

**HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION, SHIMLA
NOTIFICATION**

Shimla, the 1st March, 2021

No. HPERC/391.- WHEREAS the Himachal Pradesh Electricity Regulatory Commission (hereinafter referred as “the Commission”) notified the Himachal Pradesh Electricity Regulatory Commission (Cross Subsidy Surcharge, Additional Surcharge and Phasing of Cross Subsidy) Regulations, 2006 on 21st August, 2006 and published the same in the Rajpatra on 7th September, 2006 (hereinafter referred “the Principal Regulations”);

AND WHEREAS the Sub-regulation (2) of Regulation 6 of the Principal Regulations provides that additional surcharge will be payable by any consumer including any consumer who puts up a captive plant for his use;

AND WHEREAS the Sub-Section (2) of Section 9 of the Electricity Act, 2003 provides that every person, who has constructed a captive generating plant and maintains and operates such plant, shall have the right to open access for the purposes of carrying electricity from his captive generating plant to the destination of his use;

AND WHEREAS the 4th proviso to Sub-Section (2) of Section 42 of the Electricity Act, 2003 provides that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use;

AND WHEREAS relying upon judgment delivered by the Hon’ble APTEL in Appeal No. 311 of 2018 and 315 of 2018 relating to applicability of additional surcharge as captive users/consumers and also referring the Electricity Rules, 2005, issued by the Central Government under Section 176 of the Electricity Act, 2003 , one stakeholder i.e. M/s Sandhya Hydro Projects Balargha Pvt. Ltd. sought the clarification from the Commission relating to applicability of additional surcharge on the captive or group captive plants in the State of Himachal Pradesh;

AND WHEREAS taking the above into account, the Commission finds it necessary to amend Regulations 1 and 6 of the Principal Regulations, 2006.

NOW, THEREFORE, in exercise of the powers conferred by clause(q) of Sub-section (2) of Section 181, and Sub-Section (4) of Section 42, of the Electricity Act, 2003 (36 of 2003), read with the General Clauses Act, 1897 (10 of 1897), and all other powers enabling it in this behalf, the Commission proposes to

amend the Himachal Pradesh Electricity Regulatory Commission (Cross Subsidy Surcharge, Additional Surcharge and Phasing of Cross Subsidy) Regulations, 2006, and as required by sub-section (3) of section 181 of the said Act and Rule 3 of the Electricity (Procedure for Previous Publication) Rules, 2005 and the draft amendment regulations are hereby published for the information of all the persons likely to be affected thereby; and notice is hereby given that the said draft amendment regulations will be taken into consideration after the expiry of thirty (30) days from the date of notification together with any objections or suggestions which may within the aforesaid period be received in respect thereto.

The text of the aforesaid draft regulations is also available on the website of the Commission i.e. <http://www.hperc.org>.

The objections or suggestions in this behalf should be addressed to the Secretary, Himachal Pradesh Electricity Regulatory Commission, Vidyut Bhawan, Block No. 37, SDA Complex, Kasumpti- 171009(HP).

DRAFT REGULATIONS

- 1. Short title, extent and commencement.** - (1) These regulations may be called the Himachal Pradesh Electricity Regulatory Commission (Cross Subsidy Surcharge, Additional Surcharge and Phasing of Cross Subsidy) (Second Amendment) Regulations, 2020.
(2) These regulations shall come into force from the date of their publication in the Rajpatra, Himachal Pradesh.
- 2. Amendment of Regulation 1.**- In the Sub-regulation (2) of Regulation 1 of the Himachal Pradesh Electricity Regulatory Commission (Cross Subsidy Surcharge, Additional Surcharge and Phasing of Cross Subsidy) Regulations, 2006 (hereinafter referred as “the said regulations”), the words “including captive power plants” shall be omitted.
- 3. Amendment of Regulation 6.**- The Sub-regulation (2) of Regulation 6 of the said regulations shall be omitted.

By Order of the Commission

Sd/-
(Neelam Dulta, HPAS)
Secretary