

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION

SHIMLA

NOTIFICATION

Shimla, the 1st November, 2013

No. HPERC/F(5)(3)(1)(Trans).- WHEREAS the Himachal Pradesh Electricity Regulatory Commission has framed the HPERC (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2011;

AND WHEREAS the Himachal Pradesh Electricity Regulatory Commission is making an exercise to determine the tariff for transmission system of the licensees 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 (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2011, published in the Rajpatra, Himachal Pradesh, dated 2nd April 2011, namely:-

REGULATIONS

Short title, commencement and application- (1) These regulations shall be called the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) (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 (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2011 (hereinafter called the "said regulations") -

(a) for clause (21), the following clause (21) shall be substituted, namely:-

“(21) **“existing project”** means a project declared under commercial operation from a date prior to first year of the control period; ”,

(b) after clause (28), the following clause (28-a) shall be inserted, namely:-

“(28-a) **“mid-term performance review”** means the review of performance of the transmission licensee undertaken by the Commission for the year after the mid-year of the control period and this shall also include the true up of the previous control period and True Up of previous years of the control period; ” and

(c) in clause (39) for the words and figures “mainly of extra high voltage electric lines having design voltage of above 33 kV”, the words and figures “of high and extra high voltage electric lines having design voltage of 33 kV and above” shall be substituted.

2. Amendment of regulation 7 - In regulation 7 of the said regulations -

(a) in sub-regulation (3) for the words “CEA/CTU/STU”, the words “CEA/CTU/STU/ Distribution Licensee(s)” shall be substituted; and

(b) for sub-regulation (4), 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 end of control period true up.”

3. Amendment of regulation 10 – For regulation 10 of the said regulations, the following regulation 10 shall be substituted, namely:-

“10. True Up

(1) The true up across various controllable parameters shall be conducted by the Commission, for the previous years for which the actual/audited accounts are made available by the Transmission Licensee, at the times and as per principles stated below:-

(a) at the times -

- (i) for the previous years of the previous control period:- along with the petition for determination of ARR cum transmission tariff for the control period;
- (ii) for the previous years of the control period and for the previous control period:- along with the mid-term performance review during the control period;
- (iii) for the control period true up:- along with the mid-term performance review of the next control period;

(b) as per principles -

- (i) the Commission shall review actual capital investment vis-à-vis approved capital investment;
- (ii) 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;
- (iii) any surplus and deficit on account of O&M expenses shall be to the account of the Transmission Licensee and shall not be trued up in ARR; and

- (2) The gain or loss on account of other controllable factors, unless otherwise specifically provided by the Commission shall be to the account of the Transmission Licensee.
- (3) 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.”

4. Amendment of regulation 13 – In regulation 13 of the said regulations -

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

“(1-a) **O&M Norms -**

- (i) The transmission licensee 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 or number of personnel per transmission circuit kilometer line length and number of substations 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 transmission licensee 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 transmission licensee as per sub-regulations (iii) and (iv) 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 transmission licensee, 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 transmission licensee 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 existing sub-regulation (3), the following sub-regulation (3) shall be substituted, namely:-

“(3) The O&M expenses for the nth year of the control period shall be approved based on the formula given below:-

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

Where -

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

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

$$\text{'R\&M}_n\text{' = } K \times (GFA_{n-1}) \times (WPI_{inflation}) ;$$

‘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 licensee’s filing, benchmarking of repair and maintenance expenses, approved repair and maintenance 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 years before the base year;

‘WPI_{inflation}’ - is the average increase in the Wholesale Price Index (WPI) for immediately preceding three years before the base year;

‘EMP_n’ - employee’s cost of the transmission licensee for the nth year (employee cost for the base year would be adjusted for provisions for expenses beyond the control of the licensee and one time expected expenses, such as recovery/ adjustment of terminal benefits, implication of pay revisions, arrears and interim relief.);

‘Provision_(Emp)’- Provision corresponding to clauses (iii), (iv) and (v) of sub-regulation (1-a) of regulation 13, duly projected for relevant year for expenses beyond control of the Transmission Licensee and expected one-time expenses as specified above;

‘A&G_n’ - administrative and general costs of the transmission licensee for the nth year;

‘Provision_(A&G)’-Cost for initiatives or other one-time expenses as proposed by the Transmission licensee and approved by the Commission after prudence check;”

‘R&M_n’ - Repair and Maintenance costs of the transmission licensee for the nth year;

‘GFA_{n-1}’ - Gross Fixed Asset of the transmission licensee for the n-1th 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 licensee’s

filings, benchmarking, approved cost by the Commission in past and any other factor that the Commission feels appropriate;

Provided that, repair and maintenance expenses determined shall be utilised towards repair and maintenance works only;

Provided further that, the impact of pay revision (including arrears) shall be allowed on actual during the mid-term performance review or at the end of the control period as per actual/ audited accounts, subject to prudence check and any other factor considered appropriate by the Commission.”

5. Amendment of regulation 14 – In sub-regulation (2) of the said regulations, for the Fourth Proviso, the following Fourth Proviso shall be substituted, namely:

“Provided further that in case of the existing projects, the capital cost admitted by the Commission prior to the start of the control period and the additional capital expenditure projected to be incurred for the respective years of the control period, as may be admitted by the Commission, shall form the basis for determination of tariff:”

6. Amendment of regulation 16 – For the proviso to clause (c) of sub regulation (2) of regulation 16 of the said regulations, the following proviso be substituted, namely:--

“Provided that any expenditure on acquiring the minor items or the assets like tools and tackles, furniture, air-conditioners, voltage stabilizers, refrigerators, coolers, fans, washing machines, heat convectors, mattresses, carpets etc. brought after the cut-off date, shall not be considered for additional capitalization for the purpose of determination of tariff during the control period”

7. Amendment of regulation 19 – In regulation 19 of the said regulations -

(a) for the sub-regulation (2) and its proviso, the following sub-regulation (2) shall be substituted namely:-

“(2) The rate of return on equity shall be computed by grossing up the base rate with the normal tax rate as per latest available audited accounts of the concerned transmission licensee:

Provided that in line with the provisions of the relevant Finance Acts of the respective year, the return on equity with respect to the actual tax rate applicable to the transmission licensee during the years of the control period shall be trued up separately for each year during the mid-term performance review and at the end of the control period along with the tariff petition filed for the next control period. ”; and

(b) in illustration (ii) to sub-regulation (3), for the figures and symbol “33.22%”, the figures and symbol “33.99%” shall be substituted.

8. Amendment of regulation 22 – In regulation 22 of the said regulations, for the words and figure “Short Term Prime Lending Rate of the State Bank of India as on the 1st 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.

9. Amendment of regulation 26 – In regulation 26 of the said regulations, for the words “Short Term Prime Lending Rate of the State Bank of India” the words and figures “Base Rate of the State Bank of India plus 350 basis points” shall be substituted.

10. Substitution of regulation 30 –For regulation 30 of the said regulations, the following regulation 30 shall be substituted, namely:-

“30. Safety Standards

The transmission licensee shall develop a safety manual and comply with regulations framed in this regard by the Central Electricity Authority (CEA) under section 53 and section 177 (2) (b) of the Act.”

11. Amendment of regulation 31 - at the end of the sub regulation (1) of regulation 31 of the said regulations, the following proviso be inserted, namely:-

“Provided that the Commission during the control period, through separate notification in the Rajpatra Himachal Pradesh, may, after conducting a detailed study change the existing transmission pricing framework in accordance with that adopted by the Central Electricity Regulatory Commission.”

12. Amendment to regulation 37 – In regulation 37 of the said regulations,

(a) for the words and figure “The transmission licensee shall file for the Commission’s approval, on 1st April of the year preceding the first year of the control period or any other date as may be directed by the Commission, a business plan approved by its board of directors. The business plan shall be for the entire control period and shall, inter-alia, contain-”, the words “In the base year, prior to the filing of multi-year ARR cum Tariff petition, the transmission licensee shall file a business plan approved by its board of directors. The business plan shall be for the entire control period and shall, inter-alia, contain -” shall be substituted; and

(b) in sub-regulation (d) for the words “on the on the”, the words “on the” shall be substituted.

13. Amendment of regulation 38 – For the existing sub-regulation (1) of Regulation 38 of the said regulations, the following sub-regulation (1) shall be substituted, namely:-

“(1) The transmission licensee shall file an application for approval of transmission tariff for each year of the control period consistent with the approved business plan, not less than 120 days before the commencement of the first year of the control period or such other date as may be directed by the Commission.”

14. Substitution of regulation 39 – For regulation 39 of the said regulations, the following regulation 39 shall be substituted, namely:-

“39. Mid-term Performance Review and Review at the End of the Control Period

(1) **Mid-term performance review** - The transmission licensee shall make an application for mid-term Performance Review within 120 days before the commencement of the fourth year of the Control Period i.e. FY 2017-18:-

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 transmission licensee 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) True-up of previous Control Period
 - (ii) A comparison of the actual/ audited performance with the approved forecast for first two financial years of the Control Period, subject to the prudence check including pass-through of impact of uncontrollable factors;
 - (iii) Review of controllable parameters
 - (iv) Review of ARR for the balance of the control period in case of any major change in uncontrollable and/ or controllable parameters
 - (v) Review of transmission charges on account of modification in ARR for the balance control period.
- (2) **Review at the end of control period** - The transmission licensee shall also make an application for Comprehensive Review after the end of the third Control Period on availability of audited accounts for each year of the control period. The comprehensive review shall be based as per the principles laid down under these Regulations for various parameters of ARR:
- Provided that the transmission licensee 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.
- (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 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 analyze the performance of the licensee with respect to the targets set out at the beginning of the control period and based on the actual performance, expected efficiency improvements and other factors prevalent, determine the initial values for the next control period."

15. Amendment of regulation 43 – In the Proviso to existing regulation 43 of the said regulations, the date “31st March, 2011” shall be substituted with the words “the end of previous control period,”

By Order of the Commission

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Secretary