

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION SHIMLA

Coram : **Subhash C. Negi**
Chairman

Dated : 18th, May 2012

In the matter of:

Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2012.

ORDER

1. Introduction

In order to rationalize and simplify the provisions laid down in Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005, the Commission published a draft of the proposed Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2012 in the Rajpatra, Himachal Pradesh dated 13.02.2012, as required vide sub-section (3) of Section 181 of the Electricity Act, 2003 and invited the public objections and suggestions by way of insertions in two news papers having circulation in the State i.e. The Hindu and Divya Himachal on 15.02.2012 under rule 3 of the Electricity (Procedure for Previous Publication) Rules, 2005 and full text of the draft Regulations was also made available on the Commission's website. A time of 30 days was allowed for filing objections and suggestions in relation to the draft Regulations.

2. Pending receipt of comments, the salient features of the proposed regulations were also discussed in the meeting of State Advisory Committee (SAC) held on 28.02.2012, when the Committee generally appreciated the step taken for simplifying the provisions. Certain suggestions were however also made which have been discussed in the relevant succeeding paras of this order.

3. The Commission received comments on the draft regulations from the following:-

- (i) M/S B.B.N. Industries Association,
Single Window Clearing Agency Industrial Area, Baddi-173205
- (ii) M/S Parwanoo Industries Association,
Himachal Pradesh Centre for Entrepreneurship Development Building,
Department of Industries Complex, Sector-1, Parwanoo-173220.

- (iii) Vardhman Textiles Ltd Sai-Road, Baddi,
Tehsil Nalagarh, Distt. Solan-173205,(HP)
- (iv) The Chief Engineer(Comm.), HPSEBL
Vidyut Bhawan, Shimla-171004.
- (v) The Dy. General Manager(EL)
HP Power Corporation Ltd., Shanti Kutir,
Kamna Nagar, Chakkar, Shimla-171005
- (vi) The Deputy General Manager,
HP Power Transmission Corporation Ltd.
Barowalia House, Khalini, Shimla-171002.

4. The Commission has considered all the comments/suggestions/objections received on the draft regulations and the views/decisions of the Commission, alongwith the reasons for the same on the main objections, have been outlined in the succeeding paras of this order :

5. General

5.1 The objectors from Industry have made general comments on following lines, apart from the comments on certain specific provisions of the draft regulations -

- (i) The problems are being faced by them under the existing regulations; it has been stated that more and more demands are being raised and the rates being demanded by the licensee under the existing regulations are highly unreasonable, arbitrary and irrational in some cases. It has also been stated that in some cases the Himachal Pradesh State Electricity Board Limited (for brevity sake hereinafter referred as the "HPSEBL") has even demanded a rate of Rs.7053/- per kVA at 33 kV from a consumer. It has been suggested that even though Commission has indicated on 3rd March, 2012 that these Regulations shall be applicable from the date of notification/order, it needs to be looked into as to what shall be the fate of existing consumers and the cases which are in the pipeline (either new or enhancement of load). It has been suggested that the Commission should intervene and approve the rational and reasonable recovery only.
- (ii) The State of Himachal Pradesh has witnessed a phase of rapid industrialization in the past decade, mainly due to the incentive package announced by the GOI, which included tax exemptions and subsidy. Attracted to these incentives coupled with the availability of power in the State, huge investment flowed into the State. These incentives were only available upto 31st March, 2010 after which the pace of industrial growth has fallen to almost negative. It is apprehended that if adequate steps are not taken to retain the Industry that has come to the State, there may be a large scale exodus of the

Industry from the State, which in turn will result in waste of infrastructure that was created for these industries and result in lot of unemployment and loss of revenue to the State Exchequer.

- (iii) The availability of power at slightly cheaper rates is the only major attraction for the Industry now. In order to retain the Industry, there is a need that this strength/advantage be maintained and not be allowed to get diluted. The Industry has been raising, time and again, the issue of high initial cost for getting an electricity connection since the Himachal Pradesh State Electricity Regulatory (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 came into force. However, the Industry continued to pay whatever the HPSEBL asked under the regulations without actually going into the details of the calculations given by the officials of the HPSEBL.
- (iv) The draft regulations address certain issues that have been raised by the consumers time and again under the current regulations. But, at the same time, even the draft regulations are prone to the risk of different interpretations like the existing regulations.

5.2 The HPSEBL has stated that there may be some cases where the recovery might not have been done earlier due to some court cases or other reasons. The methodology of recovery of expenditure in such cases needs to be specified in order to avoid litigations.

5.3 Commission's views

5.3.1 The objectors from the industry have given general comments about the problems being faced by them about the rates under the existing regulations. The HPSEBL has requested for some mechanism for recovery of such rates in the cases falling in the existing regulations. The Commission would like to mention here that the instant case pertains to finalization of the regulations. The draft regulations also clearly indicate the cut off date for applicability of the proposed regulations and the Commission shall not apply the new regulations retrospectively. Accordingly the problems, if any, being faced by the Industry or licensee shall have to be sorted out under the provisions of the existing regulations only. As a matter of fact, the Commission has already issued some directions in its order dated 3rd March, 2012 to sort out the issues pertaining to the past period. The Commission shall however not like to go through the workings made by the licensee in individual cases as the same are not relevant here.

5.3.2 It has been stated that the availability of power at slightly cheaper rates is the only major attraction for the industry and the same should be maintained in order to retain the industry and that there may be a large scale exodus of industry if steps are not taken to retain the same. In this connection, the Commission points out that the regulations, when

finalized, may basically apply to the new industry or expansion of the existing industry. In case the charges recoverable under these regulations are kept very low, the impact on revenues shall have to be made good through tariff which shall impact the existing consumers also. A balance shall thus have to be made.

6. Coverage in Supply Code

6.1 The objector(s) from industry have suggested that the system of recovery of expenditure must be made very simple and the system of calculating on the basis of cost data etc., be restricted to a level within the Commission, the basis of which needs to be established. It has further been suggested that instead of new regulations which will lead to more confusion, a table depicting the list of service connection charges be included in the Supply Code itself which is the most referred document. In their view, this shall make the process simpler. It has been mentioned that MPERC specifies these charges in the form of table in regulations itself.

6.2 Commission's view

6.2.1 Based on the enabling provisions in the regulations, the Commission shall approve/fix the service connection charges on yearly basis. Such charges can be depicted in shape of a table. However the Commission shall not like to include these regulations in the Supply Code. The Commission observed that such a pattern is being followed in some other States also.

6.2.2 All the objectors have, in one way or other, suggested that the proposed regulations should be simplified to maximum possible extent. The Commission appreciates the concern shown by the stakeholders and would like to mention that need for simplification is one of the main reasons for revision of the existing regulations. Moreover, the Commission has further simplified the draft regulations in certain respects, as brought out in relevant paragraphs of this order. An objector from industry has mentioned that even though the draft regulations address some of the issues raised by them but the draft regulations are prone to the risk of different interpretation. This is also only a general remark and does not clarify the specific provisions which are prone to double interpretations. The Commission has however duly taken into account the objections/suggestions raised by various objectors and has tried to make the regulations as simple as possible but it would not ignore essential features in the name of simplification.

6.2.3 The draft regulations provide for approval of normative rates by the Commission only and for the same shall be applicable in all the cases except under certain exceptional situations.

7. Definitions (Regulation 2)

7.1 The HPSEBL has suggested that the definition of the word 'applicant' should be in line with the same given in the supply code, 2009. The Commission has considered the suggestion and has included the modified definition of the term "applicant" as under.

"applicant" means an owner or occupier of any land/premises (including the authorised representative of such owner or occupier) who makes an application to the distribution licensee for supply of electricity and/or for any other purpose covered under these Regulations;

7.2 The HPSEBL has suggested that there should not be any variance in the definition of HT and LT voltage in these regulations with reference to those given in Supply Code/tariff order. Since the words LT and HT are not being used frequently in the draft regulations, the Commission has deleted these definitions and suitably rationalised the text of the regulations.

7.3 HPSEBL has suggested that the definition for Infrastructure Development Charges (IDC) may be incorporated which shall be read with clause 3.2.2 of HP Electricity supply Code, 2009. The Commission feels that the term has been adequately elaborated in the Regulations and does not require separate definition.

8. Cost of Service Line (Regulation 4)

8.1 The objector(s) from the industry have stated that the service line expenses should be reasonable and should be approved on cost data basis. It has also been suggested by one of the objector(s) that the cost of terminal equipment at consumer end should be recovered fully from the Consumer.

8.2 The HPSEBL has commented that the service line forms the dedicated portion or joint dedicated portion for supply of power to the consumer for which 100% cost is to be borne by the applicant. Therefore, the average or normative rates for this service lines should not be framed and the rates shall be as per cost data approved by the Commission and the actual cost of the works for providing service line to the applicant. It has however been suggested that the normative rates on per km basis can be made applicable with the condition that in case the actual expenditure in providing the service line to the consumer is more than the normative rates, the actual cost shall be recovered.

8.3 During the course of State Advisory Committee meeting held on 28.02.2012, the Principal Secretary (Power) to GoHP suggested that the Commission should explore the possibility of recovering the cost of service lines upto certain specified length out of the normative infrastructural development charges.

8.4 Commission's view

The service line as well as the terminal equipment at consumer end, being a dedicated work has to be fully charged to the applicant. In order to bring more clarity, the relevant regulations have been modified suitably on this account. However the cost shall be determined on the basis of standard cost data as per the provisions made under Regulation 13. As regards the suggestion of the HPSEBL, the Commission shall like to point out that as per the draft regulations, it is optional for the distribution licensee to adopt the average or normative rates for recovery of cost of service line. As such, the distribution licensee can consider adopting such rates with the approval of the Commission at least for the categories which comprise large number of consumers, so as to reduce its workload. Such normative/average rates can be fixed categorywise and slabwise e.g. service lines upto 30m can be covered in one slab and so on. However, if the normative/average rates are got approved by the distribution licensee from the Commission for a particular category, it would not be entitled to charge the cost of service line on the basis of actuals, even if the length of service line exceeds the normative length of service line in some cases. Accordingly, the provision made in the draft Regulations shall be retained. However the Commission also decides to include an enabling provision under which the Commission may direct the licensee to recover the cost of Service Line at fixed rates on per km basis on the basis of standard cost data for certain categories.

- 8.5 The Commission has also considered the suggestions given by the Principal Secretary(Power) to GoHP as per para 8.3. Even though the Commission has not found it feasible to include the cost of service line in the IDC due to various variants and the position explained in para 8.4, it shall like to consider approving the slab/block-wise normative rates at least for the service lines having voltage levels of less than 11 kV if the distribution licensee submits a detailed proposal in pursuance to the enabling provisions in the Regulations. This shall take care of the view point expressed by the Principal Secretary (Power) to GoHP to some extent.

9. Determination of IDC (Regulation 5)

- 9.1 The objector(s) from industry have suggested that :-
- (i) In case of expenses for the Distribution System, other than service lines, the Commission may fix normative rates and consolidated charges.
 - (ii) The draft of the regulation does not talk of the extent of cost share to be borne by the consumers. Since any infrastructure created for supply of electricity remains to be the property of the Utility, at least 50% of the cost should be incurred by the Utility as capital cost.

- (iii) IDC should be fixed on per KVA basis only as in neighboring States of Punjab and Haryana etc. It has also been stated that the most important issue that needs to be addressed, is the cost to the consumer in absolute terms and the cost to the consumer should not be very high as compared to the neighboring States. It has been stressed that while fixing the cost share to be borne by the consumer, this factor must be taken into account. Presently, the cost share per kVA in other States is less than Rs.1000 per kVA. The rates being charged in Punjab, Haryana and Madhya Pradesh have also been quoted.
- (iv) the initial cost of getting an electricity connection should be at parity as compared to the neighboring States and only then the existing Industry will survive and new Industry will be attracted to the State. In the neighboring States the costs are much less than what are being demanded by HPSEBL and their regulations provide for recovery at rates fixed by the State Commissions.
- (v) the IDC should be limited to creation of infrastructure such as sub-station etc and not the transmission lines which carry current to the sub-stations. It has been mentioned that this may add to subjectivity and non uniformity on IDC from area to area.
- (vi) the cost share for cost of upstream infrastructure should be restricted to some level and must not go upto the level of generation. It has been suggested that the cost up to one level upstream only should be recovered from consumers e.g. if a consumer takes a supply at 11kV, then he should only be charged the cost share for the proportional cost of 66/11 sub-station, the 11 kV supply line up to his premises and the terminal equipment/bay on the one side i.e. the consumer side. Similarly, if a consumer seeks supply at 415V then he be charged cost share of distribution transformer and the line cost from distribution transformer to the premises of consumer and terminal equipment at consumer end. It has also been stated that as per the pattern in other States, the consumer pays line charges only from the feeding station to the consumer metering point.

9.2 Comments from HPSEBL

9.2.1 HPSEBL has commented on following lines:-

The Implementation of Regulation 5(A) to 5(F) requires series of calculations and even after the normative rates are approved by the Commission, the criteria to charge the amount is based on the personal judgement of the officer/official dealing the issue which may differ from person to person and area to area which itself defeat the purpose of rationalization of these charges. So,

the provisions need to be simplified so as to make it easy to implement by the field units with minimum personal interference.

- 9.2.2 the cost of land acquisition and other components of the Sub-Station for installation of transformer and bays have not been considered for framing the estimate of sub-station. The cost of land for one transformer, bays and other components of Sub-station which shall be utilized for installing Transformer and bays may also be included under sub-regulation 5(A) (i) which deals with Normative per kW or kVA rates for the connected load or contract demand.
- 9.2.3 the contract demand cannot be taken as basis for infrastructural development being a variable quantity which can be changed by the consumer twice during a year. In view of this, the per kVA rates should be calculated based on connected load with a power factor of 0.9 i.e. Total kVA of applicant = Connected load/0.9.

9.3 Commission's View

- 9.3.1 The draft regulations provide for fixing the normative rates based on certain principles enunciated therein. The quantification of the rates for such charges shall be done while approving the Schedule of Service Connection Charges. The said Schedule, when approved, shall depict the charges suitably. Such charges shall be applicable uniformly for the respective categories except for exceptional situations outlined in the Regulations. Moreover in view of the need for simplification, comments given by the HPSEBL as per item 9.2.1 and also the position explained in para 10, the Commission decides to delete the provisions under clauses B,C and D of Regulation 5 of the draft Regulations and to rearrange other provisions under this Regulation.
- 9.3.2 It has been suggested that at least 50% of the cost should be incurred by the Utility as capital cost. The scope of distribution system to be provided by the distribution licensee is obviously larger than the limited components being considered for being factored into for working out normative per kW/kVA works. It is also relevant to mention here that some capacity of the distribution system may remains idle, even after accounting for the redundancy, and as such, the recovery in respect of such capacity may get deferred. Moreover provision has also been made for further rationalisation of the rates so worked out on the basis of indicative parameters given in the regulations. The cost to be borne by the Utility for Infrastructural Development is therefore, on an overall long term average, likely to be more than 50% of the total cost of the Infrastructural works. The cost of exclusive works, including service lines, shall however have to be borne by the applicant seeking connection.

- 9.3.3 The industries Association has requested that the rates of IDC should be kept as low as possible and should be at par with or at least not very high as compared to those applicable in the neighboring States. The Commission is of the view that the rates of IDC should neither be too high to discourage the new consumers nor the same should be too low to unduly burden the existing consumers and the intention is to recover only a part of the total CAPEX PLAN for infrastructure works from the applicants under these Regulations. The remaining expenditure is to borne by the licensee under the CAPEX PLAN and claimed as pass through in the tariff under the relevant regulations. The Commission does not agree to the suggestion of Industrial Association to keep the rates at par with those prevailing in other States and shall fix the rates on reasonable basis duly taking into account the situation prevailing in the State of Himachal Pradesh. In this connection, the Commission would also like to point out that in other States, EHT works are normally being managed by the transmission licensees but in the State of Himachal Pradesh the EHT works required for distribution of electricity are also managed by the distribution licensee. As such the normative rates may need to be higher than those in other States. In order to facilitate careful balancing, the Commission decides to include an enabling provision in the regulations under which the Commission may rationalise the rates of IDC worked out as per the parameters indicated in the regulations, by applying suitable factors or ceiling etc. as the Commission may consider reasonable from time to time.
- 9.3.4 The objectors from Industry have requested that the proportionate cost of the feeding sub-station should be recovered but the cost of feeding line upstream of the feeding sub stations should not be included. On the other hand, the HPSEBL has pleaded that the cost of entire sub-station i.e. including the cost of land, control room and various common facilities should be included. Since the electric line upstream of feeding sub-station is also used for supply of electricity and also since the various components of the distribution system, other than service lines, may be used in varying proportions under various scenarios, the Commission decides to retain the provision for the cost of both the components but on a limited basis, including only certain normative lengths of the feeding line upstream of the sub-station. As regards the cost of sub-station, the cost of providing, erecting and commissioning the transformer with one bay on each side shall be considered but shall not include the cost of land, control room and common facilities even though HPSEBL have suggested inclusion of such components also. The Commission finds that even the existing regulations also provide for recovery of both the aforesaid components. For working out the per kW/kVA rates, the capacity of line and transformer shall be suitably increased to account for the diversity and demand factors etc. However, a suitable factor to account for the redundancy in the system shall also be used by the Commission while fixing the normative rates. The

Commission will however like to clarify that even if a lower redundancy factor is considered for this purpose, it shall in no way be construed to mean that redundancy is to be maintained by the licensee upto such level only. Accordingly, the balance costs on this account shall have to be met by the licensee under CAPEX PLAN. Further, the Commission also decides to include an enabling provision for further rationalisation of rate by applying suitable factors for ceiling of rates as discussed in a preceding paragraph. Moreover, the Commission has decided to further simplify the provisions by deleting the clauses B, C & D of regulation 5 of the draft Regulations. This shall not only simplify the provisions but shall also help in keeping the rates at a reasonable level.

- 9.3.5 The Commission does not find it appropriate to recover IDC on the basis of contract demand in cases where sanction is given for a particular contract demand keeping in view the fact that in such cases the licensee is obliged to supply electricity only to the extent of sanctioned contract demand. The existing regulations also provide for charging the proportionate cost on the basis of contract demand. Even the demand charges and security charges are being charged on the basis of contract demand. The Commission shall however like to clarify that intention here is to charge the Infrastructural Development Charges on the basis of total contract demand which is sanctioned initially at the time of release of connection and not on the contract demand to be availed by the consumer from time to time under the mechanism available to him for changing the same twice during the year. The sanctioned contract demand shall remain unchanged till such time the consumer gets the same changed after completing all the formalities applicable for a new connection. Moreover, even if the suggestion of the licensee is agreed, the per kVA rates shall have to be correspondingly reduced on a normative basis and the total recovery by the licensee, may remain at same level. Accordingly, the Commission may fix the normative rates in terms of per kW of connected load in case where single part tariff is applicable and in terms of per kVA of contract demand where two part tariff is applicable. In order to provide clarity a suitable provision has been made in the Regulations also.

10 Clause B, C,D of Regulation 5 of Draft Regulations

- 10.1 The clauses B, C and D of the regulation 5 of draft Regulations, contain provisions for charging additional IDC in cases where a new sub-station or a line is required to be set up for catering loads to a group of consumers in an area.
- 10.2 During the State Advisory Committee meeting held on 28.02.2012, the Principal Secretary (Power) to GoHP suggested that the regulations should be further simplified by deleting the provisions under clauses B and C of Regulation 5.

10.3.1 The objector(s) from industry have, in their general remarks, also stressed the need for simplification and have also suggested that wherever Commission suggests recovery of all charges from the consumers, the transformation capacity should be taken at 80% as against suggested 70%. Similarly redundancy factor should be 20% rather than at 30% as suggested in the system created.

10.4 Comments of HPSEBL

The HPSEBL has given its comments as under:-

- 10.4.1 provision may be added to regulations 5(C) of the draft to provide that the additional Kilometre of length of lines beyond the normative line length at various voltages shall in no case infringe the technical parameters such as voltage regulation, thermal limits of conductors, Impedance loading (SIL) etc. Also for the purpose of extension of lines, the normative lengths shall be taken from the feeding sub-station for the respective voltages;
- 10.4.2 in order to effect full recovery of the expenditure from the consumers, the per kVA cost shall also be worked out based on 30% redundancy in the system [i.e. 70% of total kVA is taken while calculating per kVA cost.
- 10.4.2 the provisions of Regulation 5(A) to 5(F) need to be simplified so as to make its implementation easier for the field units (as brought out in para 9.2.1 also).

10.5 Commission Views

- 10.5.1 All the stakeholders have in one way or other, stressed the need for further simplification of the Regulations. The Commission has reconsidered the provisions under clauses B, C and D of regulation 5 of the draft Regulations and decides to delete the same.
- 10.5.2 With the deletion of these provisions, the relevance of comments given by the HPSEBL as per para 10.4.1 shall get diluted. The Commission shall however like to mention here that it is for the licensee to ensure that the infringement of technical parameters does not take place and need based strengthening of the system is carried out on regular basis.
- 10.5.3 With the deletion of clause B, C and D of regulation 5, the issue regarding redundancy factor under these clauses also gets negated. The redundancy factor for the cases covered in clause E of Regulation 5 draft shall however be considered as 30%. As regards the redundancy factor under the clause A of regulation 5 of the draft Regulations, this is only an enabling provision and the Commission shall consider the same while fixing the normative rates. This shall,

however, not be construed to mean that adequate redundancy is not to be maintained if the Commission considers some lower redundancy factor(s) for the limited purpose of determining the normative rates.

11. Clause E of Regulation 5 of Draft Regulations

11.1 The HPPCL have suggested that construction power for hydro electric projects should also find mention in clause 5 (E) (i) as has been done for cement factories because project areas of hydro electric schemes are comparable with their location in remote areas.

11.2 The objector(s) from the industry have suggested that the time frame for refunds under clause (E) of Regulation 5 should not be limited to 5 years, while it should be till the system is workable because the amount has been paid in full.

11.3 Commission's Views

11.3.1 The Commission accepts the suggestion of the HPPCL for including the appropriate text in the regulations.

11.3.2 The Commission feels that the provision made in the draft regulations for limiting the period under clause-(E) of regulation 5 of draft Regulations for refund to the applicants who had originally borne the full cost, to 5 years is quite fair and reasonable, keeping in view the fact that the distribution licensee shall also have to incur O&M costs during the period in which such systems are not fully utilised.

12. Electrification of colonies and complexes etc. Regulation (6).

12.1 HPSEBL has commented that it does not have any comments in case of electrification of colonies and complexes etc., but in case of refund as per clause (E) of regulation 5 has stated as under:

"it has been seen that the builders etc. close the business after setting up the colony, in that case, the additional amount/refund cannot be made from the builder which will have to be shared by the individual connection holders. In such case the refund should be made to the licensee as the additional liability, if any, has also to be taken care by the licensee".

12.2 Commissions Views:

The Regulations provide for payment of entire cost of the infrastructural works by the builders in such cases. The refund, if any, permissible as per the provisions of the Regulations can, therefore, not be denied to them. As a matter of fact, all the provisions of said clause E should be applicable and the necessary charges have been made in the Regulations accordingly.

13. Recovery of Expenditure for additional loads (Regulation 7)

13.1 The Objector(s) from the industry have given suggestions on following lines:-

- (i) all recoveries should be made on new cost data only on the additional load and in the event of application for additional load, instead of wording it as a proportional rebate, the recovery of expenditure be charged only on incremental/additional demand. This will be simpler to understand and will leave no scope of mis-interpretation,
- (ii) in the cases, where a consumer has reduced its contract demand, no charges should be recovered from him if he increases his contract demand to earlier level as the charges up to that level had already been paid by the consumer in the past,
- (iii) in case the subsequent applicants from a existing sub-station which has already been paid by original applicants, the proposal for IDC submitted to the Commission should automatically contain the provision for refund by such subsequent applicants.

13.2 the HPSEBL has suggested that criteria for recovery of IDC should be based on connected load as commented under Regulation 5 also. It has also been suggested that the word “rebate” should be replaced with the word “adjustment” as in case of additional load, the infrastructure development charges and other charges are calculated afresh and is recovered after adjusting the amount already paid for existing load.

13.3 Commission’s view

13.3.1 For the sake of simplification, the Commission decides to reword the provisions under clause(1) of sub-regulation 7 and delete the word “rebate” and also to modify the next suitably.

13.3.2 As regards the suggestion at para 13.1(ii) above, the commission finds some merit in the suggestions and decides to introduce a separate sub-regulation under Regulation 7 to read as under :

“(2) In case of reduction of the connected load or contract demand, by a consumer.-

- (i) the licensee shall maintain adequate spare capacity in the service line for a period of 365 days reckoned from the date of such reduction, so as to meet the load if the said consumer subsequently applies for restoration of his

connected load or contract demand so reduced, during the said period of 365 days;

- (ii) the infrastructural development charges leviable under sub-clause (i) of clause (b) of sub-regulation (1) shall be charged only for the additional quantum of connected load or contract demand, exceeding the total quantum which was being availed by him prior to such reduction, if the said consumer subsequently applies for restoration of the connected load or contract demand so reduced, during the said period of 365 days;”

13.3.3 The Commission has also considered the suggestion given by the objector(s) from industry as per para 13.1(iii) and finds that the same shall not be relevant in cases where rates of IDC are to be fixed on normative basis only. However, in cases falling under clause E of regulation 5 of draft Regulations, the details of payment by original applicants shall be accounted for as per the provisions made in the Regulations. As such, no modification is required on this account.

13.3.4 As already explained in para 9.3.5 also, the Commission does not find it appropriate to recover IDC on the basis of connected load in cases where the supply is restricted to the contract demand sanctioned in favour of the applicant/consumers.

13.3.5 The recovery to be made under various situations has been spelt out in the Regulations.

14. **Temporary Supplies (Regulation 8)**

14.1 the HPSEBL has suggested that the methodology for giving credit of the dismantled works after disconnection of supply needs to be evolved which shall be applicable uniformly. It has further been stated that in case the consumer discontinues the supply but the works have not been dismantled and are also not to be used by licensee, no credit is to be given. The 2nd and 3rd proviso of Regulation 8 have been proposed to be deleted.

14.2 **Commission’s View**

14.2.1 The cost of the dismantled works may need to be ascertained after taking into account the condition of the dismantled material and as such it may not be expedient to provide a hard and fast procedure for determining the same, particularly when the works required for temporary supply could be of different nature and types. However, the Commission may consider the matter separately if a detailed proposal is submitted by the objector.

14.2.2 As regards the non-dismantlement of works, the Commission can not envisage the situation in the Regulations under which the temporary works, as are not to be used by the licensee, are not dismantled. The temporary works which are not required by anyone should be dismantled. As such the proviso 2nd and 3rd to Regulation 8, which are sought to be deleted have been retained in order to safeguard the interest of the consumers in such cases.

15. **Restoration of supply after permanent disconnection (Regulation 10)**

15.1 During the course of meeting of State Advisory Committee held on 28.02.2012, the Principal Secretary(Power) to HP Govt. has suggested that the Commission may consider deletion of the provision for any rebate in IDC for restoration of supply

15.2 the HPSEBL has stated that in case of destruction of work by natural calamities or by mischievous elements the amount has to be borne by the applicant in accordance with the draft Regulations. It has been suggested that provision for such eventuality be made.

15.3 **Commission's View**

15.3.1 The Commission feels that in cases where the electricity connection is sought at the same premises and for a similar load within a certain time limit after permanent disconnection of earlier connection, it may not be fair to charge full amount. The Commission rather feels that the initial period of 30 days allowed for availing 90% reduction under this regulation is too short and decides to increase it to 60 days. The Commission has accordingly retained the provision made in the draft regulations with suitable modifications.

15.3.2 As regards the suggestion of the HPSEBL, the Commission would like to point out that the exemption from recovery of the cost of service line is available to the new applicant subject to certain conditions, including the good condition of the service line. Similarly the reduction in infrastructural development charges shall be available upto a maximum period of about 20 months. The Commission shall, however, also like to mention here that the service line as well as infrastructural works forming part of the distribution system have otherwise to be maintained by the distribution licensee and losses of this nature have primarily to be borne by the licensee. In view of above, the suggestion of the HPSEBL has not been accepted.

16. Rate of Departmental charges (Regulation 12 and 17)

16.1 The objectors from industry have basically stressed that the rates of departmental charges (11% and 7%) are on higher side and need to be reduced drastically. Mainly, the following points have been brought out in support of their claim:-

- (a) the departmental charges at 11% are very high and unreasonable. Under the present scenario when the works are out sourced by the utility on turnkey basis, the applicability of such high departmental charges does not justify. The departmental charges in such cases must be nominal and must be in the range of 1.2% subject to a maximum of Rs.1 lac.
- (b) the regulation does not cover provision where the existing or prospective consumer comes forward for getting the execution of works pertaining to service lines and other works on turn-key basis which includes design, engineering, supply of material, erection/installation, testing and commissioning. The consumer incurs all expenditure from beginning to end for material, labour, supervision, etc. The turnkey project is given to world famous vendors in the power sector who are expert in all activities.
- (c) para (iii) of this regulation 17 stipulates that the consumer/ applicant shall be liable to pay departmental charges @ 7% on the estimated cost for the specific works. When the works are got executed on turn-key basis then no estimate is/should be framed by the utility. Accordingly levy of departmental charges is not applicable.
- (d) none of the charges, except design charges, forming part of the departmental charges as per the explanation under Regulation 12 of draft regulation are applicable when the work is got executed on turn-key basis. The consumer is ready to pay the nominal charges for the design part. The Utility persons spend only few hours and maximum 1-2 days for verifying and approval of drawings submitted by the applicant getting the work on turn-key basis. Nominal charges, say Rs. 1 Lac may be charged, for approval of drawings to cover the cost of man-hours spent.
- (e) the charges towards inspection and testing of the installation after the completion of turn-key project activities are payable by the consumer as per Schedule of General & Service Charges Rules approved by the Commission.
- (f) the Commission should approve reasonable charges for approval of drawings and not on the percentage basis of estimated cost of material for the turn-key works.

- (g) sometimes for some reasons beyond the reasonable control, the consumer has no other option than to go for other alternate option where he has to incur huge expenditure. In such cases levy of 7% departmental charges on estimated cost is not justified. For example, on account of problems relating to right of way for EHT overhead conductor line on towers, the consumer has to adopt the costly option of getting EHT supply through underground cables. Transmission network on overhead system costs about Rs. 50 Lacs per kilometer length whereas the underground cable system cost about Rs. 200 Lacs. Both the systems serve the same technical purpose of transmitting power from one end to the other. In such cases the entire job of laying, testing commissioning (and supply) of cable is executed by the vendor to whom turn-key project is awarded by the consumer under the supervision of persons holding certificate of competence. The Utility /HPSEBL has nothing to do with the supervision. Hence departmental charges should not be levied.
- (h) M/S Vardhman Textiles Ltd., have narrated their individual case and have stated that they are getting the work executed on turnkey basis under which they are supplying material and also providing labour for erection, testing and commissioning of various activities under turnkey projects. Moreover design as well as engineering is covered in the scope. They have suggested that the Commission may fix only nominal fixed charges for approval of drawings, design etc. to cover the cost of man hours spent for the purpose. In support of their claim, they have maintained that PSTCL charges ₹75,000 per km of cable length and MPERC charge 5% of the estimated cost of the work. They have also stressed the points covered in the preceding paragraphs, particularly there is para (g) above.
- 16.2 HPSEBL has confirmed that it does not have any comment on the Regulation 12 which provides for levy of Department charges @11%. During the meeting of State Advisory Committee held on 28.2.2012, it was however stated by the HPSEBL officers that the proposed departmental charges are on lower side. It has however been suggested that the rate of departmental charges under draft regulation 17(iii) should be fixed as 9% instead of 7% as 2% HO prorata share shall be applicable in such cases also. In this connection it has been mentioned that the bifurcation for 11% departmental charges as per the existing practice includes establishment charges (7%), T&P charges (0.5%), audit & accounts charges (0.25%), maintenance during construction (0.50%), Loss of stock(0.25%), Design charges(0.50%) and HO prorata share (2%).
- 16.3 During the course of discussion in SAC meeting on 28.2.2012, the Principal Secretary (Power) GoHP supported the provision

made in draft regulation for levy of the departmental charges at a lower rate in cases where the service lines are executed by the applicants.

16.4 Commission's Views

16.4.1 The departmental charges were fixed at a level of 11% in 2005. The suggestion to levy departmental charges @ 1-2% subject to maximum of Rs.1.00 lacs is totally out of the mark and the Commission does not find the same to acceptable. The Commission shall prefer to continue with the existing rate of 11%. Moreover, this rate shall mainly be applicable for the exclusive works and in case of any reduction in the rate, the burden shall have to be passed on to all the consumers through tariff. So far as the impact of this rate on the normative rates to be fixed by the Commission, it is felt that even if there is any extra impact, the same may get nullified/rationalised in view of the provision now being made in the Regulations for rationalising the rates by imposing certain appropriate ceilings.

16.4.2 The draft regulations do provide for a lower rate of departmental Charges in case where the applicant gets the service line executed through an electrical contractor licensed by Electrical Inspector. The suggestions received from the Industries and the HPSEBL about the levy of departmental charges @ 7% of the estimate cost of works in such cases are at large variance from each other. Whereas the industries want that no departmental charges should be levied in such cases where the works are got executed on turnkey basis or atleast the same should be reduced drastically from the proposed rate of 7%, the HPSEBL wants the same to be increased to 9%. The objectors from industry have proposed levy of such charges @ Rs.1.00 lac or so. The Commission feels that the distribution licensee needs to effectively supervise all such works which are to ultimately form a part of the distribution system and cannot ignore the same simply because it is also covered in the scope of turnkey projects. Similarly audit & account charges, design charges, HO pro-rata share shall also be applicable in such cases. As such, the suggestion that only nominal charges, say Rs. 1.00 lac, be charged for approval of the drawings to cover the cost of man hours spent is not acceptable. The suggestion given by the HPSEBL to increase such charges from the proposed level of 7% to 9% is also not supported by any justification, keeping in view the fact that in such cases there shall definitely be some saving in establishment charges also. The Commission, after considering the view point of the both sides and the segregation given by the HPSEBL, decides to fix the Departmental charges @ 6.25% by deleting the T&P charges (0.5%), maintenance during construction (0.5%) and losses on stock (0.25%) and reducing the establishment charges by 50%. The Commission,

however, does not intend to fix different rates of departmental charges for different types of works (i.e. underground or overhead etc.) and the proposed rates shall be deemed as average rates which shall be applicable uniformly for all types of works.

- 16.4.3 The draft Regulations provide that the applicant shall be liable to pay the departmental charges @ 7% on the estimated cost for the specific works or on the amount worked out at average rates, if approved by the Commission under regulation 4 of these Regulations, whichever is higher. Somewhat similar provision, after including some more clarity, shall be retained. No distinction can however be made between the works which are got executed by the applicant on turnkey basis or through any other made.
- 16.4.4 The plea that departmental charges for such cases are covered by inspection and testing charges and service charges is also not acceptable as such inspection and testing charges are for the consumer installation which shall not form a part of the distribution system.
- 16.4.5 The Commission shall not like to comment on the individual case quoted by one of the objectors as the matter under consideration relates to finalization of the Regulations and not to sort out individual cases.

17. Annual Submission of Cost Data and schedule of Service connection charges (Regulation 13 and 14)

- 17.1 An objector from industry has, while stating that Regulation 13 of the draft regulations provide for annual submission of cost data and Schedule of Service Connection Charges, suggested that there is no need to fix the frequency for revision of the charges under these regulations on annual basis and has suggested that the Commission may consider substituting the same 'whenever necessary' or as and when required but not earlier than one year since the last revision.
- 17.2 The HPSEBL has requested for a time of 2 months instead of one month proposed in the Regulation 14 of the Draft Regulation for filing the Schedule of Connection Charges for approval of the Commission.

Commission's View

- 17.3.1 The Commission would prefer to retain provision for annual review. However if there are no material increases, it can consider keeping the rates unchanged on year to year basis after examining the matter in detail. As such, no changes have been made in this regard.

17.3.2 The Commission accepts the suggestions of the HPSEBL and allows a time of sixty days for the purpose.

17.3.3 The provision regarding finalization and publication of the standard cost data and also for uploading the standard cost data on the website has been rationalized.

18. Execution of works, other than service line, by the applicant (Regulation 17)

18.1 During the course of meeting of State Advisory Committee held on 28.2.2012, the Principal Secretary(Power), HP Govt. suggested that applicant should not be required to obtain approval of the HPSEBL in such cases.

18.2 The Objector(s) from industry have suggested that all works (EHV bays) should be covered under turn-key permission in view of clause (iv) of Regulation 17 which is for service line only.

18.3 Commission's View

18.3.1 The Commission has considered the view point expressed by the Principal Secretary(Power) to GoHP and feels that whereas the approval of the HPSEBL may be required particularly from co-ordination point of view, but such a permission should ordinarily not be refused. The relevant provision has been modified on these lines. The Commission however also expects that the licensee shall delegate the powers in this regard so that such permissions are accorded quickly.

18.3.2 The Commission feels that the execution of works by the applicant (or his contractor) at the sub-station of the HPSEBL could lead to certain safety/co-ordination problems in some cases and as such the Commission would not like to specify the same at par with the service line in the regulations. However, an enabling provision already exists in the clause (v) of the regulation 17 of draft Regulations which implies that such works can also be got executed by the applicant on mutually agreed terms and conditions. As such the relevant provision of in the draft regulations has not been modified on this account.

19. Manner of payment

19.1 The objector(s) from industry has suggested that regulation should be framed for giving relief to the Consumers by charging in installments.

19.2 Commission's view:

The release of connection involves expenses of capital nature and as such, the Commission does not find it feasible to allow any further relief to the consumers by making any changes in the draft regulations in this regard.

20. Power to remove Difficulties (Regulation 22)

M/S BBN Industries has suggested that the Commission must retain the powers under regulation as at 16(1) of the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 to remove difficulties. In this connection it is pointed out that such a provision already exists in the Regulation 22 of the draft regulations and has been retained in the final regulations also.

21. Miscellaneous

Apart from the issues specially discussed in the proceeding paras of this order, the Commission has further simplified/rationalized/rearranged the text of the draft Regulations wherever felt necessary.

In light of above, the Commission, after considering all objections and suggestions with respect to the proposed regulations, which have been received by it, orders the formulation and publication of the said regulations, in the modified form.

Chairman