

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION, SHIMLA

Notification

Shimla, the 15th May, 2023

HPERC/420- In exercise of the powers conferred in it under Sections 41 and 51 read with Clauses (o) and (y) of Sub-section (2) of Section 181 of the Electricity Act 2003 (36 of 2003) and all other powers enabling it in this behalf, and after previous publication, the Himachal Pradesh Electricity Regulatory Commission hereby makes the following Regulations further to amend the Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees Regulations 2005 published in Rajpatra, Himachal Pradesh on 12th January, 2006.

REGULATIONS

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

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

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

In Regulation 3 of the Himachal Pradesh Electricity Regulatory Commission (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations, 2005 (hereinafter referred to as said Regulations):-

(i) after Sub-regulation (2), the following Sub-regulations (2A) and (2B) shall be inserted, namely :-

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

“(2B) The Licensee shall also intimate the expected annual revenue income from such other business.”

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

“(5) The Licensee shall entirely at its cost and risk, permit the utilization of its assets and shall have the absolute responsibility to ensure that the utilization of the assets and associated facilities of the Licensed Business for the Other Business shall not in any manner adversely affect the performance of the obligations, safety of the Assets & Personnel, and the quality of service required from the Licensee under the licensed business

including the compliance of the requirement as specified under Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2010, Himachal Pradesh Electricity Regulatory Commission (Transmission Performance Standards) Regulations, 2023, Himachal Pradesh Electricity Regulatory Commission (Distribution Performance Standards) Regulations, 2010, the Himachal Pradesh Electricity Grid Code, 2008, the Himachal Pradesh Electricity Supply Code, 2009, the Himachal Pradesh Electricity Distribution Code, 2008 and any other Rules / Regulations related to safety, performance, construction presently in force applicable to transmission / distribution Licensee, as the case may be.”

3. Insertion of Regulation 4(A) in Regulation 4.-

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

“4A. Special provisions for facilitating telecommunication activities:-

(1) (a) *The Licensee may rent out its distribution or transmission assets as the case may be, within its area of service, to the telecommunication Companies engaged in giving telecommunication services to the public in the State. In such a case the special provision as specified in the Regulation shall be applicable.*

(b) *In case the Licensee intends to rent out its assets as per clause (a) above, it shall sign a rent agreement containing detailed terms and conditions for various aspects such as advance security, regular payments, interest on delayed payments, compensation for damages, safety and security of assets and personnel etc. for a mutually agreed period not exceeding 3 years at a time which may be extended on mutually agreed terms and conditions with each term not exceeding 3 years of condition:*

Provided that the term of the agreement shall in no case extend beyond the tenure of the license of any of the party in the agreement:

Provided further that the amount of rent shall also be automatically increased at a mutually fixed rate on annual basis and shall also be reviewed for its enhancement, at the time of every such extension:

Provided further that such agreement shall also include suitable provisions, under which a party, in case of repeated breach of agreement by other party, may issue 30 days notice at first instance of default, and in case the breach continuous, may terminate the agreement by giving a final notice of at least 60 days.

(2) *The Licensee shall ensure that not more than 50% of its total distribution or transmission assets, as the case may be, in the area of its circle, are given to a single telecommunication Company or its sister concerns so as to deter the abuse of dominant position.*

- (3) *The Licensee shall always follow a transparent process/mechanism for letting out of distribution/transmission assets to the Telecommunication Company.*
- (4) *The annual income from rentals of distribution or transmission assets from the Telecommunication Companies shall be accounted for as non-tariff income in respective tariff order as per the provisions of Sub-regulation 4 of Regulation 5. The amount falling to the share of the Licensee may be used by it for any purposes in the interest of its Distribution or Transmission System.*
- (5) (a) *In case where the telecommunication Company wants to have electricity connections at different points within the area of an Operation Circle of the Distribution Licensee, such connections may be provided by the Distribution Licensee by signing a common connection agreement for supply of power for all such connections in that area.*
- (b) *The common connection agreement as per clause (a) above will reflect the location coordinates or GPS location or pole/ tower number or distribution/power transformer number or name of substation allotted to the company within such Operation Circle.*
- (c) *The electricity consumption of the Company for each such connection shall be metered at respective point of supply and the billing of such consumption at each point of supply shall be done for each individual connection:*
- Provided that the consolidated bill of all such connections of a particular Company falling within the same Operation Circle of Distribution Licensee, may be generated with connection wise details for convenience of billing and collection:*
- Provided further that the recovery of costs and charges to provide the electricity connections by the Distribution Licensee shall be recoverable in accordance of relevant Regulations and Codes of the Commission.*

4. Amendment in Regulation 5.-

In Sub-regulation 4 of Regulation 5 for the sign “.” the sign “:” shall be substituted and following Proviso shall be added, namely:-

“Provided that in cases where Transmission or Distribution assets as the case may be, are given on rent to a telecommunication Company as per the special provisions under regulation 4(A) of the Regulation, 80% of the annual rental income, excluding the taxes if any payable by the licensee, shall be included as non-tariff income while finalising the ARR in the relevant tariff order.”

By order of the Commission

Sd/-
Secretary