

**HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION, SHIMLA**

**CORAM**

**Sh. Devendra Kumar Sharma  
Chairman**

**Sh. Bhanu Pratap Singh  
Member**

IN THE MATTER OF:-

**Himachal Pradesh Electricity Regulatory Commission (Cross Subsidy Surcharge, Additional Surcharge and Phasing of Cross Subsidy) (Second Amendment) Regulations, 2021.**

**ORDER**

**HPERC/391/2021.-** The Himachal Pradesh Electricity Regulatory Commission (hereinafter referred as “the Commission”) notified the Himachal Pradesh Electricity Regulatory Commission (Cross Subsidy Surcharge, Additional Surcharge and Phasing of Cross Subsidy) Regulations, 2006 on 21<sup>st</sup> August, 2006 and published the same in the Rajpatra on 7<sup>th</sup> September, 2006 (hereinafter referred “the Principal Regulations”).

2. Sub-regulation (2) of Regulation 6 of the Principal Regulations provides that additional surcharge will be payable by any consumer including any consumer who puts up a captive plant for his use.
3. Sub-Section (2) of Section 9 of the Electricity Act, 2003 provides that every person, who has constructed a captive generating plant and maintains and operates such plant, shall have the right to open access for the purposes of carrying electricity from his captive generating plant to the destination of his use.
4. The 4<sup>th</sup> proviso to Sub-Section (2) of Section 42 of the Electricity Act, 2003 provides that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.
5. M/s Sandhya Hydro Projects Balargha Pvt. Ltd. has sought clarification from the Commission relating to applicability of additional surcharge on the captive or group captive plants in the State of Himachal Pradesh with reference to the judgment delivered by the Hon’ble APTEL in Appeal No. 311 of 2018 and 315 of 2018 relating to applicability of additional surcharge as captive users/consumers and also referring the Electricity Rules, 2005, issued by the Central Government under Section 176 of the Electricity Act, 2003.

6. Taking the above into consideration, the Commission in exercise of the power, conferred by clause(q) of Sub-Section (2) of Section 181, and Sub-Section (4) of Section 42, of the Electricity Act, 2003 (36 of 2003), read with the General Clauses Act,1897 (10 of 1897), and all other powers enabling it in this behalf, notified the draft amendment i.e. Himachal Pradesh Electricity Regulatory Commission (Cross Subsidy Surcharge, Additional Surcharge and Phasing of Cross Subsidy) (Second Amendment) Regulations, 2020 on 1<sup>st</sup> March, 2021 and published the same in Rajpatra, Himachal Pradesh on 06.03.2021.
7. As required vide sub-section (3) of the section 181 of the Act and Rule 3 of the Electricity (Procedure for Previous Publication) Rules, 2005, the Commission invited public objections and suggestions by way of insertions in two News papers i.e. “Hindustan Times” and “Amar Ujala” on 11.03.2021 and the full text of the draft amendment regulations was made available on the Commission’s website: [www.hperc.org](http://www.hperc.org).
8. The Commission, vide letter dated 12.03.2021, requested the major stakeholders, including Industries Associations, State Government, Directorate of Energy, Consumer’s Representative and Distribution Licensee to send their objections/suggestions on the aforesaid draft amendment by 30<sup>th</sup> March, 2021 and in response only two stakeholders i.e. Consumer’s Representative and the Directorate of Energy have communicated through their written submissions that they have no objections/suggestions to offer on the proposed draft amendment. No other stakeholder(s) has offered comments/suggestions on the draft amendment within the stipulated period, allowed for such filing.

Based on above, the Commission decides to retain the provisions of the draft amendment regulations without any changes. The draft amendment regulations are finalized and approved as such and be notified.

The Commission orders accordingly.

Sd/-

**(Bhanu Pratap Singh)**  
**Member**

Sd/-

**(Devendra Kumar Sharma)**  
**Chairman**

Place: Shimla

Date: 9<sup>th</sup> April, 2021.