

**HIMACHAL PRADESH ELECTRICITY COMMISSION SHIMLA**  
**NOTIFICATION**

Shimla, the 28<sup>th</sup> November, 2015

No. HPERC/414/(Security Deposit).- The Himachal Pradesh Regulatory Commission, in exercise of the powers conferred by clauses (v) and (w) of sub-section (2) of section 181, read with section 47 of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in this behalf, after previous publication, hereby makes the following regulations, namely:-

**REGULATIONS**

**1 Short title and commencement.** - (1) These regulations shall be called the Himachal Pradesh Electricity Regulatory Commission (Security Deposit) (Second Amendment) Regulations, 2015.

(2) These regulations shall come into force with effect from 15<sup>th</sup> December, 2015.

**2. Amendment of regulation 3.** - In sub- regulation (1) of regulation 3 of said regulations, the following proviso shall be added, namely:-

“Provided that the licensee may not obtain such security in case where the supply of electricity is required for its own use.”

**3. Amendment of regulation 4.** - The sub-regulation (4) of regulation 4 of said regulation shall be substituted, namely:-

“(4) The amount payable by the consumer towards the initial security deposit under these Regulations shall be in the form of cash/demand Draft (DD) drawn in favour of the licensee:

Provided that where the amount of initial security deposit payable at a time i.e. at the time of release of new connection or for sanction of additional load exceeds Rupees ten lacs, the consumer may opt to furnish such deposit in shape of bank guarantee and may continue to avail the facility of bank guarantee subject to provision of sub- regulation (6):

Provided further that the consumers who have already furnished the initial security deposit in shape of bank guarantee may also continue to avail the facility of bank guarantee irrespective of the amount of deposit, subject to the provision of sub- regulation (6).

(5) The amount payable by the consumer towards the additional Deposit under these Regulations shall also be in the form of cash/demand Draft (DD) drawn in favour of the licensee:

Provided that the consumers who have furnished the initial security deposit in shape of bank guarantee as per the provision under sub-regulation 4, or where the amount of additional security deposit payable by the consumer at a time exceeds Rupees ten lacs, the

consumer shall have the option, subject to the provisions of sub regulation (6), to furnish such deposit in shape of bank guarantee.

(6) (a) The consumer shall get, or cause to get, at least sixty days before the expiry of the validity period, any bank guarantee(s) furnished by him as per sub-regulations (4) and (5), extended for a minimum period of next three years at a time.

(b) In case a consumer fails to renew any such bank guarantee, as referred to in clause (a) above, within the validity period, the licensee shall recover the corresponding amount from the consumer in shape of cash/demand draft and such consumer shall not be entitled to avail the facility of bank guarantee for any future security deposit for a period of three years from the date of expiry of the validity of such bank guarantee.

(7) The Security deposit furnished in shape of cash/demand draft etc. shall not be refunded for facilitating its conversion into bank guarantee at any subsequent stage”.

**4. Amendment of regulation 6.** - For sub- regulation (1) of regulation 6 of the said regulations, the following sub-regulations (1) shall be substituted, namely:

“(1) In respect of the consumers credit-rated as poor under regulation 9, the adequacy of the amount of security deposit viz- a-viz the charges for the period equivalent to summation of the billing cycle and additional one month, shall be reviewed by the licensee generally once in every year (preferably after revision of tariff for the respective year), based on the average consumption for the period representing 12 (twelve) months from April to March of the previous year.”

**5. Amendment of regulation 7.** - In sub-regulation (1) of regulation 7 of the said regulations, for the words and figures “Bank Rate (as on 1<sup>st</sup> April of every year)”, the words “weighted average of actual Bank Rate(s) for the previous year” shall be substituted.

**6. Amendment of regulation 9.** - For sub-regulation (1) of regulation 9 of the said regulations, the following sub-regulation (1) shall be substituted, namely:-

“(1) Every year, the licensee shall, of its own, carryout the credit rating of its existing consumers by applying uniform criteria, which shall be hosted on its website, for such credit rating in respect of each category of consumers.”

By 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 (Security Deposit) (Second Amendment) Regulations, 2015.

**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 (Security Deposit) Regulations, 2005, which were published in the Rajpatra, Himachal Pradesh, dated 30<sup>th</sup> March, 2005 (hereinafter called “the said Regulations”);

2. The Distribution Licensee i.e. Himachal Pradesh State Electricity Board Limited submitted that the amount of security deposit needs to be increased to safeguard its interest in respect of dues that become payable by a defaulting consumer till the earliest date on which it can be disconnected after giving due notice in this connection and has made the following submission with a request to amend the relevant provisions of Security Deposit Regulations, 2005:-

In cases where the Consumer(s) have monthly billing cycle, the grace period is 10(ten) days for making payment. In case the consumer fails to deposit the energy bill within grace period, after the delivery of the bill, 15 (fifteen) days clear notice for effecting temporary disconnection is required, after the due date is over. In this way till temporary disconnection, energy consumption of 25 (twenty five) days i.e. approximately one month’s bill again becomes due from the consumers. Since the consumer has not paid the previous months bill, the next 25 (twenty five) days energy bill also becomes due and in case of further default, the charges go on accumulating till permanent disconnection. In such cases, if outstanding energy charges are to be adjusted from the advance security, in that case the HPSEB Limited is able to adjust one month bill only and the huge amount still remains in default which at the later stage becomes bad debt.

3. Apart from above, HPSEB Limited also suggested amendment in the regulations to take care of the following:-
  - (a) The amount payable towards security shall be in the form of cash/ demand draft drawn in the favour in the licensee.
  - (b) The security to be deposited by various categories of consumers have been defined in the regulations and HPSEB Limited being distribution licensee has not been exempted to deposit Security for the energy meters installed in its own name. Further, basic purpose behind security deposit by the consumers of HPSEB Limited is to adjust amount on default of payment of energy bills. However, HPSEB Limited being licensee itself can be exempted for security deposit.
4. Taking into consideration the aforesaid submissions of the distribution licensee i.e. HPSEB Limited, the Commission notified the draft (Security Deposit) (Second Amendment) Regulations, 2015, on 31<sup>th</sup> August, 2015 and published the same in Rajpatra Himachal Pradesh in exercise of the power conferred under section sub-section (1) of section 181 of the Electricity Act, 2003 (36 of 2003).
5. As required vide sub-section (3) of the section 181 of the Act, the Commission invited public objections and suggestions by way of insertions in two News papers i.e. “The Times of India” and “Divya Himachal” on 3<sup>rd</sup> September, 2015 under Rule (3) of Electricity (Procedure of Previous Publication) Rules, 2005 and the full text of the draft amendment regulations was made available on the Commission’s website [www.hperc.org](http://www.hperc.org).
6. The major stakeholders were also requested to file their objections/suggestions on the aforesaid amendments.
7. The following stakeholders submitted their suggestions/objections in response to the draft amendment:-
  - (a) Parwanoo Industries Association, Department of Industries Complex, Sector-1, Parwanoo- 173220 (HP).
  - (b) Directorate of Energy, Shanti Bhawan, Phase-III, Sector-IV, New Shimla- 171009 (HP).

(c) B.B.N. Industries Association, EPIP-Jharmajri Road, EPIP Phase-1, Jharmajri, Baddi, Distt. Solan-174103 (HP).

(a) Parwanoo Industries Association have submitted the following objections/suggestions:-

(i) It should be mandated by the regulation that detailed calculation be provided as an Annexure to the bill of June, every year containing the calculation of interest. It should be further mandated that Form 16A be provided to the consumers as per income tax rules. Presently, the consumers are not able to take the credit of income tax deducted at source on the interest payment due to non-furnishing of form 16A by the licensee.

(ii) It has been suggested that the regulations be amended to the effect that the security amount is reflected in the energy bills of the consumers. A lot of effort is consumed in reconciling the security deposit accounts. The details of security in the form of cash and Bank Guarantee are shown in each energy bill, other States utilities are also following the above practice.

(b) Directorate of Energy have submitted that amendment proposed in the sub-regulation(4) of regulation 4 of the draft regulations, should be by way of addition and not by substitution of the existing provision with newly proposed text, to make the amendment meaningful. As that office feels that amount payable towards security should be in the form of cash/Demand Draft upto a limit of Rs. 5 Lacs.

(c) B.B.N. Industries Association have submitted the proposed amendment in the sub-regulation(4) of regulation 4, the prime concern of the licensee as well as the Commission is that the receivables of the utility remain secure. Whether they are in the form of Bank Guarantee or in the form of cash/demand draft really should not matter. As Regulation 7 provides for payment of interest on security, if paid in cash or demand draft. More of security in form of cash in place of bank guarantee will only result in more funds available with the licensee at an interest rate of about 8.5% (Bank Rate), which may have slight impact of interest and finance charges in the ARR. But, this facility is very important to continue as it results into blockade of large funds on the part of

consumer, particularly industries. The licensee as such claims the financing cost including working capital in the ARR, which is a pass through to the consumers in the tariff. The licensee by this amendment will get more funds at a rate of interest cheaper by about 2-3%. The Commission's intent is probably to save that expense in the ARR. We suggest that the facility be not withdrawn for future. As it is in the utility's interest on ACD accounts are in a mess and there are lot of defaults by the licensee on account of Income Tax Deduction at Source and issue of Form 16 A as per Income Tax Rules. The consumers are not getting the TDS reflected in their 26AS. These disputes are not arising with the consumers who have furnished a Bank Guarantee.

8. Taking into consideration the suggestions/objections filed by the stakeholders, the Commission decided to conduct the hearing of these stakeholders. Accordingly, the hearing was fixed on 29.10.2015.
9. Parwanoo Industries Association and B.B.N. Industries Association jointly made request vide letter dated 29.10.2015 to conduct the hearing on 07.11.2015, the Associations in the aforesaid letter reproduced their previous submissions, in addition to the following:-
  - (a) Credit Rating of consumers is not being carried out as provided under Regulations 9 of the said Regulations.
  - (b) Refund of excess security, which actually should be automatic as per Regulation 8(2) of the said Regulation, is not being adhered to.
  - (c) Refund of security as per Regulation 8(1) of the said Regulation, is not actually happening.
  - (d) Interest provided under Regulation 8 of the said Regulation, for delay in refunding the security is not being paid.
  - (e) When the consumer approaches the licensee, for refund of security, it is insisted that the original receipt of the security, must be returned to the licensee. This carries no logic. The receipt is bonafide record of the consumer. It is not a mortgage document that is required to be returned.
10. Taking into consideration, the request made by the Associations, the hearing was held on 07.11.2015, in which the representative(s) of following stakeholders expressed their views/suggestions/comments:

Sr. No.	Name of Stakeholders	Represented by
1.	Parwanoo & B.B.N. Industries Association	Sh. Rakesh Bansal Sh. Sudhir Guleria
2.	Directorate of Energy	Sh. Rahul Puri
3.	HPSEB Limited	Sh. Mahesh Sirkek, CE (Comm.)

**11. Submission by Stakeholder(s) during hearing:-**

The representative of Industries Associations, Sh. Rakesh Bansal apart from written submission also raised the issue of harmonization of the provisions of supply code/regulations with security deposit regulations. He stated that in case the consumer desires his connection to be disconnected permanently, the licensee shall have to carry out the special reading within five days from such request. Generally the delay is experienced from the licensee side to carry out such reading and further issuance of final bill with adjustment of security advance. The delay in making adjustment may attract penal interest. On the demand of refund of security, the licensee is insisted for original receipt of the security. This carries no logic. The ACD with the licensee must be reflected in the energy bills. HPSEBL must have Management Information System (MIS) in place to adhere the basic provisions of the regulations.

**12. HPSEBL's RESPONSE:-**

The Chief Engineer (Comm.), HPSEBL, responded during the hearing that the provisions for furnishing security deposits in shape of the bank guarantee may be deleted and such deposits should be in cash/demand draft only. It was submitted that the amendment is being basically requested in view of the problems experienced in timely renewable of the bank guarantees. In regard to the other issues raised during hearing by the representative of Industries Associations, the Chief Engineer (commercial) stated that HPSEBL shall take all necessary administrative action required to make the energy billing system more transparent.

**13. Commission's Analysis:-**

The Commission, after considering the view point of the stakeholders in regard to the bank guarantee provisions, decides, in principle, to continue with the

facility of bank guarantee. However it is felt that the limit of Rupees five lacs which was fixed more than 10 years back needs to be rationalized. The said limit is accordingly being enhanced to Rupees ten lacs. It is also felt that in case of consumers availing the facility of bank guarantee, the onus of timely renewal should mainly lie with them and in case of default, the facility should be withdrawn for future security deposit from such consumers for three years from such default. The Commission also finds it appropriate to make separate provisions for initial security and additional security deposits. In view of above, the commission decides to substitute the sub-regulation (4) of the said Regulations with the following-

“(4) The amount payable by the consumer towards the initial security deposit under these Regulations shall be in the form of cash/demand Draft (DD) drawn in favour of the licensee:

Provided that where the amount of initial security deposit payable at a time i.e. at the time of release of new connection or for sanction of additional load exceeds Rupees ten lacs, the consumer may opt to furnish such deposit in shape of bank guarantee and may continue to avail the facility of bank guarantee subject to provision of sub- regulation (6):

Provided further that the consumers who have already furnished the initial security deposit in shape of bank guarantee may also continue to avail the facility of bank guarantee irrespective of the amount of deposit, subject to the provision of sub- regulation (6).

(5) The amount payable by the consumer towards the additional Deposit under these Regulations shall also be in the form of cash/demand Draft (DD) drawn in favour of the licensee:

Provided that the consumers who have furnished the initial security deposit in shape of bank guarantee as per the provision under sub-regulation 4, or where the amount of additional security deposit payable by the consumer at a time exceeds Rupees ten lacs, the

consumer shall have the option, subject to the provisions of sub regulation (6), to furnish such deposit in shape of bank guarantee.

(6) (a) The consumer shall get, or cause to get, at least sixty days before the expiry of the validity period, any bank guarantee(s) furnished by him as per sub-regulations (4) and (5), extended for a minimum period of next three years at a time.

(b) In case a consumer fails to renew any such bank guarantee, as referred to in clause (a) above, within the validity period, the licensee shall recover the corresponding amount from the consumer in shape of cash/demand draft and such consumer shall not be entitled to avail the facility of bank guarantee for any future security deposit for a period of three years from the date of expiry of the validity of such bank guarantee.

(7) The Security deposit furnished in shape of cash/demand draft etc. shall not be refunded for facilitating its conversion into bank guarantee at any subsequent stage”.

The Commission has also considered the other submissions of the representatives of Industries Association and also of HPSEBL. The Commission is of the view that the suggestions made by the Industries Associations are useful for the transparency in billing system and accounting of security deposit. For better relationship between the consumers and licensee, there must be monitoring system in the HPSEBL to adhere the time lines given in the regulations. The Commission accordingly advises the HPSEBL to ensure compliance of the Provisions already existing in the Regulations and also to issue suitable procedural instructions in all such matters to the field units, particularly on the following issues-

- (i) The details of security deposits in case of HT and EHT consumers shall be furnished along with monthly electricity bills.
- (ii) In cases where the security deposits are to be refunded, the refunds must be ensured within the specified time lines. The consumers should not be asked to furnish the original receipts

of security deposit except in isolated cases where there may be problems about authenticity of the details available with the licensee. As a matter of fact, even in such cases where the consumer is not able to furnish the original receipt, the alternative procedures should be evolved for refund after due indemnification and securitization.

(iii)The details of deduction of Income Tax at source, if any, must be furnished to the consumers strictly as per the provisions of the prevalent law.

(iv)In cases where the consumers ask for disconnection, final meter readings must be taken and bills rendered within specified timelines.

The draft amendment regulations are finalized and approved as such and be notified accordingly.

Place: Shimla.

Date: 28<sup>th</sup> November, 2015.

-Sd-  
**Chairman**