

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION, SHIMLA

Vidyut Aayog Bhawan, Block No. 37, SDA Complex, Kasumpti, Shimla- 171009

CORAM: Sh. Devendra Kumar Sharma, Chairman
Sh. Yashwant Singh Chogal, Member (Law)
Sh. Shashi Kant Joshi, Member

In the matter of:

In the matter of the Himachal Pradesh Electricity Regulatory Commission (Multi Year Wheeling Tariff & Retail Supply Tariff) Regulations, 2023.

ORDER

The Himachal Pradesh Electricity Regulatory Commission (hereinafter to be referred as “the Commission”), in exercise of the powers conferred under Section 61, Sub-section(1) of Section 62, Clauses (a), (b) and (e) of Sub-section (1) of Section 86 and Clause (zd) of Sub-section (2) of Section 181 of the Electricity Act, 2003 (36 of 2003), read with Section 21 of the General Clauses Act, 1897 (10 of 1897), and all other powers enabling it in this behalf, notified the draft (Multi Year Wheeling Tariff & Retail Supply Tariff) Regulations, 2023, on 27th September, 2023 and as required under Sub-section (3) of the Section 181 of the Act, the same were published in the Rajpatra, Himachal Pradesh on 3rd October, 2023.

2. The Commission invited public objections and suggestions by way of insertions in two News papers i.e. “Indian Express” and “Divya Himachal” on 06.10.2023 under Rule (3) of Electricity (Procedure of Previous Publication) Rules, 2005 and the full text of the draft amendment regulations was made available on the Commission’s website: www.hperc.org. The last date for filing objections/suggestions was 04.11.2023. A public hearing was also scheduled to be held in the matter on 10th November, 2023 at 11.00 AM in the Commission.
3. The Commission, vide letter dated 07.10.2023, also requested the major stakeholders, including the Government of Himachal Pradesh, Small Hydro Project Developers Associations, Directorate of Energy, HIMURJA, Jal Shakti Vibhag, Industries Associations, Hoteliers Association and Distribution Licensee to send their objections/ suggestions as per the aforesaid public notice.
4. The Commission received comments/suggestions on the draft Regulations from the Himachal Pradesh State Electricity Board Limited (HPSEBL), Vidyut Bhawan, Shimla-171004 (HP) only.
5. The public hearing was held, as scheduled, on 10th November, 2023. The list of participants who attended the said public hearing is annexed as **Annexure-“A”**.
6. During the public hearing, the representative from HPSEBL reiterated the Suggestions / Objections already submitted by the HPSEBL through written submissions. No other Stakeholder(s) attended the public hearing.

7. **Consideration of written/oral submissions made by the stakeholders and Commission's views.-**

After having carefully gone through all the written submissions, the Commission proceeds to consider the various suggestions made by the stakeholders and finalize its views on the subject, as follows:-

(a) Comments on Regulation 3.1 (27):

The HPSEBL has submitted that as per third amendment to the HPERC (Terms and Conditions for the determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2011 (referred as "the existing Tariff Regulations" hereinafter), notified on 22.11.2018, the delayed payment surcharge was excluded from the Non-tariff income after detailed deliberations on the topic by HPERC. Now, the same has been included in the Non-tariff income in the draft Regulations which will result in financial hardship to HPSEBL for arranging funds to carry out the business effectively. The HPSEBL was utilizing the amount on this account to take care of the non-allowances by the Commission for short term borrowings to bridge the gap due to delayed payment by the Consumers.

Further, the HPSEBL has added that the Commission approves true up on the basis of Assessment of amount and not on the basis of realized amount and therefore, the amount of LPS and income from other than licensed business should not be deducted from Aggregate revenue requirement.

Commission's View:-

Inclusion or exclusion of the revenue on account of Delayed Payment Surcharge as part of the Non Tariff Income of the DISCOM is linked with the amount of working capital allowed by the Commission. The working capital requirement of the DISCOM to be allowed for the next control period as per the Draft Regulations is as under:-

(a) O&M expenses for one month:

(b) Two months equivalent of expected revenue:

(c) Maintenance spares @ 40% of R&M expenses for one month:

Less:

(d) Security deposits from consumers, if any.

In the existing Tariff Regulations quoted by the HPSEBL, notified on 22.11.2018, the power purchase cost of one month was also deducted from the working capital requirement as worked out above. Accordingly, the working capital was decreased to said extent which invariably reduce the amount of interest on working capital to be recovered through ARR. So, this reduction in interest on working capital was allowed to be compensated through Delayed Payment Surcharge. Since the Delayed Payment Surcharge amount was allowed to be deducted from the Non Tariff Income of the DISCOM, therefore, it did not have any incentive to improve its Collection Efficiency.

By virtue of these regulations, the Commission has increased the amount of working capital requirement of the DISCOM and it shall now get incentivised for improving the Collection Efficiency.

Further, the HPSEBL is presently doing energy billing on monthly basis except for some rural pockets where it is being carried out on bimonthly basis. Moreover, the revenue from these rural areas is quite minuscule of the total revenue of the HPSEBL. The Commission envisages that all the billing should be carried out on monthly basis from the next control period. In spite of this, the two months equivalent of expected revenue has, inter-alia, been allowed as working capital. On this working capital, interest is allowed on normative basis as prescribed in these regulations. This takes care of any unrealized revenue from the Consumers. Further, the payment of power procurement bills by the HPSEBL is also made after a period of at least a month. This also ensures sufficient working capital in the hands of the DISCOM. Besides, the DISCOM is also having consumer security amount with it to deal with the defaulting Consumers. Further, the DISCOM needs to improve its Billing and Collection efficiency.

Also, the HPSEBL is expected to implement smart metering scheme under RDSS in the next control period. These smart meters shall be operated in prepaid mode. In that case there shall be no question of any Delayed Payment Surcharge as billing will be in a prepaid mode.

Similarly, any income to the HPSEBL Licensed business from the Other Business of the Distribution Licensee shall constitute Non-Tariff Income of the Licensee. The HPSEBL has not provided any reasons and justification for excluding the income from the other business from the ARR. Also, it is not that all the income from other business will be deducted from the ARR. The draft Regulations provide for it as under:

“Where the Licensee is engaged in any other business, the income from such business will be deducted from the Aggregate Revenue Requirement in calculating the revenue requirement of the Licensee in the manner and in proposition as may be specified by the Commission.”

Further, the Himachal Pradesh Electricity Regulatory Commission (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations 2005, provides for treatment of income from other business, inter-alia, as under:

(4) In addition to the sharing of costs under sub-regulation (3), the Licensee shall account for and ensure due payment to the Licensed Business a certain percentage of the gross turnover from the Other Business as decided by the Commission each year at the time of determination of the Aggregate Revenue Requirement (ARR).

Therefore, the income to be shared with licensed business in the ARR shall be decided during issuance of the Tariff Order. As such, the Commission decides to finalize the proposed Regulation without any change in this regard.

(b) Comments on Regulation 3.1:

The HPSEBL has submitted the following definition of consumer was added vide third amendment to the Tariff Regulations, 2011 on 22.11 2018.

“consumer” shall mean any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be, but shall be restricted to such consumers within the State except in border areas with neighbouring Indian States where it is non-feasible to provide connection by the other state(s) licensee, but with the mutual consent of the respective State Government;”

Commission’s View:-

The Commission observes that the term “consumer” is already defined in the Electricity Act, 2003. However, the Commission is of the view that some state specific points may need to be incorporated in the same. As such, the Commission decides to include the definition of “consumer” in the Regulations as proposed by the HPSEBL.

(c) Comments on Regulation 5:

The HPSEBL has submitted that it is maintaining separate accounts for each Business Unit and is also preparing the Segment wise Balance Sheet and P&L Account from 2011-12 onwards. The HPSEBL has added that it is preparing its books accounts in the SAP (ERP) so that there is no requirement of maintaining a separate account head for each business unit as the transactions of each business unit can be easily identified in the SAP with the help of individual Profit Centre/Cost Centre and is also regularly submitting the detailed bifurcation of each expenses parameter into Distribution, Generation, Electrical System and PCA wing, certified by Cost Auditor.

The HPSEBL has further submitted that it is in the process of segregating the accounts but the process will take more time and, therefore, the requirement of segregation of accounts may be enforced from April 1, 2026.

Commission’s View:-

The Commission observes that the HPSEBL has been directed several times to segregate it’s Accounts for Distribution and other Businesses but the HPSEBL has not adhered to this directive of the Commission in letter and spirit. Considering the fact

that HPSEBL is not purely a Distribution Licensee but it is also having generation assets as well and that Generation is not a licensed activity, ARRs for Distribution and Generation businesses are determined separately and different principles are used by the Commission for determining their tariffs. Therefore, the segregation of the Accounts of different businesses becomes necessary for complete transparency and accountability. Further, delay in segregation of Accounts with preparation of book accounts on SAP (ERP) platform does not seem justifiable.

As such, the Commission decides to finalize the proposed Regulation without any change in this regard.

(d) Comments on Regulation 6:

The HPSEBL has submitted that the segregation of wheeling and retail business accounts as proposed in the Regulation cannot be done. However, the allocation statement can be submitted by the HPSEBL to the Commission.

Commission's View:-

The Commission is determining separate tariffs for wheeling and retail businesses. Wheeling tariff is required especially for the open access Consumers which can only be determined in a fair manner if the wheeling and retail supply business accounts are maintained separately by the DISCOM. Further, delay in segregation of Accounts with preparation of book accounts on SAP (ERP) platform is not justifiable.

As such, the Commission decides to finalize the proposed Regulation without any change in this regard.

(e) Comments on Regulation 7.1:

The HPSEBL has requested that the date of filing of Business Plan may be kept as 30th November i.e. the date of Filing ARR for next year and True up of previous year(s) as the process of finalization of accounts is only completed by July/August/September and the process of finalization of MYT Petition further takes around 2 to 3 months.

Commission's View:-

The tariff for the next year is to be applicable w.e.f. 1st April of each financial year. The Commission is obligated, by the Electricity Act, 2003, to finalise the Tariff Order within 120 days. Accordingly, the Petition is required to be filed by 30th November. In normal course, formulation of Business Plan precedes the preparation of MYT Petition. However, taking into consideration the request of the HPSEBL, the Commission, as a one time relaxation, decides to allow the HPSEBL to file its Business Plan for the next Control Period (April 1, 2024 to March 31, 2029) for the approval of the Commission by filing a separate Petition before 30th November, 2023.

(f) **Comments on Regulation 8:**

(i) **Regulation 8.1**

The HPSEBL has requested that the existing provisions of Regulations for O&M may be kept with trajectory of T&D Losses.

Commission's View:-

The Commission observes that the HPSEBL has not stipulated any reason(s) for continuing the existing provisions for the O&M. Further, the HPSEBL has emphasized for continuing the fixation of trajectory for the losses reduction on the basis of T&D losses. The Commission has already specified for fixation of year wise trajectory on the basis of distribution losses.

As such, the Commission decides to finalize the proposed Regulation without any change in this regard.

(ii) **Regulation 8.2**

(1) The HPSEBL has submitted that the Commission, in the past, had been approving distribution loss trajectory only for T&D losses and not for AT&C losses in view of the fact that the True up is being done on the basis of Assessment irrespective of realization and has requested that in view of the trajectory for AT&C losses, the true up may either be done on the basis of realization or the trajectory may not be considered for penalty.

(2) The HPSEBL has further requested that the provisos (1st and 2nd) provided in the existing Tariff Regulations, which have been deleted in the proposed Regulations, may also be included.

Commission's View:-

The Regulation provides for the Commission to monitor, on periodical basis, the Aggregate Technical & Commercial (AT&C) losses after duly taking into account the trajectory of Distribution Licensee and to issue such directions to the Distribution Licensee, as it may consider appropriate. The HPSEBL needs to strive towards improving its billing and collection efficiency on one hand and to reduce its losses on the other to improve its financial standing. To ensure that the HPSEBL strives towards these goals, the Commission may be required to stipulate a trajectory, as a target, for the HPSEBL to achieve.

As such, the Commission decides to finalize the proposed Regulation without any change in this regard.

(g) Comments on Regulation 11:

(i) Regulation 11.1

- (1) The HPSEBL has submitted that change in power purchase mix, inflation, variation in market interest rate for long term loans and income from realisation of bad debts written off may also be included in the uncontrollable parameters.
- (2) The HPSEBL has further requested that clause (f) of Regulation 11.1 may be deleted in view of the fact that power purchase is beyond the control of the HPSEBL.

Commission's View:-

- (1) The Commission observes that Power purchase is already considered as uncontrollable parameter. Inflation is implied uncontrollable factor and the projections of various parameters including O&M etc. are being carried out on the basis of inflation only. Interest on long term loans is already passed through in the tariff as per the actual interest rates availed and as per the terms of the loan agreement approved by the Commission after doing due prudence check. Bad debts written off, however, cannot be considered as uncontrollable parameter.
- (2) Further, Regulation 11.1 already lists power purchase cost as an uncontrollable parameter subject to meeting the specified conditions by the HPSEBL. However, the Commission observes merit in the request made by the HPSEBL and finds that there is an inadvertent error in the draft Distribution Regulations. As such, the Commission decides to modify the wording of clause (f) accordingly.

(ii) Regulation 11.2

- (1) The HPSEBL has submitted that Ministry of Power/ PFC has defined methodology / formula for calculation of AT&C losses which is applicable uniformly among various power utilities and accordingly incorporated in various schemes approved for Utilities. The HPSEBL has requested that the same may be adopted in the proposed Regulations also.
- (2) The HPSEBL has further requested that the working capital requirement may be considered as an uncontrollable parameter considering that power purchase cost is itself an uncontrollable parameter. Further, the rate of interest payable on consumer security deposits which forms a part of the calculation of Working Capital is also not fixed. The HPSEBL, therefore, needs to revise its working capital requirement annually.

Commission's View:-

- (1) The Commission finds merit in the suggestion of the HPSEBL to adopt the methodology / formula for calculation of AT&C losses as defined by the Ministry of Power/ PFC and decides to incorporate the same into these Regulations.
- (2) Further, the Commission clarifies that the interest on working capital requirement has been considered on normative basis in the proposed Regulations, There is no point in considering it as uncontrollable parameter. The working capital requirement has been linked with O&M cost, two months equivalent of the expected revenue of the DISCOM and the security amount held by it. These parameters shall be revised based on actual vis-a-vis forecasted values at the time of truing up. Accordingly, Interest on working capital shall be trued up. As such, the Commission decides to finalize the proposed Regulations without any change in this regard.

(h) Comments on Regulation 13:

The HPSEBL has requested that the exiting Tariff Regulations provide for pass through of 40% of the aggregate loss in ARR and balance 60% to be absorbed by licensee. In view of change in the ratio to 1/3rd and 2/3rd, the same may be allowed in respect of Distribution Loss Trajectory in the similar pattern as of gain i.e. 1/3rd as pass through and 2/3rd to be absorbed by licensee and, therefore, the 1st proviso to Regulation 13.2 may be deleted.

Commission's View:-

The Electricity (Amendment) Rules, 2023 notified by the Ministry of Power, Government of India on 26th July, 2023 provide that the Gains or losses accrued to Distribution Licensee due to deviation from approved Aggregate Technical and Commercial loss reduction trajectory shall be quantified on the basis of Average Power Purchase Cost and shared between the Distribution Licensee and Consumers. Two third of the gains shall be passed on to the Consumers in tariff and rest shall be retained by the Distribution Licensee. Two third of the losses shall be borne by the Distribution Licensee and rest shall be borne by the Consumers.

Since, the Commission has already been approving the T&D loss reduction trajectory in the Tariff Orders, the Commission has decided that two third of the gains shall be passed on to the Consumers in tariff and rest shall be retained by the Distribution Licensee. Further, two third of the losses shall be borne by the Distribution Licensee and rest shall be borne by the Consumers. Since, major parts of the losses are to be borne by the HPSEBL, the Commission, however, feels it appropriate to omit the 1st proviso to Regulation 13.2 as requested by the HPSEBL.

(i) Comments on Regulation 14:

(i) Regulation 14.1

The HPSEBL has requested that the Business Plan and ARR for the ensuing year is integral part of the MYT Petition, and, therefore, date of 30th November i.e. the date of Filing ARR for next year and True up of previous year(s), may be considered specifically as the date for application for current Business Plan for FY 25 to FY29. The HPSEBL has further requested that the proviso to the Regulation 14.1 may be deleted as the process of finalization of accounts is only completed by July/August/September and the process of finalization of MYT Petition further takes around 2 to 3 months.

(ii) Regulation 14.11

The HPSEBL has suggested time of 7 days, instead of 3 days, may be provided for publication of notice to invite suggestions and objections from the public.

Commission's View:-

(i) The tariff for the next year is to be applicable w.e.f. 1st April of each financial year. The Commission is obligated, under the Electricity Act, 2003, to finalise the Tariff Order within 120 days. Accordingly, the Petition is required to be filed by 30th November. In the normal course, formulation of Business Plan precedes the preparation of MYT Petition. However, taking into consideration the request of the HPSEBL, the Commission, as a one time relaxation, decides to allow the HPSEBL to file its Business Plan for the next Control Period (April 1, 2024 to March 31, 2029) for the approval of the Commission by filing a separate Petition before 30th November, 2023 after payment of fees as provided in the proviso to Regulation 14.1.

(ii) The Commission agrees with the HPSEBL and feels that more than 3 days time may be required for formulation and further publication of the notice in certain cases. Accordingly, the Commission decides to grant 7 days instead of 3 days as proposed by the HPSEBL to the Licensee for the same.

(j) Comments on Regulation 16.4:

The HPSEBL has suggested that in view of fact that the true up is to be done on the approved ARR for the respective year only e.g. true up of FY 22-23 is to be done during ARR of FY25 or later, the Regulation may require to be amended.

Commission's View:-

The Regulation provides that the estimates of expenses for the ensuing year shall be on the basis of corresponding figures in the order for True-up of expenses of the previous year and Tariff Order of the current year. The Commission finds no ambiguity in the Regulation and as such, decides to finalize the proposed Regulation without any change in this regard.

(k) Comments on Regulation 17:

The HPSEBL has pointed that the carrying cost in case of surplus is applicable whereas, in case of deficit, the same has not been allowed. The HPSEBL has submitted that the licensee may not delay the filing of true up Petitions, in general, the proposed proviso may be deleted.

Commission's View:-

The proviso is inserted to ensure that there is no delay in the filing of the true up Petitions by the HPSEBL and would not be applicable in general course of proceedings. Therefore, the Commission finds no merit in omitting the proviso and, as such, decides to finalize the proposed Regulation without any change in this regard.

(l) Comments on Regulation 21.2:

The HPSEBL has pointed that as per GoHP Notification dated 21.09.2023 regarding Swarn Jayanti Energy Policy, 2023, for solar projects above 5 MW capacity setup by Govt. entities i.e. HPPCL and HIMURJA, the Power generated will be mandatorily purchased by the HPSEBL at the rate discovered through competitive bidding. The HPSEBL has submitted that the policy provision needs to be examined as for mandatory purchase by the HPSEBL, the purchase shall be at HPERC determined rate and not on competitive rates.

Commission's View:-

The Regulation clearly provides for all future procurement of short-term or medium-term or long-term power, including Renewable Energy, invariably through competitive bidding in accordance with Guidelines notified by the Government of India under Section 63 of the Act.

Further, the point highlighted by the HPSEBL has already been taken care of in the proviso of the said Regulation, which is reproduced as under:

Provided further that the power procurement from those Renewable Energy technologies/ sources wherein the Commission has determined/ notified the generic/ preferential tariffs shall be allowed at such rates: Provided also that the power procurement from those energy sources, as prescribed in the National Tariff Policy, shall be allowed for tariff determination under Section 62 of the Electricity Act, 2003, with the prior approval of the Commission.

Therefore, the Commission finds no reason for carrying out any change and, as such, decides to finalize the proposed Regulation without any change in this regard.

(m) Comments on Regulation 24:

The HPSEBL has submitted that it will not be possible at all times for the HPSEBL to identify the new short-term sources from which the power can be procured at a tariff that reduces its approved total power procurement cost. The HPSEBL has added that the exchange rate/ source which is supplying under short term generally regulates its prices based on demand supply gap and looking at the present scenario, the short term rates are so high in the markets which never reduce the power purchase cost. Therefore, the HPSEBL has requested that the conditions under Regulations 24.3 & 24.6 may be deleted.

Commission's View:-

The Regulation 24.3 provides the option to the Distribution Licensee to enter into a short-term power procurement agreement or arrangement with such supplier from which power can be procured at a Tariff that reduces its approved total power procurement cost, without the prior approval of the Commission. It is not mandatory for the Distribution Licensee to do so in normal course of operation. Regulation 24.6 provides for the Commission to disallow pass through of any procurement that is done without adhering to the provisions of the Regulation. The Commission finds no reason for omitting these provisions and, as such, decides to finalize the proposed Regulation without any change in this regard.

(n) Comments on Regulation 26:

- (1) The HPSEBL has submitted that the 2nd proviso may be relaxed for the bills/invoices received by the DISCOM which are having deficiencies/errors and that in such cases, the computation time of two months may be considered after receipt of correct bill/invoice.
- (2) With respect to the provision made under bullet point 4 for carry forward of fuel and power purchase adjustment surcharge or part thereof, the HPSEBL has submitted that there should be no carry forward since the auto-adjustment is subjected to 5% and rest is to be done after approval from Commission.
- (3) The HPSEBL has requested to define the applicable rate of SBI MCLR and whether the weighted average one-year MCLR prevailing during the concerned Year as declared by the State Bank of India from time to time, plus 150 basis points is to be applied or the existing SBI MCLR, plus 150 basis points during the month FPPCA is computed is to be applied.
- (4) With respect to point (ii) of bullet point no. 7, the HPSEBL has pointed out from the proposed Regulation that 95% of the FPPCA is to be recovered automatically

using the formula and approval for recovery of balance 5% of FPPA surcharge is to be obtained during true up and has requested for re-consideration of the same.

- (5) With respect provision made under bullet point No. 9 for excess revenue recovered for the year, the HPSEBL has requested that the rate applicable for carrying cost may also be considered for this excess amount recovered instead of 1.2 times the carrying cost as proposed in the draft Regulation.

Commission's View:-

The Electricity (Amendment) Rules, 2022 notified by the Ministry of Power, Government of India on 29th December, 2022 provide the Fuel and Power Purchase Cost Adjustment (FPPCA) Methodology in detail.

- (1) With respect to the 2nd proviso, it is clarified that the Regulation provide for Fuel and power purchase adjustment surcharge to be calculated and billed to Consumers, automatically, on a monthly basis, subject to true up, on an annual basis, as decided by the Commission. Any disputed bills may be resolved separately by the Distribution Licensee. As such, the Commission decides to finalize the proposed Regulation without any change in this regard.
- (2) With respect to the provision made under bullet point 4 for carry forward of fuel and power purchase adjustment surcharge or part thereof, the provision is very much clear as to what percentage of power purchase adjustment surcharge is to be recovered automatically and what percentage is to be done after approval by the Commission during true up. As such, the Commission decides to finalize the proposed Regulation without any change in this regard.
- (3) The Electricity (Amendment) Rules, 2022 notified by the Ministry of Power, Government of India on 29th December, 2022 provide the applicable rate for carrying cost as the existing SBI MCLR, plus 150 basis points till the same is recovered through tariff which shall be trued up in the year under consideration. The Commission feels that since the carrying cost shall be trued up on annual basis, the weighted average one-year MCLR prevailing during the concerned Year, as declared by the State Bank of India from time to time, should be allowed for the carrying cost. As such, the Commission decides to modify the clause accordingly to indicate the same.
- (4) With respect to point (ii) of bullet point no. 7, the Commission feels that the provisions are quite clear and there is no ambiguity in this regard. As such, the Commission decides to finalize the proposed Regulation without any change in this regard.
- (5) The Electricity (Amendment) Rules, 2022 notified by the Ministry of Power, Government of India on 29th December, 2022 provide that the rate applicable for recovery of excess revenue recovered for the year against the fuel and power purchase adjustment surcharge, shall be recovered from the licensee at the time of

true up along with its carrying cost at 1.20 times of the carrying cost rate approved by the Commission. The same rate is uniformly applicable throughout the Country and as such, the Commission decides to finalize the proposed Regulation without any change in this regard.

(o) Comments on Regulation 28:

The HPSEBL has submitted that 30% component against CAPEX Schemes arranged by HPSEBL from various sources is to be considered as equity and entitlement for RoE. However, presently the same is not being allowed.

Commission's View:-

The Commission has already made the provision for the same but such investment has to be through documentary evidence. It is wrong on the part of the HPSEBL to claim that the same at the present is not being allowed. Any equity infusion by the Licensee needs to be verified through documentary evidence. As such, the Commission decides to finalize the proposed Regulation without any change in this regard.

(p) Comments on Regulation 29:

The HPSEBL has proposed that power purchase component may also be included in the financial parameters.

Commission's View:-

The Commission clarifies that only the financial parameters relating to the fixed cost of the DISCOM to be recovered have been considered in this Regulation. Power Purchase cost is a variable cost depending upon the sales projections etc. and is invariably being considered for determining the Aggregate Revenue Requirement. As such, the Commission decides to finalize the proposed Regulation without any change in this regard.

(q) Comments on Regulation 30:

(i) Regulation 30.1

The HPSEBL has proposed that the higher expected number of pensions/ staff payment is beyond the control of HPSEBL, as such, the provisions existing in the existing Tariff Regulations, in relation to the employees cost, may be retained.

(ii) Regulation 30.2

The HPSEBL has suggested that continuous efforts are being made by the HPSEBL to reduce the R&M cost and has proposed that the provisions existing in the existing Tariff Regulations, in relation to the Repairs and Maintenance expenses, may be retained.

(iii) Regulation 30.3

The HPSEBL has suggested that continuous efforts are being made by the HPSEBL to reduce the A&G cost and has proposed that the provisions existing in the existing Tariff Regulations, in relation to the A&G expense, may be retained.

Commission's View:-

The Regulations 30.1, 30.2 and 30.3 provide formulae for the computation of Employee cost, R&M expense and A&G expense of the Distribution Licensee. The O&M cost including employee cost, R&M cost and A&G costs is controllable parameter except for some uncontrollable components as considered in the Regulations. The Distribution Licensee needs to strive towards improving efficiency on one hand and to reduce its expenses on the other hand. The Commission finds no reason to revert back to the provisions provided in the existing Tariff Regulations and as such, the Commission decides to finalize the proposed Regulation without any change in this regard.

(r) Comments on Regulation 31:

The HPSEBL has proposed that in sub-clause (h), Whole Time Director (WTD) may be considered in place of Board of Directors.

Commission's View:-

The Commission finds merit in the suggestion of the HPSEBL and accordingly decides to incorporate the change proposed by the HPSEBL in the Regulation.

(s) Comments on Regulation 33:

With reference to clause (f), the HPSEBL has suggested that the moratorium period and repayment of loans may be considered as per the different terms as per the loans agreements entered with the funding agencies.

Commission's View:-

The Commission does not find any reason to change clause (f) as suggested by the HPSEBL. Depreciation is provided for the repayment of the loans. It is well established norms and practice in the Power Sector. Accordingly, the Commission decides to finalize the proposed Regulation without any change in this regard.

(t) Comments on Regulation 35:

With reference to sub-clause (c), the HPSEBL has suggested that the Return on Equity (RoE) may be considered 16% per annum (post tax) as applicable in other States like Punjab and Rajasthan.

The HPSEBL has further added that the adjustment of the Annual Share of State Government (Return on GoHP Equity approved for Generation and Distribution)

should be discontinued in order to enable the Company to fund its Capex through re-investment of equity in the business.

Commission's View:-

The Commission observes that the interest rates in the country have reduced significantly over the period when compared to the previous control period. Accordingly, the capital is now available to the Distribution Licensees at much cheaper rates as compared in the past. Therefore, the return on equity also needs to be adjusted for this overall reduction in the cost of capital and the Commission is of the view that 14% post-tax RoE seems more than sufficient.

With regard to discontinuation of the adjustment of the Annual Share of State Government, the same is governed under the provision of Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Sharing of Cost of Terminal Benefits of Personnel of the erstwhile Himachal Pradesh State Electricity Board and Successor Entities) Regulations, 2015. This matter can be taken up separately.

Accordingly, the Commission decides to finalize the proposed Regulation without any change in this regard.

(u) Comments on Regulation 37:

The HPSEBL has submitted that as per third amendment to the HPERC (Terms and Conditions for the determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2011 (referred as "the existing Tariff Regulations" hereinafter), notified on 22.11.2018, the delayed payment surcharge was excluded from the Non-tariff income after detailed deliberations on the topic by HPERC but now, the same has been included in the Non-tariff Income in the draft Regulations which will result in financial hardship to the HPSEBL for arranging funds to carry out the business effectively. The HPSEBL was utilizing the amount on this account to take care of the disallowances by the Commission for short term borrowings to bridge the gap due to delayed payment by the consumers.

Further, the HSEBL has added that the Commission approves true up on the basis of Assessment of amount and not on the basis of realized amount and therefore, the amount of LPS and income from other than licensed business should not be deducted from Aggregate Revenue Requirement.

Commission's View:-

The Commission feels that the Regulations already provide sufficient provisions for arrangement of working capital by the Distribution Licensee. Moreover, with the implementation of Smart Metering in the State, the Working Capital requirement of

the Distribution Licensee shall also reduce considerably. As such, the Commission decides to finalize the proposed Regulation without any change in this regard.

(v) **Comments on Regulation 38:**

The HPSEBL has suggested that the income from other business i.e. the business other than Wheeling, Retail and Generation may not be deducted from the Aggregate Revenue Requirement and is allowed to meet the losses incurred by the Licensee and to meeting the other expenditure to be done by Licensee.

Commission's View:-

The treatment of income from other business of the DISCOM has to be dealt as per the provisions of Himachal Pradesh Electricity Regulatory Commission (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations 2005, as amended from time to time. The Commission finds no reason to deviate from the same and, as such, decides to finalize the proposed Regulation without any change in this regard.

(w) **Comments on Regulation 39:**

The HPSEBL has submitted that it is maintaining separate accounts for each Business Unit and is also preparing the Segment wise Balance Sheet and P&L Account from 2011-12 onwards. The HPSEBL has added that it is preparing its books accounts in the SAP (ERP) so there is no requirement of maintaining a separate account head for each business unit as the transactions of each business unit can be easily identified in the SAP with the help of individual Profit Centre/Cost Centre and is also regularly submitting the detailed bifurcation of each expenses parameter into Distribution, Generation, Electrical System and PCA wing.

The HPSEBL has submitted that segregation of wheeling and retail accounts as proposed in the Regulation cannot be done. However, the allocation statement can be submitted by the HPSEBL to the Commission.

Commission's View:-

The Commission observes that the HPSEBL has been directed several times to segregate its Accounts for Wheeling and Retail Business but the HPSEBL has not been able to complete the process. The Commission further finds that HPSEBL has not provided any justification for the delay in segregating its Accounts .

As such, the Commission decides to finalize the proposed Regulation without any change in this regard.

(x) **Comments on Regulation 41(b):**

- (1) The HPSEBL has submitted that the number of categories/sub-categories may be reduced in order to simplify the tariff structure and reduce the litigations due to manipulations etc.
- (2) The HPSEBL has further suggested that the rebates/ concessions being allowed to specific category(ies) of consumers needs to be withdrawn so as to avoid differentiation among consumer categories.

Commission's View:-

- (1) The Commission observes that the defined categories are required in order to segregate the Consumers based on their usage and load and to incentivize certain category(ies) of Consumers. However, this suggestion raised by the HPSEBL does not pertain to the proposed Regulations and may be considered while issuing the Tariff Order.
- (2) Also, the rebates/concessions are provided to certain categories of Consumers based on the State Government policies and are envisaged to be compensated by the State Government. Further, the issue is not subject matter of the Regulations being finalized.

As such, the Commission decides to finalize the proposed Regulation without any change in this regard.

In view of the above, the Commission, after taking into consideration 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 Regulatory Commission (Multi Year Wheeling Tariff & Retail Supply Tariff) Regulations, 2023 by incorporating the changes on the above lines.

Sd/-
(Shashi Kant Joshi)
Member

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

Sd/-
(Devendra Kumar Sharma)
Chairman

Place: Shimla
Date: 29.11.2023

Annexure-A

Sr. No.	Participant
1	Er. Anup Ram, Chief Engineer (Comm.), HPSEBL
2	Er. Rajesh Kapoor, SE (SERC), HPSEBL
3	Sh. Kapil Bhimta, Chief Accounts Officer, HPSEBL
4	Sh. Kamlesh Saklani , Law Officer, HPSEBL
5.	Sh. Kamlesh Kumar, Accounts Officer , HPSEBL