

**BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY
COMMISSION SHIMLA**

CORAM

DEVENDRA KUMAR SHARMA
CHAIRMAN

YASHWANT SINGH CHOGAL
MEMBER (Law)

SHASHI KANT JOSHI
MEMBER

In the matter of:

The Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2024.

ORDER

Section 181 of the Electricity Act, 2003 (Act No. 36 of 2003) (hereinafter referred to as the “Act”) confers powers on the State Electricity Regulatory Commissions to make Regulations for carrying out the provisions of the Act and in exercise of the powers conferred under clause (g), (zg) and (zl) of sub-section (2) of section 181 read with clause (g) of sub-section (1) of section 86 and sub-section (1) of section 92 of the Act and all other powers enabling it in this behalf, the Himachal Pradesh Electricity Regulatory Commission (hereinafter referred to as “the Commission”), vide Notification No. HPERC/Secy/151/2004 dated 1st January, 2005, has framed the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 (hereinafter referred to as “the CBR, 2005”).

2. Ever since, several developments have taken place and numerous changes have been made in the CBR, 2005 by way of several amendments till now. The Commission, therefore, considered it just and proper to revisit the CBR, 2005 and to align the same in the changed circumstances.

3. Therefore, in exercise of the powers vested in the Commission under section 181(3) of the Act, read with rule 3 of the Electricity (Procedure for Previous Publication) Rules, 2005, the draft Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2023 was published in the Rajpatra, Himachal Pradesh on 16th December, 2023 (at pages 10771 to 10839) vide Notification No. HPERC/151-Vol-III dated 14th December, 2023. A Public Notice in two daily newspapers having circulation in the State, for inviting objections and suggestions from the stakeholders by 16.01.2024 was also published. The draft Regulations alongwith explanatory Memorandum were also posted on Commission's website i.e. www.hperc.org. In response thereof, the Commission has not received any objections or suggestions on the aforesaid draft Regulations.

4. In the draft Regulations, as published, the Commission has proposed certain changes in Regulations 5,12,15,17,22,23,24,26,27,50-A, 58, 63 and 76. The Commission now proceed to analyse the proposed amendments one by one as under:-

5. In Regulation 5 of the CBR, 2005, the seal and emblem of the Commission are shown in circular shape using capital words in the outer and inner ring, whereas, in sub-regulation (2), the expression "H.P. Electricity Regulatory Commission" is inscribed in small words. Now, in order to remove this minor discrepancy, it is proposed to inscribe the expression "H.P. Electricity Regulatory Commission" in capital words i.e. "H.P. ELECTRICITY REGULATORY COMMISSION". Since no objections in this regard have been received, the Commission adopts the change without any modifications.

6. As a result of amendment of CBR, 2005, new Regulations 9A, 9B, 9C and 9D were inserted by way of 3rd Amendment dated 15th January, 2008. These amended provisions are required to be arranged in chronological order. Therefore, it is proposed to re-number these Regulations as Regulations 10, 11, 12 and 13 without any change in its provisions. The Commission is of the view that while referring to the provisions of 3rd Amendment, it will be convenient for the stakeholders to refer to provisions at one place. Therefore, the Commission considers it necessary to align the Conduct of Business Regulations in chronological order. Hence, the Commission accepts the proposed changes and accordingly the existing Regulations 9A, 9B, 9C, 9D, 10 and 11 are assigned Regulation numbers 10, 11, 12, 13, 14 and 15 respectively.

7. Consequent to the above changes, the Regulation 12 of the CBR, 2005 is being renumbered as Regulation 16. In the existing provisions of Regulation 12 (now re-numbered as Regulation 16), the Commission has proposed to make it mandatory for the Petitioner(s) to send the Petition in an electronic form. There was already a provision in the CBR, 2005 for sending the Petition in electronic form but neither the email address was provided in the Regulations nor it was mandatory. Though, in the proposed draft it was also provided that the Petition may be uploaded on the website of the Commission but there is no provision for uploading the papers by the parties on the website i.e. www.hperc.org, as the website is only for the internal use by the Commission for uploading any information. Further, with the advancement of technology, it is necessary that the record should be available in the electronic form which will not only save the time but also the space and will also provide an additional avenue to the Petitioner. Hence, it is provided in the interest of the parties

that the petitions shall also be sent through e-mail of the Commission i.e. secy-hperc@hp.gov.in in both word and pdf formats in addition to hard copies. The Commission therefore, accepts the amendment with the above modifications.

8. The existing Regulations 13 and 14 of the CBR, 2005 are being renumbered as Regulations 17 and 18 respectively without any material change in its provisions.

9. Existing Regulation 15 of the CBR, 2005 is being re-numbered as Regulation 19. Regulation 15 (now renumbered as Regulation 19) provides that all the Petitions shall be filed with ten copies complete in all respect. The Commission has introduced the technology in the office and has provided computer in each section. The data can easily be stored in the computers and, as such, the dependency on hard copies has been gradually reduced. Not only this, storage of record is also a problem due to space constraint. Therefore, sending of the soft copy of the Petitions has been made mandatory on e-mail of the Commission. Hence, in the interest of the parties, it was proposed to reduce the number of copies from ten to five. This will not only reduce the financial burden of the parties but also save their time. Further proviso to sub-regulation (6) provides that no petition shall be refused for defects in the pleadings or in the presentation without giving opportunity to rectify the defect within the time which may not exceed a period of three weeks. In the draft proposal this time limit of three weeks has been proposed to be reduced to two weeks to rectify the defects. The Commission is of the considered view that two weeks time limit, as proposed, is sufficient and reasonable for removal of defects, if any, pointed out by the Receiving Officer in the petition. Since no objections in this regard has been received, the Commission adopts the proposed amendments without any material modifications.

10. Existing Regulation 16 of the CBR, 2005 is being re-numbered as Regulation 20 without any change in its provisions.

11. Existing Regulation 17 of the CBR, 2005 is renumbered as Regulation 21. Regulation 17 (now re-numbered as Regulation 21) provides for filing of reply and objections etc. This Regulation provides that the parties shall file reply and objections etc. with ten copies complete in all respect. The Commission has introduced the technology in the office and has provided computer in each section. The data can easily be stored in the computers. Resultantly, the dependency on hard copies has been gradually reduced. Not only this, storage of record is also a problem due to space constraint. Therefore, sending of the soft copy of the reply and objections etc. has also been made mandatory on the e-mail of the Commission. Hence, in the interest of the parties, it was proposed to reduce the number of copies from ten to five and for providing online avenue. This will not only reduce the financial burden of the parties but also save their time. The Commission therefore, adopts the proposed amendment with the above modifications.

12. Existing Regulations 18, 19, 20 and 21 of the CBR, 2005 are being re-numbered as Regulations 22, 23, 24 and 25 respectively without any change in its provisions.

13. Existing Regulation 22 of the CBR, 2005 is being re-numbered as Regulation 26. Regulation 22 (now renumbered as Regulation 26) provides that all final Orders of the Commission shall be communicated within seven days to the parties under the signature of the Secretary or an officer empowered in this behalf by the Chairperson or the Secretary. The Commission has observed that final Orders as well as daily

orders are being communicated to the parties, whereas, as per sub-section (4) of section 64 of the Act, the Commission is required to send only the copy of the tariff Order to the State Government, the Central Electricity Authority and the concerned licensee and to the person(s) concerned. The Commission is also under a mandate to communicate the final Orders within seven days as per existing Regulation 22 of the CBR, 2005. Since the routine daily orders of procedural nature passed by the Commission during the course of hearing in any matter/Petition are being uploaded on the official website of the Commission i.e. www.hperc.org, the Commission is of the considered view that only the tariff Orders passed under section 64 of the Act, and all other final Orders passed by the Commission under the Act, only be communicated/sent within seven days from passing of the Order(s) to the parties, the State Government, Central Electricity Authority and the concerned licensee and to the person(s) concerned, and the daily Orders of the routine or procedural nature be only uploaded on the above website of the Commission. This will also be in the interest of the Commission in terms of reducing paper work and financial burden. Since no objections in this regard have been received, the Commission is of the considered view that changes as proposed in the existing Regulation 22 of the CBR, 2005 are necessary and are accordingly adopted.

14. Existing Regulation 23 of the CBR, 2005 is being renumbered as Regulation 27. Regulation 23 (now re-numbered as Regulation 27) provides for inspection of record on payment of fee specified in the Schedule which is required to be paid by way of Demand Draft/Pay Order in favour of the Secretary. In the draft proposal, the Commission has proposed that the inspection fee can also be paid by cash in addition

to Demand Draft/Pay Order. On careful consideration of the matter, the Commission is of the opinion that with the advent of technology, it has become quite smooth to deposit the payment through RTGS or by any other electronic mode. The depositing of cash and issuing of receipt will be cumbersome and time consuming. Thus, in the interest of the stakeholders, it is decided that the inspection fee in addition to Demand Draft/Pay Order shall also be payable through RTGS or by any other electronic mode in the accounts of the Commission in account No. 65114328973, IFSC Code: SBIN0050204, SBI (Chotta Shimla Branch) or any other account of the Commission as may be notified from time to time. Thus, the amendment is adopted with the aforesaid modifications.

15. Existing Regulation 24 of the CBR, 2005 is being renumbered as Regulation 28. Regulation 24 (now re-numbered as regulation 28) provides for supply of certified copies of documents to every person. Sub-regulation (2) of the existing Regulation 24 of the CBR, 2005 provides that *“Every order granting, refusing or modifying interim relief and final Order shall be communicated to the parties to the Petition free of cost.”*

The Commission in the draft proposal has proposed to supply the order granting, refusing or modifying the interim relief only by uploading in the website of the Commission. Though, no objection in this regard has been received, yet the Commission is of the view that the Orders granting, refusing, or modifying interim relief may have serious implications to the parties. Therefore, the Commission do not intend to make any change in the existing provisions.

16. By virtue of 7th amendment of the CBR 2005, new regulations 24-A and 24-B were inserted. Now, Regulations 24-A, 24-B and 25 of the CBR 2005 are being renumbered as regulations 29, 30 and 31 respectively with minor modifications.

17. Existing Regulation 26 of the CBR 2005, is being renumbered as Regulation 32. Regulation 26 (now re-numbered as regulation 32) provides for Assistance of experts. According to this regulation, the Commission may, at any time, take assistance of any Institution, Consultant, Expert, Engineer, Chartered Accountant, Advocate, Surveyor, and such other Technical and Professional persons, as it may consider necessary. The Commission is empowered to determine the terms and conditions of such experts. In the existing provision, there is no specific provision to determine the fee/honorarium of such experts. Now, by way of the proposed amendment, the Commission proposes to make a specific provision to determine fee and honorarium of such experts enabling it to fix the fee and honorarium from time to time. Since no objections have been received in this behalf, the Commission adopts the same without any modification.

18. Existing Regulation 27 of the CBR 2005, is being renumbered as Regulation 33. Regulation 27 (now re-numbered as regulation 33) provides for application for licensee, if any person intends to engage in the business of transmission, distribution or trading of electricity in the State of H.P. on payment of such fee as may be prescribed. The fee is required to be paid through Bank draft or Pay Order drawn in favour of the Secretary. With the introduction of digital mode of payment in all Government Departments as well as in private Institutions, the Commission also felt it in the interest of the Consumers and other stakeholders to make provision by way

of the proposed amendment for making payment also through RTGS as well or by any other electronic mode in the accounts of the Commission, in account No. 65114328973, IFSC Code: SBIN0050204, SBI (Chhota Shimla Branch) or any other account of the Commission as may be notified from time to time. This provision will be beneficial to the consumers/stakeholders and the interested persons both in terms of saving of money and time. Further, according to sub-regulation (5) (a) of this regulation, every application for a licence shall be accompanied with ten copies or such number of copies, as the Commission may direct, of the performa containing the specific terms and conditions which the applicant desires to be included in the licence. The Commission has introduced the technology in the office and has provided computer in each Section. The data can easily be stored in the computers which has reduced the necessity of filing extra hard copies of the performa containing the specific terms and conditions which the applicant desires to be included in the licence. Not only this, storage of record is also a problem due to space constraint. Therefore, sending of the soft copy of the performa containing the specific terms and conditions which the applicant desires to be included in the licence has been made mandatory. Hence, in the interest of the parties, it was proposed to reduce the number of copies from ten to five. This will not only reduce the financial burden of the parties but also save their time. Since no objections in this regard have been received, the Commission adopts the aforesaid proposed amendments with minor modifications.

Further, according to sub-regulation (5) (b) of this regulation, every application for a licence shall be accompanied with ten copies or such number of duly signed copies, as the Commission may direct, of maps of the proposed area of

transmission or distribution on such scale as may be lay down by the Commission. The Commission has introduced the technology in the office and has provided computer in each Section. The data can easily be stored in the computers which has reduced the necessity of filing extra hard copies of the maps of the proposed area of transmission or distribution on such scale as may be lay down by the Commission. Not only this, storage of record is also a problem due to space constraint. Therefore, sending of the soft copy of the maps of the proposed area of transmission or distribution on such scale as may be lay down by the Commission has been made mandatory. Hence, in the interest of the parties, it was proposed to reduce the number of copies from ten to five. This will not only reduce the financial burden of the parties but also save their time. Since no objections in this regard has been received, the Commission adopts the proposed amendment with minor modifications.

19. Existing Regulations 28 to 50 of the CBR 2005, are re-numbered as Regulation 34 to 56 respectively with cosmetic changes.

20. Regulation 50-A of the CBR 2005, as inserted by way of 4th amendment is re-numbered as Regulation 57. Regulation 50-A (now renumbered as Regulation 57) provides for Petitions for approval of Power Procurement Purchase Agreement (PPA for short). The PPA has to be submitted to the Commission jointly by the contracting parties with ten hard copies alongwith a soft copy. The Commission has introduced the technology in the office and has provided computer in each section. The data can easily be stored in the computers which has reduced the necessity of filing extra hard copies of the Petitions for approval of PPAs. Not only this, storage of record is also a problem due to space constraint. Therefore, sending of the soft copy of the Petitions

for approval of PPAs has been made mandatory. Hence, in the interest of the parties, it was proposed to reduce the number of copies from ten to five. This will not only reduce the financial burden of the parties but also save their time. Since no objections in this regard have been received, the Commission adopts the proposed amendment without any modification.

21. Existing Regulations, 51 to 57 of the CBR 2005, are being re-numbered as Regulations 58 to 64 respectively without any change in its provisions.

22. Existing Regulation 58 of the CBR 2005, is being re-numbered as Regulation 65. Regulation 58 (now re-numbered as regulation 65) provides for payment of fees. According to this regulation, every petition, application or grievance made to the Commission shall be made alongwith appropriate fees specified in the Schedule to these regulations. The fees is required to be paid by means of Bank draft or Pay Order drawn in favour of the Secretary. With the introduction of digital mode of payment in all Government Departments as well as in Private Institutions, the Commission also considered it proper and in the interest of the parties and the consumers to add a provision for making payment through RTGS as well or by any other electronic mode in account No. 65114328973, IFSC Code: SBIN0050204, SBI (Chhota Shimla Branch) or any other account of the Commission as may be notified from time to time. Further, in draft proposal, the Commission has proposed to enhance the limit of cash payment from existing Rs. 1000/- to Rs. 5,000/-. Though no objections have been received in this regard, yet on careful consideration of the matter, the Commission is of the considered view that with the advancement of technology, it has become quite smooth to deposit the payment through RTGS or by

any other electronic mode and there seems to be no necessity to retain the existing provision with regard to receipt of cash payment and to enhance the limit of cash payment from Rs. 1,000/- to Rs. 5,000/- as proposed in the draft proposal. Thus, in the interest of the stakeholders, it is decided that the fee, if any, required to be paid by any stakeholders shall be payable through RTGS or any other electronic mode in the account of the Commission in account No. 65114328973, IFSC Code: SBIN0050204, SBI (Chhota Shimla Branch) or any other account of the Commission as may be notified from time to time. Thus, the amendment is adopted with the aforesaid modification. Further, sub-regulation (5) of this Regulation has been modified accordingly.

23. Existing Regulations 59 to 62 of the CBR 2005, are being re-numbered as Regulations 66 to 69 without any material changes in its provisions.

24. Existing Regulation 63 of the CBR 2005, is being re-numbered as Regulation 70. Regulation 63 (now re-numbered as Regulation 70) provides for review of the decision, directions and orders. Under the existing provisions, there is no time limit fixed for filing of review petitions. With no time period provided for filing of the review petitions, the aggrieved parties are preferring the review petition at any time and even after lapse of a considerable period. As per Article 124 of the Schedule appended to the Limitation Act, 1963, the review can be filed only within a period of thirty days from the date of decree or Order. The Hon'ble Appellate Tribunal for Electricity has also provided a time limit of thirty days for filing of review petitions as per Notification of the Appellate Tribunal for Electricity dated 24th February, 2012 (copy annexed as Annexure-A). The Commission also considered it necessary to

make the provisions more specific and clear and to provide for a time limit of thirty days for filing of Review Petition(s) from the date of receipt of copy of such directions, decision or order sought to be reviewed. No objections have been received in this regard. Accordingly, the Commission adopts the proposed change without any modifications.

25. Existing Regulations 69 to 75 of the CBR 2005, are being re-numbered as Regulations 71 to 82 respectively without any material changes in its provisions.

26. Existing Regulation 76 of the CBR 2005, is being re-numbered as Regulation 83. Under Regulation 76 (now re-numbered as Regulation 83), the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005, alongwith its all subsequent amendments, are being repealed and all past and pending actions are being saved. The Commission adopts the change without any modification.

In view of the above, the Commission decides to finalize and notify the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations 2024 on the above lines, whereby the CBR, 2005 shall stand repealed and also order its final publication, namely; “The Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2024” in the Rajpatra, Himachal Pradesh.

Announced
29.10.2024

-Sd-
(Shashi Kant Joshi)
Member

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

-Sd-
(Devendra Kumar Sharma)
Chairman