

**HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION, SHIMLA**

**CORAM**

**Sh. Devendra Kumar Sharma  
Chairman**

**Sh. Bhanu Pratap Singh  
Member**

**(Decided on 8<sup>th</sup> July, 2021)**

**In the matter of:-**

**The Himachal Pradesh Electricity Regulatory Commission (Security Deposit) (Fourth Amendment) Regulations, 2021.**

**ORDER**

The Himachal Pradesh Electricity Regulatory Commission (hereinafter referred as “the Commission”) made the Himachal Pradesh Electricity Regulatory Commission (Security Deposit) Regulations, 2005 as published in the Rajpatra, Himachal Pradesh on dated 30<sup>th</sup> March, 2005 and subsequently amended the same as per the three amendment regulations published in Rajpatra, Himachal Pradesh on 11<sup>th</sup> November, 2011, 28<sup>th</sup> November, 2015 and on 4<sup>th</sup> July, 2020 respectively. The aforesaid regulations read with the amendments thereof have herein after been jointly referred to as “the said regulations”;

2. Even though the third amendment was carried out based on the proposal submitted by the HPSEBL through Hon’ble High Court of Himachal Pradesh, the HPSEBL, subsequent to publication of the third amendment regulations on 4<sup>th</sup> July, 2020, filed OMP No. 378 of 2020 under Ex. Petition No. 8 of 2016 before the Hon’ble High Court of Himachal Pradesh where the Commission is also one of the Respondents. Vide this OMP, the HPSEBL prayed before the Hon’ble High Court that the increase in security deposit amount as per the HPERC third amendment regulations, 2020 is definitely disproportionate and would virtually amount to denying the electricity connections to rural people and poor farmers, who constitute the major chunk of population and electricity consumers and is thus required to be rationalized.

3. The Hon'ble High Court, vide its order dated 27<sup>th</sup> November, 2020 in the OMP No. 378 of 2020 filed under Ex. Petition No. 8 of 2016, allowed the application filed by the HPSEBL and permitted the HPSEBL to approach the HPERC by moving a revised proposal for amendment to re-visit the Security Deposit Regulations, 2020 highlighting therein the ground reality vis-a-vis the interest of all the categories of consumers so as to enable the HPERC to re-examine the issue after discussions and deliberations with all stake holders after complying with all the statutory requirements laid down under the Act and Rules framed there under. Till such time, the amended regulations of 2020 have been ordered to be kept in abeyance.
4. The HPSEBL submitted a revised proposal to the Commission on 20.03.2021 wherein following was proposed:-
  - (a) Fixed rates of initial security deposit ranging from Rs. 200/- per kW/kVA to Rs. 2000/- per kW/kVA instead of existing initial security rates based on LDHF formula.
  - (b) Reduction of factor of (n+1.35) months appearing in sub-regulation (3) of regulations 4 in the context of additional security deposit to (n+1.25) months subject to the reduction in due date for payment from 15 days to 10 days and period for permanent disconnection from six months to three months.
  - (c) Review of security deposit for new connections after six months from the date of release of connection.
5. The Commission, after taking stock of the proposal initiated by the HPSEBL and in light of the order of the Hon'ble High Court, made a proposal for amendment of some of the provisions of the said regulations and, in accordance with the rule 3 of the Electricity (Procedure for Previous Publication) Rules, 2005, invited public objections and suggestions on the draft amendment regulations by way of the publication in the Rajpatra, Himachal Pradesh, on 26<sup>th</sup> April, 2021 and insertion in two News papers i.e. "The Tribune" and "Divya Himachal" on 28.04.2021. A copy of public notice was also sent to the major stakeholders vide Commission's letter dated 27<sup>th</sup> April, 2021. The full text of the draft regulations, alongwith Explanatory Memorandum, was also made available on the Commission's website [www.hperc.org](http://www.hperc.org). The last date for submission of

suggestions/objection was fixed as 27<sup>th</sup> May, 2021 and the Public hearing was fixed for 29<sup>th</sup> May, 2021. In view of COVID lockdown, the last date for submission of suggestions/objections was extended to 10<sup>th</sup> June, 2021 and the public hearing was also extended to 18<sup>th</sup> June, 2021. On account of unforeseen circumstances, the date for public hearing was further extended to 28<sup>th</sup> June, 2021.

6. The Commission received suggestions/objections on the draft amendment regulations from the following stakeholders:-
- (i) The Himachal Pradesh State Electricity Board Limited through Er. Ram Prakash, Chief Engineer (Commercial).
  - (ii) Confederation of Indian Industries, Kala-Amb Chamber of Commerce & Industry, Parwanoo Industries Association (PIA), Himachal Pradesh steel Industries Association, M/s Prime Steel Industries Private Limited (herein after referred to as “Industries Associations”) through their authorized representative Sh. Rakesh Bansal.
  - (iii) District Industries Association, Una.
  - (iv) Dr. Anoop Singh, Centre for Energy Regulation, CER,IIT Kanpur.
  - (v) Village Arniala Senior Citizens Association, Una.

The Public hearing in the said matter was conducted on 28<sup>th</sup> June, 2021 through Video Conferencing. The list of participants who attended the public hearing is annexed as **Annexure-“A”**.

7. **Objections and issues raised during the public hearing.-**

During the public hearing, the stakeholders and their representatives presented their views. The issues and concerns voiced by them are given briefly as under:-

- 7.1 Sh. Rakesh Bansal representing the Industries Associations reiterated the submissions made in writing by them.
- 7.2 Sh. Shailesh Aggrawal, representing the Confederation of Indian Industries endorsed the comments/points as raised by the Industries Associations. He, however, also stated that apart from the initial security deposit, the applicants have also to bear the Infrastructure Development charges and

the cost of service line which puts a lot of financial burden on the applicant.

7.3 Sh. Ram Prakash, Chief Engineer (Commercial), HPSEBL, representing HPSEBL reiterated the submissions made by HPSEBL in writing and also made following submissions on the points highlighted by the Industries Associations, as follows:-

- (i) In reply to the comment of Industries Associations that the proposed rates of initial security deposit for industrial consumers is very high ranging from 2 – 2.5 times of the earlier rates, he stated that since 2005, when the rates of initial security deposit were originally fixed, the tariff and the consumption pattern have increased substantially and it would be justified even if the rates are increased even upto 3 times instead of maximum of 2.5 times;
- (ii) The intention of the HPSEBL is not to arrange money at cheaper rates, as contended by the Industries Associations, but the same is aimed at securitizing its dues against the consumers. He further stated that amount of security deposit is accounted towards working capital where the benefits are passed on to the consumers;
- (iii) In reply to suggestion made by the Industries Associations to accept the security deposit in the shape of Bank Guarantee for all consumers, or at least in cases where the amount of security deposit exceeds Rs. 50,000/-, he stated that the Industries are paying huge amount of electricity bills and should not mind in paying security deposit in cash;
- (iv) In reply to the Industries Associations regarding installation of prepaid/smart meters, he stated that Government of India has put major focus on prepaid/smart meters, but due to high cost of these smart meters in the range of 8000/- per meter including the cost of other supporting software and infrastructure, most of the States have shown their inability to install the smart meters for all categories of consumers. He further stated that since prepaid/smart meters cannot be installed in one go, the work of replacement of

postpaid meters with prepayment meters shall be done in phases. He also stated that the work for installation of smart meters in Shimla and Dharmshala shall be done soon.

8. **Consideration of written submissions and viewpoints expressed during the public hearing by the stakeholders and Commission's views.-**

After having gone through all the written submissions made and viewpoints expressed by the various stakeholders during the public hearing, the Commission now proceed further to conclude our views on the various suggestions relevant to the amendments proposed in the draft regulations, as follows.-

8.1 **Preliminary Comments made by Industries Associations:-**

(i) **Protection of Consumer Interest:-**

**Comments:-**

Protection of interest of consumers was one of the primary objectives for the enactment of Electricity Act, 2003. The present proposal along with the emerging resultant regulation is highly prejudiced towards the interest of the consumers, whereas it only protects the interests of the utility by and large.

**Commission's Views:-**

There is no denying that interest of consumers are of utmost importance and have to be protected but the same can be done only if the financial health of various stakeholders, particularly of distribution licensee, which is a regulated commercial entity, are also protected. In case the revenues of the distribution licensee are not adequately protected, the same is bound to reflect on the services provided by it to the consumers. The Commission feels that the proposal protects the interest of the consumers as well and does not, in any way, violate the objectives of the Act.

(ii) **State Government advisory:-**

**Comments:-**

The proposal has been given by the licensee which is a totally owned company of the State Government and the advisory has been given by the State Government themselves to the Commission, the Commission is not bound to implement the same in letter and spirit, whereas the powers of the Commission are independent under the Electricity Act, 2003.

**Commission's Views:-**

The proposal has been made to rationalize the rates of security deposit taking in view of the advisory given by the State Government, the proposal submitted by HPSEBL pursuant to the order of Hon'ble High Court of Himachal Pradesh as well as concerns expressed in the past by various other stakeholders. The suggestions /objections on the proposal so made were invited from various stakeholders and the same are now being considered in this order. The Commission also observes that the State Government's advisory also amounts to reduction of the security deposit which is in favour of the consumers. The Comments made by the Industries Associations are therefore misconceived in the context of the present proposal.

(iii) **Discriminatory nature of the proposal:-**

**Comments:-**

Since the matter relates to fixation of tariff for security through the regulations, the Commission may adopt a non-discriminatory approach as is desired under the Act. The provisions of the resultant regulations after carrying out the third and the fourth Amendments are discriminatory in nature, particularly in following aspects;

- a) There is a vast difference in the rates of security amongst various categories of consumers, whereas the industrial category of consumers is negatively impacted by the proposal.
- b) The proposal discriminates in the manner in which the security has to be furnished as it allows only very large consumers to provide security in the form of Bank Guarantee,

whereas it denies such option to the small and medium consumers, whose overall security works out to less than twenty five lakhs.

**Commission's View:-**

- (a) The rates of initial security deposit, as proposed in the draft regulations, are commensurate with the magnitude of potential dues and incidence of bad debts in relation to various categories of consumers. The Commission feels that the probability of abandoning of the electricity connections without paying the dues by the general consumers having smaller loads is much lower. Moreover, since the rates of security deposit in case of consumers covered under single part tariff are charged on the basis of connected load instead of contract demand, the rates of security deposit for them are bound to be lower than those for the consumers covered under the two part tariff. In this connection, the Commission would also like to refer to the sub-section (3) of section 62 of the Act, which provides that differentiation can be made on the basis of various related factors, including load factor and nature of supply and purpose for which the supply is required etc. The load factor in case of industrial consumers is generally much higher than that for other categories. In view of above, the Commission declines to accept the plea that the proposal is discriminatory in nature.
- (b) The Commission observes that neither HPSEBL has submitted any proposal for review of the provisions relating to the Bank Guarantee nor any such changes have been proposed in the draft regulations. As such, the comments made in this regard are misconceived. However, the provision relating to the limit upto which the security deposit can be accepted in the shape of Bank Guarantee has been addressed in a subsequent part of this order.

(iv) **Provisions related to Prepaid Meters:-**

**Comments:-**

- (i) The Industries Associations have reiterated the provisions of Act and HPERC Security deposit regulations, 2005 stating that in case the consumer opts for prepaid meters, no security deposit shall be demanded by the licensee and if existing consumers opt for prepaid meter, the licensee shall refund the security to such consumer. It has been stated that it is to the agony of the consumers that the application of this provision has not seen the light of the day, even till the year 2021. The consumers, particularly the industrial consumers are more than willing to opt for pre-paid meters, in order to get out of the provisions of providing security as there is an added cost to the cost of electricity in an indirect manner. The consumers who pay security in the shape of cash/demand draft, suffer losses on account of very low rate of interest on security, whereas the borrowing rates are much higher. On the other hand the consumers who furnish the security in the shape of Bank Guarantee, have to suffer bank charges to the extent of 2% per annum on the value of the bank guarantee.

He also submitted that the consumers are aggrieved by the fact that since the utility does not seem to be interested in expediting the installation of the pre-paid meters due to the reasons best known to them, the consumers are suffering by and large due to lack of initiative on the part of the utility. The Commission has issued several directions to the utility to get prepared and provide the facility of pre-paid meters to the consumers, but each time such directions have been ignored on one pretext or the other. The Industries Associations also submitted that as per Electricity (Rights of Consumers), Rules, 2020, the new connection shall be released through prepayment meters only and the consumer can opt for Pre-Paid Meters.

- (ii) In reply to the Industries Associations regarding installation of prepaid/smart meters, Chief Engineer (Comm.), HPSEBL stated that Central Government has given major focus on prepaid/smart meters, but due to high cost of these smart meters in the range of 8000/- per meter including the cost of other supporting software and infrastructure, most of the States have shown their inability to install the smart meters for all categories of consumers. The prepaid / smart meters cannot be installed in one go. The work of replacement of postpaid meters with prepayment meters shall be done in phases. In the first phase the work for installation of smart meters in Shimla and Dharmshala shall be done soon.

**Commission's View:-**

The Security Deposit is recovered only from the consumers availing supply under postpaid metering scheme and no security deposit is recoverable from the consumers availing supply through prepaid meters. Moreover, in case of replacement of the existing meter with the prepaid meter, the security deposit is required to be refunded to the consumers. The timelines for such refund shall however also be suitably mentioned in the notification to be issued pursuant to this order. As such, no major changes are required to be made in the regulations in this regard.

The Commission however does not intend to undermine, in any way, the need for replacement of existing meters with prepaid meters in expeditious and time bound manner. The Commission expects HPSEBL to prepare a road map for this purpose. Some of the States in the country are now installing only pre-paid meters. Such models can be studied while preparing roadmap for installing of pre-paid meters for all the consumers.

## 8.2 Initial Security Deposit:-

### Comments:-

- (i) The Industries Associations have submitted that the proposed increase in the rates of initial security, ranging from 2- 2.5 times of the earlier rates is very high and the rates of initial security should be kept low in order to avoid excessive security in certain cases. Since, adequate provisions for review of security are being considered and proposed in these amendments, the Licensee will recover security on the basis of usage and the actual load factor etc. at the time of review, which is expected to be carried out within the first six months from the date of connection. Otherwise, many units will be unnecessarily penalized for want of additional security. The case of a consumer has been submitted as below as an illustration.

Consumer ID	Contract Demand	Average Bill for last one year	Security as per proposed rates	Security in terms of month's bill
200011000056	75	20158	112500	5.58

It has been submitted that since the initial security is an entry level cost/deposit, there is a merit in keeping it low in comparison to the other states, in order to attract the new industries to the State. Presently, the overall cost/deposit of getting an electricity connection for a new industry is very high due to the following components:

- a) Security deposit @ Rs. 1000/ kVA not proposed at Rs. 2000/kVA
- b) Infrastructure development charges at normative rates of Rs. 2000/ kVA
- c) Service line cost on actual basis

The overall cost works out to about Rs. 6000/kVA which is very high as compared to the other states and acts as deterrent for the new investments in the State. It has been suggested that in view of above, the Commission must reject the proposal to increase the initial security and consider continuing with the existing rates of

initial security while sufficient powers for review are made available to the licensee, which shall take care of the future security.

- (ii) The Chief Engineer (Commercial), HPSEBL, in reply to the comments of the Industries Associations regarding increase in initial security rates for Industrial Consumers to about 2 to 2.5 times, stated during the public hearing that since 2005 when the initial security rates were fixed, the impact of tariff and consumption level justifies an increase even upto 3 times instead of maximum of 2.5 times proposed in the draft regulations.
- (iii) Dr. Anoop Singh from Centre for Energy Regulation IIT Kanpur, has submitted that draft Regulations provide a table for the initial security deposit rates. The Regulation should clearly differentiate the method of calculation of security deposit rate for consumers with monthly and bi-monthly billing cycle. He has suggested that the Commission may consider lowering the load limit of 20 kW to be reduced (say, 10 kW) for applicability of the security deposit rate of Rs.165 per kW as the reduced rate should be available for the smaller consumers only.
- (iv) The District Industries Association, Una has submitted that the entire World is suffering due to Covid Pandemic and in the current wave our country has been affected the most and in such a situation the HPERC has accepted the demand of HPSEBL on the direction of Hon'ble H.P. High Court for enhancing meter security to one and half times of the present rates. They have suggested that the enhancement should not be more than equal to monthly Electricity Bill basis as Industry is reeling under heavy financial crises.
- (v) Village Arniala Senior Citizen Association has also submitted that increase in security deposit amount shall put unnecessary burden on Domestic Consumers.

**Commission's View:-**

The Commission observes that proposal envisages considerable reduction in the rates of initial security deposit as compared to the same worked out on the basis of LDHF formula specified in the third amendment regulations. The proposed rates cannot, in any case, be considered to be

on higher side keeping in view the fact that since the fixation of rates in 2005, there has been considerable increase in tariff, apart from the increase in the consumption level. It has also been pleaded that the rates should be kept at lower level particularly when the amount of security deposit is to be reviewed on annual basis based on average monthly bills. The Commission feels that it is necessary to maintain certain minimum level of the rates of initial security deposit, irrespective of the monthly bills, as the purpose is also to protect the potential dues. The comments made by Senior Citizen Association is also misconceived as rates of initial security deposit for domestic consumers has been kept at the same level as that of 2005.

In view of above, the Commission finds that the proposal made out in the draft regulations is reasonable. However, keeping in view the concerns expressed by the Industries Associations and other objectors about the hardships being experienced by them in the present COVID times, the Commission has decided to make the following changes:-

1. The rates of initial security deposit for the following categories shall be reduced as mentioned in the table :-

**Table**

<b>Sr. No.</b>	<b>Type of Category</b>	<b>Rates Proposed in the draft regulations (Rs. Per kW/kVA)</b>	<b>Revised rates (Rs. per kW/kVA)</b>
1.	2.	3.	4.
1	<b>Small and Medium Industrial Power Supply for all areas</b>		
(a)	Upto 20 kVA (except for tribal, remote, difficult areas)	1000	900

(b)	Above 20kVA		
(i)	above 20kVA & upto 50kVA	1250	1100
(ii)	above 50kVA	1500	1300
2	Large Industrial Power Supply for all areas	2000	1800
3	Bulk Supply for all areas	2000	1800
4	Temporary Metered Supply for all areas	1700	1500
5	Street Lighting Supply for all areas	1250	1100
6	Railway Traction Supply for all areas	2000	1800

2. In cases where the applicant may wish to build up the load in phases but requests for sanction of total contract demand in advance so as to avoid the need for completing the formalities for repeated extensions of load and also to facilitate supply arrangements for the total demand envisaged for the ultimate scenario, the initial security deposit shall be payable in such phases in which he wishes to build up the load subject to the permissible time limit of maximum 26 months in accordance with para 3.9 of Himachal Pradesh Electricity Supply Code, 2009.
3. The provisions regarding the recovery of additional security deposit in quarterly installments shall be further liberalized in favour of the consumers as discussed in separate paragraph.

### 8.3 Additional Security Deposit:-

#### Comments:-

- (i) The Industries Associations have submitted that the proposal to increase the factor of additional security deposit to (n+1.0) months is not justifiable, as the same is discriminatory and highly biased towards the licensee and prejudiced towards the industrial consumers. The proposal will also result in a tariff shock to the consumers and it is estimated that a large number of consumers will be forced to close their operations, as they will not be in a position to raise the additional security as desired by the proposed and the resultant Regulations. It has been submitted that the proposal is misconceived as it has been issued at a time when the entire industry is suffering on account of pandemic Covid-19.

(ii) The HPSEBL has submitted that they have proposed reduction of the factor of (n+1.35) months to (n+1.25) months subject to reduction of billing time from 15 days to 10 days in respect of all the consumers and reduction of period of temporary disconnection from six months to three months or earlier to it if the outstanding amount exceeds the security amount, for issuing PDCO. It has been submitted that the proposal made out in the draft regulations is not only silent about these conditions but also provides for a lower factor of (n+1.0) months instead of (n+1.25) months proposed by them. It has further stated that with this factor of (n+1.25) months for annual review of security deposit as worked out by them has been reduced to “(n+1.0) months”. With this factor, HPSEBL would not be able to secure the recovery of its outstanding amount on PDCO from the consumers which the Hon’ble High Court has directed to ensure. In case, the temporary disconnection period is kept six months, the above factor works out to (n+1.77) months. Thus, with factor (n+1.0) months the intended purpose of revision of security to secure the recovery of outstanding amount from the defaulter consumers is not served. It has been mentioned that HPSEBL shall have to resort to filing Civil Suits before the appropriate Court and it may take years together for the decision thereon. Thus, HPSEBL would end up incurring additional costs on litigation with no certainty and guarantee whether or not outstanding amount would be recovered and this factor of (n+1.0) months would be highly pernicious to HPSEBL.

It has been submitted that in view of I&B Code, 2016, a number of industrial units are facing the insolvency proceedings from the creditors in NCLT. Any amount prior to insolvency period is required to be claimed from the liquidator. HPSEBL is considered a Securitised Creditor and thus has last priority of getting the claim amount. Recently, the NCLT has allowed a claim of Rs. 0.0068 Cr out of the outstanding amount of Rs.1.28 Cr in respect of M/s Suraj Fabrics. Such cases shall continue in future also. With the factor of (n+1.0) months, HPSEBL would face the situation of unrecovered outstanding in all such cases.

In view of above, HPSEBL has requested that the proposal submitted by HPSEBL may be accepted with the precedent conditions of reduction of (i) billing time to 10 days for all category of consumers and (ii) period of disconnection from six months to three months which would be subsequently discussed and decided in the Committee for Review of Supply Code 2009.

- (iii) The District Industries Association, Una has suggested that HPSEBL has to become more efficient and should work like commercial entity, but not as Govt. organization and this attitude of theirs is making them to suffer and recoveries are increasing.

**Commission's View:-**

The Commission observes that proposal envisages reduction of factor to (n+1.0)months and there is no increase envisaged in the proposal as compared to the provisions notified in the third amendment regulations which provides for factor (n+1.35) months. The Commission is of the opinion that the factor of (n+1.0) months as proposed is quite reasonable and balances the interest of all the stakeholders. As regards the comments of HPSEBL, the Commission feels that even with the review of security deposit based on the factor of (n+1.0) months, instead of (n+1.25) months proposed by HPSEBL, it should be able to protect the dues. The HPSEBL should take timely action for the review of security deposit and also for disconnection of supply in case of non-payment of dues. It is so, particularly when a special provision for review of security deposit before the expiry of 12 months period already exists in the regulations. In fact the Commission broadly agrees with the observations made by the District Industries Association, Una that the HPSEBL should be efficient and should take timely action for review of security deposit, billing and disconnection in case of default etc. and should also work like a commercial entity. As regards the associated suggestions made by HPSEBL for reducing the grace period of 15 days to 10 days and also for reducing the time period for permanent disconnection from six months to three months, which form a subject matter of Himachal Pradesh

Electricity Supply Code, 2009, the Commission observes that the meeting of Supply Code Review Panel is likely to be held shortly and these suggestions would be discussed in a greater detail. The Commission otherwise observes that the grace period in case of Industries has already been specified in Supply Code as 10 days.

#### 8.4 **Review of security deposit:-**

##### **Comments:-**

- (a) The Industries Associations have submitted that in the proposed first proviso i.e. proposed proviso to sub-regulation (1) of regulation 6, the word “preceding” shall be substituted with the word “succeeding”. In relation to the second proviso to Regulation 6(2)(a) of the draft regulations that the demand of additional security shall be payable in three quarterly installments, it has been submitted that as the present amendment envisages the doubling of the security, the pay outs by the industry are going to be very heavy in the period immediately following the date of notification of final amendments. As a result, the industrial consumers will face a tremendous financial pressure in arranging the additional funds required to furnish the additional amount. Therefore, a more gradual tapering is required in smaller steps spread over a larger period. It has been suggested that the additional security calculated as payable as per final regulation be divided into four half-yearly installments, with an initial moratorium of at least six months, during which the consumers will make arrangements for additional funds required for the additional security.
- (b) Dr. Anoop Singh from CER, IIT Kanpur has submitted that this scheme be implemented on a graduated basis, and delayed for some time given the prevailing pandemic scenario.
- (c) The HPSEBL has submitted that presently, especially in respect of the Industrial Connections, they don't have the adequate security and in view of present trend of most of the cases going to NCLT, additional security needs to be recovered as early as possible. Its

recovery spread over 12 months may lessen the burden on the consumer, but shall not serve the intended purpose of HPSEBL. Instead the consumer can be given a period of three months from the date of notice to deposit the additional security in full. The payment of security in installments would further result in additional monitoring requirements on quarterly basis and issuance of notices to the consumers in every quarter.

- (d) Dr. Anoop Singh from Centre for Energy Regulation , IIT Kanpur has submitted that since, security deposit is expected to address risk associated with non-payment of bill of 'a billing cycle', security deposit calculation for consumers with bi-monthly billing should consider average billing over the billing cycle in place of average monthly billing.

**Commission's View:-**

(a),(b)&(c) the Commission accepts the suggestion to substitute the word "preceding" appearing in the proposed proviso to sub-regulation (1) of regulation 6, with the word "succeeding". The Commission observes that whereas the Industries Associations have suggested for recovery of additional security in four half yearly installment with an initial moratorium period of six months, HPSEBL has suggested recovery of additional security in lump sum. After taking into account the views expressed by the Industries Associations as well as those expressed by HPSEBL, the Commission decides to allow recovery of the additional security deposit in four equal quarterly installments instead of three equal quarterly installments proposed in the draft regulations. The recovery of such quarterly installments in relation to annual review shall be made independent of the amount as may be recoverable as a result of the next review. Moreover, the due date for annual review in current financial year shall be extended. Accordingly, the Commission decides to make following changes:

- (i) The following proviso shall be added in clause (a) of sub-regulation

*“Provided further that the amount so payable in quarterly installments in relation to a review shall be payable, independent of the next review, and as such the additional security deposit, if any, already demanded but not recovered shall also be taken into account, in addition to the security deposit/additional security already recovered, while determining the amount recoverable under the next review.”*

- (ii) Suitable proviso shall be added to provide that the annual review in the financial year 2021-22 shall be carried out on 1<sup>st</sup> December, 2021 (instead of July 2021 or soon thereafter) based on the average monthly bill for the twelve billing months immediately preceding the date of such review.

- (d) As regards the comments made by Dr. Anoop Singh about the billing cycle, the Commission observes that the average monthly billing for previous 12 months has to be considered. In case of bi-monthly billing, this shall be worked out on the basis of the bills for six bi-monthly bills.

#### 8.5 **Mode of payment:-**

##### **Comments:-**

Dr. Anoop Singh, CER, IIT Kanpur has submitted that the mode of Payment proposed in sub-regulation (4) to sub-regulation (7) provides three mode of payments viz. Cash, Demand Draft (DD) and Electronic mode. It has been suggested that any shortfall in the security deposit can also be adjusted against the net payable (in cash or in energy terms) to be paid by the utility to consumers with solar rooftop plants having net-metering/gross-metering arrangement.

**Commission's View:-**

The amount payable by the distribution licensee to the consumers having Roof Top solar plants are adjusted in their monthly bills. As such, it may not require any amendment in the said regulations.

**8.6 Refund of Security Deposit:-****Comments:-**

- (i) The Industries Associations have submitted that the proviso to regulation 8(2) should be modified to allow the resultant security to fall even to a level lower than the initial security as the proposed provision is expected to overprotect the licensee at the cost of the consumer.
- (ii) The HPSEBL in relation to new proposed proviso under sub-regulation (2) of regulation 8, has submitted that instead proposed factor of (n+1.0) months, the factor of (n+1.25) months, as proposed by HPSEBL in its proposal, should be retained.
- (iii) Dr. Anoop Singh from Centre for Energy Regulation, IIT Kanpur has submitted that the Regulation 8.2 only accounts for the reduction in security deposit due to the reduction in sanctioned load/contracted demand. In case the consumer seeks an increase/reduction in the sanctioned load/contracted demand, use of historical average monthly bill will not be appropriate basis for calculation of security deposit rate. The security deposit amount should be proportionately increased/decreased based on the desired increase/decrease of the sanctioned load/contracted demand. Hence, while amending Regulation 8, the case for an increase in security deposit on account of the increase in sanctioned load/contracted demand should also be incorporated.

**Commission's View:-**

- (i) The Commission feels that the security deposit corresponding to rates of initial security deposit prevailing at the time of reduction of load must be maintained for the balance load. The Commission also feels that this provision may come into picture only in those cases where the amount of security deposit and the average monthly bill is much lower or in cases

where the review has not taken place. In other cases, this provision may not impact the amount of refund.

- (ii) As regards the HPSEBL's proposal to increase the factor of (n+1.0) months to (n+1.25) months, the Commission declines to accept the same for the reasons that similar to those expressed in para 8.3.
- (iii) As regards the comments of Dr. Anoop Singh, the Commission observes that even though this specific provision relates to reduction of load only. A separate provision in relation to increase in load already exists in Regulation 5 of the said regulations.

In view of above, the Commission feels that the proposed provisions regarding refund of security deposit in case of reduction of load are quite reasonable and don't require any change.

#### 8.7 **Reduction in security amount:-**

##### **Comments:-**

The Industries Associations submitted that whereas the Regulation 6 provides for demand of additional security for amounts in excess of Rs. 500, a similar provision should also be inserted to provide for downward revision and refund of excess security in excess of Rs. 500 irrespective of the fact whether the resultant security is lesser than the initial security. The Industries Associations further submitted that no provision for review of security on request of a consumer.

##### **Commission View:-**

The Commission feels that ideally security deposit should be sufficient to protect the potential dues. Since the rates of initial security deposit have now been kept at quite a lower level and the additional security deposit is recovered on the basis of actual bills, the total security deposit may not normally exceed the potential dues at any stage. As such, the Commission declines to accept the suggestions that the refund of security deposit should also be allowed based on the annual review. The Commission however, observes that suitable provisions for refund of security deposit in case of permanent reduction of load / disconnection already exist in the regulations. As regard the suggestions that the consumer should have an option to ask for the review of security deposit, it may

not have any relevance since no refund has to be allowed as a result of any such review.

#### **8.8 Other provisions of draft regulations:-**

No comments have been received on the other provisions of the draft amendment regulations and as such the Commission decides to retain the same in the final regulations.

9. Some stakeholders have also made submission on certain issues which are not a part of proposal made out in the draft regulations. The Commission finds it appropriate to briefly discuss such additional issues, as follows :-

#### **9.1 Security deposit in the shape of Bank Guarantee (BG) :-**

As per the third amendment regulations, the limit of security deposit beyond which the consumers can furnish the security deposit in the shape of Bank Guarantee, was increased from Rs. 10 lacs to Rs. 25 Lacs. The Industries Associations have suggested that this limit should be fixed, at the most as Rs. 50,000/-. It has been submitted that it would be discriminatory in nature, if only very large consumers are allowed to furnish a security deposit in the shape of Bank Guarantee and small and medium consumers are deprived of such option. The Commission feels that whereas it may not be appropriate to change the said limit through this order, the Commission may consider revisiting this limit through a separate amendment. The Commission would like the HPSEBL to submit within 45 days of the issuance of this order, a detailed proposal in this regard, supported by the facts and figures and also clearly explaining the reasons as to why the present limit of Rs. 25 lacs should not be reduced, failing which, the Commission will move suo-moto proposal.

#### **9.2 Provision for additional information from consumers :-**

Based on the proposal received from HPSEBL through Hon'ble High Court and subsequent discussion in the meeting of Supply Code Review Panel, a new enabling provision was incorporated vide the third amendment regulations stating that "in case of consumer(s) where the amount of security deposit exceeds, or is likely to exceed as a result of any such review, Rs. 5 Lacs, the distribution licensee may also require such consumers to submit the additional

information from them on the formats, as it may, from time to time, standardise and post on its website.” The provisions were primarily made to enable HPSEBL to obtain the updated details about the owners / promoters/ Board of Directors etc. in case of consumers having higher amounts of bills, so as to avoid situations where the HPSEBL is not able to even locate the consumer in case of defaults. The Industries associations have objected to the retention of this provision. In view of the above background for making this provision, the Commission does not find any justification for revisiting this provision.

**9.3 Interest payable by HPSEBL on security deposit :-**

The Industries Associations have suggested that the rate at which the interest is paid by HPSEBL is too meager and should be increased. The Commission does not find any justification to increase the rate keeping in view the downward trend of the interest rate and also keeping in view the fact that the amount of interest paid by HPSEBL is allowed as pass through in the tariff and any increase in the said rate shall only lead to increase in tariff.

**9.4 Time limit for refund of Security deposit :-**

The said regulations provide that in case of termination of agreement for supply of electricity, the security shall be refunded within a period of 30 days from the effective date of termination of agreement and in case of refund is delayed beyond the period of 30 days, the interest is payable to the consumers @ 12% per annum. The Industries Associations have submitted that this period should be modified as 7 days in view of the provisions made in the Electricity (Rights of Consumers) Rules, 2020. The Commission observes that certain changes are required to be made in various regulations to align the same with the provisions of the said Central Electricity (Rights of Consumers) Rules, 2020. Some of these issues are already slated for discussion on the Supply Code Review Panel which is likely to meet shortly. Accordingly, the said regulations shall be suitably modified on this account in due course of time.

**9.5 Levy of interest in case of delay in furnishing the additional security deposits :-**

The Industries Associations have pleaded that since the Act provides only for disconnection in case of non-payment of security deposit, the provisions exists

in the regulations for charging interest at the rate of 12 % per annum in case of late payment should be omitted . The Commission feels that even though the Act may be silent on this aspect, the Commission can make such provisions in the regulations. The provision motivates the consumers to make timely payments. Accordingly, the Commission does not find any justification for revisiting this provision which was appearing in the said regulations even before the third amendment regulations.

#### 9.6 **Credit rating :-**

The Industries Associations have suggested that provisions related to the credit ratings, as appearing in the said regulations, even prior to third amendment regulations, should be omitted as the annual review is not to be carried out for all the consumers. It has also been suggested that the consumers having clean record of payments should be charged only 75% of the additional security. The Commission otherwise feels that as per the third amendment regulations, the consumers having poor credit ratings have been deprived for the facility of making payments in installments. Accordingly, the Commission does not find any justification for revisiting this provision.

#### 9.7 **Advance Payment of Bills :-**

The Industries Associations have suggested that security deposit may be charged at lower rates in cases where the consumers opt for paying the bills in advance. Reference has also been invited to rule (8) of the Electricity (Rights of Consumers) Rules, 2020 which provides for interest on advance payment by a domestic consumer at such rates as may be decided by the Commission. The Commission observes that the matter regarding implementation of the provisions of the said Rules, including the rule (8) thereof, is already slated for discussion by the Supply Code Review Panel. However, it may not be appropriate to reduce the amount of security deposit in case of advance payment of bills as the same may not be a regular feature.

#### 9.8 **Fortnightly Billing:-**

The District Industries Association, Una has suggested that HPSEBL should issue bill twice a month and in lieu of which HPSEBL collection and

outstanding will reduce which will be covered by equal monthly amount of security deposit. But for this purpose HPSEBL has to enhance its billing procedure which should be carried out at fast pace and bills should be raised by dates 1st or 2nd max. and next bill by dates 1st "or 16th, without any surcharge. The Commission would like the HPSEBL to examine the feasibility of implementing such a proposal for the industrial consumers in such areas where the facility of AMR is available and submit its comments within one and a half month of issuance of this Order failing which, the Commission will move suo-moto proposal.

9.9 **Excessive meter rent:-**

Senior Citizen Association, Una has submitted that the rate of meter rent is on higher side. The Commission observes that this issue does not relate to security deposit.

10. The Commission, after the consideration of the objections and suggestions made by the stakeholders in writing and deliberations in the public hearing decide to finalize the proposed draft regulations after carrying out the changes in terms of this order.

-Sd/-

(Bhanu Pratap Singh)

**Member**

-Sd/-

(Devendra Kumar Sharma)

**Chairman**

**Annexure –A**

**List of participants who have attended the public Hearing on 28.06.2021**

<b>Sr. No.</b>	<b>Name/ Designation</b>	<b>Organization</b>
1	Sh. Rakesh Bansal	CII,Kala Amb Chamber of Commerce & Industry, PIA,Himachal Pradesh Steel Industries Association.
2	Sh. D.R. Sharma	BBNIA and Vardhman, Baddi
3	Sh. Shailesh Aggrawal	Confederation of Indian Industries
4	Managing Director,	HPSEBL, Shimla.
5	Sh. Ram Parkash	Chief Engineer (Comm.), HPSEBL, Shimla
6	Chief Engineer (System Operation)	HPSEBL, Shimla.
7	Superintending Engineer (Inter State)	HPSEBL, Shimla
8	Sh. Chaman Singh Kapoor	District Industries Association, Una.
9	Sh. Devraj Saini	Village Arniala Senior Citizens Association, Una.