

**BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION**  
Vidyut Aayog Bhawan, Block No. 37, SDA Complex, Kasumpti, Shimla-09

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

**Date of order: 22.09.2023**

**In the matter of finalization of the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) (Seventh Amendment), Regulations, 2023.**

**ORDER**

The Himachal Pradesh Electricity Regulatory Commission (hereinafter referred as “the Commission”) made the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017, published in the Rajpatra, Himachal Pradesh, dated 23<sup>rd</sup> November, 2017 which were amended from time to time (hereinafter jointly referred as “RE Regulations, 2017”).

2. The outer date of the 3<sup>rd</sup> control period as per the RE Regulations, 2017 was specified as 30.09.2023. The Commission is thus mandated to fix the new control period and further review/amend the financial parameters of various RE technologies as well as the technical parameters for the small hydro projects in relation to the next control period.
3. Taking the above into consideration, the Commission issued the draft of the HPERC (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) (Seventh Amendment) Regulations, 2017 on 20.07.2023 and published the same in the Rajpatra, Himachal Pradesh on 21.07.2023.
4. As required under Sub-section (3) of the Section 181 of the Electricity Act, 2003, (hereinafter to be referred as the Act for short) the Commission invited public objections and suggestions by way of insertion of public notice in two News papers i.e. “Amar Ujala” and “Hindustan Times” on 27.07.2023 under Rule (3) of Electricity (Procedure of Previous Publication) Rules, 2005 and the full text of the draft amendment Regulations alongwith explanatory memorandum was made available on the Commission’s website: [www.hperc.org](http://www.hperc.org). The last date for filing objections/ suggestions was 22.08.2023.

5. The Commission, vide letter dated 28.07.2023 requested the major stakeholders, including Small Hydro Project Developers Associations, State Government, Directorate of Energy, HIMURJA and Distribution Licensee to send their objections/suggestions as per the aforesaid public notice. A Public hearing in the matter was also held on 04.09.2023.
6. The Commission received comments/suggestions on the draft amendment regulations from the following Stakeholders:-
- (i) M/s Jaya Hydro Power Pvt. Ltd., 13, Patrakar Vihar, KachiGhati, Shimla-171010.
  - (ii) M/s Varun Jal Vidyut Shakti Pvt. Ltd., Skipton Villa, the Ridge, Shimla- 171001 (HP).
  - (iii) The Himachal Pradesh Power Corporation Ltd., Himfed Building, BCS, New Shimla-17109(HP).
  - (iv) M/s IA Hydro Energy Pvt. Ltd., D-17, Sector-1, Lane-1, New Shimla-171009.
  - (v) M/s KIN Hydro Power Limited, Vill & PO Chaura, Teh. Nichar, District Kinnaur.
  - (vi) The Bonafide Himachalies Hydro Power Developers Association, Sai Bhawan, Sector-4, New Shimla-171009 (HP).
  - (vii) M/s Yogindera Power Ltd., VPO Jalari, Kangra-176063 (HP).
7. The list of participants who attended the public hearing on 04.09.2023 is annexed as **Annexure-“A”**.
8. **Objections and issues raised during the public hearing.-**  
During the public hearing, the stakeholders and their representatives presented their views. The issues and concerns voiced by them are briefly given as under:-
- 8.1 The representative of M/s Varun Jal Shakti Pvt. Ltd. and M/s Jaya Hydro Power Pvt. Ltd. have made the following suggestions:-
- (i) The tariff protection should be extended up to 5 MW. Currently, the actual O&M charges for capacities such as 4.94 MW or 5.05 MW are nearly identical. However, the regulations define different O&M charges for such capacities, which should be reviewed.
  - (ii) The Normative Capital cost for all categories of Small Hydro Power (SHP) projects, as fixed by the Commission for the 3<sup>rd</sup> Control Period at Rs. 11 Crore per MW, has been retained for the 4<sup>th</sup> Control Period also. Nonetheless, there has been an increase of 20-30% in labor cost and a 33% rise in minimum wages. These changes should be reflected in the normative capital cost.

- (iii) Regulation 38-C states that normative energy losses in project lines shall be considered as 0.7% of gross generation. However, actual transmission line losses often reach up to 3%, and this should be taken into account.
  - (iv) The representative also suggested that public objections and other legalities should be conducted as per sub-Section (3) of Section 181 of the Electricity Act 2003. Regulations should be framed for a period of 5 years to ensure fairness to new developers.
- 8.2 The representative of M/s Kin Hydro Power Ltd. raised concerns regarding Force Majeure conditions not being included in the Regulation for cases where projects cannot be completed within the allowed timelines due to factors beyond the control of project developers.
- 8.3 The representative of M/s KK Hydro Power Ltd. suggested that impact of flood and low discharges and global warming should be considered in the tariff calculation and advocated for a more liberal tariff structure. He also suggested that there should also be clarity on the treatment of water cess in tariff determination under these Regulations.
- 8.4 The President, Bonafide Himachalies Hydro Power Developers Association has made the following suggestions:-
- (i) With regard to the Payment Security Mechanism (Regulation 31-CC), it was stated by the stakeholder that the sharing of revenue in the ratio of 75:25 between Distribution Licensee and renewable energy generators when selling power in the open market is not favorable to renewable energy generators and it should not incentivize Distribution Licensees.
  - (ii) There are cases where HPSEBL delays in disbursement of energy generation bills of small hydro developers. The Discom should require prioritizing payments for Small Hydro Power projects over Large Hydro Electric Projects etc.
  - (iii) Interconnection points for SHPs should be aligned with CERC provisions.
  - (iv) The provisions of the Model Power Purchase Agreement (PPA) may be subject to mutual modifications with the Distribution Licensee.
  - (v) Free power should be considered as pass-through in the tariff even beyond 13% limit.
  - (vi) Project line and bay costs in the licensees Sub-stations should not be part of the normative capital cost.
- 8.5 The representative of M/s Sai Eternal Foundation has made the following suggestions:-

- (i) The normative Return on Equity (RoE) has been reduced from 17% to 14% compared to the 3<sup>rd</sup> Control Period. The same may be increased accordingly.
  - (ii) The normative capital cost should be increased to account for rising costs in various project components.
  - (iii) The impact of water cess needs to be factored in tariff determination under these Regulations.
  - (iv) The proposed CUF (47.85%) is higher as compared to CUF considered by the CERC for SHPs (i.e. 45%) which is not justifiable. There are number of commissioned projects which are running on the CUF less than 45%.
- 8.6 The Director, Shivalik Energy Pvt. Ltd. stated that there is a discrepancy between the royalty rates in old and new Implementation Agreements which need to be rationalized.
- 8.7 The Sr. Vice President of Himalaya Power Producers Association has endorsed the submissions made by the Bonafide Himachalies Hydro Power Developers Association and also made the following additional suggestions:-
- (i) The Regulations should consider delays in COD and grant of extensions in SCOD due to Force Majeure or other reasons even for the SHPs covered under one time amnesty scheme.
  - (ii) Subsidy should be accounted for in the tariff only if the Power Producer actually receives it.
  - (iii) The Commission should consider the realistic cost of projects, which may differ from the DPRs.
- 8.8 The representative of Growel Energy Company Ltd. Solan stated during the public hearing that subsidy should not be considered as deemed availed until it is actually received by the developer. He also stated that there are conflicts in the eligibility conditions for availing subsidy, which need to be addressed.
- 8.9 The Director, Yadlapati Agro Products Pvt. Ltd. Guntur (AP) stated during the public hearing that the sharing of revenue in the ratio of 75:25 between Distribution Licensee and renewable energy generators in the open market sale of power may be favorable to the Distribution Licensee only. He mentioned that the delays in disbursement of energy charges and LPS Payments need to be addressed. It was also suggested that the upstream water diversion for other schemes, affecting power production, should also be considered in these Regulations.

9. **Consideration of written submissions and viewpoints expressed in the public hearing by the stakeholder(s) and Commission’s analysis/view.-**

After having gone through all the written submissions and the viewpoints expressed by the various stakeholders in the public hearing, we now proceed to analyze the various suggestions which are considered to be relevant to the finalization of the amendment Regulations. The Commission considers it appropriate to address the general preliminary issues before taking up, on merit, the Regulation wise issues raised by the Stakeholders.

**9.1 Preliminary Issues:-**

(a) M/s Jaya Hydro Power Pvt. Ltd. has raised the following preliminary issues:-

**(i) Compliance of Sections 3 and 181(3) of the Act:-**

It has been submitted that the proposed Regulations are contrary to the basic feature of the Indian Electricity Act as Section 3 of the Act provides as under:

“Section 3 National Electricity Policy and Plan; the Central Government, shall, from time to time, prepare the National Electricity Policy and Tariff policy in consultation with State Government.....”

It has further been submitted that section 3(4) of the Act prescribes the, National Electricity Plan in accordance with National Electricity Policy and notifies such plan once in five years. This clearly suggests that policy and tariff policy are to be determined periodically, the maximum limit of the period is five year; therefore the regulations cannot be extended by way of amendment in the Regulation since they are of periodic nature. If amendment is made to the Regulations, then it will be contrary to the Section 3 of the Act.

**Commission’s View:-**

Section 3 of the Electricity Act, 2003 envisages formulation of the National Electricity Policy and tariff policy by the Central Government and of Electricity Plan by the CEA. The Section 3 does not mention any time limit for the applicability of tariff policy. Moreover, it neither envisages any maximum period for which tariff can be determined nor mentions any maximum period for which the regulations can be made applicable. The objections raised by the Stakeholders are thus not relevant. Moreover, as per the proposal itself, the Commission intends to fix the different parameters for the new control period by revisiting the tariff determination parameters specified under RE Tariff

Regulation, 2017. As regards Section 181 (3) of the Act the provision is being followed strictly and there is no violation in this regard also.

**(ii) Interpretation of the word ‘guided’:**

It has been submitted that the ‘guided’ word is used in Section 61 of the Act which prescribes that while determining the tariff, the State Commission shall be guided by the Principles and Methodologies adopted by the Central Commission. Again the ‘guided’ word is used in Section 108 of the Act where State Commission shall be guided by such directions in the matter of policy. The word ‘guided’ means that Commission is bound by the guidance made by the Central Commission and guidance by the State Government. The Commission cannot choose independent path meaning thereby that by not adopting guidance it cannot adopt its own course by violating the guidance made by Central Commission under Section 61 and by State Government under Section 108 of the Act. The National Tariff Policy in its Clause 5 (3) (1) Para 2 directs the appropriate Commission to follow the norms fixed by the Central Commission. Section 5 (3)(a), it also says that the tariff policy shall be followed by the State Electricity Regulatory Commission, in present case the proposed amendment to the regulations is contrary to the Act and National Tariff Policy since present policy is valid up to 2020 and these draft regulations are to become valid up to March, 2027. Therefore, these regulations shall not be following the tariff policy likely to be notified in near future. Hence, the Seventh amendment regulations has to carry out the limitation that these will be reviewed upon notification of new policy, regulations framed by CERC for the control period or other relevant policy notified by the Government in near future.

**Commission’s view:**

The Commission does not agree with the contention that the word ‘guided’ used in the Act creates any binding on the State Commissions to essentially agree to the same. The word ‘guided’ has essentially to be interpreted as its usual meaning.

The CERC’s RE Regulations are basically applicable for such projects for which the tariff is to be determined by CERC under Section 62 read with the Section 79 of the Act. For the projects selling power to the Discom of the State, the State Commissions have been empowered to make their own Regulations. Even though for the purpose the State Commissions are to be guided by the principles and methodology specified by the Central Commission, apart from the other aspects

mentioned in 61 of the Act, it is not binding for the State Commissions to essentially follow the CERC Regulations. Even as per Section 181 of the Act, as referred to by the Stakeholders, the Regulations have to be consistent with the Act and Rules only. Even the provisions of the tariff policy are also guiding provisions.

As regards the suggestion to limit the regulations with the National Tariff Policy and CERC regulations, we decline to accept any such proposal. The CERC regulations are basically applicable in cases where tariff is determined by CERC and are not binding on State Commission. The impact of revision of National Tariff Policy on the RE regulations can be considered as of when any event actually takes place. In view of above, we decline to accept the suggestion.

(iii) **Compliance with Section 181 of the Act:-**

It has been submitted that the Section 181 of the Act provides that Regulations should be consistent with the Electricity Act, 2003 and the Rules to carry out the provisions of the said Act. The provisions of RE Tariff Regulations, 2017 and its amendments including 7th Amendment is not consistent with the various clauses of CERC RE Tariff Regulations, 2020, State policy, National Tariff Policy and other provisions of the Indian Electricity Act 2003. Main inconsistencies in CERC Regulations & Act are the proposed amendment's control period, applicability as per Commercial Operation Date, differences in Financial Principles and normative for small hydro projects located in Himachal Pradesh etc.

**Commission's view:**

The proposed regulations do not in any way violate the spirit of Act or Rules. As regards the CERC regulations, it is not binding for the Commission to follow the same. The State Commissions are only to be guided by the methodology and principles followed by CERC. The Commission has, however, not only given due consideration to the CERC's existing Regulations while proposing the normative financial parameters for all RE Technologies and the normative technical parameters for the SHPs, but has also carried out due diligence while fixing the normative parameters for tariff determination for the various RE technologies.

(iv) **Commercial Principles:**

It has been submitted that as per Section 61 (b) of the Act, even though generation is to be conducted on commercial principles but the normative fixed in these Regulations are not based on actual but on

assumptions, presumptions & conjectures which are causing loss to the small hydro power developers. The HPERC has adopted some of the normatives in the proposed Regulations which are at wide variation with the actual data such as Capital Cost, Capacity Utilisation Factor, O & M charges, free power are some of such parameters.

**Commission's view:**

The contention of the objector with regard to commercial principles, we feel that if the commercial principles are followed strictly, the power shall have to be purchased by the Distribution Licensee entirely through competitive bidding. It is only to promote the relevant RE technologies that power purchase is being allowed on must buy basis and at normative rates.

**(v) Compliance of Section 64 of the Act:**

It has been submitted that Section 64 of the IE Act, 2003 stipulates that 'application for determination of tariff under section 62 shall be made by a generating company in such manner and accompanied by such fee as determined by the regulations'. These draft regulations do not specify the manner for filing application for determination of tariff. The joint petition as provided in the conduct of business is contrary to the Clause 64 because generally there is no consensus on some of the clauses of model Power Purchase Agreement and in case of disagreement no methodology to file petition for determination of tariff is provided in the Regulations.

**Commission's view**

In cases where tariff is to be determined on project specific basis, the fee as per the HPERC (Conduct of Business) Regulations, 2005, as amended from time to time, is applicable. The generic levelled tariff based on normative parameters is available for all project(s), as permitted, in a scenario where the developer(s) chooses to sell power to the Discom. In that case, the process laid down under Section 64 of the Electricity Act, 2003 need not be followed.

**(vi) Powers to amend the Regulations:-**

M/s Jaya Hydro Power Pvt. Ltd. has also submitted that none of the Sections of the Electricity Act, 2003 mentioned in the draft notification give power to amend the Regulations. Section 181 gives the power to frame new/re-enact the regulations only.



**Commission's View:-**

The contention that Section 181 of the Act gives powers only for making new Regulations and not for amending the existing Regulations is not correct when viewed alongwith the provisions of the General Clauses Act, 1897.

**9.2 Issues raised on merits:-**

After having addressed the preliminary issues, we now proceed further towards consideration of the regulation wise suggestions as follows:-

**(i) Regulation 13.-****Tariff option/applicability.-**

M/s Jaya Hydro Power Pvt. Ltd. has submitted that as per policy of the State Government, tariff is to be determined as per the control period in which commercial date of the project falls but these regulations still do not have this provision. Furthermore, Amendment of Regulations 13 under para 4, also does not consider commercial operation date for the control period even if extension is granted by the Government because of Force—Majeure reasons.

- (ii) M/s KIN Hydro Power Limited has referred to the amendment proposed to the effect that SHPs covered under amnesty scheme shall be considered for the tariff according to the control period encompassing the SCOD fixed as per scheme. It has been submitted that because of Force Majeure reasons the SCOD is extended by the Government. State Government has notified in its hydro policy that Commercial Operation Date shall be considerable for determination of tariff and this was incorporated in the Regulations, 2017. So in case of SHPs falling under one time amnesty scheme and the SCOD is extended by the Government for Force Majeure reasons, the same should be applicable for determination of tariff. The amendment proposed in Regulations 13 may be deleted.
- (iii) The Bonafide Himachalies Hydro Power Developers Association and M/s Yogindera Power Ltd. have submitted that the delay due to force majeure or other conditions beyond the control of developer and delays not attributable to the developer which duly accepted by the signatories of the Implementation Agreement should be considered for recalculating the SCOD for the purpose of tariff, otherwise the basic objective of granting or accepting extension due to various causes not attributable or in the control of the developer shall be forfeited.
- (iv) Similar views, as above, have also been expressed by the stakeholders during public hearing as elaborated in para 8.

### **Commission's View:-**

The Clause (aa) of Regulation 13, read in its totality, adequately addresses the issues raised by the stakeholders in a fair manner. The proposed amendment of this clause is limited to the projects covered under the One Time Amnesty Scheme for the already delayed projects. The developers of these projects themselves have agreed to the time lines for completion of these delayed projects. These projects are already over delayed and we don't find it appropriate to allow further extension for tariff purposes in such cases. As such, the Commission decides to retain the proposed provision made in the draft Regulations without any change.

### **9.3 Regulation 21-C & 34-C:-**

#### **Capital Cost.-**

- (i) M/s Jaya Hydro Power Pvt. Ltd. has submitted that the normative capital cost should be updated by considering the increase in the cost of components such as wages, cement and steel in last 3 years. The stakeholder submitted that the cost estimated in the DPR do not account for the cost and time overruns because of geological surprise, force majeure reasons and local problems. The data provided by the DoE as per the TECs is only an estimated cost. The price variation between the date of TEC and COD may require to be considered appropriately to promote renewable energy sector.
- (ii) M/s Varun Jal Shakti Pvt. Ltd. and KIN Hydro Power Ltd. have submitted that there is increase of more than 20% in cost of all works pertaining to major components of the hydro projects. The increase in cost of cement, steel and worker wages etc. have also been highlighted.
- (iii) The Bonafide Himachalies Hydro Power Developers Association and M/s Yogindera Power Ltd. have given the written submission during the public hearing. The Association submitted that the per MW cost of Rs. 13 Crore for the projects 5 MW to 25 MW may be adopted for the proposed control period. For the project 100 kW to 2 MW and above 2 MW to 5 MW, the per MW capital cost may be suitably enhanced by taking into account economies of scale. The Association has further submitted that the normative per MW capital cost of SHP should be further indexed to the price increase for control period i.e. 2023–27. To strengthen their case, the Association referred the increase in capital cost by 15% to 22% by the UERC during the period i.e. 2018-2023. The increase in CPI and WPI during the 3<sup>rd</sup> control period as well as increase in cement, steel and labour cost may also be the basis for increase in proposed capital cost of 11 Crore per MW fixed for 3<sup>rd</sup>

control period i.e. 2020-2023. The Association also submitted that the figures considered in the DPRs are to make the project financial viable and bankable. It has been mentioned that a higher capital cost in the DPR will show negative returns and no Financial Institution will finance such projects. The study conducted by Alternate Hydro Energy Centre, IIT Roorkee in 2015 relating to benchmark cost for SHPs has also been referred in the submissions.

The Association has also submitted that cost of project transmission line and bay should not be the part of capital cost and may be considered in line with the CERC Regulations. The developer should be compensated as per the provision provided by the UERC.

- (iv) Most of the stakeholders also reiterated/expressed their viewpoint regarding fixation of normative capital cost for SHPs in public hearing, as brought out in Para-8.

**Commission's View:-**

- (a) The Commission has allowed normative capital cost of Rs. 1100 Lacs per MW under the 3<sup>rd</sup> control period in line with the same specified by CERC in their RE Regulations. The Commission observes that it has already enhanced the normative capital cost considerably in the 2<sup>nd</sup> and 3<sup>rd</sup> control periods. Moreover, suitable provision was also made in the RE Regulations for the applicability of tariff for the control period in which the scheduled COD falls. The experience has shown that the Scheduled COD of various SHPs is getting extended to the future control periods which may entitle them to the tariffs for such future control periods.
- (b) In view of above, we observe, in general, that in most of the cases to whom the generic levelled tariffs shall be applicable, at least some of the works would have already started, or even executed, before the commencement of the 4<sup>th</sup> control period. It will, thus, not be appropriate to apply the escalation on the lines in which it has been suggested.
- (c) The contention that the capital cost estimated in the DPRs are not realistic as these do not account for the cost and time over runs because of geological surprises, force majeure reasons and the local problems, is also not tenable. The Commission feels that even though this may be true in some cases, yet the DPRs cost cannot be ignored altogether for fixing the normative capital cost in the Regulations. In this connection, the Commission also observes that the tariff based on normative capital cost proposed in the draft Regulations may hardly be

applicable for the projects for which DPRs have been approved during the last year as the Regulations provide for the tariff linked to the control period in which the Scheduled COD falls. The Scheduled COD for such projects may generally not fall in the proposed control period.

- (d) The Commission also feels that higher and higher normative capital cost may not only adversely impact the viability of RE projects based on the SHP technology but may also impact the available market for sale of power from such projects. Being run of the river projects without any pondage, these projects do not have any peaking benefits. The projects under this technology, and for that matter under any other technology, have to be sustainable, lest the same may not be able to compete with the projects under other RE technologies. However, the Commission is also of the opinion that the prudent cost should be provided in order to facilitate execution of the projects.
- (e) In view of above, the Commission, after balancing various relevant factors, decides to specify the normative capital cost for the 4<sup>th</sup> control period as follows:-

<b>Sl. No.</b>	<b>Category of small hydro Project</b>	<b>Rupees (in Lac) per MW of the installed capacity</b>
(i)	Above 100 kW to 2 MW capacity	<b>1160</b>
(ii)	Above 2 MW but below 5 MW capacity	<b>1145</b>
(iii)	5 MW to 25 MW capacity	<b>1125</b>

#### **9.4 Regulation 22-C:-**

##### **Subsidy or incentive or grant/budgetary support by the Central/State Government.-**

- (i) The Bonafide Himachalies Hydro Power Developers Association and M/s Yogindera Power Ltd. have submitted that there is no rationale at all in deducting the subsidy or any kind of Governmental support for determination of tariff in all cases even if not availed, is totally irrational and sans logic as this subsidy has been provisioned by the MNRE, Government of India to promote the Small Hydro Power Sector. Also, the subsidy on account of plant and machinery provisioned by Government of India through Department of Industrial Promotion for the projects up to 10MW should also not to be deducted while determining the tariff for such projects.

The proposal to reduce the amount of subsidy/incentive etc. available, irrespective of whether the same is actually availed or not, under the schemes of the Central or the State Government or their agencies from the capital cost is contrary to the fundamental principle of introduction of such subsidy or incentive or grant/budgetary support

to promote an activity for the larger public good. This principle should be understood in letter and spirit and excluded from the design of tariff calculation completely. The formulation that such amount shall be considered in the calculations of tariff even if not availed by the developer is atrocious and should be deleted.

- (ii) The stakeholders have also made similar submissions during the public hearing also as elaborated in para-8.

**Commission's View:-**

The suggestions to the effect that the incentive/subsidy/ grant given by Central/State Government, whether availed or not availed, should not be adjusted in tariff lacks justification particularly in a scenario where the reasonable costs are already being allowed, on normative basis, in the tariff determination. Even the CERC RE Tariff Regulations also provide for adjustment of subsidy/incentive etc. As such, the Commission declines to accept the suggestions made by the stakeholder in this regard.

As regards the suggestion that the subsidy should not be adjusted if it is not actually availed (but otherwise available as per the relevant governed scheme(s)), the Commission declines to accept the suggestions as it is felt that such a provision is necessary to ensure that the developers must avail the subsidy etc. available to them as per the Government schemes so as to avoid undue burden on the consumers of the State.

**9.5 Regulation 25-C:-**

**Depreciation.-**

The Bonafide Himachalies Hydro Power Developers Association and M/s Yogindera Power Ltd. have submitted that since the projects are required to be reverted to the government in perfect running conditions free of cost at the end of 40 years tenure from the COD, implying that there shall be no salvage value available to the developer. The tariff calculation does not provide refurbishment cost to the project. The assumption of the Commission of not allowing depreciation beyond 90% does not stand on all fours and merits to be thrashed. The Association requested to allow 10% residual value of depreciation in tariff calculations apart from refurbishment cost of plant after 30 years life of the project.

**Commission's View:-**

It is a standard practice to allow depreciation to the extent of only 90% and we do not find it appropriate to allow any depreciation beyond 90%

of the value base. As such, the Commission decides to retain the provision of the draft Regulations.

As regards the cost of major or minor repairs after 30 years, we feel that such costs have to be met from the permitted depreciation, net of loan component, profits and O&M expenses etc. provided during the useful life of the project i.e. 40 years considered for SHPs in the tariff determination. It may not be appropriate to burden the Distribution Licensee, and in turn Consumers, with such major costs at the fag end of the tariff period of 40 years. As such, the Commission declines to accept the suggestions in this regard.

## **9.6 Regulation 26-C:-**

### **Return on Equity.-**

- (i) M/s Jaya Hydro Power Pvt. Ltd. has invited reference to the proposal that for allowing compensation of MAT or Income Tax, suitable mechanism alongwith suitable appropriate limits shall be evolved at the time of determination of generic levelled tariff. The stakeholder has submitted in this regard that this mechanism may be defined within these Regulations itself. However, in their opinion, any new mechanism shall give rise to disputes between the HPSEBL and the IPPs. It has been suggested that earlier practice of providing 3% return on account of MAT or Income Tax may be provided in these Regulations.
- (ii) M/s Varun Jal Shakti Pvt. Ltd. has submitted that the mechanism for reimbursement of taxes may be defined in these Regulations itself. It has been suggested that since, it will not be easy to follow the proposed mechanism for reimbursement of MAT and Income Tax, the earlier practice of providing additional 3% to 5% RoE on account of MAT and Income Tax may be provided in these Regulations.
- (iii) The Bonafide Himachalies Hydro Power Developers Association and M/s Yogindera Power Ltd. have submitted that the proposed normative return on equity of 14% further reduces due to various factors such as a higher free energy percentage, 90% depreciation, low capital costs, a high-capacity utilization factor, and low allowances for operation and maintenance costs etc. The RoE of 17% per annum on pre-tax basis without adjustment of accelerated depreciation benefits may be adopted. The CERC had determined a pre-tax RoE as 17.56% in its renewable energy tariff order dated 31<sup>st</sup> March, 2015.
- (iv) The stakeholders have also made similar submissions during the public hearing also as elaborated in para-8.

**Commission's View:-**

The proposal basically provides for reimbursement of MAT/Corporate tax on the RoE component on actual basis instead of normative adjustments and should be preferred as a matter of general principle. However, considering the view of stakeholders, the Commission agrees to retain the relevant provision of the existing RE Tariff Regulations. As such, Regulation 26-C of the draft Regulations shall be modified as under:-

“(1) The value base for the equity (on which return on equity shall be calculated) shall be equal to the equity component computed in accordance with the provisions of Regulation 23-C.

(2) The normative Return on Equity shall be 14%. The normative Return on Equity shall be grossed up by the latest available notified Minimum Alternate Tax (MAT) rate for the first 20 years of the Tariff Period and by the latest available notified Corporate Tax rate for the remaining Tariff Period.”

**9.7 Regulations 28-C & 39-C:-****Operation and Maintenance Expenses.-**

- (i) M/s Jaya Hydro Power Pvt. Ltd. and M/s Varun Jal Shakti Pvt. Ltd. have submitted that O&M expenses have been escalated over the tariff period at the rate of 3.84% per annum even though inflation during last three years is more than 3.84% per annum. So this rate may be reviewed and increased considering average inflation rate during last three years. M/s Jaya Hydro Power Pvt. Ltd. has additionally submitted that the provision for review of the escalation rate may also be kept in view.
- (ii) The Bonafide Himachalies Hydro Power Developers Association and M/s Yogindera Power Ltd. have submitted that the escalation factor may be re-calculated as per CERC methodology to cover the inflation in price. The rate of inflation/increase of WPI and CPI is presently much more than 3.84% per annum.
- (iii) M/s Jaya Hydro Power Pvt. Ltd. has submitted on the proposed O&M charges for small hydro projects that these charges are not slab wise and create discrimination to the project which have capacities in the range just above the maximum capacity of lower category. There is a fixed component of the cost in O&M expenses, therefore, minimum annual charges may be provided for projects having installed capacity of less than 1 MW. The stakeholder suggested that to have fair and just approach, the following amendments may be made in the norms:-

O&M charges for Small Hydro Projects

No.	Installed capacity of the SHP	Annual O&M expenses in Rs. Of installed capacity
1.	Above 100 KW to 2 MW capacity	Rs. 46.78 lac per MW or Rs. 45 Lakh per annum, whichever is higher.
2.	Above 2 MW but below 5 MW capacity	Rs. 46.78 per MW
3.	5 MW to 25 MW capacity	Rs. 35.09 lac per MW or Rs. 233.90 lac per annum whichever is higher.

Further, the stakeholder submitted that O&M charges can otherwise be fixed on slab basis. Therefore, for slab of 5 MW to 25 MW these can be defined as Rs 233.90 Lac plus Rs. 32.16 Lac per MW. Regulations provide for O&M charges on per MW basis meaning that O&M charges increases as the capacity of the plant increases. Economy of Scale principle means that aggregate expenses do not increase proportionately to the capacity but reduce because of reduction in variable component cost. This principle does not mean that project with a higher capacity shall have lower expenses than similar project of lower capacity or it can be built at lower cost than the cost of similar project of lesser capacity. Therefore, provision of compensation upto 10 paisa in the draft regulations is not fair and is unjust, biased, discriminatory and against the policy of the State. Hence, it is suggested that O&M charges may either be provided slab wise or the annual aggregate charges for any capacity of the project may be protected keeping in view the charges provided for the project in the lower category.

- (iv) M/s Varun Jal Shakti Pvt. Ltd. has submitted on the proposed O&M charges for SHPs that the proposal to offset the effect of reduction on the tariff in case of projects having capacities 5 MW and above and to provide for adjustment to the maximum extent of 10 paisa per unit shall considerably erode the profitability of Small Hydro Power Project of the Company which has a capacity of 5 MW. The stakeholder has suggested that the annual O&M charges for 5 MW should at least be equal to Rs. 233.9 Lac as proposed for 5 MW project in category of 2 MW to upto 5MW capacity category.

It has further been submitted that the Clause 39 CC provides that the installed capacity shall be rounded to one decimal place i.e. plant capacities from 4.951 MW to 5.049 are to be considered as plant with capacity of 5 MW. Accordingly 5 MW project in lower category gets Rs 233.90 lakh charges per annum for O & M whereas the project of same



capacity in 5 MW and above category gets only Rs. 175.45 lakh per annum. This is an anomaly, inconsistency which requires to be corrected. Therefore, to have just and fair approach, it is suggested that for 5 MW project whether in 2-5 MW capacity category or 5-25 MW capacity category, annual O&M charges may be provided as Rs 233.90 lakh.

- (v) The Bonafide Himachalies Hydro Power Developers Association and M/s Yogindera Power Ltd. have submitted that O&M expenses have been proposed as Rs 46.78 lakh/MW for categories (i) and (ii) and Rs 35.09 lakh/MW for (iii) category. However, UERC has provided O&M charges of Rs. 59.43 lakh, Rs. 53.33 lakh and Rs. 47.54 lakh per MW for category (i), (ii) and (iii) respectively. As the quantum of O&M work remains the same in hilly areas of Uttarakhand and Himachal Pradesh, it will be in the fitness of things to adopt the normative O&M costs worked out and provided by the UERC. Needless to emphasise, Uttarakhand and Himachal Pradesh have high Himalayan mountainous terrain and the small hydro projects of various capacities are all generally located in high altitude areas where the extent of deterioration suffered by the projects due to severity of climatic conditions and ruggedness of topography is of very intense order. The recurrence of flash floods, cloud bursts, landslides and unprecedentedly high silt load in the streams and rivulets is a regular phenomenon and standing testimony for the crying need of very high O&M challenges and costs incumbent thereon in both the States. The requirement of O&M in such locations is much higher than elsewhere in the country and, therefore, it would be prudent to adopt the norms of the UERC.
- (vi) The stakeholders have also made similar submissions during the public hearing particularly on the O&M charges of SHPs as elaborated in para-8.

**Commission's View:-**

- (i) The Commission has considered the O&M charges for the first year of the tariff period by escalating the rates provided in the existing Regulations for the 3<sup>rd</sup> control period at the annual escalation rate specified therein. The proposal also provides for annual escalation factor over the tariff period at the escalation rate specified in the existing Regulations. The Commission after duly considering the suggestions made by the stakeholders decides to retain the rates proposed in the draft Regulations.
- (ii) As regards the protection of annual aggregated O&M charges due to change in category wise rates of O&M charges, the Commission, after

considering the suggestions in further detail, feels that whereas it may not be appropriate to provide slab-wise rate, it may be appropriate to protect the annual aggregated O&M charges for the SHPs having capacity of 5 MW and marginally higher capacity, so that the aggregated annual charges for such projects are not lesser than the projects of immediate lower capacity (i.e. 4.9 MW). Accordingly, the Commission decides to include a provision to the effect that in case of the SHPs falling in the 3<sup>rd</sup> category (i.e. 5 MW to 25 MW) and having installed capacity of 5 MW and marginal higher capacity, the annual aggregate O&M charges shall not be less than Rs.229.222 Lacs (i.e. 4.9 MWx46.78 Lacs per MW) and that in order to allow such protection, the Commission shall evolve a suitable mechanism for adjustment of tariff in the tariff order. Such a protection shall benefit the projects having capacity of 5 MW but upto 6.5 MW. The SHPs having capacity of more than 6.5 MW shall not require such protection as the aggregate O&M charges in their case shall automatically be higher than Rs. 229.222 Lacs. The adjustment in tariff on this account shall be made before making any adjustment on account of variation in the rate of free power as per Regulation 36-C.

## **9.8 Regulations 29-C:-**

### **Taxes and duties.-**

- (i) M/s Jaya Hydro Power Pvt. Ltd., M/s Varun Jal Shakti Pvt. Ltd. and M/s KIN Hydro Power Limited have submitted that tariff determined under these Regulations shall be inclusive of all taxes and duties but how the water-cess is to be compensated to the project developer has not been defined in these Regulations.
- (ii) The Bonafide Himachalies Hydro Power Developers Association and M/s Yogindera Power Ltd. have submitted that the Government of Himachal Pradesh has notified the Himachal Pradesh Water Cess on usages of water for Hydro Power Generation Act, 2023 to fix the rates of the Water Cess on Hydro Power Generation projects in the State of Himachal Pradesh for use of water for Hydro Power Generation. Consequent upon the issuance of said notification, the Small Hydro Power developers will be further burdened to pay extra charges for this Water Cess. If the impact of this cess is not included in the tariff or the amount of Cess paid to the Government shall not be refunded by the Discom, then most of the Projects shall become Non-Performing Assets (NPA).
- (iii) It has not been mentioned that this burning issue has not been addressed in the proposed amendment Regulations. It is bound to

impact the pricing of energy and seriously impinge upon the financial viability of the existing generating utilities or of those likely to come into operation. It has been submitted that the impact of this factor may also be considered while determining the tariff.

- (iv) Some of the stakeholders have also made their submission regarding treatment of water-cess factor in the tariff determination during public hearing as elaborated in para-8.

**Commission's View:-**

The Regulation 20 of the RE Tariff Regulations, 2017 already provides for review of tariff, interalia, in the event of levy of water cess which impacts the tariff determined by the Commission on normative parameters basis. This provision shall take care of the concerns of the SHP developers. However, a suitable provision shall, however, be made in the Regulations to provide for reimbursement of the water cess paid by the developers on monthly basis. Therefore, the Commission decides to incorporate a separate provision under Regulation 29-CC on the following lines:-

**“29-CC. Reimbursement of water cess.-**

The amount, if any, paid to the State Government by a SHP generator on account of water cess shall be reimbursed by the Distribution Licensee on monthly basis on production of the receipt in support of such payment:

Provided that such reimbursement shall be limited to the water cess actually paid on such quantum of water usage as is required by the SHP developer for generating the saleable energy for sale to the Distribution Licensee at generic levellised tariff determined under these Regulations and also for providing free power, associated with such sale, to the State Government, limited to the extent of 13% (12%+1% LADF) of the actual generation, or the quantum of free power actually provided whichever is lower, read with Regulation 36-C of these Regulations:

Provided further that the interest and/or penalty, if any, paid the SHP generator on account of delay in payments by it to the State Government shall not be reimbursed:

Provided further that the bill for reimbursement of the amount actually paid, till the date of presentation of the monthly energy bill, on this account by a SHP generator to the State Government shall be raised, supported by a receipt as a proof of such payment, alongwith the monthly bill for that month and the same shall, unless rejected by the Distribution Licensee due to some

reasons, be reimbursed within the timelines applicable for the energy charges and as per the provisions of Regulation 30-C, Regulation 31-C and Regulation 31-CC.”

## **9.9 Regulations 31-CC:-**

### **Payment Security Mechanism.-**

- (i) M/s Jaya Hydro Power Pvt. Ltd., M/s Varun Jal Shakti Pvt. Ltd. and M/s KIN Hydro Power Limited have submitted that power purchase agreement between the project developer and HPSEBL is approved by the Commission, furthermore, Annual revenue Requirement of the HPSEBL is finalized by the Commission, therefore, payment security mechanism may be provided in the PPA itself and suitable clauses in this regard may be provided in the PPA. The stakeholders further submitted that it is not possible for small hydro producers having plant capacities upto 10 MW to sell power through power exchange. It has been submitted that the clause (i) & (ii) of Sub-regulation (4) are contradictory and this clause needs to be reviewed.
  
- (iii) The Bonafide Himachalies Hydro Power Developers Association and M/s Yogindera Power Ltd. have submitted that the proposed provision is complicated and complex for small hydro projects. Therefore, this new clause 31-CC deserves to be withdrawn and earlier clause 31-C may be retained and continued. The representation of Himalayan Power Association and Yadlapati Agro Products Private Limited has also expressed similar concerns during the public hearing an apprehension was also expressed that the Distribution Licensee may intentionally delay the payments & take benefit of the provisions.

### **Commission’s View:-**

Regulation 31-C which provides for payment of Late Payment Surcharge (LPS) in case of delayed payment is not being omitted and the Regulation 31-CC provides for additional mechanism to safeguard the interest of the project developers. The proposed Regulation 31-CC not only provides for payment through Letter of Credit but also recovery of dues through sale of power in the open market subject to certain conditions. The sale of power in open market to recover the dues in such cases is optional for the developers and there is no binding for the developers to sell power in open market.

In view of above, we feel that the suggestion to delete 31-CC and also the apprehension that this provision may be misused by the Distribution Licensee is misconceived. However, the relevant provision in the Regulation 31-CC of draft regulations about the situation in

which the generator may lose the right to collect late payment surcharge, which is otherwise in line with the Rules, shall, however, be deleted while finalizing the Regulations.

#### **9.10 Regulations 35-C:-**

##### **Normative saleable energy.-**

- (i) M/s Jaya Hydro Power Pvt. Ltd. has submitted that the normative annual capacity utilisation factor proposed as 47.85% for the hydro projects upto 25 MW capacity is on higher side as per data available for the small hydro projects in operation so far in HP. Therefore, it is suggested that this shall be kept as 45% same as defined in CERC Regulations and shall be more dependable and realistic.
- (ii) IA Hydro Energy Pvt. Ltd. has submitted that the normative annual capacity utilisation factor (CUF), net of 13% free power including 1% contribution toward the LADF, shall be 47.50% for all the small hydro project upto 25MW. The number of hours in a year for calculation of CUF shall be 8766; we would like to suggest that the normative annual capacity utilisation factor (CUF) shall be 43.50% instead of 47.50%.
- (iii) The Bonafide Himachalies Hydro Power Developers Association and M/s Yogindera Power Ltd. have submitted that CUF calculations may be incorporated in line with the prevalent CERC/UERC Regulations coupled with the increased free power obligations towards the Government. To strengthen their case, it has been submitted that overall CUF inclusive of LADF and the free power percentage actually payable to the Government of HP is as high as (20.2+47.85) 68.05% as an average over the 40 years of period.
- (iv) The stakeholders have also made submission during the public hearing particularly on the CUF considered for SHPs as elaborated in para-8.

##### **Commission's View:-**

The Commission observes that the SHPs in the State are purely run of the river projects and there is hardly any pondage available in these projects. It is in this background that the Commission has, time and again, stressed particularly at the time of finalization of its RE Tariff Regulations of 2012 as well as for the control period of RE Tariff Regulations, 2017, the need for fixation of the installed capacity after carrying out the cost benefits studies based on the incremental energy benefits and incremental costs. The Commission feels that in case of purely run of the river SHPs, which do not have any pondage, the

installed capacity should be kept reasonably low so as to achieve higher CUF particularly in view of the viability considerations.

The potential usages of water, upstream of the project as per the provisions of the Implementation Agreements signed by the developers with the State Government, which may affect the water availability for the project in the later timeframes should also be kept in view while fixing the installed capacity so as to make the SHPs more viable.

In view of above, we decide to retain the provision contained in the draft amendment regulations without any change.

### **9.11 Regulations 36-C:-**

#### **(A) Pass through of free power.-**

- (i) M/s Jaya Hydro Power Pvt. Ltd. has submitted that the draft Regulations limits the free power to maximum 13% and Commission is thus fixing two methods for consideration of free power wherein lower rate of free power is being considered for determination of tariff. It has been suggested that Free Power may be considered as per National Tariff Policy only which carries Force of Law and not the actual structure given by the Government in the Implementation Agreement. The stakeholder cited the provision of clause 5.1 (e) (iii) of the National Tariff Policy in its submissions.
- (ii) The Bonafide Himachalies Hydro Power Developers Association and M/s Yogindera Power Ltd. have submitted that irrespective of the norms set out by Government of India or by the Government of Himachal Pradesh with respect to the fixed percentage of free power throughout the period for which it will be managed by the developers, it has been suggested that the actual free power payable by the developers to the Government may strictly be followed by the Regulator while determining the tariff in order to make the hydro power development sustainable and meaningful. The stakeholders further submitted that the State Policy (Himachal Pradesh) as has been under implementation lays down much higher percentages of free power over the time line of 40 years for which the installation is to be managed by the developer. The State Policy should fall in line with the National Policy not only for tariff determination but also for a constant delivery of 12% free power to the state throughout the time line of the project. It has been suggested that the Commission may consider that if the State Policy imposes a higher rate of free power, it should get factored into the tariff.

- (iii) The stakeholders have also raised the similar issues during the public hearing also.

**Commission's View:-**

The Commission observes that the limit of free power to be considered as pass through in the tariff year for SHPs, has been provided in the Regulation 36-C, as 13% (i.e. 12%+1% as LADF) based on the provisions in the National Hydro Policy/Tariff Policy of the Central Government. Any additional free power beyond the maximum limit of 13% cannot be allowed as pass through in tariff as the same has to be considered as a subject matter of sharing the benefits by the developers with the State. Moreover, the adjustment of free power in the tariff cannot be allowed for a rate which is more than the same at which the free power is actually provided. In view of above, the Commission declines to make any changes in this regard and decides to finalise the proposal made in the draft amendment Regulations without any change.

**(B) Free Power Structure.-**

The Director, Shivalik Energy Pvt. Ltd. stated during the public hearing that there is a discrepancy between the royalty rates in old and new Implementation Agreements, which needs to be rationalized.

**Commission's View:-**

The free power (royalty power) structure is a subject matter of Implementation Agreements (IA) signed by the project developers with the State Government. As such, the rationalization of royalty structure for SHPs during the useful life of the project, being Policy matter, pertains to State Government. The Commission, on its part, has already specified the modalities for adjustment in tariff under different royalty structures.

**9.12 Regulation 37-C & 38-C:-**

**Auxiliary Consumption and Energy losses:-**

- (i) The Bonafide Himachalies Hydro Power Developers Association and M/s Yogindera Power Ltd. have submitted that the parameter of 1% loss clubbed for auxiliary consumption and transformation loss for SHPs up to 5 MW capacity is on lower side as in case of SHPs capacity upto 10 MW, it has been observed that the auxiliary consumption is more than 2%. It has been suggested that for SHPs upto 10 MW capacities, this parameter should be kept as 2%.
- (ii) The Bonafide Himachalies Hydro Power Developers Association and M/s Yogindera Power Ltd. have also submitted that energy loss of

0.7% of the net generation is on lower side. It has been suggested that transmission losses up to inter connection point are 2% as per the CEA norms and this parameter should be kept as 2% for losses in project lines.

- (iii) Some of the stakeholders have also made submissions during the public hearing particularly on the line losses of SHPs as elaborated in para-8.

**Commission's View:-**

- (i) The norms of normative auxiliary consumption and transformation losses for SHPs, as incorporated in the draft amendment Regulations, are in line with the provisions of the CERC RE Tariff Regulations, 2020. In fact, similar percentage has been considered by the Commission in its previous RE Regulations as well as for the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> control periods of the HPERC RE Tariff Regulations, 2017. As such, the Commission decides to retain the provision contained in the draft amendment regulations without any change.
- (ii) As far as the normative loss of 0.7% for the project line is concerned, the Commission finds the said rate of 0.7% to be quite reasonable and declines to accept the suggestion to increase the same to 2%.

10. **Miscellaneous.-**

The suggestions made by the Stakeholders on the issues not forming part of the proposal, presently under consideration, have also been addressed as follows:-

**A. To consider Hydro Electric Project above 25 MW capacity eligible for HPO commissioned before 08.03.2019.-**

M/s IA Hydro Energy Pvt. Ltd. has submitted that hydro project above 25 MW capacity commissioned before 08.03.2019 may be made eligible for HPO.

**Commission's View:-**

The matter does not pertain to present regulatory process. Even otherwise, the matter regarding the HPO for the hydro projects commissioned before 08.03.2019 is concerned, the same pertains to the Ministry of Power, Government of India.



**B. Purchase of Power by the Distribution Licensee from HEP having capacity more than 25 MW.-**

M/s IA Hydro Energy Pvt. Ltd. has submitted that there are many hydro electric project developers who have made huge investment in their project within the State and employment opportunity has been provided by them but despite of the same they have to sell power outside the state in inter-state open access hence, there should be provision for mandatory purchase of power by Discom at-least upto 50 MW from Hydro project within State.

**Commission's View:-**

The power procurement from hydro projects above 25 MW is governed by the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for determination of Hydro Generation Tariff) Regulations, 2011. Any proposal of the Regulated Entity, i.e. Discom, to procure power from hydro projects above 25 MW capacity needs regulatory approval and has to follow the laid down norms (i.e. MYT Regulations relating to hydro generation).

**C. Terms and Conditions of Sale/Purchase of Power:-**

(a) M/s Jaya Hydro Power Pvt. Ltd. has also made the following comments on the provisions of Regulation 8 of RE Tariff Regulations, 2017:-

(i) With reference to Regulation 8(1) which specifies that the renewable generator or distribution licensee may offer to sell/purchase power, it has been submitted that State Government has in its policy notified to purchase power from the small hydro projects up to 25 MW capacities and the tariff is to be determined by the State Commission. So, it is not the choice of distribution licensee to offer the mode for purchase of power, rather it is the right of the power producer to have choice of mode for sale of power and tariff is to be determined by the Commission. This clause needs to be modified accordingly and it is suggested that words "or the distribution licensee" may be deleted in this clause.

(ii) Regulation 8 (2) specifies that petition for PPA is to be filed after mutual understanding on the various issues of the PPA but the Commission has already defined model PPA and generic tariff determination is to be determined by order to be issued by the Commission. This leaves no scope for negotiations or mutual understanding. The issues already defined in model PPA are heavily favorable towards the HPSEBL and Power Producer is forced to sign PPA on basis of model PPA because of nature of electricity generation.

Therefore, model PPA needs to be amended as per discussion held between power producer and distribution licensee. In the event of non-agreement to some of the clauses these can be submitted to the Commission for decision at the time of filing petition for tariff determination. Tariff option is to be exercised by the power producer and it is not a right of the distribution licensee as per the policy of the State.

The Regulations 2017 provide that tariff is to be determined after agreement is reached between both parties on the terms and conditions of power purchase agreement but if no consensus is reached how tariff is to be determined, is not provided in the proposed Regulations. The policy of the State Government stipulates that power shall be purchased from power producers for the small hydro power projects up to 25 MW capacities.

(b) The Bonafide Himachalies Hydro Power Developers Association has also raised the issue during the public hearing that the model PPA may be subject to mutual modifications with Distribution Licensee.

**Commission's View:-**

The Section 86(1)(b) of the Act, mandates the Commission to regulate electricity purchase and procurement process of Distribution Licensee including the price at which electricity is procured from the generating companies or Licensees or from other sources through agreements for purchase of power for distribution and supply within the State. The Distribution licensee, in order to safeguard its interests, has the right to stress its own conditions on certain issues relating to power procurement and seek regulatory approval of the proposal. Even though the option to sell, or not to sell, the power to the Discom certainly rests with the Generators but the Discom being a party to such purchase can also not be forced to accept the clauses not suitable to them. Otherwise also, the referred matter is not limited to SHP technology only but is applicable to all RE technologies. Applicable tariff for particular control period and Model PPA is made available to the power developers. The Commission is, however, not averse to make need based changes/amendments in the Model PPA for which IPPs are free to submit their proposal accordingly.

11. In view of the above, the Commission, after taking into consideration the objections and suggestions received on the draft Regulations and the deliberation in the public hearing conducted thereon, decides to

finalise the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) (Seventh Amendment), Regulations, 2023 by incorporating the changes on the above lines. The Regulations be issued accordingly.

Sd/- (Shashi Kant Joshi) <b>Member</b>	Sd/- (Yashwant Singh Chogal) <b>Member (Law)</b>	Sd/- (Devendra Kumar Sharma) <b>(Chairman)</b>
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**Annexure-A**

<b>Sr. No.</b>	<b>Participants</b>
1	Er. Anup Ram, Chief Engineer (Comm.), HPSEBL
2	Er. R.K. Verma, SE, HPSEBL
3	Er. Pooja Thakur, Sr. XEN, HPSEBL
4	Er. Vishal Salavia, JE , HPSEBL
5	Sh. Arun Kumar, Director, M/s Jaya Hydro Power Pvt. Ltd.
6	Sh. Rajesh Sharma, President Bonafide Himachalies Hydro Power Developers Association
7	Er. S.N. Kapur, Sr. Vice President Himalaya Power Producers Association
8	Sh. Nawan Chheng, Director, Haripur Nalla Hydro Kullu
9	Sh. Megh Singh Thakur, Director , Haripur Nalla Hydro Kullu
10	Sh. Y. Auditya, Director, Yadlapati Agro Products Pvt. Ltd. Guntvr (AP).
11	Sh. Ravi Gupta, Director, Sond Valley Products Pvt. Ltd. Delhi
12	Sh. H.S. Thakur, AGM, Sai Eternal Foundation, Shimla
13	Sh. Ajay Thakur, Director, Sai Eternal Foundation, Shimla
14	Sh. Deepak Bhandari, Sr. Manager, M/s Solding Hydrowatt. Pvt. Ltd.
15	Sh. Pawan Kumar, Director, KKK Hydro Power LTd.
16	Sh. Gaurav Agrawal, Director, Shivalik Energy Pvt. Ltd.
17	Sh. Satish Chawla, GM, (PA), Cosmos Hydro Power Pvt. Ltd., Delhi
18	Sh. M. Shrujan Kumar, Liason officer, Batot Hydro Power Ltd., Shimla
19	Sh. Kamal Padha , MD, PHPPL , Shahpur.
20	Sh. Amaranth Kaushal, Director, Hydro Nova Power Pvt. Ltd.
21	Sh. Ashok Ahluwalia OSD, Growel Energy Company Ltd. Solan
22	Sh. Man Singh Thakur, Growel Energy Company Ltd. Solan