

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION, SHIMLA

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

Notification

Shimla, the 17th February, 2024

No. HPERC-F(1)-74/2024.-WHEREAS Section 61 of the Electricity Act, 2003 (36 of 2003) (“Act” for Short), provides that the Appropriate Commission shall specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the principles and methodologies specified by the Central Commission for determination of tariff applicable to generating companies and transmission licensees and also by the National Tariff Policy formulated under the said Act;

AND WHEREAS the Himachal Pradesh Electricity Regulatory Commission has framed the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Hydro Generation Tariff) Regulations, 2011 published in the Rajpatra, Himachal Pradesh, dated 2nd April, 2011, as amended from time to time (hereinafter referred as “the said Regulations”) and has determined the tariff for the Hydro Generating Companies for the 2nd, 3rd and 4th MYT Control Periods from FY2010-11 to FY2013-14, FY2014-15 to FY2018-19 and FY2019-20 to FY2023-24 respectively under the said Regulations;

AND WHEREAS the Himachal Pradesh Electricity Regulatory Commission is making an exercise to determine the tariff for the Hydro Generating Companies for the next control period starting from 1st April, 2024 and keeping in view the regulatory developments after making of the said Regulations and also the experience gained over the period, the National Tariff Policy and methodologies of the Central Commission and various Rules notified by the Government of India, amongst others, it has been felt necessary to review and to address gaps and discrepancies in the existing provisions for the determination of tariff of the Hydro Generating Companies;

NOW, THEREFORE, in exercise of the powers conferred under Section 61, Sub-section(1) of Section 62, Clauses (a) and (e) of Sub-section (1) of Section 86 and Clauses (zd), (ze) and (zf) 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, the Commission proposes to amend the said Regulations and to make the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Hydro Generation Tariff) Regulations, 2024 and as required by Sub-section (3) of Section 181 of the said Act and Rule 3 of the Electricity (Procedure for Previous Publication) Rules, 2005, the draft 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 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 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

PART-I PRELIMINARY

1. Short Title and Commencement

- 1.1 These Regulations shall be called the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Hydro Generation Tariff) Regulations, 2024.
- 1.2 These Regulations shall come into force with effect from the date of their notification in the Official Gazette.

2. Scope and Extent of Application

- 2.1 These Regulations shall extend to the whole of the State of Himachal Pradesh.
- 2.2 These Regulations shall be applicable to all existing and future Power Generation Companies supplying hydro power under Section 62 of Electricity Act 2003, and their successors, if any, for the determination of Aggregate Revenue Requirement and Tariff, in all matters covered under these Regulations from 1st April, 2024 up to 31st March, 2029, unless otherwise reviewed/extended:

Provided that for all purposes, including review matters pertaining to the period till 31st March, 2024, the issues relating to determination of Aggregate Revenue Requirement and Tariff shall be governed by the provisions of the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions of Hydro Generation Tariff) Regulations, 2011, including amendments thereto, as may be applicable.

- 2.3 These Regulations supersede the “Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions of Hydro Generation Tariff) Regulations, 2011” and amendments, if any, thereof.
- 2.4 Where tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government, the Commission shall adopt such tariff in accordance with the provisions of the Act.
- 2.5 The Commission shall determine the Aggregate Revenue Requirement and tariff within the Multi-Year Tariff framework and fees and charges, for all matters for which the Commission has Jurisdiction under the Act, for Supply of Hydro electricity by a Generating Company, excluding supply of electricity by captive generating plant and

Renewable Energy sources but including hydro generating stations of capacity exceeding 25MW, to a Distribution Licensee.

3. Definitions

3.1 In these Regulations, unless the context otherwise requires, -

- 1) **“Accounting Statement”** means for each financial year, the following statements, namely -
 - a) Balance sheet, prepared in accordance with the form contained in Part-I of Schedule III to the Companies Act, 2013 as amended from time to time;
 - b) Cash flow statement, prepared in accordance with the Accounting Standard on Cash Flow Statement (A5-3) of the Institute of Chartered Accountants of India or Ind AS 7 issued by the Accounting Standard Board;
 - c) Cost records prescribed by the Central Government under Section 128(1) of the Companies Act, 2013;
 - d) Together with notes thereto, and such other supporting statements and information as the Commission may direct from time to time;
 - e) Profit and loss account, complying with the requirements contained in Part-II of Schedule III to the Companies Act, 2013;
 - f) Report of the statutory auditors;
- 2) **“Act”** means the Electricity Act, 2003 (36 of 2003);
- 3) **“Additional Capital Expenditure”** means the capital expenditure incurred or projected to be incurred, after the date of commercial operation of the project by the hydro generating company in accordance with the provisions of these Regulations;
- 4) **“Additional Capitalisation”** means the additional capital expenditure admitted by the Commission after prudence check, in accordance with these Regulations;
- 5) **“Admitted capital cost”** ‘means the capital cost which has been allowed by the Commission for servicing through tariff after due prudence check in accordance with these Regulations;
- 6) **“Aggregate Revenue Requirement” or “ARR”** means the costs pertaining to the hydro power project which are permitted, in accordance with these Regulations, to be recovered from the tariff and charges determined by the Commission;
- 7) **“Allocation Statement ”** means for each financial year, a statement in respect of each of the hydro power projects and separate businesses of the hydro power generating company, showing the amounts of any revenue, cost, asset, liability, reserve or provision etc, which has been either—

- (a) determined by apportionment or allocation between different businesses/ hydro projects of the company, together with a description of the basis of the apportionment or allocation, or
- (b) charged from or to each such other business together with a description of the basis of that charge:

Provided that 'Allocation Statement' shall not be construed as a substitute for maintaining separate accounting statement for the businesses of the Company;

- 8) **"Appendix"** means the appendix to these Regulations;
- 9) **"Applicant"** means a Hydro Power Generating Company who has made an application for determination of tariff in accordance with these regulations and includes a hydro power generating company whose tariff is the subject of a review by the Commission;
- 10) **"Auditor"** means an auditor appointed by a hydro generating company in accordance with the provisions of sections 224, 233B and 619 of the Companies Act, 1956 (1 of 1956), as amended from time to time or Chapter X of the Companies Act, 2013 (18 of 2013) or any other law for the time being in force;
- 11) **"Auxiliary Energy Consumption"** in relation to a period, in case of generating station means the quantum of energy consumed by auxiliary equipment of the station, such as the equipment used being used for the purpose of operating plant and machinery including switchyard of the generating station and transformation losses within the generating stations and shall be expressed as a percentage of the sum of gross energy generated at the generator terminals of all the units of the generating station:

Provided that the housing colony consumption and other facilities of a Generating Station and the power consumed for construction works at the Generating Station shall not be included as part of the Auxiliary Energy Consumption for the purpose of these Regulations;

- 12) **"Bank Rate"** means the one year Marginal Cost of Lending Rate (MCLR) of the State Bank of India issued from time to time plus 350 basis points;
- 13) **"Base year"** means the financial year immediately preceding first year of the Control Period and used for the purposes of these Regulations;
- 14) **"Beneficiary"** in relation to a generating station covered under clauses (a) or (b) of Sub-section 1 of Section 79 of the Act, means a distribution licensee who is purchasing electricity generated at such generating station by entering into a Power Purchase Agreement either directly or through a trading licensee on payment of capacity charges and energy charges:

Provided that where the distribution licensee is procuring power through a trading licensee, the arrangement shall be secured by the trading licensee through back to back power purchase agreement and power sale agreement;

- 15) “**Capital Cost**” means the capital cost as determined in Regulation 22 of these Regulations in respect of generating station;
- 16) “**Capital Spares**” means spares individually costing above Rs. 20 lakh, which is maintained by the generating company over and above the initial spares;
- 17) “**Central Commission**” means the Central Electricity Regulatory Commission, as referred to in Sub- section (1) of Section 76 of the Act;
- 18) “**Change in law**” means occurrence of any of the following events having implication for the hydro generating station operations covered by these Regulations:
 - a. enactment, bringing into effect, adoption, promulgation, amendment, modification or repeal of any law; or
 - b. adoption, amendment, modification, repeal or re-enactment of any existing Indian law; or
 - c. change in interpretation or application of any Indian law by a competent court, Tribunal or Indian Governmental Instrumentality which is the final authority under law for such interpretation or application; or
 - d. change by any competent statutory authority, in any condition or covenant of any consent or clearances or approval or licence available or obtained for the project; or
 - e. coming into force or change in any bilateral or multilateral agreement/ treaty between the Government of India and any other Sovereign Government having implication for the hydro electric project regulated under these Regulations;
- 19) “**Commission**” means the Himachal Pradesh Electricity Regulatory Commission;
- 20) “**Competitive Bidding**” means a transparent process for procurement of equipment, services and works in which bids are invited by the hydro generating company by open advertisement covering the scope and specifications of the equipment, services and works required for the project, and the terms and conditions of the proposed contract as well as the criteria by which bids shall be evaluated, and shall include domestic competitive bidding and international competitive bidding;
- 21) “**Conduct of Business Regulations**” means the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005, as amended from time to time;
- 22) “**Control period**” means a multi-year period comprising of five financial years from April 1, 2024 to March 31, 2029, and as may be extended by the Commission;
- 23) “**Cut-off date**” means the last day of the financial year closing after thirty six months from the date of commercial operation of the project;

- 24) **“Date of commercial operation”** or **“COD”** in relation to a generating unit of hydro generating station shall mean the date declared by the generating company from 00:00 hour after the scheduling process in accordance with the State Grid code, is fully implemented, and in relation to the generating station as a whole, the date declared by the generating company after demonstrating peaking capability corresponding to installed capacity of the generating station through a successful trial run:

Provided that:

1. Where the beneficiaries have been tied up for purchasing power from the generating station, the trial run shall commence after seven days notice by the generating company to the beneficiaries and scheduling shall commence from 00.00 hr after completion of the trial run:
2. The generating company shall certify to the effect that the generating station meets the key provisions of the technical standards of Central Electricity Authority (Technical Standards for Construction of Electrical plants and electric lines) Regulations, 2010 and State Grid Code:
3. In case a hydro generating station with pondage or storage is not able to demonstrate peaking capability corresponding to the installed capacity for the reasons of insufficient reservoir or pond level, the date of commercial operation of the last unit of the generating station shall be considered as the date of commercial operation of the generating station as a whole, and it will be mandatory for such hydro generating station to demonstrate peaking capability equivalent to installed capacity of the generating unit or the generating station as and when such reservoir/pond level is achieved:
4. If a run-of-river hydro generating station or a generating unit thereof is declared under commercial operation during lean inflows period when the water inflow is insufficient for such demonstration of peaking capability, it shall be mandatory for such hydro generating station or generating unit to demonstrate peaking capability equivalent to installed capacity as and when sufficient water inflow is available:
5. The certificate regarding commissioning of the generating station and compliance of all the Rules and Regulations in this regard and also of the CEA Technical Standards for Construction of Electric Plants and Electric Lines Regulations, 2010, as amended from time to time, shall be signed by CMD/CEO/MD of the company subsequent to its approval by the Board of Directors;

- 25) **“Day”** means the 24 hour period starting at 00.00 hour;

- 26) **“Declared Capacity”** or **“DC”** in relation to a hydro generating station means, the capability to deliver ex-bus electricity in MW declared by such generating station in relation to any time- block of the day or whole of the day, duly taking into account the availability of water, and subject to further qualification in the relevant Regulation;
- 27) **“De-capitalisation”** for the purpose of the tariff under these Regulations, means reduction in Gross Fixed Assets of the project as admitted by the Commission corresponding to inter-unit transfer of assets or the assets taken out from service;
- 28) **“De-commissioning”** means removal from service of a generating station or a unit thereof, after it is certified by any authorized agency, either on its own or on an application made by the hydro generating company or the beneficiaries or both, that the project cannot be operated due to non-performance of the assets on account of technological obsolescence or uneconomic operation or a combination of these factors;
- 29) **“Default Trigger Date”** means,-
- in case of non-payment of dues, one month after the due date of payment or two and half months after the presentation of bill by the hydro generating company, whichever is later; and
 - in case of non-maintenance of the payment security mechanism, shall be from the next bank working day after the payment security mechanism due to be replenished but is not done;
- 30) **“Design Energy”** means the quantum of energy which can be generated in a 90% dependable year with 95% installed capacity of the hydro generating station;
- 31) **“Distribution Licensee”** means a licensee authorised to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply;
- 32) **“Due date”** means the date by which the bill for the charges for the energy provided by a hydro generating company are to be paid, in accordance with the Power Purchase Agreement and in case not specified in the Power Purchase Agreement, forty-five days from the date of presentation of the bill by such Hydro generating company:
- Provided that if the due date for payment of any invoice falls on a bank non-working day, the next bank working day shall be considered as due date for payment;
- 33) **“Existing project”** means a project declared under commercial operation from a date prior to first year of the control period i.e. 1st April, 2024;
- 34) **“Expansion Project”** shall include any addition of new capacity to the existing generating station;
- 35) **“Expected Revenue from Tariff and Charges”** means the revenue estimated to accrue to Generating Company from the Regulated Business at the prevailing tariffs and

charges;

- 36) “**Expenditure Incurred**” means the fund, whether the equity or debt or both, actually deployed and paid in cash or cash equivalent, for creation or acquisition of a useful asset and does not include commitments or liabilities for which no payment has been released;
- 37) “**Extended Life**” means the life of a generating station, or a unit thereof, beyond the period of useful life, as may be determined by the Commission on case to case basis;
- 38) “**Financial year**” means a period commencing on 1st April of a calendar year and ending on 31st March of the subsequent calendar year;
- 39) “**Force Majeure Event**” means, with respect to any party, any event or circumstance, or combination of events or circumstances, which is not within the reasonable control of, and is not due to an act of omission or commission of that party and which, by the exercise of reasonable care and diligence, could not have been prevented; and, without limiting the generality of the foregoing, shall include the following events or circumstances:
- a. acts of God, including but not limited to lightning, landslide, storm, action of the elements, earthquakes, flood, torrential rains, drought and natural disaster or exceptionally adverse weather conditions;
 - b. strikes and industrial disturbances having a State-wide or extensive impact in the area of hydro power project developer, but excluding strikes and industrial disturbances in the project developer’s own organisation;
 - c. acts of public enemy, war (declared and undeclared), blockades, embargo, invasion, armed conflict or act of foreign enemy, insurrections, riots, revolution, sabotage, terrorist or military action, vandalism and civil disturbance;
 - d. unavoidable accident, including but not limited to fire, explosion, radioactive contamination and toxic chemical contamination;
 - e. any shutdown or interruption of the Grid, which is required or directed by the State or Central Government or by the Commission or by the concerned Load Despatch Centre; and any shut down or interruption, which is required to avoid serious and immediate risks of a significant plant or equipment failure;
 - f. Delay in obtaining statutory approval for the project except where the delay is attributable to project developer;
- 40) “**Generation Business**” means the business of production of electricity from a generating station for the purpose of (i) giving supply to any premises or enabling a supply to be so given, or (ii) supply of electricity to any Licensee in accordance with the Act and the Rules and Regulations made there under or, (iii) supply of electricity to any consumer subject to the Regulations made under Sub-section (2) of section 42 of the Act;
- 41) “**Hydro Generating Company**” means any company or body corporate or association or

body of individuals, whether incorporated or not, or artificial juridical person, which owns or operates or maintains a Hydro Generating Station;

- 42) **“Hydro Generating Station”** means any hydro station for generating electricity, including any building and plant with step-up transformer, switch-gear, switch yard, cables or other appurtenant equipment, if any, used for that purpose and the site thereof; a site intended to be used for a generating station, and any building used for housing the operating staff of a generating station, and where electricity is generated by water-power, includes penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not in any case include any sub-station;
- 43) **“Generating Unit”** in relation to a hydro generating station means turbine generator and its auxiliaries;
- 44) **“Grid”** means the high voltage backbone system of inter-connected transmission lines, sub-stations and generating plants;
- 45) **“Generation Tariff”** means tariff or ex-bus supply of electricity from a generating station;
- 46) **“Grid Code”** means the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 as amended from time to time;
- 47) **“Implementation Agreement”** means any agreement or covenant entered into between the hydro generating company and the transmission licensee for the execution of generation and transmission projects in a coordinated manner, laying down the project implementation schedule and mechanism for monitoring the progress of the projects;
- 48) **“Indian Governmental Instrumentality”** means the Government of India, Governments of State (where the project is located) and any ministry or department or board or agency controlled by Government of India or Government of State where the project is located, or quasi-judicial authority constituted under the relevant statutes in India;
- 49) **“Infirm Power”** means electricity injected prior to commercial operation of a Unit of the hydro generating station;
- 50) **“Installed Capacity”** means the summation of the name plate capacities of all the Units of the generating station or the capacity of the generating station (reckoned at the generator terminals) as admitted by the Commission from time to time;
- 51) **“Interconnection Point”** means the point where the power from the power station switchyard bus of the Seller is injected into the Intra-state transmission system (including the dedicated transmission line connecting the power station with the Intra-state transmission system).

- 52) **“Investment Approval”** means approval by the Commission conveying administrative sanction for the project including funding of the project and the timeline for the implementation of the project:
- Provided that the date of Investment Approval shall be reckoned from the date of the approval by the Commission;
- 53) **“Kilowatt-Hour”** or **“kWh”** means a unit of electrical energy, measured in one kilowatt or one thousand watts of power produced or consumed over a period of one hour;
- 54) **“Late payment surcharge”** means the charges payable by a beneficiary to a hydro generating company on account of delay in payment of monthly charges beyond the due date;
- 55) **“Licence”** means a Licence granted by the Commission under Section 14 of the Act;
- 56) **“Licensed Business”** means the functions and activities, which the licensee is required to undertake in terms of the licence granted by the Commission or being a deemed licensee under the Act;
- 57) **“Licensee”** means a person who has been granted a licence and shall include a deemed licensee;
- 58) **“Long-Term Customer”** shall have the same meaning as defined in Himachal Pradesh Electricity Regulatory Commission (Grant of Connectivity, Long-term and Medium-term intra-State Open Access and Related Matters) Regulations, 2010, as amended from time to time;
- 59) **“Long Term Access”** shall have the same meaning as defined in Himachal Pradesh Electricity Regulatory Commission (Grant of Connectivity, Long-term and Medium-term intra-State Open Access and Related Matters) Regulations, 2010, as amended from time to time;
- 60) **“MCLR”** shall mean One Year Marginal Cost of Funds based Lending Rate;
- 61) **“Medium Term Open Access”** shall have the same meaning as defined in Himachal Pradesh Electricity Regulatory Commission (Grant of Connectivity, Long-term and Medium-term Intra-State Open Access and Related Matters) Regulations, 2010, as amended from time to time;
- 62) **“Mid-term Performance Review”** means the review of performance of the hydro generating station undertaken by the Commission for the year after the mid-year of the control period and this shall also include the true up of the previous control period and True Up of previous years of the control period;
- 63) **“Non-Tariff Income”** means income other than income from tariff derived by use of assets of the core business;

- 64) **“Normative Annual Plant Availability Factor” or “NAPAF”** in relation to a hydro generating station means the availability factor specified in clause (a) of Sub-regulation 18.1 of these Regulations;
- 65) **“Officer”** means an Officer of the Commission;
- 66) **“Operation and Maintenance expenses” or “O&M expenses”** means the expenditure incurred for operation and maintenance of the project, or part thereof, and includes the expenditure on manpower, maintenance, repairs and maintenance spares, other spares of capital nature valuing less than Rs. 20 lakhs, additional capital expenditure of an individual asset costing up to Rs. 20 lakhs, consumables, insurance and overheads and fuel other than used for generation of electricity;
- 67) **“Original Project Cost”** means the capital expenditure incurred by the Hydro generating company within the original scope of the project up to the cut-off date as admitted by the Commission;
- 68) **“Outstanding dues”** means the dues of a hydro generating company, not stayed by a competent court or Tribunal or dispute resolution agency as designated in the Power Purchase Agreement, which remains unpaid by the beneficiary beyond the due date;
- 69) **“Payment Security Mechanism”** means Letter of Credit (LC) or Letter of Credit backed by Escrow Account as per the Power Purchase Agreement between the hydro generating company and the beneficiaries; or such other agreements by whatever name called and binding on the beneficiaries;
- 70) **“Petitioner”** means the Hydro generating company, who has filed a Petition for determination of Multi Year Tariff (MYT) or for True up or Mid-term Review in accordance with the Act and these Regulations, and includes the Hydro generating company whose Tariff is the subject of a review by the Commission on a Suo-motu basis or as part of a Truing-up exercise or Mid-term Review;
- 71) **“Plant Availability Factor” or “(PAF)”** in relation to a generating station for any period means the average of the daily Declared Capacities (DCs) for all the days during the period expressed as a percentage of the installed capacity in MW less the auxiliary energy consumption;
- 72) **“Project”** means: all components of the hydro generating station and includes dam, intake water conductor system, power generating station, as apportioned to power generation as per these Regulations;
- 73) **“Prudence Check”** means scrutiny of reasonableness of capital expenditure/cost incurred or proposed to be incurred in accordance with these Regulations, financing plan, use of efficient technology, cost and time over-run and such other factors as may be considered appropriate by the Commission for determination of tariff. While carrying out the Prudence Check, the Commission shall look into whether the hydro generating

company has been careful in its Judgments and decisions and vigilant in executing the project;

- 74) **“Pumped Storage Hydro Generating Station”** means a hydro generating station which generates power through energy stored in the form of water energy, pumped from a lower elevation reservoir to a higher elevation reservoir;
- 75) **“Quarter”** means the period of three months commencing on the first day of April, July, October and January of each financial year in case of existing project, and in case of a new project, in respect of the first quarter, from the date of commercial operation to the last day of June, September, December or March, as the case may be;
- 76) **“Regulated Business”** means any electricity business, which is regulated by the Commission;
- 77) **“Run-of-River Generating Station”** or **“ROR Generating Station”** means a hydro generating station which does not have upstream pondage;
- 78) **“Run-of-River Generating Station with Pondage”** means a hydro generating station with sufficient pondage for meeting the diurnal variation of power demand;
- 79) **“Scheduled Commercial Operation Date”** or **“SCOD”** shall mean the date(s) of commercial operation of a generating station or generating unit thereof as indicated in the Investment Approval or as agreed in power purchase agreement, whichever is earlier;
- 80) **“Scheduled Drawal”** for a time block or any period means the schedule of drawal in MW or MWh ex-bus given by the concerned Load Despatch Centre;
- 81) **“Scheduled Energy”** means the quantum of energy scheduled by the concerned Load Despatch Centre to be injected into the grid by a generating station for a given time period;
- 82) **“Scheduled Generation”** or **“SG”** at any time or for any period or time block means schedule of ex-bus generation in MW or MWh, given by the concerned Load Despatch Centre;
- 83) **“Short Term Open Access”** shall have the same meaning as defined in Himachal Pradesh Electricity Regulatory Commission (Grant of Connectivity, Long-term and Medium-term intra-State Open Access and Related Matters) Regulations, 2010, as amended from time to time;
- 84) **“Start Date”** or **“Zero Date”** means the date indicated in the Investment Approval for commencement of implementation of the project and where no date has been indicated, the date of investment approval shall be deemed to be Start Date or Zero Date;

- 85) “**State**” means the State of Himachal Pradesh;
- 86) “**State Grid Code**” means the Himachal Pradesh Electricity Regulatory Commission (State Electricity Grid Code), 2010, as amended from time to time;
- 87) “**Statutory Charges**” means and includes taxes, cesses including water cess, duties, royalties and other charges levied through Acts of the Parliament or State Legislatures or by Indian Governmental Instrumentality under relevant statutes;
- 88) “**Storage Type Generating Station**” means a hydro generating station associated with storage capacity to enable variation of generation of electricity according to demand;
- 89) “**Tariff**” means the schedule of charges for generation of electricity together with terms and conditions for application thereof;
- 90) “**Tariff period**” means the period for which tariff or the Aggregate Revenue Requirement is determined by the Commission under these Regulations;
- 91) “**Time Block**” means a block of 15 minutes starting from 00.00hrs, unless the context requires otherwise,
- 92) “**Terminal Liabilities**” means terminal benefits such as Death-cum-Retirement Gratuity, Ex- Gratia, Pension including Family Pension, Commuted Pension, Leave Encashment, Leave Travel Concession (LTC), Dearness relief, Interim relief, Medical reimbursement including fixed medical allowance in respect of pensioners;
- 93) “**Trial Run**” in relation to generating station or unit thereof shall mean the successful running of the generating station or unit thereof at maximum continuous rating or installed capacity for continuous period of 12 hours in case of a unit of a hydro generating station or unit thereof:

Provided that where the beneficiaries have been tied up for purchasing power from the generating station, the trial run shall commence after seven days notice by the generating company to the beneficiaries;

- 94) “**Useful Life**” in relation to a unit of a Hydro generating station including pumped storage hydro generating stations shall be 40 years:

Provided that the extension of life of the projects beyond the completion of their useful life shall be decided by the Commission on case to case basis; and

- 95) “**Year**” means financial year ending on 31st March, and

- a) “Current Year” shall mean the year in which the petition for determination of tariff is filed,
 - b) “Previous Year” shall mean the year immediately preceding the current year,
 - c) “Ensuing Year” shall mean the year following the current year.
- 3.2 The words and expressions occurring in these Regulations and not defined herein but defined in the Act or Grid Code or State Grid Code shall bear the same meanings as respectively assigned to them in the Act or Grid Code or State Grid Code and the words and expressions used herein but not specifically defined herein or in the Act or Grid Code or State Grid Code shall have the meanings generally assigned to them in the electricity industry.
- 3.3 The words “Application” or “Petition” shall be interpreted synonymously.

PART-II

GUIDING PRINCIPLES

4. General Approach

- 4.1 In accordance with the principles laid down in these Regulations, the Commission shall determine the aggregate revenue requirement (ARR) for the generation business.
- 4.2 Tariff determined by the Commission and the directions given in the tariff order made by the Commission shall be quid pro quo and mutually inclusive. The tariff determined shall, within the period specified by it, be subject to the compliance of the directions to the satisfaction of the Commission and their non-compliance shall lead to such amendment, revocation, variation and alteration of the tariff, as may be ordered by the Commission.
- 4.3 The tariff order shall, unless amended or revoked, continue to be in force for such period as may be specified in the tariff order. In the event of failure on the part of the licensee to file the Aggregate Revenue Requirement (ARR), the tariff determined by the Commission shall cease to operate, unless allowed to be continued for a further period with such variations, or modifications, as may be ordered by the Commission.
- 4.4 The norms of operation specified under these Regulations are the ceiling norms and this shall not preclude the hydro generating company and the beneficiaries from accepting improved norms of operation as determined by the Commission and such improved norms shall be applicable for determination of tariff.

5. Multi Year Tariff (MYT) Framework

- 5.1 The Commission shall adopt multiyear tariff framework for approval of ARR and expected revenue from tariffs and charges. The ARR and tariffs will be determined for the control period.

5.2 Multi-Year Tariff Petition comprising forecast of Aggregate Revenue Requirement for the entire Control Period and expected revenue from existing tariff for Fees and Charges, expected revenue gap or surplus, for each year of the Control Period, shall be submitted by the Applicant:

Provided that the Generating Company shall also submit proposed tariff for Fees and Charges for each year of the Control Period:

Provided further that performance parameters, whose trajectories have been specified in these Regulations, shall form the basis for projection of Aggregate Revenue Requirement for the Control Period:

Provided also that Multi-Year Tariff Petition shall also include truing up for FY 2022-23 or for any financial year prior to FY 2022-23 for which truing-up is yet to be completed, to be carried out under Himachal Pradesh Electricity Regulatory Commission (Terms and conditions for determination of Hydro Generation Tariff) Regulations, 2011, as amended from time to time.

5.3 The multiyear tariff framework shall be based on the following:-

- (a) **Business plan**(with plant-wise details) of the hydro generating company for the entire control period to be submitted to the Commission for approval, prior to the beginning of the control period;
- (b) **Trajectory for specific parameters** shall be stipulated by the Commission, where the performance of the applicant is sought to be improved through incentives and disincentives.

6. Determination of Baseline

6.1 The baseline values (operating and cost parameters) for the base year of the control period shall be determined by the Commission and shall be based on the approved values by the Commission, the latest audited accounts, estimate of the actuals for the relevant year, prudence check and other factors considered appropriate by the Commission. The Commission may re-determine the baseline values for the base year based upon the actual audited accounts of the base year.

7. Segregation of Accounts

7.1 The hydro generating company shall maintain separate accounts and sub balance sheets for each of its power plants :

Provided that the hydro generating company shall follow a reasonable basis for allocation of all joint and common costs between the existing projects, under execution projects and the other business and shall submit the Accounting Statements, as approved by its board of directors, to the Commission along with his application for determination of tariff:

Provided further that where the sum total of the direct and indirect costs of such other business exceeds the revenues from such other business or for any other

reason, no amount shall be allowed to be added to the aggregate revenue requirement of the generating company on account of such other business.

8. Business Plan

8.1 The Hydro generating company shall file a Business Plan along with MYT Petition, for the Control Period of financial years for approval of the Commission on or before 30th November of the year preceding the first year of the Control Period for a duration covering the entire Control Period along with the MYT Petition. The Business Plan for the Hydro generating company shall be for the entire Control Period and shall, interalia, contain-

- (i) Capital investment plan.
- (ii) The investment plan should also include yearly phasing of capital expenditure along with the source of funding, financing plan and corresponding capitalisation schedule;
- (iii) The appropriate capital structure of each scheme proposed and cost of financing (interest on debt) and return on equity, terms of the existing loan agreements, etc;

8.2 The Capital Investment Plan covering the entire MYT Control Period will be submitted in the following two parts:

- a) Ongoing schemes/works of the previous MYT Control Period (i.e. works / schemes which are under construction or where full payments have not yet been made or where Supply/Work Orders have not been placed). All spillover works will be included in this;
- b) Schemes to be taken up in the order of priority giving the schedule over the full MYT Control Period. The likely date of completion should also be given. This will also include such schemes which were part of the Capital Investment Plan of the previous MYT Control Period but could not be started and which the Petitioner considers necessary to take up during the present Control Period.

8.3 The Petitioner shall submit the Detailed Project Reports (DPRs) for all the schemes as per Part a) and b) above which shall include:

- (a) Purpose of investment;
- (b) Broad Technical Specifications of the proposed investment and supporting details;
- (c) Capital Structure;
- (d) Capitalization Schedule;
- (e) Financing Plan, including identified sources of investment;
- (f) Physical targets;
- (g) Cost-benefit analysis;
- (h) Prioritization of proposed Investments;

Provided that the hydro generating company shall submit all details including DPRs and other approval documents, of Schemes funded through a Central or State Grant or through Consumer Contribution or through Deposit works and/or Loan convertible to grant on fulfillment of specified conditions, to the Commission prior to the initiating execution of such Schemes:

Provided further that hydro generating company shall be required to ensure that the procurement of the assets have been undertaken in a competitive and transparent manner. Further, the assets so capitalized as a part of the approved capital investment plan under these Regulations should necessarily be geo-tagged and properly recorded in Fixed Asset Register (FAR) for allowance of the capitalization of the same by the Commission.

- 8.4 The Commission shall approve the capital investment plan submitted by the hydro generating company for the entire control period after doing prudence check. The same would be considered for computation of AFC.
- 8.5 For each year of the control period, the Commission shall watch over the actual capital expenditure and capitalization vis-à-vis the approved capital expenditure and capitalization schedule. In the normal course, the Commission shall not revisit the approved capital investment plan (capital expenditure and the capitalization schedule) during the control period and adjustments to depreciation, interest on capital loan and return on equity on account of variations for the actual capital expenditure incurred and capitalization done vis-à-vis approved capital investment plan (capital expenditure and capitalization), shall be done during the mid-term performance review and at the time of end of control period true up.
- 8.6 In case the capital expenditure is required for emergency work which has not been approved in the Capital Investment Plan, the generating company shall submit an application containing all relevant information along with reasons justifying emergency nature of the proposed work seeking approval by the Commission. The generating company shall take up the work prior to the approval of the Commission provided that the emergency nature of the scheme has been certified by its Board of Directors.
- 8.7 Any generating company intending to undertake any capital expenditure not been approved in the Capital Investment Plan, shall file an application/petition under affidavit to the Commission in accordance with Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005, as amended from time to time, for approval. The application/ petition for investment approval shall clearly provide the detail of proposed capital expenditure along with complete DPR as discussed in Sub-regulation 8.3 above:

Provided that where the Commission has given an approval to the estimated capital cost and financing plan, the same shall act as a guiding factor for applying prudence check on the actual capital expenditure while determining the ARR and Tariffs for a particular utility.

9. Specific Trajectory for Certain Variables

- 9.1 The hydro generating company in its business plan filings shall submit and propose the trajectory for the achievement of quality and reliability targets. The hydro generating

company shall submit its performance on each parameter in the form and manner laid down by the Commission.

9.2 The Commission shall set targets for each year of the control period for the items or parameters that are deemed to be “controllable” and shall monitor the following parameters during the control period: -

- (a) Plant Availability Factor;
- (b) Auxiliary energy consumption;
- (c) Operation and Maintenance Expenses which includes employee expenses, repairs and maintenance expenses, administration and general expenses and other miscellaneous expenses viz. audit fees, rents, legal fees etc;
- (d) Financing cost which includes cost of debt including working capital (interest), cost of equity (return); and
- (e) Depreciation.

9.3 The Commission shall stipulate a trajectory for certain variables having regard to the past performance as also the performance of similarly situated companies:

Provided further that this trajectory should provide for sharing of gains and losses with the beneficiaries on account of superior and inferior performance as against the targets prescribed.

9.4 The Commission will normally not revisit the performance targets, once determined even if the targets are fixed on the basis of un-audited accounts.

10. MYT Petition for the Control Period

10.1 The applicant shall submit, for each of its hydro power plants, under affidavit and in accordance with Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005, as amended from time to time, the forecast of Aggregate Revenue Requirement and expected revenue from tariff for each year of the Control Period, accompanied by fees applicable, latest by 30th November of the year previous to the start of the Control Period in the formats specified by the Commission.

10.2 Forecast of Aggregate Revenue Requirement for each of the financial year of the Control Period:

- a) For projecting different components of Aggregate Revenue Requirement for each financial year of the Control Period, the Applicant shall develop a mathematical model. For this purpose, applicant may utilize suitable macro-economic variables, market indexes, past year's trends etc.
- b) Applicant shall further submit a soft copy of the above model with all the formulas and linkages along with its MYT petition for Tariff determination.

10.3 Forecast of expected revenue from tariff and charges:

- a) The applicant shall develop mathematical model for projecting the expected revenue from tariff and charges based on prevailing generation tariffs as on the date of making the application for each financial year of the Control Period;
- b) The applicant shall submit a soft copy of the above model with all the formulas and linkages along with its MYT petition for tariff determination.

11. Preparation & submission of Annual Accounts, Reports etc.

- 11.1 Every Applicant shall prepare annual statement of accounts and also prepare annual reports and statistics, giving an account of its activities during the current and previous year and likely to be undertaken in the remaining years of the MYT Control Period, including the ensuing year. The report of activities shall also indicate targets and achievements in respect of various performance parameters. These reports shall be furnished to the Commission in duplicate, by 30th November every year.
- 11.2 The Commission may direct the Applicants to submit the half yearly accounting statements, as the Commission may require for reviewing their financial performance.
- 11.3 The Commission may also direct the Applicants to submit to the Commission or such other authority, as it may designate in this behalf, such additional information as the Commission may require for the performance of its functions.
- 11.4 The Commission at an appropriate time may specify the forms for preparation of separate Regulatory accounts.

12. Tariff determination

- 12.1 The Commission shall determine the tariff/charges, of a Hydro generating power project covered under multi-year tariff framework for each financial year during the Control Period, having regard to the following:
 - a) The MYT principles specified under these Regulations; and
 - b) The approved forecast of Aggregate Revenue Requirement and expected revenue from tariff and charges for such financial year, including approved modifications to such forecast; and
 - c) Impact of truing up for previous financial year and performance review for the current financial year; and
 - d) Approved gains and losses to be allowed as pass through in tariffs.
- 12.2 Tariff in respect of a generating station under these Regulations shall be determined stage-wise, unit-wise or for the whole generating station. The terms and conditions for determination of tariff for generating stations specified in this Part shall apply in like manner to stages or Units, as the case may be, as to generating stations.
- 12.3 Where the tariff is being determined for stage or Unit of a generating station, the Generating Company shall adopt a reasonable basis for allocation of capital cost relating to common facilities and allocation of joint and common costs across all stages or Units, as the case may be:

Provided that the Generating Company shall maintain an Allocation Statement providing the basis for allocation of such costs, and submit such statement to the Commission along with the application for determination of tariff.

12.4 Where only a part of the generation capacity of a generating station is tied up for supplying power to the beneficiaries through a long term power purchase agreement, the units for such part capacity shall be clearly identified and, in such cases, the tariff shall be determined for such identified capacity. Where the unit(s) corresponding to such part capacity cannot be identified, the tariff of the generating station may be determined with reference to the capital cost of the entire project, but the tariff so determined shall be applicable corresponding to the part capacity contracted for supply to the beneficiaries.

12.5 In case of expansion of the existing generating station, the tariff shall be determined for the expanded capacity in accordance with these Regulations:

Provided that the common infrastructure of the existing generating station, shall be utilized for the expanded capacity and the benefit of new technology in the expanded capacity, as determined by the Commission, shall be extended to the existing capacity.

12.6 In the case of multi-purpose hydro schemes, with irrigation, flood control and power components, the capital cost chargeable to the power component of the scheme only shall be considered for the determination of tariff.

13. Application/Petition for determination of tariff

13.1 The generating company may make an application for determination of tariff for a new generating station or unit thereof in accordance with these Regulations within 90 days from the actual date of commercial operation:

Provided that the generating company shall submit an Auditor Certificate and, in case of non-availability of an Auditor Certificate, a Management Certificate duly signed by an authorised person, not below the level of Director of the company, indicating the capital cost incurred as on the date of commercial operation and the projected additional capital expenditure for respective years of the tariff period 2024-29:

Provided further that for a new generating station or unit thereof, the applicant, through a specific prayer in its application filed under these Regulations, may plead for an interim tariff, and the Commission shall consider granting interim tariff from the date of commercial operation during the first hearing of the application.

13.2 In case of an existing generating station or unit thereof, the application shall be made by the generating company, based on admitted capital cost including additional capital expenditure already admitted and incurred up to 31.3.2024 (either based on actual or projected additional capital expenditure) and estimated additional capital expenditure for the respective years of the tariff period 2024-29 along with the true up petition for the past

period in accordance with the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Hydro Generation Tariff) Regulations, 2011, as amended from time to time.

- 13.3 In case the generating company files the application as per the timeline specified in these Regulations, carrying cost shall be allowed from the date of commercial operation of the project:

Provided that in case the generating company delays in filing of application as per the timeline specified in these Regulations, carrying cost shall be allowed to the generating company from the date of filing of the application as per Sub-regulation 14.7 of these Regulations.

14. Determination of tariff

- 14.1 The generating company for a specific generating station shall file a petition before the Commission as per these Regulations containing the details of underlying assumptions for the capital expenditure and additional capital expenditure incurred and projected to be incurred, wherever applicable.

- 14.2 If the petition is deficient in any respect as required under these Regulations, the application shall be returned to the generating company for resubmission of the petition within one month of the date of return of the application after rectifying the deficiencies as may be pointed out by the staff of the Commission.

- 14.3 If the information furnished in the petition is in accordance with these Regulations, the Commission may consider granting interim tariff of up to seventy per cent (70%) of the tariff claimed in case of new generating station or unit thereof during the first hearing of the application:

Provided that in case the final tariff determined by the Commission is lower than the interim tariff by more than 30%, the generating company shall return the excess amount recovered from the beneficiaries with carrying cost.

- 14.4 In case of the existing projects, the generating company shall continue to bill the beneficiaries as approved by the Commission and applicable as on 31.3.2024 for the period starting from 1.4.2024 till approval of final capacity charges by the Commission in accordance with these Regulations:

Provided that the billing for energy charges w.e.f. 1st April, 2024 shall be as per the operational norms specified in these Regulations.

- 14.5 The Commission shall grant the final tariff in case of existing and new projects after considering the replies received from the respondents and suggestions and objections, if any, received from the general public and any other person permitted by the Commission, including the consumers or consumer associations.

14.6 The Commission may hear the petitioner, the respondents and any other person permitted, including the consumers or recognised consumer associations while granting interim or final tariff.

14.7 The difference between the tariff determined in accordance with Sub-regulations 14.3 and 14.5 above and Sub-regulations 14.4 and 14.5 above, shall be recovered from or refunded to, the beneficiaries with carrying cost:

Provided that the bills to recover or refund shall be raised by the generating company within 30 days from the issuance of the Order:

Provided further that such interest shall be payable till the date of issuance of the Order:

Provided further that in case where money is to be refunded and there is a delay in the raising of bills by the generating company beyond 30 days from the issuance of the Order, it shall attract a late payment surcharge as applicable in accordance with these Regulations.

15. Mid-term Performance Review

15.1 A Petition for Mid-term Review and Truing-up of the Aggregate Revenue Requirement for the previous Years of the Control Period and/or for the previous control period, shall be filed by 30th November, 2026 by the Hydro generating company:

Provided that the Petition shall include information in such form as may be stipulated by the Commission, together with the Accounting Statements, extracts of books of account and such other details, including Cost Accounting Reports or extracts thereof, as it may require to assess the reasons for and extent of any difference in operational and financial performance from the approved forecast of Aggregate Revenue Requirement and expected revenue from Tariff and charges:

Provided further that if the Petition is not filed within the specified timelines and/or data sought by the Commission for processing the Petition is not submitted within the stipulated time, then the carrying cost due to consequential delay in issue of the Order, shall not be allowed to the Hydro generating company.

15.2 The scope of the Mid-term Review shall be a comparison of the actual operational and financial performance vis-à-vis the approved forecast for the first three years of the Control Period; and revised forecast of Aggregate Revenue Requirement, expected revenue from existing Tariff, expected revenue gap, and proposed Tariffs for the fourth and fifth year of the Control Period:

Provided that as part of the Mid-term Review, the Commission may inter-alia modify the O&M expenses, capital expenditure related expenses, principles/basis of tariff categorisation, applicability of charges and Generation Tariff, as considered appropriate based on the data made available for the first three years of the Control Period:

Provided further that necessary justification for the modifications made in the Mid-term Review shall be elaborated in the Mid-term Review Order.

- 15.3 Upon completion of the Mid-term Review, the Commission shall pass an Order recording-
- (a) the approved aggregate gain or loss to the Licensee on account of controllable factors for the previous years of the control period, and the amount of such gains or such losses that may be shared in accordance with Regulation 20;
 - (b) the approved aggregate gain or loss to the Licensee on account of uncontrollable factors for the previous years of the control period, and the amount of such gains or such losses that were not recovered during the respective years and which may be shared in accordance with Regulation 19;
 - (c) the approved modifications to the Aggregate Revenue Requirement and Tariffs or Fees and Charges for the remainder of the Control Period.

16. True Up

- 16.1 The true up shall be conducted by the Commission, for the previous years for which the actual/audited accounts are made available by the Hydro generating company, at the times and as per principles stated below:-
- (a) at the times -
 - (i) for the previous years of the previous control period:- along with the petition for determination of ARR cum transmission tariff for the control period;
 - (ii) for the previous years of the control period and for the previous control period:- along with the mid-term performance review during the control period;
 - (iii) for the control period true up:- along with the mid-term performance review of the next control period;
 - (b) as per principles -
 - (i) the Commission shall review actual capital investment vis-à-vis approved capital investment;
 - (ii) depreciation and financing cost, which includes cost of debt including working capital (interest), cost of equity (return) shall be trued up on the basis of actual/audited information and prudence check by the Commission;
 - (iii) any surplus and deficit on account of O&M expenses shall be to the account of the Hydro generating company and shall not be trued up in ARR; and
- 16.2 The gain or loss on account of other controllable factors, unless otherwise specifically provided by the Commission shall be to the account of the Hydro generating company.
- 16.3 Notwithstanding anything contained in these Regulations, the gains or losses in the controllable items of ARR on account of force majeure, change in law and change in taxes and duties shall be passed on as an additional charge or rebate in ARR over such period as may be laid down in the order of the Commission.

17. Carrying Cost or Holding Cost

- 17.1 The Commission shall allow Carrying Cost or Holding Cost, as the case may be, on the admissible amounts at the weighted average one-year Marginal Cost of Funds-based Lending Rate ('MCLR') prevailing during the concerned Year as declared by the State Bank of India from time to time, plus 150 basis points:

Provided that in case of delay in filling the true-up Petition(s) by the Generating Company, Carrying Cost or Holding Cost shall not be allowed for the period of delay on the net entitlement after the due date of filling the true-up Petition, i.e. 30th November, as per these Regulations. However, in case the true-up results in surplus, the carrying cost shall be applicable and recoverable from the hydro generating company.

18. Operational Norms

- 18.1 The norms of operation for hydro generating stations shall be as under-

(a) **Normative Annual Plant Availability Factor (NAPAF)** for hydro generating stations shall be determined by the Commission as per the following criteria:-

- i. Storage and Pondage type plants with head variation between Full Reservoir Level (FRL) and Minimum Draw Down Level(MDDL) of up to 8%, and where plant availability is not affected by silt: 90%;
- ii. In case of storage and pondage type plants with head variation between full reservoir level and minimum draw down level is more than 8% and when plant availability is not affected by silt, the month-wise peaking capability as provided by the project authorities in the DPR (approved by Central Electricity Authority (CEA) or the State Government) shall form basis of fixation of NAPAF;
- iii. Pondage type plants where plant availability is significantly affected by silt: 85%.
- iv. Run-of-river generating stations: NAPAF to be determined plant-wise, based on 10-day design energy data, moderated by past experience where available/ relevant.

(b) **Auxiliary Energy Consumption:**

Type of Station	AEC	
	Installed Capacity above 200MW	Installed Capacity upto 200MW
Surface		
Rotating Excitation	0.7%	0.7%
Static	1.0%	1.2%
Underground		
Rotating Excitation	0.9%	0.9%
Static	1.2%	1.3%

Provided that the Commission, may for sufficient reasons to be recorded in writing, after exercising due diligence and applying prudence check, deviate from the above ceiling norm.

- 18.2 A further allowance may be made by the Commission in NAPAF determination under special circumstances, e.g. abnormal silt problem or other operating conditions, and known plant limitations.
- 18.3 In case of a new hydro electric project the developer shall have the option of approaching the Commission in advance for fixation of NAPAF based on the principles enumerated in clause (a) of Sub-regulation 18.1 of this Regulation.
- 18.4 The Commission may lay down relaxed operational norms including the norms of NAPAF and auxiliary consumption contained in these Regulations for a generating station, and these relaxed norms shall be applicable for determination of tariff for such generating station during the control period.
- 18.5 The norms of operation under these Regulations shall be ceiling norms and shall not preclude generating companies and the beneficiaries from agreeing to improve norms of the operation. If the Power Purchase Agreement (PPA) stipulates better norms of operation then such norms provided in the PPA shall be considered.
- 18.6 In case of renovation and modernisation, de-rating or re-rating of the generating station, norms of operation shall be reviewed and modified accordingly.

19. Mechanism for pass through of gains or losses on account of uncontrollable factors

- 19.1 The approved aggregate gain or loss to the Hydro Generating Company on account of uncontrollable factors shall be passed through, as an adjustment in the tariff, as specified in these Regulations and as may be determined in the Order of the Commission passed under these Regulations.

20. Mechanism for sharing of gains or losses on account of controllable factors

- 20.1 The approved aggregate gain to the Hydro Generating Company on account of controllable factors shall be dealt with in the following manner:
- (a) Two-third of the amount of such gain shall be passed on as a rebate in tariff over such period as may be stipulated in the Order of the Commission;
 - (b) The balance amount, which will amount to one-third of such gain, shall be utilized at the discretion of the Hydro Generating Company.
- 20.2 The approved aggregate loss to the Hydro Generating Company on account of controllable factors shall be dealt with in the following manner:
- (a) One-third of the amount of such loss shall be passed on as an additional charge in

tariff over such period as may be stipulated in the Order of the Commission; and

- (b) The balance amount, which will amount to two-third of such loss, shall be absorbed by the Hydro Generating Company.

20.3 The gain or loss on account of other controllable factors, unless otherwise specifically provided by the Commission shall be to the account of the Hydro Generating Company.

21. Determination of Tariff

21.1 Proceedings to be held by the Commission for determination of tariff shall be in accordance with the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005, as amended from time to time.

21.2 Notwithstanding anything contained in these Regulations, the Commission shall have, at all times, the authority, either on Suo-motu basis or on a petition filed by the hydro generating company, to determine the tariff for Fees and Charges, including terms and conditions thereof, of Hydro Generating Company:

Provided that such determination of tariff or Fees and Charges may be pursuant to an agreement or arrangement or otherwise whether or not previously approved by the Commission and entered into at any time before or after the applicability of these Regulations.

21.3 Notwithstanding anything contained in these Regulations, the Commission shall adopt the tariff, if such tariff has been determined through a transparent process of bidding in accordance with the guidelines issued by the Central Government:

Provided that the Applicant shall provide such information as the Commission may require for satisfying itself that the guidelines issued by the Central Government have been duly followed.

PART-III

PRINCIPLES FOR DETERMINATION OF AGGREGATE REVENUE REQUIREMENT (ARR)

22. Capital cost

22.1 The Capital cost of the hydro generating station as determined by the Commission after prudence check in accordance with these Regulations shall form the basis for determination of ARR for existing and new projects.

22.2 Only such capital expenditure as is incurred or proposed to be incurred with the approval of the Commission, including that exempted from prior approval, shall be considered after prudence check for tariff purposes.

22.3 The final tariff shall be fixed based on the admitted capital expenditure of the hydro generating plant and shall include capitalised initial spares subject to a ceiling norm.

22.4 The provisions of Accounting Standards (AS 10): Accounting for Fixed Assets of the Institute of Chartered Accountants of India/IAS16: Property, Plant and Equipment issued by the Accounting Standard Board, as amended from time to time, shall apply, to the extent not inconsistent with these Regulations, in determining the original cost of capital expenditure projects and/ or original cost of fixed assets capitalized.

22.5 The Capital cost of a new project shall include the following:

- (a) The expenditure incurred or projected to be incurred upto the date of commercial operation of the project;
- (b) Interest during construction and financing charges, on the loans (i) being equal to 70% of the funds deployed, in the event of the actual equity in excess of 30% of the funds deployed, by treating the excess equity as normative loan, or (ii) being equal to the actual amount of loan in the event of the actual equity less than 30% of the funds deployed;
- (c) Any gain or loss on account of foreign exchange risk variation pertaining to the loan amount availed during the construction period;
- (d) Interest during construction and incidental expenditure during construction as computed in accordance with these Regulations;
- (e) Capitalised initial spares subject to the ceiling rates in accordance with these Regulations;
- (f) Expenditure on account of fulfillment of any conditions for obtaining environment clearance for the project;
- (g) Adjustment of revenue due to sale of infirm power prior to the date of commercial operation as specified under Regulation 33 of these Regulations;
- (h) Expenditure on account of additional capitalization and de-capitalisation determined in accordance with these Regulations;
- (i) Adjustment of revenue earned by the generating company by using the assets before the date of commercial operation;
- (j) Expenditure on account of change in law and force majeure events:

Provided also that the hydro generating company shall submit documentary evidence in support of its claim of assets being put to use:

Provided also that the Commission may undertake a verification to check if the assets are put to use as submitted by the hydro generating company, independent of the tariff determination process.

22.6 The Capital cost of an existing project shall include the following:

- (a) Capital cost admitted by the Commission prior to 1.4.2024 duly trued up by excluding liability, if any, as on 1.4.2024;
- (b) Additional capitalization and de-capitalization for the respective year of tariff as determined in accordance with these Regulations;
- (c) Capital expenditure on account of renovation and modernization as admitted by this Commission in accordance with these Regulations.

22.7 The Capital cost of an existing or new hydro generating station shall also include the following:

- (a) Cost of approved rehabilitation and resettlement (R&R) plan of the project in conformity with National R&R Policy and R&R package as approved; and
- (b) Cost of the developer's 10% contribution towards Rajiv Gandhi Grameen Vidyutikaran Yojana (RGGVY) and Deendayal Upadhyaya Gram Jyoti Yojana (DDUGJY) project in the affected area.
- (c) Expenditure incurred towards developing local infrastructure not exceeding Rs. 10 lakh/MW in the vicinity of the power plant approved in original scheme if funding is not provided for under "Budgetary Support for Flood Moderation and for Budgetary support for enabling infrastructure".

Provided that such funds shall be allowed only if the funds are spent through Indian Governmental Instrumentality;

22.8 The following shall be excluded from the capital cost of the existing and new projects:

- (a) The assets forming part of the project, but not in use, as declared in the tariff petition;
- (b) De-capitalised Assets after the date of commercial operation on account of replacement or removal on account of obsolescence or shifting from one project to another project:

Provided that unless shifting of an asset from one project to another is of permanent nature, there shall be no de-capitalization of the concerned assets.

- (c) Any Consumer contribution or grant received from the Central or State Government or any statutory body or authority for the execution of the project which does not carry any liability of repayment;
- (d) Any capitalization done by mere book entries/presentation in the financial statements in order to comply with any statute / Rules etc. and not in accordance with the Capital Expenditure approved under these Regulations;
- (e) Any expenditure incurred or committed to be incurred by a project developer for getting the project site allotted by the State Government by following a transparent process; and
- (f) Proportionate cost of land of the existing project which is being used for generating power from generating station based on other sources of renewable energy.

23. Prudence Check of Capital Cost

23.1 The following principles shall be adopted for prudence check of Capital cost of the existing or new hydro generating projects:

- Scrutiny of the capital expenditure, in the light of capital cost of similar projects based on past historical data, wherever available, reasonableness of financing plan, interest during construction, incidental expenditure during construction, use

of efficient technology, cost over-run and time over-run, procurement of equipment and materials through competitive bidding and such other matters as may be considered appropriate by the Commission:

Provided that, while carrying out the prudence check, the Commission shall also examine whether the hydro generating company has been careful in its judgments and decisions in execution of the project.

- The hydro generating company shall furnish the capital cost for execution of the existing and new projects, as per formats specified by the Commission, along with tariff petition for the purpose of creating a database of benchmark Capital cost of various components.
- The Commission may get the capital cost of any project vetted by an independent agency or an external expert. However, the same shall be considered as one of the guiding factors only and shall not be binding on the Commission.
- Where the power purchase agreement entered into between the generating company and the beneficiaries provides for the ceiling of actual capital expenditure, the Commission shall take into consideration such ceiling for prudence check.

24. Interest During Construction (IDC) and Incidental Expenditure during Construction (IEDC)

24.1 Interest during construction (IDC) shall be computed considering the actual loan and normative loan after taking into account the prudent phasing of funds up to actual COD:

Provided that IDC on normative loan corresponding to excess equity over 30% of funds deployed shall be allowed only in case the actual infusion of equity on a quarterly basis is more than 30% of total funds deployed on a pari-passu basis:

Provided further that in case IDC on normative loan is to be allowed prior to infusion of actual loan, rate of interest for computing such IDC shall be equal to 1-year SBI MCLR as prevailing on 1st April of the respective year:

Provided further that IDC on normative loan, post infusion of actual loan shall be computed based on WAROI for that respective quarter.

24.2 Incidental expenditure during construction (IEDC) shall be computed from the zero date, taking into account pre-operative expenses upto SCOD:

Provided that any revenue earned during construction period up to SCOD on account of interest on deposits or advances, or any other receipts shall be taken into account or reduction in incidental expenditure during construction.

24.3 The following shall be considered as controllable and uncontrollable factors for deciding time overrun, cost escalation, Interest During Construction (IDC) and Incidental Expenditure During Construction (IEDC) of the new projects:

- (1) The "controllable factors" shall include but shall not be limited to the following:
 - (a) Efficiency in the implementation of the new projects not involving an approved change in scope of such new projects, change in statutory levies or change in law or force majeure events; and
 - (b) Delay in execution of the new projects on account of contractor or supplier or agency of the generating company.
- (2) The "uncontrollable factors" shall include but shall not be limited to the following:
 - (a) Force Majeure events;
 - (b) Change in Law; and
 - (c) Land acquisition except where the delay is attributable to the generating company.

24.4 In case of additional costs on account of IDC and IEDC due to delay in achieving the COD, the hydro generating company shall be required to furnish detailed justifications with supporting documents for such delay including prudent phasing of funds in case of IDC and details of IEDC during the period of delay and liquidated damages recovered or recoverable corresponding to the delay.

24.5 If the delay in achieving the COD is not attributable to the hydro generating company, IDC and IEDC beyond SCOD may be allowed after prudence check and the liquidated damages, if any, recovered from the contractor or supplier or agency shall be adjusted in the capital cost of the hydro generating plant.

24.6 If the delay in achieving the COD is attributable either in entirety or in part to the generating company or its contractor or supplier or agency, in such cases, IDC and IEDC due to such delay may be disallowed after prudence check either in entirety or on pro-rata basis corresponding to the period of delay not condoned vis-à-vis total implementation period and the liquidated damages, if any, recovered from the contractor or supplier or agency shall be retained by the generating company, in the same proportion of delay not condoned vis-à-vis total implementation period:

Provided that in case of activities like obtaining forest clearance, NHAI Clearance, approval of Railways, and acquisition of government land, where delay is on account of delay in approval of concerned authority, in such cases maximum condonation shall be allowed up to 90% of the delay associated with obtaining such approvals or clearances.

[Note: For e.g.: In case a project was scheduled to be completed in 48 months and is actually completed in 60 months. Out of 12 months of time overrun, if only 6 months of time overrun is condoned, the allowable IDC and IEDC shall be computed by considering the total IDC and IEDC incurred for 60 months and allowed in the proportion of 54 months over 60 month period.]

24.7 For the purpose of Sub-regulations 24.4 and 24.5 above, IDC on actual loan and normative loan shall be considered in accordance with the normative debt-equity ratio specified under Sub-regulation 32.1 of these Regulations.

25. Initial Spares

- 25.1 Initial spares shall be capitalized as a percentage of the Plant and Machinery cost, subject to following ceiling norms:

Hydro generating stations including pumped storage hydro generating stations- 4%

Provided that the Plant and Machinery cost shall be considered as the original project cost excluding IDC, IEDC, Land Cost and Cost of Civil Works and the hydro generating company, for the purpose of estimating Plant and Machinery Cost, shall submit the break-up of head wise IDC and IEDC in its tariff application.

- 25.2 Where the generating station has any transmission equipment forming part of the generation project, the ceiling norms for initial spares for such equipment shall be as per the ceiling norms specified for transmission system under the relevant HPERC Transmission Tariff Regulations.

26. Additional Capitalisation within the original scope and upto the cut-off date

- 26.1 The additional capital expenditure in respect of a new project or an existing project incurred or projected to be incurred, on the following counts within the original scope of work, after the date of commercial operation and up to the cut-off date may be admitted by the Commission, subject to prudence check:

- (a) Undischarged liabilities recognized to be payable at a future date;
- (b) Works deferred for execution;
- (c) Procurement of initial capital spares within the original scope of work, in accordance with the provisions of Regulation 25 of these Regulations;
- (d) Liabilities to meet award of arbitration or for compliance of the directions or order of any statutory authority or order or decree of any court of law;
- (e) Change in law or compliance of any existing law; and
- (f) Force Majeure events:

Provided that in case of any replacement of the assets, the additional capitalization shall be worked out after adjusting the gross fixed assets and cumulative depreciation of the assets replaced on account of de-capitalization.

- 26.2 The hydro generating company shall submit the details of works asset-wise/work-wise included in the original scope of work along with estimates of expenditure, liabilities recognized to be payable at a future date and the works deferred for execution.

27. Additional Capitalisation within the original scope and after the cut-off date

- 27.1 The additional capital expenditure incurred or projected to be incurred in respect of an existing project or a new project on the following counts within the original scope of work and after the cut-off date may be admitted by the Commission, subject to

prudence check:

- (a) Liabilities to meet award of arbitration or for compliance of the directions or order of any statutory authority, or order or decree of any court of law;
- (b) Change in law or compliance of any existing law;
- (c) Liability for works executed prior to the cut-off date;
- (d) Force Majeure events;
- (e) Liability for works admitted by the Commission after the cut-off date to the extent of discharge of such liabilities by actual payments; and
- (f) Any additional capital expenditure which has become necessary for efficient operation:

Provided that the approval of additional capital expenditure for efficient operation shall be subject to submission of report on impact assessment done by any reputed third-party technical expert/agency on the benefits realised from previous investments under this head in the last five years.

27.2 In case of replacement of assets deployed under the original scope of the existing project after cut-off date, the additional capitalization may be admitted by the Commission, after making necessary adjustments in the gross fixed assets and the cumulative depreciation, subject to prudence check on the following grounds:

- a) The useful life of the assets is not commensurate with the useful life of the project and such assets have been fully depreciated in accordance with the provisions of these Regulations;
- b) The replacement of the asset or equipment is necessary on account of change in law or Force Majeure conditions;
- c) The replacement of such asset or equipment is necessary on account of obsolescence of technology; and
- d) The replacement of such asset or equipment has otherwise been allowed by the Commission:

Provided that the claim shall be substantiated with the technical justification duly supported by documentary evidence like test results carried out by an independent agency in case of deterioration of assets, damage caused by natural calamities, obsolescence of technology, up-gradation of capacity for the technical reason such as increase in fault level:

Provided that any claim of additional capitalisation with respect to the replacement of assets under the original scope and on account of obsolescence of technology, less than Rs. 20 lakhs shall not be considered as part of Capital cost and shall be met by Generating company through normative O&M charges only.

28. Additional Capitalisation beyond the original scope

28.1 The capital expenditure, in respect of existing hydro electric project, incurred or projected to be incurred on the following counts beyond the original scope, may be admitted by the Commission, subject to prudence check:

- (a) Liabilities to meet award of arbitration or for compliance of order or directions of any statutory authority, or order or decree of any court of law;
- (b) Change in law or compliance of any existing law;
- (c) Force Majeure events;
- (d) Need for higher security and safety of the hydro electric plant as advised or directed by appropriate Indian/State Governmental Instrumentality or statutory authorities responsible for national or internal security;
- (e) Any liability for works executed prior to the cut-off date, after prudence check of the details of such undischarged liability, total estimated cost of package, reasons for such withholding of payment and release of such payments etc.;
- (f) Any liability for works admitted by the Commission after the cut-off date to the extent of discharge of such liabilities by actual payments; and
- (g) Any additional expenditure on items such as relays, control and instrumentation, computer system, DC batteries, replacement due to obsolescence of technology, replacement of switchyard equipment due to increase of fault level, communication equipment, emergency restoration system, replacement of damaged equipment not covered by insurance and any other expenditure which has become necessary for successful and efficient operation of hydro electric plant:

Provided that any expenditure on acquiring the minor items or the assets including tools and tackles, furniture, air-conditioners, voltage stabilizers, refrigerators, coolers, computers, fans, washing machines, heat convectors, mattresses, carpets, etc., bought after the cut-off date shall not be considered for additional capitalization for determination of tariff w.e.f. April 01, 2024:

Provided further that if any expenditure has been claimed under Renovation and Modernisation or repairs and maintenance under (O&M) expenses, same expenditure cannot be claimed under this Regulation.

28.2 Any claim of additional capitalisation less than Rs. 20 lakhs shall not be considered under Sub-regulation 28.1 of this Regulation.

28.3 In case of de-capitalisation of assets, the original cost of such asset as on the date of de-capitalisation shall be deducted from the value of gross fixed asset and corresponding loan as well as equity shall be deducted from outstanding loan and the equity respectively in the year such de-capitalisation takes place with corresponding adjustments in cumulative depreciation and cumulative repayment of loan, duly taking into consideration the year in which it was capitalized:

Provided that in cases where an asset forming part of a scheme is de-capitalised and wherein the historical value of such asset is not available, the value of de-capitalisation shall be computed by de-escalating the value of the new asset by 5% per year until the year of capitalisation of the old asset subject to a minimum of 10% of the replacement cost of the asset.

29. Additional Capitalisation on account of Renovation and Modernisation

- 29.1 The hydro generating company intending to undertake renovation and modernization (R&M) of the hydro power plant or element thereof for the purpose of extension of life beyond the originally recognised useful life for the purpose of tariff, shall file a petition before the Commission for approval of the proposal with a Detailed Project Report giving complete scope, justification, cost-benefit analysis, estimated life extension from a reference date, financial package, phasing of expenditure, schedule of completion, reference price level, estimated completion cost including foreign exchange component, if any, and any other information considered to be relevant by the hydro generating company:

Provided that the hydro generating company intending to undertake renovation and modernization(R&M) shall be required to obtain the consent of the beneficiaries for such renovation and modernization(R&M) and submit the same along with the petition.

- 29.2 Where the hydro generating company, makes an application for approval of its proposal for renovation and modernization (R&M), approval may be granted after due consideration of reasonableness of the proposed cost estimates, financing plan, schedule of completion, interest during construction, use of efficient technology, cost-benefit analysis, expected duration of life extension, consent of the beneficiaries or long term customers, if obtained, and such other factors as may be considered relevant by the Commission.
- 29.3 After completion of the renovation and modernization (R&M), the hydro generating company shall file a petition for determination of tariff. Expenditure incurred or projected to be incurred and admitted by the Commission after prudence check, and after deducting the accumulated depreciation already recovered from the admitted project cost, shall form the basis for determination of tariff.

30. Approval of capital cost

- 30.1 The approved Capital Cost shall be considered for tariff determination and if sufficient justification is provided for any escalation in the Project Cost, the same may be considered by the Commission subject to prudence check:

Provided that in case the actual capital cost is lower than the approved capital cost, then the actual capital cost will be considered:

Provided that prudence check of capital cost may be carried out based on the benchmark norms to be specified by the Commission from time to time:

Provided further that in cases where benchmark norms have not been specified, prudence check shall be carried out as per Sub-regulation 23.1 of these Regulations:

Provided further that if the generating station is not commissioned on the SCOD or actual COD whichever is later of the associated transmission system, the generating company shall bear the transmission charges of the associated transmission system corresponding to Long term Access granted for the generating station or unit(s) thereof, which have not achieved COD, if the transmission system is declared under commercial operation by the Commission in accordance with the provisions of applicable Regulations till the generating station or units(s) thereof is commissioned:

Provided also that if the associated transmission system is not commissioned on SCOD of the generating station or actual COD, whichever is later of the generating station, the transmission licensee shall arrange the evacuation from the generating station at its own arrangement and cost till the associated transmission system is commissioned or otherwise till such alternate arrangement is made, the transmission licensee(s) shall pay to the generating station, the Annual Transmission charge of the Intra-state transmission system, corresponding to the quantum of Long term Access, for the period for which the transmission system has got delayed:

Provided further that in cases where benchmark norms have been specified, the hydro generating company shall submit the reasons for exceeding the capital cost from benchmark norms to the satisfaction of the Commission for allowing cost above benchmark norms.

31. Consumer Contribution, Deposit Work, Grant and Capital Subsidy

31.1 The expenses on the following categories of works carried out by the hydro generating company shall be treated as specified in Sub-regulation 31.2:

- Works undertaken from funds, partly or fully, provided by the users, which are in the nature of deposit works or consumer contribution works;
- Capital works undertaken with grants or capital subsidy received from the State and Central Governments;
- Other works undertaken with funding received without any obligation of repayment and with no interest costs works carried out by the hydro generating company after obtaining the estimated cost from the users shall be classified as Deposit Works.

31.2 The expenses on such capital expenditure shall be treated as follows:—

- (a) normative O&M expenses as specified in these Regulations shall be allowed.;
- (b) the debt : equity ratio shall be considered in accordance with Regulation 32, after deducting the amount of financial support received;
- (c) provisions related to depreciation, as specified in Regulation 40, shall not be applicable to the extent of such financial support received;
- (d) provisions related to return on equity, as specified in Regulation 36 shall not be applicable to the extent of such financial support received;
- (e) provisions related to interest on loan capital, as specified in Regulation 38 shall not be applicable to the extent of such financial support received.

32. Debt-equity ratio

- 32.1 For a capital investment Scheme declared under commercial operation on or after 1st April, 2024, debt-equity ratio as on the date of commercial operation shall be 70:30 of the amount of capital cost approved by the Commission, after prudence check for determination of Tariff:

Provided that the hydro generating company shall substantiate such investment of equity and debt through documentary evidence:

Provided also that if the equity actually deployed is more than 30% of the capital cost, equity in excess of 30% shall be treated as normative loan for the hydro generating company for determination of Tariff:

Provided also that where equity actually deployed is less than 30% of the capital cost of the capitalised asset, the actual equity shall be considered for determination of Tariff:

Provided also that the equity invested in foreign currency shall be designated in Indian rupees on the date of each investment.

33. Sale of Infirm Power

- 33.1 Supply of infirm power shall be accounted as deviation and shall be paid for from the State deviation pool account in accordance with the Himachal Pradesh Electricity Regulatory Commission (Deviation Settlement Mechanism and Related matters) Regulations, 2018, as amended from time to time or any subsequent re-enactment thereof:

Provided that any revenue earned by the Hydro Generating Company from sale of infirm power shall be used for reduction in capital cost and shall not be treated as revenue.

34. Aggregate Revenue Requirement (ARR)

- 34.1 The ARR of a hydro generating station shall comprise of the following elements:

- a) Operation and Maintenance Expenses;
- b) Return on Equity Capital;
- c) Tax on Return on Equity;
- d) Interest on Loan Capital;
- e) Interest on Working Capital; and
- f) Depreciation.

35. Operation and Maintenance (O&M) Expenses

- 35.1 Operation and Maintenance (O&M) expenses shall comprise of the following:-

- a) salaries, wages, pension contribution and other employee costs;
- b) administrative and general expenses including insurance charges if any;

- c) repairs and maintenance expenses;
- d) other miscellaneous expenses, statutory levies and taxes (except corporate income tax).

35.2 O&M Norms

- (i) The hydro generating company shall propose separate trajectories of norms for each of the components of O&M expenses viz., employee cost, R&M expense and A&G expense;
- (ii) One-time expenses such as expense due to change in accounting policy, arrears paid due to pay commissions and interim relief etc., shall be excluded from the norms in the trajectory;
- (iii) The expenses beyond the control of the hydro generating company such as dearness allowance, terminal liabilities in Employee cost etc., shall be excluded from the norms in the trajectory;
- (iv) The One-time expenses and the expenses beyond the control of the hydro generating company as per Sub-regulations (ii) and (iii) above shall be allowed by the Commission over and above normative Operation & Maintenance Expenses after prudence check;
- (v) The norms in the trajectory shall be proposed over the control period with due consideration to productivity improvements and commercial viability;
- (vi) The norms shall be proposed at constant prices of base year and escalation on account of inflation shall be over and above the baseline;
- (vii) Based on the proposal submitted by the hydro generating company, the Commission shall fix the norms for the said purposes which shall be taken into account for determining the trajectories for various components of O&M expenses for the remaining years of the control period;
- (viii) Till such time the norms are fixed by the Commission, the trajectories of various components of O&M expenses shall be submitted by the hydro generating company and determined by the Commission on the basis of the actual costs for the previous years in accordance with the provisions of these Regulations;

35.3 The hydro generating company shall submit the O&M expenses for the control period as laid down in the multiyear tariff filing procedure. The O&M expenses for the base year will be approved by the Commission taking into account the latest available audited accounts, business plan filed by the hydro generating company, estimates of the actuals for the base year, actual O&M expenses for last five (5) years till base year subject to prudence check and any other factors considered appropriate by the Commission.

35.4 The O&M expenses for the n^{th} year of the control period shall be approved based on the formula given below:-

$$O\&M_n = R\&M_n + EMP_n + A\&G_n :$$

Where –

$O\&M_n$ = Operation and Maintenance expense for the n^{th} year;

EMP_n = Employee Costs for the n^{th} year;

$A\&G_n$ = Administrative and General Costs for the n^{th} year

$R\&M_n$ = Repair and Maintenance Costs for the n^{th} year

35.5 The above components shall be computed in the manner specified below:

$$EMP_n = (EMP_{n-1}) \times (1+G_n) \times (1+CPI_{inflation})$$

$$R\&M_n = K \times (GFA_{n-1}) \times (1+WPI_{inflation}) \text{ and}$$

$$A\&G_n = (A\&G_{n-1}) \times (1+WPI_{inflation}) + \text{Provision}$$

Where –

- EMP_{n-1} - Employee Costs for the $(n-1)^{th}$ year;
- $A\&G_{n-1}$ - Administrative and General Costs for the $(n-1)^{th}$ year;
- Provision: Cost for initiatives or other one-time expenses as proposed by the Hydro generating company and approved by the Commission after prudence check.
- 'K' is a constant specified by the Commission in %. Value of K for each year of the Control Period shall be determined by the Commission in the MYT Tariff order based on Hydro generating company's filing, benchmarking of repair and maintenance expenses, approved repair and maintenance expenses vis-a-vis GFA approved by the Commission in past and any other factor considered appropriate by the Commission;
- CPI_{inflation} - is the average increase in the Consumer Price Index (CPI) for immediately preceding three years;
- WPI_{inflation} - is the average increase in the Wholesale Price Index (CPI) for immediately preceding three years;
- GFA_{n-1} - Gross Fixed Asset of the Hydro generating company for the $(n-1)^{th}$ year;
- G_n is a growth factor for the n^{th} year and it can be greater than or less than zero based on the actual performance. Value of G_n shall be determined by the Commission in the MYT tariff order for meeting the additional manpower requirement based on Hydro generating company's filings, benchmarking and any other factor that the Commission feels appropriate:

Provided that repair and maintenance expenses determined shall be utilised towards repair and maintenance works only:

Provided further that, the impact of pay revision (including arrears) shall be allowed on actual during the mid-term performance review or at the end of the control period as per actual/ audited accounts, subject to prudence check and any other factor considered appropriate by the Commission.

35.6 In the case of the hydro generating stations declared under commercial operation on or after 1.4.2024, operation and maintenance expenses of the first year shall be fixed at 3.5% and

5.0% of the original project cost (excluding the cost of rehabilitation & resettlement works, IDC and IEDC) for stations with installed capacity exceeding 200 MW and for stations with installed capacity less than 200 MW, respectively.

- 35.7 The Security Expenses and Capital Spares for hydro generating stations shall be allowed separately after prudence check:

Provided that the generating station shall submit the assessment of the security requirement and estimated expenses, the details of year-wise actual capital spares consumed at the time of truing up with appropriate justification:

Provided further that the value of capital spares exceeding Rs. 20.00 lakh shall only be considered for reimbursement at the time of truing up with appropriate justification for incurring the same and substantiating that the same is not claimed as a part of additional capitalisation or consumption of stores and spares and renovation and modernization.

36. Return on Equity

- 36.1 Return on equity Return on equity shall be computed in rupee terms, on the equity base determined in accordance with Regulation 32 of these Regulations.
- 36.2 Return on equity for existing project as well as new project achieving COD on or after 01.04.2024 shall be computed at the base rate of 15.50% for run-of- river hydro generating station, storage type hydro generating stations, pumped storage hydro generating stations and run-of- river generating station with pondage:

Provided that return on equity in respect of additional capitalization beyond the original scope, Change in Law, and Force Majeure shall be computed at the base rate of one-year Marginal Cost of Lending Rate (MCLR) of the State Bank of India plus 350 basis points as on 1st April of the year, subject to a ceiling of 14%:

Provided further that if the generating station is found to be declared under commercial operation without commissioning of any of the Free Governor Mode Operation (FGMO), data telemetry, communication system up to load dispatch centre or protection system based on the report submitted by the SLDC, the rate of return on equity shall be reduced by 1.00% for the period for which the deficiency continues in case of an existing generating station or for such period as may be decided by the Commission in case of a new project achieving COD on or after 01.04.2024.

37. Tax on Return on Equity

- 37.1 The rate of return on equity as allowed by the Commission under Regulation 36 of these Regulations shall be grossed up with the effective tax rate of the respective financial year. The effective tax rate shall be calculated at the beginning of every financial year based on the estimated profit and tax to be paid estimated in line with the

provisions of the relevant Finance Act applicable for that financial year to the concerned generating company by excluding the income of non-generation business and the corresponding tax thereon.

Provided that in case a generating company is paying Minimum Alternate Tax (MAT) under Section 115JB of the Income Tax Act, 1961, the effective tax rate shall be the MAT rate, including surcharge and cess:

Provided further that in case a generating company has opted for Section 115BAA, the effective tax rate shall be tax rate including surcharge and cess as specified under Section 115BAA of the Income Tax Act, 1961.

- 37.2 The rate of return on equity shall be rounded off to three decimal places and shall be computed as per the formula given below:

Rate of pre-tax return on equity = Base rate / (1-t)

- 37.3 The generating company shall true up the effective tax rate for every financial year based on actual tax paid together with any additional tax demand, including interest thereon, duly adjusted for any refund of tax including interest received from the income tax authorities pertaining to the tariff period 2024-29 on actual gross income of any financial year. Further, any penalty arising on account of delay in deposit or short deposit of tax amount shall not be considered while computing the actual tax paid for the generating company:

Provided that in case a generating company is paying Minimum Alternate Tax (MAT) under Section 115JB, the generating company shall true up the grossed up rate of return on equity at the end of every financial year with the applicable MAT rate including surcharge and cess:

Provided that in case a generating company is paying tax under Section 115BAA, the generating company shall true up the grossed up rate of return on equity at the end of every financial year with the tax rate including surcharge and cess as specified under Section 115BAA:

Provided that any under-recovery or over recovery of grossed up rate on return on equity after trueing up, shall be recovered or refunded to beneficiaries.

38. Interest on Loan Capital

- 38.1 The Hydro generating company shall provide detailed loan-wise, project-wise and utilization- wise details of all the pending loans.

- 38.2 If the equity actually deployed is more than 30 % of the capital cost, equity in excess of 30% shall be treated as normative loan:

Provided that where equity actually deployed is less than 30% of the capital cost, the actual loan shall be considered for determination of interest on loan.

38.3 Actual loan or normative loan, if any, shall be referred as gross normative loan in this Regulation.

38.4 The normative loan outstanding as of 1st April of 2024 shall be computed by deducting the cumulative repayment as approved by the Commission (basis as mentioned below) upto 31st March of 2023 from the gross normative loan.

38.5 The repayment for the control period shall be deemed to be equal to the depreciation allowed for the year.

38.6 Notwithstanding any moratorium period availed by the Hydro generating company, the repayment of the loan shall be considered from the first year of the control period as per annual depreciation allowed.

38.7 The rate of interest shall be the weighted average rate of interest calculated on the basis of actual loan portfolio at the beginning of each year of the control period, in accordance with terms and conditions of relevant loan agreements, or bonds or non-convertible debentures:

Provided that if no actual loan is outstanding but normative loan is still outstanding, the last available weighted average rate of interest shall be applicable.

Provided further that the interest on loan shall be calculated on the normative average loan of the year by applying the weighted average rate of interest:

Provided also that exception shall be made for the existing loans which may have different terms as per the agreements already executed if the Commission is satisfied that the loan has been contracted for and applied to identifiable and approved projects.

38.8 The Hydro generating company shall make every effort to refinance the loan as long as it results in net benefit to the users.

Provided that the cost associated with such refinancing shall be eligible to be passed through in tariffs and the benefit on account of refinancing of loan and interest on loan shall be shared in the ratio of 50:50 between the Hydro generating company and the users.

Provided further that the Hydro generating company shall submit the calculation of such benefit to the Commission for its approval.

39. Interest Charges on Working Capital

39.1 The working capital shall cover:

- (i) Receivables equivalent to 45 days of annual fixed cost;
- (ii) Maintenance spares @ 15% of operation and maintenance expenses including security expenses; and
- (iii) Operation and maintenance expenses, including security expenses for one month.

- 39.2 Rate of interest on working capital shall be on normative basis and shall be considered at the bank rate as on 1.4.2024 or as on 1st April of the year during the tariff period 2024-29 in which the hydro generating plant including unit thereof is declared under commercial operation, whichever is later:

Provided that in case of truing-up, the rate of interest on working capital shall be considered at bank rate as on 1st April of each of the financial year during the tariff period 2024-29.

- 39.3 Interest on working capital shall be payable on normative basis notwithstanding that the hydro generating company has not taken loan for working capital from any outside agency.

40. Depreciation

- 40.1 Depreciation shall be computed from the date of commercial operation of a generating station or unit thereof. In the case of the tariff of all the units of a generating station for which a single tariff needs to be determined, the depreciation shall be computed from the effective date of commercial operation of the generating station taking into consideration the depreciation of individual units:

Provided that the effective date of commercial operation shall be worked out by considering the actual date of commercial operation and installed capacity of all the units of the generating station, for which a single tariff needs to be determined.

- 40.2 The value base for the purpose of depreciation shall be the capital cost of the asset admitted by the Commission. In case of multiple units of a generating station, the weighted average life for the generating station shall be applied. Depreciation shall be chargeable from the first year of commercial operation. In the case of commercial operation of the asset for a part of the year, depreciation shall be charged on a pro rata basis.

- 40.3 The salvage value of the asset shall be considered as 10%, and depreciation shall be allowed up to the maximum of 90% of the capital cost of the asset:

Provided that the salvage value for electronic parts and software of SCADA, protection system, Automatic Voltage Regulator and governor and IT equipment and software shall be considered as NIL and 100% value of the assets shall be considered depreciable:

Provided also that the capital cost of the assets of the hydro generating station for the purpose of computation of depreciated value shall correspond to the percentage of the sale of electricity under long-term power purchase agreement at regulated tariff:

Provided also that any depreciation disallowed on account of lower availability of the generating station shall not be allowed to be recovered at a later stage during the useful life or the extended life.

40.4 Land other than the land held under lease and the land for a reservoir shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing the depreciable value of the asset.

40.5 Depreciation for Existing Projects shall be calculated annually based on the Straight Line Method and at rates specified in Appendix-I to these Regulations for the assets of the generating station:

Provided that the remaining depreciable value as on 31st March of the year closing after a period of 12 years from the effective date of commercial operation of the station shall be spread over the balance useful life of the assets.

Provided further that in the case of an existing hydro generating station, the generating company, with the consent of the beneficiaries, may charge depreciation at a rate lower than that specified in Appendix I to these Regulations to reduce front loading of tariff.

40.6 Depreciation for New Projects shall be calculated annually based on the Straight Line Method and at rates specified in Appendix-II to these Regulations for the assets of the generating station:

Provided that the remaining depreciable value as on 31st March of the year closing after a period of 15 years from the effective date of commercial operation of the station shall be spread over the balance useful life of the assets.

Provided further that in the case of a new hydro generating stations, the generating company, with the consent of the beneficiaries, may charge depreciation at a rate lower than that specified in Appendix II to these Regulations to reduce front loading of tariff.

40.7 In the case of the existing projects, the balance depreciable value as on 1st April, 2024 shall be worked out by deducting the cumulative depreciation as admitted to by the Commission up to 31st March, 2024 from the gross depreciable value of the assets.

40.8 The generating company shall submit the details of capital expenditure proposed to be incurred during five years before the completion of useful life along with proper justification and proposed life extension. The Commission, based on prudence check of such submissions, shall approve the depreciation by equally spreading the depreciable value over the balance Operational Life of the generating station or unit thereof or fifteen years, whichever is lower.

40.9 In case of de-capitalization of assets in respect of generating station or unit thereof, the cumulative depreciation shall be adjusted by taking into account the depreciation recovered in tariff by the de-capitalised asset during its useful service.

PART-IV

PRINCIPLES OF DETERMINATION OF HYDRO GENERATION TARIFF/ CHARGES

41. Components of tariff

- 41.1 The tariff for sale of electricity from a Hydro Generating Station shall comprise of two parts, namely, the recovery of Annual Capacity Charge and Energy Charge.
- 41.2 Recovery of capacity charge, energy charge and incentive by the generating company shall be based on the achievement of the operational norms specified in Regulation 18.

42. Computation of Capacity Charge and Energy Charge

- 42.1 The fixed cost of a hydro generating station shall be ARR computed on annual basis, based on norms specified under these Regulations, and recovered on monthly basis under capacity charge (inclusive of incentive) and energy charge, which shall be payable by the beneficiaries in proportion to their respective allocation in the saleable capacity of the generating station, that is to say, in the capacity excluding the free power to the State:

Provided that during the period between the date of commercial operation of the first unit of the generating station and the date of commercial operation of the generating station, the annual fixed cost shall provisionally be worked out based on the latest estimate of the completion cost for the generating station, for the purpose of determining the capacity charge and energy charge payment during such period.

- 42.2 The capacity charge (inclusive of incentive) payable to a hydro generating station for a calendar month shall be -

$$\text{AFC} \times 0.5 \times \text{NDM} / \text{NDY} \times (\text{PAFM} / \text{NAPAF}) \text{ (in Rupees)}$$

Where,

AFC = Annual fixed cost specified for the year, in Rupees.

NAPAF = Normative Annual Plant Availability Factor in percentage

NDM = Number of days in the month

NDY = Number of days in the year

PAFM = Plant availability factor achieved during the month, in percentage

- 42.3 The PAFM shall be computed in accordance with the following formula:-

$$\text{PAFM} = 10000 \times \sum_{i=1}^N \text{DCi} / \{N \times \text{IC} \times (100 - \text{AUX})\} \%$$

Where,

AUX = Normative auxiliary energy consumption in percentage

DCi = Declared capacity (in ex-bus MW) for the ith day of the month which the station can deliver for at least three (3) hours, as certified by the State Load Dispatch Centre after the day is over.

IC = Installed capacity (in MW) of the complete generating station

N = Number of days in the month.

- 42.4 In addition to the AFC entitlement as computed above, the hydro generating station shall be allowed an incentive of up to 4% of the Capacity Charge approved for a given year which shall be billed monthly as per the following.

$$\text{Incentive} = (4\% \times \beta \times \text{CCy})/12$$

Where,

β = Average Monthly Frequency Response Performance for that generating station, as certified by SLDC, which shall be computed by considering primary response as per the methodology prescribed by the SLDC and shall range between 0 to 1.

CCy = Capacity Charges for the Year.

- 42.5 The energy charge shall be payable by every beneficiary for the total energy scheduled to be supplied to the beneficiary, excluding free energy, if any, during the calendar month, on ex power plant basis, at the computed energy charge rate. Total Energy charge payable to the generating company for a month shall be –

$$(\text{Energy charge rate in Rs. /kWh}) \times \{\text{Scheduled energy (ex-bus) for the month in kWh}\} \times (100 - \text{FEHS}) / 100.$$

- 42.6 Energy charge rate (ECR) in Rupees per kWh on ex-power plant basis, for a hydro generating station, shall be determined up to three decimal places based on the following formula, subject to the provisions of this Regulation:-

$$\text{ECR} = \text{AFC} \times 0.5 \times 10 / \{\text{DE} \times (100 - \text{AUX}) \times (100 - \text{FEHS})\}$$

Where,

AUX = Normative auxiliary energy consumption in percentage

DE = Annual design energy specified for the hydro generating station, in MWh, subject to the provisions of this Regulation.

FEHS = Free energy for home State, in per cent, as defined in these Regulations, if any.

- 42.7 In case actual total energy generated by a hydro generating station during a year is less than the design energy for reasons beyond the control of the generating company, the following treatment shall be applied, on a rolling basis, :-

- (a) in case the energy shortfall occurs within ten years from the date of commercial operation of a generating station, the ECR for the year following the year of energy shortfall shall be computed based on the formula specified in sub-regulations of this Regulation with the modification that the DE for the year shall be considered as equal to the actual energy generated during the year of the shortfall, till the energy charge shortfall of the previous year has been made up, after which normal ECR shall be applicable;

(b) in case the energy shortfall occurs after ten years from the date of commercial operation of a generating station, the following shall apply:-

- (i) Suppose the specified annual design energy for the station is DE MWh, and the actual energy generated during the concerned (first) and the following (second) financial years is A1 and A2 MWh respectively, A1 being less than DE. Then, the design energy to be considered in the formula in Sub-regulation 42.6 of this regulation for calculating the ECR for the third financial year shall be moderated as $(A1 + A2 - DE)$ MWh, subject to a maximum of DE MWh and a minimum of A1 MWh;
- (ii) Actual energy generated (e.g. A1, A2) shall be arrived at by multiplying the net metered energy sent out from the station by $100 / (100 - AUX)$.

42.8 In addition to the above, an incentive shall be payable to a ROR Hydro generating station @ 50 paise/ kWh corresponding to the saleable scheduled energy during peak hours of the day in excess of average saleable scheduled energy during the day (24 hours).

42.9 In case the energy charge rate (ECR) for a hydro generating station, as computed under this Regulation, exceeds one rupee fifteen paise per kWh, and the actual saleable energy in a year exceeds $\{DE \times (100 - AUX) \times (100 - FEHS) / 10000\}$ MWh, the Energy charge for the energy in excess of the above shall be billed at one rupee fifteen paise per kWh only:

Provided that in a year following a year in which total energy generated was less than the design energy for reasons beyond the control of the generating company, the energy charge rate shall be reduced to one rupee fifteen paise per kWh after the energy charge shortfall of the previous year has been made up.

42.10 The State Load Despatch Centre shall finalise the schedules for the hydro generating stations, in consultation with the beneficiaries, for optimal utilization of all the energy declared to be available, which shall be scheduled for all beneficiaries in proportion to their respective allocations in the generating station.

43. Computation and Payment of Capacity Charge and Energy Charge for Pumped Storage Hydro Generating Stations

43.1 The fixed cost of a pumped storage hydro generating station shall be computed on annual basis, based on norms specified under these Regulations, and recovered on monthly basis as capacity charge. The capacity charge shall be payable by the beneficiaries in proportion to their respective allocation in the saleable capacity of the generating station, i.e. the capacity excluding the free power to the home State:

Provided that during the period between the date of commercial operation of the first unit of the generating station and the date of commercial operation of the generating station, the annual fixed cost shall be

worked out based on the latest estimate of the completion cost for the generating station, for the purpose of determining the capacity charge payment during such period.

- 43.2 The capacity charge payable to a pumped storage hydro generating station for a calendar month shall be:

(AFC x NDM/ NDY) (In Rupees), if actual Generation during the month is $\geq 75\%$ of the Pumping Energy consumed by the station during the month and

$\{(AFC \times NDM/NDY) \times (\text{Actual Generation during the month during peak hours} / 75\% \text{ of the Pumping Energy consumed by the station during the month})\}$ (in Rupees)}, if actual Generation during the month is $< 75\%$ of the Pumping Energy consumed by the station during the month.

Where,

AFC=Annual fixed cost specified for the year, in Rupees

NDM=Number of days in the month

NDY=Number of days in the year

Provided that there would be adjustment at the end of the year based on actual generation and actual pumping energy consumed by the station during the year.

- 43.3 The energy charge shall be payable by every beneficiary for the total energy scheduled to be supplied to the beneficiary in excess of the design energy plus 75% of the energy utilized in pumping the water from the lower elevation reservoir to the higher elevation reservoir, at a flat rate equal to the average energy charge rate of 20 paise per kWh, excluding free energy, if any, during the calendar month, on ex power plant basis.

- 43.4 Energy charge payable to the generating company for a month shall be:

$= 0.20 \times \{ \text{Scheduled energy (ex-bus) for the month in kWh} - (\text{Design Energy for the month (DEm)} + 75\% \text{ of the energy utilized in pumping the water from the lower elevation reservoir to the higher elevation reservoir of the month}) \}$
 $\times (100 - \text{FEHS})/100.$

Where,

DEm=Design Energy for the month specified for the hydro generating station, in MWh

FEHS = Free energy for home State, in per cent, as defined in these Regulations, if any:

Provided that in case the Scheduled energy in a month is less than the Design Energy for the month plus 75% of the energy utilized in pumping the water from the lower elevation reservoir to the higher elevation reservoir of the month, then the energy charges payable by the beneficiaries shall be zero.

43.5 The generating company shall maintain the record of daily inflows of natural water into the upper elevation reservoir and the reservoir levels of upper elevation reservoir and lower elevation reservoir on hourly basis. The generator shall be required to maximize the peak hour supplies with the available water including the natural flow of water. In case it is established that generator is deliberately or otherwise without any valid reason, is not pumping water from lower elevation reservoir to the higher elevation during off-peak period or not generating power to its potential or wasting natural flow of water, the capacity charges of the day shall not be payable by the beneficiary. For this purpose, outages of the unit(s)/station including planned outages and the forced outages up to 15% in a year shall be construed as the valid reason for not pumping water from lower elevation reservoir to the higher elevation during off-peak period or not generating power using energy of pumped water or natural flow of water:

Provided that the total capacity charges recovered during the year shall be adjusted on pro-rata basis in the following manner in the event of total machine outages in a year exceeds 15%:

$$(ACC)_{adj} = (ACC)R \times (100 - ATO) / 85$$

Where,

(ACC)_{adj}–Adjusted Annual Capacity Charges

(ACC)R–Annual Capacity Charges recovered

ATO–Total Outages in percentage for the year including forced and planned outages:

Provided further that the generating station shall be required to declare its machine availability daily on day-ahead basis for all the time blocks of the day in line with the scheduling procedure of the State Grid Code.

43.6 The State Load Despatch Centre shall finalise the schedules for the hydro generating stations, in consultation with the beneficiaries, for optimal utilization of all the energy declared to be available, which shall be scheduled for all beneficiaries in proportion to their respective allocations in the generating station.

44. Deviation Charges

44.1 The generating station may be entitled to receive or shall be required to bear, as the case may be, the charges for deviations between energy sent-out corresponding to scheduled generation and actual energy sent-out shall be accounted for through deviation charges, as per the Himachal Pradesh Electricity Regulatory Commission (Deviation Settlement Mechanism and Related Matters) Regulations, 2018, as amended from time to time.

45. Billing and payment of charges

45.1 Bills shall be raised for capacity charge and energy charge on monthly basis by the generating company in accordance with these Regulations, and payments shall be made by the beneficiaries directly to the generating company:

Provided that the physical copy of the Bill in Original at the office of the Authorised Person of the beneficiary or the scanned copy of Original Bill through official email ID of the Authorised Signatory of the Generating Company shall be recognized as valid mode of presentation of Bill:

Provided further that Authorized Signatory or Signatories (official designation only) shall be notified in advance by the Managing Director or Chief Executive Officer of the Company and any change in the list of Authorised Signatory for the purpose, shall be communicated in the same manner.

- 45.2 Payment of capacity charge and energy charge for a hydro generating station shall be shared by the beneficiaries of the generating station in proportion to their shares (inclusive of any allocation out of the unallocated capacity) in the saleable capacity (to be determined after deducting the capacity corresponding to free energy to home State as per the following Note:

Note.- FEHS = Free energy for State for home State, in per cent and shall be taken as 13% or actual, whichever is less..

Provided that in cases where the site of a hydro project is awarded to a developer, by the State Government by following a two stage transparent process of bidding, the 'free energy' shall be taken as 13%, in addition to energy corresponding to 100 units of electricity to be provided free of cost every month to every project affected family for a period of 10 years from the date of commercial operation of the generating station:

Provided further that the generating company shall submit detailed quantification of energy corresponding to 100 units of electricity to be provided free of cost every month to every month to every project affected family for a period of 10 years from the date of commercial operation.

46. Recovery of Statutory Charges

- 46.1 The generating company shall recover the statutory charges imposed by the State and Central Government such as electricity duty, water cess by considering normative parameters specified in these Regulations. In case of the electricity duty is applied on the auxiliary energy consumption, such amount of electricity duty shall apply on normative auxiliary energy consumption of the generating station (excluding colony consumption) and apportioned to each of the beneficiaries in proportion to their schedule dispatch during the month.

47. Rebate

- 47.1 For payment of bills of the generating company through letter of credit on presentation or through National Electronic Fund Transfer (NEFT) or Real Time Gross Settlement

(RTGS) payment mode within a period of 5 days of presentation of bills by the generating company, a rebate of 1.50% shall be allowed.

Explanation: In case of computation of '5 days', the number of days shall be counted consecutively without considering any holiday. However, in case the last day or 5th day is official holiday, the 5th day for the purpose of Rebate shall be construed as the immediate succeeding working day (as per the official State Government's calendar, where the Office of the Authorised Signatory or Representative of the Beneficiary, for the purpose of receipt or acknowledgement of Bill is situated).

47.2 Where payments are made on any day after 5 days and within a period of 30 days of presentation of bills by the generating company, a rebate of 1% shall be allowed.

48. Late Payment Surcharge

48.1 The distribution licensee shall make timely payments of bills raised by the hydro generating company by assigning priority over and above all other payments. In case the payment of any payable bill is delayed beyond a period of 45 days from the date of presentation of the bill, a Late Payment Surcharge shall be payable on the payment outstanding after the due date at the rate equal to the marginal cost of funds based on lending rate for one year of the State Bank of India, as applicable on the 1st April of the Financial Year in which the period lies, plus five per cent and in the absence of marginal cost of funds based lending rate, any other arrangement that substitutes it, which the Central Government may, by notification, in the Official Gazette, specify for the period for the first month of default:

Provided that if the period of default lies in two or more financial years, the base rate of Late Payment Surcharge shall be calculated separately for the periods falling in different year:

Provided further that the rate of Late Payment Surcharge for the successive months of default shall increase by 0.5 per cent for every month of delay:

Provided further that the Late Payment Surcharge shall not be more than three per cent higher than the base rate at anytime:

Provided further all the bills payable by the distribution licensee to hydro generating company, shall be time tagged with respect to the date and time of submission of the bill and the payment made by the distribution licensee shall be adjusted first against the oldest bill and then to the second oldest bill and so on so as to ensure that payment against a bill is not adjusted unless and until all bills older than it have been paid for:

Provided further that all payments by the distribution licensee to the hydro generating company shall be first adjusted towards Late Payment Surcharge and thereafter, towards monthly charges, starting from the longest overdue bill:

Provided further that in case of non-payment of dues by the distribution licensee even after two and a half months from the presentation of the bill by the Hydro generating Company, the power supply to the defaulting entity shall be regulated in

accordance with the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 notified by the Ministry of Power on 3rd June, 2022 and as amended from time to time:

Provided further that in case of non-payment of dues by the distribution licensee even after two and a half months from the presentation of the bill by the hydro generating company, the power supply to the defaulting entity shall be regulated in accordance with Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 notified by the Ministry of Power on 3rd June, 2022 and as amended from time to time.

49. Payment Security Mechanism

- 49.1 The distribution licensee shall maintain unconditional, irrevocable and adequate payment security mechanism.
- 49.2 In case of non-maintenance of Payment Security Mechanism, the hydro generating company shall regulate power supply to the distribution licensee in accordance with Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 notified by the Ministry of Power on 3rd June, 2022 and as amended from time to time.
- 49.3 The supply of power shall only be made if an adequate Payment Security Mechanism is maintained or in the absence thereof, advance payment is made.

50. Safety Standards

- 50.1 The hydro generating company shall develop a safety manual and comply with Regulations framed in this regard by the Central Electricity Authority (CEA) under Section 53 and Section 177 (2) (b) of the Act.

51. Metering and Accounting

- 51.1 For metering and accounting, the provisions of the Regulations framed by the Central Electricity Authority (CEA) under Section 177 (2) (c) of the Act and the State Grid Code, as amended from time to time, shall be applicable.

52. Scheduling

- 52.1 The methodology for scheduling and dispatch for the generating station shall be as specified in the State Grid Code as amended from time to time.

53. Demonstration of Declared Capacity

- 53.1 The generating company may be required to demonstrate the declared capacity of its generating station as and when asked by the State Load Despatch Centre (SLDC). In the event of the generating company failing to demonstrate the declared capacity, the capacity charges due to the generating company shall be reduced as a measure of penalty, the quantum of which shall be determined by the Commission.
- 53.2 The quantum of penalty for the first mis-declaration for any duration or block in a day shall be the charges corresponding to two days fixed charges. For the second mis-declaration the penalty shall be equivalent to fixed charges for four days and for subsequent mis-declarations, the penalty shall be multiplied in the geometrical progression.

- 53.3 The operating log books of the generating station shall be available for review by the State Load Despatch Centre (SLDC). These books shall keep record of machine operation and maintenance, reservoir level and spillway gate operation.

PART-V

TARIFF FILING PROCEDURE

54. Beginning of the Control Period - Business Plan Filings

- 54.1 The generating company shall file for the Commission's approval, during the year preceding the first year of the control period or any other date, as may be directed by the Commission, a business plan approved by its board of directors. The business plan shall be for the entire control period and shall, inter-alia, contain –
- (a) **Capital Investment Plan:** This shall include details of the investments planned by the generating company, along with the corresponding capitalisation schedule and financing plan. This plan shall be commensurate with capacity enhancement and proposed efficiency improvements for various plants of the company;
 - (b) **Capital Structure:** The generating company shall submit plant-wise details of the capital structure and cost of financing (interest on debt and return on equity), after considering the existing market conditions, terms of the existing loan agreements, risks associated in generation business and creditworthiness;
 - (c) **Operation and Maintenance (O&M) Expenses:** This shall include the costs estimated for the base year, the actual expenses incurred in the previous five years and the projected values for each year of the control period based on the proposed norms for O&M cost;
 - (d) **Depreciation:** This shall include details of depreciation based on the useful life of the asset and capitalisation schedules for each year of the control period;
 - (e) **Performance Targets:** A set of targets proposed for controllable items such as auxiliary consumption, NAPAF etc. The targets shall be consistent with the capital investment plan proposed by the generating company;
 - (f) **Other Information:** This shall include any other details considered appropriate by the generating company for consideration during determination of tariff.

55. Tariff Filing

- 55.1 The hydro generating company shall file an application for approval of multi-year Aggregate Revenue Requirement (ARR) and determination of tariff for each year of the control period, not less than 120 days before the commencement of the first year of the control period or such other date as may be directed by the Commission, in such form and in such manner as may be laid down by the Commission by an Order and also as per the

provisions of the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005, as amended from time to time.

- 55.2 The applicant shall also submit the multi-year ARR and tariff filing in electronic format to the Commission.
- 55.3 The hydro generating company shall furnish to the Commission, such additional information, particulars and documents as the Commission may require from time to time after such filing of revenue calculations and tariff proposals.
- 55.4 The hydro generating company shall publish, for the information of the public, the contents of the application in an abridged form in such manner as the Commission may direct and shall host the complete copy of the filing on its website and shall also provide copies of the documents filed with the Commission to any person at a price not exceeding normal photocopying charges.

56. Mid-term Performance Review

- 56.1 To address any mid-term changes on account of unexpected outcomes, the Commission shall undertake mid-term performance review of generating company's performance for the year after the mid year of the control period.
- 56.2 The hydro generating company shall make an application for mid-term Performance Review within 120 days before the commencement of the fourth year of the Control Period i.e. FY 2027-28.
- 56.3 The hydro generating company shall submit to the Commission all information together with audited account statements, extracts of books of account and such other details as the Commission may require to assess the reasons for and extent of any variation in performance from the approved forecast in such form and in such manner as may be laid down by the Commission by an order and also as per the provisions of the Conduct of Business Regulations. The mid-term review shall comprise of the following:
- (i) True-up of previous Control Period;
 - (ii) A comparison of the actual/ audited performance with the approved forecast for first two financial years of the Control Period, subject to the prudence check including pass-through of impact of uncontrollable factors;
 - (iii) Review of controllable parameters;
 - (iv) Review of ARR for the balance of the control period in case of any major change in uncontrollable and/ or controllable parameters;
 - (v) Review of generation tariff on account of modification in ARR for the balance years of the control period.

57. Review at the end of control period

- 57.1 Towards the end of the control period, the Commission shall review if the implementation of the principles laid down in these Regulations has achieved their intended objectives. While doing this, the Commission shall take into account, among other things, the industry

structure, sector requirements, consumer and other stakeholder expectations and the licensee's requirements at that point in time. Depending on the requirements of the sector to meet the objects of the Act, the Commission may revise the principles for the next control period.

- 57.2 The hydro generating company shall also make an application for Comprehensive Review towards the end of the fourth Control Period on availability of audited accounts. The comprehensive review shall be based as per the principles laid down under these Regulations for various parameters of ARR:

Provided that the hydro generating company shall submit to the Commission information in such format as may be stipulated by the Commission, together with the audited account statements, extracts of books of account and such other details as the Commission may require to assess the reasons for and extent of any variation in financial performance from the approved forecast of Aggregate Revenue Requirement and expected revenue from tariff and charges.

- 57.3 The end of the control period shall be the beginning of the next control period and the licensee shall follow the same procedure, unless required otherwise by the Commission. The Commission shall analyze the performance of the licensee with respect to the targets set out at the beginning of the control period and based on the actual performance, expected efficiency improvements and other factors prevalent, determine the initial values for the next control period.

58. Disposal of Application

- 58.1 The Commission will process the filings made by the hydro generating company in accordance with these Regulations and the Conduct of Business Regulations.
- 58.2 Based on the hydro generating company's filings, objections/ suggestions from public and other stakeholders, the Commission may, within 120 days of the receipt of the application, complete in all respects, and after considering all suggestions and objections from public and other stakeholders, -
- (a) issue, a tariff order with such modifications and/or such conditions, as may be deemed just and appropriate containing, inter-alia targets for controllable items and transmission tariffs for each year of the control period; or
 - (b) reject the application for reasons to be recorded in writing if such application is not in accordance with the provisions of the Act and the Rules and Regulations made thereunder or the provisions of any other law for the time being in force.

59. Periodic Reviews

- 59.1 To ensure smooth implementation of the multiyear tariff (MYT) framework, the Commission may undertake periodic reviews of generating company's performance during the control period, to address any practical issues, concerns or unexpected outcomes that may arise.

59.2 The Commission may also direct any modifications to the forecast of the generating company for the remainder of the control period, with detailed reasons for the same.

60. Publication

60.1 The hydro generating company shall publish the tariff approved by the Commission in the newspapers, having circulation in the area of supply, as the Commission may direct. The publication shall, besides such other things as the Commission may require, include a general description of the tariff changes.

PART-VI MISCELLANEOUS

61. Sharing of Clean Development Mechanism (CDM) Benefits

61.1 The proceeds of carbon credit from approved CDM project shall be shared in the following manner, namely:-

- (a) 100% of the gross proceeds on account of CDM to be retained by the project developer in the first year (12 months) after the date of commercial operation of the hydro generating station;
- (b) in the second year, the share of the beneficiaries shall be 10% which shall be progressively increased by 10% every year till it reaches 50%, whereafter the proceeds shall be shared in equal proportion, by the hydro generating company and the users.

62. Operational Norms to be ceiling norms

62.1 Operational norms specified in these Regulations are the ceiling norms and shall not preclude the hydro generating company and the beneficiaries and the long-term customers from agreeing to the improved norms and in case the improved norms are agreed to, such improved norms shall be applicable for determination of tariff.

63. Deviation from ceiling tariff

63.1 The tariff determined in these Regulations shall be a ceiling tariff. The hydro generating company and the beneficiaries may mutually agree to charge a lower tariff.

63.2 The hydro generating company may opt to charge a lower tariff for a period not exceeding the validity of these Regulations on agreeing to deviation from operational parameters, reduction in operation and maintenance expenses, reduced return on equity and incentive specified in these Regulations.

63.3 If the hydro generating company opts to charge a lower tariff for a period not exceeding the validity of these regulations on account of lower depreciation based on the requirement of repayment in such case the unrecovered depreciation on account of reduction of

depreciation by the hydro generating company during useful life shall be allowed to be recovered after the useful life in these Regulations.

- 63.4 The deviation from the ceiling tariff specified by the Commission, shall come into effect from the date agreed to by the hydro generating company and the beneficiaries.
- 63.5 The hydro generating company shall be required to approach the Commission for charging lower tariff in accordance with Sub-regulations 63.1 to 63.3 above. The details of the accounts and the tariff actually charged under Sub-regulations 63.1 to 63.3 shall be submitted at the time of true up.

64. Hedging of Foreign Exchange Rate Variation

- 64.1 The hydro generating company may hedge foreign exchange exposure in respect of the interest and repayment of foreign currency loan taken, in part or in full at their discretion.
- 64.2 If the petitioner enters into hedging arrangement(s) based on its approved hedging policy, the petitioner shall communicate to the beneficiaries concerned, of entering into such arrangement(s) within thirty days.
- 64.3 Every hydro generating company shall recover the cost of hedging of foreign exchange rate variation corresponding to the normative foreign debt, in the relevant year on year-to-year basis as expense in the period in which it arises and extra rupee liability corresponding to such foreign exchange rate variation shall not be allowed against the hedged foreign debt.
- 64.4 To the extent the hydro generating company is not able to hedge the foreign exchange exposure, the extra rupee liability towards interest payment and loan repayment corresponding to the normative foreign currency loan in the relevant year shall be permissible, provided it is not attributable to the hydro generating company or its suppliers or contractors.

65. Recovery of cost of hedging or Foreign Exchange Rate Variation (FERV)

- 65.1 Every hydro generating company shall recover the cost of hedging and foreign exchange rate variation on year-to-year basis as income or expense in the period in which it arises.
- 65.2 Recovery of cost of hedging or foreign exchange rate variation shall be made directly by the hydro generating company from the beneficiaries without making any application before the Commission:

Provided that in case of any objections by the beneficiaries to the amounts claimed on account of cost of hedging or foreign exchange rate variation, the hydro generating company may make an appropriate application before the Commission for its decision.

66. Transitory provisions

- 66.1 Notwithstanding anything to the contrary contained in these Regulations –

- (a) the tariff order issued by the Commission for the control period ending on the 31st March, 2024 shall continue to operate; and
- (b) the proceedings (including review Petition) for amendments, revocation, variation or alteration of the said tariff order shall continue to be filed and dealt with as if the repealed Regulations in respect of the said tariff determination continue to be in force, and the provisions of these Regulations shall not apply.

67. Application fee and the publication expenses

67.1 The following fees, charges and expenses shall be reimbursed directly by the beneficiary in the manner specified herein:

- (a) The application filing fee and the expenses incurred on publication of notices in the application for approval of tariff, may in the discretion of the Commission, be allowed to be recovered by the generating company directly from the beneficiaries.
- (b) Fees and charges paid by the generating companies under the Himachal Pradesh Electricity Regulatory Commission (Levy and Collection of Fees and Charges by State Load Despatch Centre) Regulations, 2011, as amended from time to time or any subsequent amendment thereof, shall be reimbursed directly by the beneficiaries in proportion of their allocation in the generating stations.
- (c) The Commission may, for the reasons to be recorded in writing and after hearing the affected parties, allow reimbursement of any fee or expenses, as may be considered necessary.

68. Issue of Orders and Practice Directions

68.1 Subject to the provision of the Act and these Regulations, the Commission may, from time to time, issue orders and practice directions, prescribe formats in regard to the implementation of these Regulations and procedure to be followed on various matters, which the Commission has been empowered by these Regulations to direct, and matters incidental or ancillary thereto.

68.2 Notwithstanding anything contained in these Regulations, the Commission shall have the authority, either Suo-motu or on a petition filed by any interested or affected person, to determine the tariff of any applicant.

69. Power to remove difficulties

69.1 If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by a general or special order, not being inconsistent with the provisions of these Regulations or the Act, do or undertake to do things or direct the hydro generating company to do or undertake such things which appear to be necessary or expedient for the purpose of removing the difficulties.

70. Power of relaxation

70.1 The Commission may, in public interest and for reasons to be recorded in writing, relax any of the provision of these Regulations.

71. Interpretation

- 71.1 All issues arising in relation to the interpretation of these Regulations shall be determined by the Commission and the decision of the Commission on such issues shall be final.

72. Saving of Inherent powers of the Commission

- 72.1 Nothing contained in these Regulations shall limit or otherwise affect the inherent powers of the Commission from adopting a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of the matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient to depart from the procedure specified in these Regulations.

73. Enquiry and Investigation

- 73.1 All enquiries, investigations and adjudications under these Regulations shall be done by the Commission in accordance with the provisions of the Conduct of Business Regulations.

74. Repeal and savings

- 74.1 The Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2011 are hereby repealed.

- 74.2 Notwithstanding such repeal-

- (a) anything done or any action taken or purported to have been done or taken under the repealed Regulations shall, in so far as it is not inconsistent with the provisions of these Regulations, be deemed to have been done or taken under the corresponding provisions of these Regulations;
- (b) the provisions concerning the tariff order made for the control period ending on the 31st March, 2024 and the provisions for conduct of the proceedings (including review petitions) for its revocations, variation or alternation as, stood before such repeal, shall continue to be in force.

By Order of the Commission,

-Sd/-

**(Chhavi Nanta), HPAS
Secretary**

Appendix-I
Depreciation Schedule

Sr. No.	Asset Particulars	Depreciation Rate (Salvage Value=10%) SLM
A	Land under full ownership	0.00%
B	Land under lease	
(a)	For investment in the land	3.34%
(b)	For cost of clearing the site	3.34%
(c)	Land for reservoir in case of hydro generating station	3.34%
C	Assets purchased new	
a.	Plant & Machinery in generating stations	
(i)	Hydroelectric	5.28%
(ii)	Steam electric NHRB & waste heat recovery boilers	5.28%
(iii)	Diesel electric and gas plant	5.28%
b.	Cooling towers & circulating water systems	5.28%
c.	Hydraulic works forming part of the Hydro-generating stations	
(i)	Dams, Spillways, Weirs, Canals, Reinforced concrete flumes and siphons	5.28%
(ii)	Reinforced concrete pipelines and surge tanks, steel pipelines, sluice gates, steel surge tanks, hydraulic control valves and hydraulic works	5.28%
d.	Building & Civil Engineering works	
(i)	Offices and showrooms	3.34%
(ii)	Containing thermo-electric generating plant	3.34%
(iii)	Containing hydro-electric generating plant	3.34%
(iv)	Temporary erections such as wooden structures	100.00%
(v)	Roads other than Kutcha roads	3.34%
(vi)	Others	3.34%
e.	Transformers, Kiosk, sub-station equipment & other fixed apparatus(including plant)	
(i)	Transformers including foundations having rating of 100KVA and over	5.28%
(ii)	Others	5.28%

f.	Switchgear including cable connections	5.28%
g.	Lightning arrestor	
(i)	Station type	5.28%
(ii)	Pole type	5.28%
(iii)	Synchronous condenser	5.28%
h.	Batteries	9.50%
i.	Underground Cable and Equipment	
(i)	Underground cable including joint boxes and disconnected boxes	5.28%
(ii)	Cable duct system	5.28%
j.	Overhead lines including cable support	
(i)	Lines on fabricated steel operating at terminal voltages higher than 66KV	5.28%
(ii)	Lines on steel supports operating at terminal voltages higher than 13.2KV but not exceeding 66KV	5.28%
(iii)	Lines on steel on reinforced concrete support	5.28%
(iv)	Lines on treated wood support	5.28%
k.	Meters	5.28%
l.	Self propelled vehicles	9.50%
m.	Air Conditioning Plants	
(i)	Static	5.28%
(ii)	Portable	9.50%
n.	Office furniture, equipment and fixtures	
(i)	Office furniture and furnishing	6.33%
(ii)	Office equipment	6.33%
(iii)	Internal wiring including fittings and apparatus	6.33%
(iv)	Street Light fittings	5.28%
o.	Apparatus let on hire	
(i)	Other than motors	9.50%
(ii)	Motors	6.33%
p.	Communication equipment	
(i)	Radio and high frequency carrier system	15.00%
(ii)	Telephone lines and telephones	15.00%

(iii)	Fibre Optic/OPGW	5.28%
q.	I.T Equipment including software, SCADA System	15.00%
r.	Any other assets not covered above	5.28%

Note: Where life of the particular asset is less than useful life of the project, the useful life of such particular asset shall be considered as per the provisions of the Companies Act, 2013 and subsequent amendment thereto.

Appendix-II
Depreciation Schedule FOR New Projects

Sr. No.	Asset Particulars	Depreciation Rate (Salvage Value=10%) SLM
A	Land under full ownership	0.00%
B	Land under lease	
(a)	For investment in the land	3.34%
(b)	For cost of clearing the site	3.34%
(c)	Land for reservoir in case of hydro generating station	3.34%
C	Assets purchased new	
a.	Plant & Machinery in generating stations	
(i)	Hydroelectric	4.22%
(ii)	Steam electric NHRB & waste heat recovery boilers	4.22%
(iii)	Diesel electric and gas plant	4.22%
b.	Cooling towers & circulating water systems	4.22%
c.	Hydraulic works forming part of the Hydro-generating stations	
(i)	Dams, Spillways, Weirs, Canals, Reinforced concrete flumes and siphons	4.22%
(ii)	Reinforced concrete pipelines and surge tanks, steel pipelines, sluice gates, steel surge tanks, hydraulic control valves and hydraulic works	4.22%
d.	Building & Civil Engineering works	
(i)	Offices and showrooms	3.34%
(ii)	Containing thermo-electric generating plant	3.34%
(iii)	Containing hydro-electric generating plant	3.34%
(iv)	Temporary erections such as wooden structures	100.00%
(v)	Roads other than Kutcha roads	3.34%
(vi)	Others	3.34%
e.	Transformers, Kiosk, sub-station equipment & other fixed apparatus(including plant)	
(i)	Transformers including foundations having rating of 100KVA and over	4.22%
(ii)	Others	4.22%

f.	Switchgear including cable connections	4.22%
		4.22%
g.	Lightning arrestor	4.22%
(i)	Station type	4.22%
(ii)	Pole type	4.22%
(iii)	Synchronous condenser	4.22%
h.	Batteries	9.50%
i.	Underground Cable and Equipment	
(i)	Underground cable including joint boxes and disconnected boxes	4.22%
(ii)	Cable duct system	4.22%
		4.22%
j.	Overhead lines including cable support	4.22%
(i)	Lines on fabricated steel operating at terminal voltages higher than 66KV	4.22%
(ii)	Lines on steel supports operating at terminal voltages higher than 13.2KV but not exceeding 66KV	4.22%
(iii)	Lines on steel on reinforced concrete support	4.22%
(iv)	Lines on treated wood support	4.22%
k.	Meters	4.22%
l.	Self propelled vehicles	9.50%
m.	Air Conditioning Plants	
(i)	Static	4.22%
(ii)	Portable	9.50%
n.	Office furniture, equipment and fixtures	
(i)	Office furniture and furnishing	6.33%
(ii)	Office equipment	6.33%
(iii)	Internal wiring including fittings and apparatus	6.33%
(iv)	Street Light fittings	4.22%
o.	Apparatus let on hire	
(i)	Other than motors	9.50%
(ii)	Motors	6.33%
p.	Communication equipment	
(i)	Radio and high frequency carrier system	15.00%
(ii)	Telephone lines and telephones	15.00%

(iii)	Fibre Optic/OPGW	4.22%
q.	I.T Equipment including software, SCADA System	15.00%
r.	Any other assets not covered above	4.22%

Note: Where life of the particular asset is less than useful life of the project, the useful life of such particular asset shall be considered as per the provisions of the Companies Act, 2013 and subsequent amendment thereto.