

**HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION, SHIMLA**

**Notification**

**Shimla, the 1<sup>st</sup> March, 2023**

**HPERC/420**

**WHEREAS** the Himachal Pradesh Electricity Regulatory Commission has notified the Himachal Pradesh Electricity Regulatory Commission (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations 2005 on 4<sup>th</sup> January, 2006 and the same were published in the Rajpatra on 12<sup>th</sup> January, 2006 (hereinafter referred as “the said Regulations”);

**AND WHEREAS** the Licensees in the State may utilize/share their existing infrastructure, as per the provisions of the said Regulations, for Other Business including sharing the infrastructure with telecom Companies authorised under the applicable Act/Law/Rules;

**AND WHEREAS** the Licensees shall ensure that while allowing such sharing, there may not be any compromise with safety standards, service performance standards and operational efficiency of the Licensee;

**AND WHEREAS** this necessitates the Commission to amend the said Regulations to that extent; and

**NOW, THEREFORE** the Himachal Pradesh Electricity Regulatory Commission in exercise of the powers conferred under Sections 41 and 51 read with Clauses (o) and (y) of Sub-section (2) of Section 181 of the Electricity Act 2003 (36 of 2003) and all other powers enabling it in this behalf, proposes to amend the Himachal Pradesh Electricity Regulatory Commission (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations 2005 and as required by Rule 3 of the Electricity (Procedure for Previous Publication) Rules, 2005, the draft amendment Regulations are hereby published for the information of all the persons likely to be affected thereby; and notice is hereby given that the said draft amendment Regulations will be taken into consideration after the expiry of thirty (30) days from the date of publication of this notification in the Rajpatra, Himachal Pradesh, together with any objections or suggestions which may, within the aforesaid period, be received in respect thereto.

The text of the aforesaid draft amendment regulations is available on the website of the Commission i.e. <http://www.hperc.org>.

The objections or suggestions in this behalf should be addressed to the Secretary, Himachal Pradesh Electricity Regulatory Commission, Vidyut Aayog Bhawan, Block-37, SDA Complex, Kasumpti-171009(HP).

### **DRAFT REGULATIONS**

**1. Short title, extent and commencement.** - (1) These Regulations may be called the Himachal Pradesh Electricity Regulatory Commission (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) (First Amendment) Regulations, 2023.

(2) These Regulations shall come into force from the date of their publication in the Rajpatra, Himachal Pradesh.

**2. Amendment in Regulation 2 of the said Regulations.-**

After item (e) of sub-regulation (1), the following new item (ee) shall be inserted, namely:-

*“(ee) “company” means a company formed and registered under the Companies Act, 2013 and includes anybody corporate under a Central, State or Provincial Act;”*

**3. Amendment in Regulation 3 of the said Regulations.-**

(i) After sub-regulation (2), the following sub-regulations “(2A) and “2B” shall be inserted, namely :-

*“(2A) The Licensee shall intimate the nature and extent of the use of its transmission / distribution assets, as the case may be, which are utilized or proposed to be utilized for any business other than the transmission/ distribution business.*

*(2B) The Licensee shall intimate the annual revenue income derived or to be derived from the rent of other business.”*

(ii) for sub-regulation (5), the following shall be substituted, namely:-

*“(5) The Licensee shall have the absolute responsibility to ensure that the utilization of the assets and associated facilities of the Licensed Business for the Other Business shall not in any manner affect the performance of the obligations or the quality of service required from the Licensee under the licensed business including the requirement as specified under Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2010, Himachal Pradesh Electricity Regulatory Commission (Distribution Performance Standards) Regulations, 2010, the Himachal Pradesh Electricity Grid Code, 2008, the Himachal Pradesh Electricity Supply Code, 2009, the Himachal Pradesh Electricity Distribution Code, 2008 and any other Rules / Regulations related to safety, performance, construction presently in force applicable to transmission / distribution Licensee, as the case may be.”*

#### **4. Amendment in Regulation 4 of the said Regulations.-**

After Regulation (4), the following Regulation “(4A)” shall be inserted, namely:-

**“4A. Functions of Licensee.-** (1) *The Licensee can rent out its distribution/ transmission assets, as the case may be, and provide related services to such Companies involved in the business other than original business of the Licensee.*

(2) *The Licensee shall sign a rental and related services agreement for a mutually agreeable period of five (5) years at a time, which may be extended on mutually agreed terms with each term of five years and not exceeding the tenure of licence of the Company within the area of installation of its assets on the distribution / transmission assets :*

*Provided that the amount of rent shall also be reviewed, for its enhancement, after every five years irrespective of the period of extension beyond 5 years :*

*Provided further that the connection agreement to provide electricity connection may be signed collectively for all the distribution and transmission assets, falling within the same operation Circle of Distribution Licensee, depending upon the feasibility and convenience of it:*

*Provided that the connection agreement will entail the location coordinates or GPS location or pole/ tower number or distribution/ power transformer number or name of substation*

*allotted to the company within such Operation Circle.*

*(3) The Licensee shall ensure that a particular company does not get access of more than 50% of its total distribution / transmission assets, as the case may be, for installation of infrastructure by the Company to deter the abuse of dominant position.*

*(4) The assignment of distribution/ transmission assets to the Company will be done through a transparent process/mechanism.*

*(5) All electricity consumption by the assets of the Company installed on distribution / transmission assets of the Licensee, as the case may be, shall be metered at the point of installation through a Smart Meter and the billing of such consumption shall also be done at the point of installation as individual connections will be released on each point of installation :*

*Provided that the consolidated bill of all the connections of a particular Company falls within the same Operation Circle of Distribution Licensee, can be generated with connection wise details for convenience of billing and collection:*

*Provided further that the recovery of cost and charges to provide the electricity Connection by the Distribution Licensee shall be carried out in accordance of relevant Regulations / Code of the Commission.*

*(6) The income from renting and related services of distribution/ transmission assets shall be claimed by concerned Licensee towards non-tariff income in respective tariff order in accordance with the classification given under MYT Tariff Regulations of the Commission.*

*(7) The Licensee shall ensure that at no point of time -*

*(a) renting of its assets result in lack of available capacity for its consumers to carry out its own licensed activity;*

*(b) the safety of the assets of the Licensee is compromised; and*

*(c) renting of its assets affect the performance of the obligations or the quality of service required from the Licensee including as specified under Standards of Performance Regulations, Electricity Supply Code, or any other Regulation of the Commission as amended time to time.*

*Note :- The meaning of term 'licence' used in this Regulation shall mean the licence issued by the competent authority to the Company, intends to use the distribution / transmission*

*assets, under the provisions of the companies Act, 1956 or the companies Act, 2013.*

**5. Amendment in Regulation 5 of the said Regulations.-**

For Sub-regulation (4) of Regulation (5), the following shall be substituted, namely:-

*“(4) In addition to the sharing of costs under sub-regulation (3), the Licensee shall account for and ensure due payment, equal to 80% of the gross turnover from the Other Business during a given financial year, to the Licensed Business and shall be included as non-tariff income of the corresponding Aggregate Revenue Requirement (ARR).”*

**By the order of the Commission**

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**Secretary**