BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION AT PANCHKULA

Case No. HERC/Petition No. 16 of 2026

Date of Hearing	**:**	**28.09.2026**
Date of Order	**:**	**30.10.2026**

In the Matter of

Petition under section 86 (1) (e), 86 (1) (c), 86 1) (f) & 86 (1) (k) of Electricity Act, 2003; regulation 10, 11, 13 of the HERC (Green Energy Open Access) Regulations, 2023 Regulation 17,19,20 of the HERC (Forecasting, Scheduling And Deviation Settlement And Related Matters For Solar And Wind Generation) Regulations, 2019 and Regulation 64, 65, 66, 67, 69, & 70 of the HERC (Conduct of Business) Regulations, 2019 praying this Hon'ble Commission to exercise its power to relax, power to remove difficulty, power to issue practice directions with respect to application of deviation charges on re captive power consumer and consequently, quash the invoices raised by DHBVNL to the extent of overdrawal/underdrawal charges imposed.

Petitioner

1. Ask Automotive Ltd. Through its Authorized Representative, Flat No. 104, 929. 1, Nalwla, Faiz-road, Karol Bagh, New Delhi – 110005 Email: ombir@aksbrake.com
2. M/s CMES Power 2 Pvt. Ltd., Through its Authorized Representative, Vill. Chormar, Sirsa, Haryana Email: gagandeep.sharma@cleanmax.com

Respondents

1. Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL), Through its Managing Director, Data Center, Vidyut Nagar, Hisar – 125005 (Haryana), Email – md@dhbvn.org.in, secbo@dhbvn.org.in
2. Haryana State Load Dispatch Centre (SLDC), Through its Managing Director, Haryana SLDC, HVPNL, Sewah Panipat , Email – xensldcpnp@gmail.com
3. Haryana Vidyut Prasaran Nigam Limited (HVPNL), Through its Chief Engineer, Shakti Bhawan, Plot No. C-4, Sector-6, Panchkula-134109, Email- md@hvpn.org.in; lr@hvpn.org.in

Present on behalf of the Petitioners

1. Mr. Aditya K. Singh, Advocate

Present on behalf of the Respondents

1. Mr. Raghujeet Singh Madan, Advocate
2. Ms. Aerika Singh, Advocate
3. Mr. Lovepreet Singh, Advocate
4. Mr. Gaurav Singhal, AEE, HVPNL
5. Mr. Sunny, AEE, HVPNL

Quorum

Shri Mukesh Garg	**Officiating Chairman**
Shri Shiv Kumar	**Member**

ORDER

Brief background of the case

1. The present petition has been filed by ASK Automotive Limited and M/S CMES Power 2 Private Limited requesting to exercise its power to relax, power to remove difficulty, power to issue practice directions with respect to application of deviation charges on

RE captive power consumer and consequently, quash the invoices raised by DHBVNL to the extent of overdrawal/underdrawal charges imposed.

2. The petitioner(s) have submitted as under:-

Conspectus of the case

2.1 That the present Petition is being preferred by Ask Automotives Limited ("Petitioner No. 1") and CMES Power 2 Private Limited ("Petitioner No. 2" or "Generator"), hereinafter collectively called as Petitioners, praying this Hon'ble Haryana Electricity Regulatory Commission ("Hon'ble Commission" or "Hon'ble HERC") praying this Hon'ble Commission to exercise its power to relax, power to remove difficulty, power to issue practice directions with respect to application of deviation charges on RE captive power consumer (Long-term open access consumer) and consequently, quash the invoices raised by Dakshin Haryana Bijli Vitaran Nigam limited to the extent of overdrawal/underdrawal charges imposed.

2.2 That it is submitted that the Petitioner No. 1 has been imposed with overdrawal/ underdrawal charges by the Respondent No. 1, which is contrary to the applicable legal and regulatory regime.

Description of parties

2.3 That the Petitioner No. 1, Ask Automotive Limited is a company incorporated under the Companies Act, 1956 having its registered office at Karol Bagh, New Delhi, Flat number 104, 929/1 Naiwla Faiz Road, New Delhi- 110005. Petitioner No. 1 (an embedded open access customer) is a captive consumer as per the provisions of Electricity Act, 2003 and has obtained Long-Term Open Access in accordance with Haryana State Electricity Regulatory Commission (Terms and Conditions for grant of connectivity and open access for intra-state transmission and distribution system) Regulations, 2012, Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 as amended from time to time, for transfer of 6.6 MW power from the respective place of generation i.e., from the 50MWac solar power park of Petitioner No. 2, to the places of delivery for captive use.

2.4 That the Petitioner No. 2, CMES Power 2 Private Limited is a company incorporated under the Companies Act, 1956 having its registered office at 13A, Floor- 13, Plot-400, The Peregrine Apartment, Kismat Cinema, Prabhadevi, Mumbai- 400025. It is a solar power developer setting up 50MWac solar power park at Village Chormar & Salamkheda Tehsil Sirsa with connectivity from 400kV Nuhiyanwali at 132kV Voltage level.

2.5 That the Respondent No. 1, Dakshin Haryana Bijli Vitaran Nigam Limited ("DHBVNL"), is a distribution company and subsidiary of Government of Haryana, responsible for distribution, retail supply of electricity, scheduling, settlement and

issuance of login credential for open access consumers within its area of supply in the south zone of Haryana comprising Hisar, Fatehabad, Bhiwani, Sirsa, Faridabad, Gurugram-I, Gurugram-II, Palwal, Rewari, Jind, and Narnaul circles.

2.6 That the Respondent No. 2, Haryana State Load Dispatch Centre ("SLDC") is a load dispatch center under Section 31 of the Electricity Act, 2003, having its office at HVPNL, Sewah (Panipat) which regulates scheduling and dispatch in the state of Haryana.

2.7 That the Respondent No. 3, Haryana Vidyut Prasaran Nigam Limited ("HVPNL") is a State Transmission Utility notified by the Government of Haryana vide notification No. 1/10/2003-1/ Power dated 9.12.2003 notified for the purpose of section 39(1) of E.A. 2003. Respondent No. 3 is responsible for grant of connectivity and Long- Term Open Access, issuance of charging code and coordination of the intra- State transmission system.

Jurisdiction

2.8 That Section 86(1) (e) of the Act provides for this Hon'ble Commission to promote generation of electricity from renewable energy sources. Section 86 (1) (f) empowers this Hon'ble Commission to adjudicate disputes between licensees and generating companies. Section 86(1)(k) empowers this Hon'ble Commission to discharge its functions in accordance with this Act. The relevant provisions read as follows:

"Section 86. Functions of State:

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

(c) facilitate intra-State transmission and wheeling of electricity;

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

(f) adjudicate upon the disputes between the licensees, and generating companies and to refer any dispute for arbitration

…

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

2.9 That the Regulation 10, 11, 13 of the HERC (Green Energy Open Access) Regulations, 2023 provides this Commission with various powers including power to relax, power to issue orders or directions, power to remove difficulties etc.:-

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

11. Issue of orders or directions.: Subject to the provisions of the Act and these regulations, the Commission may, from time to time, issue orders and procedural

directions with regard to the implementation of these regulations and specify the procedure to be followed on various matters, which the Commission has been empowered by the regulations to direct and matters incidental thereto.

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

2.10 That the Regulation 17, 19, 20 of the HERC DSM RE Regulations, 2019 provides this Commission with various powers including power to relax, power to issue orders or directions, power to remove difficulties etc.-

"17. Practice Directions: Subject to the provisions of the Act, the Commission may issue Practice Directions with regard to the implementation of these Regulations.

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

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

2.11 That the Regulation 65, 66 and 67 of the HERC (Conduct of Business) Regulations, 2019 provides this Hon'ble Commission with inherent powers. Relevant provisions are extracted below: -

"Saving of inherent power of the Commission

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

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

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

FACTS

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

2.12 That on 11.01.2012, the Hon'ble Commission issued Haryana Electricity Regulatory Commission (Terms and conditions for grant of connectivity and open access for intra-State transmission and distribution system) Regulations, 2012 ("Connectivity Regulations") in exercise of its powers vested under section 181 of the Electricity

Act, 2003. The said regulations were applicable in cases where applications have been made for grant of connectivity for the purpose of open access to the intra-state transmission and or distribution system or for long term, medium term and short-term open access. As per the HERC Connectivity Regulations, following was provided: -

i. Any licensee, generating company, captive generating plant and consumer/ person other than consumer of the distribution licensee, having a demand of 1 MW and above and connected at 11kV or above are eligible for availing open access on payment of various charges (Regulation 8)
ii. The open access consumers are divided into three categories as per duration of open access i.e., Long term open access, medium term open access and short-term open access (Regulation 10)
iii. Imbalance charge is applicable for all open access transactions for over drawal/ under injection or under drawal/over injection by long-term, medium-term and short-term open access consumers/ generators (Regulation 24)
iv. For an open access consumer who is a consumer of distribution licensee, when the recorded drawl of the consumer is within his sanctioned contract demand during non-peak hours no imbalance charges shall be leviable. However, when the recorded drawal of the consumer is more than his sanctioned contract demand during non-peak load hours he will be liable to pay demand surcharge. When then the recorded drawal is more than the entitled drawl during peak load hours he will be liable to pay peak load violation charges in addition to demand surcharge, if applicable (Regulation 24 A)
v. The eligibility criteria for grant of open access to embedded open access consumers is provided under Regulation 42 (Regulation 42)

2.13 That on 03.12.2013, this Hon'ble Commission issued Haryana Electricity Regulatory Commission (Terms and Conditions for grant of connectivity and open access for intra-State transmission and distribution system) (1stAmendment) Regulations, 2013 ("1st Amendment"). As per the said amendment, the revised provisions provided the following:

i. Any licensee, generating company, captive generating plant or a person other than consumer of the distribution licensee, connected at 11kV of above and who has a capacity/ maximum demand of 1MW and above is entitled to open access (Regulation 8).

   Levy of imbalance charge:

ii. For an open access consumer who is a consumer of the distribution licensee, during the non-peak load hours if the recorded drawl of the consumer is within his contract demand, no imbalance charges shall be leviable. It further stated

that in case of day ahead transactions, bilateral as well as collective, by embedded open access consumers, the imbalance charges for the overdrawl during non-peak hours shall be as provided in Regulation 42 (Regulation 24).

iii. During peak load ours, levy of imbalance charge for any overdrawl shall be as provided in Regulation 45. (Regulation 24).

UI Charges:

iv. These regulations provided that in the event of underdrawl, the consumer will be paid by the licensee UI charges as notified by CERC for intra-state entities (Regulation 24)

v. Eligibility criteria, procedure and conditions to be satisfied for grant of long-term open access, medium term open access and sort term open access to embedded consumers shall be same as applicable to other short term open access consumers. However, the day ahead transactions, bilateral as well as collective through power exchange by embedded open access consumers under short term is subject to additional terms and conditions (Regulation 42)

"24 (2) Imbalance charges applicable for all open access transactions for the overdrawl / underdrawl by an open access consumer or for the under injection / over injection by a generator or trader shall be as given below.

(A) Due to reasons attributable to the open access consumers / generator / trader

I. Over drawl by open access consumer / under injection by a generator or a trader:

(ii) An open access consumer who is a consumer of the distribution licensee:

(a) During non peak load hours if the recorded drawl of the consumer is within his contract demand, no imbalance charges shall be leviable. When the recorded drawl of the consumer as per his energy meter exceeds his contract demand by more than 5% during non peak load hours, he will be liable to pay demand surcharge as per the relevant schedule of tariff approved by the Commission. For the purpose of calculating demand surcharge in such cases, the total energy drawl during the month including the energy drawl through open access shall be considered. The consumption charges for the energy drawl through open access, for the purpose of levy of demand surcharge, will be worked out at the applicable tariff for the category to which the consumer belongs.

Provided that in case of day ahead transactions, bilateral as well as collective, through power exchange or through NRLDC, by embedded open access consumers, the imbalance charges for the over drawl during non peak load hours shall be as provided in regulation 42 hereinafter.

(b) During peak load hours, levy of imbalance charge for any over drawl beyond peak load exemption/special dispensation allowed by the distribution licensee and levy of peak load exemption charges on the

power drawn through open access shall be as provided in regulation 45(3) and 45(4) respectively hereinafter.

(c) *During the period when power cut restrictions are in place and the feeder of the consumer is kept energized only to enable him to draw his scheduled entitlement as an open access consumer, the consumer shall restrict his drawl within his entitled drawl as per his accepted schedule of power through open access during such period. In case the recorded drawl of consumer exceeds his entitled drawl by more than 10% (of the entitled drawl) in any time slot, his entire over drawl beyond the entitled drawl during such period would be charged at two (2) times the applicable tariff. The applicable tariff shall include FSA and in case power cut restriction period falls within peak load restriction hours shall also include PLEC."*

"42. Eligibility criteria, procedure and conditions to be satisfied for grant of long-term open access, medium term open access and short-term open access to embedded consumers shall be same as applicable to other short-term open access consumers. However, the day-ahead transactions, bilateral as well as collective through power exchange or through NRLDC, by embedded open access consumers under short term open access shall be subject to the following additional terms and conditions:

i. *The Consumer shall submit to the distribution licensee a schedule of power through open access for all the 96 slots by 10:00 AM of the day preceding the day of transaction and this will be considered as confirmed schedule for working out the slot-wise admissible drawl of the consumer from the licensee with reference to his sanctioned contract demand. For example, if an embedded consumer with a contract demand of 10 MW has scheduled 4 MW power through open access in any time slot of the succeeding day as per the schedule submitted by him at 10 AM, then his admissible drawl from the licensee in that time slot will be 6 MW.*

ii. *The total admissible drawl in different time – slots shall, however, be worked out based on slot-wise admissible drawl from the licensee as above and the slot-wise schedule of power through open access accepted / cleared by the power exchange and intimated to the SLDC and distribution licensee by the consumer in compliance of regulation 45. For example if, as per the schedule for drawl of power through open access submitted by the consumer at 10 AM of the day preceding the day of transaction, 4 MW power was scheduled through open access in a time slot and as per the accepted schedule this gets reduced to 3 MW, then his admissible total drawl in that time slot shall be 9 MW. i.e. 6 MW from the licensee and 3 MW through open access.*

iii. *In case recorded drawl of the consumer in any time slot exceeds his total admissible drawl but is within 105 % of his contract demand, he will be liable to pay charges for the excess drawl (beyond admissible drawl) at twice the applicable tariff including FSA. In case the recorded drawl exceeds the sanctioned contract demand by more than 5% at any time during the month as per his energy meter, demand surcharge as per relevant schedule of tariff approved by the Commission shall also be leviable. For the purpose of calculating demand surcharge in*

such cases, the total energy drawl during the month including the energy drawl through open access shall be considered. The consumption charges for the energy drawl through open access, for the purpose of levy of demand surcharge, will be worked out at the applicable tariff for the category to which the consumer belongs.

iv. The drawl of power through open access during peak load restriction hours shall be subject to the provisions of regulation 45 (3) hereinafter.

i) In the event of under drawl for a slot or multiple thereof, the consumer will be paid imbalance charges by the distribution licensee as provided in Regulation 24 (2) (A) II (i) provided that in case of under drawl as a result of non-availability of intra-state distribution / transmission system or on account of unscheduled load shedding (to be certified by SLDC), imbalance charges for under drawl shall be payable as provided in Regulation 24 (2) (C).

All other terms and conditions shall be same as applicable to other short-terms open access consumers."

In short, it is to conclude that as per the 1st Amendment Regulations, 2013, following is applicable:

i. It imposed imbalance charges on open access consumers. During non-peak hours, for drawal of power within contract demand, no imbalance charges are applicable.

ii. In case of day ahead transactions, bilateral as well as collective through power exchange or through NRLDC, by embedded open access consumers, the imbalance charges for over drawal during non-peak load hours shall be as per Regulation 42. Regulation 42 provided imbalance charges specific terms and conditions applicable only on short term open access consumers but not on long-term and medium-term open access consumers.

2.14 That at this juncture, it is pertinent to mention that back then there was no concept of open access from solar and wind power plants. Thereafter, on 24.07.2018, the Haryana Electricity Regulatory Commission (Terms and conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2017 ("HERC Tariff for Renewable Energy Sources Regulations, 2017") were notified. These regulations extended to all grid connected renewable energy projects and obligated entities in the state of Haryana. These regulations clearly stated that the scheduling and deviation settlement related to solar and wind power shall be addressed though a separate set of regulations.

"*10. Despatch principles for electricity generated from Renewable Energy Sources:*

(2) The scheduling and deviation settlement issues related to solar and wind power shall be addressed through a separate set of Regulations already under formulation. Further, as far as scheduling and deviation settlement mechanism for other source

of RE generator is concerned, till the time the Commission notifies the said mechanism after due deliberations, the dispensation provided in the present Regulations shall be applicable."

2.15 That pursuant to the same, this Hon'ble Commission, on 29.04.2019, introduced the Haryana Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement and related matters for Solar and Wind Generation) Regulations, 2019 ("HERC DSM RE Regulations, 2019").

These regulations clearly stated that the same shall apply to all wind and solar energy generators in Haryana connected to the intra-state transmission/ distribution system, including those connected through pooling sub-stations, and using the power generated for self-consumption or sale within or outside the state. In addition, it provided a table for calculation of under and over injection for the generators, however, there were no deviation charges for the Buyers on the drawl side.

Relevant provisions are reproduced below for reference:

"*2. Definitions:*

1.1 In these Regulations, unless the context otherwise requires:

(e) "Buyer" means a person, including distribution licensee or open access consumer, purchasing electricity through a transaction scheduled in accordance with the regulations applicable for short-term open access, medium-term open access and log-term access.

4 Applicability

4.1 These Regulations shall apply to all Wind and Solar Energy Generators in Haryana connected to the Intra-State Transmission /Distribution System, including those connected through Pooling Sub-Stations, and using the power generated for self-consumption or sale within or outside the State: Provided that the combined installed capacity of the Solar or Wind Generators connected to a particular Pooling Sub-Station, or that of an individual Generator connected to some other Sub-Station, shall not be less than 1 MW.

Table 1: Deviation Charge for under- or over-injection, for sale or self-consumption of power within Haryana

S. No.	Absolute Error in %age terms in 15-minute time block	Deviation Charge payable to State Deviation Pool Account
1	< = 10%	None
2	>10% but <=20%	At Rs. 0.50 per unit
3	>20% but <=30%	At Rs. 0.50 per unit for the shortfall or excess beyond 10% and upto 20% + Rs. 1.00 per unit for the balance energy beyond 20% and upto 30%
4	>30%	At Rs. 0.50 per unit for the shortfall or excess beyond 10% and upto 20% + Rs. 1.00 per unit for the shortfall or excess beyond 20% and up to 30% + Rs. 1.50 per unit for the balance energy beyond 30%

A copy of the HERC DSM Regulations, 2019 is annexed with the petition.

2.16 That the Haryana Electricity Regulatory Commission (Terms and conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2021 ("HERC Renewable Energy Tariff Regulations, 2021") were issued on 30.04.2021, applicable from FY 2021-22 to FY 2024-25. Regulation 72 (c) of these regulations explicitly clarified that the imbalance charges as per Open Access Regulations will not be applicable for solar power generated and consumed within the state in real time. However, it did impose reliability charges for injection/drawal of solar power in the grid.

"*72. (c) The imbalance charges as per Open Access Regulation will not be applicable for Solar Power generated and consumed within the State in real time. However, Open Access consumers/generators shall pay Rs. 1.50/unit for injection/drawal of solar power in the grid as reliability charges."*

2.17 That the Ministry of Power, Government of India ("MoP, GoI"), had notified, on 06th June, 2022, the Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022 ("GEOA Rules, 2022"), applicable on generation, purchase and consumption of green energy as defined therein including waste-to-energy power plants. As per the GEOA Rules, various open access charges include transmission charges, wheeling charges, cross-subsidy surcharge, standby charge wherever applicable. It did not mention anything about deviation settlement mechanism.

Subsequently, the GEOA Rules were amended on 27.01.2023. Inter-alia, this amendment clarified that the applicable standby charges shall not be more than twenty five percent of the energy charges applicable to consumer tariff category.

A copy of the GEOA Rules, 2022 and its amendment is annexed with the petition.

2.18 That consequently, a draft of HERC (Green Energy Open Access) Regulations, 2023 was published by this Commission inviting comments and objections from various stakeholders. Pursuant thereto, public hearing was held on 06.04.2023, followed by issuance of a Suo-Moto order on 24.04.2023 ("Suo-Moto Order"). Considering, the GEOA Rules, 2022 did not impose or consider any reliability charge, the interveners in line with the central rules requested the Commission to incorporate a provision for non-inclusion of reliability charges in the Green Energy Open Access Regulations as imposed under the HERC Renewable Energy Tariff Regulations, 2021. This Hon'ble Commission vide its order dated 24.04.2023 clarified that reliability charge shall not be applicable on green energy open access consumers. It specifically clarified that only the charges specified under the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 shall be applicable in addition to charges as specified in Deviation Settlement Mechanism and open access regulations in vogue.

"*9.1 Regulation 1 (4): The draft for discussions provide that,*

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

Commission's view:

It goes without saying that any other charge, not mentioned in these Regulations or the Green Open Access Rules, 2022, will not be applicable. However, to allay the fears of the intervener it is made clear that from the date of notification of these Regulations, the 'Reliability Charge' will not be applicable for the Open Access consumers availing open access for bringing in green power under these Regulations.

It needs to be noted that this Commission is also bound by its Regulations. Hence, the distribution licensee ought not to collect any charge other than what they are authorized by the Regulations to collect. Resultantly, the suggestion of the interveners has been considered. It is clarified that only charges specified under Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023" shall be applicable in addition to charges as specified in the Deviation Settlement Mechanism and Open Access Regulations in vogue or applicable charges as per the HERC ARR / Tariff order(s)."

A copy of this Commission's Suo-Moto Order dated 24.04.2023 is annexed with the petition.

2.19 That similarly, in the said Suo-Moto Order, it was further contended by the interveners that the Commission must specify that any charges/ surcharges which are not a part of the Green Energy Open Access Regulations, 2023 read with GEOA Rules, 2022 such as imbalance charges should not be made applicable. To this objection, this Hon'ble Commission explained that 'other' charges applicable on green energy open access consumers will not include reliability charge, however, imbalance charge shall be governed by DSM Regulations/ Open Access Regulations in vogue. Further, other' charges would include Load Dispatch Centre/ scheduling charges, deviation settlement charges and reactive energy charges. It also decided that standby charges was to be paid at 125% of the ECR, at max.

Pertinently, this Suo-Moto Order explicitly clarified that imbalance charges shall be governed by DSM Regulations or open access regulations in vogue.

"*9.13 Provision in the draft Regulations:*

Regulation 9(1): Charges to be levied for Open Access

"9. Charges to be levied for Open Access: (1) The charges to be levied on Green Energy Open Access consumers shall be as follows: -

a) Transmission charges;
b) Wheeling charges;
c) Cross subsidy Surcharge;
d) Standby charges wherever applicable;
e) Banking charges; and
f) other fees and charges such as Load Despatch Centre fees and scheduling charges, deviation settlement charges as per the prevailing regulations of this Commission.

(4) In case of RE Open Access, the consumers taking power from such RE Generator may maintain its contract demand with the distribution licensee. In such cases, the distribution licensee is obligated to supply power to such consumer under universal service obligations and Open Access Consumer shall continue paying fixed charges to the distribution licensee.

The standby charges, in such cases, shall be 125% of the energy charges applicable to consumer tariff category, and such charges shall not be applicable if the Green Energy Open Access Consumers have given notice in writing, in advance at least a day in advance before closure time of the Day Ahead Market on D – (minus) day; "D" being the day of delivery of power for standby arrangement to the distribution licensee.

Commission's view- *The Commission has considered the objections filed by the above-mentioned intervener. The main concern of the intervener seems to be the composition of 'other' charges. It has already been clarified that this will not include reliability charge, while imbalance charge shall be governed by the DSM Regulations / Open Access Regulations in vogue. However, to provide more clarity to 'other' charges it clarified that the same shall include Load Dispatch Centre fees / scheduling charges, deviation settlement charges and reactive energy charges. Further, an intervener has submitted that as per the 'Rules' standby charges ought to be 10% of the ECR. It may be noted that this issue was left for the Forum of Regulators (FOR) to deliberate and decide. After due diligence the same was decided as 125% of the ECR; hence, it has been incorporated in the draft under discussions. Resultantly, no change is required in the said dispensation on 'stand by' charge*."

2.20 That On 02.05.2023, the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 ("HERC GEOA Regulations 2023") were notified. These regulations facilitate green energy open access supply and consumption. It states that these regulations shall be applicable for allowing connectivity and open access to electricity generated from green energy sources for use of intra-state transmission system (InSTS) or distribution system or both including when such

system is used in conjunction with inter-state transmission system. It states that a person may apply for connectivity as well as long term or medium term or short-term open access simultaneously. It further states that other conditions of grant of connectivity and open access in respect of green energy generation, purchase and consumption to which no express provision has been made in these regulations, shall be in accordance with the provisions of HERC Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation Regulations, 2019, Haryana Electricity Regulatory Commission (Terms and conditions for grant of connectivity and open access for intra-state transmission and distribution system) Regulations, 2012 and Haryana Electricity Regulatory Commission (Terms and Conditions for determination of tariff from Renewable Energy Sources, Renewable Purchase Obligations and Renewable Energy Certificate) Regulations, 2021.

2.21 That the Regulation 8 of the said regulations lays down the charges to be levied on green energy open access consumers which includes Standby Charges wherever applicable, deviation settlement charges, reactive energy charges etc. It clarified that as far as scheduling and deviation mechanism is concerned, the same shall be governed by separate regulations i.e., DSM and open access regulations, 2012 as amended from time to time.

"*Chapter- 4 Charges for Green Open Access*
8.Charges to be levied for open access:
(1) The charges to be levied on Green Energy Open Access consumers shall be as follows: -
a) Transmission charges;
b) Wheeling charges;
c) Cross subsidy Surcharge;
d) Standby charges wherever applicable;
e) Banking charges; and
f) Application fees/SLDC fees/Charges, scheduling charges, deviation settlement charges and reactive energy charges.
The methodology for calculation of Transmission, wheeling and cross-subsidy surcharge charges shall be as specified in the Haryana Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Generation, Transmission, Wheeling and Distribution & Retail Supply under Multi Year Tariff Framework) Regulations, 2019 as amended from time to time.
Further, as far as scheduling and deviation mechanism is concerned, the same shall be governed by the separate Regulations i.e. DSM and Open Access Regulations, 2012 as amended from time to time."

Therefore, it can be very well inferred that scheduling and deviation mechanism for Green Energy Open Access consumers is to be governed by the HERC DSM Regulations, 2019 and Open Access Regulations, 2012. However, it is reiterated that HERC DSM Regulations, 2019 do not provide for any mechanism for deviation charges vis-à-vis drawl side. And HERC Open Access Regulations, 2012 (along with amendments) does not provide for any mechanism for deviation charges or

unscheduled interchange charges for long-term open access consumers and medium-term open access consumers.

2.22 However, despite that issuance of the Suo-Moto Order and various clarifications made therein by this Hon'ble Commission, a petition was filed by UHBVNL (bearing Petition No. 49 of 2023) seeking clarifications and removal of difficulties in effective implementation of the HERC Green Energy Open Access Regulations, 2023.

This Hon'ble Commission vide its order dated 10.11.2023 again reiterated that for green energy open access consumers imbalance charges applicable would be those governed by DSM Regulations/ Open Access Regulations in vogue.

"*5. Notwithstanding the above observations, the Commission issues the following clarifications-*

5.1 Applicability of imbalance charges:

The petitioner has sought clarification regarding the applicability of Imbalance charges on the Green Energy Open access consumers, submitting that the GOA Regulations provides the 'other' charges to be leviable on Green Energy Open Access consumers which include only Load Dispatch Centre fees / scheduling charges, deviation settlement charges and reactive energy charges.

The Commission observes that the necessary clarification in this regard has already been given in page no.-67 of Suo-moto petition order dated 24.04.2023, as highlighted by the petitioner also. The relevant portion of the ibid order of the Commission, is reproduced hereunder: -

"Commission's view: - The Commission has considered the objections filed by the above-mentioned intervener. The main concern of the intervener seems to be the composition of 'other' charges. It has already been clarified that this will not include reliability charge, while imbalance charge shall be governed by the DSM Regulations / Open Access Regulations in vogue. However, to provide more clarity to 'other' charges it

Thus, it has already been clarified that imbalance charges are applicable as governed by DSM Regulations/Open Access Regulations in vogue. Therefore, nothing remains to be clarified in this order."

2.23 That In the meanwhile, on 17.05.2024, Petitioner No. 1, a consumer of Respondent No. 1, applied to the Respondent No. 2 for grant of long-term open access permission for its up-coming solar power project of 6.6MW ("Captive Solar Power Plant") within the 50MW solar power park of Petitioner No. 2.

2.24 That the LTOA was granted by the Respondent No. 2 on 24.12.2024 for a period of 25 years with the point of injection of power as 400kV S/stn, Nuhiyawali at 132kV voltage level (through 132kV line from pooling substation of M/s CMES Power 2 Pvt. Ltd. at village-Chormar, District- Sirsa. This LTOA approval reads that the terms of HERC Green Energy Open Access Regulations, 2023, HERC DSM Regulations, 2019 and HERC Open Access Regulations, 2012 shall be applicable on the long-term open access consumer. A copy of the LTOA approval dated 24.12.2024 is annexed with the petition.

2.25 That pursuant to the modifications in the GEOA Rules, 2022 in, this Hon'ble Commission issued a draft discussion paper proposing amendment to the HERC GEOA Regulations, 2023 for which comments were invited from various stakeholders by 10.02.2025. Parent company of the Petitioner No. 2 submitted its objections vis-a-vis DSM charges as follows:-

i. The provisions of OA Regulations, 2012 and it's amendments were made when there was only short-term power supply under open access from Power Exchange, there was no concept of open access from solar and wind, there was acute shortage of power availability in the state and under open access the power was coming mostly from outside the state.

ii. There is no provision of levy of Over-drawl charges on the consumer availing Open Access from Solar and Wind under Long Term from Green Energy Open Access under bilateral agreement.

iii. The HERC regulations stipulate that imbalance charges as per Open Access Regulations do not apply to solar power generated and consumed within the state in real time.

iv. Due to the ambiguity in this matter the Green Energy Open Access Consumers/ Buyers are levied with DSM penalties / imbalance charges as DSM equivalent to 2 times the tariff.

v. A Green Energy Open Access Consumer is different from an Open Access Consumer availing power from Conventional power sources under Open Access. The consumer availing Green Energy Open Access avails open access within its contract demand only and / or draws power under open access not exceeding contract demand for which he is already paying full demand charges as determined by the Hon'ble commission and the utilities are under obligation to provide power upto contract demand at any given point of time.

vi. Even if there is an under injection from the open access source there is no increase in demand on the distribution network system on account of the same as the consumer is not drawing more than its contract demand.

vii. Levy of imbalance charges as DSM Charges for overdrawl of power within the Contract Demand by the Open Access Consumer on account of under injection from the open access source is a double jeopardy to the captive Green Energy Generator / Consumer.

viii. Even in case the commission decides for the levy of some charges for the overdrawl from grid during any time block which is unscheduled the same is an that can be covered standby charges that can be levied on that quantum of power which is capped at 25% of the energy charges for that particular category and not 200% of the energy as per the 2012 regulations.

ix. It needs to be clarified that the provisions of the DSM as imbalance charges on buyer on account of overdrawl / underdrawl is only applicable on power sourced from Short Term and Power Exchanges or Power Drawn from Open Access (Except Solar and Wind).

x. It needs to be clarified that the provisions of the DSM and over drawl charges shall not be levied on the Buyers / Consumers of Long-Term Open Access from Solar and Wind.

A copy of the objections and comments submitted by the parent company of Petitioner No. 1 dated 04.02.2025 are annexed with the petition.

2.26 However, this Hon'ble Commission did not take into consideration the comments submitted in relation to DSM and passed the order in the public hearing on 25.02.2025, which were notified on the same day as Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023, 1st Amendment Regulations, 2025 ("HERC GEOA First Amendment Regulations, 2025"). The relevant extracts of the regulation after the first amendment are given as under: -

"2. Scope and extent of application: These regulations shall apply where an application has been made for grant of connectivity for the purpose of open access to the intra-State transmission and/or distribution system and/or where an application has been made for long-term open access, medium-term open access or short-term open access for use of the intra-State transmission and/or distribution system or where an application has been made for obtaining no objection or standing clearance, as the case may be, of the STU for open access to inter-State transmission system when the intra-State transmission and distribution system is to be used in conjunction with inter-State transmission system.

…

"*4. Eligibility criteria for Green Energy Open Access: The consumer who has contracted demand or sanctioned load of hundred kW and above either through single connection or through multiple connections aggregating hundred kW or more located in same electricity operation division of a distribution licensee shall be eligible to take power through Green Energy Open Access and there shall be no limit of supply of power for the captive consumers taking power under Green Energy Open Access*."

Fourth proviso of Regulation 4 of the Principal Regulations, shall be substituted as under:

"*Provided further that the eligible consumers of a distribution licensee who are not on independent feeders may be allowed open access subject to the condition that they agree to the system constraints as well as the power cut restrictions imposed by the distribution licensee serving them. In such cases, under drawl, if any, on account of power cut restrictions shall not be compensated."*

A copy of the HERC GEOA 1st Amendment Regulations, 2025 is annexed with the petition.

2.27 Simultaneously, followed by the LTOA grant, an LTOA agreement has been executed between the Petitioner 1, Petitioner 2, Respondent No. 1 and Respondent No. 2 on 18.03.2025. The LTOA Agreement states that the terms of HERC Green Energy Open Access Regulations, 2023 and HERC Open Access Regulations, 2012 shall be applicable on the long-term open access consumer. A copy of the said LTOA Agreement is annexed with the petition.

2.28 It is only after the issuance of the CERC (Deviation Settlement Mechanism) Regulations, 2024 that this Commission found it appropriate to revise the DSM Regulations for the state of Haryana. Accordingly, it proposed a draft and invited public comments to the same.

2.29 The Petitioner No. 2, through its parent company, sought for clarification regarding applicability of the DSM as imbalance charges on buyer on account of overdrawal/ underdrawal of power for its various consumers. A copy of the comments and objections submitted on 04.02.2025 is annexed with the petition..

2.30 Pursuant to the public hearing conducted on 18.02.2025, this Commission passed the final order on 27.05.2025 and once again refused to provide any clarification vis-à-vis the provisions for imbalance charges on Green Energy Open Access Consumers. A copy of the final order dated 27.05.2025 and the notified HERC DSM Regulations, 2025 is annexed with the petition.

2.31 However, despite the same, the Respondent No. 1 raised the monthly bill on Petitioner No. 1 imposing overdrawal charges. A copy of one of the latest bills dated 29.10.2025 is annexed with the petition.

2.32 That this imposition is illegal, arbitrary and contrary to the applicable HERC Green Energy Open Access Regulations, 2023, HERC DSM Regulations for solar and wind 2019 and HERC Open Access and connectivity Regulations, 2012 (read with amendments thereunder.

2.33 That at this juncture, it is pertinent to state that the generator, i.e., the Petitioner No. 2 is already being imposed with the deviation charges due to over injection/ under injection by the Respondent No. 2 in terms of the HERC DSM Regulations for Wind and Solar, 2019. A copy of the DSM bill dated 25.10.2025 raised by the Respondent No. 2 on Petitioner No. 2 is annexed with the petition.

2.34 Therefore, it appears that both the generator as well as the captive consumer (long term open access consumer) is being penalised for the energy transaction vis-à-vis under/over injection and under/over drawal.

2.35 That the case of the petitioners that there is no provision for imposition of deviation charges on overdrawal/ underdrawal of power for Green Energy Open Access Consumers procuring power through long term open access. However, despite the

said vacuum the green energy open access consumer is being imposed with deviation charges in the form of imbalance charges at a rate double than tariff.

2.36 That the Petitioner approached the Respondent No. 1 praying no-levy of deviation charges on over drawl/under drawl of power for Green Energy Open Access Consumers procuring power through long term open access.

The Respondent No. 1 has not furnished any reply to the representation of the Petitioner.

Copy of the Representation is annexed with the petition.

2.37 Therefore, the Petitioners are compelled to file the present petition on the following grounds:

Imposition of over drawal/ under drawal charges on the Green Energy Long Term Open Access consumer is contrary to the applicable regulations

A. FOR THAT Petitioner No. 1 is a RE long-term open access consumer and ought not to be imposed with over drawal charges/ deviation charges within or outside its contract demand, since there are no provisions governing the same.

B. FOR THAT HERC 1st Amendment Open Access Regulations, 2013 provided for dispensation with respect to imbalance charges. It imposed imbalance charges on open access consumers. During non-peak hours, for drawal of power within contract demand, no imbalance charges are applicable. In case of day ahead transactions, bilateral as well as collective through power exchange or through NRLDC, by embedded open access consumers, the imbalance charges for over drawal during non-peak load hours shall be as per Regulation 42. Regulation 42 provided imbalance charges specific terms and conditions applicable only on short term open access consumers but not on long-term and medium-term open access consumers. Therefore, there is no provision under the said regulations under which imbalance charges can be imposed on the Petitioner No. 1 being a Long-Term Open Access Consumer.

C. FOR THAT levy of imbalance charges as DSM Charges for overdrawl of power within the contract demand by the Open Access Consumer on account of under injection from the open access source is a double jeopardy to the captive Green Energy Generator / Consumer.

D. FOR THAT HERC Tariff for Renewable Energy Sources Regulations, 2017 clearly stated that the scheduling and deviation settlement related to solar and wind power shall be addressed though a separate set of regulations.

E. FOR THAT HERC DSM RE Regulations, 2019 clearly state that the same shall apply to all wind and solar energy generators in Haryana connected to the intra-state transmission/ distribution system, including those connected through pooling sub-stations, and using the power generated for self-consumption or sale within or outside

the state. In addition, it provided a table for calculation of under and over injection for the generators, however, there were no deviation charges for the Buyers on the drawl side. Hence, the same are not applicable on Petitioner No. 1 but applicable only on Petitioner No. 2.

F. FOR THAT this Hon'ble Commission vide its Suo-Moto Order dated 24.04.2023 clearly stated that imbalance/ deviation charges shall be governed by DSM Regulations or open access regulations in vogue. In the present case, the Petitioner No. 1 is a Green Energy Long-term open access consumer and hence, neither the HERC DSM Regulations nor the HERC Open Access Regulations, 2012 are applicable, for both the regulations lack any provision imposing deviation charges on such long-term open access consumers.

G. FOR THAT a Green Energy Open Access Consumer is different from an Open Access Consumer availing power from Conventional power sources under Open Access. The consumer availing Green Energy Open Access avails open access within its contract demand only and / or draws power under open access not exceeding contract demand for which he is already paying full demand charges as determined by the Hon'ble commission and the utilities are under obligation to provide power up to contract demand at any given point of time.

H. FOR THAT The over-drawl of the consumer from the grid is on account of under injection of its captive generating plant under Long Term Open Access shall not be levied with imbalance charges as DSM Charges on Buyer as the under injection from the captive generator is subjected to DSM Charges and levy of DSM Charges for the over drawl of power due to this under drawl which has already been subjected to DSM penalty is a double jeopardy which is bad in law.

I. FOR THAT, imposition of over-drawal charges to the rate of 2x of the applicable tariff without any legal sanctity is not only unsustainable in law but also against the national goals of promotion and development of renewable energy.

J. Even if assuming but not conceding that any charges are to be imposed on green energy open access consumer for over-drawal beyond its contract demand, the GEOA Rules, 2022 and even the HERC GEOA Regulations provide for stand-by charges, wherever applicable. GEOA Rules, 2022 caps stand by charges at 25% of the energy charges applicable to the consumer tariff category. These standby charges are essentially the charges applicable to green energy open access consumers against the standby arrangement provided by the distribution licensee, in case such green energy open access consumer is unable to procure/schedule power from the generating sources with whom they have the agreements to procure power due to outages of generator, transmission systems and the like.

This Commission is empowered to exercise its power to remove difficulty, power to relax and power to issue directions read with its inherent powers:

K. FOR THAT, the Petitioners humbly submit that it is a well-settled principle of law as established by judicial precedents that an authority can exercise its discretionary power to "remove difficulty" where the statute provides for the same. It is further submitted that such powers may be exercised in the following circumstances: -

i. The statute vests the power to remove difficulty in the authority prescribed.

ii. If there is power to remove difficulty in the regulation, the power must be exercised reasonably and fairly. It cannot be exercised arbitrarily to favour some party and to disfavour some other party.

iii. The party who claims the removal of such difficulty shall adduce valid reasons to establish to the Hon'ble Commission that it is a fit case to exercise its power to remove such difficulty in giving effect to the provisions of the Regulations.

L. FOR THAT the Petitioners place their reliance on the Judgement of the Hon'ble Supreme Court in *Madeva Upendra Sinhai and Ors. v. Union of India & Ors, (1975) 3 SCC 765* whereby the Hon'ble Supreme Court observed that "Power to Remove Difficulty" can be exercised to the extent it is *necessary for applying or giving effect to the legislation* and in doing so, the authority exercising the power to remove difficulty may slightly tinker with the legislation without flouting the basic structure and primary features of the regulations. The relevant portion from the said Judgment is extracted herein for ready reference: -

> *"…*
>
> *40. Now let us turn to clause (7) of the Regulation. It will be seen that the power given by it is not uncontrolled or unfettered. It is strictly circumscribed, and its use is conditioned and restricted. The existence or arising of a "difficulty" is the sine qua non for the exercise of the power. If this condition precedent is not satisfied as an objective fact, the power under this clause cannot be invoked at all. Again, the "difficulty" contemplated by the clause must be a difficulty arising in giving effect to the provisions of the Act and not a difficulty arising aliunde, or an extraneous difficulty. Further, the Central Government can exercise the power under the clause only to the extent it is necessary for applying or giving effect to the Act, etc., and no further. It may slightly tinker with the Act to round off angularities, and smoothen the joints or remove minor obscurities to make it workable, but it cannot change, disfigure or do violence to the basic structure and primary features of the Act. In no case, can it, under the guise of removing a difficulty, change the scheme and essential provisions of the Act*.
>
> *…"[Emphasis Supplied"]*

M. FOR THAT this Commission has inherent powers to issue directions and pass orders as *may* be necessary for ends of justice or to prevent the abuse of the process of the Commission.

Imposition of any charges on procurement of green energy is contrary to national objectives

N. FOR THAT imposition of such exorbitant charges that to without any legal sanctity is contrary to aims and objectives stated in Para 4.2.2. of the NAPCCC and Preamble to the 2003 Act, which emphasizes upon promotion of efficient and environmentally benign policies to encourage generation and consumption of green energy to subserve the mandate of Article 21 read with Article 48 A of the directive principles of state policy. *Hindustan Zinc Limited vs. RERC* (2015) 12 SCC 611 (Para 33, 35 and 45).

FOR THAT the preamble of the Electricity Act states that there should be promotion of efficient and environmentally benign policies, however, the said imposition is contrary to the same.

The preamble of Electricity Act, states: -

"An act to consolidate the laws relating to generation, transmission, distribution, trading and use of electricity ... promoting competition therein ... rationalisation of electricity tariff, ensuring transparent policies regarding subsidies, promotion of efficient and environmentally benign policies...."

O. FOR THAT special provisions under the Electricity Act pertain to electricity generation from renewable energy sources, optimization of renewable energy costs and integration of renewable energy into the grid. That Section 86 (1)(e) of the EA, 2003 categorically states that one of the main functions of the state commission will be to promote generation of electricity from renewable sources of energy, however, imposition of such charges is contrary to imposition of such promotion.

PRAYER: In view of the submissions made hereinabove and those made at the time of the oral hearing, it is prayed that:

a. Admit the present Petition;
b. Exercise its powers conferred to it under Regulation 10, 11, 13 of the HERC (Green Energy Open Access) Regulations, 2023 and Regulation 17, 19, 20 of the HERC DSM RE Regulations, 2019 i.e., Power to remove difficulty, power to relax and inherent powers and hold that the invoices issued by the Respondent No. 1 are illegal to the extent of over-drawal charges imposed;
c. Exercise its powers conferred to it under Regulation 10, 11, 13 of the HERC (Green Energy Open Access) Regulations, 2023 and Regulation 17, 19, 20 of the HERC DSM RE Regulations, 2019 i.e., power to issue directions and inherent powers and direct the Respondents to not levy any over-drawal charges on Petitioner No. 1 given imposition of the same is contrary to applicable law;

d. Hold and declare that imbalance charges under the HERC DSM Regulations, 2012 are not applicable on green energy open access consumers procuring power through long-term open access and medium-term open access.

e. Alternatively, hold and declare that in case any charges are payable by long term open access and medium-term open access consumers (Green Energy Open Access Consumer) for deviation, the same is covered under the standby charges payable under the HERC GEOA Regulations.

f. Pass any other order/ direction as this Hon'ble Commission may deem fit in the interest of justice.

Proceedings of the Case

3. The case was first taken up for hearing upon mentioning on 24.04.2026. Vide Interim Order dated 30.04.2026, the Commission directed the respondents (DHBVNL, SLDC and HVPNL) to file their reply within four weeks from the date of issue of this order, with an advance copy to the petitioner (s). The petitioner(s) were also directed, if so desire, file their rejoinder within two weeks thereafter with copy to the respondents. The case was listed for arguments on 16.06.2026.

4. **Respondent DHBVNL's reply dated 29.05.2026**

In response to Interim Order dated 30.04.2026, DHBVNL filed their reply to the petition as under:

4.1. That the present Petition has been filed by *M/s ASK Automotive Limited and M/s CMES Power 2 Private Limited* (hereinafter referred to as the "Petitioners"), invoking the 'power to relax' and 'power to remove difficulty' of this Hon'ble Commission. The Petitioners, being Long-Term Open Access ("LTOA") consumers procuring solar power, have approached this Hon'ble Commission seeking quashing of the invoices raised towards over-drawal/under-drawal (deviation/imbalance) charges on the ground that the applicable regulatory framework does not permit levy of such charges upon Green Energy Open Access ("GEOA") / LTOA consumers.

PRELIMINARY SUBMISSIONS/ OBJECTIONS:

4.2. That at the very outset, it is respectfully submitted that the authorization appended with the present Petition on behalf of the Petitioner No. 1 is defective. In this regard, attention is invited to the Authorization Letter issued by Ask Automotive Limited, wherein it has been stated that Mr. Ombir Singh has been authorized to- *"sign/ execute and submit application and all other necessary papers, letters, affidavit, undertakings, agreements, documents, writings, submissions etc. to Haryana Electricity Regulatory Commission ("HERC") … … as may be required for day-to-day transaction, operation and correspondence for grant of open access approval for Solar Plant at Sirsa, Haryana."* A bare perusal of the aforesaid authorization demonstrates that the authority

conferred therein is restricted only to matters concerning the 'grant' of open access approval. The said authorization does not extend to seeking relaxation from the applicable Regulations governing over-drawal/under-drawal charges, nor does it empower the authorized signatory to challenge the applicability or validity of the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 itself. As such, the present Petition is liable to be dismissed in *limine* on this ground alone.

I. <u>NON-MAINTAINABILITY OF THE PRESENT PETITION AS THE ISSUES RAISED ARE ALREADY SETTLED BY THE HON'BLE COMMISSION</u>

4.3. That without prejudice to the foregoing, it is respectfully submitted that the precise issue raised in the present Petition, namely the applicability of deviation/imbalance charges to Green Energy Open Access / Long-Term Open Access consumers, has already been conclusively settled by this Hon'ble Commission in its earlier orders placed on record by the Petitioners themselves. The present Petition is therefore nothing but an impermissible collateral challenge to settled regulatory determinations and is wholly misconceived, untenable in law, and liable to be dismissed in *limine* as not maintainable.

4.4. That the issues raised in the present Petition already stand conclusively decided by this Hon'ble Commission on multiple occasions. In this regard, attention of this Hon'ble Commission is respectfully invited to the following orders:

i. Suo-Moto Order dated 24.04.2023 passed while finalizing the HERC (Green Energy Open Access) Regulations, 2023 ('HERC GEOA Regulations, 2023'), in which this Hon'ble Commission specifically considered identical objections raised by interveners regarding applicability of imbalance charges on GEOA consumers and definitively settled the issue.

ii. Order dated 10.11.2023 in HERC/Petition No. 49 of 2023 being a petition filed by UHBVNL seeking clarification on implementation of the HERC GEOA Regulations, 2023, in which this Hon'ble Commission expressly reaffirmed its earlier clarification on the applicability of imbalance charges to GEOA consumers.

iii. Final Order dated 27.05.2025 notifying HERC DSM Regulations, 2025 passed after a public hearing held on 18.02.2025, in which the parent company of Petitioner No. 2 had specifically submitted identical objections regarding applicability of DSM charges on GEOA / Buyers, which objections were duly considered and not accepted by this Hon'ble Commission.

4.5. That the Suo-Moto Order dated 24.04.2023 specifically deals with the framing of Regulation 8 (Charges to be levied for Open Access), including Regulation 8(1)(f) thereof which, at present, expressly provides for 'f) Applicable fees/SLDC fees/Charges, scheduling charges, deviation settlement charges and reactive energy

charges' as a charge payable by GEOA consumers. Interveners specifically urged before this Hon'ble Commission that imbalance charges should not be made applicable on GEOA consumers. The Hon'ble Commission, after due consideration, held as under at Page 120 of the petition (internal page 66-67) of its Suo-Moto Order:

"Commission's view: The Commission has considered the objections filed by the above-mentioned intervener. The main concern of the intervener seems to be the composition of 'other' charges. It has already been clarified that this will not include reliability charge, while imbalance charge shall be governed by the DSM Regulations / Open Access Regulations in vogue. However, to provide more clarity to 'other' charges it is clarified that the same shall include Load Dispatch Centre fees / scheduling charges, deviation settlement charges and reactive energy charges… Thus, it has already been clarified that imbalance charges are applicable as governed by DSM Regulations / Open Access Regulations in vogue. Therefore, nothing remains to be clarified in this order."

(Emphasis Supplied)

4.6. That the Order dated 10.11.2023 in Case No. 49 of 2023, passed specifically on the question of '*Applicability of imbalance charges*' (Section 5.1 of the said order), after reproducing the relevant portion of the Suo-Moto Order dated 24.04.2023 (Page 153 of the petition), once again concluded with finality:

"Thus, it has already been clarified that imbalance charges are applicable as governed by DSM Regulations / Open Access Regulations in vogue. Therefore, nothing remains to be clarified in this order."

4.7. That subsequently, the very same arguments that are being canvassed in the present Petition were raised again by the parent company of Petitioner No. 2 during the public hearing held on 18.02.2025 preceding the notification of the HERC DSM Regulations, 2025. The said objections, inter alia, contended: (a) that DSM imbalance charges on buyers are only applicable for power sourced from short-term and power exchange arrangements, not for LTOA solar/wind open access; (b) that overdrawal charges should not be levied on Buyers/Consumers of Long-Term Open Access from solar and wind; and (c) that levy of imbalance charges within Contract Demand constitutes double jeopardy. The Hon'ble Commission, after due deliberation, passed the Final Order on 27.05.2025 and notified the HERC DSM Regulations, 2025 without incorporating the exemption sought by the Petitioners' parent/ affiliate. The Commission's considered rejection of these objections is itself a clear regulatory determination.

4.8. That it is therefore submitted that the Petitioners are, in substance, seeking a review of issues that have already been decided by this Hon'ble Commission after following a fair and transparent regulatory process including public hearings. The present Petition

is merely an attempt to re-agitate issues already settled repeatedly by this Hon'ble Commission. The Petitioners have not challenged any of the above three orders before the Appellate Tribunal for Electricity ("APTEL") under Section 111 of the Electricity Act, 2003 ("EA 2003"). They cannot now circumvent those binding orders by filing an adjudicatory petition before this Commission as if those orders were never passed.

4.9. That the legal principles of issue estoppel, regulatory finality, and res judicata bar the re-agitation of issues already conclusively determined by a competent authority after due opportunity of hearing. The present Petition, in substance, seeks to reopen and re-agitate regulatory positions already settled by this Hon'ble Commission in prior proceedings and is therefore impermissible in law. Attention in this regard is also brought towards the decision in *Reliance Infrastructure Ltd. Vs. Maharashtra Electricity Regulatory Commission* [Appeal No. 267 of 2013, Decided on 28.12.2014] wherein the Hon'ble APTEL held as under:

"(a) The Appellant has sought the same relief in the Petition before the State Commission in the present case No.84 of 2013 as in the case No.109 of 2012. No Appeal was filed against the earlier order in case No.109 of 2012 and it has attained the finality. By the present Appeal, the Appellant is virtually seeking to challenge the earlier order dated 2.1.2013 in case No.109 of 2012 which has attained finality. Principle of Res-judicata will apply in the present case."

4.10. The Hon'ble Supreme Court also in the case of *C. R. Neelakandan & Anr. vs. Union of India & Ors.* [2014 SCC OnLine SC 432] has recorded that rule of Res Judicata is not merely a technical rule but it is based on public policy. It prevents not only a new decision in the subsequent suit but also prevents new investigation. For the applicability of rule of res judicata the important thing that must be seen is that the matter was directly and substantially in issue in the previous proceeding and a decision has been given by the Court on that issue. It is the case of the Respondents that the submissions which are being raised by the Petitioners have already been considered and rejected by this Hon'ble Commission. Further, in *Daryao Vs. State of U.P.* [1961 SCC OnLine 21], the Hon'ble Supreme Court emphatically held that the rule of res-judicata operates not only as a bar to fresh suits but also as a bar to further proceedings on substantially the same cause of action between the same parties. The court underscored that permitting repeated litigation on identical issues would defeat the very object of adjudication and undermine public confidence in the judicial process.

4.11. That the HERC DSM RE Regulations, 2019 were notified on 29.04.2019, the HERC GEOA Regulations, 2023 on 02.05.2023, and the Suo-Moto Order dated 24.04.2023 specifically settled the applicability of imbalance/deviation charges to GEOA consumers. If the Petitioners were aggrieved by the said regulatory framework or the clarifications issued thereunder, the appropriate remedy was to challenge the same

before the Appellate Tribunal under Section 111 of the Electricity Act, 2003 within the prescribed period. Having failed to do so, the Petitioners cannot now, through the guise of an adjudicatory petition, seek to reopen settled regulatory positions and indirectly assail the existing framework.

II. NO REGULATORY VACUUM EXISTS — DEVIATION / IMBALANCE CHARGES ARE EXPRESSLY APPLICABLE TO GEOA / LTOA CONSUMERS

4.12. That the Petitioners' contention, as urged in Grounds A, B, D, E and F of the Petition, that neither the HERC DSM RE Regulations, 2019 nor the HERC (Terms and Conditions for Grant of Connectivity and Open Access for Intra-State Transmission and Distribution System) Regulations, 2012 (hereinafter 'OA Regulations, 2012') provide any mechanism for levy of deviation / imbalance charges on the buyer/consumer side in LTOA transactions, thereby creating a purported "regulatory vacuum", is wholly misconceived and contrary to the express regulatory framework. In fact, Regulation 8(1)(f) of the HERC Green Energy Open Access Regulations, 2023, relied upon by the Petitioners themselves, expressly provides as under:

"8. Charges to be levied for Green Energy Open Access.- (1) The charges to be levied on Green Energy Open Access consumers shall be as follows: (a) Transmission charges; (b) Wheeling charges; (c) Cross subsidy surcharge; (d) Standby charges, wherever applicable; (e) Banking charges; and (f) Application fee/SLDC fee/charges, scheduling charges, deviation settlement charges and reactive energy charges.

… …

Further, as far as scheduling and deviation mechanism is concerned, the same shall be governed by the separate Regulations i.e. DSM Regulations and Open Access Regulations, 2012, as amended from time to time."

4.13. That the expression "deviation settlement charges" in Regulation 8(1)(f) is clear and admits of no exception for LTOA consumers. The provision expressly incorporates the DSM and Open Access Regulations as the governing framework. The applicable regulations are required to be read harmoniously and not in isolation. The HERC GEOA Regulations, 2023 expressly incorporate the DSM Regulations and Open Access Regulations, 2012 for the purposes of scheduling and deviation settlement. Therefore, even if the Petitioners seek to rely upon an alleged absence of an explicit provision in one regulation, the combined reading of the regulatory framework clearly establishes applicability of deviation settlement discipline to all open access transactions, including LTOA consumers. The plea of a "regulatory vacuum" is thus wholly misconceived.

4.14. That the HERC DSM RE Regulations, 2019 squarely apply to the transaction in question. Regulation 2.3(e) thereof defines *"Buyer"* as *"'Buyer'* means *a person, including distribution licensee or open access consumer, purchasing electricity through a transaction scheduled in accordance with the regulations applicable for short-term*

open access, medium-term open access, and long-term access." Petitioner No. 1, being a Long-Term Open Access consumer procuring solar power from Petitioner No. 2 under a scheduled LTOA arrangement, squarely falls within the ambit of the aforesaid definition and is therefore governed by the HERC DSM RE Regulations, 2019 in its capacity as a Buyer/Consumer, and not merely through Petitioner No. 2 as Generator.

4.15. That Regulation 4.1 of the HERC DSM RE Regulations, 2019 expressly stipulates that the said Regulations shall apply to all wind and solar energy generators connected to the intra-State transmission and/or distribution system in the State of Haryana, including those undertaking transactions for captive consumption. In the present case, Petitioner No. 2 is admittedly a solar generator connected to the intra-State system and supplying electricity to Petitioner No. 1 under a scheduled Long-Term Open Access arrangement for captive/self-consumption. The present transaction therefore squarely falls within the applicability framework of the HERC DSM RE Regulations, 2019. Consequently, the said Regulations apply not only to Petitioner No. 2 in its capacity as Generator, but also, read conjointly with Regulation 2.3(e), to Petitioner No. 1 in its capacity as a "Buyer" participating in a scheduled LTOA transaction.

4.16. That, independently and without prejudice to the above, the HERC (Terms and Conditions for Grant of Connectivity and Open Access for Intra-State Transmission and Distribution System) Regulations, 2012, as amended, provide the governing framework for scheduling, open access operations, and imbalance/unscheduled interchange settlement. The contention raised by the Petitioners on the basis of Regulation 42 is wholly misconceived. Regulation 42 pertains to specific operational conditions applicable to certain categories of short-term open access transactions, including day-ahead bilateral and power exchange transactions, and does not create any exemption in favour of Long-Term Open Access consumers from the general discipline of scheduling and imbalance settlement under the applicable Open Access framework. The Petitioners cannot be permitted to approbate and reprobate by accepting the benefits of open access under the regulatory framework while simultaneously seeking to avoid the corresponding obligations arising therefrom.

4.17. That the aforesaid position is further reinforced by the LTOA Approval dated 24.12.2024 issued by Haryana SLDC and the LTOA Agreement dated 18.03.2025 executed inter se the parties, both of which expressly stipulate applicability of the HERC GEOA Regulations, 2023, the HERC DSM RE Regulations, 2019, and the HERC Connectivity/Open Access Regulations, 2012 to the subject transaction. The Petitioners consciously entered into and acted upon the said arrangement with full knowledge of the applicable regulatory framework and the obligations arising thereunder. Having accepted and acted upon the said regulatory framework, the Petitioners are estopped from selectively assailing obligations arising thereunder.

4.18. That the Petitioners' reliance on the powers of this Hon'ble Commission to relax, remove difficulty, or exercise inherent jurisdiction is wholly misconceived. The said powers cannot be invoked to override, dilute, or nullify express provisions of duly notified regulations. In the absence of any ambiguity or operational difficulty in the regulatory framework, no occasion arises for exercise of such extraordinary powers.

III. NO QUESTION OF DOUBLE JEOPARDY ARISES — GENERATOR AND CONSUMER LIABILITIES ARISE FROM DISTINCT GRID DEVIATIONS

4.19. That the Petitioners, in Grounds C and H of the present Petition, have erroneously contended that levy of imbalance/deviation charges upon Petitioner No. 1 (Consumer) for overdrawal, while Petitioner No. 2 (Generator) is simultaneously subjected to DSM charges for under-injection, amounts to "double jeopardy" or "double penalty". The said contention is wholly misconceived and untenable in law, as the respective liabilities arise from distinct and independent grid deviations committed by two separate entities operating under separate regulatory obligations.

4.20. That the Petitioners' reliance upon the doctrine of double jeopardy is wholly misconceived. Article 20(2) of the Constitution of India strictly operates within the realm of criminal jurisprudence and apply only in cases involving prosecution and punishment for the same offence. DSM/ deviation/ imbalance charges are neither penal nor criminal in nature, but are civil and regulatory measures intended to ensure grid discipline, scheduling accuracy, and operational stability. The invocation of the doctrine of double jeopardy in the context of regulatory deviation charges is therefore fundamentally untenable and legally misconceived.

4.21. That even otherwise, the essential ingredients of the doctrine of double jeopardy are wholly absent in the present case. The DSM charges levied upon Petitioner No. 2 (Generator) and the imbalance/deviation charges levied upon Petitioner No. 1 (Consumer) do not arise from the same act or default, nor are they imposed upon the same entity. Petitioner No. 2 is independently obligated to inject power in accordance with its scheduled commitment and its liability arises from under-injection, i.e., a generator-side deviation. Conversely, Petitioner No. 1 is independently obligated to restrict its drawal in accordance with its scheduled entitlement and its liability arises from overdrawal, i.e., a consumer-side deviation. These are distinct regulatory obligations owed by separate entities and any breach thereof gives rise to separate and independent regulatory consequences.

4.22. That from a technical and operational standpoint, the liabilities in question arise from two distinct and independent disturbances to the grid. When Petitioner No. 2 under-injects power vis-à-vis its scheduled commitment, Petitioner No. 1 continues its consumption and consequently draws power from the distribution system in excess of its scheduled entitlement. Such overdrawal constitutes a separate real-time deviation

requiring the distribution licensee to manage the resulting shortfall and maintain grid balance. The imbalance/deviation charges are therefore compensatory and regulatory in nature, intended to account for and deter separate deviations affecting grid discipline and system stability. The regulatory framework accordingly treats generator-side under-injection and consumer-side overdrawal as distinct events giving rise to separate liabilities, and any attempt to conflate the two would defeat the very object and architecture of the deviation settlement mechanism

4.23. That the Petitioners are, in effect, seeking to externalize a commercial risk inherent in their bilateral arrangement. Variability and intermittency in renewable energy generation are known and foreseeable operational risks associated with solar power transactions. The allocation and management of such risks is a matter of commercial structuring between the generator and the consumer, including through appropriate contractual balancing or indemnity mechanisms. The regulatory framework governing deviation settlement cannot be diluted or overridden merely to offset the commercial consequences arising from such private arrangements.

IV. STANDBY CHARGES AND DEVIATION / IMBALANCE CHARGES ARE DISTINCT AND INDEPENDENT LEVIES

4.24. That the Petitioners, at Ground J and Prayer (e), contend that any charges payable on account of overdrawal stand subsumed within, and are capped by, the standby charges under the HERC GEOA Regulations, 2023. This submission proceeds on a fundamental misunderstanding of the nature, purpose, and regulatory design of the two levies.

4.25. That standby charges are capacity-based charges, payable by a GEOA consumer as consideration for the Distribution Licensee maintaining network readiness and backup supply capacity to serve the consumer whenever its open access source is unavailable or insufficient. These charges accrue by virtue of the arrangement itself and are not contingent upon the occurrence of any deviation event in a given time block.

4.26. That in contrast, DSM/deviation/imbalance charges are event-based charges, triggered only upon an actual deviation from the scheduled entitlement in a specific time block. Their purpose is entirely distinct: to price real-time grid indiscipline, incentivise accurate forecasting and scheduling, and compensate for the system-level impact of unscheduled power flows. The regulatory framework itself recognises this distinction-Regulation 8(1) of the HERC GEOA Regulations, 2023 separately provides for standby charges and deviation settlement charges as independent heads of levy. The Petitioners' attempt to conflate the two is therefore contrary to the plain scheme of the Regulations.

V. DSM FRAMEWORK IS ESSENTIAL FOR GRID DISCIPLINE AND RENEWABLE ENERGY INTEGRATION

4.27. That the Petitioners' contention that levy of DSM/deviation charges is contrary to the objectives of the Electricity Act, 2003 or renewable energy policy is wholly misconceived. Forecasting, scheduling, and deviation settlement mechanisms are essential for integration of variable renewable energy sources such as solar power into the grid. In the absence of a robust DSM framework, intermittency in generation can result in real-time supply-demand imbalances, frequency deviations, and grid instability. Grid discipline and renewable energy integration are therefore complementary and mutually reinforcing objectives.

4.28. That it is pertinent to note that the Petitioners have not challenged the time-block-wise scheduling data, metering data, or the methodology adopted for computation of the impugned charges. In the absence of any challenge to the factual basis of computation, the Petitioners cannot assail the invoices merely on a misconceived interpretation of regulatory applicability.

4.29. That the Central Electricity Regulatory Commission has itself framed a comprehensive DSM framework governing renewable energy transactions at the inter-State level, thereby recognizing the necessity of such mechanisms for reliable grid operations. The regulatory framework adopted by this Hon'ble Commission is fully aligned with the broader national regulatory approach. Further, in *Hindustan Zinc Ltd. v. Rajasthan Electricity Regulatory Commission*, the Hon'ble Supreme Court held that the right to open access under Section 42(2) of the Electricity Act, 2003 remains subject to the conditions and charges imposed by the State Commission to ensure grid stability and orderly system operation.

VI. IMPUGNED BILLS ARE STRICTLY IN ACCORDANCE WITH LAW

4.30. That the Petitioners' characterization of the invoices raised by DHBVNL as "illegal" or "arbitrary" is wholly unfounded. The impugned charges have been levied strictly in accordance with the applicable regulatory framework, the governing Open Access/DSM Regulations, and the contractual stipulations binding upon the parties.

4.31. That the deviation/imbalance charges have been raised pursuant to Regulation 8(1)(f) of the HERC GEOA Regulations, 2023, the applicable provisions of the HERC Connectivity/Open Access Regulations, 2012, and the terms of the LTOA approval and agreement executed between the parties, all of which expressly contemplate such charges. The computation of the impugned charges is formula-based and derived from notified regulatory rates, leaving no scope for arbitrariness or discretion. It is further submitted that DHBVNL, being a regulated distribution licensee, is statutorily bound to implement the regulations as framed and possesses no authority to waive, dilute, or alter the prescribed charges dehors the applicable regulatory framework.

Accordingly, the present Petition, being a misconceived, is not maintainable in law and is liable to be dismissed in limine.

The respondents have also filed the Para-Wise Reply, which is almost same and for the sake of duplicity, not reproduced herewith.

4.32. PRAYER

In view of the facts and circumstances, the respondents prayed that the present petition may be dismissed being non-maintainable and also bereft of merit, in the interest of justice.

5. **Interim Order dated 16.06.2026 (Date of Hearing 16.06.2026)**

On the next date of hearing, Ms. Dalima Gupta, counsel for the petitioner(s) sought time to file rejoinder to the reply filed by R-1. The Commission further observed that no reply has been filed by R-2 (SLDC) and R-3 (HVPNL), in-spite of specific direction given in the interim order dated 30.04.2026. Therefore, R-2 and R-3, as a matter of last opportunity, were directed to file their reply within one week from the date of issue of this order. In absence of the same, the matter shall be decided without considering any input from R-2 and R-3. The Commission allowed the petitioner(s) (M/s. ASK Automotive Limited and M/s CMES Power 2 Private Limited) to file their rejoinder to the reply filed by R-1, within two weeks from the date of issue of this order, with an advance copy to the respondent (s). The case was listed for arguments on 28.07.2026. However, the case listed for 28.07.2026 was adjourned to 20.08.2026 due to unavoidable circumstances.

6. **Interim Order dated 21.08.2026 (Date of Hearing 20.08.2026)**

On the next date of hearing on 20.08.2026, Mr. Vineet Gupta, counsel for petitioner sought time to file rejoinder to the reply filed by respondents. The Commission allows the petitioner(s) (M/s. ASK Automotive Limited and M/s CMES Power 2 Private Limited) to file their rejoinder to the reply filed by respondents, on or before 14.09.2029, with an advance copy to the respondent (s). The case was listed for arguments on 28.09.2026.

7. **Petitioner Rejoinder dated 14.09.2026**

In response to Interim Order dated 16.06.2026, the petitioners have filed their rejoinder to the reply filed by DHBVNL as under:

7.1. The present Rejoinder is being filed by M/s Ask Automotive Limited ("Petitioner No. 1") and M/s CMES Power 2 Private Limited ("Petitioner No. 2") (hereinafter collectively referred to as the "Petitioners") to the Reply dated 29.05.2026, which was served on 11.06.2026 by Respondent No. 1 - Dakshin Haryana Bijli Vitran Nigam Limited ("DHBVNL") in the above-captioned Petition. At the very outset, the Petitioners deny each and every allegation, averment, contention, submission, defence and plea set out in the Reply filed by DHBVNL as being wholly false, baseless, misleading, legally untenable, and contrary to the regulatory framework applicable to the present matter.

Nothing contained in the Reply shall be deemed to have been admitted by the Petitioners unless expressly and specifically admitted herein. The Petitioners reiterate and reaffirm all submissions made in the Petition, which may be read as part and parcel of this Rejoinder.

7.2. The Petitioners are Long-Term Open Access ("LTOA") consumers procuring solar power under a captive/self-consumption arrangement. Petitioner No. 1 is an embedded consumer procuring solar energy from Petitioner No. 2, a solar generator connected to the intra-State system. The Petitioners approached this Hon'ble Commission seeking quashing of invoices raised by DHBVNL towards over-drawal/under-drawal (deviation/imbalance) charges on the ground that the applicable regulatory framework does not permit levy of such charges upon Green Energy Open Access ("GEOA") / LTOA consumers in the manner and to the extent raised.

7.3. In its Reply, DHBVNL has, inter alia, raised the following contentions:

a. Defective Authorisation: That the authorisation on behalf of Petitioner No. 1 is restricted to obtaining open access approval and does not extend to challenging deviation charges, and the Petition is therefore liable to be dismissed in limine;

b. Prior Orders, Res Judicata And Maintainability Of Petition: That the issues raised stand conclusively settled by three prior orders of this Hon’ble Commission the Suo-Moto Order dated 24.04.2023, the Order dated 10.11.2023 in Petition No. 49 of 2023, and the Final Order dated 27.05.2025 on the HERC DSM Regulations, 2025 and the Petition is an impermissible collateral challenge barred by res judicata, issue estoppel and regulatory finality; the Petitioners having not appealed those orders to Hon’ble APTEL cannot now circumvent them through an adjudicatory petition;

c. No Occasion to Exercise Power to Relax, the Power to Remove Difficulty or Inherent Power: That the Hon’ble Commission's powers to relax, remove difficulty or exercise inherent jurisdiction cannot be invoked since the regulatory framework is clear, explicit and fully operational; the Petitioners are in substance seeking exemption from express provisions which is impermissible even under Madeva Upendra Sinai v. Union of India (1975) 3 SCC 765 cited by the Petitioners themselves;

d. No Regulatory Vacuum: That a harmonious reading of Regulation 8(1)(f) of the HERC GEOA Regulations, 2023, the HERC DSM RE Regulations, 2019 which includes LTOA consumers within the definition of 'Buyer' and the OA Regulations, 2012 expressly and completely governs deviation settlement for GEOA/LTOA consumers; the silence of the MoP Rules on deviation charges creates no prohibition;

e. No Double Jeopardy: That the DSM charges on Petitioner No. 2 (Generator) and the overdrawal charges on Petitioner No. 1 (Consumer) arise from distinct and independent grid deviations by two separate entities; and that solar variability is a known commercial risk that the Petitioners ought to have managed through contractual arrangements between themselves, not by diluting the regulatory framework;

f. Standby and Deviation Charges Are Distinct That standby charges are capacity-based and deviation charges are event-based, and that they are separate, independent heads of levy under Regulation 8(1) of the HERC GEOA Regulations, 2023; the prayer to subsume or cap over-drawal charges within standby charges is contrary to the plain scheme of the Regulations;

g. Estoppel as Full Knowledge of Framework: That the Petitioners consciously entered into the LTOA Approval dated 24.12.2024 and the LTOA Agreement dated 18.03.2025 with full knowledge of the applicability of the HERC GEOA Regulations, 2023, HERC DSM RE Regulations, 2019 and OA Regulations, 2012, and having acted upon the arrangement, are estopped from selectively challenging the obligations arising thereunder;

h. DSM Is Consistent with RE Promotion: That the DSM framework is not contrary to renewable energy objectives but is essential for grid discipline and orderly RE integration; the right to open access under Section 42(2) of the Electricity Act, 2003 remains subject to grid-related charges as held by the Supreme Court in Hindustan Zinc Ltd. v. RERC (2015) 12 SCC 611; and

i. Computation Unchallenged / DHBVNL Cannot Waive (Para 29): That the Petitioners have not challenged the time-block-wise scheduling data, metering data or computation methodology, and therefore cannot assail the invoices on a bare interpretive challenge; and that DHBVNL, as a regulated licensee, is statutorily bound to levy the prescribed charges and has no authority to waive, dilute or alter them.

7.4. The Petitioners submit that each and every one of above contentions are misconceived, legally untenable and directly contrary to the regulatory framework and the facts of this case. The Petitioners address these contentions hereunder.

I. PRELIMINARY OBJECTION: IN RE DEFECTIVE AUTHORISATION

7.5. It is the contention of the DHBVNL by way of a preliminary objection (Para 3), that the Authorisation Letter issued by Ask Automotive Limited authorising Mr. Ombir Singh is restricted to matters concerning the 'grant' of open access approval for the Solar Plant at Sirsa, Haryana, and does not extend to challenging deviation/imbalance charges. This contention is misconceived, devoid of merits and is therefore denied.

7.6. A plain reading of the Authorisation Letter demonstrates that Mr. Ombir Singh has been authorised to "*sign/ execute and submit application and all other* necessary *papers, letters, affidavit, undertakings, agreements, documents, writings, submissions etc. to Haryana Electricity Regulatory Commission ('HERC')…as may be required for day-to-day transaction, operation and correspondence for grant of open access approval for Solar Plant at Sirsa, Haryana*." It is respectfully submitted that the impugned deviation/imbalance charges arise directly from and are an integral part of the open access transaction for which the authorisation was granted. Charges arising from the operation of the open access arrangement are squarely covered within the scope of the said authorisation. The phrase "*day-to-day transaction, operation and correspondence*" is sufficiently broad to encompass all matters incidental and consequential to the open access arrangement, including disputes relating to charges levied pursuant thereto.

7.7. Without prejudice to the above, even assuming without admitting that the original authorisation required clarification, Petitioner No. 1 reaffirms and ratifies the filing of the present Petition through the present rejoinder, thereby curing any alleged procedural defect. It is well-settled law that any such defect, if any, is curable and cannot be ground for dismissal of an otherwise meritorious petition on merits.

7.8. The reliance placed by DHBVNL on a hyper-technical and narrow reading of the authorisation to seek dismissal *in limine* is contrary to the well-established principle that courts and quasi-judicial bodies must lean towards deciding matters on merits rather than dismissing them on procedural grounds, especially where no prejudice is demonstrated. The preliminary objection is therefore liable to be rejected.

II. IN RE: PRIOR ORDERS, RES JUDICATA AND MAINTAINABILITY OF PETITION

7.9. DHBVNL, in paragraphs 4 to 12 of its Reply, has contended that the present Petition is not maintainable as the issues raised therein have already been conclusively settled by this Hon'ble Commission in three prior orders, namely:

i. Suo-Moto Order dated 24.04.2023;
ii. Order dated 10.11.2023 in HERC/Petition No. 49 of 2023;
iii. Final Order dated 27.05.2025 notifying the HERC DSM Regulations, 2025.

7.10. It is submitted that this contention fundamentally mischaracterizes the nature and scope of the aforementioned orders and is liable to be rejected.

7.11. DHBVNL's non-maintainability argument is in substance a composite of three distinct contentions:

a) that the three orders cited by it have "*conclusively settled*" the issues raised in the present Petition;
b) that the Petitioners should have challenged those orders before APTEL under Section 111 of the Electricity Act, 2003; and

c) that the principles of res judicata and issue estoppel bar re-agitation of those issues.

None of these contentions survive scrutiny, and each is addressed in turn below. Before doing so, however, it is critical to understand why the Petitioners themselves annexed these three orders to the Petition because that purpose is the exact opposite of what DHBVNL claims.

7.12. The Petitioners annexed the Suo-Moto Order dated 24.04.2023, the Order dated 10.11.2023 in Petition No. 49 of 2023, and the Final Order dated 27.05.2025 on the HERC DSM Regulations, 2025 not to challenge them, but to place before this Hon'ble Commission (for convenience and ready reference) the entire set of regulations governing the present of facts which ultimately culminated into impugned invoices being challenged vide the present petition.

7.13. The limited question of law raised before this Hon'ble Commission for determination vide the Petition is whether it is lawful and equitable for DHBVNL to simultaneously levy generator-side DSM charges and consumer-side overdrawal charges for the same captive solar generation shortfall event. The same is levied without any offset, under an LTOA captive solar arrangement. The said scenario has never been examined or decided by this Hon'ble Commission in any of the above orders as relied by the DHBVNL for wrongfully placing its reliance on the doctrine of Res Judicata. The Petitioners annexed abovementioned orders to demonstrate this regulatory lacuna. The Petitioners' case in the Petition, as narrated at paragraphs 18, 22 and 30 thereof, is that: -

a) the Suo-Moto Order dated 24.04.2023 clarified that imbalance charges are "*governed by DSM Regulations/Open Access Regulations in vogue*" but; when read in its entirety. The said regulations do not envisage or provide any mechanism for double levy on both the generator and the consumer for the same shortfall event;
b) Petition No. 49 of 2023, filed by UHBVNL were necessitated precisely because of the aforesaid ambiguity, which persists in the framework even after the Suo-Moto Order; and
c) the DSM 2025 Order "once again refused to provide any clarification vis-à-vis the provisions for imbalance charges on Green Energy Open Access Consumers."

7.14. These orders were annexed to demonstrate a persistent, unresolved regulatory gap. DHBVNL, however, in complete disregard of that unresolved regulatory gap, has sought to malafidely weaponise it as a bar to maintainability.

In re that the three orders "conclusively settled" the issues in this Petition

7.15. As regards DHBVNL's first contention, namely that the aforesaid three orders "conclusively settled" the issues presented vide the present Petition, it is submitted that the said contention fundamentally mischaracterises what each of those orders actually decided.

7.16. The Suo-Moto Order dated 24.04.2023 was passed while finalizing the HERC GEOA Regulations, 2023 following a public hearing. The entire discussion in said order revolved around the "imbalance charges" and was directed at one narrow question: *whether the Rs. 1.50/unit Reliability Charge under Regulation 72(c) of the HERC RE Regulations, 2021 would continue to apply to GEOA consumers*.

7.17. The Hon'ble Commission, after considering certain submissions arrived at a finding that the "Reliability Charge" would not apply, and that "*other charges*" under the Regulations would include only SLDC fees, scheduling charges, deviation settlement charges, and reactive energy charges, with imbalance charges to be "*governed by DSM Regulations/Open Access Regulations in vogue."*

7.18. Crucially, the Hon'ble Commission also clarified at page 5 of that very Order (Page 58 of the Petition) that "*any other charge, not mentioned in these Regulations or the Green Open Access Rules, 2022, will not be applicable*." The Hon'ble Commission was not called upon to decide, *whether the simultaneous levy of generator-side DSM charges and consumer-side overdrawal charges for the same captive solar generation shortfall event without any offset or cap is warranted by those DSM and Open Access Regulations when applied to an LTOA captive solar arrangement*. The said question simpliciter remains undecided by this Hon'ble Commission.

7.19. The Order dated 10.11.2023 in Petition No. 49 of 2023 is equally incapable of bearing the reliance by DHBVNL places on it. That the petition was filed by UHBVNL, not by the present Petitioners, and sought only a narrow clarification as to whether imbalance charges were applicable at all to GEOA consumers. Notably, UHBVNL itself acknowledged in that petition that the Hon'ble Commission's prior statements pointed in two directions: on one hand, imbalance charges were said to be "*governed by DSM/OA Regulations in vogue*"; on the other hand, it was observed that "*any other charge not mentioned in the Regulations will not be applicable*."

7.20. The very fact that the Licensee proceeded to file the aforementioned petition bearing no. 49 of 2023, for the purposes of seeking clarification on the treatment of "deviation settlement charges" and "imbalance charges" demonstrates that there was no clarity on the application/levy of the aforesaid charges at the time. . Even while providing some clarity on the levy of the said charges, this Hon'ble Commission did not have occasion to take a view on the simultaneous levy of the said charges on the same LTOA transaction i.e., generation end and consumption end.

7.21. Basis the aforementioned, it is vehemently denied that the afore-highlighted passed order and the consequential march of the law “conclusively settled” the crucial question of law posed by the Petitioners vide the present Petition.

7.22. The Final Order dated 27.05.2025 on the HERC DSM Regulations, 2025 is the most telling of the three, and DHBVNL has significantly misrepresented it. DHBVNL claims the parent company of Petitioner No. 2 raised identical objections which were “duly considered and not accepted.” The Hon’ble Commission's actual response, however, was: *"Separate regulations for Solar and Wind Energy are in vogue and the HERC DSM Regulations, 2025 is not applicable on the Solar and Wind Energy. Accordingly, the comments about Solar & wind energies and their Long-Term Power Agreements etc. are not relevant to this regulation, hence, not discussed here."*

7.23. This Hon’ble Commission did not say the objections were misconceived or that the double-levy was lawful. It only stated that those comments were "*not relevant to this regulation*" a decision that the DSM 2025 Regulations were not the right instrument to address the issue. This is not a "considered rejection" on the merits; it is an explicit non-consideration. The Petitioners themselves acknowledged this when narrating this order in the Petition, stating that this Hon’ble Commission "*once again refused to provide any clarification vis-à-vis the provisions for imbalance charges on Green Energy Open Access Consumers*." DHBVNL cannot now convert the Commission's refusal to clarify into a finding that the issue has been decided against the Petitioners.

In re That the Petitioners should have challenged these orders before APTEL under Section 111 of the Electricity Act, 2003

7.24. DHBVNL's second contention that the Petitioners should have challenged these orders before Hon’ble APTEL under Section 111 of the Electricity Act, 2003 (“Act”) is devoid of merits. It is critical to highlight that Section 111 provides a right of appeal to any person "aggrieved by any decision or order" of the State Commission. A person is aggrieved by an order when that order decides something adverse to them in their specific case. None of the three orders decided anything adverse to the Petitioners, no finding was made against them, and no specific relief was denied to them. There was simply nothing for them to appeal.

7.25. It is further submitted that the Petitioners' cause of action in this Petition arises not from any of the said three orders but from the specific invoices raised by DHBVNL against them under their specific LTOA arrangement. That cause of action did not exist until those invoices were raised, and it falls squarely within the jurisdiction of this Hon’ble Commission under Section 86 of the Act.. The proper remedy for challenging a licensee's specific invoice is an adjudicatory petition before this Commission, not an APTEL appeal against a regulatory order.

In re that the principles of res judicata and issue estoppel formally bar the present proceedings

7.26. DHBVNL's third contention that the principles of res judicata and estoppel formally bar the present proceedings is legally misconceived. It is submitted that for res judicata to apply, the following test must be satisfied with mutually exhaustive, i.) there must be a prior adjudication of issue which is directly and substantially similar to the new adjudication; ii.) the said direct and substantial issue is being sought to be adjudicated between the same parties under the same title; iii.) the said adjudication ought to have been undertaken by the court of competent jurisdiction; iv.) the issue must be heard and finally decided by such court.

7.27. It is critical to submit that if even one of the aforementioned tests are not satisfied, the principle of res-judicata shall not apply. It is submitted that in the present case none one of the said elements are satisfied. All three orders are legislative or regulatory/clarificatory in character. These were the Hon'ble Commission's exercises of its rule-making and regulatory functions, not its adjudicatory function between specific disputing parties. The Petitioners were not parties to any of those proceedings. The specific subject matter of this Petition, the lawfulness and equity of simultaneously levying generator-side DSM charges and consumer-side overdrawal charges for the same captive solar generation shortfall event under the specific LTOA arrangement of the Petitioners was never directly raised or decided in any of those proceedings. Additionally, as demonstrated above, the DSM 2025 Order expressly declined to examine the double-levy question on the merits, rendering the principle of res judicata impossible to apply even on the most liberal reading.

7.28. It is also submitted that the cases cited by DHBVNL in support of its res judicata argument have bearing in the present case. In *Reliance Infrastructure* Ltd*. v. MERC* [Appeal No. 267 of 2013], the earlier order was a specific inter-parties adjudicatory order in a petition filed by the same appellant on the same relief, which had attained finality without challenge a factual premise entirely absent here. In *C.R. Neelakandan v. Union of India* [2014 SCC OnLine SC 432], the Supreme Court itself held that res judicata applies only where the matter was "*directly and substantially in issue in the previous proceeding*" which the double-levy question was not. And in *Daryao v. State of U.P.* [1961 SCC OnLine SC 21], the Court's reasoning was anchored in identity of parties which is wholly absent since the Petitioners were not parties to any of the three proceedings, and CleanMax Enviro Energy Solutions Pvt. Ltd. (the entity that filed comments in the DSM 2025 proceedings) is a legally distinct entity from Petitioner No. 2.

III. IN RE: NO OCCASION TO EXERCISE POWER TO RELAX, POWER TO REMOVE DIFFICULTY OR INHERENT POWER BY THIS HON'BLE COMMISSION

7.29. DHBVNL contends (in paragraphs 10 and 11 of the para-wise reply, and in paragraph 24) thatthis Hon'ble Commission's powers to relax, remove difficulty or exercise inherent jurisdiction cannot be invoked because the regulatory framework is clear, explicit and fully operational. It further contends that the Petitioners are in substance seeking exemption from express provisions which is impermissible even under Madeva Upendra Sinai v. Union of India (1975) 3 SCC 765 cited by the Petitioners themselves.

7.30. The above contentions are denied. It is wrong and denied that the regulatory framework is clear and explicit on the specific question raised in this Petition. It is further wrong and denied that the Petitioners are seeking exemption from any express provision of the Regulations.

7.31. DHBVNL's entire argument rests on one premise: that the regulatory framework is "clear, explicit and fully operational." UHBVNL a distribution licensee and an arm of the State itself found the framework so unclear that it filed a Petition in 2023 seeking clarification on the applicability of imbalance charges to GEOA consumers. The Hon'ble Commission's own response was to restate the cross-reference to DSM/OA Regulations without examining the specific double-levy situation. Multiple stakeholders raised the same concern during the DSM 2025 public hearing, and the Commission again declined to address it. If the framework were truly clear, none of this would have been necessary. A framework that generates repeated requests for clarification from regulated entities is not a clear framework.

7.32. On the power to remove difficulty under Regulation 19 of the HERC GEOA Regulations, 2023, the Petitioners place reliance on Madeva Upendra Sinai v. Union of India (1975) 3 SCC 765 the same judgment DHBVNL cites. The Supreme Court in that case held that this power can be exercised to "*round off angularities, smoothen the joints and remove minor obscurities to make the legislation workable*." The Petitioners are not asking the Commission to change the scheme of the Regulations or to override any express provision. They are asking it to address a specific operational angularity the interaction of two charging frameworks operating simultaneously on a single captive solar arrangement that produces a disproportionate and inequitable result not contemplated by either framework individually. This is precisely the kind of difficulty Madeva Upendra Sinai contemplated.

7.33. Critically, the difficulty the Petitioners face is not self-created. The condition laid down by the Hon'ble APTEL in NTPC Limited v. Madhya Pradesh Electricity Regulatory Commission [Appeal No. 89 of 2006] for invoking relaxation powers is that the hardship

must not be attributable to the party's own acts of omission and commission. The Petitioners have done nothing wrong. They entered a legitimate captive solar LTOA arrangement under the regulatory framework as it stood. The double-levy arises not from any act or omission on their part but from a structural gap in the framework itself the absence of any offset or rationalisation mechanism when two charging regimes converge on the same solar shortfall event. A difficulty caused by the structure of the regulatory framework is not a self-created difficulty.

7.34. On inherent powers, DHBVNL relies on *Gujarat Urja Vikas Nigam Ltd. v. Solar Semiconductor Power Company* (2017) 16 SCC 498 to argue that inherent powers cannot override specific mandatory provisions. That proposition is correct but it does not assist DHBVNL here. The Petitioners are not asking the Commission to override any specific mandatory provision. There is no provision that expressly mandates simultaneous double-levy on both the generator and the consumer for the same solar shortfall event without offset. DHBVNL cannot invoke a case about the limits of inherent powers to defend a charge for which there is no express basis in the first place.

IV. IN RE: NO REGULATORY VACCUM

7.35. DHBVNL contends (Para 13-19) that no regulatory vacuum exists and that a harmonious reading of three instruments together creates a complete and express framework governing deviation settlement for GEOA/LTOA consumers:

I. Regulation 8(1)(f) of the HERC GEOA Regulations, 2023, which lists "*deviation settlement charges*" as a payable head;

II. Regulation 2.3(e) of the HERC DSM RE Regulations, 2019, which includes LTOA consumers within the definition of *'Buyer'*; and

III. the OA Regulations, 2012, which govern scheduling and imbalance settlement. DHBVNL further contends that the silence of the MoP Rules on deviation charges creates no prohibition against their levy.

7.36. DHBVNL's "*harmonious reading*" argument is built on a fundamental confusion between a charge category listing and a charging provision. Regulation 8(1)(f) of the HERC GEOA Regulations, 2023 lists "*deviation settlement charges*" as one of the heads of levy applicable to GEOA consumers. The Petitioners do not dispute that Regulation 8(1)(f) of HERC GEOA Regulations, 2023 lists "*deviation settlement charges*" as a category of charge. Their case is not that deviation charges can never apply to GEOA consumers. Their case is far more specific that the regulatory framework provides no computation mechanism, rate structure, or offset formula for levying such charges on the buyer side of an LTOA captive solar arrangement simultaneously with generator-side DSM charges for the same shortfall event. A charge category in a listing provision is not a charging provision. Regulation 8(1)(f) itself says the mechanism shall be governed by the "*DSM Regulations and Open*

Access Regulations, 2012." The question is what those Regulations actually say — and on that, DHBVNL's case fails at each step.

7.37. Further, the HERC DSM RE Regulations, 2019 contain a deviation charge formula Table 1 which is expressly for "*under- or over-injection*," meaning generator-side deviations only. There is no corresponding formula, rate, or methodology for buyer-side drawal deviations anywhere in those Regulations. DHBVNL relies on the definition of 'Buyer' in Regulation 2.3(e) to bring the Petitioners within the Regulations but a definition clause cannot substitute for a charging provision. If the Regulations intended to charge buyers on the drawal side, they would have said so with a computation formula. They did not.

7.38. The OA Regulations, 2012 fare no better. The only operative provision dealing with imbalance charges on embedded consumer drawal is the proviso to Regulation 24(2), which limits itself expressly to "*day ahead transactions, bilateral as well as collective, through power exchange or through NRLDC, by embedded open access consumers*." Regulation 42, which contains the actual charging conditions, applies specifically to consumers "*under short term open access*." The Petitioners' arrangement is a 25-year captive LTOA with a dedicated solar plant it is not a day-ahead power exchange transaction. DHBVNL's argument that Regulation 42 does not "create an exemption" misses the point. The provision was never designed to apply to LTOA captive arrangements in the first place.

7.39. As for the MoP Rules, the Commission's own Suo-Moto Order dated 24.04.2023 expressly stated that "*any other charge, not mentioned in these Regulations or the Green Open Access Rules, 2022, will not be applicable*." The MoP Rules do not mention consumer-side deviation charges for LTOA solar arrangements. The Commission's own words therefore operate as a restriction, not a permission.

V. IN RE NO DOUBLE JEOPARDY

7.40. DHBVNL contends (Para 20-24) that no double jeopardy arises because the DSM charges on Petitioner No. 2 (Generator) and the overdrawal charges on Petitioner No. 1 (Consumer) arise from distinct and independent grid deviations by two separate entities. It further contends that solar variability is a known commercial risk that the Petitioners ought to have managed through contractual arrangements between themselves and cannot be a ground to dilute the regulatory framework.

7.41. The above contentions are denied. It is wrong and denied that the two charges arise from independent deviations. It is further incorrect and denied that the Petitioners are seeking to dilute the regulatory framework or escape a commercial risk they assumed.

7.42. At the outset, the Petitioners clarify that the submission is one of proportionality and equity that it is disproportionate to levy two separate financial charges on an

interconnected captive arrangement for what is, in operational reality, a single event leading to “double Penalty”.

7.43. DHBVNL's characterisation of the two charges as arising from "*distinct and independent*" deviations does not reflect how a captive solar LTOA arrangement actually works. When the solar generator under-injects due to cloud cover or atmospheric variability, the consumer does not make an independent decision to overdraw the overdrawal happens automatically because the solar supply fell short. The consumer has no real-time control over solar generation. The generator's under-injection and the consumer's overdrawal are two consequences of one event a solar generation shortfall not two separate acts of grid indiscipline by two independent actors.

7.44. As for the "commercial risk" argument the Petitioners are not seeking to avoid all charges. Their prayer is limited and specific: that where the generator has already paid DSM charges for a shortfall in a given time block, the consumer should not be separately charged for the overdrawal that resulted from the same shortfall. This is not diluting the regulatory framework. It is asking for the framework to be applied in a manner that does not penalise the same unit of energy shortfall twice.

7.45. It is the submission of the Petitioner that the imposition of imbalance charges/deviation charges on both the consumer and the generator in respect of the same transaction results in unjust enrichment of the Respondents. This is because the consumer's overdrawal of power is a direct consequence of the generator's under-injection in the very same transaction.

7.46. If the Distribution Licensee is permitted to recover two separate charges arising from the same transaction—albeit from two different entities—it would result in a situation where the Distribution Licensee is unjustly enriched. Such a scenario cannot be countenanced in law.

7.47. DHBVNL's suggestion that the Petitioners ought to have managed this through contractual indemnity arrangements between themselves concedes the very point the Petitioners are making that the regulatory framework has no mechanism to address this situation equitably. If the framework were clear and complete, there would be no need for private contractual workarounds. The absence of such a mechanism is precisely the difficulty that warrants the exercise of this Commission's powers to relax and remove difficulty.

VI. IN RE STANDBY AND DEVIATION CHARGES ARE DISTINCT

7.48. DHBVNL contends (Para 25-27) that standby charges and deviation/imbalance charges are distinct and independent levies the former being capacity-based and the latter being event-based. It argues that since Regulation 8(1) of the HERC GEOA Regulations, 2023 provides for both as separate heads of levy, the Petitioners'

alternate prayer to subsume or cap overdrawal charges within standby charges is contrary to the plain scheme of the Regulations.

7.49. The above contentions are denied. It is wrong and denied that the simultaneous levy of standby charges and deviation/over-drawal charges — in respect of drawal occurring within the Consumer's sanctioned Contract Demand and occasioned solely by a shortfall in injection by the open access source — is consistent with the scheme of the Green Open Access Rules, the HERC GEOA Regulations, 2023, or with the principles of equity.

7.50. The Petitioners do not dispute that standby charges and deviation charges are different in nature and purpose. That is not the point. The Petitioners' prayer on this issue is limited and specific it applies only to overdrawal that occurs within the Consumer's sanctioned Contract Demand, and not to overdrawal beyond it.

7.51. The purpose of standby charges is to compensate the distribution licensee for maintaining backup supply capacity up to the Consumer's full Contract Demand at all times. The Consumer pays standby charges every month precisely so the licensee keeps that capacity ready. When the Consumer draws within its Contract Demand even if that drawal is more than its scheduled LTOA entitlement in a given time block it is using capacity that the licensee is already obligated to provide and is already being paid to keep available. There is no additional burden on the distribution system.

7.52. In this situation, levying deviation charges/Overdrawl on top of standby charges amounts to charging the Consumer twice for the same thing once for the capacity to be maintained, and again for using that very capacity. The fact that Regulation 8(1) lists both charges as separate heads does not mean both must apply simultaneously to the same quantum of power in all circumstances. The Regulation lists what charges are permissible it does not mandate that every charge must always be levied regardless of the specific facts.

7.53. DHBVNL's "event-based" characterisation of deviation charges does not resolve this inequity. The question is not whether deviation charges serve a different purpose in general , it is whether levying them for overdrawal within Contract Demand, where standby charges already compensate the licensee for that exact capacity, produces a fair and intended result. It does not. The Petitioners' alternate prayer on this ground is therefore equitable, limited in scope, and consistent with the regulatory intent.

7.54. At the outset, the Petitioners clarify the precise nature of this submission, which DHBVNL has misapprehended. The Petitioners do not contend that standby charges and deviation charges are conceptually identical; plainly they are not. The Petitioners' submission is narrower and different. It is that the *event* upon which DHBVNL has levied over-drawal charges — namely, the Consumer's drawal from the distribution

system consequent upon the open access generator failing to inject the scheduled quantum — is the very event for which the Central Rules and this Hon'ble Commission's own Regulations have made an express, specific and ceiling-bound provision, being the provision for standby charges. Where the rule-making authority has specifically identified a contingency and prescribed both the charge payable upon its occurrence and the outer limit of that charge, the self-same contingency cannot simultaneously be visited with a second, unbounded levy drawn from a general enumeration of charge heads.

A. The statutory scheme governing standby arrangements

7.55. Rule 4 of the Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022 ("the Green Open Access Rules"), as originally notified by the Ministry of Power, provided as under:

"(4) The standby charges, wherever applicable, shall be specified by the State Commission and such charges shall not be applicable if the Green Energy Open Access Consumers have given notice, in advance at least twenty four hours before the time of delivery of power, for standby arrangement to the distribution licensee:

Provided that the applicable standby charges shall not be more than Ten per cent of the energy charges applicable to consumer tariff category.

Explanation: For the purposes of this rule, (i) the expression "standby charges" means the charges applicable to open access consumers against the standby arrangement provided by the distribution licensee, in case the open access consumer is unable to procure power from the generating sources with whom they have the agreements to procure power due to outages of generator, transmission assets and the like.

(ii) It is hereby clarified that in such situations the open access consumer has to take power from an alternate source like the distribution licensee and the charges for maintaining standby arrangements for such consumers should be reflective of the costs incurred by distribution licensee for providing these support services."

7.56. By the Electricity (Promoting Renewable Energy Through Green Energy Open Access) Amendment Rules, 2023, sub-rule (4) came to be substituted in the following terms:

"(4) The standby charges, wherever applicable, shall be specified by the State Commission and such charges shall not be applicable, if the Green Energy Open Access Consumers have given notice, in advance atleast a day in advance before closure time of the Day Ahead Market on 'D – [minus] 1' day, 'D' being the day of delivery of power for standby arrangement to the distribution licensee:

Provided that the applicable standby charges shall not be more than twenty five per cent of the energy charges applicable to consumer tariff category."

7.57. This Hon'ble Commission has given effect to that mandate in the HERC GEOA Regulations, 2023. Regulation 2(l) thereof defines standby charges in terms materially identical to the Explanation to Rule 4 of the Green Open Access Rules:

"(l) 'Standby charges' means the charges applicable to green energy open access consumers against the standby arrangement provided by the distribution licensee, in case such green energy open access consumer is unable to procure/schedule power from the generating sources with whom they have the agreements to procure power due to outages of generator, transmission systems and the like;"

7.58. Regulation 8(4) of the HERC GEOA Regulations, 2023 then records the reciprocal obligation of the licensee and the consideration the Consumer pays for it:

"(4) In case of RE Open Access, the consumers taking power from such RE Generator may maintain its contract demand with the distribution licensee. In such cases, the distribution licensee is obligated to supply power to such consumer under universal service obligations and Open Access Consumer shall continue paying fixed charges to the distribution licensee."

7.59. Regulation 8(5) prescribes the measure of the standby charge and the circumstance in which it is not attracted at all:

"(5) The standby charges, in such cases, shall be 125% of the energy charges applicable to consumer tariff category, and such charges shall not be applicable if the Green Energy Open Access Consumers have given notice in writing, in advance at least a day in advance before closure time of the Day Ahead Market on D – (minus) day; 'D' being the day of delivery of power for standby arrangement to the distribution licensee."

7.60. Three propositions emerge from the above scheme, and none of them is capable of dispute. *First*, the standby charge is definitionally the charge payable when a green energy open access consumer, being unable to procure or schedule power from the generating source with which it has an agreement by reason of outages of the generator, the transmission system "and the like", falls back upon the distribution licensee. *Secondly*, the levy is bounded: the Central Rules place an express ceiling upon it, presently twenty-five per cent of the energy charges applicable to the consumer's tariff category, which ceiling this Hon'ble Commission has implemented by fixing the standby charge at 125% of those energy charges that is to say, the ordinary energy charge together with the twenty-five per cent standby premium permitted by the proviso to Rule 4. Any other reading of the figure of 125% would place Regulation 8(5) in direct conflict with the ceiling prescribed by the Central Rules and would render

it pro tanto unsustainable; on settled principles, the construction that preserves the validity of the subordinate instrument must be preferred. *Thirdly*, the levy is conditional: it is not attracted at all where the consumer has given the stipulated day-ahead notice. A provision which supplies the charge, the measure of the charge, its outer ceiling and the circumstances of its exclusion is, by its very architecture, a complete code for the contingency it governs.

B. The over-drawal in question falls squarely within the standby regime

7.61. Under the consumption settlement process obtaining in the State of Haryana, and as applied to the Petitioners' arrangement, the Consumer furnishes on a day-ahead basis its schedule of consumption for each 15-minute time block, and the generator correspondingly furnishes its schedule of injection for each such block. For every time block, the Consumer's Contract Demand with the distribution licensee stands reduced to the extent of the generation so scheduled. The Consumer's scheduled entitlement from the licensee for that time block is therefore arrived at as:

Scheduled Entitlement from the Licensee = Contract Demand – Scheduled Generation from the Open Access Source

7.62. Where the open access generator thereafter injects less than the quantum so scheduled, the Consumer's drawal from the distribution system necessarily rises above its scheduled entitlement, notwithstanding that the Consumer's aggregate drawal remains well within its sanctioned Contract Demand. That incremental drawal is not an act of volition on the part of the Consumer, still less an act of grid indiscipline. It is the automatic arithmetical consequence of the shortfall at the generating end, and it is met out of the very standby capacity which the distribution licensee is obliged under Regulation 8(4) to keep available and for which the Consumer already pays fixed charges every month on the whole of its Contract Demand.

7.63. That is precisely and exhaustively the situation contemplated by Regulation 2(l). A shortfall in solar generation occasioned by cloud cover, soiling, atmospheric variability, or a forced outage of the generating plant or of its evacuation system, is an inability on the part of the Consumer "to procure/schedule power from the generating sources with whom they have the agreements to procure power". Even upon the narrowest construction of the expression "and the like" — that is, applying the rule of ejusdem generis — the genus disclosed by the preceding words "outages of generator, transmission systems" is that of events occurring at the generating or evacuation end which disable the open access consumer from receiving the contracted power. A shortfall in solar injection is squarely an event of that genus. The Petitioners' over-drawal is therefore, in substance and in law, a resort to the standby arrangement of the distribution licensee, and nothing else.

7.64. The position is best demonstrated arithmetically. The following illustration, taken for a single 15-minute time block and using round figures for ease of comprehension, reflects the settlement mechanism actually applied to the Petitioners' arrangement:

Illustration – Settlement for a single 15-minute time block

Sl.	Particulars	Working	Quantum
1.	Sanctioned Contract Demand of Petitioner No. 1 with DHBVNL	—	10 MW
2.	Generation scheduled from the open access source for the time block (day-ahead schedule)	—	8 MW
3.	Scheduled entitlement of the Consumer from DHBVNL for the time block	10 – 8	2 MW
4.	Actual generation/injection by the open access source in the time block	—	6 MW
5.	Actual total consumption of the Consumer in the time block	—	10 MW
6.	Actual drawal of the Consumer from DHBVNL	10 – 6	4 MW
7.	Quantum characterised by DHBVNL as "over-drawal"	4 – 2, i.e. 10 – 6 – 2	2 MW
8.	Energy corresponding to Sl. No. 7 for the 15-minute block	2 MW × ¼ hour	0.500 MWh
9.	Shortfall in injection by the open access source, on which deviation/DSM charges are separately levied upon Petitioner No. 2	8 – 6	2 MW, i.e. 0.500 MWh

7.65. It light of the above— (i) the Consumer's aggregate drawal from the distribution system in the said time block is 4 MW, which is comfortably within its sanctioned Contract Demand of 10 MW; (ii) the Consumer has neither sought nor occasioned any additional burden upon the distribution system, the licensee being in any event obliged under Regulation 8(4) to hold 10 MW available and being paid fixed charges to do so; (iii) the entirety of the 2 MW (0.500 MWh) characterised by DHBVNL as "over-drawal" is attributable to, and is arithmetically identical to, the 2 MW (0.500 MWh) shortfall in injection by the open access source; and (iv) that self-same 0.500 MWh is simultaneously charged to Petitioner No. 2 as a deviation at the injection end and to Petitioner No. 1 as an over-drawal at the drawal end. There are not two deviations here. There is one shortfall, counted twice.

C. A special and complete provision must prevail over a general enumeration

7.66. DHBVNL's reliance upon Regulation 8(1) as providing for standby charges and deviation charges as "separate heads of levy" proceeds upon a confusion between an enumeration of permissible charge heads and a charging provision addressed to an identified contingency. Regulation 8(1) does no more than enumerate. Regulation 2(l) read with Regulations 8(4) and 8(5), by contrast, identifies one specific contingency — the open access consumer's inability to draw from its contracted generating source — and provides comprehensively for it. On the settled maxim generalia specialibus non derogant, the special provision must govern the contingency to which it is addressed, and the general enumeration must yield.

7.67. The consequence of DHBVNL's construction demonstrates its untenability. If the very contingency for which Regulation 8(5) provides a charge capped at 125% of the

applicable energy charge may additionally, and on the identical facts, be charged as a deviation at an uncapped rate, then no distribution licensee would ever have occasion to levy a standby charge at all. Regulation 2(l), Regulation 8(4) and Regulation 8(5), and with them the proviso to Rule 4 of the Green Open Access Rules, would stand rendered wholly otiose. A construction which reduces express provisions of the Central Rules and of this Hon'ble Commission's own Regulations to a dead letter is impermissible, and must be rejected in favour of one which gives effect to every part of the instrument.

D. The levy, as raised, defeats the ceiling prescribed by the Central Rules

7.68. The proviso to Rule 4 of the Green Open Access Rules is not hortatory. It is a substantive limitation upon the quantum that may be recovered from a green energy open access consumer when it falls back upon the distribution licensee. The Green Open Access Rules have been framed by the Central Government in exercise of its power under Section 176 of the Electricity Act, 2003, and regulations framed by a State Commission under Section 181 must be consistent with the Act and the Rules made thereunder. A levy which, upon the self-same event and in respect of the self-same quantum of energy, recovers a sum far in excess of the prescribed ceiling merely because it is described by a different nomenclature, is a circumvention of that ceiling. It is a settled principle that what cannot be done directly cannot be permitted to be done indirectly.

E. Drawl within the sanctioned Contract Demand attracts no additional burden

7.69. The Petitioners' prayer on this head is, in any event, limited and specific: it is confined to over-drawal occurring within the Consumer's sanctioned Contract Demand, and does not extend to drawal beyond it. Where the Consumer exceeds its Contract Demand, different considerations would arise, and the Petitioners make no submission in respect thereof.

7.70. Within the Contract Demand, however, the position admits of no doubt. Under Regulation 8(4), the Consumer retains its Contract Demand with the distribution licensee and continues to pay fixed charges upon the whole of it, and the licensee is correspondingly obligated, under its universal service obligation, to hold that capacity available and to supply against it. The fixed charges are the consideration for that availability. When the Consumer draws within its Contract Demand even where such drawal exceeds its scheduled entitlement for a given time block it draws upon capacity which the licensee is already obliged to maintain and is already being remunerated to maintain. No incremental capacity is called upon, and no incremental burden is placed upon the distribution system.

7.71. In that situation, to levy a deviation/over-drawal charge over and above the fixed charges already paid for the availability of that very capacity, and over and above the

standby charge which the Regulations specifically prescribe for that very contingency, is to charge the Consumer twice over for a single thing — once for the capacity to be kept available, and again for the act of using it. The circumstance that Regulation 8(1) enumerates both standby charges and deviation settlement charges does not carry the consequence that both must be levied simultaneously upon the same quantum of energy in every set of facts. Regulation 8(1) declares what charges are permissible; it does not mandate that every enumerated charge be levied irrespective of whether the facts attract it.

7.72. DHBVNL's characterisation of deviation charges as "event-based" and standby charges as "capacity-based" does not meet this submission. The question is not whether the two levies serve different purposes when considered in the abstract; it is whether, upon the specific event of a shortfall in injection by the contracted open access source resulting in drawal within the sanctioned Contract Demand, the Regulations contemplate the simultaneous operation of both. For the reasons set out above, they do not.

F. This Hon'ble Commission's own Suo-Moto Order supports the Petitioners

7.73. It bears reiteration that this Hon'ble Commission, in its Suo-Moto Order dated 24.04.2023, expressly held at page 5 thereof (page 58 of the Petition) that "any other charge, not mentioned in these Regulations or the Green Open Access Rules, 2022, will not be applicable." Neither the Green Open Access Rules nor the HERC GEOA Regulations, 2023 provide for a consumer-side deviation charge, computed at deviation rates and unconstrained by any ceiling, upon drawal occasioned by a shortfall in injection by the consumer's own contracted open access source. What they do provide for, in express terms and for that precise contingency, is the standby charge. The Commission's own formulation therefore operates as a restriction upon the levy now sought to be sustained, and not as a source of authority for it.

G. The alternate prayer gives effect to the scheme; it does not depart from it

7.74. For all the foregoing reasons, it is respectfully submitted that the Petitioners' alternate prayer is neither contrary to the plain scheme of the Regulations, as DHBVNL alleges, nor an invitation to this Hon'ble Commission to rewrite them. It is, on the contrary, a prayer that the Regulations be applied as they stand — that the contingency which Regulation 2(l) defines, Regulation 8(4) accommodates and Regulation 8(5) charges, be dealt with under those provisions, and not under a general head of levy which was never addressed to it.

7.75. Accordingly, and without prejudice to the Petitioners' primary case that no charge whatsoever is leviable upon Petitioner No. 1 in respect of drawal occasioned by a shortfall in injection for which Petitioner No. 2 has already been visited with deviation charges, it is submitted in the alternative that if this Hon'ble Commission were to hold

that some charge is payable at the drawal end, then such charge can only be the standby charge contemplated by Regulation 8(5) of the HERC GEOA Regulations, 2023; it can in no event exceed 125% of the energy charges applicable to Petitioner No. 1's tariff category in respect of the quantum so drawn; and it can attach only to so much of the drawal as falls within the sanctioned Contract Demand of Petitioner No.

VII. IN RE ESTOPPEL AS FULL KNOWLEDGE OF FRAMEWORK

7.76. DHBVNL contends (Para 18) that the Petitioners consciously entered into the LTOA Approval dated 24.12.2024 and the LTOA Agreement dated 18.03.2025 with full knowledge of the applicability of the HERC GEOA Regulations, 2023, the HERC DSM RE Regulations, 2019 and the OA Regulations, 2012, and having acted upon that arrangement, are estopped from selectively challenging the obligations arising thereunder.

7.77. The above contention is denied. It is wrong and denied that entering into the LTOA arrangement with knowledge of the regulatory framework estops the Petitioners from challenging the specific manner in which DHBVNL has applied that framework.

7.78. Knowing that a regulatory framework applies is fundamentally different from accepting every possible application of that framework including an inequitable or unlawful one. The Petitioners do not dispute that the HERC GEOA Regulations, 2023, the DSM RE Regulations, 2019 and the OA Regulations, 2012 apply to their arrangement. What they dispute is DHBVNL's specific manner of applying those regulations to levy simultaneous charges on both the generator and the consumer for the same solar generation shortfall event without any offset. Accepting the framework does not mean accepting every conceivable charge DHBVNL chooses to raise under it

7.79. Estoppel cannot operate to validate an unlawful act. If DHBVNL is applying the regulations beyond what they permit, the Petitioners' knowledge of those regulations at the time of entering the LTOA cannot stop them from pointing that out. Estoppel prevents a party from denying a fact they have accepted it does not prevent a party from challenging whether a charge has a valid legal basis.

VIII. IN RE: DSM IS CONSISTENT WITH RE PROMOTION

7.80. DHBVNL contends that the DSM framework is not contrary to renewable energy objectives but is essential for grid discipline and orderly RE integration. The above contentions are denied to the extent they suggest the Petitioners have challenged the DSM framework or the principle of grid-related charges. No such challenge has been made.

7.81. DHBVNL is answering a question the Petitioners never asked. The Petitioners have at no point contended that the DSM framework is bad, unnecessary, or contrary to renewable energy objectives. They fully accept that grid discipline is essential and that

deviation settlement mechanisms serve a legitimate regulatory purpose. DHBVNL's entire argument under this head is FLAWED.

7.82. The Petitioners' case is narrow and specific: not that charges cannot be levied, but that the same solar generation shortfall event cannot be penalised twice once through DSM charges on the generator and again through overdrawal charges on the consumer without any offset or rationalisation. Accepting that DSM charges serve grid discipline does not answer the question of whether a double levy for the same event is warranted.

7.83. DHBVNL's reliance upon *Hindustan Zinc Ltd. v. Rajasthan Electricity Regulatory Commission*, (2015) 12 SCC 611 is, for the same reason, misplaced. That decision holds that the right of open access under Section 42(2) of the Electricity Act, 2003 is not absolute and remains subject to surcharge and other charges lawfully determined by the State Commission. The Petitioners do not contend otherwise. Their challenge is not to the existence of this Hon'ble Commission's power to impose charges upon open access transactions, but to DHBVNL's assumption of an authority to levy, upon the same event and in respect of the same quantum of energy, a second charge for which the Regulations make no provision and which exceeds the ceiling that the Central Rules prescribe for that very contingency. *Hindustan Zinc* is authority for the existence of the power to charge; it is no authority for the proposition that a single event may be charged twice over, or that a charge may be recovered beyond the limit which the applicable framework prescribes.

IX. IN RE COMPUTATION UNCHALLENGED / DHBVNL CANNOT WAIVE

7.84. DHBVNL contends that the Petitioners have not challenged the time-block-wise scheduling data, metering data or computation methodology, and therefore cannot assail the invoices on a bare interpretive challenge. It further contends that DHBVNL, as a regulated licensee, is statutorily bound to levy the prescribed charges and has no authority to waive, dilute or alter them. The above contentions are denied. It is wrong and denied that a challenge to the legal authority to levy a charge requires a simultaneous challenge to the computation of that charge.

7.85. DHBVNL conflates two entirely separate questions whether a charge is legally authorised, and whether it has been arithmetically computed correctly. The Petitioners challenge the former. They do not dispute the metering data, scheduling data, or the formula applied. Their case is that DHBVNL had no legal authority to raise these charges in the first place. If the legal basis for a charge does not exist, it matters not at all how correctly the arithmetic was done the invoice remains void.

7.86. The position in law is clear: a party challenging the validity of a levy is not required to also challenge its computation in order to maintain that challenge. The two questions are independent. Accepting the computation for the sake of argument is not an admission that the charge is legally payable.

7.87. DHBVNL's second argument that it cannot waive or alter prescribed charges actually reinforces the Petitioners' case rather than undermining it. DHBVNL says it can only levy what the regulations prescribe. The Petitioners' entire submission is that the regulations do not prescribe this specific double-levy on both the generator and the consumer for the same solar shortfall event without offset. If DHBVNL is truly bound to levy only what is prescribed and nothing more then on the Petitioners' case, it should not be levying these charges at all.

In view of the foregoing, the petitioners' prayed to reject the objections raised by DHBVNL and grant the reliefs as prayed for in the Petition.

8. **Interim Order dated 28.09.2026**

The case was taken up for hearing finally on 28.09.2026, as scheduled. Upon hearing the parties at length, the Commission allowed the petitioners as well as respondents to file their written submissions, if any, on or before 09.10.2026 and the hearing was completed with order being reserved.

9. **Written Submissions dated 04.10.2026 filed by Respondents:**

In response to Interim Order dated 16.06.2026, the Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL), State Load Despatch Centre (SLDC) and Haryana Vidyut Prasaran Nigam Limited (HVPNL) (respondents no 1 to 3) filed the written submissions dated 04.10.2026 as under:

9.1. That the present Written Submissions are being filed on behalf of Respondent Nos. 1 to 3 being the Dakshin Haryana Bijli Vitran Nigam Limited ("DHBVNL"), State Load Despatch Centre ("SLDC") and Haryana Vidyut Prasaran Nigam Limited ("HVPNL") in the Petition filed by

i. Petitioner No. 1- Ask Automotive Limited being the open access consumer; and

ii. Petitioner No. 2- CMES Power 2 Private Limited being the solar power Generator.

Whereby the Petitioners have sought exercise of the power of the Hon'ble Commission to relax, power to remove difficulty, power to issue practice directions with respect to application of deviation charges on renewable energy captive power consumer and consequently, quash the invoices raised by DHBVNL to the extent of overdrawal/underdrawal charges imposed.

I. The charges under challenge are being imposed in terms of the regulations in vogue:

9.2. That by way of the present petition, the Petitioners have sought the following reliefs, as evinced from a bare perusal of the 'Prayer' Clause (at Page No. 26-27 of the Petition):

i. Hold that the invoices issued by Respondent No. 1 are illegal to the extent over-drawal charges are imposed;

ii. Direct Respondents not to levy any overdrawal charges on Petitioner No. 1;

iii. Hold and declare that imbalance charges are not applicable to green energy open access consumers;

iv. Alternatively, hold and declare that in case any charges are payable by open access consumers, the same are covered under the standby charges under the GEAO Regulations.

9.3. That, at the outset, it is submitted that imbalance charges are being imposed in terms of Regulation 24 of the HERC (Terms and Conditions for Grant of Connectivity and Open Access for Intra-State Transmission and Distribution System) Regulations, 2012 ("OA Regulations, 2012") as per which- *"24 (2) Imbalance charges applicable for all open access transactions for the overdrawl/ underdrawl by an open access consumer of for the under injection/ over injection by a generator or trader shall be as given below. … …"* (Reproduced at Page No. 10 of the Petition).

II. The issues raised with respect to the applicability of charges under OA regulations, 2012 to the GEOA consumers have already been considered and decided by this Hon'ble Commission:

9.4. That the Petitioners seek to re-agitate the applicability of deviation/imbalance charges to Green Energy Open Access ("GEOA") / Long Term Open Access ("LTOA") consumers, which issue has already been considered and determined by this Hon'ble Commission vide its earlier orders:

iii. Suo-Motu Order dated 24.04.2023: Wherein, the Hon'ble Commission has held as under:

"Commission's View: … … … Further, a few charges that are incidental to 'open access' including scheduling and dispatch and mentioned in HERC DSM and Open Access Regulations shall be leviable."

(At Page No. 62 of the Petition)

"Commission's view: … … … At the oneset, the Commission, given the importance attached to promoting rapid integration of green power, has considered it appropriate to frame a separate set of Regulations for promoting Green Open Access, instead of amending the existing OA provisions. A separate set of Regulations will give more clarity to the entire mechanism. However, a cross-reference to OA Regulations, 2012 and DSM Regulations is required as it is incidental to open access per se."

(At Page No. 64 of the Petition)

"Commission's view: The Commission has considered the objections filed by the above-mentioned intervener. The main concern of the intervener seems to be the composition of 'other' charges. It has already been clarified that this will not include

reliability charges, while imbalance charges shall be governed by the DSM Regulations/ Open Access Regulations in vogue. … …"

(At Page No. 120 of the Petition)

iv. Order dated 10.11.2023 passed in Petition No. 49 of 2023 : Whereby the Hon'ble Commission once again clarified the applicability of the imbalance charges in the following terms:

"Thus, it has already been clarified that imbalance charges are applicable as governed by DSM Regulations/ Open Access Regulations in vogue. Therefore nothing remains to be clarified in this order."

(At Page No. 153 of the Petition)

v. Order dated 27.05.2025: Lastly, vide order dated 27.05.2025, the Hon'ble Commission once again dealt with the objection raised by one "M/s Clean Max" being the affiliate/ sister concern of the Petitioner regarding the applicability of the over-drawal/ under-drawal charges. (At Page no. 208 and 209 of the Petition)

The Petitioners cannot re-agitate the same issue by presenting it in a different form, particularly when the aforesaid orders were not challenged before APTEL and have attained finality. Their attempt to rely on isolated observations, without reading the orders as a whole, is misconceived.

III. No regulatory vacuum — deviation/imbalance charges on GEOA/LTOA consumers are expressly governed by the applicable regulatory framework:

9.5. That the contention of the Petitioners that there exists a regulatory vacuum with respect to levy of deviation/imbalance charges upon GEOA/LTOA consumers is untenable. A harmonious reading of the HERC Green Energy Open Access Regulations, 2023 ("GEOA Regulations, 2023"), the OA Regulations, 2012, the regulatory framework governing the Deviation Settlement Mechanism, and the orders passed by this Hon'ble Commission makes it clear that the subject of deviation and imbalance charges is expressly contemplated and governed. In particular, Regulation 1(B) of the GEOA Regulations provides that matters which are not expressly provided for in the said Regulations are to be dealt with in accordance with the other applicable regulations, including OA Regulations, 2012.

IV. No double jeopardy — generator-side and consumer-side deviations give rise to distinct regulatory liabilities.

9.6. That, the attention of the Hon'ble Commission is brought to the invoices raised:

vi. Invoice raised by DHBVNL to Petitioner No. 1 –GEOA Consumer reg. under-drawal and over-drawal charges. *(At Page No. 244-245 of the Petition)*

vii. Invoice raised by HVPNL to Petitioner No. 2- solar generator reg. DSM charges. *(At Page No. 246-247 of the Petition)*

9.7. The respective liabilities arise from distinct deviations attributable to two separate entities - the generator and the consumer. The aforesaid position is also borne out from the observations of this Hon'ble Commission in the Suo Motu Order dated 24.04.2023, wherein an objection was raised that, since renewable energy is intermittent and deviation may occur at the injection side, there should not be any corresponding penalty on the drawal side. This Hon'ble Commission, after considering the said objection, observed that addressing only the supply side does not complete the cycle for efficiently managing the grid and that discipline on the drawal side is equally necessary. The Commission accordingly held that the drawal side is governed by the Open Access Regulations, including subsequent amendments or re-enactments.

9.8. That, as an illustration, it is submitted that when Petitioner No. 2 under-injects electricity vis-à-vis its scheduled commitment, Petitioner No. 1, as the consumer, continues to draw electricity from the distribution system in excess of its scheduled entitlement. Such overdrawal constitutes a separate real-time deviation on the consumer side and has an independent impact upon the distribution system and grid balance. The generator and the consumer are distinct regulated entities having separate scheduled positions and corresponding regulatory obligations. Consequently, the DSM charges arising from under-injection by Petitioner No. 2 and the deviation/imbalance charges arising from overdrawal by Petitioner No. 1 are not two charges imposed upon the same entity for the same act, but separate regulatory consequences arising from deviations of two different entities. The fact that the two deviations may be operationally connected or arise from the same underlying generation shortfall does not alter their distinct regulatory character and cannot be characterised as double jeopardy.

V. Applicability of deviation/imbalance charges — distinct from standby charges

9.9. That, lastly, the Petitioners' contention that deviation/imbalance charges duplicate standby charges is misconceived. Regulation 2(l) of the HERC (Green Energy Open Access) Regulations, 2023 defines standby charges as charges against the standby arrangement provided by the distribution licensee where the consumer is unable to procure or schedule power from its generating source due to outage of the generator, transmission system or the like. Standby charges thus relate to availability of standby arrangement, whereas deviation/imbalance charges arise from deviation between actual and scheduled injection/drawal in the relevant time-block. The two charges therefore operate in distinct circumstances and serve different regulatory purposes. Such a distinction is further evident from Regulation 8(1)(d) and 8(1)(f), which separately provide for standby charges and deviation settlement charges.

9.10. PRAYER: In view of the foregoing, the respondents prayed to dismiss the present Petition as not maintainable and as being bereft of merit, in the interest of justice.

No written statements have been filed the petitioner in response to Interim Order dated 28.09.2026.

Commission's Analysis and Order

10. The case was finally heard on 28.09.2026, wherein the learned counsel appearing for the petitioner, mainly reiterated the contents of its petition, which for the sake of brevity, has not been reproduced herein.

11. The Commission has heard the learned counsel appearing for the Petitioners as well as the Respondents at length, carefully examined the Petition, the Reply and Written Submissions filed by DHBVNL, the Rejoinder filed on behalf of the Petitioners, and scrutinized the relevant statutory provisions under the Electricity Act, 2003, the HERC (Green Energy Open Access) Regulations, 2023 ('HERC GEOA Regulations, 2023'), the HERC (Forecasting, Scheduling and Deviation Settlement and Related Matters for Solar and Wind Generation) Regulations, 2019 ('HERC DSM RE Regulations, 2019'), the HERC (Terms and Conditions for Grant of Connectivity and Open Access for Intra-State Transmission and Distribution System) Regulations, 2012 ('2012 OA Regulations'), and the Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022 ('GEOA Rules, 2022').

12. Before embarking upon an examination of the substantive issues raised on merits, the Commission considers it necessary to deal with and adjudicate upon the preliminary objections raised by Respondent No. 1 regarding maintainability on account of defective authorization and the applicability of the principles of res judicata.

12.1. The Respondents have raised a preliminary objection that the authority letter annexed with the Petition was confined strictly to matters concerning open access application processing and did not authorize the institution of a legal petition challenging imbalance/deviation charges or seeking relaxation of regulations. The Commission observes that Petitioner No. 1 subsequently filed an affidavit of ratification and detailed rejoinder expressly confirming, ratifying and adopting the institution of the present proceedings. It is a well-settled principle of law that procedural defects in corporate authorization are curable defects. Where the principal entity explicitly ratifies the actions taken on its behalf, the proceedings cannot be thrown out on technicalities. Accordingly, the preliminary objection regarding defective authorization stands rejected.

12.2. The Respondents further contended that the issues raised stand conclusively settled by the Suo-Moto Order dated 24.04.2023, Order dated 10.11.2023 in Petition No. 49 of 2023, and Order dated 27.05.2025 notifying HERC DSM Regulations 2025, thereby attracting res judicata and issue estoppel. The Commission notes that while those orders provided general regulatory clarifications, the cause of action in the present case stems from specific monthly overdrawal invoices issued by DHBVNL to Petitioner

No. 1 under its distinct 25-year LTOA captive solar arrangement. Thus, the plea of formal res judicata is not an absolute bar to examining the legal grounds raised herein.

13. Having decided the issue of maintainability, the Commission now proceeds to examine the substantive issues raised by the Petitioners on merits.

14. The Petitioner No. 1, namely, ASK Automotive, is an embedded consumer availing long-term open access and draws 6.6 MW of captive solar power under a 25-year Long-Term Open Access (LTOA) arrangement from the 50 MW solar power plant of Petitioner No. 2, namely, CMES Power 2. DHBVNL levied overdrawal/underdrawal (imbalance) charges on Petitioner No. 1, whereas HVPNL levied Deviation Settlement Mechanism (DSM) charges on Petitioner No. 2 for under-injection of power. The Petitioners have contended that any shortfall in solar power generation automatically results in corresponding overdrawal by the consumer, thereby subjecting the same event to charges at both ends, i.e., on the generating entity and the consumer. Accordingly, the Petitioners have prayed for quashing the overdrawal invoices raised by DHBVNL and have invoked the inherent powers of the Commission to relax the applicable provisions and remove the alleged difficulty.

15. Per contra, Respondent No. 1, DHBVNL has submitted that the issue raised by the Petitioners stands settled by the Commission's Suo Motu Order dated 24.04.2023 leading to the framing of HERC GEOA Regulations, the Order dated 10.11.2023 passed in Petition No. 49 of 2023, and the Order dated 27.05.2025 passed in Petition No. 3 of 2025 (DSM Order). The Petitioners did not challenge the aforesaid orders before the Hon'ble Appellate Tribunal for Electricity (APTEL) and are, therefore, precluded from reopening the issue on the grounds of res judicata, issue estoppel and regulatory finality.

DHBVNL further submitted that there is no regulatory vacuum, as alleged by the Petitioners. Regulation 8(1)(f) of the HERC Green Energy Open Access Regulations, 2023, expressly incorporates the provisions of both the DSM Regulations and the Open Access Regulations. Further, Regulation 2.3(e) of the HERC DSM Regulations for Renewable Energy, 2019, defines the term "Buyer" to include long-term open access (LTOA) consumers. Regulation 42 of the HERC Open Access Regulations, 2012, does not provide any exemption to LTOA consumers from the applicable deviation charges. The LTOA approval dated 24.12.2024 and the LTOA Agreement dated 18.03.2025 were also issued and executed in accordance with the applicable regulatory framework.

DHBVNL contended that the levy of charges on the generator and the consumer does not amount to double jeopardy, as they are distinct entities and their respective deviations are separately accounted for under the applicable Regulations. Solar power variability constitutes a commercial risk to be addressed through appropriate

contractual arrangements. It was further submitted that standby charges, being capacity-based, are distinct from deviation charges, which are event-based and are levied upon the occurrence of an actual deviation in a particular time block. The separate treatment of these charges under Regulations 8(1)(d) and 8(1)(f) reinforces their distinct nature. The DSM framework, according to DHBVNL, is essential for maintaining grid discipline and facilitating the integration of renewable energy sources. Lastly, DHBVNL submitted that the residuary and inherent powers of the Commission cannot be invoked to override express regulatory provisions, particularly when the applicable Regulations are clear and unambiguous.

16. Accordingly, the Commission has framed the following issues for consideration and decision: -

Issue No. 1: Whether there exists any regulatory vacuum or lack of statutory provision governing the levy of overdrawal / deviation / imbalance charges on Long-Term Open Access (LTOA) Green Energy Open Access consumers?

Issue No. 2: Whether the simultaneous levy of generator-side DSM charges on Petitioner No. 2 (Generator) for under-injection and consumer-side overdrawal/imbalance charges on Petitioner No. 1 (Consumer) amounts to double jeopardy or illegal double penalization?

Issue No. 3: Whether deviation/imbalance charges on overdrawal within sanctioned Contract Demand are subsumed under standby charges or capped by the Green Energy Open Access Rules, 2022 / GEOA Regulations, 2023?

Issue No. 4: Whether this Commission ought to exercise its Power to Relax, Power to Remove Difficulty, or Inherent Powers to quash the impugned invoices raised by DHBVNL?

17. After hearing the learned counsel for the parties and going through the record of the appeal, the findings of the Commission on the issues are as under: -

17.1. **Issue No. 1**

Whether there exists any regulatory vacuum or lack of statutory provision governing the levy of overdrawal / deviation / imbalance charges on LTOA Green Energy Open Access consumers?

Petitioners have submitted that neither the HERC GEOA Regulations, 2023 nor the HERC DSM RE Regulations, 2019 contain an explicit, independent charging clause or mathematical mechanism for levying imbalance or deviation charges on buyers/consumers operating under long-term open access captive solar arrangements. It was urged that Regulation 8(1)(f) of the HERC GEOA Regulations, 2023 is merely an illustrative enumeration of charge heads and cannot function as a

substantive charging section in the absence of detailed settlement procedure/rules. The Petitioners contended that levying financial penalties in the absence of explicit, unambiguous statutory mechanics amounts is contrary to applicable regulations.

Per contra, the learned counsel for the respondents contended that Regulation 8(1)(f) of the HERC GEOA Regulations, 2023 explicitly mandates that Green Energy Open Access consumers shall pay deviation settlement charges as governed by notified DSM and Open Access Regulations. Furthermore, Regulation 2.3(e) of the HERC DSM RE Regulations, 2019 defines a 'Buyer' to explicitly include open access consumers procuring power under short-term, medium-term, or long-term open access. Read alongside Regulation 1(B) of the GEOA Regulations, 2023, the regulatory framework is completely integrated, leaving no regulatory vacuum whatsoever.

In order to examine the issue, the Commission has meticulously examined the regulations occupying the field. Regulation 8(1)(f) of the HERC GEOA Regulations, 2023 unambiguously provides:

"8. Charges to be levied for Open Access:

(1) The charges to be levied on Green Energy Open Access consumers shall be as follows: -

a) *Transmission charges;*

b) Wheeling charges;

c) Cross subsidy Surcharge;

d) Standby charges wherever applicable;

e) Banking charges; and

f) Application fees/SLDC fees/Charges, scheduling charges, ***deviation settlement charges*** *and reactive energy charges.*

……

Further, as far as ***scheduling and deviation mechanism is concerned, the same shall be governed by the separate Regulations*** *i.e.* ***DSM Regulations and Open Access Regulations, 2012****, as amended from time to time.*

……..

……

(4) In case of RE Open Access, the consumers taking power from such RE Generator may maintain its contract demand with the distribution licensee. In such cases, the distribution licensee is obligated to supply power to such consumer under universal service obligations and Open Access Consumer shall continue paying fixed charges to the distribution licensee.

(5) ***The standby charges, in such cases, shall be 125% of the energy charges applicable to consumer tariff category, and such charges shall not be applicable if the Green Energy Open Access Consumers have given notice in writing****, in advance at least a day in advance before closure time of the Day Ahead Market on D – (minus) day; "D" being the day of delivery of power for standby arrangement to the distribution licensee."*

(Emphasis supplied)

The wording of Regulation 8(1)(f) is imperative and unambiguous. It establishes a statutory liability on the generator to pay deviation settlement charges under DSM Regulations and on the open access consumers to pay imbalance charges under OA Regulations. It has expressly incorporated the governing procedure from the DSM and Open Access Regulations. Under Regulation 2.3(e) of the HERC DSM RE Regulations, 2019, an open access consumer purchasing power under LTOA falls squarely within the definition of a 'Buyer'. The statutory framework operates as a single, harmonious code. The absence of a redundant, repeated clause within a single document does not amount to a 'regulatory vacuum' when the parent regulations explicitly adopt and cross-reference notified DSM settlement rules for generators and imbalance charges for partial Open Access consumers.

The Commission has also examined the arguments of the petitioner that Regulations 24 and 42 of HERC OA Regulations, 2012 applies to short-term, day-ahead and power-exchange transactions, not to LTOA captive arrangements. In order to examine the same, the Commission has perused Regulations 24 and 42 of HERC OA Regulations, 2012 (1st Amendment Regulations, 2023, reproduced hereunder:-

"24. ***Imbalance Charge****. - (1) Scheduling of all transactions pursuant to grant of long-term access or medium term open access or short-term open access shall be carried out on day-ahead basis in accordance with the relevant provisions of IEGC for inter-State transactions and in accordance with Haryana Grid Code for intra-State transactions. The entitlement at the drawal point for any 15 minute time block shall be worked out after taking into account transmission or distribution losses in accordance with the provisions of regulation 28 of these regulations.*

"(2) Imbalance charges applicable ***for all open access transactions*** *for the overdrawl /underdrawl by an open access consumer or for the under injection / over injection by a generator or trader shall be as given below.*

……."

(Emphasis supplied)

"42. ***Eligibility criteria, procedure and conditions to be satisfied for grant of long term open access, medium term open access and short term open access to embedded consumers shall be same as applicable to other short-term open access consumers****……."*

(Emphasis supplied)

A conjoint reading of Regulations 24 and 42 of the HERC Open Access Regulations, 2012, makes it evident that the said Regulations, including the provisions relating to imbalance charges, are applicable to all categories of open access consumers, namely, long-term, medium-term and short-term open access consumers.

Accordingly, the Commission holds that there is no regulatory vacuum. The levy of overdrawal and deviation settlement charges on LTOA Green Energy Open Access consumers is backed by statutory authority under Regulation 8(1)(f) of the HERC GEOA Regulations, 2023 read with the HERC DSM RE Regulations, 2019 and HERC OA Regulations, 2012.

In view of the above discussion, the Commission answers this issue in negative i.e. there does not exists any regulatory vacuum or lack of statutory provision governing the levy of overdrawal / deviation / imbalance charges on LTOA Green Energy Open Access consumers.

17.2. **Issue No. 2**

Whether the simultaneous levy of generator-side DSM charges on Petitioner No. 2 for under-injection and consumer-side overdrawal/imbalance charges on Petitioner No. 1 amounts to double jeopardy or illegal double penalization?

The Petitioner (s) vehemently contended that when solar generation drops due to uncontrollable natural weather variations, Petitioner No. 2 (Generator) pays under-injection DSM charges, while Petitioner No. 1 (Consumer) is simultaneously billed for overdrawal/imbalance for the exact same quantum of energy shortfall. The Petitioner (s) further submitted that imposing penalties on both supply and demand ends for a single physical event constitutes double jeopardy, double counting and unjust enrichment for the Distribution Licensee.

However, the Respondents have submitted that Petitioner No. 2 and Petitioner No. 1 are separate corporate entities with independent grid commitments. When Petitioner No. 2 under-injects, it causes a generation deviation. If Petitioner No. 1 simultaneously draws power from the grid in excess of its scheduled open access entitlement, it commits a distinct consumer deviation, forcing DHBVNL to draw unscheduled expensive power from the state grid to maintain real-time frequency stability.

The Commission is of the considered opinion that the doctrine of double jeopardy is entirely inapplicable to regulatory tariffs and grid discipline mechanisms. Deviation settlement charges are neither punitive nor penal in nature; they are commercial, compensatory mechanisms established under the Electricity Act, 2003 to enforce grid discipline, incentivize accurate forecasting and compensate the grid operator for unscheduled power flows.

The argument that two charges stem from a 'single physical event' ignores the fundamental duality of grid operations. The generator and the consumer commit two separate operational defaults:

a) Generator Default (Petitioner No. 2): Failure to inject renewable energy into the state transmission/distribution grid, in line with the schedule.

b) Consumer Default (Petitioner No. 1): Unscheduled drawal of energy from the Discom's network, deviating from its accepted open access schedule, without prior notice or arrangement.

If a consumer overdraws when its generator under-injects, the Discom is compelled to instantly balance the deficit from its own pool. Settling only the generator's deviation leaves the real-time physical burden imposed on the distribution system completely uncompensated. Enforcing discipline on both injection and drawal nodes is vital to maintain grid stability.

The Commission holds that the simultaneous levy of generator-side DSM charges on Petitioner No. 2 and consumer-side overdrawal charges on Petitioner No. 1 does not constitute double jeopardy or illegal double penalization. They represent distinct regulatory settlements for independent operational defaults.

In view of the above discussion, the Commission answers this issue in negative i.e. the simultaneous levy of generator-side DSM charges on Petitioner No. 2 for under-injection and consumer-side overdrawal/imbalance charges on Petitioner No. 1 does not amounts to double jeopardy or illegal double penalization.

17.3. **Issue No. 3**

Whether deviation/imbalance charges on overdrawal within sanctioned Contract Demand are subsumed under standby charges or capped by the Green Energy Open Access Rules, 2022 / GEOA Regulations, 2023?

The Petitioners argued that since Petitioner No. 1 pays full fixed demand charges to DHBVNL for its total sanctioned Contract Demand, any drawal occurring within that Contract Demand cannot be subjected to penal overdrawal charges. They further submitted that shortfall in open access supply is governed by 'Standby Charges', which

are capped at 125% of energy charges under Rule 4 of the Central GEOA Rules, 2022 and Regulation 8(4) of the HERC GEOA Regulations, 2023. Therefore, levying uncapped imbalance charges exceeds statutory ceiling limits.

Per contra, the Respondents submitted that Standby Charges and Deviation Settlement Charges are separate and distinct regulatory concepts recognized under Regulations 8(1)(d) and 8(1)(f) of the HERC GEOA Regulations, 2023, respectively. Standby charges represent a capacity reservation fee paid when a consumer submits an advance request for standby power during a planned generator outage. In contrast, deviation/imbalance charges arise from real-time unscheduled variations where no advance standby request was submitted.

The Commission is of the considered opinion that that the Petitioners' contention conflates two entirely distinct regulatory mechanisms operating under separate clauses of Regulation 8(1):

1) Standby Charges [Regulation 8(1)(d)]: Paid for securing an advance standby arrangement with the Discom upon providing notice of generator outage, subject to a statutory cap of 25% of energy charges.

2) Deviation Settlement Charges [Regulation 8(1)(f)]: Triggered by real-time, unscheduled deviation between scheduled drawal and actual drawal in 15-minute time blocks.

Payment of fixed demand charges for sanctioned Contract Demand grants a consumer the right to draw power under the Discom's standard retail tariff structure, but does not grant immunity from time-block scheduling discipline under open access. An open access consumer cannot claim the financial benefits of open access while simultaneously dumping unscheduled real-time supply deficits onto the Discom without adhering to deviation settlement rules.

The Commission holds that deviation/imbalance charges are distinct from standby charges and are neither subsumed under standby charges nor subject to the 25% capping limit applicable to standby power arrangements.

In view of the above discussion, the Commission answers this issue in negative i.e. deviation/imbalance charges on overdrawal within sanctioned Contract Demand are not subsumed under standby charges or capped by the Green Energy Open Access Rules, 2022 / GEOA Regulations, 2023.

17.4. **Issue No. 4**

Whether this Commission ought to exercise its Power to Relax, Power to Remove Difficulty, or Inherent Powers to quash the impugned invoices raised by DHBVNL?

The Petitioners made an alternative prayer invoking Regulations 10, 11, and 13 of the HERC GEOA Regulations, 2023, Regulations 17, 19, and 20 of the HERC DSM RE Regulations, 2019, and Regulations 64 to 67 of the HERC (Conduct of Business) Regulations, 2019. Citing the landmark judgment of the Hon'ble Supreme Court in Madeva Upendra Sinai v. Union of India [(1975) 3 SCC 765], the Petitioners urged the Commission to exercise its equitable powers to round off statutory angularities, relieve hardship caused by solar intermittency and quash the contested billing statements.

Further, the Respondents submitted that discretionary powers to relax regulations or remove difficulties can only be exercised to give effect to statutory provisions and cannot be utilized to bypass, dilute or frustrate express regulatory rules or grant financial exemptions to commercial entities at the expense of distribution licensees.

The scope and limits of the 'Power to Remove Difficulty' and 'Power to Relax' are well settled in law. As held by the Hon'ble Supreme Court in Madeva Upendra Sinai v. Union of India [(1975) 3 SCC 765]:

"40. ... Again, the 'difficulty' contemplated by the clause must be a difficulty arising in giving effect to the provisions of the Act and not a difficulty arising aliunde, or an extraneous difficulty. Further, the Central Government can exercise the power under the clause only to the extent it is necessary for applying or giving effect to the act, etc., and no further. It may slightly tinker with the Act to round off angularities, but it cannot change the basic structure or essential features of the statutory scheme."

The power to relax or remove difficulty is intended to facilitate the operational implementation of regulations, not to carve out commercial exceptions or grant monetary relief contrary to notified grid discipline mandates. Solar variability is a known commercial and operational characteristic of renewable generation, which open access consumers and generators must factor into their forecasting models and commercial contracts. Commercial inconvenience or financial impact resulting from accurate application of grid regulations does not constitute a legal 'difficulty' in giving effect to the regulations. Relaxing deviation charges for specific commercial parties would undermine grid discipline across the state and shift operational burdens onto non-open access retail consumers.

The Commission finds no justification or legal ground to exercise its Power to Relax, Power to Remove Difficulty, or Inherent Powers. The prayer to quash the impugned invoices raised by DHBVNL is accordingly rejected.

In view of the above discussion, the Commission answers this issue in negative i.e. this Commission should not exercise its Power to Relax, Power to Remove Difficulty, or Inherent Powers to quash the impugned invoices raised by DHBVNL.

18. In view of the detailed findings on Issues No. 1 to 4 above, the Commission orders that the present petition is hereby dismissed being devoid of merits. Any stayed or outstanding amounts under the impugned invoices shall be deposited by Petitioners, as per prevailing regulations.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 30.10.2026.

	Sd/-	Sd/-
Date: 30.10.2026	**(Shiv Kumar)**	**(Mukesh Garg)**
Place: Panchkula	**Member**	**Officiating Chairman**

HERC