

**HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION SHIMLA
NOTIFICATION**

Shimla the 11th February, 2015

No. HPERC-428 Vol-VIII -----In exercise of powers conferred by Section 61, sub-section (1) of Section 62, Clauses (a), (b) and (e) of sub-section (1) of Section 86 and clause (zd) of sub-section (2) of Section 181 of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in this behalf, the Himachal Pradesh Electricity Regulatory Commission, after previous publication, hereby makes the following regulations:-

REGULATIONS

1. Short title and commencement- (1) These regulations may be called the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) (First Amendment) Regulations, 2015.

(2) These regulations shall come into force from the date of their publication in the Rajpatra, Himachal Pradesh.

2. Amendment of Regulation 17.- In regulation 17 of the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2012 (hereinafter called “ the said regulations”) -

(a) in sub-regulation (2), for the second proviso, the following provisos shall be substituted, namely:-

“Provided further that the Commission may, by order, categorise the renewable energy projects, other than SHPs, under the respective renewable energy technologies specified in sub –regulation (1), based on the capacity of projects, the available subsidy schemes and such other factors as may be considered appropriate by it:

Provided further that the Commission may, in order to promote such technologies for smaller capacities, follow, mutatis mutandis, upto the limits as it may consider necessary separately for each such technology but not exceeding 5 MW for any such technology, the technological specific parameters, including capital cost, and other terms and conditions, as notified, or may be notified, by the Central Commission under the Central Electricity Regulatory Commission (Terms and Conditions for Tariff Determination for Renewable Energy Sources) Regulations, 2012, in respect of the relevant financial years of the control period ending on 31st March, 2017, for the relevant renewable energy technology, as may be considered appropriate by it.”; and

(b) at the end of sub-regulation (3), the following proviso shall be added, namely,-

“Provided that the Commission may, by order, fix, on annual basis, the ceiling rates and associated terms and conditions to be used by the licensee for reverse bidding for procurement of power from the projects based on such technologies.”

3. Amendment of Regulations 23. - In clause (b) of sub- regulation (2) of regulation 23 of the said regulation, the following proviso shall be added, namely,-

“Provided that where tariff is to be determined on financial year basis, in the control period, the Average Base Rate(s) of the State Bank of India (SBI) prevalent during the first six months of the previous year plus 300 basis points, shall be considered as the normative interest rate.”

4. Amendment of Regulations 26. - In sub- regulation (4) of regulation 26 of the said regulation, the following proviso shall be added, namely,-

“Provided that in cases where tariff is to be determined on financial year basis, in the control period, the Average Base Rate(s) of the State Bank of India (SBI) prevalent during the first six months of the previous year plus 350 basis points, shall be considered as the normative interest rate.”

By the order of the Commission

Sd/-

Secretary

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION, SHIMLA

In the matter of Draft Amendment Regulations of the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) (First Amendment) Regulations, 2014.

Coram:
Subhash C. Negi
Chairman

ORDER

1. The Commission notified the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2012, on 17th December, 2012 in the Rajpatra, Himachal Pradesh (hereinafter called “the said regulations”);
2. Technological parameters, including capital cost, in respect of Small Hydro Projects have already been specified in the said Regulations, but the same, in respect of other technologies are to be fixed, by an order, as per the enabling provision in the said regulations;
3. As a part of National Action Plan on Climate Change, the Government of India launched the Jawaharlal Nehru National Solar Mission which inter alia targets 20 GWp of grid connected solar capacity by year 2022 and the National Institute of Solar Energy (NISE) has calculated the tentative solar power potential about 34 GWp in the State of Himachal Pradesh;
4. Wind power potential in the State of Himachal Pradesh has been estimated to be 80 MW and being 66.52 % of forest area cover, the State has also potential to generate power from bio-mass;
5. The distribution licensee is required to meet the target for Solar Renewable Power Purchase Obligation of 3% of its total consumption by 2022, which may be equivalent to 300-350 MW solar generation capacity;
6. The Commission felt that in view of the progress made towards estimation and identification of potentials for implementation of such technologies in the State, it may be appropriate to expedite the tariff fixation process of such technologies, particularly Solar PV Technology and that steps like (i) categorization of the projects based on such technologies on the basis of capacity and available subsidy scheme and other relevant factors; (ii) adoption of the Central Commission’s technological specific parameters,

including capital cost, and other terms and conditions, with suitable changes, instead of considering such norms as ceiling norms; (iii) fixing the ceiling rate to be adopted by the licensee for reverse competitive bidding for procurement of power from such technologies; and (iv) rationalization of the provisions relating to the normative interest rates to be used for fixing the rates for such technologies, may help in facilitating promotion of such projects;

7. To achieve the above objective, the Commission, published the Draft Amendment Regulation i.e. HPERC (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) (First Amendment) Regulations, 2014 on 1st January, 2015 in the Rajpatra Himachal Pradesh in exercise of the powers conferred under Section 61, sub-section (1) of Section 62, Clauses (a), (b) and (e) of sub-section (1) of Section 86 and clause (zd) of sub-section (2) of Section 181 of the Electricity Act, 2003 (36 of 2003).
8. As required by sub-section (3) of Section 181 of the said Act read with rule 3 of the Electricity (Procedure for Previous Publication) Rules, 2005, the Commission invited public objections and suggestions by way of insertions in two News papers having circulation in the State i.e. “the Tribune” and “ the Amar Ujala” on 3rd January, 2015. The full text of the draft amendment regulations was made available on the Commission’s website www.hperc.org. A time of 30 days was allowed for filing objections and suggestions in relation to the said draft amendment regulations.
9. The major stakeholders, as per the list attached at Annexure -“A” were also requested to file their objections/suggestions on the aforesaid draft regulations. In response to the same, written communications were received from the following stake holders:-
 - (i) The General Manager (CP), HP Power Corporation Ltd., Himfed Building, Bye Pass Road (Panjri), Below Old MLA Quarters, Tutikandi, Shimla-171005.
 - (ii) The Director, HIMURJA (H.P. Govt. Energy Development Agency), Urja Bhawan Kasumpti, Shimla-171009.
 - (iii) The Director, Directorate of Energy, GoHP, Phase-III, Sector-VI, New Shimla-171009.
10. Whereas stakeholders mentioned at serial No. (i) and (ii) above have informed that they have no comments/objections on the proposed amendment, the Directorate of Energy mentioned at serial no. (iii) has given the following comments on the proposed amendments:-

- a) With reference to proposed amendment in sub-regulation (2) of regulation 17, it has been suggested that in order to promote technologies for smaller capacities upto 5 MW in case of solar and wind generation may be sub categorised (technologically) as upto 500 KW and above 500 KW. It has also been stated that in Himachal Pradesh the potential of solar and wind is for smaller capacities due to space constrains and similar provisions also exist in the HP State Solar Policy.
- b) With reference to proposed amendment in sub-regulation (3) of regulation 17, it has been suggested that the reverse bidding should be adhered to solar/wind power projects above 500 KW instead of 5 MW in consonance to the HP State Solar Policy.
- c) With reference to proposed amendment in sub-regulation (4) of regulation 26, it has been suggested that the proposed amendment should supersede the existing provision instead of being inserted in shape of proviso.

11. Commission's Views:-

The Commission, after duly considering the suggestions made by Directorate Of Energy as per item no(a) and (b) under para. 10 observes that the proposed amendments are general in nature covering all renewable technologies, other than SHPs, as envisaged in the principal regulations and are not meant exclusively for solar technology. The cut-off limits for the categorization and the limits beyond which competitive bidding has to be resorted to, shall accordingly vary for each technology depending upon the policy provisions adopted by concerned authorities for each such technology from time to time. In this connection it is worth mentioning that as per the proposed provisions actual categorization is to be carried out, by order, at a later stage and for the present, only an enabling provision is being made in the regulations. Reference is however also invited to para. 6.4 of Tariff Policy as reproduced below which also envisage adoption of competitive bidding process for the renewables in a phased manner.

“6.4 Non-conventional sources of energy generation including Co-generation:

(1) Pursuant to provisions of section 86(1)(e) of the Act, the Appropriate Commission shall fix a minimum percentage for purchase of energy from such sources taking into account availability of such resources in the region and its impact on retail tariffs. Such percentage for purchase of energy should be made applicable for the tariffs to be determined by the SERCs latest by April 1, 2006.

It will take some time before non-conventional technologies can compete with conventional sources in terms of cost of electricity. Therefore, procurement by

distribution companies shall be done at preferential tariffs determined by the Appropriate Commission

(2) Such procurement by Distribution Licensees for future requirements shall be done, as far as possible, through competitive bidding process under Section 63 of the Act within suppliers offering energy from same type of non-conventional sources. In the long-term, these technologies would need to compete with other sources in terms of full costs.

(3) The Central Commission should lay down guidelines within three months for pricing non-firm power, especially from non-conventional sources, to be followed in cases where such procurement is not through competitive bidding.”

As a matter of fact, the clause (iii) of sub- regulation (2) of the regulations 3 of the said regulations clearly provides that these principal regulations are not applicable where the tariff for a generating station or a unit has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government. As such the proposed amendments are not to be construed as a permission, in any way, to any person to deviate from the provisions of the State Solar Policy or the Central Policy in this regard. However to avoid any confusion the text of the relevant amendments as proposed earlier is modified and finalized as under:-

“Provided further that the Commission may, by order, categorise the renewable energy projects, other than SHPs, under the respective renewable energy technologies specified in sub –regulation (1), based on the capacity of projects, the available subsidy schemes and such other factors as may be considered appropriate by it:

“ Provided further that the Commission may, in order to promote such technologies for smaller capacities, follow, mutatis mutandis, upto the limits as it may consider necessary separately for each such technology but not exceeding 5 MW for any such technology, the technological specific parameters, including capital cost, and other terms and conditions, as notified, or may be notified, by the Central Commission under the Central Electricity Regulatory Commission (Terms and Conditions for Tariff Determination for Renewable Energy Sources) Regulations, 2012, in respect of the relevant financial years of the control period ending on 31st March, 2017, for the relevant renewable energy technology, as may be considered appropriate by it.”; and

“Provided that the Commission may, by order, fix, on annual basis, the ceiling rates and associated terms and conditions to be used by the licensee for reverse bidding for procurement of power from the projects based on such technologies.”

12. As regards the comments on the proposed amendment to sub-regulation (4) of regulation 26 as per item (c) of para 10 above, the Commission finds it appropriate to retain the existing provision also in addition to the proposed addition.

The draft amendment regulations i.e. HPERC ((Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) (First Amendment) Regulations, 2015 shall be finalized and notified accordingly.

Place: Shimla

Date: the 11th February, 2015

(Subhash C. Negi)

Chairman