

**HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION
SHIMLA**

NOTIFICATION

Shimla, the 10th October, 2007

No. HPERC/MYT/476-- In exercise of powers conferred by clauses (zd), (ze) and (zf) of sub section (2) of section 181, read with sections 61, 62 and 86, of the Electricity Act 2003 (36 of 2003) and all powers enabling it in that behalf, the Himachal Pradesh Electricity Regulatory Commission, after previous publication, hereby proposes to make the following regulations namely :-

REGULATIONS

PART-I

PRELIMINARY

1. Short Title and Commencement

- (1) These regulations shall be called the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2007.
- (2) These regulations shall come into force from the date of their publication in the Rajpatra, Himachal Pradesh.

2. Scope and Extent of Application

- (1) These regulations shall be applicable where the capital cost based tariff is determined by the Commission.
- (2) Where tariff has been determined through the 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.
- (3) These regulations shall extend to the whole of the State of Himachal Pradesh.

3. Definitions and interpretation

- (1) In these regulations, unless the context otherwise requires, -
 - (a) “**Act**” means the Electricity Act, 2003 (36 of 2003);

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- (b) “**Aggregate Revenue Requirement**” or **ARR** means the costs pertaining to the licensed business which are permitted, in accordance with these regulations, to be recovered from the tariffs and charges determined by the Commission;
- (c) “**Allocation Statement**” means for each financial year, a statement in respect of each of the businesses (wheeling, retail supply, other business) of the licensee, showing the amounts of any revenue, cost, asset, liability, reserve or provision etc, which has been either, -
 - (i) determined by apportionment or allocation between different businesses of the licensee including the licensed business, together with a description of the basis of the apportionment or allocation; or
 - (ii) charged from or to each such other business together with a description of the basis of that charge;
- (d) “**Appendix**” means the appendix of these regulations;
- (e) “**Base Year**” means the financial year immediately preceding first year of the control period and used for the purposes of these regulations;
- (f) “**Commission**” means the Himachal Pradesh Electricity Regulatory Commission;
- (g) “**Conduct of Business Regulations**” means the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005,
- (h) “**Control Period**” means a multi-year period fixed, by the Commission, from time to time, usually 5 years for which the principles of determination of revenue requirement and tariff will be fixed. However, the first control period shall be of the duration of 3 years;
- (i) “**Distribution Business**” means authorised business of a distribution licensee to operate and maintain a distribution system for supplying electricity to the consumers in an area of supply;
- (j) “**Financial Year**” means a period commencing on 1st April of a calendar year and ending on 31st March of the subsequent calendar year;
- (k) “**Licence**” means a licence granted under section 14 of the Act;
- (l) “**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;

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- (m) “**Licensee**” means a person who has been granted a licence and shall include a deemed licensee;
 - (n) “**Non-Tariff Income**” means income relating to the licensed business other than from tariff (wheeling and retail supply), and excluding any income from other business, cross-subsidy surcharge and additional surcharge;
 - (o) “**Other Business**” means any business of the distribution licensee other than the licensed business;
 - (p) “**Retail Supply Business**” means the business of sale of electricity by a distribution licensee to the consumers within the area of supply in accordance with the terms of the licence for distribution and retail supply of electricity;
 - (q) “**Retail Supply Tariff**” means the rate charged by the distribution licensee for supply to Non-open access Customers and includes charges for wheeling and retail supply;
 - (r) “**State**” means the State of Himachal Pradesh;
 - (s) “**Trading Business**” means the authorised business of an electricity trader in the area of operation allowed under the trading licence granted;
 - (t) “**Trading Licence**” means the licence granted under section 14 of the Act to undertake trading in electricity;
 - (u) “**Wheeling**” means the operation whereby the distribution system and associated facilities of a distribution licensee are used by another person for the conveyance of electricity on payment of charges to be determined under section 62;
 - (v) “**Wheeling Business**” means the business of operating and maintaining a distribution system for conveyance of electricity in the area of supply of the distribution licensee.
- (2) The words and expressions used and not defined in these regulation, but defined in the Act, shall have the meanings respectively assigned to them in the Act.

PART-II

GUIDING PRINCIPLES

4. General Approach

- (1) In accordance with the principles laid in these regulations, the Commission shall determine the tariff for –
 - (a) wheeling of electricity, i.e. wheeling tariff;
 - (b) retail sale of electricity, i.e. retail supply tariff:

Provided that in case of distribution of electricity in the same area by two or more distribution licensees, the Commission may, for promoting competition amongst distribution licensees, fix only maximum ceiling of tariff for retail sale of electricity:

Provided further that where the Commission has permitted open access to any category of consumers under section 42 of the Act, the Commission shall determine the wheeling tariff, cross-subsidy surcharge, additional surcharge and other open access related charges in accordance with these regulations and Himachal Pradesh Electricity Regulatory Commission (Cross Subsidy Surcharge, Additional Surcharge and Phasing of Cross Subsidy) Regulations, 2006.

- (2) In accordance with the principles laid in these regulations, the Commission shall determine the aggregate revenue requirement (ARR) and tariff for -
 - (a) wheeling business; and
 - (b) retail supply business.
- (3) The aggregate revenue requirement (ARR) determined for the wheeling business shall be used in fixation of the wheeling tariff.
- (4) The aggregate revenue requirement (ARR) determined for retail supply business shall be used in fixation of the retail supply tariff for retail sale of electricity.
- (5) Tariff determined by the Commission and the directions given in the tariff order made by the Commission shall be the 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, variations and alterations of the tariff, as may be ordered by the Commission.
- (6) 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) under Part-IV, 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.

5. Multi Year Tariff (MYT) Framework

The Commission shall adopt multi year tariff framework for approval of ARR and expected revenue from tariffs and charges for the first control period. The multi year tariff framework shall be based on the following: -

- (a) **Business plan** of the distribution licensee for the entire control period to be submitted to the Commission for approval, prior to the beginning of the control period;
- (b) **Applicant's forecast of expected wheeling tariff and retail supply** tariff for each year of the control period, based on reasonable assumptions of the underlying financial and operational parameters, as submitted in the business plan;
- (c) **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;
- (d) **Annual review of performance** shall be conducted vis-à-vis the approved forecast and categorization of variations in performance into controllable factors and uncontrollable factors;
- (e) **Profit sharing** shall be applied on the profits arising from the distribution licensee's better performance vis-à-vis distribution loss targets specified by the Commission;
- (f) **Variation in revenue/cost** on account of uncontrollable factors like sales and power purchase shall be trued up.

6. Segregation of Wheeling and Retail Supply Business

- (1) The distribution licensee shall segregate the accounts of the licenced business into wheeling business and retail supply business. The ARR for wheeling business shall be used to determine wheeling charges and the ARR for retail supply business to determine retail supply tariff.
- (2) Till such time there is complete segregation of accounts, the licensees shall prepare an allocation statement to apportion costs and revenues to respective business. The allocation statement, approved by the board of directors / whole time members of the licensee, shall be accompanied with an explanation of the methodology which should be consistent over the control period.

7. Determination of Baseline

The baseline values (operating and cost parameters) for 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.

8. Targets for Controllable Parameters

- (1) The Commission shall set targets for each year of the control period for the items or parameters that are deemed to be “controllable” and which will include ;-
 - (a) **Distribution losses**, which shall be measured as the difference between total energy input for sale to all its consumers and sum of the total energy billed in its licence area in the same year;
 - (b) **Operation and Maintenance Expenditure** which includes employee expenses, repairs and maintenance expenses, administration and general expenses and other miscellaneous expenses viz. audit fees, rents, legal fees etc;
 - (c) **Financing cost** which includes cost of debt including working capital (interest), cost of equity (return);
 - (d) **Depreciation**;
 - (e) **Quality of Supply**.
- (2) The Commission shall normally not revisit the performance targets, once determined even if the targets are fixed on the basis of un-audited accounts.
- (3) The target distribution loss levels for the State to be achieved by the distribution licensees at the end of the first control period shall be 14.5%:

Provided that the year-wise loss reduction trajectory for the control period shall be fixed for the distribution licensee in the multi year tariff order:

Provided further that profits arising from achieving loss level better than specified in the loss reduction trajectory shall be shared in the ratio of 2/3rd with the licensee and 1/3rd in the contingency reserve for the first control period.

- (4) Any financial loss on account of under performance with respect to distribution loss targets shall be to the licensee’s account.

9. Sales Forecast

- (1) The Commission based on the licensee's filings, shall examine the forecasts for reasonableness and consistency, and shall approve the sales forecast for each year of the control period.
- (2) Sales shall be treated as uncontrollable. The open access transactions shall not form part of sales.
- (3) Power purchase quantum and cost for any financial year shall be computed on the basis of distribution loss targets and the estimated sales.

10. Quality of Supply and Customer Service

The quality of supply and the customer service parameters shall be monitored as per the norms to be laid down by the Commission separately from time to time. For certain parameters as mentioned in regulation 36 of these regulations, the Commission shall monitor licensee's performance with respect to the targets specified.

11. True Up

The true up across various controllable and uncontrollable parameters shall be conducted as per principles stated below: -

- (1) Variation in revenue / expenditure on account of uncontrollable sales and power purchase shall be trued up every year;
- (2) For controllable parameters,
 - (a) any surplus or deficit on account of O&M expenses shall be to the account of the licensee and shall not be trued up in ARR; and
 - (b) at the end of the control period –
 - 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.

12. Contingency Reserve

- (1) For maintaining tariff stability and passing the benefits achieved to the consumers under the multi year tariff framework via contingency reserve, the licensee shall create a contingency reserve at the beginning of the control period and the revenue

surplus, if any, generated by licensee in and up to FY 2007-08 shall be transferred to contingency reserves at the beginning of the control period.

- (2) The licensee shall maintain separate accounts in their books and reflect the balance in the contingency reserve account in the balance sheet. There shall be yearly additions and draws to/from these contingency reserve account based on the annual review and performance of the licensee.
- (3) Fund under contingency reserve shall be kept in a separate bank account and shall be effectively invested and managed to earn returns based on market conditions ensuring adequate liquidity. This fund shall not be utilized for speculative purposes. The use of these funds in any other manner shall be only with the prior approval of the Commission.

PART-III

PRINCIPLES FOR DETERMINATION OF AGGREGATE REVENUE REQUIREMENT (ARR)

13. ARR for Distribution Business

The aggregate revenue requirement of the distribution licensees for each year of the control period, shall contain the following items: -

- (a) cost of power procurement;
- (b) transmission and load dispatch charges;
- (c) operation and maintenance expenses;
- (d) financing cost which includes cost of debt including working capital (interest), cost of equity (return);
- (e) depreciation;
- (f) income tax;
- (g) non-tariff income; and
- (h) income from other business.

14. Cost of Power Procurement

- (1) The licensee shall forecast sales for each customer category and sub-categories for all years of the control period in their business plan filings, for the Commission's review and approval. The approved category-wise sales forecast shall be applied

alongwith distribution loss trajectory for estimating the licensees' power procurement requirement for each year of the control period.

- (2) The distribution licensee shall be allowed to recover the cost of power it procures from sources approved by the Commission, viz. intra-State and inter-State trading licensees, bilateral purchases, bulk suppliers, State generators, independent power producers, Central generating stations, renewable and co-generation sources, generation business of the distribution licensee and others, for supply to consumers of retail supply business:

Provided that the distribution licensee shall propose the cost of power procurement taking into account the fuel adjustment formula specified for the generating stations and net revenues through bilateral exchanges and unscheduled interchange (UI) transactions:

Provided further that where the licensee utilises a part of the power purchase approved or bulk supply allocated or contracted for the retail supply business for its trading business, the distribution licensee shall provide an allocation statement clearly specifying the cost of power purchase that is attributable to such trading activity.

15. Distribution Losses

- (1) The licensee shall propose circle-wise baseline distribution loss levels and loss reduction trajectory for each year of the control period, based on targets specified in regulation 8(3) of these regulations. For any year of the control period, loss reduction should be at least 25% of the total loss reduction target for the control period. The Commission shall examine the filings made by the licensee for the distribution loss trajectory for each year of the control period and approve the same with modification as it may consider necessary.
- (2) The distribution licensee shall also propose voltage-wise losses for each year of the control period for the determination of voltage-wise cost of supply and determination of voltage-wise wheeling tariff. The Commission shall examine the filings made by the licensee for the distribution loss trajectory for each year of the control period and approve the same with modification as it may consider necessary.
- (3) In case the actual distribution loss is worse than the loss level approved by the Commission, the licensee has to absorb the financial loss arising from such performance.

16. Transmission, Load Despatch Charges

The distribution licensee shall be allowed to recover transmission and load despatch charges payable to the transmission licensees (Central Transmission Utility, State Transmission Utility etc.) and system operators (Regional Load Despatch Centre, State

Load Despatch Centre etc.) for access to and use of the inter-State transmission system, intra-State transmission system and availing load despatch services in accordance with the tariffs approved, from time to time, by the Central Electricity Regulatory Commission and the appropriate State Commissions, as the case may be.

17. Operation and Maintenance (O&M) Expenses

- (1) Operation and Maintenance (O&M) expenses shall include: -
 - (a) salaries, wages, pension contribution and other employee costs;
 - (b) administrative and general expenses;
 - (c) repairs and maintenance expenses; and
 - (d) other miscellaneous expenses, statutory levies and taxes (except corporate income tax).
- (2) The distribution licensee shall submit the O&M expenses for the control period as laid down in the multi year tariff filing procedure. The O&M expenses for the base year shall be approved by the Commission taking into account the latest available audited accounts, business plan filed by the distribution licensee, estimates of the actuals for the base year, prudence check and any other factors considered appropriate by the Commission.
- (3) The O&M expenses for the n^{th} year of the control period shall be approved based on the formula given below:-

$$O\&M_n = (R\&M_n + EMP_n + A\&G_n) * (1 - X_n)$$

Where -

- (a) $R\&M_n = K * GFAn-1$ and;
- (b) $EMP_n + A\&G_n = (EMP_{n-1} + A\&G_{n-1}) * (INDX_n / INDX_{n-1})$

Where -

‘K’ is a constant (could be expressed in %) governing the relationship between O&M costs and gross fixed assets (GFA) for the n^{th} year. The value of K shall be given in the MYT Order of the Commission;

$INDX_n$ – inflation factor to be used for indexing and shall be taken as a combination of the consumer price index (CPI), the wholesale price index (WPI) and any other relevant factor;

EMP_n – employee costs of the transmission licensee for the n^{th} year;

$A&G_n$ – administrative and general costs of the transmission licensee for the n^{th} year;

$R\&M_n$ – repair and maintenance costs of the transmission licensee for the n^{th} year;

X_n is an efficiency factor for n^{th} year. Value of X_n shall be determined by the Commission in the MYT tariff order based on licensee's filings, benchmarking, approved cost by the Commission in past and any other factor that the Commission feels appropriate.

18. Asset Base

- (1) The Commission shall determine the asset base for each year of the control period at the beginning of the control period, which shall be: -

Sum of:

The asset base of the base year as determined by the Commission, considering the most recent audited accounts, estimates of actuals during the base year checked for prudence and any other factors considered appropriate by the Commission, and

Proposed capitalisation during the year, checked for prudence covering-

- (a) schemes for which Commission's approval has been granted,
- (b) schemes which have been submitted for Commission's approval, and
- (c) schemes not requiring Commission's approval.

Less:

Assets proposed to be retired during the year.

- (2) The interest on loan capital and return on equity shall be computed on the financing of the cost of the schemes included in the asset base.

19. Debt-equity ratio

For the purpose of determination of tariff, the equity and outstanding debt shall be determined for the base year by the Commission taking into consideration the licensee's proposals, previous years debt-equity details and other relevant factors.. However, for any fresh capitalization of assets, the Commission shall apply a debt-equity ratio of 70:30 on the capitalized amount as approved by the Commission for each year of the control period:

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Provided that where equity employed is in excess of 30%, the amount of equity for the purpose of tariff shall be limited to 30% and the balance amount shall be considered as loan. The interest rate applicable on the equity in excess of 30% treated as loan has been specified in regulation 21. Where actual equity employed is less than 30%, the actual equity shall be considered.

20. Return on Equity

- (1) Return on equity for the distribution licensee (sum of return on equity for wheeling business and return on retail supply business) shall be computed on the paid up equity capital determined in accordance with regulation 19 and shall be 16% per annum (post tax):

Provided that return on equity invested in work in progress shall be allowed from the date of commercial operation.

- (2) The premium raised by the licensee while issuing share capital and investment of internal resources created out of free reserve, if any, shall also be reckoned as equity for the purpose of computing return on equity, provided such premium amount and internal resources are actually utilised for meeting capital expenditure. For the purposes of calculation of computation of return, the portion of free reserves utilized for meeting the capital expenditure shall be considered from the date the asset created is productively deployed in the distribution business.
- (3) Equity invested in foreign currency shall be allowed a return upto the prescribed limit in the same currency and the payment on this account shall be made in Indian rupees based on the exchange rate prevailing on the due date of billing.

21. Interest and Finance Charges

- (1) Interest and finance charges on loan capital shall be computed on the outstanding loans, duly taking into account the schedule of repayment, and the interest rate, in accordance with the terms and conditions of relevant agreements of loan, bond or non-convertible debentures. Exception can be made for the existing or past 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. For the purpose of tariff determination, the outstanding debt at the end of each year of the control period shall be taken as: -

Outstanding debt at the end of n^{th} year = Outstanding debt at the end of $(n-1)^{\text{th}}$ year + (plus) sum of amount of debt related to assets capitalized under each investment scheme during n^{th} year – (minus) debt repaid during n^{th} year;

For the first year of the control period, $(n-1)^{\text{th}}$ year shall be the base year;

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Amount of debt related to assets capitalized under an investment scheme during nth year = (70% or actual, whichever is higher) X (multiply) (amount of capitalisation approved by the Commission for such scheme in nth year);

Provided that all loans considered for this purpose shall be identified with the assets created:

Provided further that the interest and finance charges of re-negotiated loan agreements shall not be considered, if they result in higher charges:

Provided further that the interest and finance charges on works in progress shall be excluded and shall be considered as part of the capital cost:

Provided further that neither penal interest nor overdue interest shall be allowed for computation of aggregate revenue requirement.

- (2) The interest rate on the amount of equity in excess of 30% treated as notional loan shall be the weighted average rate of the loans of the respective years and shall be further limited to the rate of return on equity specified in these regulations.
- (3) In case any moratorium period is availed of in any loan, depreciation provided for in the tariff during the years of moratorium shall be treated, as repayment during those years and interest on loan capital shall be calculated accordingly.
- (4) The distribution licensee shall make every effort to refinancing the loan as long as it results in net benefit to the consumers. The cost associated with such refinancing shall be borne by the consumers and any benefit on account of refinancing of loan and interest on loan shall be shared in the ratio of 1/3rd with the licensee and 2/3rd in the contingency reserve. The licensee shall submit the calculation of such benefit to the Commission for its approval.
- (5) In respect of foreign currency loans, variation in rupee liability due to foreign exchange rate variation, towards interest payment and loan repayment actually incurred, in the relevant year shall be admissible; provided it directly arises out of such foreign exchange rate variation and is not attributable to the licensee or its suppliers or contractors.

22. Interest Charges on Working Capital

Rate of interest on working capital to be computed as provided hereinafter in these regulations shall be on normative basis and shall be equal to the short-term prime lending rate of the State Bank of India as on April 1 of the relevant year. The interest on working capital shall be payable on normative basis notwithstanding that the licensee has not taken working capital loan from any outside agency or has exceeded the working capital loan based on the normative figures. The Commission shall calculate working capital requirement for wheeling business as mentioned in regulation 30 and retail supply business

as mentioned in regulation 32 to arrive at working capital requirement of distribution licensee.

23. Depreciation

- (1) Depreciation shall be calculated for each year of the control period, on the amount of original cost of the fixed assets of the corresponding year:

Provided that depreciation shall not be allowed on assets funded by any capital subsidy / grant.

- (2) Depreciation for each year of the control period shall be determined based on the methodology as specified in these regulations alongwith the rates and other terms specified in appendix-1 of these regulations.
- (3) Depreciation shall be calculated annually, based on the straight line method, over the useful life of the asset. The base value for the purpose of depreciation shall be original cost of the asset.
- (4) The residual value of assets shall be considered as 10% and depreciation shall be allowed to a maximum of 90% of the original cost of the asset. Land is not a depreciable asset and its cost shall be excluded while computing 90% of the original cost of the asset.
- (5) Depreciation shall be charged from the first year of operation of the asset. In case, the operation of the asset is for a part of the year, depreciation shall be charged on a pro rata basis.
- (6) In addition to allowable depreciation, the distribution licensee shall be entitled to advance against depreciation (AAD), computed in the manner given hereunder: -

AAD = Loan (raised for capital expenditure) repayment amount based on loan repayment tenure, subject to a ceiling of 1/10th of loan amount minus depreciation as calculated on the basis of these regulations:

Provided that advance against depreciation shall be permitted only if the cumulative repayment upto a particular year exceeds the cumulative depreciation upto that year:

Provided further that advance against depreciation in a year shall be restricted to the extent of difference between cumulative repayment and cumulative depreciation upto that year:

- (7) On repayment of entire loan, the remaining depreciable value shall be spread over the balance useful life of the asset.

24. Corporate Income Tax

- (1) Income tax, if any, on the licensed business of the distribution licensee shall be treated as expense and shall be recoverable from consumers through tariff. However, tax on any income other than that through its licensed business shall not be a pass through, and it shall be payable by the distribution licensee itself.
- (2) Any under-recoveries or over-recoveries of tax on income shall be adjusted every year on the basis of income-tax assessment, under the Income Tax Act, 1961, as certified by the statutory auditors:

Provided further that the benefits of tax-holiday as applicable in accordance with the provisions of the Income Tax Act, 1961 shall be passed on to the consumers;

- (3) The income tax actually payable or paid shall be included in the ARR. The actual assessment of income tax should take into account benefits of tax holiday, and the credit for carry forward losses applicable as per the provisions of the Income Tax Act, 1961 shall be passed on to the consumers.
- (4) Tax on income, if any, liable to be paid shall be limited to tax on return on equity. However, any tax liability on incentives due to improved performance shall not be considered.

25. Non-Tariff Income

- (1) All incomes being incidental to electricity business and derived by the licensee from sources, including but not limited to profit derived from disposal of assets, rents, delayed payment surcharge, meter rent (if any), income from investments other than contingency reserves, miscellaneous receipts from the consumers excluding income to licensed business from the other business of the distribution licensee shall constitute non-tariff income of the licensee.
- (2) The amount received by the licensee on account of non-tariff income shall be deducted from the aggregate revenue requirement in calculating the net revenue requirement of such licensee.

26. Other Income of the Licensee

Where the licensee is engaged in any other business, the income from such business will be calculated in accordance with the Himachal Pradesh Electricity Regulatory Commission (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations, 2005 and shall be deducted from the aggregate revenue requirement in calculating the revenue requirement of the licensee:

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Provided that the licensee shall follow a reasonable basis for allocation of all joint and common costs between the distribution business and the other business and shall submit the allocation statement, as approved by the board of directors, to the Commission alongwith 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 licensee on account of such other business.

27. Net Aggregate Revenue Requirement

- (1) The net aggregate revenue requirement of the licensee eligible for recovery during each year of the control period shall be determined after deducting from the aggregate revenue requirement, the non-tariff income and other income.
- (2) For determination of wheeling charges for open access customers, the ARR for the distribution licensee shall be segregated into ARR for wheeling business and ARR for retail supply business.

28. Aggregate Revenue Requirement (ARR) for Wheeling Business

The ARR for the wheeling business of distribution licensees for each year of the control period, shall contain the following items: -

- (a) operation and maintenance expenses;
- (b) financing cost which includes cost of debt including working capital (interest), cost of equity (return);
- (c) depreciation;
- (d) income tax;
- (e) non-tariff income; and
- (f) income from other business.

29. Return on Equity for Wheeling Business

- (1) Return on equity shall be computed on the paid up equity capital determined in accordance with regulation 19 and shall be 14% per annum (post tax):

Provided that return on equity, invested in work in progress, shall be allowed from the date of commercial operation.

- (2) The premium raised by the licensee while issuing share capital and investment of internal resources created out of free reserve, if any, shall also be reckoned as equity for the purpose of computing return on equity, provided such premium amount and internal resources are actually utilised for meeting capital expenditure. For the purposes of calculation of computation of return, the portion of free reserves utilized for meeting the capital expenditure shall be considered from the date the asset created is productively deployed in the distribution business.
- (3) Equity invested in foreign currency shall be allowed a return upto the prescribed limit in the same currency and the payment on this account shall be made in Indian rupees based on the exchange rate prevailing on the due date of billing.

30. Working Capital for Wheeling Business

The Commission shall calculate the working capital requirement for the wheeling business containing the following components: -

- (a) O&M expenses for one month;
- (b) receivables for two months of the wheeling charges received;
- (c) maintenance spares @ 40% of the R&M - expense for one month; and
- (d) less: consumer security deposit, if any.

31. Aggregate Revenue Requirement (ARR) for Retail Supply Business

The ARR for the retail supply business of the distribution licensee, for each year of the control period, shall contain the following items;

- (a) cost of power procurement;
- (b) transmission and load dispatch charges;
- (c) interest on working capital; and
- (d) supply margin.

32. Working Capital for Retail Supply Business

Working capital for retail supply of electricity shall consist of -

- (a) O&M expenses for one month;
- (b) receivables for two months of revenue from sale of electricity;
- (c) maintenance spares @ 40% of the R&M expense for one month;

- (d) less: consumer security deposit, if any;
- (e) less: power purchase costs for one month.

33. Supply Margin

- (1) The Commission shall lay down a retail supply margin for the retail supply business in MYT order based on the allocation statement provided by the distribution licensee. The costs allocated to retail supply business as per allocation statement shall be considered while determining supply margin after exercising prudence check.
- (2) The Commission shall lay down the retail supply margin in such manner that the total return from the wheeling business and retail supply business shall not exceed 16% of paid up equity capital determined in accordance with regulation 19 of these regulations.

34. Truing Up Mechanism

- (1) Notwithstanding anything contained in these regulations, the gains or losses in the controllable items of ARR on account of *force majeure* factors shall be passed on as an additional charge or rebate in ARR over such period as may be specified in the order of the Commission.
- (2) Variations on account of uncontrollable items like energy sales and power purchase cost shall be trued up. Truing-up shall be carried out for each year based on the actual/audited information and prudence check by the Commission:

Provided that if such variations are large, and it is not feasible to recover in one year alone, the Commission may take a view to create a regulatory asset, as per the guidelines provided in clause 8.2.2 of the National Tariff Policy.

- (3) The Contingency Reserve (CR) shall be created at the beginning of the control period in the ARR. The licensee shall be permitted to use funds from such provision, with the prior approval of the Commission, to compensate the uncontrollable variations instead of tariff adjustments and thereby ensuring tariff stability in the control period.
- (4) The Commission, to ensure tariff stability, may include the trued-up costs in the subsequent control period's ARR instead of including in the year succeeding the relevant year of the control period.

35. Income from Cross-Subsidy Surcharge and Additional Surcharge on Wheeling charges

- (1) The amount received or to be received by the licensee on account of cross-subsidy surcharge and additional surcharge, as approved by the Commission from time to time in accordance with the Himachal Pradesh Electricity Regulatory Commission (Cross Subsidy Surcharge, Additional Surcharge and Phasing of Cross Subsidy) Regulations, 2006 shall be shown separately against the consumer category that is permitted open access as per the phasing plan.
- (2) Cross-subsidy surcharge and additional surcharge shall be shown as revenue from tariff from the consumer categories permitted open access in accordance with the Himachal Pradesh Electricity Regulatory Commission (Cross Subsidy Surcharge, Additional Surcharge and Phasing of Cross Subsidy) Regulations, 2006 and such amount shall be utilized to meet the cross-subsidy requirements of subsidised categories and fixed costs of the licensee arising out of his obligation to supply. The licensee shall provide such details in its annual filings.

36. Quality of Supply and Services

- (1) The quality of supply and the customer service parameters shall be monitored as per the norms specified by the Commission from time to time.
- (2) The licensee shall propose baseline and performance trajectory for all quality parameters as specified in the Himachal Pradesh Electricity Regulatory Commission (Distribution Licensees' Standards of Performance) Regulations, 2005.
- (3) The Commission shall make an assessment on reliability of baseline data and may prescribe the performance trajectory for each identified parameter for the control period. The Commission shall develop a performance framework to encourage licensees to improve quality of supply and services.
- (4) The licensee shall submit the performance on each parameter in the form and manner directed by the Commission and the Commission shall conduct periodic reviews on the performance of the licensee with respect to quality parameters.

PART-IV

MULTI YEAR TARIFF FILING PROCEDURE

37. Multi-Year Filings for the Control Period

- (1) The multi year tariff filing shall be in such form and in such manner as has been specified by the Commission in these regulations and also as per the provisions of the conduct of business regulations.

- (2) The licensee shall also submit the multi year tariff filing in electronic format to the Commission.

38. Beginning of the Control Period - Business Plan Filings

The distribution licensee shall file, for the Commission's approval, on or before 30th November of 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/ whole time members. The business plan shall be for the entire control period and shall, interalia, contain: -

- (a) sales/demand forecast for each customer category and sub-categories for each year of the control period;
- (b) distribution loss reduction trajectory for each year of the control period;
- (c) collection efficiency for each year of the control period;
- (d) power procurement plan based on the sales forecast and distribution loss trajectory for each year of the business plan period; the power procurement plan should also include energy efficiency and demand side management measures;
- (e) capital investment plan: This shall take into account the sales/demand forecast, power procurement plan, distribution loss trajectory, targets for quality of supply, etc. The capital investment plan shall be consistent with the perspective plan drawn by the State Transmission Utility (STU), and shall include the corresponding capitalisation schedule and financing plan. The Commission shall approve capital investment plan of the licensees for the control period commensurate with load growth, distribution loss reduction and quality improvement proposed in the business plan;
- (f) 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;
- (g) the Operation and Maintenance (O&M) costs estimated for the base year and two years prior to the base year with complete details, together with the forecast for each year of the control period based on the proposed efficiency in operating costs, norms for O&M cost allowance including indexation and other appropriate mechanism;
- (h) details of depreciation based on the fair life of the asset and capitalisation schedules for each year of the control period;

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- (i) a set of targets proposed for other items such as collection efficiency, bad debts, working capital, quality of supply targets, etc. The targets shall be consistent with the capital investment plan proposed by the licensee;
- (j) proposals for other items such as external parameters used for indexation (inflation, etc);
- (k) other information: This shall include any other details considered appropriate by the distribution licensee for consideration during determination of tariff; and
- (l) the filings in addition to the control period, shall also contain the data for the cost and revenue parameters for the last two years.

39. Annual Filings during the Control Period – ARR and Tariff Filings

- (1) The distribution licensee shall file an application for approval of wheeling tariff and retail supply tariff for each year of the control period, not less than 120 days before the commencement of the first year or subsequent year of the control period or such other date as may be directed by the Commission.
- (2) The wheeling tariff shall be determined for each year of the control period at the beginning of the control period. The licensee shall propose capacity based wheeling tariff. The licensee shall also indicate the distribution losses voltage-wise to provide for adjustment of losses in the system.
- (3) The filings for wheeling tariff shall contain the following: -
 - (a) the distribution system or network usage forecast for each year of the control period, consistent with the business plan;
 - (b) proposals for computation of tariffs for wheeling of electricity for each of the years of the control period, including the losses and the procedure thereof;
 - (c) proposals for non-tariff income, with item-wise description and details;
 - (d) proposals in respect of income from other businesses like consultancy services, convergence, training facilities, etc;
 - (e) proposed wheeling tariff (voltage-wise);
 - (f) expected revenue from the proposed wheeling tariff, including additional surcharge etc.
- (4) The filings for retail supply tariff shall contain the following: -

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- (a) the licensee's proposal for retail sale of electricity for the consumers pertaining to retail supply business, which shall include tariffs for each consumer category, slab-wise and voltage-wise. The proposed tariff may also be based on energy charges, demand charges, minimum charges, etc alongwith the tariff rationalization measures;
 - (b) proposals for non-tariff income with item-wise description and details;
 - (c) proposals in respect of income from other businesses like consultancy services, convergence, training facilities, etc;
 - (d) expected revenue from the proposed retail supply tariff, and other matters considered appropriate by the distribution licensee, including incentive schemes to consumers, cross-subsidy surcharge, etc.
- (5) Each tariff proposal submitted by the distribution licensee shall –
- i. be supported with a cost-of-service model allocating the costs of the licensed business to each category of consumers based on voltage-wise costs and losses, and
 - ii. demonstrate that the tariffs are progressively reflecting the cost of supply
- (6) The licensee 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.
- (7) The licensee 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.

40. Review during the Control Period

- (1) The distribution licensee shall submit information as part of annual review on actual performance vis-à-vis performance targets approved by the Commission at the beginning of the control period.
- (2) The distribution licensee shall submit the revised ARR and corresponding tariff adjustments 120 days before the commencement of the financial year. The revised estimates shall be required because of trued-up costs on account of uncontrollable variations, profit sharing mechanism for exceeding the targets, and implementation of performance framework for quality of supply targets.

41. Review at the end of the Control Period

- (1) Towards the end of the control period, the Commission shall review if the implementation of the principles laid down in these regulations have 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 second control period.
- (2) The end of the first control period shall be the beginning of the second control period and the licensee shall follow the same procedure, unless required otherwise by the Commission. The Commission shall analyse the performance of the licensee with respect to the targets set out at the beginning of the first control period and based on the actual performance, expected efficiency improvements and other factors prevalent, determine the initial values for the next control period.

42. Disposal of Application

- (1) The Commission shall process the filings made by the distribution licensee in accordance with these regulations and the conduct of business regulations.
- (2) Based on the distribution licensees' 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 the approved ARR for the wheeling business and the ARR for the retail supply business alongwith the wheeling charges and retail supply tariff 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.

43. Periodic Reviews

- (1) To ensure smooth implementation of the multi year tariff (MYT) framework, the Commission may undertake periodic reviews of licensees' performance during the control period, to address any practical issues, concerns or unexpected outcomes that may arise.
- (2) The distribution licensee shall submit information as part of annual review on actual performance to assess the performance vis-à-vis the targets approved by the

Commission at the beginning of the control period. This shall include annual statements of its performance and accounts including the latest available audited/actual accounts and the tariff worked out in accordance with these regulations.

- (3) The licensee shall submit the revised aggregate revenue requirement and corresponding tariff adjustments 120 days before the commencement of the financial year.
- (4) The Commission may also lay down any modifications to the forecast of the distribution licensee for the remainder of the control period, with detailed reasons for the same.

PART –V

SUBSIDY

44. Subsidy from the State Government

- (1) The State Government may, at any time as it considers to be appropriate, propose any subsidy to any class or classes of consumers in the tariff determined by the Commission and upon receiving such proposal, the Commission shall determine the amount to be paid as subsidy and the terms and conditions of such payment including the manner of payment of subsidy amounts by the State Government to the person affected by the decision of the subsidy.
- (2) While determining the tariff, the Commission shall take into account any subsidies, which the State Government had agreed to give to any class or classes of consumers.
- (3) The tariff determined by the Commission shall be published duly taking into account such subsidy offered by the State Government as on the date of the decision of the Commission.
- (4) Notwithstanding anything contained in these regulations, no direction of the State Government shall be operative if the payment is not made by the State Government in accordance with the provisions of section 65 of the act. In the event of such directions being not operative the amount of subsidy to be made by the State Government shall be added in the tariff to be charged by the licensee to the concerned class or classes of consumers.
- (5) The consequential orders which the Commission may issue to give effect to the subsidy that the State Government may provide shall not be construed as amendment of tariff notified. The licensee shall, however, give appropriate adjustments in the bills to be raised on the consumers for the subsidy amount in the manner the Commission may direct.

- (6) The bills to the consumers shall distinctively display the per unit cost of supply of electricity to the class of consumer as determined by the Commission, the subsidy, if any, given by the State Government applicable to such class of consumers and per unit amount of such subsidy, the bill amount payable by the consumer and the cross subsidization of the class of the consumer in the tariff made applicable without taking into account of subsidy from the Sate Government.
- (7) The licensee shall be required to furnish documents to the satisfaction of the Commission that the subsidy amount received by the licensee from the State Government is duly accounted for and utilized for the purpose for which the subsidy is given.

PART-VI

MISCELLANEOUS

45. Publication.-

The distribution licensee 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 and its effect on the classes of the consumers.

46. Issue of Orders and Practice Directions

- (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.
- (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 licensee.

47. Powers to remove difficulties

In case of any difficulty in giving effect to any of the provisions of these regulations, the Commission may, either suo motu or on an application made to it, do or undertake to do things, or by general or special order direct the licensee to take suitable action, not being inconsistent with the Act, which appears to the Commission to be necessary or expedient for the purpose of removing the difficulty.

48. Power of Relaxation

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

49. Interpretation

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.

50. Saving of Inherent Powers of the Commission

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.

51. Enquiry and Investigation

All enquiries, investigations and adjudications under these regulations shall be done by the Commission through the proceedings in accordance with the provisions of the conduct of business regulations.

52. Power to Amend

The Commission, for reasons to be recorded in writing, may at any time amend, vary, alter or modify any of the provisions of these regulations.

53. Repeal and Savings.-

- (1) The Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2004 are hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action already taken under the repealed regulations, shall, in so far as it is not inconsistent with these regulations, be deemed to have been done or taken under the corresponding provisions of these regulations.

By Order of the Commission,

Sd/-
Secretary

Appendix 1: Depreciation Schedule (see regulation 23(2))

S. No	Asset Class	Useful Life (Years)	Rate (%)
1	Land owned under full title	Infinity	0
2	Land held under lease		
(A)	For investment in land	Period of lease or the period remaining unexpired on the assignment of the lease	0
(B)	For cost of clearing site	Period of lease remaining unexpired at the date of clearing the site	0
3	Assets Purchased New		
(A)	Plant and machinery in generating stations including plant foundations		
(i)	Hydro-electric	35	2.57
(ii)	Steam-electric NHRS & Waste Heat Recovery Boilers / Plants	25	3.60
(iii)	Diesel electric & gas plant	15	6.00
(B)	Cooling towers and circulating water systems	25	3.60
(C)	Hydraulic works forming part of hydro-electric system including:		
(i)	Dams, spillways weirs, canals, reinforced concrete flumes & siphons	50	1.80
(ii)	Reinforced concrete pipelines and surge tanks, steel pipelines, sluice gates, steel surge (tanks) hydraulic control valves and other hydraulic works	35	2.57
(D)	Buildings and civil engineering works of a permanent character, not mentioned above:		
(i)	Offices & showrooms	50	1.80
(ii)	Containing thermo-electric generating plant	25	3.60
(iii)	Containing hydro-electric generating plant	35	2.57
(iv)	Temporary erection such as wooden structures	5	18.00
(v)	Roads other than kutchha roads	50	1.80
(vi)	Others	50	1.80
(E)	Transformers, transformer (kiosk) sub-station equipment & other fixed apparatus (including plant foundations)		
(i)	Transformers (including foundations) having a rating of 100 kilo volt amperes and over	25	3.60
(ii)	Others	25	3.60

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S. No	Asset Class	Useful Life (Years)	Rate (%)
(F)	Switchgear, including cable connections	25	3.60
(G)	Lightning arrestors:		
(i)	Station type	25	3.60
(ii)	Pole type	15	6.00
(iii)	Synchronous condenser	35	2.57
(H)	Batteries	5	18.00
(I)	Underground cable including joint boxes and disconnected boxes	35	2.57
(J)	Cable duct system	50	1.80
(K)	Overhead lines including supports:		
(i)	Lines on fabricated steel operating at nominal voltages higher than 66 kV	35	2.57
(ii)	Lines on steel supports operating at nominal voltages higher than 13.2 kV but not exceeding 66 kV	25	3.60
(iii)	Lines on steel or reinforced concrete supports	25	3.60
(iv)	Lines on treated wood supports	25	3.60
(L)	Meters	15	6.00
(M)	Self propelled vehicles	5	18.00
(N)	Air conditioning plants:		
(i)	Static	15	6.00
(ii)	Portable	5	18.00
(O)			
(i)	Office furniture and fittings	15	6.00
(ii)	Office equipments	15	6.00
(iii)	Internal wirings including fittings and apparatus	15	6.00
(iv)	Street Light fittings	15	6.00
(P)	Apparatus let on hire:		
(i)	Other than motors	5	18.00
(ii)	Motors	15	6.00
(Q)	Communication equipment		
(i)	Radio and higher frequency carrier systems	15	6.00
(ii)	Telephone lines and telephones	15	6.00
(R)	Assets purchased in second hand and assets not otherwise provided for in the schedule	such reasonable period as the Commission determines in each case having regard to the nature, age and conditions of assets at the time of its acquisition by the owner	