

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION, SHIMLA

IN THE MATTER OF:-

The Himachal Pradesh Electricity Supply Code (Fifth Amendment) Regulations, 2021.

**CORAM: Hon'ble Sh. Devendra Kumar Sharma, Chairman
Hon'ble Sh. Bhanu Pratap Singh, Member
Hon'ble Sh. Yashwant Singh Chogal, Member(Law)**

Decided on: 06 . 01.2022

ORDER

The Himachal Pradesh Electricity Regulatory Commission (hereinafter referred to as "the Commission") published the Himachal Pradesh Electricity Supply Code, 2009 in the Rajpatra, Himachal Pradesh on 29th May, 2009. The same was subsequently amended on 11.06.2014, 31.07.2018, 03.12.2018 and 03.07.2020. The aforesaid Code has hereinafter been jointly referred to as "the said Code".

2. The Ministry of Power, Government of India has notified the Electricity (Rights of Consumers) Rules, 2020 (hereinafter referred to as "the Electricity Rules, 2020") and published the same in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i) dated 31.12.2020 which necessitate certain modifications in the existing provisions of the said Code.
3. The Commission finds it appropriate to incorporate the provisions of the Himachal Pradesh Electricity Regulatory Commission (Licensee's Duty for Supply of Electricity on Request) Regulations, 2004 in the said Code and consequently repeal these Regulations of 2004.
4. The Commission, in order to align the said Code with the Electricity Rules, 2020, proposed to amend certain provisions of the said Code and published the draft Regulations in accordance with sub-section (3) of the section 181 of the Act, invited public objections /suggestions by way of insertions in three News papers i.e. "The Tribune", "Amar Ujala" and "Apka Faisla" on 28.10.2021 under Rule (3) of Electricity (Procedure of Previous Publication)

Rules, 2005. The full text of the draft amendment Regulations was also made available on the Commission's website: www.hperc.org.

5. The Commission, vide its letter dated 30.10.2021, also requested the major stakeholders, including Industries Associations, Hoteliers Association, Department of MPP & Power, Government of Himachal Pradesh, Department of Urban Development, Government of Himachal Pradesh, Directorate of Energy, Himachal Pradesh Power Transmission Corporation Limited, Consumer Representative and Distribution Licensee to send their suggestions/objections as per the aforesaid public notice.
6. The Commission received suggestions/objections on the draft amendment Regulations from the following stakeholders:-
 - a. The Himachal Pradesh State Electricity Board Limited (HPSEBL) through Er. Ram Prakash, Chief Engineer (Commercial) .
 - b. Sh. Rakesh Bansal, Technical and Legal consultant in electricity matters, Parwanoo, H.P.
 - c. Sh. Ramesh Chauhan, Consumer's Representative vide email dated 7th December, 2021.
7. The Public hearing in the said matter was conducted on 03.12.2021 in the Commission. The list of participants who attended the public hearing is annexed as **Annexure-"A"**.
8. **Objections/suggestions and issues raised during the public hearing.-**

In the public hearing, only HPSEBL participated and Er. Anup Ram, Superintending Engineer (Commercial) reiterated the written submission made by the HPSEBL.
9. **Consideration of written submissions and viewpoints expressed during the public hearing by the stakeholder i.e. HPSEBL and Commission's views.-**

After having gone through all the written submissions and viewpoints expressed by HPSEBL at the public hearing, the Commission, now, proceeds to consider the various suggestions/comments received from the

stakeholders, which have been considered to be relevant to the amendments proposed in the draft amendment Regulations, and finalize its views on the subject, as follows.-

(A) Amendment of para 1.2 of ‘CHAPTER-I’ of the said Code.-

No comments have been received on this proposal except relating to “shifting of connection”. The provision for shifting of connections has been dealt in a subsequent paragraph of this order. Accordingly, the Commission decides to retain the text of the proposal by substituting the words “shifting of connection” with the words “shifting of connection, if permissible”.

(B) Amendment of CHAPTER-II of the said Code i.e. ‘SYSTEM OF SUPPLY, CONDITIONS OF SUPPLY AND CLASSIFICATION OF CONSUMERS’.-

No comments have been received on the proposal. As such, the Commission decides to retain the proposed provisions in the final Regulations without any change.

(C) Amendment of CHAPTER-III of the said Code i.e. ‘MATTERS RELATED TO SUPPLY OF ELECTRICITY’.-

(i) Amendment of sub-para 3.1.2.1.-

Comments:-

(1) The HPSEBL has submitted that the proposed amendment exempts the condition of release of electric connection for single part tariff consumers from production of No Objection Certificate as per Town and Country Planning Act, 1977. This issue requires consultation with the concerned department besides taking cognizance of other legal intricacy arising there from.

(2) Sh. Ramesh Chauhan, Consumer Representative submitted that in view of third amendment in supply code issued vide notification dated 03/12/2018 published in HP Gazette on 05/12/2018, the requirement of No Objection Certificate from Town and Country Planning/Municipal Corporation/Notified Area Committee etc. have been removed for release of connection. As per him, the view put forth

by the Commission in this regard is not in line with the amendment already made in Clause 3.1.2.1 of the Himachal Pradesh Electricity Supply Code, 2009. Further he has submitted that the Electricity Act, 2003 nowhere mandates the distribution licensee to seek such No Objection Certificate(s) from any other statutory authorities. Each of the authority under the statute have distinct defined functions and such functions cannot be exercised by other authority. That was the only reason because of which the amendment in clause 3.1.2.1. of Himachal Pradesh Electricity Supply Code, 2009 was brought in. The Distribution Licensees are now commercial organization and works on commercial principals under Regulated regime. It is not the duty of the Distribution Licensee to enforce the provisions of Town and Country Planning or Municipal Corporation Act and they have only to see that the ownership is genuine and the consumer satisfies the codal requirements under Electricity Act 2003. Even the requirement of other No Objection Certificate(s) like Pollution Control and Fire safety requirement has been removed as required document list under 'Ease of Doing Business'. Hence making provision of requirement of No Objection Certificate from Town and Country Planning runs counter to the third amendment in Himachal Pradesh Electricity Supply Code, 2009. Further, there is only one provision in the Town and Country Planning Act, 1997 in exercise of which the Town and Country Planning authorities can issue directions for disconnection of supply to the particular premises after duly notifying the reasons for such disconnection, that eventuality has already been taken care of in the third amendment of the Himachal Pradesh Electricity Supply Code 2009 under Clause No. 3.1.2.1. Hence putting any such condition without the mandate of law aimed at depriving the prospective consumers from availing electricity connections considered as essential services would be injustice to such consumer. Further, the Electricity Act, 2003 is Central Act and shall prevail over the provisions of the Himachal Pradesh Town and Country

Planning Act, 1977. The provisions under Regulations made by the Himachal Pradesh Electricity Regulatory Commission under powers conferred vide Section 181 of Electricity Act, 2003 shall prevail over the provisions of Himachal Pradesh Town and Country Planning Act, 1977. The mention of requirement of No Objection Certificate demanded under Himachal Pradesh Town and Country Planning Act by the review panel is contrary to the settled position of law.

Commission's View :-

The draft amendment does not envisage any significant change in the provisions for release of connections for supply under two part tariff. In case of connection under single part tariff, the conditions have been suitably relaxed in line with the provisions of Electricity Rules, 2020 made by the Central Govt. The draft amendment was published in Rajpatra of Himachal Pradesh on 25.10.2021 apart from the publicity through public notice and intimation about the same was also sent to the various stakeholders including Department of Urban Development, Government of Himachal Pradesh vide letter no. HPERC-438-Supply Code-Vol-VII-2004-2018 dated 30.10.2021. Moreover, the intimation regarding public hearing to be held on 03.12.2021 was also sent to them vide letter no. HPERC-438-Supply Code-Vol-VII-2307-21 dated 22.11.2021. Neither any comments were received from the Department of Urban Development nor did anyone participate in the public hearing from that department. Since the Regulations have to be consistent with the Rules prescribed by the Central Govt. under the Electricity Act, 2003, the Commission decides to retain the provisions of the draft Regulations without any change.

(ii) Amendment of sub-para 3.1.2.2.-

Comments :-

Sh. Rakesh Bansal has suggested that in the first proviso to sub-para (3.1.2.2), the word "prevailing practice" be replaced by "prevailing rules and Regulations"

Commission's View:-

The Commission finds that in the context of the provisions under consideration, it would be appropriate to retain the words "prevailing practice". As such the Commission decides to retain the provision of the draft Regulations in the final Regulations without any change.

(iii) Amendment of sub-para 3.1.2.3.-**Comments :-**

Sh. Rakesh Bansal has suggested that in sub-para (3.1.2.3), for the words "where an applicant", the words and sign "where an applicant, covered under two part tariff," shall be substituted. The word 'where' is required to be retained.

Commission's View:-

The Commission agrees to retain the word "where" also in the final Regulations.

(iv) Insertion of sub-para 3.1.2.4.-**Comments :-**

The HPSEBL has submitted that in clause (a) of sub-para (3.1.2.4), the provision of "shifting of premises" has been newly introduced. So far as the shifting of meter and service line is concerned, the same is applicable for the same premises as per provision of sub-para 3.5.6. However, the scope of shifting of premises is not defined anywhere which may either be defined or removed from the sub-para, since, in Himachal Pradesh the shifting of Premises (eg. building) is very difficult.

Commission's View:-

Keeping in view the hardships experienced by the general public in getting the connection at the new premises constructed by them after abandoning the connection at the old premises, the Commission decides to insert the following provisos in sub-para (3.5.4), namely :-

"Provided that the distribution licensee may in case of domestic

consumers also entertain the applications for shifting of service connection to other premises subject to the fulfillment of following conditions, namely :-

- (a) the new premise to which the connection is to be shifted is owned by the same person in whose name the original connection has been provided;
- (b) the connected load of the connection at the new premise shall not exceed the load as sanctioned for original connection. The test report shall however, in any case, has to be provided;
- (c) the Applicant also submits a new agreement form for the new connection;
- (d) the new premise is to be fed from the same LT feeder and from the same Distribution Transformer under the same sub-division/section from which the original connection is being fed;
- (e) the applicant has cleared all the dues billed to him in respect of the connection at the old premise and also agrees to pay the arrears, if any, pertaining to the connection at the old premise for the period upto the date of shifting of the connection;
- (f) the original connection has been sanctioned for domestic supply and the same at the new premise is also required for domestic purpose only;
- (g) the applicant agrees to pay, in addition to security deposit and IDC etc., the cost of service line as well as cost of shifting of connection for which the licensee shall provide the estimate to the applicant;
- (h) the length of service line at the new premise does not exceed 30 mtrs;
- (i) the applicant agrees to arrange / provide the Right of Way;
- (j) the applicant agrees to update the security amount to that worked out as per the prevailing rates (i.e. after adjustment of the security already deposited); and
- (k) the applicant agrees for disconnection of supply at the original

premise at the time of shifting.”

Consequently, for the proposed sub-para (3.5.6), the following shall be substituted, namely :-

“3.5.6 Where the applicant requests for shifting of a meter and/or service connection for feeding the same premise, or in case of domestic consumers for feeding the other premises subject to the fulfillment of conditions as per the proviso to sub-para (3.5.4), or for diversion of existing lines and has, if required under sub-para (3.5.5) or any other provisions of this Code or any other Regulations, deposited the charges/cost thereof, as the case may be, the licensee shall adhere to the timelines specified in the Himachal Pradesh Electricity Regulatory Commission (Distribution Performance Standards) Regulations, 2010.”

No comments have been received in respect of the remaining sub-paras of para 3.1 and other paras 3.3, 3.4, 3.5, 3.6 and 3.8 of the draft Regulations. As such, the Commission decides to retain these provisions in the final Regulations without any change.

(D) Amendment of CHAPTER-IV of the said Code i.e. ‘METER & METERING EQUIPMENT’.-

(i) Amendments of para 4.4.-

Comments:-

The HPSEBL has submitted that-

- (a) in the draft amendment it has been proposed in clause (a) and clause (c) of sub-para (4.4.3) that in case of testing of meter, removed from the consumer premises for the purpose of testing in the licensee’s laboratory, the consumer would be informed, through email or SMS or any other electronic mode, of the date and time to be present at the site for testing, at least seven days in advance.

In this regard, the HPSEBL has suggested that the words “site for testing” may be replaced with the words “at location of licensee’s laboratory for testing”.

- (b) in clause (b) of proposed sub-para (4.4.5), it has been proposed that the

necessary charges shall be recovered from the consumers as specified in the schedule to the Himachal Pradesh Electricity Regulatory Commission (Distribution Performance Standards) Regulations, 2010, whereas, no such charges are specified in the said Regulation. In view of this, the provision needs to be suitably amended.

Commission's View:-

- (a) Since the term “at the site for testing” shall include the location of the Licensee’ laboratory also, the Commission decides to retain the provision of the draft amendment without any change.
- (b) The Commission agrees with the suggestion of HPSEBL and decides to modify the proposed provision of clause (b) of sub-para (4.4.5) as under below :-

“(b) if, after investigation, it is found that the meter has become defective or burnt or stolen due to causes attributable to the consumer, the estimated cost of new meter, alongwith the cost of replacing the same, shall be recovered from the consumer;”

No comments have been received in respect of the remaining sub-paras of para 4.4 of draft Regulations. As such, the Commission decides to retain these provisions in the final Regulations without any change.

(E) Amendment of CHAPTER-V of the said Code i.e.‘BILLING’.-

(i) Amendment of para 5.2.-

Comments:-

- (a) Sh. Rakesh Bansal has suggested that the word ‘consecutives’ appearing in the proviso to sub-para (5.2.1) should be replaced with the word ‘consecutive’.
- (b) The HPSEBL has submitted that the provision proposed in sub-para (5.2.10), relating to bill payment on self-assessment basis, is already covered in the sub-para 5.2.1.2 as well as in sub-para 5.7.1 of the said Code for non disconnection of the electricity connection in case the consumer has paid the energy charges on self-assessment basis as per the method given therein. The HPSEBL has also submitted that the

HPSEBL has already provided the facility of self bill generation under Trust Based Billing for single part tariff consumers. In this regard, the HPSEBL has suggested that this proposed provision may be suitably amended.

- (c) Sh. Rakesh Bansal has further suggested re-numbering of the existing sub-para (5.2.13) of the said Code with sub-para (5.2.12), as the Commission has proposed to omit the sub-para (5.2.12).

Commission's View :-

- (a) The Commission accepts the suggestion of Sh. Rakesh Bansal and decides to substitute the word "consecutives" with the word "consecutive".
- (b) The sub-para (5.2.10) relates to the situations where the consumer does not receive the bill. The sub-paras (5.2.1.2) and (5.7.1), refer to by the HPSEBL, do not cover these situations. As such, the Commission decides to retain the provision proposed in the draft Regulations.
- (c) In order to avoid any mismatch of the references in the other parts of the said Code, the Commission decides not to renumber the paragraphs as proposed. However, for the sub-para (5.2.12), the sign "xxxx" shall be substituted.

(ii) Amendment of para 5.3.-

The HPSEBL has submitted that as discussed in the Supply Code Review Committee meeting as well as in line with the Electricity (Rights of Consumers) Rules, 2020, it is mandatory to make payments amounting to more than Rs. 5000/- (as was decided) through online mode i.e. through net-banking, credit card, debit card, NEFT, RTGS, IMPS etc. whereas, in the proposed sub-para (5.3.5.1), the facility of local cheque, has been allowed which may be deleted.

Commissions' View:-

Taking into account the comments of HPSEBL, the Commission decides to

restrict the facility of payment through local cheques for the domestic consumers only.

(iii) Amendment of para 5.4.-

Comments:-

(1) Sh. Rakesh Bansal has suggested to renumber the sub-para (5.4.1) in para 5.4, as the sub-para (5.4.1) does not exist in the said Code.

(2) On the other hand, the HPSEBL has suggested for modifying the first and second provisos to sub-para (5.4.1) in the following manner:-

(a) In relation to the first proviso, it has been mentioned that the billing of consumer is done with zero meter reading and the charges deposited by the consumer shall be adjusted continuously till the deposit is exhausted. This provision is required to be made in order to update the reading dates in the system so that the first bill after exhausting the advance deposit amount or intimation by the consumer about return the premises whichever is earlier is generated accordingly, otherwise the slabs shall be automatically applied for the duration of absence. In view of above, the following amendment has been proposed in the first proviso:-

“The words “or provisional bill to such consumer” may be deleted and at the end the words “However, the bills as per billing cycle shall be issued for zero meter reading till the amount deposited is exhausted or intimation by the consumer about return the premises whichever is earlier” may be added.

(b) In relation to second proviso, the HPSEBL has proposed to substitute the provision made in the draft Regulations with the following, namely :-

“Provided further that receipt of deposit of fixed charged shall be treated as acknowledgment, to such consumer who has given the prior information about his absence and no separate acknowledgement shall be issued.”

Commission’s View :-

(1) The Commission agrees to the suggestion of Sh. Rakesh Bansal and

decides to renumber the sub-paras accordingly.

(2)

- (a) In view of the fact that the said Code already contain a provision for advance payment and reflecting the adjustment of such advance payment in the bills, the Commission decides to retain the provision of the first proviso as per the draft Regulations by substituting the words “the licensee shall not send any notice or provisional bill to such consumer, if he pays the fixed charges for such period in advance and his supply line shall not be disconnected” with the words “the licensee shall not send, during the period for which the fixed charges (apart from his current dues) have been paid in advance by such consumer, any notice of disconnection for non payment of dues”
- (b) In regard to the second proviso, the Commission agrees, in principle, to the suggestion of HPSEBL and decides to substitute the same as follows, namely:-

“Provided that the licensee shall consider the receipt issued by it for the advance payment of fixed charges by the consumer, as the acknowledgement for the receipt of such intimation from the consumer in respect of the period for which the fixed charges have been received in addition to the current dues, if any.”

- (3) No comments have been received in respect of the remaining sub-paras of para 5.2, 5.3 and 5.4 and sub-para (5.7.5) of draft Regulations. As such, the Commission decides to retain these provisions in the final Regulations without any change.

(F) Amendment of CHAPTER-VII of the said Code i.e. ‘DISCONNECTION AND RE-CONNECTION OF POWER SUPPLY’.

Amendments of paras 7.1 and 7.2.-

No comments have been received on the proposals. As such, the Commission decides to retain these provisions in the final Regulations without any change.

**(G) Amendment of ‘CHAPTER-IX of the said Code i.e. ‘MISCELLANEOUS’.-
Insertion of new para “9.8 Repeal and Savings”.-**

No comments have been received on the proposal. As such, the Commission decides to retain this provision in the final Regulations without any change.

The Commission, after concluding its views on the objections and suggestions received on the draft Regulations and the deliberations in the public hearing conducted thereon, decides to finalize the Himachal Pradesh Electricity Supply Code (Fifth Amendment) Regulations, 2021 by incorporating the changes on the above lines and other minor clarificatory changes as considered necessary.

Sd-/
(Yashwant Singh Chogal)
Member (Law)

Sd-/
(Bhanu Pratap Singh)
Member

Sd-/
(Devendra Kumar Sharma)
Chairman

Annexure-A

Name	Designation	Organization
Er. Anup Ram	Superintending Engineer (Commercial)	HPSEBL
Er. Sandeep Sharma	Sr. Executive Engineer (Commercial)	HPSEBL

