

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION, SHIMLA

In the matter of draft amendments of the Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) (Fourth Amendment) Regulations, 2017.

CORAM

S.K.B.S. Negi
Chairman

ORDER

The Himachal Pradesh Electricity Regulatory Commission (hereinafter referred as “the Commission”) notified the Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2012, which were published in the Rajpatra, Himachal Pradesh, dated 23rd May, 2012 (hereinafter called “the Principal Regulations, 2012”).

2. The Distribution Licensee i.e. the Himachal Pradesh State Electricity Board Ltd. (HPSEBL), had stated that in the absence of clear provisions in the regulations in relation to the recovery of Infrastructural Development Charges in cases where two or more connections are clubbed together, the Distribution Licensee is facing difficulties in implementation of the regulations.

3. The Commission considered it appropriate to rationalize the provisions in relation to the recovery of Infrastructural Development Charges for additional loads and also to make clear provisions for such recovery, in a manner which encourages the consumers to shift their connections to higher voltages.

4. In light of the above, the Commission, exercising the powers conferred under sub-section (1) of section 181 of the Electricity Act, 2003 (36 of 2003), notified the draft amendment i.e. HPERC (Recovery of Expenditure for Supply of Electricity) (Fourth Amendment) Regulations, 2016 on 9th December, 2016 and published the same in Rajpatra, Himachal Pradesh on 13th December, 2016.

5. As required vide sub-section (3) of the section 181 of the Act and read with Rule (3) of Electricity (Procedure of Previous Publication) Rules, 2005, the Commission invited public objections and suggestions by way of insertions in two News papers i.e. “Times of India” and “Himachal Dastak” on 15th December, 2016. The full text of the draft amendment regulations was also made available on the Commission’s website: www.hperc.org.

6. The Commission, vide letter dated 15.12.2016, requested the major stakeholders, including Industries Associations, State Government, Directorate of Energy and Distribution Licensee to send their objections/ suggestions as per the aforesaid public notice.

7. The said proposal envisages, apart from the minor consequential changes, substitution of the existing provisions of clauses (i) and (ii) of clause

(b) of sub-regulation (1) of Regulation 7 of the Principal Regulations, 2012 with the following:-

- “(i) if the provisions of sub-regulation (3) of regulation 5 are not attracted, then, subject to succeeding sub-clause (iii), such charges shall be recovered only for the additional connected load/contract demand in accordance with sub-regulations (2) and (9) of regulation 5, regulations 14 and 15 of these regulations;
- (ii) if the licensee permits clubbing of two or more electricity connections, existing at same or different voltages, but in the name of same person and at the same premises, into a single connection in the name of the same person and at the same premises, and at a voltage not less than 11 kV and also not lower than the Standard Supply Voltage corresponding to the combined connected load/contract demand, the sum total of sanctioned connected load/contract demand, of such connections shall be considered as the existing connected load/contract demand for computing the additional connected load or contract demand for the purpose of sub-clause (i) of this sub-regulation:

Provided that no refund on account of the charges mentioned in clause (i) shall be allowed if such existing connected load/contract demand is more than the combined connected load/contract demand for the new connection and in such an event, the consumer shall be deemed to have surrendered such reduction in the connected load/contract demand and he shall not be entitled to claim at any subsequent stage any relief for restoration of the connected load/contract demand so surrendered:

Provided further that when such clubbing of loads is permitted under this clause, the consumer shall not be eligible to avail the benefit of temporary reduction in the contract demand as per the provisions of the Supply Code for a period of 365 days from the release of new connection after clubbing of the existing electricity connections:

Provided further that the licensee shall have the right to use, maintain and own the service line or any other electrical system vacated by the consumer due to such clubbing of existing electricity connections in accordance with Regulation 11 and the said works shall become the property of the Licensee; and”.

8. (a) One stakeholder i.e. Himachal Pradesh State Electricity Board Limited (HPSEBL) i.e. Distribution Licensee has submitted that the HPSEBL generally does not allow any consumer multiple connections in the same premises and in case done, the same is to be clubbed. However, the

clubbing is also done in case of the following with specific reference to industrial consumers:-

- (i) With two or more than two units of same industry or sister concerns.
- (ii) In the same premises or adjacent premises but not in case where the units are separated by land, road, plot etc.

The HPSEBL has proposed substitution of the words “same person and at the same premises” appearing first time in the proposed draft amendment of Regulations 7 (1) (ii) with the following words:-

“same person or sister concerns (in case of group of companies) and at same premises or adjacent premises not separated by land, plot or road”.

Similarly it has also been proposed substitution of the words “same person and at the same premises” appearing second time in the proposed draft amendment of Regulations 7 (1) (ii) with the following words:-

“same person or main unit (in case of sister concerns) and at the same premises and/or with adjacent premises not separated by land, plot or road”.

b) The HPSEBL has also made additional submissions as under:-

- (i) With the notification of Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014, the concept of permanent and temporary reduction of contract demand has been introduced. In case of temporary revision of contract demand, there is no need to sanction the revised contract demand and accordingly the original agreement of sanctioned contract demand remains valid and the billing is done based on temporary revision of contract demand. However, the time period of applicability of revision of contract demand, particularly the reduction of contract demand has not been specified and the consumer can ask for enhancement of contract demand upto original sanctioned contract demand after a period of say 5 to 6 years without paying any charges on the pretext of lien of balance contract demand.

In view of above, there is need to divide the reduction in contract demand under this regulation in two parts i.e.

First Part: Permanent Reduction of Contract Demand (applied with A&A Form and duly sanctioned) with lien of 365 days as per provisions available in the present regulations and;

Second Part: Temporary Reduction of Contract Demand: With Time Period as the Commission considers appropriate;

- (ii) the provisions of surrender of contract demand as proposed above may also be incorporated for reconnection after permanent disconnection.

9. Commission's Analysis & Decision:

(a) The HPSEBL has suggested enlargement of the scope for clubbing of existing connections to "sister concerns" and "main unit", as detailed in para 8 (a) this Order. The Commission, while agreeing to the suggestion in principle, feels that such terms may have scope for ambiguous and multiple interpretations and therefore finds it appropriate to use the terms defined in the Companies Act, 2013. Accordingly, the Commission, after considering the views of licensee and to provide more flexibility and clarity in implementing the intent of the proposal, decides to substitute the sub-clause (i) and (ii) of Clause (b) of sub-regulation (1) of the Regulation 7 of the Principal Regulations, 2012 with the following:-

- "(i) if the provisions of sub-regulation (3) of regulation 5 are not attracted, then, subject to succeeding sub-clause (iii), such charges shall be recovered only for the additional connected load/contract demand in accordance with sub-regulations (2) and (9) of regulation 5, regulations 14 and 15 of these regulations;
- (ii) if the licensee permits clubbing of two or more electricity connections, existing at same or different voltages, but in the name of same person and at the same or contiguous premises, as a single connection in the name of the same person and at the same premises, and at a voltage not less than 11 kV and also not lower than the Standard Supply Voltage, corresponding to the combined connected load/contract demand, the sum total of sanctioned connected load/contract demand, of such connections shall be considered as the existing connected load/contract demand for computing the additional connected load or contract demand for the purpose of sub-clause (i) of this sub-regulation:

Provided that no refund on account of the charges mentioned in clause (i) shall be allowed if such existing connected load/contract demand is more than the combined connected load/contract demand for the new connection and in such an event, the consumer shall be deemed to have surrendered such reduction in the connected load/contract demand and he shall not be entitled to claim at any subsequent stage any relief for restoration of the connected load/contract demand so surrendered:

Provided further that when such clubbing of loads is permitted under this clause, the consumer shall not be eligible to avail the benefit of temporary reduction in the contract demand as per provisions of the Supply Code for a

period of 365 days from the release of new connection after clubbing of the existing electricity connections:

Provided further that the licensee shall have the right to use, maintain and own the service line or any other electrical system, vacated by the consumer due to such clubbing of existing electricity connections in accordance with regulation 11 and the said works shall become the property of the licensee.

Explanation- For the purposes of sub-clause (ii)-

- (1) “person” shall have the same meaning as is assigned to it under clause (49) of the Section 2 of the Act and two or more companies formed and registered or deemed to have been formed and registered under the Companies Act, 2013 (18 of 2013), having electricity connections in their respective names, shall also be considered to be entitled for clubbing of their electricity connections, if-
 - (a) (i) all such companies having electricity connections in their names are the subsidiary companies of the same holding company; or
 - (ii) one of such companies is a holding company and the other company is the subsidiary company of that holding company; and
 - (b) the new connection, after clubbing of existing connections, is sought in the name of any of such subsidiary companies, which are already availing connections sought to be clubbed, or in the name of the holding company of such subsidiary companies;
 - (c) the conditions laid down in sub-clause (ii), read with succeeding para (3) of this Explanation, in relation to the existence of the electricity connections sought to be clubbed, as well as for release of new connection, at the same or contiguous premises, are met;
- (2) the terms “Company”, “holding company” and “subsidiary company” shall have the same meanings as are assigned to them under the Companies Act, 2013 (18 of 2013);
- (3) “premises” shall have the same meaning as is assigned to it under clause (51) of section 2 of the Act and the existing electricity connections which are sought to be clubbed, shall also be considered to be entitled for clubbing, even if the same are being availed at two or more such premises; if-
 - (i) all such premises at which such connections are being availed are contiguous to each other and are not separated by any such other premises, land, plots or

roads etc., not solely occupied by such consumers or by the person seeking new connection after clubbing of existing electricity connections; and

- (ii) the new connection, after clubbing of existing connections, is sought to be released for the premises encompassing the contiguous premises for which such connections are already existing; and which is intended to be occupied only by such person in whose name the new connection is sought.

However there shall be no restriction to enlarge such premises while releasing the new connection so long as the new premises, after clubbing of connections, is entirely continuous and is to be occupied by the new applicant; and”;

The other draft amendments notified as per para 4 of this Order shall however remain unchanged.

- b) As regards the suggestions made by the HPSEBL as per para 8 (b)(i) of this Order, the Commission feels that in accordance with the proposed amendment, the sanctioned loads/contract demands are to be considered for working out the existing connected load/contract demand and the quantum of contract demand being availed under the provisions of temporary reduction has no relevance for this purpose. Further, in relation to the suggestion by HPSEBL that certain time limit should be fixed upto which the consumer can hold lien on his sanctioned contract demand under the provisions of Supply Code for temporary reduction of contract demand, the Commission finds that the issue is not of direct relevance to the proposal under consideration. As such, the Commission declines to make any changes in the present proposal on this account. The Distribution Licensee is however always at liberty to propose for amendment of Supply Code and get the same deliberated by the Supply Code Review Panel headed by one of its Directors.
- c) In view of above discussion, the suggestion made by the Licensee as per para 8 (b) (ii) of this Order automatically loses its relevance.

The amendment regulations be finalized after incorporating the above decision and notified by the Secretary, of this Commission accordingly.

Place: Shimla
Date: 21th January, 2017.

Sd/-
(S.K.B.S.Negi)
Chairman

