

**HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION  
SHIMLA**

No. HPERC/dis/479

Dated 30<sup>th</sup> March, 2012

**In the matter of**

Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) (First Amendment) Regulations, 2012.

**Statement of Objects/Reasons**

**Background**

The Distribution Licensee incurs an extra power purchase cost vis-a- vis the one approved in the tariff order on account of cost of variation in the fuel surcharge rate of the power stations, incremental power purchase over and above or within the quantum approved by the Commission and revision of tariff of generating stations and tariff of interstate or intrastate transmission system as determined by the appropriate Commission after the notification of the retail supply tariff.

As per the existing framework the aforesaid incremental power purchase adjustment is delayed by almost two years and takes place at the true up stage resulting in adverse impact on the financial health as it of the Licensee and puts unnecessary burden on the consumers.

Clause 4.5(h)(4) of the Tariff Policy stipulates that uncontrollable costs should be recovered speedily to ensure that future consumers are not burdened with past costs. Uncontrollable costs would include (but not limited to) fuel costs, costs on account of inflation, taxes and cess, variations in power purchase unit costs including on account of hydro-thermal mix in case of adverse natural events;

The Hon'ble Appellate Tribunal for Electricity (APTEL) vide its Judgment dated 11<sup>th</sup> November, 2011 rendered in OP No. 1 of 2011-Tariff Revision (Suo-Motu action on the letter received from Ministry of Power, Government of India) has issued following directions under section 121 of the Electricity Act, 2003 for meticulous compliance, to the State Commissions.

- (a) In determination of ARR/tariff, the revenue gaps ought not be left and Regulatory Asset should not be created as a matter of course except where it is justifiable, in accordance with the Tariff Policy and the Regulations. The recovery of the Regulatory Asset should be time bound and within a period not exceeding three years at the most and preferably within Control Period. Carrying cost of the Regulatory Asset should be allowed to the utilities in the ARR of the year in which the Regulatory Assets are created;
- (b) Every State Commission must have in place a mechanism for Fuel and Power Purchase cost in terms of Section 62 (4) of the Act. The Fuel and Power Purchase

cost adjustment should preferably be on monthly basis on the lines of the Central Commission's Regulations for the generating companies but in no case exceeding a quarter. Any State Commission which does not already have such formula/mechanism in place must within 6 months of the date of this order must put in place such formula/ mechanism.

Consequently it has become necessary to amend Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2011.

#### **Prior publication of draft regulations:**

In accordance with sub-section (3) of section 181 of the Electricity Act, 2003 read with rule 3 of Electricity Rules, 2005, requiring previous publication of the regulations the Commission published draft of HPERC (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) (First Amendment) Regulations, 2012 in the Rajpatra, Himachal Pradesh on date 2<sup>nd</sup> Feb., 2012 and The above draft amendment regulations were hosted on the Commission website [www.hperc.org](http://www.hperc.org).

The Commission also issued a Public Notice on date 11<sup>th</sup> Feb., 2012 in the "The Tribune and Punjab Kesari" inviting objections or suggestions on the above draft amendment regulations within 30 days from the date of their publication in the Rajpatra, Himachal Pradesh together. The copy of the these draft amendment Regulations were also circulated to various stakeholders for inviting their objections or suggestions.

#### **Objections and suggestions received in the office of HPERC**

In response to the publicity given to the draft amendment regulations comments/ suggestions were received only from one stakeholder i.e. HPSEB Ltd.

#### **Objections or suggestions of HPSEB Ltd. and Commission's view**

##### ***(1) 14-A Treatment of Incremental Power Procurement Cost***

As per the provision, it is mentioned that

*Provided further that in such a case, the distribution licensee shall inform the Commission about the purchase of power over and above approved quantum or increase in Short Term Power Purchase within the approved quantum, with all the supporting documents. Unless the Commission is satisfied that the aforesaid power is capped by weighted average price of power exchange rates and bilateral market purchases for the same quarter, it may disallow the quantum and cost of this short term power procurement in the true up order.*

*HPSEB Limited likes to submit that such a disallowance must also factor following:*

- 1) The Disallowance, if at all necessitated, should be over and above the weighted average price of power exchange rates and bilateral market purchases and not the entire cost.*
- 2) The increase in short term power procurement due to unforeseen circumstances must also appropriately factor the fact that increase in power procurement (especially short term) will also be there if actual sale within the state is more than the approved sales, even if the T&D losses are envisaged at approved levels only. Further, the actual availability of power at Power Exchanges/Bilateral markets must be accordingly considered and as such also allow pass-through of the justified quantum of Unscheduled Interchange as necessitated by the prevailing unforeseen circumstances.*

**Commissions view:**

The Commission agrees with the suggestion No.1 as incremental cost due to power purchase has been allowed in the regulations at the weighted average price of power exchange rates of Northern Region and bilateral market purchases in the same quarter and therefore, incremental cost over the above the aforesaid cap price is not be allowed.

The Commission agrees with the suggestion No.2 for allowing the incremental power purchase cost if actual sales is more than the approved sales as actual sales is uncontrollable and can vary vis-à-vis approved. However, Commission does not agree to the suggestion of allowing the incremental power purchase cost through UI and the same if procured shall be capped at the price of power exchange rates of Northern Region and bilateral market purchases in the same quarter.

***(14-B) Formula for computation of Incremental cost***

As per the provision, it is mentioned that

*Explanation. - 1: The norms for parameters such as station heat rate, auxiliary consumption, transit loss shall be approved by the Commission for each year as controllable factor at the time of determination of generation tariff for each state generating station. The change in fuel surcharge shall be considered only for the computation of incremental cost.*

***HPSEB submitted that:***

- 1) Station Heat Rate and Transit Loss is mainly applicable in case of Coal-based power plants and as such would not be applicable in case of HP. However, in case it is referring to CGS, then such parameters are in the domain of CERC, which specifies the fuel surcharged to be passed through to discoms and same should be considered accordingly.***
- 2) Further, if HPSEBL has to buy more short term power because of higher auxiliary consumption (SHR or transit loss is currently not applicable) by its generating stations then such adjustment shall be done as part of generation tariff, as in not allowing them to recover their full ARR or such and the discom additional short term purchase on account of lower output by generator should be considered uncontrollable.***

**Commissions View:**

The comment at S.No.1 has been considered in the final amendment regulations. The Commission feels that the comment at S.No.2 is not required to be considered in these amendment regulations and the same can be considered at the true up stage of a particular generating station.

***(14-C) Incremental cost (IC) per unit of electricity consumption***

***HPSEB seek clarification that:***

- 1) The incremental charges are to be computed as function of energy charges only or fixed + energy charges? Further, the ceiling of 10% is on average per unit tariff approved by the Commission or on energy charges only?***
- 2) The incremental charges so levied shall be computed considering on the Commission Notified Tariff or subsidized tariff, keeping in view of the fact that GoHP fixes a ceiling on the subsidy to be provided for a particular FY?.***
- 3) Further, are all categories have to be charged uniformly within this 10% ceiling or there is flexibility of charging differently to different consumer categories within the overall limit/ceiling of 10%?***

**Commissions View:**

The provisions of the final amendment regulations clarifies the points raised by the HPSEB Ltd.

The Commission has broadly adopted the methodology specified in the Model regulation for distribution tariff framed by Forum of Regulators. However, keeping in view the H.P. State requirements, the Commission has deviated from the FOR regulations in respect of ceiling of incremental power purchase cost. The total implication as for these regulations on account of incremental power purchase adjustment in a year shall be 6% of ARR of HPSEBL.

The Commission, after extensive discussions within the Commission and also taking into consideration the facts and views as set out in preceding paras, orders that the proposed amendment published in draft form be now finalized and notified in the Official Gazette.

Place Shimla

Dated: 30<sup>th</sup> March 2012

(Subhash C. Negi)  
Chairperson