

**Explanatory Memorandum for draft of Himachal Pradesh Electricity Regulatory Commission (Security Deposit) (Third Amendment) Regulations, 2020.**

The Himachal Pradesh Electricity Regulatory Commission (Security Deposit) Regulations, 2005 published in the Rajpatra, Himachal Pradesh, dated 30th March, 2005 (hereinafter referred as “the said regulations” and subsequently certain amendments were also incorporated in the same.

The HPSEBL has submitted to Hon’ble High Court of Himachal Pradesh that –

- (i) the initial security deposit amount to be recovered from the new applicant(s) should be equivalent to the consumption based on the LDHF formula as per HP Electricity Supply Code, 2009 for assessment of the units for the load being released to such applicant(s) and taking the average tariff rates for the respective category as per HPERC Tariff order to be circulated annually by the HPSEBL.
- (ii) security deposit should be maintained equivalent to consumption charges for a billing cycle plus one month extra and fixed charges for the period of temporary disconnection.
- (iii) the Security amount should be deposited with the HPSEBL only in the form of cash instead of Bank Guarantee and for such consumers who have already furnished the security in the shape of Bank Guarantee shall convert the same to cash before sixty days of expiry date of such Bank Guarantee.

The Hon’ble High Court of Himachal Pradesh vide Order dated 20.11.2019 has conveyed its considered view that these proposals need to be approved by the Commission, since these proposals go a long way to augment and safeguard the interest of the Electricity Board, which otherwise is already running into losses. Pursuant to above, the HPSEBL submitted the proposal to this Commission to make some amendments in the provisions of existing regulations of security deposit specially to revise the rates of initial security deposits as the same were notified long back during the year 2005 based on

the tariff applicable at that time which has increased on year to year basis and accordingly these rates also need to be revised in order to have secured amount with HPSEBL for consumer defaulting due to various reasons.

Based on the above, the Commission has prepared the draft of Himachal Pradesh Electricity Regulatory Commission (Security Deposit) (Third Amendment) Regulations, 2020 and relevant issues concerning the changes proposed by the HPSEBL and those proposed in the draft regulations are briefly mentioned as follows:-

**1. Rate of initial security deposit:-**

The Commission observes that the LDHF formula as per HP Electricity Supply Code, 2009 for the assessment of the units, which has been proposed to be followed as per HPSEBL proposal, is basically meant for the assessment in case of theft of energy. As such the said formula cannot be applied in toto for working out the rate of initial security deposit which is to be recovered from the applicant(s) for connected load applied under single part tariff and per kVA of the contract demand applied under two part tariff. Moreover, categorization of the consumers as per the formula appearing in the said supply Code has been made on a pattern which is slightly different from the tariff categories. As such it is necessary that any formula to be used for the purpose should be aligned with the categories as per the retail tariff order of the Commission.

The Commission observes that the fixed charges which are recovered as a part of tariff shall automatically get captured in the average per kWh/kVAh tariff. As regards the same for the period in which the supply remains disconnected temporally, it is observed that in accordance with the provisions of sub-para 7.1.2 of para 7.1 of HP Electricity Supply Code, 2009 for the period during which the supply remains disconnected temporarily during the period between temporarily disconnection and permanent disconnection, the demand charges as per the tariff order shall be charged only for 10% of the total sanctioned contract demand. As such the fixed charges recoverable in respect of this period constitute an average towards the accumulated

outstanding to a small extent. It appears that HPSEBL in this proposal has not taken into account this provision. Moreover, it is also felt that apart from fixed charges, some other miscellaneous charges such as late payment surcharge, taxes etc. may also contribute towards the outstanding arrears if the bills remain unpaid. On the other hand, some interest on the amount of security deposit may however also accrue during the period of temporarily disconnection. For the sake of simplification, the Commission proposes to broadly consider the impact of these two components, on an average basis, in the main formula itself instead of considering the same as separate component.

After taking into account all such factors, the Commission has proposed that the licensee may recover the initial security deposit worked out in accordance with the following :-

“The distribution licensee shall work out the per kW/kVA rates of initial security deposit in accordance with the following formula :-

$$\text{Rate in Rs. /KW of connected load} = L * D * H * F * T * (n+1.35)$$

or per KVA of Contract Demand

Where,

‘L’ is 1kW of connected load for applicant(s) falling under single part tariff; and 1kVA of contract demand in case of applicant(s) falling under two part tariff as per the Retail tariff order of the Commission for the relevant year for which such rates are to be calculated;

‘D’ is the average number of working days in one month for the relevant tariff category, as tabulated in the table below;

‘H’ is the number of hours per day for which power is used on average basis by the consumers under respective categories and the values for the same for the respective categories of consumers shall be taken as given in table below;

‘F’ is demand factor for respective categories of consumers as per the value tabulated below;

'T' is the average tariff in Rs./kWh or Rs./ kVAh as the case may be, for the relevant category (i.e schedule of tariff) in accordance with the retail tariff order of the Commission for the relevant year for which such rates are to be calculated;

'n' is the number of months contained in the billing cycle applicable for the applicant depending upon area in which connection is to be released and the tariff category;

**Table**

<b>Category</b>	<b>D</b>	<b>H</b>	<b>F</b>
Domestic Supply	30	8	0.3
Non-Domestic Non-Commercial Supply	25	12	0.4
Commercial Supply	25	12	0.4
Small Industrial Power Supply	25	8	0.6
Medium Industrial Power Supply	25	12	0.6
Large Industrial Power Supply	25	20	0.75
Irrigation and Drinking Water Pumping Supply	30	12	1
Bulk Supply	30	12	1
Street Lighting Supply	30	10	1
Temporary Metered Supply	30	12	1
Railway Traction	30	12	1

In order to facilitate uniform implementation of the rates of initial security deposit throughout the State suitable provision in relation to the procedure to be followed by HPSEBL for the purpose has also been proposed in the said draft regulations. Moreover, the relief available to the BPL beneficiaries to the effect that security deposit shall be recovered at the rate of 50% of the respective rate is also proposed to be retained.

**2. Issues concerning the general review of security deposit and recovery of additional security deposit :-**

As per the provisions of existing regulation 4, the existing consumers have to maintain with the distribution licensee an amount equivalent to consumption charges for the billing cycle period as security deposit and also as per existing

regulation 6, every year, the distribution licensee has to review the adequacy of security deposit and issue of demand notice for such consumers listed under poor credit rating prepared by the distribution licensee.

In view of the discussion under the preceding paragraphs, the amount of deposit to be maintained by the consumers has also been proposed to be increased from that corresponding to one billing cycle to  $(n+1.35)$  months. Moreover, the provision of general review is proposed to be elaborated so as to facilitate the implementation of these provisions in smooth and transparent manner. In this connection it is worth mentioning that even though as per the HPSEBL proposal, the amount equivalent to the consumption charges for the relevant number of billing months and the fixed charges is to be maintained. The Commission has linked the same with the average bill (excluding arrears but including late payment surcharge, if any) which shall automatically includes the amount of electricity duty, which may also have bearing on the overall position of recovery of dues. This will protect the interest of HPSEBL in a better way in the matter of recovery of dues.

In order to avoid any immediate burden on the existing consumers, it has also been proposed that in cases where the amount of additional security deposit exceeds 30% of the average monthly bills raised in relation to the period of twelve billing months of the immediately preceding year, the amount to be claimed through a demand notice in any period of three months shall be restricted to the said limit of 30%. In such cases, the balance amount of additional security deposit shall be recovered in subsequent quarters. However, this relaxation shall not be applicable in cases of those consumers appearing in the list of poor credit rating which is prepared and notified by the distribution licensee under the existing regulations.

In view of the above, the Commission proposes the amendments in sub-regulations (1) and (3) of regulation 4 and sub-regulations (1) and (2) of regulation 6 of the existing regulations.

### **3. Mode of recovery :-**

The HPSEBL has proposed that the amount of security deposit should be recovered through cash and the existing provision for recovery of the same in the shape of bank guarantee in cases where the amount of security deposit exceeds 10 lacs should be dispensed. It has also been proposed that the existing bank guarantee should also be allowed to be encashed as per certain timelines. No sound rationale of this proposal has however been given by the HPSEBL.

The Commission has considered the proposal in greater detail and observes that such an amendment may cause hardship to the bigger consumers and may discourage the growth of industrialization in the State. The Commission also feels that as far as the mode of recovery is concerned it should not be of much concern for HPSEBL particularly when it is also required to pay interest on the security deposit received in cash (including demand draft etc.) and no such interest is payable for the security deposits recovered in the shape of bank guarantee. Moreover, the distribution licensee can convert the bank guarantee into cash wherever the necessity arises. It hardly needs to be mentioned that the licensee has to be more vigilant to ensure that any bank guarantee obtained by it does not expire due to negligence by the licensee. The Commission does not consider it appropriate to do away, all together, the facility available to the consumers for payment of security deposit in shape of bank guarantee beyond certain limit. Taking all such factors into consideration, the Commission proposes that the existing limit, beyond which the consumer can opt in case of new deposit or additional deposit payment for security amount for bank guarantee instead of cash, shall be increased from 10 lacs to 25 lacs. Moreover, the provisions which enable the licensee to encash the bank guarantee in cases where the same is not renewed well in time are also proposed to be made more specific for smooth and transparent implementation by the licensee. The Commission also does not find it appropriate to force the existing consumers who might have deposited the security deposit in the shape of bank guarantee as per the provisions applicable from time to time irrespective of the amount of bank guarantee i.e. even it exceeds the limit of Rs. 10 Lacs. to convert their bank guarantee into cash unless the consumers default in getting the bank guarantee renewed.

In view of the above, the Commission proposes the amendments in sub-regulations (4), (5) and (6) of regulation 4 of the existing regulations.

**4. Refund of Security Deposit :-**

The existing provisions as per regulation 8 of the existing regulations are proposed to be rationalized so as to ensure that in case of permanent reduction of connected load/contract demand, the security deposit worked out at the current rates for the balance connected load/contract demand should be retained and only the balance, if any should be refunded. Moreover, the refund should be made by way of release of bank guarantee to the extent possible. In view of the above, the Commission also proposes to amend the existing regulations 8.

**By the Order of the Commission**

**Sd/-**

**Secretary**