HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION, SHIMLA

In the matter of formulation of the Himachal Pradesh Electricity Regulatory Commission (Levy and Collection of Fees and Charges by State Load Despatch Centre) (Second Amendment) Regulations, 2018

CORAM
Sh. S.K.B.S. Negi
Chairman
Sh. Bhanu Pratap Singh
Member

Statement of Reasons

1.0 BACKGROUND:

1.1 The Himachal Pradesh Electricity Regulatory Commission (hereinafter referred as "the Commission" or "the HPERC") published the draft HPERC (Levy and Collection of Fees and Charges by State Load Despatch Centre) (Second Amendment) Regulations, 2018 on 08.10.2018 in Rajpatra Himachal Pradesh in exercise of the power 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 (hereinafter referred as "the Act").

1.2 As required vide sub-section (3) of the Section 181 of the Act, read with sub-regulation (5) of regulation 16 of the HPERC (Conduct of Business) Regulations, 2005 and rule 3 of the Electricity (Procedure for Previous Publication) Rules, 2005, the Commission invited public objections and suggestions by way of insertions in two Newspapers i.e. "Divya Himachal" and "Hindustan Times" on 10th November, 2018 and the full text of the draft SLDC Regulations, 2018 was available on the Commission's website www.hperc.org. A time of 21 days was allowed for filing objections and suggestions in relation to the said draft SLDC Regulations, 2018.

1.3 Subsequently a public hearing was held on 17.11.2018, wherein stakeholders presented their views before the Commission.

1.4 The Commission received comments/suggestions on the draft SLDC Regulations, 2018 from the Himachal Pradesh State Load Desptach Society (HPLDS) only.

2.0 Objections and issues rose by HPLDS:-

MD, HPLDS presented before the Commission during public hearing an overview of the SLDC in the state of HP. Also, he highlighted a lot of new initiatives that are likely to be implemented by HPLDS in times to come. These initiatives are in the field of providing latest IT infrastructure in HPSLDC, requirement of higher R&M cost to maintain the assets and other technological up-gradation in SLDC to perform its role as envisaged in the Electricity Act, 2003. He pointed out that some of the definitions need to be incorporated in the MYT regulations to have more clarity about the functioning of SLDC. He requested to incorporate enabling provisions in the HPERC SLDC MYT regulations to create a separate LDC fund. Also, MD, HPLDS stressed upon the need to acquire, train and retain the skilled manpower in the SLDC for which he suggested financial incentives on the analogy of Maharashtra. He requested that enabling provisions be made in HPERC regulations so that all these initiatives are implemented in the state. He informed that the Forum of Regulators (FOR) is coming up with Model regulations for SLDCs and all the above provisions have been incorporated in the same.

Earlier, HPLDS in its written submission on the proposed amendments in HPERC Levy and Collection of Fees and Charges by State Load Despatch Centre Regulations, 2018 has submitted the following:-

A. HPERC has recognized that Regulations governing SLDC need to be distinct from that applicable for other regulated entities:

As per Section 31 and 32 of Electricity Act- 2003, State Load Despatch Centre has been entrusted with responsibilities of ensuring efficient, reliable and secure power system operations, ensure load generation balance/ dispatch, exercise governance over various state entities such as generating companies, distribution companies, transmission utilities and other stakeholders.

SLDC is also responsible for undertaking state-wise energy accounts and manage power flows over grid network. Thus, SLDC operations are expected to be undertaken through separate Government Company, Authority or Corporation constituted by State Government. Until such notification, STU is expected to operate SLDC.

Thus, independence of operations, Financial autonomy for SLDC has been enshrined under Act. Accordingly, Govt. of HP has notified HP Load Despatch Society, as separate entity to undertake SLDC operations. Further, HPERC has also recognized need to have separate MYT Regulations for governing SLDC operations and its levy/collection of Fees and charges and has not clubbed it as part of overall MYT Regulations governing all regulated entities, unlike many other states.

However, treatment of ARR components, capex/business plan process, conditions for cost/performance parameters under MYT & process thereof, true-up requirements/process etc. in case of SLDC have been proposed to be similar to that applicable for any other regulated entities such as transmission/distribution utilities and generation companies. While general principles / some of the financial principles can be adopted uniformly, there are certain specific requirements as outlined below that merit distinct treatment in case of SLDC. Viz. Historical cost/ performance benchmarks cannot form baseline for 4th MYT Control Period in respect of SLDC, as SLDC operations are evolving to cater to new age requirement of system operations and market operations. Human Resource Development, Manpower acquisition, training, retention is major challenge in case of SLDC. Designing Incentive scheme linked to Key performance indicators and permitting retention allowance linked to experience/expertise is necessary. Need for creation of LD reserves/ funds and contingency funds to cater to asset creation and facilitate human resource development, capacity building, training etc. Approval of Capex/ Opex schemes, Business Plans need to provide room for flexibility in terms of planning and implementation, in light of fast changing technology and IT tools that are required to be deployed. Apart from capacity and skillset required to manage regulatory pools (Deviation Pool, Reactive Pool, Congestion Pool) and treatment of such Regulatory Pools, their fund management, statutory compliances etc. are to be treated distinct from SLDC ARR operations. So, clear guidance/rules on such fund management and its utilization are necessary.

Norms and formulation for O&M Expense: The MYT Regulations has proposed O&M norms for the control period to be linked to historical performance with linkage to inflation factor and certain growth factors. There is also provisioning for the allowance for one-time expenses.

These provisions are well appreciated; however, there are certain factors that need consideration in terms of norms, multiplication factors and linkage to base year that has been proposed under formula for determination of O&M expense. MYT Regulations, 2018 has proposed O&M expense (nth year) to be determined as per following formula:

O&Mn = R&Mn + EMPn + A&Gn

Where,

R&Mn = K x GFAn-1

EMPn = [(EMPn-1) x (1+Gn) x (CPI inflation)] + Provision (Emp.)

A&Gn = [(A&Gn-1) x (WPI inflation)] + Provision (A&G)

R&M Expense: In this context, we would like to humbly submit that linkage of R&M expense for (nth year) to GFA approved in (n-1) year would lead to under provisioning of R&M expense in the nth year. This is due to fact that historical GFA asset base for SLDC has been minimal. However, in future Asset base (GFA) is expected to be significantly increased over the Control Period. Hon'ble Commission has recently approved DPR for implementation of SAMAST scheme in Himachal Pradesh, which would be implemented over 4th Control Period. Besides, there are several other schemes and transfer of Asset from HPSEBL is expected to take place. Hence, we would like to suggest that R&M expense should be linked approved Avg. GFA for the nth Year, instead of GFA base of (n-1)th year.

Suggestion: Thus, under the formula for R&Mn following modification may be incorporated

R&Mn = K x GFAn

Where,

GFAn should be approved average GFA for the nth year under consideration.

Employee Expense: In this context, we would like to humbly submit that Growth factor and linkage to CPI inflation index would take care of the projected growth in number of employees and revision linked to inflation. Further, Provision (Emp) shall take care of the one-time nature of employee related expenses that are beyond the control of SLDC such as pay revision, arrears or any such other expense. However, we would like to submit that there should provisioning for incentive scheme for employee to attract and to retain talent pool of employees in SLDC. A provisioning of special allowance linked to experience and expertise should also be provided for. Besides, costs pertaining to training and capacity building, travelling allowance to participate in conference, workshop, knowledge sharing platforms etc. and certification linked incentive scheme should for part of overall human resource development activities. All efforts will be made to ensure minimum seven days training per employee per annum is imparted as per the National Training Policy for

SLDCs. Hence, there should be separate provisioning towards such HRD activities which are related to employee development. Some of these activities could be funded through LDC development fund, as proposed under subsequent paragraphs.

<u>Suggestion:</u> Thus, under the formula for EMPn following modification may be incorporated

EMPn = [(EMPn-1) x (1+Gn) x (CPI inflation)]+Provision(Emp.)+ HRDn

Where,

HRDn should cover expense pertaining to human resource development activities including but not limited to training, capacity building, employee incentive scheme, special allowance linked to experience and expertise.

Need for enabling provision in regulations for creation of LDC Development Fund

In order to ensure financial autonomy and independence of SLDC, it needs to be ensured that SLDC is not required to be dependent on its fund availability from STU/Transco. It is important that a corpus or fund is created within SLDC to cater to future fund requirements. Maharashtra Electricity Regulatory Commission in their MYT Regulations, 2015 has enabled a provision for creation of LDC Development Fund. Relevant extract of MERC MYT Regulations-2015 is as under:

91. *The Commission may permit MSLDC to create and maintain a separate development fund for such purposes and from such sources of income, as the Commission may consider appropriate, on a Petition filed by MSLDC.*

Operationalizing these provisions, MERC has allowed MSLDC to create LDC Development Fund under its MTR Order (Case 171 of 2017) for MSLDC. Relevant extract is as follows:-

*"**6.6.6** Further, as discussed subsequently, in para. **6.13** of this Order, the <u>Revenue Surplus on Truing up of Budget</u> for FY 2015-16, ARR for FY 2016-17 and provisional Truing up of ARR for FY 2017-18 as well as the past surplus approved vide MYT Order in Case No. 20 of 2016 <u>is considered for the creation of the LDC Development Fund</u> which should be primarily used to <u>undertake capital expenditure for technological upgradation and system strengthening to meet the</u>*

upcoming challenges. Accordingly, the addition to capitalization approved for each of the FY 2018-19 and FY 2019-20 is considered to be funded from this LDC Development Fund which is effectively the Revenue Surplus generated from the money recovered from the Beneficiaries. (Emphasis added)"

Similar provision may be incorporated by HPERC in its MYT Regulations, 2018 enabling HPSLDC to create LDC Development Fund and revenue surplus generated from its operations should not be used for true-up adjustments, instead a surplus (if any) should be used to create LDC development fund.

Suggestion: Enabling provision for creation of LDC Development Fund may be incorporated in the MYT Regulations as outlined below:

"The Commission may permit HPSLDC to create and maintain a separate development fund for such purposes and from such sources of income, as the Commission may consider appropriate, on a Petition filed by HPSLDC".

Provisioning for Incentives and Retention Allowance for Manpower

As highlighted in earlier paragraphs, Human Resource Development, Manpower acquisition, training, retention is major challenge in case of SLDC. Designing Incentive scheme linked to Key performance indicators and permitting retention allowance linked to experience/expertise is necessary. In order to attract and retain the employees for SLDC, a Incentive scheme could be devised allowing provisioning of special Per Month LD allowance for each employee, depending on its experience and expertise. Apart from fixed Per Month incentive, an Additional incentive could also be allowed for employee who acquires the certificate of specialist level in their respective areas of specialization. A compensation structure with retention bonus or retention allowance linked to years of service in SLDC could also be devised.

Similar incentive scheme and LD allowance has been proposed by MSLDC and approved by MERC in its Order (Case 171 of 2017). The relevant extract of the same are as under:

*"**8.5.3** The Board of Directors of MSETCL vide **B.R. No. 110/17** dated 28 July, 2016 has accorded its approval for Certificate linked incentive to MSLDC engineers. Further, as per the Administrative Circular No. 498 dated 7 November,*

2016 (submitted as part of the Petition), MSETCL has implemented Certificate linked incentive for MSLDC engineers as under:

1) Chief Engineer: Based on tenure and experience, CMD is competent authority for grant of incentive.

2) SE & EE: Incentive as 15 % of basic pay with ceiling limit of Rs. 7500/- per month on passing of Specialist Level Examination.

3) AE, Dy. EE, AEE: Incentive as 10 % of basic pay with ceiling limit of Rs. 5000/- per month on passing of Basic Level Examination or 15 % of basic pay with ceiling limit of Rs. 7500/- per month on passing of Specialist Level Examination.

***8.5.4** The above incentives are applicable for a maximum period of 10 years.*

Suggestion: HPERC in its MYT Regulations should incorporate enabling provisions to allow HPSLDC to devise Employee Incentive and Retention Scheme and permit recovery of the costs pertaining to such incentive scheme, through ARR of SLDC.

Business Plan Capex Scheme

As per Regulation 13(1) of the HPERC **MYT Regulations-2011** and subsequent amendments during year 2013 and 2018, the Capex Plan submitted by HPSLDC and upon due scrutiny and approval of Commission shall form basis for determination of ARR of HPSLDC for the Control Period.

Further, as per Regulation 13(3) such Capex Plan of HPSLDC will have to be in conformity with capex plan and investment plan to be filed by transmission licensee, distribution licensee and generating companies to cater to their projected load growth and system-wide development of injection/drawal points. Thus, approval of Capex/ Opex schemes and Business Plan of HPSLDC need to provide room for flexibility in terms of planning and implementation, in light of above inter-linkages to the capex/investment plans of transmission/distribution utilities and generating companies and also in view of fast changing technology and IT tools that are required to be deployed.

In this context, HPSLDC would like to humbly submit that while MYT Petition for the Control Period (2019-24) is expected to be filed by 30th Nov 2018, business plan/capex plan to be approved for the Control Period and subsequent true-up during mid-term review process, there should be flexibility to allow for adjustments of Capex Plan across the years within Control Period while dealing with variation in performance vis-à-vis that approved at the time for mid-term review true-up exercise. Thus, regulations should have enabling provision to deal with variation in approved capex of SLDC rather than strict application of treatment of cost overrun / time overrun principles in case of capex schemes by SLDC during true-up exercise.

Suggestion: MYT Regulations Clause 31(A) for mid-term performance review and true-up at the end of control period should incorporate suitable provisions for dealing with variation in capex schemes of SLDC vis-à-vis that approved over the Control Period.

B. References to Power System Development Company/State Load Despatch Centre

Suggestion: Draft Amendment to MYT Regulations has referred to Power System Development Company /State Load Despatch Centre interchangeably at number of places through the draft Regulations. Responsibility of State Load Despatch Centre in the state is entrusted upon Himachal Pradesh State Load Despatch Society (HPSLD Society or HPSLDS) as independent entity and accordingly SLDC is operated by HPSLDS constituted through GoHP notification. Hence, it may be preferred to refer to the same or HP State Load Despatch Centre through the Regulations.

3.0 Commission's View

The Commission feels that the HPERC tariff regulations regarding SLDC need no further amendments as of now. As and when the model regulations for SLDC shall be finalized by FOR then we will take a view on that. All the enabling provisions are already there in the current regulations to carry out the activities highlighted by the MD, HPLDS. HPLDS needs to submit its business/ Capital Expenditure plan along with MYT petition. The Commission after prudence check and exercising due diligence would approve the same.

Regarding submission of requirement for increased allocation for R&M activities, HRD fund etc., the same can be allowed, under current MYT regulations as well, in MYT order after prudence check by the Commission.

Seeing the importance of SLDC and the important role that it has to play, the Commission approved the ARRs for each years of the 3rd MYT control period ranging from around Rs. 7.5 crore to 11.5 crore during 2014. But, during midterm review of the HPLDS in April, 2017, the Commission noted that actual ARR of the HPLDS was even less than 10% of the approved ARR during MYT order in 2014. During FY16, actual ARR was even negative. That means revenue was much more than the expenditure.

Here, we just wants to highlight that there has been no hindrance from the Commission if HPLDS really wants to implement something new which is good for every stakeholders involved and is in the overall interest of the state. HPLDS must come with its concrete proposal during the filing of MYT petition and the Commission will consider the same after prudence check.

-Sd/-	-Sd/-
(Bhanu Partap Singh)	(S.K.B.S. Negi)
Member	**Chairman**

Place: Shimla
Dated: - 22.11.2018