

Regular Licence under Haryana Electricity Regulatory Reforms Act

HARYANA

India

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Rule

REGULAR-LICENCE-UNDER-HARYANA-ELECTRICITY-REGULATORY of 1999

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Regular Licence under Haryana Electricity Regulatory Reforms Act Published vide Notification Haryana Government Gazette (Extraordinary) dated 16 March, 1999. Haryana Electricity Regulatory Commission Panchkula, Haryana No. HERC/PRO/1-2/98 Case No. 178/HERC/PRO-2 of 1998 and Case No. 179/HERC/PRO-1 of 1998 Order dated 4th February, 1999 {||-| Shri V.S. Ailawadi| Chairman|-| Shri R. Chandra| Member|-| Shri K.S. Chaube| Member|} In the matter of application by Haryana Vidyut Prasaran Nigam Limited (HVPN), having its registered office at Shakti Bhawan, Sector 6, Panchkula, for regular licence for Transmission and Bulk Supply and for Distribution and Retail Supply Licence in State of Haryana. {||-| Haryana Vidyut Prasaran Nigam Limited (HVPN)|| Petitioner|-| 1. G.T. Road Industries Association (G.T. Road IA)| }||-| 2. Faridabad Industries Association (FIA)| }||-| 3. Faridabad Chamber of Commerce And Industry (Faridabad CCI)| }| Intervenor|-| 4. Gurgaon Chamber of Commerce and Industry (Gurgaon CCI)| }||-| 5. PHD Chamber of Commerce and Industry (PHD CCI)| }||-| 6. Faridabad Small Industries Association (FSIA)| }| Objector|-| For the petitioner :-|||-| Shri Heman Sahai, Advocate| }||-| Shri Anil Kapoor, Advocate| }| All of HVPN|-| Shri R.S. Pabla, Chief Engineer (Commercial)| }||-| For the Intervenor :|||-| Shri S.K. Singal|| For Intervenor 1|-| Shri Ramesh Brar|| For Intervenor 2|-| Shri Hardeep Mahajan|| For Intervenor 3|-| Shri Rahul Kacker|| For Intervenor 4|-| Shri P.K. Jain| }||-| Shri B.P. Gupta| }| For Intervenor 5|-| [None]|| For Objector|} For the State Government : Shri R.S. Pabla, Chief Engineer (Commercial), HVPN

1.

In this order, the first regular licences are being issued by the Haryana Electricity Regulatory

Commission, hereafter referred to as "the Commission" under the Haryana Electricity Reform Act, 1997 (Haryana Act No. 10 of 1998), hereafter referred to as "the Act". The Act was adopted pursuant to a policy of reforming the electricity sector of the State of Haryana. It became effective on 14th August, 1998 after the assent of the President of India.

2.

This Order issues two licences to Haryana Vidyut Prasaran Nigam Limited (HVPN) for operations in the State of Haryana : a Licence for transmission and bulk supply and a licence for distribution and retail supply. HVPN is the successor to the Haryana State Electricity Board (HSEB) and is a Government Company within the meaning of the Companies Act, 1956. It was incorporated on 19.8.1997; all of its share are held by the Government of Haryana.

3.

The remainder of this Order is divided into three main parts. Part I (Paragraphs [4 to 20]) present history of the procedures leading to the Order. Part 2 (Paragraph [21 to 117]) gives a detailed summary of the objections raised by HVPN and the Commission's views to these objections. Part 3 (Paragraph [118 to 214]) gives a detail summary of objections raised by interveners and the Commission's views on these objections.

Part 1 – Procedural History

4.

Before discussing the issues raised by HVPN and intervenors in this proceeding, the procedural history will be briefly stated.

5.

Section 14 of the Act lays down that no person, other than those authorised to do so by licence or by virtue of exemption under the Act or authorised to or exempted by any other authority under the Electricity (Supply) Act, 1948, shall engage in the State in the business of (a) transmitting, or (b) supplying electricity. Section 14(4) provides that, notwithstanding anything contained in other provisions of the Act and until the establishment of the Commission in terms of Section 3 of the Act, the State Government shall, for the period of six months from the date the Act comes into force, have the power to grant provisional licences, having a duration not exceeding six months, to any person or persons to engage in the State in the business of transmission or supply of electricity, on such terms and conditions as the State Government may determine consistent with the provisions of the Act, subject however to two conditions : (a) upon the establishment of the Commission, each of the provisional licences granted by the State Government shall be placed before the Commission and shall be deemed to constitute an application for grant of a licence by the Commission under the provisions of the Act; and (b) each provisional licence granted under this Section shall cease to be

valid and effective on the date on which the Commission communicates its decision on the application for a regular licence.

6.

In accordance with Section 14(4) of the Act, two provisional licences were granted by the State Government on 14th August, 1988 to HVPN, with immediate effect : one (Order No. S.O.107/H.A./10/98/S.14/98) to distribute and supply electricity in retail in the State of Haryana, and another (Order No. S.O.108/H.A. 10/98/S.14/98) to transmit and supply electricity in bulk in the State. These two provisional licences were issued on terms and conditions indicated in the licences. It was laid down in the provisional licences that they shall be in force for a period of six months, or upto the time the Commission communicates the decision to HVPN regarding grant of regular licence, whichever is earlier.

A. HVPN's Licence Applications

7.

In pursuance of Section 14(4)(a) of the Act, HVPN in their letter No. 1/HVPN/LIC-1 dated 20.8.1998 sent the provisional Transmission and Bulk Supply Licence and the provisional Distribution and Retail Supply Licence to the Commission, requesting grant of regular licences on or before 13.2.1999. As required by Section 14(4)(a) of the Act, these two provisional licences, on being submitted to the Commission, have been deemed as applications for grant of licence (hereafter referred to as "HVPN licence applications"). In the same letter, HVPN asked the Commission to give direction for the publication of notice of application, as required by Section 15(2)(a) of the Act.

8.

Section 15(2)(a) of the Act provides that any person applying for a licence shall publish a notice of his application in such manner, and with such particulars as may be prescribed by the Commission, within 14 days after making the application. Section 15(2) also lays as down that the Commission shall not grant a licence until Section (15(2)(b)(i)) all objections received within three months from the date of the first publication of the notice of application have been considered by the Commission, and until (Section 15(2)(b)(ii)) it has ascertained that the Central Government has no objection to the grant of the licence in the case of an application for a licence to supply or transmit power in an area which includes the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Central Government for defence purposes. It further provides (Section 15(2)(c)), that where an objection is received from any local authority concerned, the Commission shall, if in its opinion the objection is insufficient, record in writing and communicate to such local authority its reasons for such opinion.

9.

In response to the HVPN licence applications, two letters were issued by the Commission to HVPN, both dated 26.8.1998 : one (No. HERC/LIC-1/-19) on application for licence for the transmission

and bulk supply of power in the State of Haryana, and one (No. HERC/LIC-2/-20) on application for licence for the distribution and retail supply of power in the State of Haryana. In each letter, HVPN was instructed to publish notice of its application for the respective licence in at least two successive editions of two English and two Hindi daily newspapers having wide coverage in the State of Haryana, using the format of notice enclosed in the letter. Notice was published on 2.9.1998 and 3.9.1998 inviting objections to the grant of licences to HVPN within three months of publication of the notice.

10.

In the same letter, HVPN was also instructed to furnish the Commission with copies of its proposed draft licences (hereafter referred to as "HVPN draft licences") before 30th September, 1998 and to give notice of its applications to Central Government, Ministry of Defence, in accordance with Section 15(2)(b) of the Act, as well as to Government of India, Ministry of Energy and the Central Electricity Authority.

11.

In response to the Commission's letter, HVPN, vide its letter No. 2/HVPNL/LIC-1 dated 28.9.1998 to the Commission, requested that the date of submission of the draft licences be extended by one month. The Commission through its letter No. 91/HERC-12 of 9.10.1998 extended the date by 15 days, upto 15th October, 1998.

12.

A draft Transmission and Bulk Supply Licence was submitted by HVPN under cover letter No. 16/HVPNL/LIC¹/₂ dated 14.10.1998, and a draft Distribution and Retail Supply Licence under cover letter No. 17/HVPNL/LIC¹/₂ dated 14.10.1998. Both letters requested issuance of regular licence. In response, the Commission, vide letter No. 4-HERC/98 dated 20.11.1998 in relation to HVPN's application for a regular licence for Transmission and Bulk Supply and letter No. 5-HERC/98 dated 20.11.1998 in relation to its application for a regular licence for Distribution and Retail Supply, directed HVPN to immediately publish notice of its licence applications using the format of notice enclosed in the letters.

13.

HVPN published the required notice on 24.11.1998 and 25.11.1998. Each notice states that it is in continuation of the earlier notice of 3rd September, 1998, mentions that HVPN has now submitted a draft licence as part of its licence application filing, and states that any objections to the draft licences or to the grant of such licence must be submitted to the Commission by 9th December, 1998.

B. Objections and Hearings

14.

In response to the notices published on 2.9.1998 and 3.9.1998 and to those published on 24.11.1998 and 25.11.1998, seven organisations filed objections to the grant of licence to HVPN and/or to the terms of the HVPN draft licences. Seven organisations filed objections in relation to the Transmission and Bulk Supply Licence and/or to the Distribution and Retail Supply Licence. The names of the objectors are as follows :R.C. Sood and Co. Pvt. Ltd. (referred hereinafter as R.C. Sood)G.T. Road Industries Association (referred hereafter as G.T. Road IA)Faridabad Industries Association (referred hereafter as FIA)Faridabad Small Industries Association (referred hereafter as FSIA)Gurgaon Chamber of Commerce and Industry (referred hereafter as Gurgaon CCI)PHD Chamber of Commerce and Industry (referred hereafter as PHD CCI)Faridabad Chamber of Commerce and Industry (referred hereafter as Faridabad CCI)

15.

On 1st January, 1999, the Commission issued letters to all seven objectors, informing them that a hearing would be held on 12th January, and on 6th January, 1999, the Commission published notices in selected newspapers, announcing the same hearing to the general public. Also on 6th January, 1999, the Commission issued a letter (No. 178/179/HERC/PRO-1/98) to HVPN, summoning HVPN to appear for the hearing. Letters were also sent by the Commission to the Commissioner and Secretary to Government of Haryana, Power Department, on 6th January, 1999, and to Secretary to Government of India, Ministry of Power, on 7th January, 1999, announcing the hearing.

16.

HVPN's application and the objections to it were taken up for hearing on 12th January, 1999. At the hearing, the Commission determined that for the purpose of later hearings three of the objectors would be recognised as interveners in relation to the Transmission and Bulk Supply Licence, namely Gurgaon CCI, PHD CCI, and G.T. Road IA, and five of the objectors would be recognised as intervenors in relation to the Distribution and Retail Supply Licence, namely, Gurgaon CCI, PHD CCI, Faridabad CCI, FIA, and G.T. Road IA. It also announced that it would hold its next hearing on 15th January, 1999.

17.

During the course of the hearing on 12th January, 1999, HVPN filed replies to the objections previously filed by the objectors. Four objectors filed additional objections at the hearing, and the Commission directed HVPN to file replies to these additional objections at the hearing of 15th January, 1999. Intervenors were directed that they might file rejoinders to these replies, and that these rejoinders must be submitted to the Commission by 21st January, 1999.

18.

Also at the 12th January, 1999 hearing, HVPN and the intervenors were supplied with copies of modified draft licences prepared by the staff of the Commission (hereafter referred to as "HERC draft licences") and copies of the Commission's Regulations, and were directed that they might file objections to the HERC draft licences by 21st January, 1999, with a certificate that copy of the same had been supplied to the intervenors and HVPN, respectively.

19.

In the hearing of 15th January, 1999, HVPN filed replies to the additional objections submitted by intervenors in the course of the hearing on 12th January, 1999. It was announced by the Commission that arguments on the objections to grant of licences to HVPN would be heard on 27th January, 1999, and that, if necessary, this hearing would be continued on 28th January, 1999. By 21st January, 1999, two intervenors had filed rejoinders to HVPN's replies to their original objections; both rejoinder related to grant of Distribution and Retail Supply licence. By the same date, HVPN and four of the intervenors had filed objections to one or both HERC draft licences.

20.

In the hearing on 27th and 28th January, 1999, representatives of HVPN and the intervenors were heard at length on their petitions. Objections raised by HVPN in relation to the HERC draft licences, and objections raised by intervenors in relation to the HERC draft licences and, where relevant, HVPN's application for grant of licence (including objections to the HVPN draft licences) are taken up in subsequent paragraphs of this Order.

Part 2 – Objections by HVPN to HERC Draft Licences

A. Transmission and Bulk Supply Licence

21.

The Commission's review of the many, multifaceted commentaries of the parties to this proceeding has exposed several common threads woven throughout. These few themes link many apparently independent concerns or criticisms. They also reveal that the regulatory regime (i.e., the underlying concepts, the proper role of the agents in the sector, and the process of our regulation of the industry) is not well understood. The regulatory regime implicit in the reform of the Haryana power sector is designed to fit the unbundled, commercial and, ultimately, private investment nature of the restructuring of the power sector. As such, it is in large measure completely new to the experiences of the parties to this proceeding and the wider audience of electricity consumers in Haryana. But this uncertainty about the nature of our regulation is the primary reason for many of the most basic concerns raised by both the intervenors and HVPN. Our reasons for adopting or not adopting the many proposed amendments to the HVPN and HERC draft licences do, in most cases, arise from the

scope and nature of the regulatory regime.(i)Licence Definitions

22.

HVPN has offered proposed modifications to a number of the items in the definition section of the draft licence. These proposals fall into two categories : (1) those that are of an editorial nature and (2) those of a substantive nature.

23.

The proposals in category (1) include :(i)Area of Transmission and Bulk Supply(ii)Generator Interconnection Facilities(iii)Holding Company(iv)Interim Grid Code(v)Power Supply Operating Standards(vi)Regulations(vii)Related Persons(viii)Supply(ix)Transmission Business(x)Transmission Operating Standards(xi)Transmission System

24.

The Commission does not believe any of the proposed changes improves the language or meaning of the definitions contained in the draft and has not adopted any of them.

25.

Those proposals in category (2) are addressed individual below.

26.

HVPN has proposed to amend the definition of "Bulk Supplier" by adding a phrase that would modify, effectively, the definition of bulk supply so that it includes electricity that the Licensee consumes itself. At the hearing, HVPN initially stated that such uses were for activities necessary to carry out Licensee duties and for supply to colonies housing employees of the licensee, but it subsequently limited its concern to auxiliary consumption. The Commission does not see a need for the amendment since the licensee is clearly able to self-supply electricity required to carry out its transmission activities as a proper ancillary function. We note that in the immediate future, no such exemption would be required because HVPN will hold a distribution licence. In sum, we do not see a need to accept the changes suggested by HVPN.

27.

HVPN proposed omitting the definition of "Controlling Interest" as a conforming change to its proposal to omit Condition 6 (addressed in our discussion of the conditions). Since we reject that proposal, we reject this change as well.

28.

HVPN proposed adding language to the definition of "Distribution and Retail Supply Business" to explicitly permit distribution service on behalf of third parties (denoted as wheeling by HVPN at the hearing). The existing definition does not preclude such service and it is unclear how HVPN's suggestion improves the matter. We reject the proposal as unnecessary.

29.

HVPN proposes to modify the definition of "Distribution System" to include any facilities with voltages above 33 kV that serve retail consumers, either singly or in groups. The current definition excludes facilities above 33 kV, which are then included in the definition of "Transmission System". This request confuses the nature of services (e.g., retail supply) with the nature of transportation facilities (e.g., distribution wires and apparatus). The distribution system is a set of facilities. Consumers that are end-users of electricity are retail consumers and must be served by the retail supply licensee regardless of the voltage at which they take supply. It is not economical or efficient to place part of the transmission system under the control and responsibility of the distribution entity because it is needed for retail service. If the retail supplier requires transmission service to meet its obligations, then it must contract with the transmission licensee to the degree required. The requested change is rejected.

30.

HVPN proposes to modify the definition of "Grid Code". However, it does not explain the significance of the proposed change or provide any justification, and, therefore, the proposed change is rejected.

31.

HVPN suggests that the definition of "Retail Supply" be refined to limit retail supply only to the class of users designed as "Consumers". We agree that the definition would be clearer as modified by HVPN's suggestion and we accept this proposal. The phrase "or Customers" is therefore deleted from the definition of "Retail Supply".

32.

HVPN proposes to modify the definition of "Separate Business" to create designations of business that matches the licences. This would reduce from four to two the number of businesses by combining the related wires/transportation and supply functions into single businesses. We note that this proposal is inconsistent with the draft licence submitted by HVPN itself. The rationale given for this suggestion is that there is no metering between the wires activity and the supply activity which prevents separating the costs and revenues of the joint business. We are at a loss to see the relevance of this statement. Clearly, the licensee must be able to track activities of all of its

functions in order to properly manage its operations. Moreover, the erstwhile HSEB previously was able to report such data separately for its generation, transmission and distribution functions. HVPN has control of all of HSEB's management systems and the adjustment required to report on a basis consistent with the definition in the draft appears to us to be quite manageable. We reject this suggestion.

33.

HVPN proposes that the definition of "Supplier" be modified to refer to entities that carry out bulk supply. Since retail suppliers are also "suppliers" this suggestion is not acceptable and is rejected.(ii)Licence Conditions

34. Objection.

- In condition 3.3 HVPN has suggested that the date of coming into force of the licence be 11.2.1999.

35. Commission view.

- The licence shall come into force on the day the final order of the Commission is communicated to HVPN. The objection is rejected.

36. Objection.

- HVPN raised an issue during the hearing that the licence does not provide for a transition period which the licensee would be passing through just after the grant of the licence. It would be impossible for the licensee to meet the terms and conditions of this licences immediately.

37. Commission view.

- The Commission has considered this objection and has decided to amend Condition 4 of the licence to provide for deviations from the directions and terms of the licence subject to Commission approval.

38. Objection.

- At the hearing, HVPN suggested the deletion of Condition 5.1(b), which prohibits a Transmission and Bulk Supply Licensee from owning or holding, directly or indirectly, any beneficial interest in a Generating Company or Generating Set (other than the licensee's interest in Generating sets pursuant to a Power Purchase Agreement entered into in accordance with Condition 15) without the prior written approval of the Commission.

39. Commission view.

- Freedom for a transmission licensee to hold a beneficial interest in a Generating Company or Generating Set is likely to be misused, would jeopardise the interests of consumers, and would be in violation of the provisions of Section 21(1) of the Act. HVPN's objection therefore is rejected.

40. Objection.

- HVPN proposes to delete Condition 5.2, which requires Commission approval for the provision of goods or services by an Affiliate or Related Person and to place the substance of the provision in licence guidelines. The rationale appears to be that this would permit a fuller explanation of the scope of the requirement.

41. Commission view.

- The Commission finds no ambiguity with respect to the scope of Condition 5.2 as it has been proposed. Both "Affiliate" and "Related Person" are defined terms in each licence, and the condition requires HVPN to obtain the Commission's written permission before engaging any such party to provide goods or services in connection with its transmission and bulk supply business or its Distribution and Retail Supply business. The proposed change is rejected.

42. Objection.

- HVPN asks that Condition 5.3 be modified to permit it to make loans to employees in the ordinary course of business.

43. Commission view.

- The prohibition of Condition 5.3 refers only to loans. It does not apply to advances made to suppliers in the ordinary course of business or to employees pursuant to their terms of service. Accordingly, no modification is necessary, and HVPN's objection is rejected.

44. Objection.

- HVPN proposes to delete Condition 6, which requires HVPN to inform the Commission of any attempted acquisition of a Controlling Interest in the Company and prohibits it from giving effect to any such acquisition not approved by the Commission. The stated rationale is that the Act does not contemplate that the Commission would control ownership of the company. At the hearing, HVPN further argued that it could not lawfully refuse to recognise a transfer of the ownership of its shares.

45. Commission view.

- The proposed change appears to rest on a misunderstanding of the relationship between HVPN and the Commission. Responsibility for providing a safe, economical and reliable electric service rests in the first instance on the licensee. However, the Commission is responsible for ensuring that a licensee is in position to carry out its responsibility. To that end, the Commission must ensure that control of the licensee is not transferred into hands that are incapable of or unwilling to do so. In the light of HVPN's argument, however, Condition 6.2 has been deleted and Condition 6.1 has been renumbered as Condition 6. The Commission feels that this change meets HVPN's main concern.

46. Objection.

- HVPN requests that under its obligation to maintain separate accounts for separate businesses (Condition 8), it be required only to separate transmission and bulk supply on one hand from distribution and retail supply on the other. It argues that it would not be possible to separate bulk supply from transmission or retail supply from distribution because no metering is done at those interfaces.

47. Commission view.

- The fact that there is no metering at the interface between bulk supply and transmission or between distribution and retail supply does not mean that it is impossible to identify costs that relate to one or the other of these functions. There will of course be other costs that are common to both bulk supply and transmission or to both distribution and retail supply. HVPN must develop reasonable methodologies for allocating those costs among the individual functions. The Commission believes that the licences provide HVPN with ample time to identify separate costs and to develop allocation methodologies for common costs. Its fiscal year runs from April 1 through March 31, and the first financial report is not due until three months following the end of the fiscal year (Condition 8(2)(d)). In light of HVPN's concern, however, the Commission will not require such separation for the year ending March 31, 1999. Thus the first report reflecting the functional separation of costs will not be due until June 30, 2000. The proposed change is rejected except as noted in this paragraph.

48. Objection.

- HVPN would increase the amount of time for submitting annual financial statements (Condition 8.2(d)).

49. Commission view.

- The requirement regarding audit of annual accounting statements is the same as prescribed in the Companies Act, 1956. There is no reason why HVPN cannot follow the normal provision of the Companies Act. HVPN's objection therefore is rejected.

50. Objection.

- HVPN requests the deletion of Condition 8.3, which forbids HVPN to change the basis for charges, allocations or apportionments between Separate Businesses without the Commission's approval.

51. Commission view.

- HVPN does not provide any reason for deleting Condition 8.3. The idea behind this condition is that the public at large and consumers should be able to look at the comparative picture of performance of HVPN as reflected in its annual accounts. Changing the basis of charge or apportionment or allocation will make it very difficult for the public and consumers to make that comparison. The proposed change is rejected.

52. Objection.

- HVPN requests the deletion of Condition 8.7, which requires to it make accounting statements and auditors reports available to any person for the cost of duplication. It argues that providing such information to any person that requests it is not in the best interest of HVPN.

53. Commission view.

- It is necessary, in the interest of transparency, that financial and operating data incorporated in the Annual Accounting Statements should be supplied as prescribed in the rules or as laid down by the Commission. The operation of HVPN should be open to public view. If HVPN considers that any information is of a confidential nature such that its disclosure would affect them adversely, they can submit a request to the Commission with full justification. The Commission will judge every such request on its merits. The discretion to judge whether the disclosure of particular information will affect HVPN adversely and should, therefore, be withheld cannot be left to HVPN's sole discretion. The proposed change therefore is rejected.

54. Objection.

- HVPN requests a modification to "Condition 9.1" and the deletion of "Condition 9.2" of the Transmission and Bulk Supply Licence.

55. Commission view.

- These provisions do not exist in that licence. HVPN's objection therefore is rejected.

56. Objection.

- HVPN requests that its general obligation to provide information to the Commission under Condition 10.1 of both licences be clarified to exclude information regarding any firm that may

participate with HVPN in a joint venture.

57. Commission view.

- Condition 10.1 is based on Sections 10(2)(a) and 10(7) of the Act and does not go beyond the powers given to the Commission by those sections. The powers would not be used to obtain information regarding non-power sector activities of HVPN's joint ventures. Whether a particular activity is relevant to the power sector must be decided by the Commission. The proposed change is rejected.

58. Objection.

- HVPN requests that the provisions requiring it to report major incidents to the Commission (Conditions 10.2 and 10.3) be deleted on the ground that "major incident" is not defined.

59. Commission view.

- The Commission agrees that it is appropriate to define "major incident" for purposes of Condition 10.2, and appropriate language is added to the licence in Condition 10.4.

60. Objection.

- HVPN proposes to delete Condition 11, which requires the Commission's approval for the disposal or relinquishment of control over land or buildings or other major assets. The stated rationale is that managing the company is not the Commission's responsibility.

61. Commission view.

- Many of the concerns and proposals put forth reflect an incorrect view of the role of the Commission in relation to HVPN and the Government of Haryana. Under the Act, the role of the Government of Haryana is to set overall sector policy such as the desirability for the provision of direct subsidies to particular consumers or a preference for a particular technology for generating power. HVPN is to provide an adequate level of service at a reasonable price and with acceptable quality. The Commission is to ensure that HVPN meets its obligations since HVPN, in the present circumstances, is free from the discipline of competitors that normally drives suppliers to meet these objectives. The licences are one element of the control scheme as they set out the terms and conditions under which HVPN must function and the manner in which the Commission will effect this control.

62.

In this objection, HVPN proposes that the conditions requiring it to obtain Commission approval for sale of assets or major investments be omitted since they invade management's prerogatives. This

ignores that HVPN is obliged to provide adequate quality service and is permitted to recover the costs of its investments from consumers in tariffs. Since there is no external pressure for HVPN to keep its quality of service up as it keeps costs down, the power sector reform model anticipates that the Commission must provide that pressure. The only way that can be accomplished is by requiring HVPN to assure the Commission that any sale of assets will not diminish its capability to provide good quality service and that any major investment is necessary and economical before allowing its costs to be recovered from consumers through tariffs. HVPN's suggestions are rejected, since they are inconsistent with the regulatory regime required by the Act and the reform.

63. Objection.

- HVPN request that Conditions 12.1 and 12.3 be modified to reduce its licence fees and the interest rate on unpaid fees.

64. Commission view.

- Some views have been expressed during the hearing for keeping the licence fees at a nominal level. The Commission has considered this issue and has felt that the fee determined by the Commission has a reasonable nexus to the costs of the functioning and role of its activities which it is expected to perform under the Act. In regard to the rate of interest for delayed payment of licences fees, the reasoning given by HVPN is unconvincing in the face of the fact that the HVPN itself has been charging this rate of interest for delayed payments to it.

65. Objection.

- HVPN proposes to delete Condition 13, which governs the circumstances under which HVPN's licence may be revoked by the Commission. The asserted justification for its deletion is that its content is redundant of Section 18 of the Act.

66. Commission view.

- It is true that Section 18 of the Act sets out the circumstances under which a licence may be revoked. It does not follow that those circumstances should not be set out in the licence as well. The licence should set out the basic conditions under which the licensee is to provide service, including conditions that may be derived from statutory sources. The proposed change is rejected. Moreover, Condition 13.2 provides a required link between failure of a Licensee to follow specific directions of the Commission and the ability to revoke the licence. This is required to give force to Section 18(2)(b) in the context of wilful disobedience of a Commission order.

67. Objection.

- HVPN suggests that the words "be incorporated into it" in Condition 14 be changed to "be incorporated into this licence."

68. Commission view.

- This is mere verbal change which the Commission do not consider to be necessary. HVPN's objection is, therefore, rejected.

69. Objection.

- HVPN would increase the amount of time for filing power purchase agreements under Condition 15.

70. Commission view.

- The requirement in Condition 15.3 refers to existing agreements. HVPN should already have copies of agreements to which it is a party. The Commission believes that thirty days are an adequate time for HVPN to file a copy of the agreements with the Commission. The requested change is rejected.

71. Objection.

- HVPN requests that a power purchase agreement between it and Generating Company implementing the restructuring of the electric power industry as well as agreements existing prior to implementation of the Act be exempted from Condition 15 of the licence.

72. Commission view.

- Condition 15 requires that, with the exception of short-term contracts and other contracts permitted by the Commission, all of the Licensee's power purchase agreements must be awarded pursuant to a transparent and competitive procurement process acceptable to the Commission. Under Section 23(7) of the Act, this requirement does not apply to binding legal agreements existing before a transfer scheme became effective. However, any extension or other modification of such agreements and any new agreement must be approved by the Commission, unless it is a short-term contract or has been awarded pursuant to a proper transparent and competitive procurement process. The proposed change is rejected.

73. Objection.

- HVPN proposes to delete Condition 16, which establishes criteria and reporting requirements for major investments by HVPN. The stated rationale is that managing HVPN's investments is not the Commission's responsibility.

74. Commission view.

- The proposed change appears to rest on a misunderstanding of the relationship between HVPN and the Commission. Responsibility for providing a safe, economical and reliable electric service

rests in the first instances on the licensee. However, the Commission is responsible for ensuring that a licensee is in a position to carry out its responsibility. To that end, the Commission must ensure that the licensee does not impose costs via tariffs on consumers for investments that do not support those responsibilities in an economical manner. The proposed change is rejected.

75. Objection.

- HVPN would increase the amount of time for implementing an interim and permanent Grid Code under Condition 17 and complying with transmission planning and security standards, transmission operating standards, power supply security planning standards, and power and supply operating standards under Condition 19.

76. Commission view.

- The conditions that HVPN wishes to modify, provide for compliance in two stages. In the first stage, HVPN is required to file an interim code or standard based on its existing practice. In the second stage, HVPN is required to file a proposed permanent code or standard. As a functioning electric utility, HVPN must already have internal standards dealing with the operational areas covered by these conditions. It does not appear to the Commission that it should be a major or lengthy undertaking for HVPN to compile those internal standards into the interim codes and standards required by the licence. Based on the developments of similar codes in Orissa and at the Centre, the Commission is not persuaded that more time is required to provide a draft of permanent codes. Nevertheless, in the interests of minimising any potential source of anxiety, Condition 17 has been modified to increase the time allowed for submitting the interim Grid Code to two months. If there are specific circumstances that would make it impossible for HVPN to submit certain interim or permanent codes and standards within the times required by the licence, it can detail those circumstances in a request for a waiver of those requirements. With the exception noted, the requested changes are rejected.

77. Objection.

- HVPN suggests the elimination in Condition 17.6 of the Commission's power to order a review of the Grid Code more often than once every three years.

78. Commission view.

- HVPN's objection is totally baseless. The Commission would exercise its discretion to order a review of the Grid Code earlier than three years only in cases where a review was essential. HVPN's objection is therefore rejected.

79. Objection.

- HVPN requests that the scope of force majeure be broadened under Condition 19.5(a) to include lack of finance.

80. Commission view.

- The Commission does not believe that lack of finance properly constitutes force majeure. HVPN is expected to operate on a commercial basis and to adjust its charges and manage its activities in order to provide it with the revenue needed in order to carry out its responsibilities. The requested change is rejected as unusual and unnecessary as the term is normally understood.

81. HVPN protest.

- HVPN proposes to delete Conditions 20-22, which define HVPN's duty to establish appropriate tariffs, to file annual revenue and cost reports, and to file appropriate amendments to its tariffs. The stated rationale is that circumstances may change over the thirty-year term of the licence.

82. Commission view.

- These conditions give the Commission the tools that it needs in order to ensure that HVPN carries out its obligations. The issues raised by the Commission's use of these tools will change as circumstances change. The tools themselves, however, will continue to be necessary to regulation under the Act, which requires HVPN to submit for Commission approval a plan for phasing out tariff differentials that do not reflect differences in the circumstances of supply or sale. HVPN's suggestion that these provisions should be incorporated in guidelines rather than in the licence is rejected.

83. Objection.

- HVPN proposes to delete Condition 23, which empowers it to deal with problems of revenue realization, theft, meter tampering, and diversion of electricity, and to place that provision in licence guidelines. The stated rationale is that circumstances may change over the thirty-year term of the licence.

84. Commission view.

- The stated rationale appears to have no relationship to a provision that would empower HVPN itself to deal with such problems as meter tampering. The proposed change is rejected.

85. Objection.

- HVPN has suggested the addition of Condition 24.5(d) that would provide that HVPN has the right to refuse service to a potential consumer that does not have the financial resources to pay transmission charges.

86. Commission view.

- Connecting a consumer is not covered by a Transmission and Bulk Supply Licence. Even in the case of a Distribution and Retail Supply Licence, judging the financial soundness of potential consumers cannot be left to the discretion of HVPN. When connecting consumers, HVPN obtains a security that is said to cover the consumer's expected energy charges for a certain number of billing cycles. If that is so, HVPN can disconnect the consumer in case of non-payment of bills without incurring any loss. HVPN's objection is, therefore, rejected.

87. Objection.

- HVPN proposes to delete Conditions 26 and 27 from the licence and to place those provisions in licence guidelines. No rationale is stated for the change.

88. Commission view.

- Since HVPN does not state any rationale for its proposed change, the change is rejected. B. Distribution and Retail Supply Licence(i)Licence Definitions

89.

The first objection of HVPN relates to definitions given in the draft Distribution and Retail Supply Licence. The definitions under objections relate to "Bulk Supplier", "Controlling Interest", "Distribution and Retail Supply", "Distribution System", "Interim Distribution Code", "Separate Business", "Supplier" and "Transmission System". All the objections except the one relating to the definition of "Interim Distribution Code" have already been dealt with earlier. So far as the definition of "Interim Distribution Code" is concerned, the objection is suggesting a minor verbal addition of the word 'hereof' and 'Condition 16.3' which the Commission considers not only unnecessary but redundant. Hence this objection of HVPN is rejected.(ii)Licence Conditions

90.

The issues raised by HVPN's objections to the following conditions of the Distribution and Retail Supply Licence already have been dealt with in the context of the Transmission and Bulk Supply Licence (under the same Condition numbers), and will not be discussed here : Conditions 3.3, 5.2, 5.3, 6, 8.2, 8.3, 8.7, 10.1, 10.2, 10.3, 11, 12.1, 12.3, 13, 14, 26 and 27.

91. Objection.

- During the hearing, HVPN raised the issue that the licence does not provide for a transition period which the licensee would be passing through just after the grant of the licence. It would be impossible for the licensee to meet the terms and conditions of the licences immediately.

92. Commission view.

- The Commission has considered this objection and has decided to amend Condition 4 of the licence to provide for deviations from the directions and terms of the licence subject to Commission approval.

93. Objection.

- HVPN requests that Condition 5.1(b) be restricted to distribution and retail supply.

94. Commission view.

- The Commission finds the objection irrelevant and hence the objection is rejected.

95. Objection.

- HVPN requests that the words "and Section 12(3) of the Act and the provisions of the Act" be added at the end of Condition 9.1.

96. Commission view.

- This requested change has been agreed. The language of Condition 9.1 in the licence has been modified accordingly.

97. Objection.

- HVPN proposes to delete Condition 9.2, which requires HVPN to submit for Commission approval a plan for phasing out tariff differentials that do not reflect differences in the circumstances of supply or sale. HVPN states that this provision should be incorporated in regulations rather than in the licence.

98. Commission view.

- The requirement that HVPN phase out unjustified tariff differentials is a fundamental part of the regulatory reform in the State of Haryana. The requirement should be stated in HVPN's licence. HVPN's proposed change therefore is rejected.

99. Objection.

- HVPN would increase the amount of time for filing an interim and permanent Distribution Code under Condition 16 and for developing system planning and security standards, distribution system operating standards and overall performance standards under Condition 17.

100. Commission view.

- The conditions that HVPN wishes to modify provide for compliance in two stages. In the first stage, HVPN is required to file an interim code or standard based on its existing practice. In the second stage, HVPN is required to file a proposed permanent code or standard. As a functioning electric utility, HVPN must already have internal standards dealing with the operational areas covered by these conditions. It does not appear to the Commission that it should be a major or lengthy undertaking for HVPN to compile those internal standards into the interim codes and standards required by the licence. Based on the developments of similar codes in Orissa and at the Centre, the Commission also is not persuaded that more time is required to provide a draft of permanent codes. Nevertheless, in the interests of minimising any potential source of anxiety, Condition 16.3(a) will be modified to increase the time allowed for submitting the interim Distribution Code to two months. If there are specific circumstances that would make it impossible for HVPN to submit certain interim or permanent codes and standards within the times required by the licence, it can detail those circumstances in a request for a waiver of those requirements. With the exception noted, the requested changes are rejected.

101. Objection.

- HVPN proposes to delete Condition 18, which establishes criteria and reporting requirements for major investments made by HVPN. The stated rationale is that managing HVPN's investments is not the Commission's responsibility.

102. Commission view.

- The issues raised by this objection have been dealt with in relation to Condition 16 of the Transmission and Bulk Supply Licence. The proposed change is rejected.

103. Objection.

- HVPN proposes that the definition of force majeure be broadened to include lack of finance.

104. Commission view.

- The Commission has dealt with this issue in connection with HVPN's objection to Condition 19.5(2) of the Transmission and Bulk Supply Licence. The proposed change is therefore rejected.

105. Objection.

- HVPN proposes the deletion of Condition 20.1, which defines its obligation to supply power. This condition would be included in licence guidelines rather than in the licence. The stated rationale is that circumstances will change during the thirty-year term of the licence.

106. Commission view.

- Condition 20.1 defines a basic element of the regulatory framework created by the Act. The reason for including these elements in the licence already have been explained in the context of the Transmission and Bulk Supply Licence. The objection is rejected.

107. Objection.

- HVPN requests that it be required to forecast demand for only five years rather than ten, as required by Condition 20.2(a), on the ground that it now lacks the ability to make a reasonable ten-year forecast.

108. Commission view.

- The Commission recognises that a projection of demand for ten years generally will be less accurate than a five year projection. However, rational planning for an electric utility necessarily rests partly on assumptions regarding demand for a period that extends more than five years into the future. It is important that those assumptions be made explicit so that they can be reviewed and, if appropriate, modified. The proposed change is rejected.

109. Objection.

- HVPN proposes the deletion of Condition 21, which requires it to develop standards for its dealings with its consumers and Conditions 22 and 23, which state its obligation to file appropriate tariffs, expected revenues and costs, and tariff amendments. These conditions would be included in guidelines rather than in the licence. The stated rationale is that circumstances will change during the thirty-year term of the licence.

110. Commission view.

- With respect to condition 21, the proposed deletion appears to rest on a misunderstanding of the relationship between the licence conditions and the standards or codes of conduct that are developed under the licence. Condition 21 identifies areas in which standards must be established, but it does not fix the content of those standards. Changes in circumstances over the next thirty years may well require modifications to that content, but changed circumstances will not alter the need for standards. Regardless of those changes, for example, it will continue to be necessary to have standards governing consumers' payment of their bills. The proposal is rejected.

111.

Conditions 22 and 23 define basic elements of the regulatory framework created by the Act. The reason for including these elements in the licence already have been explained in the context of the Transmission and Bulk Supply Licence. The proposal is rejected.

112. Objection.

- HVPN proposes to delete Condition 24, which empowers it to deal with problems of revenue realisation, theft, meter tampering, and diversion of electricity, and to place that provision in the guidelines. The stated rationale is that circumstances may change over the thirty-year term of the licence.

113. Commission view.

- The issues raised by this objection have been dealt with in relation to Condition 23 of the Transmission and Bulk Supply Licence. The proposed change is rejected.

114. Objection.

- HVPN proposes the deletion of Condition 25, which deal with subsidies. These conditions would be included in licence guidelines rather than in the licence. The stated rationale is that circumstances will change during the thirty-year term of the licence. The proposal is rejected.

115. Commission view.

- Condition 25 defines one of the Commission's tools for carrying out the regulatory principles of the Act. The reason for including such provisions in the licence has already been explained in the context of the Transmission and Bulk Supply Licence.

116. Objection.

- HVPN requests the deletion of Condition 28. This condition makes HVPN liable for action under Section 41 of the Act.

117. Commission view.

- Condition 28 is essential and is part of the substantive powers vested in the Commission. The requested change is therefore rejected.

Part 3 – Objections by Intervenor to HERC Draft Licences and Grant of Licences to HVPN

A. Transmission and Bulk Supply Licence(i)Gurgaon CCI

118. Objection.

- First, Gurgaon CCI argued that the words "without prior permission of the HERC" should be deleted from Condition 7, which deals with prohibition of subsidies among separate businesses. The intervenor argues that without that change, it appears that the bulk supplier can deliver energy at subsidised rates if permitted by the Commission, even if it is not pursuant to a directive issued by the State Government under Section 12(3) of the Act. The reason put forward by the intervenor for the suggested change is that in order to maintain commercial viability of bulk suppliers and also keeping in mind the harmful effects of permitting non-reimbursed subsidies, it should be made categorical once and for all that no subsidy whatsoever would be permissible, unless the State Government undertakes to reimburse the same within a fixed time frame (not exceeding 90 days).

119. Commission view.

- The intervenor correctly states the goal of the statute. Ultimately, the only subsidies in HVPN's rates should be ones offered pursuant to a policy directive from the State Government and for which that Government is making payments to HVPN to cover its loss from the below-cost rates. However, it may not be possible to achieve that goal immediately. During a transition period, the Commission therefore requires a discretionary authority to approve subsidised rates. That approval should be only temporary, but the Commission does not believe that it is possible to define precisely the circumstances under which the approval should be granted or the length of time that should be allowed to eliminate the subsidy or to bring it into conformity with Condition 25 of the Distribution and Retail Supply Licence. The proposed change is rejected.

120. Objection.

- Second, Gurgaon CCI objected that the phrase "undue preference" of Condition 9 should be defined and elaborated in the terms and conditions of the licence itself. There should be a specific condition whereby HVPN must consult representatives of consumer groups with respect to any proposal for fixing tariffs. Clarity and transparency with regard to tariff fixation would ensure better accountability and protection of major sections of consumers. Gurgaon CCI considers that keeping in mind past experience, a built in provision should be an essential part of the terms and conditions of the T&BS licence.

121. Commission view.

- Clarity and transparency are required by the Act. The Commission's regulations and guidelines

prescribe practices and procedures which will ensure clarity and transparency for all major regulatory actions. The licence obliges the licensee to adhere to those regulations and guidelines. Separately, "undue preference" is a concept from the Act. It would be inappropriate to define this term in the licence. The intervener's suggestions are rejected.

122. Objection.

- Third, Gurgaon CCI noted that in Condition 15, there is no provision that access to necessary information and methodology adopted for determining what is an economical and efficient price for purchase of power is provided to consumer organisations or the public at large. Also, there is no provision for consultation with consumers before supply agreement, e.g. involving purchase of power above average procurement price, is finalised. The intervenor suggests that due mechanism to resolve the above mentioned objections should be incorporated in the terms and conditions of the licence. Such provisions would force power suppliers to keep consumer interests in mind. There should be an inducement for providing energy at lowest possible cost.

123. Commission view.

- As discussed in the responses to the second objection, transparency is a key element of the regulatory regime. Information availability is an integral part of that transparency. Thus, except for information deemed confidential by the Commission, all information will be available. The interests of consumers are also protected by the power procurement process. The proposals are therefore rejected.

124. Objection.

- Fourth, Gurgaon CCI objected that Condition 19 of the draft does not specify that the Commission would peg the operating standards at the optimum level. Gurgaon CCI suggests that there should be a specific stipulation in the licence that the bulk supplier should achieve optimum operating standards, in line with international best practice, within a certain time period.

125. Commission view.

- The ideal should be for the licensee to achieve international operating standards, but it is not realistically possible to achieve this goal immediately in almost all respects. It therefore may be necessary to adopt reasonable interim standards less than international best practice. Because these standards will be subject to change, it is not appropriate to incorporate them in HVPN's licences. Rather, they will be part of the Grid Code required by Condition 17 of the Transmission and Bulk Supply Licence and the Distribution Code required by Conditions 16 of the Distribution and Retail Supply Licence. The proposed change is rejected.

126. Objection.

- Fifth, Gurgaon CCI noted that the directions given to the bulk supplier in Condition 20 with regard to tariff fixation are general in nature. The objector suggests that an appropriate methodology for fixing tariffs should be formulated by the Commission and given to the bulk supplier. This methodology should first undergo a wide public debate, and the interest of the consumers, including industrial sector consumers, should be discussed with their representatives. Consultation must be done prior to finalisation of this Condition.

127. Commission view.

- The Commission agrees with the need for public participation in the process of developing tariff methodologies. It intends to pursue just such an approach. However, identifying tariff methodology is not part of the licensing process since such methods will undoubtedly change over the term of the licence. This criticism and proposal appear to have misunderstood the nature of the licence and how it fits into the regulatory regime. The licence is, in concept, a contract between a supplier of one of the power sector services (transmission, bulk or retail supply or distribution) and consumers, with the Commission acting as agent of all parties. This agreement normally is in effect for a reasonably long period of time primarily to enable investment in long-lived assets necessary for the power sector. Moreover, the ability to change its terms should be limited since the licence/contract represents a balancing of interests of the parties that would become meaningless if one party could readily change that balance by freely amending the terms. The Act does in fact limit the ability of the Commission to change the terms and conditions of the licences once awarded. The request is rejected.

128. Objection.

- Sixth, Gurgaon CCI, noted that in Condition 21 there is no provision for audit of the operational/transmission performances. There should be a provision for mandatory audit of operational/transmission performance by independent accredited audit agencies. Apart from technical audits, there should also be a provision for quality audits and consumer audits.

129. Commission view.

- The proposed audits would appear worthy of consideration. However, such consideration would be appropriate for the proceedings in which the standards of performance and the means of determining compliance with the standards are established. These will be public proceedings in which this proposal could be given due consideration. Like the standards themselves, the specifics of surveillance methods are not appropriate for the licence since they are likely to evolve and change over time.

130. Objection.

- Seventh, Gurgaon CCI expressed serious concerns about the involvement of Government of Haryana in the operations of HVPN and the role of the Commission in controlling this involvement.

131. Commission view.

- The nature of the relationship between Government of Haryana, HVPN and the Commission are specified in a series of documents that are binding upon these parties. The roles of the Commission and Government of Haryana are delineated in detail in the Act and provide for the Commission unfettered authority over the matters raised by the intervenors in this objection. For example, the performance standards that the licensee must adhere to are set by the Commission and cannot be altered by Government of Haryana. The Government of Haryana has issued policy statements and made commitments to external agencies such as the World Bank that it will respect the corporate autonomy of the HVPN and allow its management to function in the best commercial interest of the company (see Paragraph 20 on Corporate Governance of HSEB, November, 1997, Haryana Power Sector Reform and Development Programme, Chapter 5). The Commission finds these matters are not directly germane to the draft licences.

132. Objection.

- Eighth, Gurgaon CCI criticised the central despatch and scheduling conditions in the licence on the ground that it conflicts with the functions of other agencies.

133. Commission view.

- Since the state load despatch centre will be under the control of a licensee, the licence must address these matters. The Commission rejects this proposal.

134. Objection.

- Ninth, Gurgaon CCI proposed that the conditions relating to the procurement of power and major facilities be amended to provide essentially unrestricted freedom for the Licensee to employ its professional judgment to these matters.

135. Commission view.

- We believe these comments stem from a misapprehension of the Commission's role in procurement. In the model of the power sector adopted by the Government of Haryana, the Licensee will act as a single purchaser of power for the needs of the State and will be the sole source of electricity to the distribution entities. These are statutorily protected monopolies. As such they are clearly free from the disciplines of market competition. Under the assumption that the tariffs available to distribution companies would pass on the costs of bulk power purchases, the inability to

utilise other suppliers means that the distributors would simply have to accept the dictates of the bulk supplier. More importantly, the bulk supplier would be under no pressure to purchase its power supplies in an economic and efficient manner. The distributors would be unable to avoid any such inefficiencies. In the regulatory model discussed above, the Commission must assume the duty of disciplining the procurement process through transparency and competition in the absence of market forces.

136.

The Commission has determined that the means to achieve the proper balance of regulatory control and commercial flexibility is to require competitive procurement processes as the basic approach to resource acquisition. The specifics of the actual manner in which the Commission will verify that the Licensee is adhering to this requirement will likely change over time and have been left to subsidiary documents. By relying on competition, the Commission is reducing to the point of elimination its own ability to affect specific procurement decisions and relying on market forces to produce the optimal outcomes. Finally, as is the case with any licence condition, the Commission can waive the requirement for competitive procurement if a need can be demonstrated to the Commission's satisfaction preserving the Licensee's flexibility to deal with real world constraints that might arise.

137.

The Commission understands that the intervenor is concerned about past interference with the procurement processes of the HSEB and the apparent ill effects that resulted. However, these conditions are designed not to undermine the managerial discretion of the Licensee in carrying out its procurement functions. Rather, these conditions are designed to protect consumers from decisions by the Licensee that are undisciplined by competitive or market forces. Since the Licensee has the reasonable expectation that it will be allowed to earn an adequate return on and return of its investments, procurement decisions will affect tariffs. It will be much more efficient for the Commission to control this activity as prescribed in the draft licence than to be forced to make after-the-fact evaluations and possible disallowances (which could create significant financial difficulties for the licensee). Based on this reasoning, the proposals is rejected.(ii)PHD CCI

138. Objection.

- First, with regard to Condition 4, PHD CCI observes that while the Commission can issue directions to Licensee under a specific provision in HER Act, unless directions are issued under that specific provision, other instructions issued by the Commission cannot be construed as "directions".

139. Commission view.

- The Act provides the Commission broad authority to direct specific actions by licensees. In particular, Section 10 read with Section 15, provides the authority for the Commission to issue directions related to any section of the Act. We believe that the objector's concern is not valid.

140. Objection.

- Second, PHD CCI noted that in Condition 9, there is no provision under which the Commission can review fixation of tariff and terms and conditions for transmission and bulk supply. Different tariff may also be considered depending on quantum of power transmission distance chargeable from various Distribution Licensees or industrial consumers. It suggests that PHD CCI and other interest groups should be consulted while reviewing the basis of tariff formulation and the tariff for various categories of consumers.

141. Commission view.

- Contrary to the objector's assertion, Section 26 of the Act and Conditions 20, 21 and 22 of the licence are provisions which allow the Commission to review tariff setting and terms and conditions. The suggestion to consider distance based tariffs is not germane to this licence proceeding but should be put forward at a tariff proceeding. Finally, the Act and our regulations provides for consultation with affected parties and even participation in the process. No amendment of the drafts is required.

142. Objection.

- Third, in view of the provision of Condition 15.2, which requires any award of contract for purchase of power on long term basis to be done through a transparent and competitive bidding process, PPD CCI contends that in many cases, resorting to a competitive bidding process may not be feasible. Transmission Licensee may have to enter into new PHAs with various generating companies inside and outside the State. PHD CCI suggests that this condition needs to be reviewed in the above context.

143. Commission view.

- The Transmission and Bulk Supply Licence provides that power should be purchased in an economical and efficient manner (Condition 15.1). The licence assumes that this goal generally is best achieved through a transparent and competitive bidding process (Condition 15.2). However, it creates an explicit exception for short-term power purchase, and it empowers the Commission to permit additional exceptions. If HVPN considers that competitive bidding is not feasible in a certain case, it may request that the Commission exercise its power to grant an exception. The proposed change is rejected.

144. Objection.

- Fourth, PHD CCI objects that Condition 19.3 should clearly specify that the Licensee, while preparing the operating standards, should specify the permissible transmission losses, so that these losses can be monitored by the Commission and other agencies.

145. Commission view.

- The Commission approves the operating codes and standards prepared by the Licensee. The issues raised by the objector can be effectively addressed at the time of finalising codes and standards. Since the specific parameters and values of the standards must undoubtedly change (as performance improves) over the term of the licence, it is infeasible to specify such data in the licence.

146. Objection.

- Fifth, while Condition 19.9 provides that the Licensee shall, if required by the Commission, publish a summary of the reports, PHD CCI suggests that suitable provision should be made in this condition so that reports in question can also be supplied to consumers on payment of prescribed charges.

147. Commission view.

- Except where the Commission specifically determines that information should be treated as confidential, all reports and tariffs filed with the Commission will be publicly available to consumers and other parties.

148. Objection.

- Sixth, with regard to Condition 20.1, PHD CCI suggests that the Commission should approve the tariff only after due consultation with PHD CCI and after public hearings on the matter.

149. Commission view.

- For tariff revisions, public hearing is required by the Act and representatives of various interested bodies/persons can participate in those hearings.

150. Objection.

- Seventh, PHD CCI raised the same objection as the seventh objection of Gurgaon CCI, and this is not repeated here.

151. Objection.

- Eighth, PHD CCI raised the same objection as the eighth objection of Gurgaon CCI, and this is not repeated here.

152. Objection.

- Ninth, PHD CCI raised the same objection as the ninth objection of Gurgaon CCI, and this is not repeated here.(iii)FSIA[This objector did not appear in person. We have considered the written objection filed by him]

153. Objection.

- First, FSIA raised the same objection as the seventh objection of Gurgaon CCI, and it is not repeated here.

154. Objection.

- Second, FSIA raised the same objection as the ninth objection of Gurgaon CCI, and it is not repeated here.(iv)G.T. Road IA

155. Objection.

- First, G.T. Road IA raised the same objection as the seventh objection of Gurgaon CCI, and it is not repeated here.B. Distribution and Retail Supply Licence(i)Gurgaon CCI

156. Objection.

- First, with reference to Condition 3.3 of the draft licence it is suggested that the terms of conditions given in the licence should be subjected to annual review at least for the first five years. This is so because the licence in its present form does not constitute a mature document in the sense that a number of areas/parameters are yet to be evolved (such as Distribution code, consumer rights statement, complaint handling procedure, etc.). Moreover, as per the present draft, HVPN is required to take permission/approval of the Commission in a number of areas. In future, it may be deemed necessary to delegate more independent powers to HVPN or to make substantial revision in the terms of the licence.

157. Commission view.

- The suggestion that the present licence document is not a mature one is perhaps not correct. Although the licence requires the Licensee to develop a number of codes, standards and procedures so that its activities can be effectively monitored by the Commission, and even though the contents of such codes, standards and procedures can evolve with time, it is not proper to conclude that this leads to the necessity of reviewing the terms and conditions of the licence which require the Licensee to adhere to such standards. That requirement will not change. Further, given that the Licensee has to function within the boundaries of the Act, it is not envisaged that any further delegation of power to the Licensee will be required. Therefore, the objection is rejected.

158. Objection.

- Second, Gurgaon CCI noted that, as per Condition 7, the Licensee shall not, without prior permission of the Commission, give any subsidy except a subsidy granted by the State Government pursuant to Section 12(3) of the Act. It is suggested that the words "without prior permission of the Commission" should be deleted because the Licensee should in no circumstances be allowed or made to grant a subsidy unless it is as per the policy directive issued by the State Government under Section 12(3) of the Act. As per Condition 25(1) of the draft licence the Commission may allow the Licensee to set tariff which does not satisfy Condition 22 of the draft if the departure is in accordance with the policy of the State Government under Section 12(A) of the Act. This provision should be sufficient for grant of any subsidy felt necessary by the State Government. There should not be any scope for any other kind of subsidy for which the compensation is not given to the Licensee.

159. Commission view.

- The Commission's response is the same as that given to the second objection raised by Gurgaon CCI in relation to the Transmission and Bulk Supply Licence.

160. Objection.

- Third, as per Condition 8, the Licensee has to give an auditor's report in respect of each financial year and this audit is confined only to conventional accounting. It is submitted by Gurgaon CCI that specific conditions should be added in the draft for preparation of other kinds of audits, including internal performance audit, quality audit as per ISO standards, and consumer audit. It is stated that the underlying objective of restricting the power industry in Haryana would not be fulfilled unless suitable mechanisms are built in within the terms and conditions of the licence to ensure that the Licensee continuously attempts to improve performance and conforms to a transparent and quality oriented work culture so as to achieve maximum efficiency on all fronts. Mere submission of audited financial account will not be helpful unless above audits are made and submitted to the Commission and to the representative bodies of the important consumer segments on an annual basis. These audits should be conducted by independent accredited audit agencies.

161. Commission view.

- This is responded to in paragraph 129 of this order.

162. Objection.

- Fourth, Gurgaon CCI noted that, according to Condition 9.2 a period of 180 days is being given to the Licensee for submitting to the Commission a plan for phasing out of tariff differentials over a specified period of time. This is objected as the present condition allows for the tariff distortions to continue in future. There is no reason for this as it would only create obstacles in the way of efficient

and viable operation of HVPN. It is suggested that the licence should be granted only after a Tariff Schedule is given by the HVPN to the Commission and is approved based on the principle of non-sectoral preferences and other criteria and parameters laid down by the Commission. The tariff schedule should not incorporate any element of cross-subsidisation.

163. Commission view.

- The Act requires the ultimate removal of all cross subsidies. However, it would be irresponsible and highly disruptive to implement immediately the resulting, drastic changes in tariffs that would be necessary to achieve this objective. It is good regulation and good public policy to undertake a time bound transition from the current state of distorted tariffs to a state with no such distortions. We also note that the proposal to withhold issuing their licence until tariffs are redesigned is inconsistent with the impending expiration of current licences. These proposals are therefore rejected.

164. Objection.

- Fifth, Gurgaon CCI alleges that in the draft licence there is no provision for determining an accurate methodology for determination of electricity supply to the subsidised sectors and for timely compensation by the State Government to the Licensee. It is suggested that an appropriate condition should be inserted in the licence which would make it incumbent upon the Licensee to install a transparent and well monitored system for determining the exact quantum of electricity sold to the subsidised consumers. There should be a clear provision in the Licence stipulating the period within which it would seek reimbursement of subsidy on account of the subsidised sale of power. If the Government does not reimburse within 30 days, commercial rate of interest should also be charged and after 90 days the Licensee should suspend the supply to the preferential sector at subsidised rates.

165. Commission view.

- Conditions 25.1 and 25.2 of the Distribution and Retail Supply Licence require both a projection of the cost of a subsidised rate and a determination of its actual cost following the end of the financial year, and provides for Commission review and approval of that determination. The proposed changes are rejected as duplicative.

166. Objection.

- Sixth, Gurgaon CCI objects that in Condition 16 certain key provisions for safeguarding the consumer interest have not been included. The Distribution Code should include the obligation of the HVPN to compensate consumers in case of HVPN's failure to provide uninterrupted quality power supply. The Commission may determine such losses on appeal by the affected consumers and issue appropriate instruction to the HVPN. This is required as a disincentive to unsatisfactory performance on the retail distribution front. Gurgaon CCI also suggests that the Distribution Code

should incorporate a provision to make it obligatory for HVPN to spell out the likely energy demand by the subsidised sector at the macro and micro level in the State. It should also be incumbent on HVPN to clearly define and determine the energy supply to different categories of consumers in a manner which eliminates any scope of ambiguity. Gurgaon CCI argues that the causes behind any transmission and distribution (T&D) losses excepting those which occur on absolutely technical grounds should be analysed by HVPN on a daily basis and it should report to the Commission the steps taken to minimise or eliminate such losses. Under no circumstances should the adverse financial impact of T&D losses occurring above the internationally acceptable technical averages be passed on to the consumers.

167. Commission view.

- A principal purpose of the Act and the licences is precisely to protect the interests of consumers. The licence serves a particular, contract-like function in our regulatory model; setting out the general terms and conditions of service by the Licensee including the duty to protect consumers. However, the Distribution Code is not the proper document to specify obligations to compensate consumers for service interruptions. The judicial system in the state is the proper forum for such matters. Finally, the request to shield consumers from losses greater than international practice is infeasible in the short run. The reform process is aimed at correcting the deficiencies of many years, and it is not reasonable to demand instant results as implied by this request. These requests are consequently not accepted.

168. Objection.

- Seventh, with reference to Condition 21, Gurgaon CCI mentions that there is no provision for penalty or deterrents in case the code of practice on payment of bills, complaint handling procedure, consumer rights statements, etc. are not adhered to by HVPN. It is requested that the Commission should include appropriate disincentives to HVPN in the terms and conditions of the licence in case any code is not honoured in letter and spirit by any official or staff of HVPN. The reason put forward in favour of this request is that in order to ensure accountability it is not sufficient to only state the code of conduct or expectations. From a practical point of view a clear penalty for deliberate deviations from the expected code of behaviour would go a long way in eliminating the undesirable features.

169. Commission view.

- The Commission's power to order compensation is defined by Section 31(2) of the Act. That section empowers the Commission to direct Generating Companies, Licensees or other persons that have violated or failed to comply with the Act, with rules or regulations issued under the Act, or with Commission directions or orders to pay compensation to the person or persons affected by the violation or non-compliance. So, no amendment to the draft licence is required to meet this suggestion.

170. Objection.

- Eighth, Gurgaon raised the same objection as it raised as its seventh objection in relation to the Transmission and Bulk Supply Licence. This is not repeated here.

171. Objection.

- Ninth, Gurgaon CCI raised a number of concerns about the manner in which HVPN as Licensee would interact with consumers as it provides service (e.g., disconnection policy, billing practices, timelessness and quality of customer service).

172. Commission view.

- The licences as drafted require the implementation and adherence to standards of performance related to several aspects of Licensee activities, in particular, customer service. Specific parameters of such standards are not appropriate for the licences themselves since they are subject to significant changes over the term of the licences. Also, these standards must be approved by the Commission and we intend to involve the public in the approval process. We find that there is no need to amend the draft in response to these comments.

173. Objection.

- Tenth, Gurgaon CCI requested that the condition on performance standards be amended to include a provision for Commission action and to prescribe remedial measures and penalties if periodic review of Licensee performance reveals failure to adhere to the standards.

174. Commission view.

- Since adherence to performance standards is a licence condition, all of the enforcement authority of the Commission is available in case of Licensee failure to perform adequately. It would be unduly restrictive of our decision-making to prescribe in the licence specific remedies and penalties since the details of each situation must be assessed before proper reaction can be determined. We reject this proposal on that basis.

175. Objection.

- Eleventh, Gurgaon CCI requested the Commission to issue directions for payment of subsidies by the Government of Haryana before issuing a final licence.

176. Commission view.

- A key element of the reform of the power sector in Haryana is placing the entities in the sector on a commercial basis. Historically, the power sector, in the form of the HSEB, was financially burdened

with tariffs that did not cover the costs of providing service. This reflected the political decision to provide electricity to certain segments of society at a price less than the cost of the electricity. The difficulty arose from the failure to provide an alternative sources of revenues to make up for the resulting deficiencies except by overcharging other consumers. This alternative has natural limitations (e.g., the ability to self-generate) and is inherently unfair.

177.

The designers of the reform program recognised this problem and set in place in the Act strict limitations to pursue unfunded subsidies. The Act recognises that it is a legitimate policy function of Government of Haryana to decide that certain consumers should not have to pay the full cost of their electricity service. However, in such cases, the law does require that Government of Haryana fully compensate the licensees for the resulting revenue shortfall. The Act also provides for the ultimate elimination of cross-subsidies (overcharging some consumers to keep the utility financially indifferent for undercharging other consumers). The licences reflect this approach to subsidies and tariff distortions. Considering the nature and role of the licence, the details of implementing these principles is left to subsidiary guidance documents. However, it appears that some of the criticisms or proposals for the draft licences do not indicate an appreciation of this situation.

178.

Here, Gurgaon CCI argues for the Commission to issue directions for reimbursement of subsidies by Government of Haryana before issuing a licence. This reimbursement is, as mentioned above, required by law. Moreover, the Distribution and Retail Supply Licence contains specific conditions that reflect this legal requirement. As a result, the Commission does not see the need to make any amendments to the draft licences to accommodate the concerns raised in the comments.

179. Objection.

- Twelfth, Gurgaon CCI complained of distortions in the tariff structure, especially with respect to overpayments by industrial consumers.

180. Commission view.

- Although we take these concerns seriously, they are in fact specific questions relevant to the process of setting tariffs and not to the manner in which the Licensee should be required address the general aspects of tariffs. It is these latter matters that are appropriate for a long-term, fixed agreement such as a licence. Examples would be the requirement that the Licensee file sufficient, timely information to allow the Commission to ensure that consumers are not overpaying for electricity and that the Licensee adhere to the process for amending tariffs as set out by the Commission. The specific details are not appropriate for the licence since they undoubtedly will change over time.(ii)Faridabad CCI

181. Objection.

- First, regarding Condition 3.3 of the draft licence which states that the licence shall remain valid for a period of thirty years from the date of issuance, it is suggested by the intervenors that the licence shall be granted for a period of not more than 5 years and shall be renewable thereafter unless revoked earlier. This shortening of the period of licence is sought primarily on the ground that HVPN should not acquire a monopolistic attitude towards the business of distribution and supply of electricity and in the event of their not being able to function as per the requirements, the licence can be offered to any other interested company.

182. Commission view.

- A determination of the appropriate term for a licence requires that the Commission balance competing considerations. On the one hand, a shorter term would make it easier for the Commission to remove a Licensee who had failed adequately to perform its obligations and increase the pressure on the Licensee to provide good and economical service. On the other hand, a shorter term would also make it more difficult for a Licensee to raise private capital on reasonable terms and would reduce the Licensee's incentive to consider the long-term impact of its actions, especially long-lived investments. The Commission believes that a thirty-year term combined with the power of revocation set out in Condition 13 of each licence reasonably balances these competing considerations. The proposed changes are rejected.

183. Objection.

- Second, it was pointed out the Condition 4.0 specifies that the Licensee shall comply with the directions issued by the Commission, and the objectors argued that this point needs to be clarified further in order to make the compliance with the directions issued by the Commission time bound.

184. Commission view.

- The powers granted in the Act to the Commission are very broad and encompass the ability to impose time limits on licensee response to our directions. Examples of this are the time limits set in the drafts for the Licensee to produce various standards and codes. No further clarification is required.

185. Objection.

- Third, although Condition 7.0 prohibits grant of subsidy, there is no specification as to in what circumstances and conditions or framework the Commission shall be empowered to give any subsidy or subvention to any consumer. In the absence of any specific guidelines or yardstick, it will be extremely difficult to distinguish or determine the case of the grant or refusal of subsidy to any consumer or segment of consumers. Furthermore, Condition 7 also provides that the State Government can provide subsidy to any class of consumers. This is a very ambiguous statement

which needs to be clarified, given the fact that HVPN has no independent source of income other than from sale of electricity. If any subsidy is granted by the State of Haryana to any consumer or to any class of costumers, the State has to pay the subsidy to HVPN. However, non-reimbursement of subsidy amount by the Government over a prolonged period will severely hamper the working of HVPN. It is suggested that the accountability of the subsidy due from the Government of Haryana should be done at least on monthly basis stretchable to a maximum of one quarter from the date of issuance of the subsidy. Any delay on the part of the Government of Haryana to pay the amount should attract interest at the rate settled by the Commission. It is also argued that a separate Subsidy Account be maintained by HVPN which should be subject to the supervision, scrutiny and regulation of the Commission and such accounts/reports be furnished to the Commission or quarterly basis.

186. Commission view.

- Conditions 25.1 and 52.2 of the Distribution and Retail Supply Licence require both a projection of the cost of a subsidised rate and a determination of its actual cost following the end of the financial year, and provides for Commission review and approval of that determination. The proposed changes are rejected.

187. Objection.

- Fourth, with regard to Condition 8.2(b)(i), Faridabad CCI suggested that in presentation of the account records, the major cost heads particularly which have contributed to the loses like line losses, overstaffing, losses due to breakdown and thus non-supply of power, and particularly losses due to the liquidity problems, should be highlighted. The performance of HVPN should also be shown compared to Indian best operations and internationally accepted norms.

188. Commission view.

- Some of the information that intervenors would require HVPN to provide already is at least implicitly required by the HERC draft licences. The licences require that HVPN submit a report explaining the measures that it proposes to take to eliminate any significant difference between expected revenues and costs (Distribution and Retail Supply Lince, Condition 22.2(b)). The Commission believes that any such explanation would necessarily include an explanation of the major reasons for any substantial loss, including technical and non-technical transmission and distribution losses. Similarly, a justification for the permanent codes and standards that HVPN is required to submit, would have to include an evaluation of HVPN's current practices. No further conditions are required.

189. Objection.

- Fifth, with reference to Condition 9.2, it is stated that tariff differentials are in existence today mainly due to subsidised price to a particular section of consumer. Since the subsidy will be due

from the day one, such tariff differential should go from day one. HVPN will not be out of pocket as it will be receiving the Government subsidy for subsidised power.

190. Commission view.

- The Act prohibits unfunded direct subsidies, but does allow, at the discretion of the Commission cross subsidies from one class of consumers to another. This discretion is constrained by the ultimate goal of the Act for efficient and economical tariffs. The balance implied by these statutory pressures is reflected by Condition 9.2. As described in the Commission's response to the fourth objection raised by Gurgaon CCI, this approach reflects good public and regulatory police. Thus this suggestion is rejected.

191. Objection.

- Sixth, the intervenor suggests that HVPN should not be held in default, if the fees under Condition 12.3. are not paid by it in circumstances where the subsidy from Government of Haryana is not received in time. HVPN should be free to adjust the payment of fees against outstanding subsidy. Further, the reciprocal interest liability of the Government of Haryana should be in place if subsidies are not paid and received by HVPN.

192. Commission view.

- HVPN's obligation to pay fees under Condition 12 of the licences is separate from and independent of State Government's obligation under Section 12(3) of the Act to make payments to HVPN in connection with policy directions to subsidies rates charged to certain consumers. Breaches of the obligations should also be treated separately, and a failure of State Government to make the payments required by Section 12(3) of the Act should not be used to excuse HVPN's failure to pay the fees required by Condition 12 of the Licences. The proposed change is rejected.

193. Objection.

- Seventh, with regard to Condition 16, it is suggested that HVPN and its officials should also be made accountable and liable for the losses that may be suffered by the consumers on account of any lapse or fault on the part of HVPN employees. The Commission should also consider the aspect of penalty against HVPN and its employees. It is further suggested that since HVPN is a registered company, its employees should cease to be government servants unlike HSEB employees and should not enjoy protections provided under Section 197 of the Indian Penal Code. It is proposed that a Condition be introduced in the licence to specifically mention that HVPN or its employees shall not be entitled to special protection in law and shall be liable and accountable as a company and officials of the company. Irregularity committed by such employees should be made punishable in the law of the land.

194. Commission view.

- The request to hold HVPN and its officials liable for losses is inconsistent with the role of the Commission vis-a-vis the State judicial system. Moreover, the Act does not empower the Commission to penalise HVPN or its employees except for ignoring orders of the Commission. Finally, the request for an additional condition to remove HVPN employees from the protection of Section 197 of the Indian Penal Code ignores the nature of the licence, which cannot amend or contravene any law nor create a punishable offence "in the law of the land". These suggestions are rejected.

195. Objection.

- Eighth, objectors argue that the Consumer Rights Statement as mentioned in Condition 21.3 should be clear and unambiguous. At present, HVPN behaves as if they are the final arbitrator, which results in undue advantages and to corrupt practices by HVPN staff. Overstaffing has been a bane of HSEB, which have been mainly due to protection to the staff forced to employ by HSEB to oblige Government in power.

196. Commission view.

- A consumer Rights Statement is not before the Commission in this proceeding. Condition 21.3 of the Distribution and Retail Supply Licence requires HVPN to submit such a statement, and it provides for consultation by the Commission with the Commission Advisory Committee and other parties representing consumer interests before the statement is promulgated. Issues relating to adequacy of the statement may be considered in that consultation. The proposed change is rejected.

197. Objection.

- Ninth, it is suggested that the expected revenue calculation as per Condition 22.2 should clearly state the size of likely subsidised supply in the system and its cost to the rest of system.

198. Commission view.

- Conditions 25.1 and 25.2 of the Distribution and Retail Supply Licence require both a projection of the cost of a subsidised rate and a determination of its actual cost following the end of the financial year, and provides for Commission review and approval of that determination. The proposed changes are rejected.

199. Objection.

- Tenth, Faridabad CCI raised the same objection as raised by Gurgaon CCI as its seventh objection in relation to the Distribution and Bulk Supply Licence. This is not repeated here.

200. Objection.

- Eleventh, Faridabad CCI raised the same objection as raised by Gurgaon CCI in relation to the Transmission and Retail Supply Licence. This is not repeated here.

201. Objection.

- Twelfth, Faridabad CCI raised the same objection as the tenth objection raised by Gurgaon CCI in relation to the Distribution and Retail Supply Licence. This is not repeated here.

202. Objection.

- Thirteenth, Faridabad CCI raised the same objection as raised by Gurgaon CCI as its seventh objection in relation to the Transmission and Bulk Supply Licence. This is not repeated here.(iii)FIA

203.

FIA's objections are identical to those of Faridabad CCI. They are not repeated here.(iv)FSIA[This objector did not appear in person. We have considered the written objection filed by him]

204.

FSIA's objections are the same as the seventh objection raised by Gurgaon CCI in relation not the Transmission and Bulk Supply Licence, and the ninth to eleventh objections raised by Gurgaon CCI in relation to the Distribution and Retail Supply Licence. They are not repeated here.(v)PHD CCI

205. Objection.

- First, PHD CCI raised the same objection as the seventh objection raised by Gurgaon CCI in relation to the Transmission and Bulk Supply Licence. This is not repeated here.

206. Objection.

- Second, PHD CCI raised the same objection as the ninth objection raised by Gurgaon CCI in relation to the Distribution and Retail Supply Licence. This is not repeated here.

207. Objection.

- Third, PHD CCI raised the same objection as the tenth objection raised by Gurgaon CCI in relation to the Distribution and Retail Supply Licence. This is not repeated here.

208. Objection.

- Fourth, PHD CCI raised the same objection as the tenth objection raised by Gurgaon CCI in relation to the Distribution and Retail Supply Licence. This is not repeated here.

209. Objection.

- Fifth, PHD CCI request that cost data related to tariffs be made available to interest parties. This is not repeated here.

210. Commission view.

- Except for information deemed to be confidential by the Commission all tariff-related information is available to the public. This is not repeated here.(vi)G.T. Road IA

211. Objection.

- First, G.T. Road IA raised the same objection as the seventh objection raised by Gurgaon CCI in relation to the Transmission and Bulk Supply Licence. This is not repeated here.

212. Objection.

- Second, G.T. Road IA raised the same objection as the ninth objection raised by Gurgaon CCI in relation to the Distribution and Retail Supply Licence. This is not repeated here.

213. Objection.

- Third, G.T. Road IA is concerned about the lack of a condition in the licence to safeguard consumers against anti-competitive and abusive practices of a licensee that would be a monopolist.

214. Commission view.

- The entire regulatory model has been adopted precisely to control the behaviour of the Licensee in the absence of market or other disciplining forces. Many of the conditions in the draft licence provide for controls of licensee behaviour with respect to pricing, service obligations and undue preference. We find that these conditions taken together with our authorities under the Act are sufficient to resolve this comment without amending the draft.Licence Order

215.

In the light of the above, the Commission grants the following two enclosed licences on the terms and condition contained therein;(1)Haryana Transmission and Bulk Supply Licence (Licence No. 1 of 1999)(2)Haryana Distribution and Retail Supply Licence (Licence No. 2 of 1999)

216.

HVPN has not produced the no objection certificate referred to in paragraph 10. Therefore, the Area of Transmission and Bulk Supply Licence shall comprise the State of Haryana. However for cantonment, aerodrome, fortress, arsenal, dockyard or camp or any building, or place in occupation of the Central Government for defence purposes, the licence will be effective only upon production of a no objection certificate from the Central Government.

217.

The designated officer of the Commission is directed to communicate the decision of the Commission together with the licences to the applicant.