

# HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION

## SHIMLA

### NOTIFICATION

Shimla, the 1<sup>st</sup> November, 2013

**No. HPERC/F(5)(3)(1)(SLDC).**- WHEREAS the Himachal Pradesh Electricity Regulatory Commission has framed the HPERC (Levy and Collection of Fees and Charges by State Load Despatch Centre) Regulations, 2011;

AND WHEREAS the Himachal Pradesh Electricity Regulatory Commission is making an exercise to determine the tariff for the Power System Operation Company for the next control period starting from 1st April, 2014;

NOW, THEREFORE, in exercise of the powers conferred by clauses (zd), (ze) and (zf) of sub-section (2) of section 181, read with sections 61, 62 and 86, of the Electricity Act, 2003 (36 of 2003), and all other powers enabling it in this behalf, and after previous publication, the Himachal Pradesh Electricity Regulatory Commission makes the following amendments in the HPERC (Levy and Collection of Fees and Charges by State Load Despatch Centre) Regulations, 201, published in the Rajpatra, Himachal Pradesh, dated 2<sup>nd</sup> June, 2011, namely:-

### REGULATIONS

**Short title, commencement and application.** - (1) These regulations shall be called the Himachal Pradesh Electricity Regulatory Commission (Levy and Collection of Charges by State Load Despatch Centre) (First Amendment) Regulations, 2013.

(2) These regulations shall come into force from the date of their publication in the Rajpatra, Himachal Pradesh and shall be applicable for the tariff orders to be issued for the control periods commencing with effect from 1st April, 2014 and thereafter.

**1. Amendment of regulation 3** – In regulation 3 of the Himachal Pradesh Electricity Regulatory Commission (Levy and Collection of Charges by State Load Despatch Centre) Regulations, 2011 (herein after called the “said regulations”), after clause (19), the following clause (19-a) shall be inserted, namely:-

“(19-a) **“mid-term performance review”** means review of performance of the power system operation company vis-à-vis that approved in the Multiyear Tariff Order undertaken by the Commission during the year after the mid-year of the control period;”.

**2. Amendment of regulation 13** – For sub-regulation (4) of regulation 13 of the said regulations, the following sub-regulation (4) shall be substituted, namely:-

“(4) For each year of the control period, the Commission shall watch over the actual capital expenditure and capitalization vis-à-vis the approved capital expenditure and capitalization schedule. In the normal course, the Commission shall not revisit the approved capital investment plan (capital expenditure and the capitalization schedule) during the control period and adjustments to depreciation, interest on capital loan and return on equity on account of variations for the actual capital expenditure incurred and capitalization done vis-à-vis approved capital investment plan (capital

expenditure and capitalization), shall be done during the mid-term performance review and at the time of true up at the end of control period. ”

**3. Substitution of regulation 14** – For existing regulation 14 of the said regulations, the following regulation 14 shall be substituted, namely:-

**“14. Mid-term review and True Up at the end of control period.**

- (1) The power system operation company shall file the mid-term review petition and true-up petition in accordance with the timelines specified in **Appendix-I** to these regulations along with the details of capital expenditure including additional capital expenditure, sources of financing, operation and maintenance expenditure, etc incurred for the period, duly audited and certified by the auditors. The true up across various controllable parameters shall be done by the Commission for the previous years of the control period or for the previous control period on the basis of audited accounts made available by the power system operation company during the mid-term review or during control period true up in accordance with following principles:
  - (a) any surplus or deficit on account of O&M expenses shall be to the account of the power system operation company and shall not be trued up in ARR;
  - (b) the Commission shall review actual capital investment vis-à-vis approved capital investment;
  - (c) depreciation and financing cost, which includes cost of debt including working capital (interest), cost of equity (return) shall be trued up on the basis of actual/audited information and prudence check by the Commission;
  - (d) After true up the variations as approved by the Commission shall be adjusted in the ARR of the next control period or as may be deemed fit by the Commission.
- (2) Notwithstanding anything contained in these regulations, the gains or losses in the controllable items of ARR on account of force majeure, change in law and change in taxes and duties shall be passed on as an additional charge or rebate in ARR over such period as may be laid down in the order of the Commission.
- (3) Towards the end of the control period, the Commission shall review if the implementation of the principles laid down in these regulations has achieved their intended objectives. While doing this, the Commission shall take into account, among other things, the industry structure, sector requirements, consumer and other stakeholder expectations and the licensee’s requirements at that point in time. Depending on the requirements of the sector to meet the objects of the Act, the Commission may revise the principles for the next control period.
- (4) The end of the one control period shall be the beginning of the next control period and the licensee shall follow the same procedure, unless required otherwise by the Commission. The Commission shall analyse the performance of the licensee with respect to the targets set out at the beginning of one control period and based on the actual performance, expected efficiency improvements and other factors prevalent, determine the initial values for the next control period.”

**4. Amendment of regulation 19 – In regulation 19 of the said regulations -**

(a) after sub-regulation (1), the following sub-regulation (1-a) shall be inserted, namely:-

“(1-a) O&M Norms -

- (i) The power system operation company shall propose separate trajectories of norms for each of the components of O&M expenses viz., employee cost, R&M expense and A&G expense;
- (ii) Norms shall be defined in terms of combination of number of personnel per long/ medium term consumer, number of personnel per MW of capacity handled for long/ medium term consumers along with annual expenses per personnel for Employee expenses, combination of A&G expense per personnel and A&G expense per long/ medium term consumer (or per MW of capacity handled) for A&G expenses and R&M expense as percentage of gross fixed assets for estimation of R&M expenses;
- (iii) One-time expenses such as expense due to change in accounting policy, arrears paid due to pay commissions and interim relief etc., shall be excluded from the norms in the trajectory;
- (iv) The expenses beyond the control of the power system operation company such as dearness allowance, pension liabilities and terminal benefits in Employee cost etc., shall be excluded from the norms in the trajectory;
- (v) The One-time expenses and the expenses beyond the control of the power system operation company as per sub-regulations (c) and (d) above shall be allowed by the Commission over and above normative Operation & Maintenance Expenses after prudence check;
- (vi) The norms in the trajectory shall be proposed over the control period with due consideration to productivity improvements and commercial viability;
- (vii) The norms shall be proposed at constant prices of base year and escalation on account of inflation shall be over and above the baseline;
- (viii) Based on the proposal submitted by the power system operation company, the Commission shall fix the norms for the said purposes which shall be taken into account for determining the trajectories for various components of O&M expenses for the remaining years of the control period;
- (ix) Till such time the norms are fixed by the Commission, the trajectories of various components of O&M expenses shall be submitted by the power system operation company and determined by the Commission on the basis of the actual costs for the previous years in accordance with the provisions of these regulations;”

(b) for the sub-regulation (3), the following sub-regulation (3) shall be substituted, namely:-

“(3) The O&M expenses for the n<sup>th</sup> year of the control period shall be approved based on the formula given as follows:-

$$O\&M_n = R\&M_n + EMP_n + A\&G_n :$$

Where -

$$R\&M_n = K \times GFA_{n-1} :$$

$$EMP_n = [(EMP_{n-1}) \times (1+G_n) \times (CPI_{inflation})] + Provision_{(Emp)} ;$$

$$A\&G_n = [(A\&G_{n-1}) \times (WPI_{inflation})] + Provision_{(A\&G)};$$

'K' is a constant (could be expressed in %). Value of K for each year of the control period shall be determined by the Commission in the MYT Tariff order based on power system operation company's filing, benchmarking of R&M expenses, approved R&M expenses vis-à-vis GFA approved by the Commission in past and any other factor considered appropriate by the Commission;

$CPI_{inflation}$  – is the average increase in the Consumer Price Index (CPI) for immediately preceding three or five years before the base year, whichever is higher;

$WPI_{inflation}$  – is the average increase in the Wholesale Price Index (CPI) for immediately preceding three or five years before the base year, whichever is higher;

$EMP_{n-1}$  &  $EMP_n$  – employee costs of the power system operation company for the (n-1)<sup>th</sup> and n<sup>th</sup> year; (employee cost for the base year would be adjusted for provisions for (n-1)<sup>th</sup> year for the items corresponding to clauses (iii), (iv) and (v) of sub-regulation (1-a) of regulation 19);

$Provision_{(Emp)}$ : Provision corresponding to clauses (iii), (iv) and (v) of sub-regulation (1-a) of regulation 19, duly projected for relevant year for expenses beyond control of the power system operation company and expected one-time expenses as specified above;

$A\&G_{n-1}$  &  $A\&G_n$  – administrative and general costs of the power system operation company for the (n-1)<sup>th</sup> and n<sup>th</sup> year;

$Provision_{(A\&G)}$ : Cost for initiatives or other one-time expenses as proposed by the power system operation company and validated by the Commission;

$R\&M_{n-1}$  &  $R\&M_n$  – repair and maintenance costs of the power system operation company for the (n-1)<sup>th</sup> and n<sup>th</sup> year;

$GFA_{n-1}$  – Gross Fixed Asset of the power system operation company for the (n-1)<sup>th</sup> year;

$G_n$  is a growth factor for the nth year. Value of  $G_n$  shall be determined by the Commission in the MYT tariff order for meeting the additional manpower requirement based on power system operation company's filings, benchmarking, and approved cost by the Commission in past and any other factor that the Commission feels appropriate:

Provided that, R&M expenses determined shall be utilised towards R&M works only;

Note: After the fixation of norms of various components of O&M expenses as per these regulations, the above formulae shall be suitably modified in line with the provisions.”

**5. Substitution of regulation 20** – For existing regulation 20 of the said regulations, the following regulation 20 shall be substituted, namely:-

**“20. Return on Equity**

- (1) Return on equity shall be computed on the equity determined in accordance with these regulations and on pre-tax basis at the base rate of 15.5% to be grossed up as per sub-regulation (3) of this regulation.
- (2) The rate of return on equity shall be computed by grossing up the base rate with the normal tax rate for the base year applicable to the concerned power system operation company as per the latest available audited accounts:

Provided that return on equity with respect to the actual tax rate applicable in line to the power system operation company with the provisions of the relevant Finance Acts of the respective year during the control period shall be trued up separately for each year of the control period during the mid-term review or during true-up at the end of the control period.

- (3) Rate of return on equity shall be rounded off to three decimal points and be computed according to the following formula:-

Rate of pre-tax return on equity = Base rate / (1-t);

Where t is the applicable tax rate in accordance with sub-regulation (2) of this regulation.

**Illustration:-**

- i. In case of the power system operation company paying Minimum Alternate Tax (MAT) @ 20.96% including surcharge and cess:

Rate of return on equity =  $15.50 / (1 - 0.2096) = 19.610\%$ .

- ii. In case of the power system operation company paying normal corporate tax @ 33.99% including surcharge and cess:

Rate of return on equity =  $15.50 / (1 - 0.3399) = 23.481\%$ .”

**6. Amendment of regulation 23** – In sub-regulation (2) of regulation 23 of the said regulations, for the words and figure “Short Term Prime Lending Rate of the State Bank of India as on the 1<sup>st</sup> April of the relevant year” the words and figures “average Base Rate of State Bank of India for the last six months prior to the filing of the MYT petition plus 350 basis points” shall be substituted.

**7. Amendment of sub regulation 31** – For sub-regulation (1) of regulation 31 of the said regulations, the following sub-regulation (1) shall be substituted, namely:-

- “(1) The applicant shall file for the Commission’s approval, during the year preceding the first year of the control period or by any other date as may be directed by the Commission, a business plan and CAPEX plan approved by its Management in accordance with these regulations.”

**8. Addition of regulation 31-A** - After regulation 31 of the said regulations the following new regulation 31-A shall be added, namely:-

**“31-A. Mid-term performance review and True up at the End of Control Period**

**A. Mid-term performance review**

- (1) To ensure smooth implementation of the multiyear tariff (MYT) framework and to address any mid-term changes on account of unexpected outcomes, the Commission shall undertake mid-term review of power system operation company’s performance during the control period;
  - (a) The power system operation company shall make an application for mid-term performance review in accordance with the timelines specified in **Appendix-I**. The scope of the mid-term performance review shall be a comparison of the actual performance with the approved forecast of Aggregate Revenue Requirement and expected revenue from tariff and charges. The power system operation company shall submit to the Commission all information together with audited account statements, extracts of books of account and such other details as the Commission may require to assess the reasons for and extent of any variation in performance from the approved forecast. The mid-term review shall comprise of the following:
    - (i) A comparison of the audited performance with the approved forecast for first two financial years of the Control Period, subject to the prudence check including mid-term correction due to any unforeseen circumstances;
    - (ii) Determination of gains or losses for the first two years of the control period;
    - (iii) Review of ARR for the balance years of the control period in case of any major change in the parameters;
    - (iv) Review of SLDC tariff on account of modification in ARR for the balance years of the control period.

**B. True-up at the end of Control Period**

The power system operation company shall file an application for true-up at the end of the third Control Period on availability of audited accounts for each year of the control period in accordance with the timelines specified in **Appendix-I**. The true-up shall be based on the principles laid down under these Regulations for various parameters of ARR:

Provided that the power system operation company shall submit to the Commission information in such format as may be stipulated by the Commission, together with the audited account statements, extracts of books of account and such other details as the Commission may require to assess the reasons for and extent of any variation in financial performance from the approved forecast of Aggregate Revenue Requirement and expected revenue from tariff and charges.”

9. **Substitution of Appendix-I** - For existing Appendix-I to the said regulations, the following Appendix-I shall be substituted, namely:-

**“Appendix-I**

[See regulations 9(2), 12, 14(1) and 31-A]

**SUMMARY OF TIMELINES**

<b>Sr. No.</b>	<b>Description</b>	<b>Filing of the Document by date</b>
1.	Business Plan for the control period	During the year preceding the first year of control period or any other date as may be directed by the Commission.
2.	Filing of Multi Year Petition for the control period	30 <sup>th</sup> November of the previous year to the first year of control period
3.	Filing of the mid-term performance Review Petition	30 <sup>th</sup> November of the year preceding the fourth year of control period.
4.	Filing of control period true up petition	30 <sup>th</sup> November of the first year of the next control period or along with mid-term performance review petition.”

By Order of the Commission

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Secretary