duly paid the said charges on 07.03.2013. A copy of notices dated 01.03.2013 and 05.03.2013 and the chalan of payment annexed

1.3 In the year 2016, the sanctioned load of the Petitioner was increased to 1800kVA vide sanction letter dated 16.07.2016 Thereafter, considering its consumption patterns, on 27.06.2024, the Petitioner made an online application to the Respondent seeking enhancement of its load from 1800 kVA to 2800 kVA. Pertinently, despite applying for an enhanced load in June 2024, the application was inordinately delayed, and even the Technical Feasibility Report was not prepared after a lapse of four months. It was only on 08.10.2024 that the Respondent sought clarifications from the Petitioner, which were promptly provided vide letters dated 25.10.2024 and 20.11.2024. The enhanced load was sanctioned by the Respondent vide its letter dated 28.11.2024. A copy of Sanction Letter dated 16.07.2027 issued by the Respondent to the Petitioner annexed. A copy of Sanction Letter dated 28.11.2024 issued by the Respondent to the Petitioner is annexed.

1.4 It is apposite to mention that since the Petitioner had applied for an enhanced load in June 2024 itself, this sanction of enhanced load, though approved on 28.11.2024, ought to have been considered as effective from the date of the application, i.e., 27.06.2024. In other words, with the grant of the enhanced load, the CD of the Petitioner was liable to be considered as 2800 kW w.e.f. 27.06.2024.

1.5 While the above process of sanctioning additional load was underway, in an unjustified manner, the Respondent started harassing the Petitioner regarding its Maximum Demand Indicator (MDI) exceeding the sanctioned limit. In this regard, the following points are noteworthy:

i. In 2024, due to a significant increase in the student population on campus and an exceptionally hot summer, the electricity consumption of the Petitioner exceeded the sanctioned load capacity of 1800 kW. Unfortunately, the MDI Controller malfunctioned, causing an unintended exceedance of the MDI.

ii. During this period, the Petitioner received three notices from the SDO of the Respondent bearing Memo Nos. 158, 502, and 765, dated 23.04.2024, 28.05.2024, and 29.05.2024, respectively. In these notices, the Respondent stated that their 'Audit Party' had found the Petitioner liable for 'short assessment' of Rs. 12,95,896/-, Rs. 12,04,816/-, and Rs. 2,40,963/-. However, neither any details of the short assessment nor the months to which it pertained were mentioned by the Respondent. Furthermore, the said notices were not even in the format of a demand notice as provided under the Supply Code. Copies of Memo Nos. 158, 502, and 765, dated 23.04.2024, 28.05.2024, and 29.05.2024, respectively are annexed.

iii. The Petitioner immediately went to the office of the Respondent to meet the SDO and understand the levy under the above Memos. During the said meeting, it was orally informed to the Petitioner that the said levy was on account of the Petitioner exceeding MDI or sanctioned load of 1800 kVA in the various months of September 2023 onwards. However, strangely, neither any of such penalty was levied onto the Petitioner while raising the energy bills during the year 2023 nor any notice was served upon the Petitioner during this period. In fact, even in the Memos now raised by the Respondent no details of the MDI of the Petitioner increasing in any particular month was stated. Rather, the Memos merely stated that the same was on account of 'short assessment' bereft of any details. As such, while orally the Petitioner was being informed that the said charges pertained to increase in MDI, the Memos issued by the Respondent stated otherwise.

iv. Further, even in the energy bills of the Petitioner raised by the Respondent in the months of July 2024 and August, 2024, the Respondent again indicated an increase in MDI beyond the sanctioned load of 1800 kVA. Copies of energy bills of the Petitioner for the months of July and August 2024 are annexed.

v. In these circumstances, the Petitioner wrote to the SDO's office in the Respondent corporation on 23.08.2024 requesting for a waiver of the penalty considering the extra ordinary circumstances where the application of the Petitioner for enhanced load had been pending. The contents of the said letter are reproduced hereinbelow for ready reference:

"*We would like to inform you that our Maximum Demand Indicator (MDI) increased in July and August 2024. We had applied for a Load Extension with DHVBN on June 27, 2024, Vide application number G33-624-331.*

Given that the load extension request was submitted prior to the period of increased MDI, we kindly request that no penalty be imposed for the months of July and August 2024."

However, no response was received from the Respondent despite repeated physical follow-ups. A copy of letter dated 23.08.2024 of the Petitioner to the Respondent is annexed

vi. In these circumstances, considering a change in its consumption pattern, acting promptly, the Petitioner applied for a load enhancement on 27.06.2024 from 1800 kVA to 2400 kVA and installed a new MDI Controller on 01.07.2024 to prevent further issues;

vii. While the position remained as above, the Respondent unilaterally and without following the procedure prescribed under the Supply Code, added a sum of Rs.12,04,816/- (as demanded under the Memo dated 28.05.2024) as 'Sundry Charges/Allowances' in its monthly energy bill of September, 2024. Pertinently, since the said amount now became part of the monthly energy bill of the Petitioner, any non-payment of the said amount could be construed as non-payment of energy bills leading to potential risk of disconnection. A copy of monthly energy bill of the Petitioner for the month of September, 2024 is annexed

viii. As such, being constrained and having received no formal communication for the said levy, the Petitioner paid its energy bill for the month of September 2024 along with the so-called 'Sundry Charges/Allowances' amounting to Rs.12,04,816/- over and above its actual energy bill.

ix. On 18.10.2024, a checking party of the Respondent inspected the premises of the Petitioner and, vide their letter dated 23.10.2024, served a Provisional Order of Assessment for unauthorized use of electricity under Section 126 of the Electricity Act, 2003. Interestingly, the said notice stated as follows:

"…

2. During above inspection, the following act(s) of unauthorized use of electricity was noticed by the authorized Inspecting officer (A.I.O.):

Visit the site for checking and found MDI of such connecting is increased in the month of June-2024 i.e. 2040.8 and in Aug-2024 i.e. 1981.6 and in Sept.2024 i.e. 2264.8. but on MDI penalty is not taken up in the energy bills. Hence it is a case of MDI Exceeded.

3. The above facts indicate that you have been indulging in unauthorized use of electricity under Section-126 of Indian Electricity Act-2003. Accordingly, undersigned the Authorized Assessing Officer, in terms of Haryana Govt. Gazette Notification No. 1/12/2003-1 Power has finally assessed the electricity charges

amounting to Rs.3401292/- to be paid by you for the above unauthorized act(s). Details of amount assessed are as under:
5. You are hereby directed (strike out whichever is not applicable):
a) To rectify the unauthorized extension of supply to any authorized premises other than the authorised premises
OR
To rectify the unauthorized re-sale or otherwise of energy from your source to any other person.
b) To rectify the unauthorized extended load (if load is more than 35 KW current meter).
In case no action is taken by you as directed in sub-para -a & -b above along with revised test report within 48 hours your electric supply shall be disconnected."

A copy of Provisional Order of Assessment under Section 126 of the Electricity Act, 2003 is annexed

i. In this manner, despite being responsible for the delay in processing the Petitioner's application for enhanced load, the Respondent alleges exceedance of MDI by the Petitioner during the months of June, August, and September, 2024 when the application was still pending. In fact, in October, when the said notice was served upon the Petitioner, the Respondent was in the process of preparing the Technical Feasibility Report and was fully aware of the consumption patterns of the Petitioner.
ii. The aforesaid notice was followed by another notice dated 12.11.2024 (received on 21.11.2024), wherein the Respondent reiterated its demand of Rs. 34,01,292/-. A copy of letter/notice dated 12.11.2024 is annexed
iii. In these circumstances, the Petitioner sent detailed representations to the Respondent vide letters dated, 11.11.2024, 21.11.2024, 16.12.2024 and 29.01.2025. However, yet again no response was received. Instead, during personal meetings with the SDO, the Petitioner was coerced into availing an option of paying the penalty in three instalments. Copies of letters dated 11.11.2024, 21.11.2024, 16.12.2024 ad 29.01.2025 of the Petitioner to the Respondent are annexed
iv. Once again, following the same high-handed way of dealing things, while the Petitioner kept of making representations to the Respondent and met the officials several times, neither nay formal response was issued to the Petitioner, nor any clarification was provided. Rather, in the same manner as done earlier, in order to arm twist, the Petitioner, the Respondent added the said sum of Rs.34,01,292/- in the monthly energy bill of January, 2025. A copy of monthly energy bill of the Petitioner for the month of January 2025 is annexed

Considering the rigors of Section 126 of the Electricity Act, 2003, the Petitioner has paid the first and second instalments of the penalty, i.e., Rs. 11,86,742/- and Rs. 12,42,909.68/- respectively in the months of January and February 2025, to the Respondent under protest.

1.6 When the Respondent thereafter included the amount of the third instalment in energy bill of the Petitioner for the month of March, 2025, the Petitioner was constrained to write to the Respondent that stating that while its was fully willing to pay the actual energy bill amount, it did not wish to pay the 3rd instalment and approach this Hon'ble Comision to avail the legal remedies available to it. Accordingly, the Petitioner vide its letter dated 18.03.2025 requested the Respondent to issue a challan for an amount of Rs 20,63,513.89/- (i.e. the actual energy bill of the Petitioner) so that the same can be paid. However, when the said request was made, the concerned officials refused to even accept the said letter and threated the Petitioner that in case the entire bill is not paid their electricity connection will be disconnected. In these circumstances the Petitioner is has approaching this Hon'ble Commission in the hope of justice. A copy of letter dated 18.03.2025 issued by the Petitioner to the Respondent is annexed.

V. THE LOAD OF THE PETITIONER IS LIABLE TO BE CONSIDERED AS ENHANCED TO 2800 KW W.E.F THE DATE OF IT APPLIACTION i.e. 27.06.2024.

1.7 Evidently, upon realizing in the year 2024 that its consumption patterns were undergoing a change, the Petitioner promptly applied for an enhancement of its load from 1800 to 2400 kilowatts. However, the said application was kept pending by the Respondent for reasons best known to it. This was despite the fact that, in terms of Regulation 4.4.7 of the Supply Code, the Respondent was obligated to process the Petitioner's application within strict timelines to ensure that the enhancement of load is sanctioned promptly, and that the consumer is not harassed under the pretext of an increase in consumption patterns.

1.8 The strict timelines under the Regulations have been framed to ensure that once an application for load enhancement is made, it is processed expeditiously so that the anticipated increase in consumption—leading to the application—is not treated as an unauthorized increase in Maximum Demand Indicator (MDI). If such an approach is permitted, it would mean that the Respondent benefits from its own default in failing to comply with the prescribed timelines under the regulation, while the Petitioner, despite acting diligently, is penalized for reasons not attributable to it. Such an outcome could never be the intent of the regulatory mandate under the Supply Code.

1.9 It is, therefore, submitted that the sanction of the enhanced load to the Petitioner ought to be considered effective from the date of its application, i.e., 27.06.2024.

1.10 In any case, it is a settled principle that when a statute or regulation prescribes a timeline within which an application must be processed, failure to adhere to such timelines results in the application being deemed allowed—either from the date of application or from the date when the prescribed timeline expires. It cannot be that an authority is permitted to first inordinately delay the processing of an application

and then later attribute faults to the applicant during the period of such delay concerning the same subject matter.

1.11 However, in the present case, it is an admitted position that despite the Petitioner having applied for load enhancement in June 2024, the Respondent inordinately delayed processing the application, and the sanction was granted only in November 2024 violating the provisions of the Supply Code as well as the Standards of Performance Regulations. Meanwhile, when the Petitioner's electricity consumption increased between June 2024 and November 2024, the Respondent, with impunity, alleged an increase in MDI and sought to levy penalties on the Petitioner. Such an approach by the Respondent is wholly contrary to the regulatory mandate under the Supply Code and the Standards of Performance Regulations and is liable to be viewed strictly by this Hon'ble Commission. Additionally, the Petitioner is also entitled to the compensation as provided under the Schedule-I of the Standards of Performance Regulations for delay in processing of the Application for load enhancement of the Petitioner.

1.12 Further, to prevent such a situation from arising in the future, the Petitioner seeks the indulgence of this Hon'ble Commission to issue a declaration that the grant of additional load to the Petitioner shall be considered effective from the date of its application for load enhancement, i.e., June 2024.

VI. THE LEVY OF PENALTY FOR INCREASE IN M.D.I UNDER THE NOTICE DATED 23.12.2024 OF THE RESPONDENT IS CONTRARY TO THE SUPPLY CODE AND THEREFORE LIABLE TO BE SET ASIDE.

1.13 It is submitted that a bare perusal of Regulation 9 of the Supply Code makes it clear that, in the case of HT consumers, when it is found that the maximum demand has exceeded the sanctioned load or the contract demand by more than 5%, the Respondent is required to issue a notice to the consumer, intimating that the sanctioned load and contract demand have been exceeded and requesting the removal of the additional load. Admittedly, no such notice under Regulation 9 has ever been issued by the Respondent onto the Petitioner.

1.14 Further, where the actual load exceeds the sanctioned load by more than 10%, Regulation 9.3.0.2 categorically provides that a one-time penalty of ₹500 per kilowatt shall be levied on the excess load, including the 10% threshold. Even for this purpose, the Respondent is obligated to issue a notice to the consumer and allow a 30-day period for depositing the penalty amount. Additionally, in cases where the excess load exceeds 20 kilowatts, the prescribed penalty rate is ₹130 per kilowatt per month on the load exceeding the 10% threshold.

1.15 When examined in light of the above regulatory framework, the Respondent's notice dated 23rd October 2024 reveals that the Petitioner's recorded load was as follows:

- June 2024: 2040.8 kW
- August 2024: 1981.6 kW
- September 2024: 2264.8 kW

Assuming, without admitting, that the Petitioner's contract demand during these months stood at 1800 kW, the alleged excess load would be:

- June 2024: 240.8 kW (excess of 13.3%)
- August 2024: 181.6 kW (excess of 10.08%)
- September 2024: 464.8 kW (excess of 25.80%)

Again, assuming, though not admitting, that the above figures are correct, the penalty to be levied upon the Petitioner must be computed strictly in accordance with Regulation 9 of the Supply Code which clearly has bot been done and an arbitrary figure of Rs.34,01,292/- has been stated as the demand without any breakup. Furthermore, under the regulatory framework, an increase in MDI beyond the permissible limit necessarily warrants load enhancement.

1.16 However, in the present case, while the Petitioner is being accused of increasing its contract demand, for which the regulatory consequence is load enhancement, its application for load enhancement remained pending before the Respondent, and yet penalties were being arbitrarily levied on the Petitioner. Most importantly, a perusal of the notice dated 28.10.2024 reveals that, while the Respondent alleges that the Petitioner has exceeded its MDI, the said notice has been issued under Section 126 of the Electricity Act, 2003, which pertains to unauthorized use of electricity.

1.17 This is despite the fact that Regulation 9 of the Supply Code unequivocally provides that an increase in sanctioned load or contract demand shall not be treated as a case under Section 126 of the Act. Despite being fully aware of this regulatory and statutory mandate, the Respondent, in a most bizarre and arbitrary manner, has wrongfully issued the notice dated 28.10.2024, accusing the Petitioner of unauthorized use of electricity under Section 126 in clear contravention of Regulation 9. This provision carries criminal connotations, and the Respondent has sought to levy unjustified penalties without even providing any computation as to how the figures in the notice were arrived at.

1.18 Pertinently, while issuing the impugned notice, the Respondent has sought to invoke Section 126 of the Act, yet it has failed to adhere to the due process prescribed therein or to Regulation 8 of the Supply Code, which extensively deals with the procedure for issuing a notice under Section 126 and the consequences thereof.

1.19 Thus, in a most haphazard and arbitrary manner, the Respondent has not only ignored Regulation 9 of the Supply Code but has also issued a notice under Section 126 without complying with the procedural mandate governing its application. It appears that this has been done with the sole intent of harassing and coercing the Petitioner into depositing unjustified penalties, using the threat of Section 126, despite full knowledge that:

(i) The Petitioner's case does not fall within the scope of Section 126 of the Act.

(ii) The Petitioner's case also could not be considered under Regulation 9, as its application for load enhancement had been pending since June 2024.

The actions of the Respondent are thus in complete derogation of the regulatory framework framed by this Hon'ble Commission, and the Respondent is liable to be punished for such violations, including by way of compensation provided under Schedule I of the Standards of Performance Regulations. Consequently, the notice dated 28.10.2024 issued by the Respondent is liable to be quashed.

1.20 On account of the illegal demands raised by the Respondent that too under the rigorous Section 126 of the Act arm twisting the Petitioner with a threat of disconnection, the Petitioner has been constrained to bend to the illegal whims of the Respondent who in personal meetings suggested that the Petitioner makes payment of the penally is three instalments. Pertinently, the deposited amount having unilaterally been included under the monthly electricity bill of January, 2025. In order to avoid disconnecting electricity to a place of studies, the Petitioner has been constrained to deposit the first and second instalments of the penalty, i.e., Rs. 11,86,742/- and Rs,12,42,909.68/- to the Respondent under protest in January and February 2025.

VII. THE NOTICES OF SHORT ASSESTEMENT ARE ILLEGAL AND ISSUE OUTSIDE THE REGULATORY MANADATE OF THHIS HON'BLE COMMISSION.

1.21 It is submitted that the Respondent has issued certain notices to the Petitioner, purporting to levy charges for short assessment. Vide Memo Nos. 158, 502, and 765, dated 23.04.2024, 28.05.2024, and 29.05.2024, respectively, the Respondent has stated that its Audit Party had found the Petitioner liable for a short assessment of Rs. 12,95,896/-, Rs. 12,04,816/-, and Rs. 2,40,963/-, totaling Rs. 27,41,675/-.

1.22 However, the said notices fail to provide any details regarding the alleged short assessment, including the specific billing months to which it pertains. Even assuming, without admitting, that the Respondent's claim is correct, the alleged short-assessed amounts, by their very nature, should have formed part of the Petitioner's monthly billing. It was, therefore, imperative for the Respondent to specify in its notices:

(i) The basis for the alleged short assessment

(ii) The specific months in which the short assessment is claimed to have occurred

(iii) The details of any unpaid charges, if applicable

However, a bare perusal of the impugned memos reveals that they have been issued in a most casual and arbitrary manner, without providing any material particulars or reference to any assessment actually conducted by the Respondent. Furthermore, the said notices fail to specify which bills have allegedly remained unpaid and contain no reference to any computation done by the Respondent.

1.23 Strangely, in the personal meetings with the SDO of the Respondent the so-called clarification provided to the Petitioner was that the charges under these Memos were towards exceedance of MDI in the months of September and October 2023. However, neither any notice was issued by the Respondent to the Petitioner during this period, nor the Respondent has any right to raise such belated demands that too in the manner it choose under the extant Regulations of this Hon'ble Commission.

1.24 Clearly, these Memos/notices are nothing, but illegal demands raised by the Respondent without any legal or factual basis, with the sole intent of extracting money from the Petitioner. This is evident from the fact that while the Petitioner kept of requesting for clarification on these Memos which are evidently bereft of any details, the Respondent in a surreptitious manner included a sum of Rs.12,04,816 in the monthly bill of the Petitioner for the month of September 2024. This ensured that the Petitioner was left with no other option to either pay the energy bill or face the threat of disconnect. Thus, this was classic arm-twisting step by the Respondent which is unfortunate. The Petitioner ultimately had to succumb to these tactics and paid the demand along with the monthly energy payments in the month of September 2024. It is pertinent to highlight that the Petitioner is not an industrial consumer or a fly by night operator but rather a technical university and a non-profit organization of exceptional repute. The Petitioner has never delayed making payment to any energy bills and has always tried to approach any issues that have been raised by the Respondent in the most conciliatory manner. When even such a consumer is harassed by the Respondent in the manner as elaborated above, the same is bound to shake the confidence of the general masses in the Respondent corporation and reflects rather poorly on its operations. Accordingly, the issuance of such arbitrary demand notices against an organization such as the Petitioner is liable to be viewed very strictly by this Hon'ble Commission.

1.25 Moreover, these demand notices are not only illegal and baseless but also suffer from serious procedural infirmities:

(i) The notices have not been issued in the formats prescribed under the Supply Code.

(ii) They do not contain any material particulars justifying the amounts claimed.

(iii) They fail to meet the procedural requirements for issuing an assessment under the applicable regulations.

In view of the above, it is evident that the impugned notices have been issued illegally and arbitrarily and are liable to be quashed by this Hon'ble Commission.

1.26 It is submitted that from the submissions made hereinabove, it is evident that the Respondent has proceeded in gross violation of the Regulations framed by this Hon'ble Commission, and as such, the Petitioner has an extremely strong case on merits. Further, considering that the Petitioner has already made substantial payment against the illegal demands made by the Respondent under protest,

the balance of convenience for the grant of interim relief is also heavily tilted in favour of the Petitioner and against the Respondent. Needless to state, the Petitioner, being a non-profit educational institution, if compelled to pay the entire disputed amount, would suffer irreparable financial injury. As such, the Petitioner has a good case for the grant of interim relief.

1.27 The present Petition has been filed bonafide and in the interest of justice.

1.28 The Petitioner has not filed any other similar Petition/Application, seeking similar reliefs before this Hon'ble Commission or any other Court/Tribunal. The Petitioner craves leave of this Hon'ble Commission to supplement the submission made in the present Petition with such other submissions as may be necessary for effective adjudication of the present Petition during the course of proceedings before this Hon'ble Commission.

1.29 The Petitioner submits that the since the actions of the Respondent, as elaborated hereinabove, are evidently and grossly in violation of the Regulations framed by this Hon'ble Commission as also its own Circulars issued thereunder, the Respondent being in violation, is liable to be punished under Section 142 and 147 of the Act. The present Petition is therefore maintainable before this Hon'ble Commission under Section 142 read with Section 146 of the Act read with Regulation 22 of the Haryana Electricity Regulatory Commission (Conduct of Business) Regulations, 2019

PRAYER

In light of the aforementioned facts and circumstances, it is humbly prayed that this Hon'ble. Commission may be pleased to:

i. Issue strict directions against the Respondent for proceeding in complete derogation of the Regulations framed by this Hon'ble Commission;
ii. Quash the notice dated 23.04.2024, 28.05.2024, and 29.05.2024 issued by the Respondent imposing illegal and unjustified charges for 'short assessment' and direct the Respondent to refund an amount of Rs.12,04,816/- paid by the Petitioner along with the monthly bill of September 2024;
iii. Quash the notice dated 23.10.2024 and 11.11.2024 issued by the Respondent under Section 126 of the Electricity Act, imposing illegal penalty onto the Petitioner for allegedly exceeding its MDI and direct the Respondent to refund the amounts paid by the Petitioner against the said demand under protest;
iv. Declare that the sanctioned load of the Petitioner stands enhanced to 2800 kW w.e.f. from its date of application of enhanced load i.e. 27.06.2024;
v. During the pendency of the present Petition, direct status-quo to be maintained by the Respondent towards any recovery of the illegal penalties and demands raised by it and direct it not to take any coercive action against the Petitioner; and

vi. Pass such further orders or directions in favor of the Petitioner as this Hon'ble Commission deems fit and proper in the facts and circumstances of the case.

2. The case was heard on 19/11/2025, Sh. Lovepreet Singh counsel for the respondent requested for four (4) weeks time to file the reply to the petition. To the query of the Commission on the maintainability, Sh. Tushar Mathur counsel for the petitioner submitted that the petition has been filed under Section 142. He further sought some time to clarify the issue and to demonstrate the maintainability of the petition based on the facts and figures. Acceding to request of the parties, the Commission adjourns the matter and directs respondent-DHBVN to file its reply within four (4) weeks and petitioner to file its rejoinder within two (2) weeks thereafter. Further, the petitioner to demonstrate the maintainability of the petition on next date of hearing.
3. The case was heard on 06/01/2026, Sh. Raghujit Singh Madan counsel for the respondent submitted the reply to the petition. Sh. Varun Kalra proxy counsel submitted that arguing counsel is not available and requested for some time to file the rejoinder. Acceding to request of the petitioner, the Commission adjourns the matter and directs petitioner to file its rejoinder within four (4) weeks with advance copy to respondent. Further, the petitioner to demonstrate the maintainability of the petition on next date of hearing.
4. **Reply Submitted on 06/01/2026:**

4.1 That the present reply is being filed on behalf of Respondent Dakshin Haryana Bijli Vitran Nigam Limited (for brevity "DHBVNL" or "Answering Respondent") through Er. Gaurav Choudhary working as Executive Engineer who is fully conversant with the facts and circumstances of the case on the basis of knowledge derived from record and is also duly authorized to submit, aver and sign the present reply.

4.2 That DHBVNL is a State-Owned Power Distribution Company (for brevity "Discom") and registered under the Companies Act, 1956, formed under corporatization/ restructuring of erstwhile Haryana State Electricity Board and is a holder of distribution and retail supply of electricity License in the southern zone of the State of Haryana.

4.3 That all submissions herein are made in the alternative and without prejudice to each other. Any allegations raised by the Petitioner against the Answering Respondent-DHBVNL are denied in totality and the same may be treated as 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.

PRELIMINARY SUBMISSIONS/ OBJECTIONS:

A. <u>NON-MAINTAINABILITY OF THE PETITION UNDER SECTIONS 142 AND 146 OF THE ELECTRICITY ACT, 2003:</u>

4.4 That at the outset, it is submitted that the grievance raised by the Petitioner by way of the present petition 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.;"

It is submitted that the Petitioner is a consumer in terms of Section 2(15) of the Electricity Act, 2003 ("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.

Reliance in this regard is placed on the observations made by the Hon'ble APTEL in the case of *U.P. Power Corporation Ltd. Vs. Jagannat Steel Pvt. Ltd.* [Appeal Nos. 153 and 154 of 2011, Decided on 19.07.2012; Law Finder Doc Id # 1071144], reproduced below:

" 11. The second issue is regarding jurisdiction of the State Commission in adjudicating upon the billing dispute of the consumer raised in this matter.

… …

11.4 In another judgment dated 20.11.2009 in appeal no.165 of 2005 in the matter of Madhyachal Vidyut Vitran Nigfam Ltd & Another v. Uttar Pradesh Electricity Regulatory Commission & Another, this Tribunal has decided as under:

"05) The question before us is whether the order dated 13.04.05 and the penalty order dated 23.08.05 are within jurisdiction. The order dated 23.08.05 is passed for non-compliance of the order dated 13.04.05. Therefore, the principal issue is whether the Commission had the jurisdiction to pass the order dated 13.04.05.

… … …

07) The powers of the Commission are enumerated in section 86 of the Act. One of the powers enumerated therein is the power to adjudicate a dispute between the licensees and generating companies and to refer any dispute to arbitration. There is no power given to the Commission to adjudicate upon disputes between licensees and consumers. The Commission framed the Electricity Supply Code 2005 in exercise of powers conferred by section 50 and section 181, read with sections 43 to 48, 50, 55 to 59 of the Act which was notified on 18.02.05. The Supply Code, inter alia, provided for setting up of CGRF in accordance

with UPERC Consumer Grievance Redressal Forum and Ombudsman Regulations 2003 as amended from time to time. This also provides that any consumer aggrieved by non-redressal of his grievance by CGRF may make a representation for the redressal of his grievance by CGRF may make a representation for the redressal of his grievance to the Ombudsman appointed by the Commission. Earlier to that the Commission had framed UPERC (Consumer Grievance Redressal Forum and Ombudsman Regulation 2003) which came into effect on 09.12.03. These Regulations provided an appeal before the State Regulatory Commission from the order of the Ombudsman. There was no provision at any point of time for an appeal to the Commission from the CGRF.

… … …

09) In our earlier judgment, in M/s. Polyplex Corporation Ltd. v. Uttaranchal Power Corporation Ltd. & Ors. in appeal No. 220 of 2006, this Tribunal held that no petition/appeal/application lies before any Regulatory Commission or this Tribunal in respect of billing matters. We also held that no petition/appeal/application lies to any Regulatory Commission or Appellate Tribunal from an order passed by the Ombudsman or CGRF or any other body like the Appellate Committee. The Hon'ble Supreme Court in the case of Maharashtra Electricity Regulatory Commission v. Reliance Energy Ltd. (2007) 8 SCC 381 held that section 86(1)(f) of The Electricity Act, 2003 which prescribes the adjudicatory functions of the State Commission does not encompass within its domain complaints of individual consumers and that it only provides that the Commission can adjudicate upon the disputes between the licensees and the generating companies and to refer any such dispute to arbitration. The Supreme Court affirmed that this does not include in it a grievance of an individual consumer. The Supreme Court further held that a proper forum for that is section 42(5) and thereafter section 42(6), read with the Regulation, if any, which provide for establishing the CGRF and the Ombudsman.

… … …"

11.5 In the above judgments it has been decided that the State Commissions do not have the powers to adjudicate on a billing dispute between a consumer and licensee. The findings rendered by this Tribunal in the above judgments, will squarely apply to the present case."

4.5 That it is humbly submitted that the question of the maintainability, that goes to the root of the matter, may kindly be decided at a preliminary stage, without adverting to the merits of the case. Reliance in this regard is placed on the judgments:

a. *Securities and Exchange Board of India v. Mangalore Stock Exchange* [2005 (10) SCC 274], wherein the Hon'ble Supreme Court held as follows:

"2. The primary question which has been raised in this appeal is whether the appeal is maintainable before the Securities Appellate Tribunal under the Securities and Exchange Board of India Act, 1992 against the order passed by the Board under Section 4 (4) of the

Securities Contract (Regulation) Act, 1956. It appears that the Tribunal had already passed an interim order on 20th September, 2004. The issue as to the maintainability of the appeal was raised by the appellant before the Tribunal and noted on 22nd November, 2004. Despite this, the Tribunal has passed an order on 20th January, 2005, directing the appellant to consider the application made by the respondent for corporatisation and demutualisation de hors the order passed by the Board under Section 4 (4) of the Securities Contract (Regulation) Act, 1956. Being aggrieved by the order dated 20th January, 2005 this appeal has been preferred. We are of the view that once the Tribunal has noted that the appeal had been challenged as not being maintainable, it should dispose of the issue of maintainability first before passing any further order. In that view of the matter, the impugned order dated 20th January, 2005 is stayed until the Tribunal disposes of the issue of maintainability. The Tribunal is requested to dispose of the issue as early as is conveniently possible, preferably within a period of 8 weeks from date."

b. In *United India Insurance Co. Ltd. v. Arwish C. Marak* [2005 (10) SCC 458], the Hon'ble Apex Court observed as under:

"4. This order of the High Court is challenged in this appeal. Learned counsel appearing for the appellant submitted that the handing over of the possession of the vehicle to the first respondent claimant by the High Court at an interlocutory stage amounts to allowing the revision petition itself. Hence the same could not have been done, more so, on the background of the fact that maintainability of the revision petition before the High Court itself is under question.

5. Having heard learned counsel for the parties, we are of the opinion that the High Court ought not to have further handed over the possession of the vehicle under question to the first respondent until the ownership of the said vehicles was duly established in a proper manner, that too at interlocutory stage. For the reasons stated above this appeal is allowed. The impugned order of the High Court is set aside and that of the Magistrate is restored. The High Court will now consider the question of maintainability of the revision petition before it and decide the revision petition in accordance with law."

c. Similarly in the case of *Union of India V Ranbir Singh Rathaur & Ors.* [(2006) 11 SCC 696], the Hon'ble Apex Court held as under:

"42. ...In any event we feel that the High Court's approach is clearly erroneous. The present appellants in the counter affidavit filed had raised a preliminary objection as regards the maintainability of the writ petitions and had requested the High Court to grant further opportunity if the necessity so arises to file a detailed counter affidavit after the preliminary objections were decided. The High Court in fact in one of the orders clearly indicated that the preliminary objections were to be decided first. But strangely it did not do so. It reserved the judgment and delivered the final judgment after about three years. Since the High Court has not dealt with the matter in the proper perspective we feel it would be proper for the High Court to re-hear the matter. The High Court

shall first decide the preliminary objections raised by the present appellants about the non-maintainability of the writ petitions..."

As such, the present petition may kindly be dismissed as non-maintainable and the Petitioner may kindly be relegated to exercise its remedy before the Ld. CGRF.

4.6 That, without prejudice to the foregoing, it is humbly submitted that the Petitioner, by way of the present petition, has contended that the notice/ order dated 23.10.2024 (Annexure P-11) has been wrongly issued by the Answering Respondent under Section 126 of the Act, 2003. In this regard, it is submitted that the Petitioner, M/s BML Educorp Services, has been a consumer since the year 2012, bearing Account No. 9866433000, and currently holds a sanctioned load of 2800 kW under the HT Supply – Commercial category. It is submitted that though, at present, the sanctioned load of the Petitioner is 2800kW, however at the time the notice was issued, the Petitioner was having a sanctioned load of 1800 KW and a contract demand of 1800 KVA.

It brought to the notice of the Hon'ble Commission that the premises of the Petitioner was checked by the checking party of the Answering Respondent and during the inspection it was found that though the contract demand of the Petitioner was 1800 kVA, however, the Maximum Demand Indicator ("MDI") data reflected that the Petitioner's recorded demand was 2040.8 kW in June 2024, 1981.6 kW in August 2024, and 2264.8 kW in September 2024, thereby operating with excess load of 240.8 kW (13.38%), 181.6 kW (10.08%) and 464.8 kW (25.82%), respectively for the aforementioned months. A copy of the LL-1 Checking Report is annexed. Considering the LL-1 findings and the consistently exceeded MDI during the above months i.e. June, August and September, a penalty was computed strictly in terms of Regulation 9.3.5 of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 ("Supply Code") read with the Sale Circular No. D-7/2020. The relevant Regulation is reproduced below for ready reference:

"9.3 Levy of penalty on account of unauthorized extension of load, in addition to action under Regulation 9.2 above.

... ...

9.3.5 H.T Industrial and steel furnace power supply

Under this category, the maximum load which can be drawn by a consumer is the contract demand declared by him which is referred to as the sanctioned contract demand.

In case the maximum demand of a consumer exceeds his sanctioned contract demand in any month by more than 5%, a surcharge of 25% (or as amended by the Commission from time to time) will be levied on the charges towards total sale of power during that month."

As such, the total liability of Rs. 34,01,292/- being 25% of Schedule of Payment (SOP) charges as prescribed was duly accessed and communicated to the Petitioner.

4.7 That at this stage, it humbly submitted that though the penalty assessed in terms of the Regulations/ Sales Circulars in vogue, however, the Answering Respondent under a bonafide and inadvertent mistake issued the notice/order dated 23.10.2024 (Annexure P-11) under Section 126 of the Act, 2003. It is submitted that the said error was duly corrected by the Answering Respondent by way of issuance of the *"Notice for payment of Short Assessment of Rs.3401292/-"* issued vide Memo No. 2256 of 12.11.2024. It is humbly submitted that the unauthorized extension of load by the Petitioner does **not** amount to unauthorized use of electricity under sections 126 & 135 of the Act, 2003, as have been specifically stated under the Supply Code as under:

"9. Unauthorized extension of load

9.1 Unauthorized extension of load, wherever detected, shall not be considered as a case of unauthorized use of electricity under sections 126 & 135 of the Electricity Act, 2003 but shall be penalized in the following manner.

… … …

9.4.3 Unauthorized extension of load shall not be considered as unauthorized use of electricity. It shall, however, attract penalty as prescribed above under these Regulations."

It is humbly submitted that since the case of the Petitioner does not fall under Section 126 of the Act, 2003, as such, the present case is a "consumer grievance", liable to be decided by the Ld. CGRF.

B. SUBMISSION OF THE PETITIONER THAT SANCTION OF ENHANCED LOAD OUGHT TO BE CONSIDERED EFFECTIVE FROM 27.06.2024 IS MIS-CONCEIVED:

4.8 That it is humbly submitted that, the Petitioner had applied for enhancement of load from 1800 kW to 2800 kW vide Application No. G33-624-331 dated 27.06.2024. The payment was made by the Petitioner on 28.06.2024 (Saturday). It is humbly submitted that though the application was made, however, certain documents were missing and were sought by the Answering Respondent from the Petitioner. The following steps were taken by the Answering Respondent, after the submission of the application on the part of the Petitioner:

i. By way of an email dated 02.07.2024, a copy of which is annexed, the Petitioner/ consumer was called upon to address the observations raised and supply the requisite documents. It may kindly be noted that the email was sent to the Petitioner promptly within a period of 4 days.

ii. The said documents were supplied by the Petitioner vide its letter dated 23.09.2024. A copy of the Petitioner's letter dated 23.09.2024 is annexed.

iii. Thereafter, an email dated 08.10.2024 was issued by the Chief Engineer to the Superintending Engineer seeking detailed clarification/ eligibility report along with Technical Feasibility Report ("TFR"). A copy of the email dated 08.10.2024 is annexed.

iv. The TFR was issued by the Answering Respondent vide Memo No.1983 dated 09.10.2024. A copy of the Memo No. 1983 dated 09.10.2024 *sans* its enclosures is annexed**.**

v. Subsequently, vide Office Memo No. Ch-86/CE'OP'/Delhi/GGN1/EOL/B-44 dated 28.11.2024 (Annexure P-6), the conditions subject to which the extended load was to be sanctioned were duly communicated to the Petitioner. A perusal of the letter dated 28.11.2024 shows that the sanction was not absolute and was subject to fulfillment of a number of pre-conditions enumerated therein.

vi. Further, on the basis of the Memo dated 28.11.2024 (Annexure P-6), the Answering Respondent issued a Demand Notice dated 13.12.2024 whereby the Petitioner was called deposited a sum of Rs.20,05,980/- (Rupees Twenty Lakhs, Five Thousand, Nine Hundred and Eighty Only). A copy of the Demand Notice dated 13.12.2024 is annexed.

vii. Once the amount was deposited by the Petitioner, a Service Connection Order dated 30.12.2024 was issued, a copy of which is annexed .

viii. Lastly, the HT-CT/PT was submitted by the Petitioner for testing which was sent to M&T Lab. The same was received back vide challan no. 32/64 dated 03.01.2025. The site of the Petitioner was also visited by the Answering Respondent for the replacement of the CT-PT and preparation of testing report. On the compliance of all the pre-requisite on the part of the Petitioner as well as by the Answering Respondent, the connection with enhanced load was energized on 27.01.2025. A copy of the "Certificate of Release of Connection" showing that the connection was energized on 27.01.2025 is annexed

It is humbly submitted that all actions were taken by the Answering Respondent promptly no delay can be attributed to the Answering Respondents.

4.9 That the Petitioner throughout the present petition has argued that the sanction of enhanced load should be considered from 27.06.2024 i.e. the date of application of the Petitioner. It is the case of the Answering Respondent that such an argument raised by the Petitioner is completely mis-conceived and is an afterthought to evade and deny the liability of Rs.3401292/- issued vide Memo No. 2256 of 12.11.2024. It is submitted the Petitioner's own bills dated 11.06.2024, 12.08.2024 and 12.09.2024 reflect consumption far beyond the sanctioned load. The subsequent enhancement to 2800 KVA in January 2025 operates only prospectively and does not nullify the assessment for earlier excess consumption. It is respectfully submitted that the present petition is founded on an incorrect and legally untenable assumption, namely, that the mere filing of an application for enhancement of load on 27.06.2024 automatically alters the Petitioner's sanctioned contract demand from that date. Contract demand remains unchanged until the licensee formally approves the enhancement, the consumer completes all statutory and

technical compliances, and the enhanced load is physically released at site. The foundational premise of the petition is therefore misconceived. Be that as it may, even in such a scenario, the penalty for the month of June cannot be denied by the Petitioner.

4.10 That it is further submitted that the Petitioner cannot use an incomplete or pending application as a shield against statutory consequences of over-drawing sanctioned demand, especially when the enhanced load had neither been sanctioned nor released. It is respectfully submitted that the acceptance of the Petitioner's interpretation would result in untenable and anomalous outcomes. It would enable consumers to evade legitimate liability simply by filing an application; render mandatory feasibility and safety checks meaningless; compromise system planning; and undermine the statutory scheme. Such an interpretation is contrary to the Act, 2003 and the regulatory framework.

4.11 That without prejudice to the above submissions, the Answering Respondent has acted strictly in accordance with the Act, 2003 the HERC Regulations, the Supply Code, and applicable circulars. Billing and assessment were correctly made on the sanctioned demand of 1800 KVA, and enhancement was duly given effect from the date of physical release. The assessment of Rs. 34,01,292/- is therefore legal, justified, and fully compliant with Section 126, Sales Circular D-7/2020, and inspection/billing records.

C. PETITION LIABLE TO BE DISMISSED ON GROUND OF DELAY AND LATCHES AND AS WELL AS ON THE PRINCIPLE OF ESTOPPEL, THE PETITIONER HAVING ALREADY MADE PAYMENT OF THE LIABILITY IN QUESTION WITHOUT ANY PROTEST:

4.12 The Petitioner had initially made partial payments in January and February, 2025 but chose to dispute the third instalment reflected in the electricity bill for March, 2025. Nevertheless, the Petitioner subsequently proceeded to pay the said third instalment as well. That the Petitioner, having already made substantial payments towards the assessment amount in January 2025, February 2025 and March 2025, is now estopped from challenging the very liability which it voluntarily complied with. The conduct of making payments and later disputing the assessment reflects clear acquiescence. The doctrine of waiver squarely applies.

4.13 That it is further submitted that the Petitioner approached this Hon'ble Commission only after considerable and unexplained delay. The Petitioner has thus "slept over its rights" attracting the maxim *'Vigilantibus non dormienti bus jura subvenient'* i.e. the law aids the vigilant and not those who slumber on their rights**.** A party who fails to act within the statutory framework cannot be permitted to revive stale claims that too through an incorrect jurisdiction.

As such, the present petition is liable to be dismissed on the sole ground of delay and latches and is also barred by the Doctrine of Estoppel, Doctrine of Waiver, and Doctrine of Acquiescence.

PARA-WISE REPLY:

1. The contents of para no. 1 are denied as incorrect and misleading. The present petition has been improperly filed under Sections 142 and 146 of the Electricity Act, 2003 despite the fact that the grievance raised squarely constitutes a consumer grievance to be dealt with exclusively by the Ld. Consumer Grievance Redressal Forum (CGRF) in terms of Section 42(5) of the Act and the HERC (Forum & Ombudsman) Regulations, 2020. It is denied that any terms of the Supply Code or Standards of Performance have been violated. The issuance of the assessment was strictly in accordance with Regulation 9.3.5 of the Supply Code, which mandates levy of 25% surcharge upon exceeding contracted demand by more than 5%. The earlier notice under Section 126, issued inadvertently, was immediately rectified by issuing a proper short-assessment notice, as permitted under the Regulations. It is further denied that any delay occurred in processing the Petitioner's load-enhancement application; the enhanced load was sanctioned and released only after the Petitioner fulfilled all procedural and technical requirements. The attempt to treat the penalty imposed by the Answering Respondent as a consequence of alleged departmental delay is factually incorrect and an afterthought to evade legitimate liability.
2. The contents of para no. 2 are wrong and denied. No violation of the Regulations has been committed by the Respondent, and the penalty was levied strictly in terms of Regulation 9.3.5 due to the Petitioner's consistent exceedance of Contract Demand. The allegation that the Respondent benefited from its own defaults is unfounded. The claim of harassment is misconceived and appears to be an attempt to avoid legitimate liability.
3. That the contents of para no. 3 insofar as it relates to the directions being sought by the Petitioner, the same is a matter of record, however, as have been detailed in the preliminary submissions/ objections hereinabove, the present petition is not maintainable and is liable to be dismissed. No relief and/or directions against the Answering Respondent are liable to be passed.
4. That the contents of para no. 4 are a matter of record.
5. That the contents of para no. 5 are a matter of record.
6. That the contents of para no. 6 are a matter of record. However, it is clarified that at the time the demand was made and penalty was imposed, the Petitioner had a sanctioned load of 1800kW.
7. The contents of para no. 7 are denied except to the extent of the reproduced provisions. The present dispute does not concern any failure by the Respondent to maintain the Petitioner's consumption within Contract Demand; rather, it arises from the Petitioner's repeated and significant exceedance of MDI beyond the permissible 5% limit. The penalty was imposed strictly as mandated under Regulation 9.3.5 of the Supply Code, which governs such cases. The Petitioner's reliance on other provisions does not dilute its clear statutory obligation to restrict demand within sanctioned limits.
8. That the contents of para no. 8 are a matter of record, however have no applicability to the facts and circumstances of the present case as the

penalty was imposed by the Answering Respondent under Regulation 9.3.5 of the Supply Code.

9. The contents of para no. 9, including the reproduction of timelines, are a matter of record, however, the allegation that the Respondent failed to comply with these timelines is denied. The Petitioner's load-enhancement application's processing, including issuance of TRF, sanction, demand notice, testing, and release of extended load, was completed strictly in accordance with the Supply Code once the Petitioner fulfilled all prerequisites. No delay is attributable to the Respondents.

10. – 11. The contents of para no. 10 and 11 insofar as it relates to the reproduction of the provisions of the Standards of Performance Regulations, the same is a matter of record. However, the allegation of non-adherence to such Regulations on the part of the Answering Respondent is wrong and vehemently denied. It is submitted that the Respondent acted bona fide and continued to process the application diligently. Even otherwise, delay, if any, has no bearing on the Petitioner's independent statutory obligation to restrict its demand within sanctioned limits, nor does it nullify the penalty validly imposed under Regulation 9.3.5 of Supply Code. In any case, the claims being raised by the Petitioner constitute a "consumer grievance" and must be raised before the Ld. CGRF, which is the exclusive forum for such matters. The same cannot be agitated in a petition under Sections 142 and 146 of the Act, 2003.

12. That the contents of para no. 12 insofar it relates to the reproduction of the provisions of the Supply Code, the same is a matter of record. Further, in reply to rest of the contents of the para, the Respondent humbly acknowledges that the Supply Code prescribes the process for dealing with cases under Section 126, however, the present case does not fall under Section 126 at all. The initial notice was inadvertently issued under Section 126 but was immediately corrected through a proper short-assessment notice issued strictly under Regulation 9.3.5 of Supply Code. Therefore, the Petitioner's contention that any action stands vitiated is misconceived and irrelevant to the present assessment.

13. That the contents of para no. 13 are a matter of record.

14. That the contents of para no. 14 are a matter of record, however, the contents of the preliminary submissions/ objections may kindly be read as part and parcel of the reply to the present para, which are not being repeated here for the sake of brevity.

15.- 16. That the contents of para no. 15 and 16, do not call for any reply being a matter of record. However, these historical details have no bearing on the Petitioner's subsequent repeated exceedance of Contract Demand resulting in imposition of penalty.

17. That the contents of para no. 17 are denied except to the extent of the dates and figures stated therein, which are matters of record. It is specifically denied that the Petitioner's load-enhancement application was "inordinately delayed." The application submitted on 27.06.2024 was incomplete, and necessary clarifications/documents were sought promptly by the Respondent. Timelines under the Supply Code commence only upon receipt of a complete application, and thereafter the

Technical Feasibility Report, sanction, demand notice, testing, and release were all processed diligently and in accordance with the Regulations. The allegation of delay is incorrect and appears to be an afterthought to avoid the statutory surcharge imposed under Regulation 9.3.5 for repeated exceedance of Contract Demand.

18. That the contents of para no. 18 are vehemently denied. It is submitted that the Contract Demand does not stand enhanced merely upon filing an application. Enhancement becomes effective only after (i) submission of complete documents, (ii) issuance of Technical Feasibility Report, (iii) sanction by the competent authority, (iv) compliance with the demand notice, (v) testing of metering equipment, and (vi) actual release of enhanced load at site. The Petitioner's enhanced load was sanctioned on 28.11.2024 and released only thereafter, and therefore operates purely prospectively. The contention that CD should be deemed as 2800 kVA w.e.f. 27.06.2024 is legally untenable, contrary to the Supply Code, and appears to be an attempt to evade liability for repeated violations during June–September 2024.
19. That the contents of para no. 19 are denied except to the extent of admitted facts borne from record. The Respondent has acted strictly in accordance with the Supply Code and applicable regulations. The allegations of harassment, arbitrariness, and procedural violations are baseless and appear to be an attempt to evade statutory surcharge imposed under Regulation 9.3.5 of Supply Code. Further, the sub-para wise reply is as under:
    i. The contents of sub-para (i) are denied. The Petitioner's increased consumption was entirely within its control, and there is no record of any malfunctioning MDI controller. In any event, such alleged malfunction does not absolve the Petitioner of its statutory obligation to stay within sanctioned Contract Demand.
    ii. The contents of sub-para (ii) are denied. The notices issued were internal assessment communications pertaining to short assessment and MDI exceedance. Rest of the contents of para are wrong and denied.
    iii. The contents of sub-para (iii) are denied. The Petitioner was duly informed of violations, both orally and through billing entries. The fact that no penalty was levied in earlier months does not preclude lawful assessment later, once the full extent of exceedance was verified in accordance with Regulation 9.3.5.
    iv. The contents of sub-para (iv) are a matter of record. It is submitted that the Petitioner is himself admitting to repeated violations of Supply Code.
    v. The contents of sub-para (v) are denied. The Respondent was under no obligation to waive statutory surcharge. The Petitioner's representation was considered, but no waiver could be granted to the Petitioner.
    vi. The contents of sub-para (vi) are a matter of record to the extent of the Petitioner's application for enhancement and installation of a new MDI controller. However, such steps have no retrospective effect on MDI exceedance already recorded prior to the enhancement request.
    vii. The contents of sub-para (vii) are wrong and denied. Addition of assessed amounts in the bill as "sundry charges" is a lawful method of

recovery of short assessment. This does not constitute arm-twisting, nor does it violate the Supply Code.

viii. The contents of sub-para (viii) are wrong and denied. The Petitioner made payment voluntarily, and the allegation of being "constrained" is incorrect. Payment without contemporaneous protest amounts to acquiescence and waiver.

ix. The contents of sub-para (ix) are a matter of record to the extent that a notice under Section 126 was inadvertently issued but immediately corrected through a proper short-assessment notice. As already stated, the case does not fall under Section 126 of the Act, 2003.

x. The contents of sub-para (x), wrongly numbered as (i), are wrong and denied. Processing of the Petitioner's enhancement application has no bearing on its independent obligation to restrict demand within sanctioned limits.

xi. The contents of sub-para (xi), wrongly numbered as (ii), are a matter of record. The notice dated 12.11.2024 lawfully communicated the assessed surcharge as per Regulation 9.3.5 read with Sales Circular D-7/2020.

xii. The contents of sub-para (xii), wrongly numbered as (iii), are denied. The Respondent did not coerce the Petitioner; the option of instalments was offered at the Petitioner's request as a consumer-friendly measure. The absence of a separate written reply does not affect the validity of the underlying statutory liability.

xiii. The contents of sub-para (xiii), wrongly numbered as (iv), are denied. The addition of the assessed amount in the January 2025 bill was strictly in accordance with the Supply Code. The Petitioner's voluntary payment of two instalments further establishes acquiescence. The allegation of "arm-twisting" is baseless.

20. That the contents of para no. 20 are wrong and denied. The Respondent lawfully included the third instalment of the assessed amount in the Petitioner's March 2025 bill. No request for issuance of a partial challan could be entertained, since assessed amounts form an integral part of the energy bill under the Supply Code. The allegation that officials refused to accept the Petitioner's letter or threatened disconnection is baseless and incorrect. Be that as it may, any dispute relating to billing or assessment constitutes a consumer grievance and lies exclusively before the Ld. CGRF under Section 42(5) of the Electricity Act, 2003. The Petitioner's attempt to invoke the jurisdiction of this Hon'ble Commission under Sections 142/146 is misconceived.

21. That the contents of para no. 21 are wrong and denied. The Petitioner's load-enhancement application was not kept pending, and clarifications/documents were duly sought from the Petitioner in accordance with the Supply Code. Timelines under Regulation 4.4.7 commence only after submission of a complete application. Once the Petitioner furnished the required documents, the Respondent processed the application diligently and sanctioned the enhancement strictly as per procedure. The allegation of harassment or delay is unfounded and appears to be an attempt to deflect from the Petitioner's repeated

violations on account of which penalty is payable under Regulation 9.3.5 of Supply Code.

22. That the contents of para no. 22 are wrong and denied. It is submitted that the Respondent processed the Petitioner's application diligently once the required documents were furnished. The allegation that the Respondent "benefits from its own default" is misconceived, as any imposition of penalty is not contingent upon pendency of any enhancement application. The Petitioner's attempt to link statutory surcharge with alleged delay is legally untenable and contrary to the scheme of the Supply Code.
23. That the contents of para no. 23 are wrong and denied. The contention that it should be deemed effective from 27.06.2024 is contrary to the Regulations and without legal basis. It is respectfully submitted that the acceptance of the Petitioner's interpretation would result in untenable and anomalous outcomes. It would enable consumers to evade legitimate liability simply by filing an application; render mandatory feasibility and safety checks meaningless; compromise system planning; and undermine the statutory scheme.
24. That the contents of para no. 24 are wrong and denied. The Supply Code does not provide for any concept of "deemed sanction" of enhanced load upon expiry of timelines, nor does it allow Contract Demand to be treated as enhanced retrospectively. Load enhancement becomes effective only upon fulfilment of all procedural requirements and actual release at site. The allegation of inordinate delay is incorrect, and in any event, has no bearing on the Petitioner's statutory obligation to maintain demand within sanctioned limits. The Petitioner's argument is therefore misconceived and contrary to the regulatory framework.
25. That the contents of para no. 25 are wrong and denied. It is specifically denied that there was any inordinate delay or violation of the Supply Code or the Standards of Performance Regulations. Once the Petitioner furnished the requisite documents and fulfilled procedural requirements, the Respondent processed and sanctioned the enhancement diligently. Allegations that the Respondent acted "with impunity" or benefited from delay are misconceived. It is submitted that the penalty in case of increase from sanctioned load and the penalty thereof is governed independently by Regulation 9.3.5 and remains the Petitioner's statutory responsibility irrespective of any pending enhancement request. Be that as it may, the grievance raised by the Petitioner constitutes a consumer grievance and must be raised exclusively before the Ld. CGRF.
26. That the contents of para no. 26 are wrong and denied as no such relief of declaration is liable to be granted to the Petitioner. There is no provision under the Supply Code or any applicable regulation that permits retrospective effectiveness of enhanced load from the date of application. The relief sought is contrary to the regulatory framework and would undermine system planning and safety norms.
27. That in reply to the contents of para no. 27, it is submitted that as per Regulation 9.3- the levy of penalty on account of unauthorized extension of load, is in addition to action under Regulation 9.2. As such, the Petitioner was duly intimated of the penalty by way of assessment notices.

The contention that no notice under Regulation 9 was issued is irrelevant and does not affect the validity of the surcharge levied for repeated exceedance of Contract Demand.

28. That the contents of para no. 28 are wrong and denied. The Petitioner has incorrectly relied on Regulation 9.3.2, which applies to LT consumers and not to HT consumers such as the Petitioner. The Petitioner's case is governed exclusively by Regulation 9.3.5, which mandates a surcharge of 25% on the total sale of power whenever the Maximum Demand exceeds the sanctioned Contract Demand by more than 5%. The requirement of issuing separate notices and applying per-kW penalties under Regulation 9.3.2 is therefore wholly inapplicable. The Petitioner was rightly assessed under Regulation 9.3.5 of the Supply Code.

29. That the contents of para no. 29 insofar as it relates to the recorded load of the Petitioner and excess load percentage, the same is a matter of record. The total liability of Rs. 34,01,292/- being 25% of Schedule of Payment (SOP) has been rightly calculated as under:

Month	MDI	Penalty Charged (INR)
June, 2024	2040.8 kW	11,77,530
August, 2024	1981.6 kW	10,40,578
September, 2024	2264.8 kW	11,83,284
	Total	Rupees 34,01,292/-

30.- 34.That the contents of para no. 30 to 34 are misleading in nature, wrong and vehemently denied. It is reiterated that the Petitioner's case does not fall under Section 126 of the Act, 2003. It is reiterated that the initial notice under Section 126 was issued due to an inadvertent bonafide error and was immediately rectified by issuance of a proper short-assessment notice strictly under Regulation 9.3.5 of the Supply Code. No proceedings under Section 126 were pursued thereafter. As such, any allegation raised by the Petitioner regarding the issuance of notice under Section 126 of Act, 2003 is liable to be rejected. 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.

35. That the contents of para no. 35, insofar as it relates to the issuance of notices to the Petitioner, the same is a matter of record.

36. That the contents of para no. 36 are wrong and denied. The assessment was duly carried out strictly on the basis of recorded MDI exceedance as reflected in the Petitioner's metering and billing data, and the Petitioner was accordingly intimated through assessment notices. The basis of assessment, and the liability were all duly communicated. The contention that the memos lacked particulars is incorrect, as the relevant months and exceedance levels were evident from the Petitioner's own energy bills and meter data. The allegation that the notices were arbitrary or casual is baseless and denied.

37. That the contents of para no. 37 are wrong and denied. The Petitioner's allegation regarding any oral clarifications is incorrect and denied. The assessment was not based on alleged exceedance in 2023 but on recorded MDI exceedance during 2024, as reflected in the Petitioner's own metering data. The Respondent is fully empowered under Regulation 9.3.5 to levy surcharge for such exceedance, and the assessment was raised strictly in

accordance with the Supply Code. The contention that the Respondent has raised belated or unauthorized demands is misconceived and contrary to the factual record.

38. That the contents of para no. 38 are wrong and denied. The assessment notices issued to the Petitioner were lawful and based on recorded MDI exceedance in accordance with Regulation 9.3.5 of the Supply Code. The allegation that the Respondent acted with the intent to "extract money" or engaged in "arm-twisting" is baseless, incorrect, and emphatically denied. Inclusion of the assessed amount in the monthly bill is a recognized and permissible recovery mechanism under the Regulations. The Petitioner voluntarily paid the amount without contemporaneous protest, amounting to acquiescence. Assertions regarding the Petitioner's institutional profile or goodwill are irrelevant and do not absolve it from compliance with statutory obligations. The Respondent has acted strictly as per law, and no harassment or arbitrariness can be attributed. 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.
39. That the contents of para no. 39 are repetitive in nature, wrong and hence 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.
40. That the contents of para no. 40 are wrong and denied. The Respondent has acted strictly in accordance with the Supply Code and applicable Regulations, and no violation, much less a "gross violation", can be attributed to it. The Petitioner does not have a prima facie case, as the surcharge was lawfully imposed under Regulation 9.3.5 for repeated violations on the part of the Petitioner. The contention regarding "payments under protest" is incorrect, as the Petitioner voluntarily paid instalments without contemporaneous objection, attracting estoppel and acquiescence. The plea of financial hardship is irrelevant and cannot defeat statutory liability. The Petitioner is not entitled to any interim relief.
41. That the contents of para no. 41 are wrong and denied.
42. That the contents of para no. 42 are denied for the want of knowledge.
43. That the contents of para no. 43 are wrong and denied. The Respondent has not violated any Regulation of this Hon'ble Commission or any applicable Circular, and therefore no liability under Sections 142 or 146 of the Electricity Act arises. The Petitioner's allegations of "gross violation" are misconceived and contrary to the factual record. The present Petition, which concerns a billing and assessment dispute, is in the nature of a consumer grievance and is exclusively triable before the Ld. CGRF under Section 42(5) of the Act read with the HERC (Forum & Ombudsman) Regulations, 2020. As such, the Petition is not maintainable under Sections 142 and 146 or Regulation 22 of the Conduct of Business Regulations, 2019.

Prayer clause is denied.

PRAYER

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

5. **Rejoinder Received on 04/02/2026:**

5.1 The Petitioner filed the present Petition under Sections 142 and 146 of the Electricity Act, 2003 ("the Act") seeking reliefs against the Respondent for violating the terms and conditions of the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 ("the Supply Code") and Haryana Electricity Regulatory Commission (Standards of Performance of Distribution Licensees and Determination of Compensation) Regulations, 2020 ("SOP Regulations 2020") by issuing arbitrary and illegal notices to the Petitioner regarding alleged short assessment and unauthorized use of electricity under Section 126 of the Act.

5.2 The Petitioner now seeks to file the present Rejoinder in response to the Reply filed by the Respondent to the petition before this Hon'ble Commission.

5.3 In its reply, the Respondent *inter alia* raised the following preliminary objections:

(a) The present petition is not maintainable under Section 142 and 146 of the Act.

(b) Petitioner's submission that sanctioned enhancement load to be considered w.e.f. 27.06.2024 is misconceived.

(c) The Petition is barred by delay and laches as well as on the principle of estoppel.

5.4 Before providing a rejoinder to the submissions of the Respondent, for the sake of brevity and to avoid prolixity, the Petitioner craves leave of this Hon'ble Commission to submit an issue-wise Rejoinder followed by a detailed para-wise Rejoinder. However, nothing contained therein ought to be deemed to be an admission on part of the Petitioner on account of non-traverse. Further, the petitioner denies each and every contention raised made by the Respondent to the extent they are contrary to the submissions made in the present Petition and repeat and reiterates the said submissions which aren't being repeated and may kindly be read as a part and parcel of the present Rejoinder.

(a) That the present petition is maintainable under Sections 142 and 146 of the Act due to Non-compliance of Regulations by Respondent.

5.5 The Respondent firstly submits that the present petition is not maintainable under Sections 142 and 146 of the Electricity Act as it is a consumer grievance under the Act liable to be adjudicated before the Consumer Grievance Redressal Forum ("CGRF"). Moreover, the Respondent submits that the Notice under Section 126 of the Act as served by the Respondent on the Petitioner was an inadvertence on the part of the Respondent which was corrected via issuance of notices for short assessment for the same amount as reflected in the provisional assessment notices.

5.6 It is submitted that on a bare reading of Sections 142 and 146 of the Act, it is clear that a Petition is maintainable for any contravention or

non-compliance under the Act, its Rules or Regulations. The said provisions are reproduced hereinbelow: -

Section 142. (Punishment for non-compliance of directions by Appropriate Commission):

In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or the rules or regulations made thereunder, or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction.

Section 146. (Punishment for non-compliance of orders or directions):

Whoever, fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to one lakh rupees, or with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to five thousand rupees for every day during which the failure continues after conviction of the first such offence:

[Provided that nothing contained in this section shall apply to the orders, instructions or directions issued under section 121.]

i) <u>Specific Non-Compliance by Respondent:</u>

5.7 It is submitted that the Respondent acted in contravention of the procedures laid out in the Supply Code for timely processing of applications for enhanced load. In the meanwhile, the illegal order of assessment dated 23.10.2024 under Section 126 of the Act and the notice dated 12.11.2024 were issued by the Respondent when the Respondent itself acted against the procedure laid out in Regulation 4.4.2(5) to 4.4.5 and 4.6.2 of the Supply Code. Moreover, the timelines provided under Regulation 4.4.7 of the Supply Code were not adhered to by the Respondent.

5.8 The Supply Code under Regulation 4.12 read with Regulation 4.4.7 prescribes detailed timelines for processing load enhancement applications: (i) Issuance of Demand Notice within 14 days for 11kV Supply; (ii) Inspection and Testing of Consumer's Installation within 15 days; (iii) Issuance of Service Connection Order within 5 days; (iv) Completion of Work within 30 days; and (v) Release of Connection within 7 days of HT Supply. The Petitioner applied for load enhancement on 27.06.2024, yet the enhanced load was sanctioned only on 28.11.2024 – a delay of approximately 5 months, far exceeding the prescribed timelines.

5.9 The Respondent in its Reply admits that while the application was made on 27.06.2024, certain documents were missing and were sought from the Petitioner by email dated 02.07.2024. However, the documents were supplied by the Petitioner only on 23.09.2024, indicating that the Petitioner itself contributed to the delay. Yet, even after receipt of complete documents on 23.09.2024, the TFR was issued only on 09.10.2024 and the sanction was granted only on 28.11.2024. This demonstrated that even after the application became complete, the Respondent failed to process it within the prescribed timelines under Regulation 4.4.7 of the Supply Code.

5.10 More critically, during the months of June, August, and September 2024 when the Petitioner's application was pending, the Petitioner received three notices dated 23.04.2024, 28.05.2024, and 29.05.2024 regarding alleged short assessment of Rs. 12,95,896/-, Rs. 12,04,816/-, and Rs. 2,40,963/- respectively. Neither any details of the short assessment nor the months to which it pertained were mentioned by the Respondent in the said notices. Furthermore, the said notices were not even in the format of a demand notice as provided under the Supply Code.

5.11 During meetings with the SDO, it was orally informed to the Petitioner that the said levy was on account of the Petitioner exceeding MDI or sanctioned load of 1800 kVA in the various months of September 2023 onwards. However, strangely, neither of such penalty was levied onto the Petitioner while raising the energy bills during the year 2023 nor was any notice served upon the Petitioner during this period. This demonstrates that the Respondent failed to follow the prescribed procedure under Regulation 9.2 and 9.3 of the Supply Code for intimating consumers about MDI exceedance.

5.12 Regulation 9.2.3 (a) of the Supply Code mandates that in case the consumption of a consumer is not commensurate with the sanctioned load and is consistently and abnormally high in three consecutive billing cycles, as indicated by the energy bill, then JE with prior approval of the SDO may conduct the checking, Regulation 9.2.3(b) of the Supply Code mandates that in cases where the maximum demand has exceeded the sanctioned load/contract demand by more than 5%, the licensee shall issue a notice to the consumer intimating that he has exceeded his sanctioned load/contract demand and he should either remove the additional load or get the same regularized after completing the formalities for extension of load as per Regulation 4.12 of the Supply Code.

5.13 The Respondent's checking party inspected the Petitioner's premises only on 18.10.2024 and issued a Provisional Order of Assessment under Section 126 of the Electricity Act stating that the Petitioner exceeded its MDI in June-2024, August-2024, and September-2024, and was therefore liable to pay a penalty of Rs. 34,01,292/-. This inspection took place after the Petitioner had already applied for load enhancement on 27.06.2024, demonstrating that the Respondent was fully aware of the Petitioner's increased consumption requirements yet failed to process the application expeditiously. Moreover, no prior

notice under Regulation 9.2.3(b) of the Supply Code was issued to the Petitioner before this inspection informing the Petitioner that the maximum demand had exceeded the sanctioned load/contract demand by more than 5%.

5.14 Where the actual load exceeds the sanctioned load by more than 10%, Regulation 9.3.2 of the Supply Code categorically provides that a one-time penalty @ Rs. 500 per kilowatt shall be levied on the excess load, including the 10% threshold. The licensee shall issue a notice to the consumer intimating that he has exceeded his sanctioned load and his load is being enhanced based on physical checking/MDI reading. The consumer shall be given 30 days period to deposit the penalty amount and enhanced security deposit for such increase in sanctioned load. In cases where the consumer's load exceeds 20 KW, then the penalty shall be levied @ Rs. 130 per kW per month on the excess load including 10%, for the preceding six months or for the period from the date of last checking or from the date of release of connection whichever is less. Instead, the Respondent wrongfully issued the order dated 23.10.2024, accusing the Petitioner of unauthorized use of electricity under Section 126 of the Act in clear contravention of Regulation 9 of the Supply Code.

5.15 Regulation 9.1 and 9.4.3 of the Supply Code unequivocally state that "*Unauthorized extension of load, wherever detected, shall not be considered as a case of unauthorized use of electricity under Sections 126 & 135 of the Electricity Act, 2003, but shall be penalized in the following manner*" and that "*Unauthorized extension of load shall not be considered as unauthorized use of electricity. It shall, however, attract penalty as prescribed above under these Regulations*" respectively. Despite this clear regulatory mandate, the Respondent issued a notice dated 23.10.2024) under Section 126 of the Act, demonstrating flagrant violation of the Supply Code.

5.16 While issuing the impugned notice, the Respondent has sought to invoke Section 126 of the Act yet it has failed to adhere to the due process prescribed therein or to Regulation 8 of the Supply Code, which extensively deals with the procedure for issuing a notice under Section 126 of the Act and the consequences thereof. Regulation 8.3 of the Supply Code mandates that within four (4) days of receiving objections, the assessing officer shall arrange a personal hearing, and if consensus is not reached, the officer shall consider the facts and issue a speaking order within fifteen (15) days. No such procedure was followed by the Respondent.

5.17 Adherence to timelines have also been mandated under Regulations 3 and 4 of the SOP Regulations, 2020. The Regulations establish minimum service standards for quality, continuity, and reliability that a Distribution Licensee must maintain. Failure to meet these standards makes the licensee liable to compensate affected consumers. The Supply Code prescribes strict timelines and compensation mechanisms under the Standards of Performance Regulations for delays in processing applications. The Respondent's failure to adhere to these timelines constitutes a violation of the SOP

Regulations, 2020, making the present petition maintainable under Sections 142 and 146 of the Act.

ii) Respondent's Claim of "Inadvertent" Section 126 Notice is Untenable

5.18 Moreover, the Respondent is estopped from claiming that the Order under Section 126 of the Act was an inadvertence to wriggle out of its liability before the Hon'ble Commission. The submission that the order dated 23.10.2024 was rectified vide a short assessment notice dated 12.11.2024 is false and misleading. The Respondent only issued the said notice to further harass and pressurize the Petitioner to pay the illegally levied charges.

5.19 It is stated that the said notice fails to mention that the Order under Section 126 of the Act was an error on the part of the Respondent and the notice dated 12.11.2024 is a means of clarification and rectification of the same. Therefore, the Respondent's submission that the Notice dated 12.11.2024 serves as a rectification and revocation of the provisional order of assessment dated 23.10.2024, and therefore, the Petition is not maintainable under the Act is wholly misconceived and denied.

5.20 The notice dated 12.11.2024 was followed by another notice reiterating the demand of Rs. 34,01,292/-. The notice dated 12.11.2024 states:

"*Sub: Notice for payment of Short Assessment of Rs. 3401292/-*
In this connection, it is intimated that a sum of Rs 3401292/- is found liable to pay on account of short assessment on Exceeding the Contract Demand during the Bill of Month 06/2024, 08/2024 & 09/2024. As such, you are requested to deposit the subject cited amount within 5 days of receipt of the notice".

Nowhere does this notice state that it is a "rectification" or "clarification" of the earlier Section 126 notice. It is merely another coercive demand notice.

5.21 The Respondent cannot be permitted to take contradictory positions - first issuing a notice under Section 126 of the Act (which carries criminal connotations and strict procedural requirements), and then, when challenged, claiming it was an "inadvertent" error and asserting that a subsequent notice for "short assessment" somehow rectifies the illegality. The Respondent admits in its Reply that the initial notice under Section 126 was issued due to an inadvertent bona fide error and was immediately rectified. This admission itself demonstrates the Respondent's cavalier approach to statutory procedures and its attempt to escape liability by characterizing serious procedural violations as mere "inadvertence".

iii) The Present Case is not a "Consumer Grievance"

5.22 Further, it is submitted that the Petitioner's case does not fall under "consumer grievance" under HERC (Forum & Ombudsman) Regulations, 2020. In the case of Power Transmission Corporation of Uttarakhand Limited v. Uttarakhand Electricity Regulatory Commission, Appeal No. 226 of 2014, the Hon'ble APTEL held that even a dispute between a consumer and a licensee may fall within the jurisdiction of the State Commission if it involves any violation or

infraction of the said Act, relevant regulations or orders of the State Commission. The judgment recognizes the State Commission's right to pull up a licensee in case there is a violation of statutory provisions or regulations even in a dispute between a consumer and a licensee. The relevant extract from the judgement is reproduced hereinbelow:

"*34. The judgement of the Supreme Court in Reliance Energy Limited does not support the Appellant's contention that the State Commission had no jurisdiction to deal with the instant dispute. This judgement recognizes the State Commission's right to pull up a licensee in case there is a violation of statutory provisions or regulations even in a dispute between a consumer and a licensee. Even a dispute between a consumer and a licensee may fall within the jurisdiction of the State Commission if it involves any violation or infraction of the said Act, relevant regulations or orders of the State Commission.*

35. At this stage, it is necessary to revisit to Section 42(8) of the said Act which provides that the provisions of sub-sections (5) and (6) shall be without prejudice to a right which the consumer may have apparat from the right conferred upon him by sub-sections (5) and (6) of Section 42. Thus any right the consumer may have under sub-sections (5) (6) and (7) of Section 42 would be in addition to and not in derogation of any other right under the said Act. This, in our opinion, preserves the State Commission's jurisdiction to step in, in gross cases particularly of violation of the said Act or the relevant regulations or its orders."

5.23 It is submitted that the present petition raises systemic violations of the Supply Code and SOP Regulations by the Respondent, including: (i) failure to process load enhancement applications within prescribed timelines; (ii) issuance of illegal notices under Section 126 for matters that do not fall under that provision; (iii) failure to follow prescribed procedures under Regulation 9.2 and 9.3; (iv) issuance of vague and defective notices for "short assessment" without proper particulars; and (v) coercive recovery measures. These are not mere "billing disputes" but constitute gross violations of regulatory provisions warranting action under Sections 142 and 146 of the Act.

5.24 Therefore, on multiple fronts, the Respondent displayed a complete lack of diligence and worse has displayed a conscious exercise solely intent on causing hardships to the Petitioner. By acting against the intent of the Act and the Supply Code, the Respondent is non-compliant with the provisions of the Supply Code. Therefore, the Petition is maintainable under Sections 142 and 146 of the Act and is not a "consumer grievance" under HERC (Forum & Ombudsman) Regulations, 2020.

(b) <u>That the sanctioned enhancement load to be considered w.e.f. 27.06.2024 is not misconceived</u>

5.25 The second submission of the Respondent is with respect to the applicable date of calculating the sanctioned enhancement load. The Respondent erroneously submits that the calculation of the said load from the date of the application is a misconceived exercise.

5.26 It is duly submitted that the Supply Code mandates for adherence to strict time periods to ensure that once an application for load

enhancement is made, it is processed efficiently so that the anticipated increase in consumption, leading to the application, is not treated as an unauthorized increase in the MDI as has been erroneously construed by the Respondent. The delay as caused by the Respondent demonstrably mandates that the load ought to be considered with effect from 27.06.2024, the date of the application.

5.27 As has been reiterated in the Petition, it is amply clear from a reading of the timelines provided under Regulations 4.12, 4.47 and 4.4.2(5) to 4.4.5 of the Supply Code that the licensee ought to conduct a site inspection and then provide a demand notice to the applicant within a prescribed period. Regulations 4.4.2(5) and (6) of the Supply Code provide the procedure after an application is received by the licensee for enhancement of load. Further, Regulations 4.4.4 and 4.4.5 of the Supply Code mandate the issuance of a demand notice and inspection of the applicant's site within the specified timelines, while Regulation 4.6.2 provides clear a clear mechanism of processing of applications.

5.28 The Respondent in its Reply admits that the application submitted on 27.06.2024 was incomplete, and necessary clarifications/documents were sought promptly by the Respondent, and that timelines under the Supply Code commence only upon receipt of a complete application. However, even accepting the Respondent's version, the complete documents were provided by the Petitioner on 23.09.2024. Even from this date (23.09.2024), the prescribed timelines under Regulation 4.4.7 were not adhered to by the Respondent.

5.29 The Respondent ought to have duly processed the application for load enhancement as per the above Regulations. Instead, the Respondent chose to unduly reflect an increase in the Petitioner's MDI charges for the months of July to September 2024 much after the application for load enhancement was already filed by the Petitioner.

5.30 Moreover, it is apposite to mention that the Respondent, in complete derogation of the timelines provided under the Regulations only chose to inspect the premises of the Petitioner on 18.10.2024 which subsequently led to the Respondent serving the Provisional Order of Assessment under Section 126 of the Act, dated 23.10.2024, on the Petitioner. In fact, in October, when the said notice was served upon the Petitioner, the Respondent was in the process of preparing the Technical Feasibility Report and was fully aware of the consumption patterns of the Petitioner.

5.31 It is submitted that even with the existence of such a crystallised process as formulated under the Supply Code, the Respondent chose to maliciously harass the Petitioner into paying illegal and manifestly unjustified electricity charges in the garb of the said illegal notices. The Respondent failed to adhere to the timelines as provided in the Supply Code and Regulations and in turn, resorted to an illegal and cantankerous exercise only meant to cause hardships to the Petitioner.

5.32 It is a settled canon of law that when a statute or regulation prescribes a timeline within which an application must be processed, any kind of derogation to adhere to such timelines results in the application

being deemed allowed, either from the date of application or from the date when the prescribed timeline expires. An authority is not permitted to first inordinately delay the processing of an application and then later attribute faults to the applicant during the period of such delay concerning the same subject matter. Therefore, in lieu of the actions and manifest delays of the Respondent to process the application of the Petitioner for load enhancement, the date of the application as is 27.06.2024, ought to be regarded as the starting date for calculating load enhancement.

5.33 In any event, even if the Respondent's contention that the application became "complete" only on 23.09.2024 is accepted, the penalty for the month of June 2024, August 2024, and September 2024 cannot be sustained. The Petitioner had applied for load enhancement on 27.06.2024 itself, demonstrating its bona fide intent to regularize the increased consumption. As stated in the Petitioner's letter dated 23.08.2024 as follows:

"*We would like to inform you that our Maximum Demand Indicator (MDI) increased in July and August 2024. We had applied for a Load Extension with DHVBN on June 27, 2024, Vide application number G33-624-331. Given that the load extension request was submitted prior to the period of increased MDI, we kindly request that no penalty be imposed for the months of July and August 2024*".

5.34 The Respondent cannot benefit from its own delays and procedural lapses. The strict timelines under the Supply Code and SOP Regulations are intended to ensure expeditious processing of applications precisely to avoid situations where consumers are penalized for increased consumption during the period when their applications are pending due to departmental delays.

(c) <u>That the Petition does not suffer from delay and laches as well from the principle of estoppel as the Petitioner has made payments under protest</u>

5.35 The Respondent submits that the Petitioner has made certain payments towards its liability without any protest and is therefore, estopped from agitating its stance before this Hon'ble Commission.

5.36 It is reiterated that the Petitioner made payments of two installments under protest as has been duly mentioned by the Petitioner in its letters dated 29.01.2025 and 18.03.2025 issued to the Respondent and thus, does not amount to waiver.

5.37 It is a settled law that any payment made under the threat of disconnection or discontinuity of services does not amount to acquiescence or waiver of the right to challenge.

5.38 The doctrine of waiver has been comprehensively explained by the Hon'ble Supreme Court in P. Dasa Muni Reddy v. P. Appa Rao, (1974) 2 SCC 723 wherein it was held that

"*Abandonment of right is much more than mere waiver, acquiescence or laches…Waiver is an intentional relinquishment of a known right or advantage, benefit, claim or privilege which except for such waiver the party would have enjoyed. Waiver can also be a voluntary surrender of a right…The doctrine which the courts of law will recognise is a rule of*

judicial policy that a person will not be allowed to take inconsistent position to gain advantage through the aid of courts. Waiver some times partakes of the nature of an election. Waiver is consensual in nature. It implies a meeting of the minds. It is a matter of mutual intention. The doctrine does not depend on misrepresentation. Waiver actually requires two parties, one party waiving and another receiving the benefit of the waiver. There can be waiver so intended by one party and so understood by the other. The essential element of waiver is that there must be a voluntary and intentional relinquishment of a right. The voluntary choice is the essence of waiver…"

5.39 Most significantly and directly on point, the Hon'ble Supreme Court, in its recent judgement in M/S ASP Traders v. State of Uttar Pradesh & Ors., 2025 INSC 890, categorically held that
"*Therefore, it is clear that there must be much more than an abandonment of a right to plead waiver or acquiescence. The payment, by itself, cannot be treated as a waiver or abandonment, especially when the appellant has clearly objected to the demand and when there is a statutory mandate to pass an order and a corresponding right to appeal.*"

5.40 The petitioner's conduct has been marked by a vigorous assertion of its rights. Therefore, the Respondent's contention that the Petitioner is estopped from filing the present Petition is misleading and liable to be rejected.

5.41 The respondent submitted that the present petition is liable to be dismissed on grounds of delay and laches. It is submitted that this assertion made by the Respondent is baseless and manifestly false. The cause of action in the present petition originated when the Respondent issued multiple illegal notices for payment to the Petitioner. Moreover, there was a considerable delay in processing and sanctioning the application of the petitioner for enhanced load, by the Respondent. The Respondent also issued the illegal provisional order of assessment dated 23.10.2024 and the notice dated 12.11.2024. The Petitioner made representations to the Respondent for waiver of penalty up until 18.03.2025 and on 28.03.2025, the present petition came to be filed. Therefore, it is submitted that there is absolutely no delay on part of the Petitioner in filing the present petition.

5.42 It is clear that the Respondent is grasping at straws by raising arbitrary and misleading objections to the present Petition. It is apparent that the Respondent has no cogent objections against the maintainability of the present Petition and all its submissions are liable to dismissed at the first instance.

<u>PARA WISE REJOINDER TO THE REPLY</u>

5.43 The contents of paragraph 1 of the Reply are false, misconceived, and denied. The contention as to why the present petition is maintainable under Sections 142 and 146 of the Act has been demonstrated by the Petitioner in the preceding paragraphs. The Petition is not liable to be filed before the CGRF in the present case. The Respondent has contravened the procedure under the Supply Code Regulations. Moreover, as stated hereinabove, the Respondent is estopped from

contending that the Notice under Section 126 was only an inadvertence as the Respondent failed to mention the same in the subsequent short assessment notice issued to the Petitioner.

5.44 The contents of paragraph 2 of the Reply are false, misconceived, and denied. It is denied that no violation of the Regulations has been committed by the Respondent, and the same has been dealt with in the preceding paragraphs of the present Rejoinder. It is denied that the penalty was levied strictly in terms of the Regulation 9.3.5. The Respondent illegally inserted arbitrary charges into the bills of the Petitioner even after being fully cognizant of the application submitted by the Petitioner for enhancement of load. The illegal liability coupled with the delay in the processing of the Petitioner's application is enough evidence of malicious harassment by the Respondent.

5.45 The contents of paragraph 3 of the Reply are false, misconceived, and denied.

5.46 The contents of paragraph 4-5 of the Reply need no Rejoinder submissions.

5.47 The contents of paragraph 6 of the Reply are false, misconceived, and denied.

5.48 The contents of paragraph 7 of the Reply are false, misconceived, and denied. The Petitioner has dealt with the submissions in this paragraph in the preceding paragraphs of the Rejoinder. It is denied that the Petitioner was in exceedance of the MDI limits. The penalty imposed under Regulation 9.3.5 is legally invalid and ought to be rejected.

5.49 The contents of paragraph 8 of the Reply are false, misconceived, and denied.

5.50 The contents of paragraph 9 of the Reply are false, misconceived, and denied. It is denied that the Respondent complied with the timelines provided in the Supply Code Regulations. The petitioner fulflled its obligations under the timelines provided under the Regulations and therefore, the contention of the Respondent is denied.

5.51 The contents of paragraphs 10-11 of the Reply are false, misconceived, and denied. The non-compliance of the Respondent with the Supply Code Regulations has a direct bearing on the charges that are illegally saddled on the Petitioner herein. The Petitioner duly filed an application for load enhancement on 27.06.2024 however, the Respondent surreptitiously and maliciously raised bills on the Petitioner while dragging and delaying the Petitioner's application to cause undue hardship to the Petitioner in direct contravention of Sections 142 and 146 of the Act and the concerned Regulations. By colouring the nature of the present petition as a 'billing dispute' liable to be adjudicated upon by the CGRF, the Respondent is attempting to evade its liability under the provisions of the Act. Therefore, the Respondent is resorting to patently misleading and baseless submissions.

5.52 The contents of paragraph 12 of the Reply are false, misconceived, and denied. The contentions in this paragraph have been answered by the Petitioner in the previous paragraphs of the Rejoinder.

5.53 The contents of paragraph 13 of the Reply need no Reply.

5.54 The contents of paragraph 14 of the Reply are false, misconceived, and denied.

5.55 The contents of paragraph 15-16 of the Reply are false, misconceived, and denied.

5.56 The contents of paragraph 17 of the Reply are false, misconceived, and denied. It is denied that the application as filed by the Petitioner on 27.06.2024 was incomplete. In fact, the Respondent delayed the processing of the Petitioner's application as has been elaborately demonstrated by the Petitioner in its Petition and the present Rejoinder. It is denied that the allegation of delay has been an afterthought to avoid any charges imposed under the Regulations.

5.57 The contents of paragraph 18 of the Reply are false, misconceived, and denied. It is submitted that as stated hereinabove, that when a statute or regulation prescribes a timeline within which an application must be processed, any kind of derogation to adhere to such timelines results in the application being deemed allowed, either from the date of application or from the date when the prescribed timeline expires. It is stated that that the Respondent is not permitted to first inordinately delay the processing of an application and then later attribute faults to the applicant during the period of such delay concerning the same subject matter.

5.58 The contents of paragraph 19 and its sub paras (i) to (xiii) of the Reply are false, misconceived, and denied. The increased consumption was a sudden measure based on increased demand on the Petitioner for which the Petitioner took up due measures. The Respondent was in contravention of the Regulation 9.3.5 of the Supply Code Regulations. The contentions made in this paragraph have been dealt with in detail in the preceding paragraphs of this Rejoinder. The Respondent's addition of assessed amounts in the bill as "sundry charges" is an illegal justification for wrongful charges levied on the Petitioner. The notice dated 11.12.2024 is illegal and baseless. The addition of the charges in the monthly bills of the Petitioner is manifestly wrong and liable to be dismissed.

5.59 The contents of paragraph 20 of the Reply are false, misconceived, and denied. It is denied that the Respondent lawfully included the third instalment of the assessed amount in the Petitioner's March 2025 bill. It is submitted that as evident from the letters dated 29.01.2025 and 18.03.2025 the Petitioner has made payments of instalments under protest and under threat of disconnection. The Petitioner denies that any such charges raised by the Respondent are legally valid. The Respondent's submission that the present petition is essentially a consumer grievance to be heard by the CGRF is denied and has been dealt with by the Petitioner in the preceding paragraphs of this Rejoinder.

5.60 The contents of paragraphs 21-22 of the Reply are false, misconceived, and denied. The contentions made in this paragraph are denied and adequately dealt with in the preceding paragraphs of this Reply. It is

also submitted that the Respondent did not adhere to the timelines under Regulation 4.4.7.

5.61 The contents of paragraph 23 of the Reply are false, misconceived, and denied. It is denied that the aim of the present petition is to evade legitimate liability simply by filing an application; render mandatory feasibility and safety checks meaningless; compromise system planning; and undermine the statutory scheme or that the submissions if accepted would result in untenable or anomalous outcomes.

5.62 The contents of paragraph 24 of the Reply are false, misconceived, and denied. The contentions made in this paragraph have been dealt with in the preceding paragraphs of this Rejoinder. However, the Petitioner reiterates that due to the delays incurred by the Respondent in processing the Petitioner's application, the application ought to be considered as allowed from the date of application or when the prescribed timeline expires.

5.63 The contents of paragraph 25 of the Reply are false, misconceived, and denied. The contents of this paragraph have been adequately dealt with by the Petitioner in the preceding paragraphs of this Rejoinder.

5.64 The contents of paragraph 26 of the Reply are false, misconceived, and denied.

5.65 The contents of paragraph 27 of the Reply are false, misconceived, and denied. The Respondent has only chosen to burden the Petitioner with unnecessary bills in direct derogation of the Regulations. The notices issued by the Respondent have been devoid of any legal merit. It is pertinent to state that no notice under Regulation 9 was issued and is direct evidence of the Respondent's arbitrary actions. A notice under Regulation ought to have been issued for HT consumers such as the Petitioner in the present case.

5.66 The contents of paragraph 28 of the Reply are false, misconceived, and denied. The submissions made in this paragraph have been answered by the respondent in the earlier paragraphs of this Rejoinder.

5.67 The contents of paragraph 29 of the Reply are false, misconceived, and denied. The liability of Rs. 34,01,092/- allegedly due by the Petitioner is vehemently denied.

5.68 The contents of paragraphs 30-34 of the Reply are false, misconceived, and denied. A Detailed answer to these submissions has already been provided in the Rejoinder, the contents of which are not being repeated here for the sake of brevity.

5.69 The contents of paragraph 35 of the Reply need no Reply.

5.70 The contents of paragraph 36 of the Reply are false, misconceived, and denied. A detailed answer to these submissions has already been provided in the Rejoinder, the contents of which are not being repeated here for the sake of brevity.

5.71 The contents of paragraph 37 of the Reply are false, misconceived, and denied. A detailed answer to these submissions has already been

provided in the Rejoinder, the contents of which are not being repeated here for the sake of brevity.

5.72 The contents of paragraph 38 of the Reply are false, misconceived, and denied. As stated hereinabove the payments of the Petitioner were under protest as evident from the letters dated 29.01.2025 and 18.03.2025. The Respondent has acted with oblique motives and therefore, is liable to be penalised under the provisions of the Act.

5.73 The contents of paragraph 39 of the Reply are false, misconceived, and denied.

5.74 The contents of paragraph 40 of the Reply are false, misconceived, and denied. As stated hereinabove, the charges were not lawfully imposed as per Regulation 9.3.5 by the Respondent. The bills raised by the Respondent were only contorted attempts to extract amounts from the petitioner while evading its own liability in delaying the application of the Petitioner.

5.75 The contents of paragraph 41-42 of the Reply are false, misconceived, and denied.

5.76 The contents of paragraph 43 of the Reply are false, misconceived, and denied. A detailed answer to these submissions has already been provided in the Rejoinder, the contents of which are not being repeated here for the sake of brevity.

PRAYER

In view of the aforementioned facts and circumstances, it is prayed that this Hon'ble Commission may be pleased to:

(i) Allow the reliefs as sought for in the main Petition, and;

(ii) Pass any such further order(s) as deemed fit and proper in the circumstances of the case.

Commission's Order:

1. The case was heard on 09/04/2026 as per schedule in the court room of the Commission.
2. At the outset, Sh. Tushar Mathur counsel for the petitioner advanced his arguments on the maintainability of the petition before the Commission.
3. Subsequently, Ms. Aerika Singh argued that the petition is not maintainable and the petitioner should approach Corporate CGRF for redressal of his grievances and seek any relief.
4. The Commission examined the petition in detail along with the reply, and rejoinder on record and heard the arguments of the Petitioner and Respondents in the above matter. The Petitioner, M/s BML Educorp Services, a residential private university, seeks to quash multiple demand notices issued by the Respondent, DHBVN, alleging that the Respondent acted in gross violation of the HERC (Electricity Supply Code) Regulations, 2014 and the Standards of Performance (SOP) Regulations, 2020.

5. The primary issue involves the Petitioner's application for load enhancement from 1800 kVA to 2800 kVA, filed on 27.06.2024, which the Petitioner claims was inordinately delayed by the Respondent, leading to unjustified penalties for exceeding its MDI during the pendency of the application. Specifically, the Petitioner challenges notices for 'short assessment', as well as a Provisional Order of Assessment dated 23.10.2024 issued under Section 126 of the Electricity Act, 2003. The Petitioner argues that under Regulation 9.1 and 9.4.3 of the Supply Code, unauthorized extension of load cannot be treated as 'unauthorized use of electricity' under Section 126 and should instead be penalized as a simple surcharge. Furthermore, the Petitioner contends that because the load enhancement was eventually sanctioned on 28.11.2024, it should be considered effective from the date of application, 27.06.2024, effectively nullifying any MDI exceedance penalties for the intervening months of June, August, and September 2024.
6. In response, the Respondent raises a primary legal objection regarding the maintainability of the petition before the Commission under Sections 142 and 146 of the Electricity Act, 2003. The Respondent asserts that the dispute is a "consumer grievance" as defined under the HERC (Forum & Ombudsman) Regulations, 2020, and should be adjudicated by the Consumer Grievance Redressal Forum (CGRF) established under Section 42(5) of the Act. Supporting this, the Respondent cites the Hon'ble APTEL judgments which establish that State Commissions lack jurisdiction to adjudicate individual billing disputes between consumers and licensees, as the proper forum is the CGRF followed by the Ombudsman under Section 42(6). Regarding the merits, the Respondent admits that the notice dated 23.10.2024 was "inadvertently" issued under Section 126 but clarifies it was rectified by a subsequent short-assessment notice on 12.11.2024 for the same amount of Rs. 34,01,292. This amount was calculated as a 25% surcharge under Regulation 9.3.5 of the Supply Code for HT consumers exceeding their contract demand by more than 5% during June, August, and September 2024. The Respondent further denies any inordinate delay, citing that the Petitioner's application was incomplete until documents were provided on 23.09.2024, and that load enhancement only operates prospectively from the date of physical release on 27.01.2025.
7. In its rejoinder, the Petitioner attempts to save the maintainability of the petition by citing *Power Transmission Corporation of Uttarakhand Limited*

v. UERC, where the Hon'ble APTEL held that the State Commission may step in for "gross cases" of violation of regulations despite the existence of the CGRF. The Petitioner argued that the Respondent's failures, including the delay in processing the application and the "coercive" inclusion of disputed amounts in monthly energy bills, constitute such gross violations. To counter the Respondent's claim based on the Petitioner's payment of the first two installments the Petitioner cites the Supreme Court judgment in *M/S ASP Traders v. State of Uttar Pradesh*, arguing that payment made under protest and threat of disconnection does not amount to a waiver of the right to challenge the legality of the demand.

8. The Commission observes that the main issue remains whether the Commission is the appropriate forum for a dispute over the calculation and levying of a surcharge for MDI exceedance. While the Petitioner highlights procedural lapses and requested for the quashing of short assessment notices and the refund of paid amounts, falls squarely within the definition of a "consumer grievance" involving "billing disputes of any nature" or "recovery of charges by the licensee". As established by the cited precedents, the State Commission's adjudicatory functions under Section 86(1)(f) do not encompass individual consumer complaints when a specialized redressal mechanism like the CGRF is mandated by the Act. The Respondent's admission of an "inadvertent error" in invoking Section 126, while showing a lack of diligence, was apparently corrected to a surcharge under Regulation 9.3.5, moving the matter back into jurisdiction of a standard billing dispute. Therefore, following the principle that maintainability must be decided as a preliminary issue, this petition is found to be non-maintainable before this Commission. Consequently, the present petition is dismissed, and the Petitioner is at liberty to approach the Corporate CGRF for the redressal of its grievances and any sought of relief regarding the disputed amounts and assessment notices.
9. The petition is disposed of, in above terms.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 30/04/2026.

	Sd/-	**Sd/-**	**Sd/-**
Date: 30/04/2026	**(Shiv Kumar)**	**(Mukesh Garg)**	**(Nand Lal Sharma)**
Place: Panchkula	**Member**	**Member**	**Chairman**