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HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION, SHIMLA

In the matter of draft Himachal Pradesh Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters)(First Amendment) Regulations, 2019.

CORAM
Sh. S.K.B.S. Negi
Chairman
Sh. Bhanu Pratap Singh
Member

ORDER

The Himachal Pradesh Electricity Regulatory Commission (hereinafter referred as "the Commission") made the draft of the Himachal Pradesh Electricity Regulatory Commission (Deviation Settlement Mechanism and Related Matters) (First Amendment) Regulations, 2019 and published the same in the Rajpatra, Himachal Pradesh, dated 6th May, 2019 (hereinafter referred to as draft regulations).

2. As required vide sub-section (3) of the section 181 of the Act and read with Rule 3 of Electricity (Procedure of Previous Publication) Rules, 2005, the Commission invited public objections and suggestions by way of insertions in two News papers i.e. "Indian Express" and "Amar Ujala" on 09th May, 2019. The full text of the draft regulations was also made available on the Commission's website: www.hperc.org.

3. The Commission, vide letter dated 09.05.2019, also requested the major stakeholders, including the Industries Associations, State Government, Directorate of Energy, Open Access Users Association, Small Hydro Power Producers Associations, State Load Despatch Centre and Distribution Licensee to send their objections/suggestions as per the aforesaid public notice, on or before 06.06.2019.

4. The following stakeholders have filed their written submissions:-
   (i) M/s Malana Power Company Limited.
   (ii) The Himachal Pradesh State Electricity Board Limited, Vidyut Bhawan, Shimla-171004 (HP).
   (iii) H.P. State Load Dispatch Centre, GoHP, Totu, Shimla--11.
   (iv) The Himachal Pradesh Power Corporation Ltd., Himfed Building, BCS, New Shimla-171009 (HP).
   (v) Directorate of Energy, Shanti Bhawan, Phase-III, Sector-6, New Shimla-09.

5. The Commission now proceeds to consider the item wise submissions made by the various stakeholders on the draft regulations and finalise its views on such submissions as follows:-

(I) Clauses – 1,2 & 3 of draft regulations :

No suggestions/comments from stakeholders have been received for Clauses 1, 2 & 3 of draft regulations. Therefore, we decide to retain the provisions of draft regulations in this regard.

(II) Clause-4 'Amendment of regulation 7' :

Comments:

The Directorate of Energy has submitted that with the progressive tightening of the frequency band, volume limits on deviation along with other deterrents and enforcement of DSM regulations have contributed to significant improvement in frequency profile which is now close to 50 Hz. Now, as per amendments proposed, rules of the game will change, and regional entities would change their approach towards deviations from the schedules finalized by SLDCs/RLDCs. Under market linked DSM pricing, many generators would now tend to go for over-injection at frequency of 50 Hz as discovered average ACP will be higher than the current variable charges of majority of thermal stations (variable charges of Rs 1.78/kWh) and Hydro Stations at 50.0 Hz. Also, buyers would not go for over drawing at this frequency, because of high impact of DSM price as compared to current DSM price at 50.0 Hz. It is more likely that buyers would under draw in the said scenario. These actions both by generators and DISCOMs i.e. over injection and under drawl at the same time would lead to frequency moving above 50.0 Hz.

In case, area clearing price is lower as compare to prevailing DSM rate at 50.0 Hz, it is expected that buyers would prefer overdrawing because of relatively high saving in purchase of balancing power. Further, generators would avoid over injection due to no gain and prefer to under inject to save on high variable charges. These actions would lead to grid frequency dropping below 50.0 Hz.

It has been observed that grid connected entities do optimize their revenue and cost during real time operations. In order to optimize the revenue and cost, the grid connected entities are expected to behave as illustrated above.

Hence, introducing ACP linked dynamic DSM pricing would create a situation wherein actions by grid connected entities would take the grid frequency away from 50.0 Hz.

Under the current mechanism, actions by grid connected entities in order to optimize their revenue and cost are leading the grid frequency, closer to 50.0 Hz.

Hence, the proposed methodology is not suitable and existing DSM price mechanism may be continued.

<u>Commission's View</u>:

The provisions proposed in the draft regulations are in line with the amendments made by CERC in their regulations. The suggestion, if accepted, will result into a significant mismatch between the charges payable by HPSLDC for the State as a whole and those recoverable by it from various State Entities. As such, we decline to accept the suggestion and decide to retain the provision of draft regulations in this regard.

(III) Clauses -5 & 6 of draft regulations:

No suggestion/comment from Stakeholders has been received for these Clauses. As such, we decide to retain the provisions of draft regulations in this regard. However, the comments/suggestions received for a cap rate of 303.04 Paise/kWh in case of generators have been discussed separately in a separate paragraph of this Order.

(IV) Clause -7 'Insertion of Regulation 9A':

Comments :

(i) M/s Malana Power Company Limited have submitted that the permissible limit provided for sustained deviation in one direction is insignificant, and that on comparison of the Installed capacity of their Malana HEP i.e. 86 MW to the permissible limit of 1MW(for projects upto 100MW) the effective limit works out to only 1.16% of the Installed capacity. Such limit is insignificant if hydro generation trends are to be considered amid wide fluctuations in water discharge.

Due to wide fluctuations in water discharge and frequent revision of schedules of upstream project (Malana-II- 100 MW), it is very difficult to manage actual generation within the limits of about 1% deviation. It has been emphasized on the fact that, the change in water discharge varies to a very large extent due to frequent revisions in generation schedules of the upstream project which is selling its power on Long Term and its schedule revision is allowed on Real time basis unlike Malana HEP which can't revise its schedule on real time basis and therefore these strict conditions for permissible limits of sustained deviation is requested to be relaxed. They have requested that for schedules upto 100 MW, these limits should be extended to 5 MW (though, CERC have relaxed this limit upto 10 MW).

M/s Malana Power Company Limited have further submitted that the HPERC should recognize the fact that this sign reversal on the positive side has to be done even if the frequency is more than 50.05 Hz and also on negative side if the frequency is less than 49.85 Hz. As per IEGC, the generator is not allowed to inject more power during high frequency situations but the amendments proposed by HPERC are contradictory in this regard when +ve sign reversal needs to be performed even during high frequency time blocks. We request the Commission to wave off the sign reversal conditions, when frequency is more than 50.05Hz or lower than 49.85Hz.

(ii) M/s Himachal Pradesh Power Corporation Limited has submitted that the discharge of the river varies in accordance with the weather conditions and generating stations anticipates its power one day before the delivery date for scheduling it in IEX/etc. However, if sudden change happens in weather condition then the following impact arises on actual scheduling on delivery date:-

Sr. No.	Implication of change in weather conditions	Impact on Hydro Generation Stations
1	If discharge increase	Over generation
2	If discharge decrease	Under generation
3	If slit level increase	Forced shutdown
4	Transmission outage	Forced shutdown

It has further been stated that the generation of power plants totally depends upon weather conditions and therefore the payment of additional charge for failure to adhere to sign change requirement as specified under draft regulation shall not be applicable to:

(a) Run of river projects without pondage.
(b) Forced outage of a generating station in case of collective transactions on Power Exchanges.

(iii) The Directorate of Energy, GoHP has submitted that the CERC in its 5th Amendment of DSM and Related matter Regulations, 2019 dated 28th May 2019, has provided that even after Sustained Deviation in one direction, Permissible limit of deviation shall be +/- 20 MW of the schedule. It has been mentioned that generation from Hydro Station mainly Run of the River with no pondage has no control on its generation as it is weather dependent and hence ideally all such Hydro Generators would be exempted from DSM charges regulations. It has further been submitted that as CERC has taken cognizance for all Run of the River Hydro projects (without Pondage) while finalizing the draft 5th DSM amendment Regulations by putting exemption on Additional Charges. All RoR without pondage are exempt from additional charges against sustained deviation in one direction. However, other projects (i.e RoR with pondage) are eligible for DSM charges in case of deviation from schedule and DSM charges shall be applicable as per new methodology of market linked ACP, to such projects. In view of above, it has been suggested that :-

a. As per clause 9A. Additional Charges for not meeting the requirements for Change in sign of deviations must not be applicable for all Hydro Projects without pondage in line with CERC DSM 5th Amendment Regulations as explained above.

b. For all generating stations other than Hydro Projects without pondage - Maximum permissible limit for sustained deviation should be +/-20 MW i.e. in line with CERC DSM 5th amendment Regulations.

c. The sustained Deviation exemption should be applicable to the case like "Forced outage of a generating station in case of collective transactions on Power Exchanges" which would be in accordance to above said CERC Regulations.

(iv) The HPSEBL has submitted that although the proposed amendments are quite beneficial/favourable with grid distress point of view, yet, the regulations are not favourable in the event when the grid frequency is low and the generators/utilities are over injecting/under drawing the power to support the provisions of zero crossings and under the circumstance when the low frequency persists, the above preposition becomes inverse and non-supportive to the grid. Similar situation also occurs when the high frequency persists.

Commission's View:-

(i) **Issue related to sustained deviation limit :-**

The limit of +/-10 MW (now enhanced to +/-20 MW) as per CERC regulations is applicable for the State as a whole and not to any individual State Entity. The Commission had proposed slab wise limit in the draft regulations in order to avoid large scale mismatches in the gross limit for the State as a whole viz-a-viz the summation of the limits for the individual State Entities. However, since CERC has now enhanced the limit to +/- 20 MW, we decide to increase the limits proposed in the draft regulations as follows:

Maximum permissible limits for Sustained Deviation from Schedule

Sr. No.	Schedule for relevant time block to be reckoned for violation	Maximum permissible limits(in one direction of sustained deviation) in MW
1.	Up to 10 MW	**0.5**
2.	Upto 25MW	**1.0**
3.	Upto 100MW	**2.00**
4.	Above 100 MW	**10.00**

The suggestion to extend the limit to +/-20 MW for individual State Entities is however not acceptable as this will create lot of mismatch between the gross limit available for the State and the summation of limits available to individual State Entity.

(ii) **Issue related to Sustained deviation for Run of the River projects without pondage :**

As per the CERC regulations no such relaxation is allowed to the State even if some of its State Entities are having run of the river projects without pondage. As such we decline to allow such relaxation to such State Entities under these regulations.

(iii) **Issue related to Forced Outage of a generating station in case of collective transactions on Power Exchanges**:

Such relaxation would automatically be available to the State Entity (ies) if the schedule for the State as a whole is revised, under relevant provisions of the Grid Code etc., to account for such outages. However, we decline to allow any relaxation in situations where the schedule for the State remains unchanged. As such we decide to retain the provision of the draft regulations in this regard.

(iv) **Non supportive to the Grid in certain situation:**

The draft regulations incorporate the proposal in line with the amendment regulations of CERC and we don't find it appropriate to provide exceptions to take care of such situations even though, the principal regulations of this Commission did take cognizance of such situations. The Commission may not be averse to revisit this aspect in future at appropriate stage based on the actual data/degree of such incidents for at least next one year or so. However, in case the Distribution Company or any other State Entity feels aggrieved due to such provision in the CERC Regulations, it should take up the matter with the CERC if not raised earlier in the time frame in which draft regulations were finalized by the CERC. We accordingly decide to retain the provisions of draft regulations at least for the present.

(V) **Clause-8 'Amendment of regulation 10':**

No suggestion/comment has been received from any stakeholders for item -8 of draft regulations. As such, we decide to retain the provision of draft regulations in this regard.

(VI) **Clause -9 'Amendment of Regulation 12':**

Comments :

M/s Malana Power Company Limited have requested this Commission to reconsider the draft amendment to clause (ii) of sub-regulation (1) of regulation 12, because it would not be fair to penalize the State Entities over and above their deviation quantum in order to recover the shortfall amount that is payable by Himachal Pradesh to NRPC for a particular week. Such an extra and heavy penalty amount under the head of adjustment amount recovered by HPSLDC from the State Entities like Malana HEP (86 MW) or any other generator is not justified because aforementioned shortfall in amount is neither related to the deviation quantum of the State Entity nor State Entity could have any control over the deviation charges charged by NRPC on State of Himachal Pradesh and further submitted that it is against the principle of natural justice to penalize some entities over and above their deviation amount due to operational inefficiencies of other entities. Further, M/s Malana Power Company Limited has also submitted that for certain particular weeks the DSM amount recovered by HPSLDC from all State entities is greater than the DSM charges to be paid to NRPC. The Company requested the Commission to devise some suitable mechanism which could be fair to the State entities who are already financially burdened due to strict DSM regulations itself.

Commission's View:

The provisions for proposed adjustments have been made in the regulations to facilitate balancing the amount payable by HPSLDC as per the weekly bill(s) raised on it viz-a-viz those recoverable by it from the various State Entities. We feel that with the changes being made in these regulations in relation to the deviation charges, additional deviation charges and sustained deviation charges etc., the gap between the amount payable by HPSLDC viz-a-viz those recoverable by it from the various State Entities shall be minimum. However, the Commission may not be averse to revisit this aspect with prospective effect if such gap, based on the actual data for at least next one year or so is found to be significant. At this stage we are not inclined to make any changes in relation to this provision and decide to retain the provision of draft regulations in this regard. However, we also direct HPSLDC to furnish, soon after expiry of one year from the date of issue of this Order, the detailed data for next one year alongwith their recommendations for retaining or revisiting this provision of the regulations.

(VII) Clause-10 'Amendment of regulation 14':

Comments :

(i) The HPSLDC has submitted that the proposal to impose interest ~~to~~ on delay in making the payments against the charges for Deviation including additional charges for Deviation, Congestion charges or any other charges should be changed from 8 days to 7 days i.e. the defaulting buyer/seller should have to pay the interest on delay payments after expiry of 7 days period provided in sub-regulation (1) of regulation 14.

Commission's view:

As per the proposal made in the draft regulations, the grace period permitted to the State Entities has been reduced by one day and as such the proposed amendment expedites payments to HPSLDC ~~correspondingly.~~ The additional grace period of one day for the purposes of interest charges has been retained to take care of the unintended delay in transfer of fund etc. In fact the CERC, in their regulations have also structured such additional grace period of two days. In view of the forgoing, we decide to retain the provisions of draft regulations in this regard.

(ii) The HPSLDC has suggested that the proposed insertion of sub-regulation (7) vide clause 10 (iv) of draft regulations may be modified as under:-

"(7) In case a State Entity defaults in making timely payment of the weekly bill(s) whether directly or through LC, ~~of~~ for more than 30days, the HPSLDC, in order to recover the dues, may, apart from invoking the provisions made elsewhere in these regulations, also suitably restrict the schedule for the defaulting State Entity after giving a notice of 10 days to such State Entity and may also continue such curtailment till the entire updated outstanding amount, including interest, is paid by that defaulting State Entity."

Commission's View:

We agree, in principle, to link the proposed provision with the default in payments of any weekly bill. However, the notice period of 10 days is considered to be too short and period of 30 days considered to be appropriate. Moreover, we also find it appropriate to incorporate the provision in relation to defaults in opening LC, as proposed by HPSLDC, under this sub-regulation itself, instead of making separate provision as suggested by HPSLDC. In view of the forgoing, we decide to incorporate the following provision under sub- regulation (7) of regulation 14, instead of that proposed in the in the draft regulations.

"(7) In case a State Entity defaults in making payment of a weekly bill, whether directly or through LC, by more than 30 days beyond the due date, the HPSLDC, in order to recover the dues, may, apart from invoking the provisions made elsewhere in these regulations, also suitably curtail the schedule for the defaulting State Entity, by way of withholding NOC/concurrence or any other appropriate means, after giving a notice of 30 days to such defaulting State Entity and may also continue such curtailment till the entire updated outstanding amount, including interest also, is paid by that defaulting State Entity and the requisite letter of credit, as per the requirement of sub-regulation (5) of this regulation is also opened and made operative. "

(iii) The HPSEBL has suggested that the enhancement in rate of simple interest from 0.04% to 0.08% is not favourable to the utilities/users in view of poor liquidity in many instances. It has been requested to consider this aspect in the public interest and the percentage of interest may please be kept same as per the earlier practice.

Commission's View :

The provision has been made simply to encourage financial discipline. As such we decline to accept the suggestion and decide to retain the provision of draft regulations in this regard.

Miscellaneous Comments:-

Comments:-

(i) The HPSEBL has submitted that the Commission in the said regulations is silent on the very important aspect of incorporation of URS which is real time operations due to the hovering hydro attitude are to be booked and in case of non consideration of the same during computations, may lead to financial implications in many cases even when the utility is giving due

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compliance to zero crossing but for want of inclusion of such quantum, while commercial settlement, the same may not be construed as zero crossing but for want of inclusion of to levy of additional charges as per provisions. It has been emphasized here that as per the clause-5(L) of notification dated 16.10.2018, HPSLDC was entrusted to formulate procedure for URS within 90 days of the said notification. It has been requested that the Commission may impart necessary instructions to speed up the process of formulation of URS procedure so that the same could be incorporated prudently in the computation process.

Commission's View:

In accordance with the regulation 5 (L) of the Principal DSM regulations of HPERC, the URS procedure was to be developed within 90 days from the notification of the said regulations i.e. from 16th October, 2018. It is a matter of concern that the requisite procedure has not been developed so far by the HPSLDC. We accordingly direct the HPSLDC to develop the said procedure in consultation with all the concerned within a fortnight from the date of issue of this Order.

(ii) M/s Himachal Pradesh Power Corporation Limited has submitted that there should be a Cap rate for the charges for deviation for the generating stations and should not exceed 303.04 paise/kWh on the similar lines as depicted/mentioned in the CERC's 5th Amendment DSM Regulations.

The Directorate of Energy has submitted that the CERC in its 5th Amendment of DSM and Related matter Regulations, 2019 dated 28th May 2019, has substituted the Clause 4 of Regulation 7 of the Principal Regulations which is stated below:

> "(4) In addition to Charges for Deviation as stipulated under Regulation 5 of these regulations, Additional Charge for Deviation shall be applicable for over injection/under-drawal of electricity for each time block by a buyer/seller as the case may be when grid frequency is '50.10 Hz and above' at the rates equivalent to charges of deviation corresponding to the grid frequency of 'below 50.01 Hz but not below 50.0 Hz', or cap rate for deviation of 303.04 Paise/kWh whichever is lower."

It has been stated that the HPERC has not made this provision for Cap Rate of 303.04 Paisa/kwh and applicability of "Whichever is lower" and that the HPERC may amend the said clause in line with the CERC 5th Amendment Regulations. It has further been submitted that cap rate of 303.04 paise per kWh should be applicable to all State generators/State entity, in accordance to CERC 5th Amendment to DSM Regulations.

Commission's View:

The cap rate of 303.04 paise/kWh as provided in regulations 5 & 7 of CERC DSM Regulations is not applicable to the generating stations for which scheduling is done as a part of the overall schedule of the State. As such we decline to accept the suggestion.

(iv) The HPSLDC has submitted that sub-regulation (5) of regulation 14 as per the existing provisions in HPERC (Deviation Settlement Mechanism & Related Matter) Regulations, 2018 notified vide notification dated 16-10-2018, provides as under.-

"Schedule of Payment of Charges for Deviation – Regulation: 14.-

In sub-regulation (5) –

All buyers/sellers, which had at any time during the previous financial year, failed to make payment of charges for Deviation including additional charges for Deviation within the time specified in these regulations shall be required to open a Letter of Credit (LC) equal to 110% of its average payable weekly liability for Deviations in the previous financial year, in favour of the HPSLDC before 14th April of the financial year."

It has been suggested that the aforesaid sub-regulation (5) may be substituted as:

"All buyers/sellers, which had at any time during the currency of financial year in operation, failed to make payment of charges for Deviation including additional charges for Deviation within the time specified in these regulations shall be required to open a Letter of Credit (LC) equal to 110% of its average payable weekly liability for Deviations in favour of the HPSLDC within 30days of the default, the HPSLDC may not schedule its power & NOC/concurrence for the defaulting State Entity thereafter."

Commission's View:

This aspect has already been incorporated in sub-regulation (7) of regulation 14 and does not require any further change.

"(iv) The HPSEBL has submitted that inability of HPSLDC to provide schedules to individuals is putting utilities under constraints in real time operations on the mandate of zero crossing. It has been requested that the Commission may fix up some time lines within which HPSLDC may start such practice of giving schedules to individual so as to facilitate complaints to the regulations."

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Commission's View:

Even though it may be the obligation of concerned State Entity to maintain their operation. We expect HPSLDC to explore the possibilities of making suitable provisions in their scheme and start such practice expeditiously so that the requisite status is displayed on real time basis. However, this may not require any change in the regulations at this stage.

The amendment regulations be finalized and notified by incorporating the changes in the proposal contained in draft regulations on the above lines.

(Bhanu Pratap Singh)
Member

(S.K.B.S. Negi)
Chairman

Place: Shimla
Dated: 28.6.19