

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION

NOTIFICATION

Shimla

August 21, 2006

No. HPERC/ 391

The Himachal Pradesh Electricity Regulatory Commission in exercise of the powers vested in it under clauses (i), (j), (k), (l), (m), (n), (p) and (q) of sub-section (2) of section 181, read with clause (d) of sub-section (2) of section 39, sub clause (ii) of clause (c) of section 40, sub-sections (2) and (4) of section 42, and clause (g) of section 61 of the Electricity Act 2003 (36 of 2003) and all other powers enabling it in that behalf, and after previous publication, hereby makes the following regulations, namely:-

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) Regulations, 2006.

(2) These regulations shall be applicable to any person engaged in the business of transmission/ distribution of electricity, and open access customers including captive power plants in the State of Himachal Pradesh.

(3) These regulations shall come into force **from** the date of their publication in the Rajpatra, Himachal Pradesh.

2. Definitions.- (1) In these regulations, unless the context otherwise requires , -

(a) “Act” means the Electricity Act, 2003 (36 of 2003);

(b) “Commission” means the Himachal Pradesh Electricity Regulatory Commission;

(c) “licence” means a licence granted under section 14 of the Act and shall include the deemed licensee for the purpose; and

(d) “licensee” means a person who is granted a license under section 14 of the Act or is a deemed licensee under the Act.

(2) Words and expressions used and not defined in these regulations, but defined in the Act, shall have the meanings as are assigned to them in the Act.

3. Cross subsidy surcharge.- (1) The cross subsidy surcharge as provided under sub-section (2) of section 42 of the Act shall be payable by the consumers availing Open Access:

Provided that no cross subsidy surcharge shall be payable by a person who has established a captive generating plant for carrying the electricity to the destination of his own use:

Provided further that no cross subsidy surcharge on the electricity being—

- (a) sold by the generating companies, with the consent of the competent Government under clause (c) of sub-section (1) of section 43 A of the Electricity (Supply) Act, 1948 (54 of 1948); or
- (b) supplied by the distribution licensee, on the authorization by the State Government under section 27 of the Indian Electricity Act, 1910 (9 of 1910);

shall be payable during the period such consent or authorization remains in force.

(2) The cross subsidy surcharge shall be determined by the Commission on a methodology and surcharge formula specified in the National Tariff Policy, which is given as under:-

$$S = T - [C (1+L/100) +D]$$

Explanation .- For the purpose of this regulation. -

- (a) “S” is the Surcharge
- (b) “T” means Tariff payable by the relevant category of consumers
- (c) “C” is the Weighted average cost of power purchase of top 5% at the margin excluding liquid fuel based generation and renewable power
- (d) “D” is the Wheeling Charge
- (e) “L” is the system losses for the applicable voltage level, expressed as a percentage

4. Reduction and Elimination of cross-subsidy surcharge. - (1) The phasing of the cross subsidy surcharge shall be within a period of five years, and the cross subsidy surcharge at the end of 5 years shall be at a normative level of 20% of its opening level in the base year.

(2) The base year for starting the elimination of cross subsidy surcharge shall be the financial year 2006 and the phasing will be in terms of percentage of the cross subsidy surcharge to be made applicable to the Open Access Customer – starting from 100% in the first year to 20% in the sixth year as detailed in the Table hereunder:-

Year	Phasing Plan
FY06	100%
FY07	84%
FY08	68%
FY09	52%
FY10	36%
FY11	20%

5. Manner and utilization of payment of Cross subsidy surcharge.- (1) The Cross subsidy surcharge which is a compensatory charge payable to the distribution licensee of the area where the electricity is delivered to the consumer, shall be utilised to meet the requirements of current level of cross subsidy within the area of supply of the distribution licensee.

(2) The Cross subsidy surcharge shall be collected on a monthly basis either by the distribution licensee or the transmission licensee, or the STU, depending on whose facilities are used by the consumer for availing electricity supplies. In all cases, the amount collected from a consumer shall be paid to the distribution licensee in whose area the consumer is located and in case of two licensees supplying in the same area, the licensee from whom the consumer was availing supply shall be paid the amount collected.

6. Additional surcharge .- (1) An open access consumer shall also pay to the distribution licensee an additional surcharge to meet the fixed cost of such distribution licensee arising out of his obligation to supply as provided under sub-section (4) of section 42 of the Act.

(2) Additional surcharge will be payable by any consumer including any consumer who puts up a captive plant for his own use.

(3) The additional surcharge for obligation to supply as per sub-section 4 of section 42 of the Act shall become applicable only if it is conclusively demonstrated that the obligation of a licensee, in terms of existing power purchase commitments, has been and continues to be stranded, or there is an unavoidable obligation and incidence to bear fixed costs consequent to such a contract. The fixed costs related to network assets would be recovered through wheeling charges.

(4) Each distribution licensee shall submit to the Commission, details of fixed costs, which the licensee is incurring towards his obligation to supply.

(5) In determining the additional surcharge, the Commission shall scrutinize the details of fixed costs submitted by the distribution licensee and invite and consider objections, if any, from the public and affected parties.

(6) The additional surcharge shall be determined on annual basis and it can be collected either as one time payment or on monthly basis.

7. Transmission & distribution loss sharing by Open access customers. -

(1) The Open access consumer shall, as determined by the Commission, bear the transmission and distribution losses existing in the system and pay for these charges in kind for only technical losses at various voltage levels -

(a) where the point of injection and point of drawl by the open access consumer, are at different voltage levels the charges payable in kind will be 50% of the technical loss prevalent at the injection point and 50% of the technical loss prevalent at drawl point.

(b) where the point of injection and point of drawl by the open access consumer, are at the same voltage levels the charges payable in kind will be the prevalent technical losses at that voltage.

8. General conditions .- (1) Nothing in these regulations shall be deemed to limit or otherwise affect the powers of the Commission to **issue** such orders as may be necessary to meet the ends of justice.

(2) Nothing in these regulations shall bar 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 a matter or a class of matters, deems it just or expedient for deciding such matter or class of matters.

(3) Nothing in these regulations shall bar 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 force majeure events, deems it just or expedient for deciding such matter or class of matters.

(4) Nothing in these regulations shall, expressly or impliedly, restrict the Commission from dealing with any matter or exercising any power under the Act for which no regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner, as it considers just and appropriate.

9. Power to Amend. – The Commission may, at any time add, vary alter, modify or amend any provisions of these regulations.

- 10. Power to remove difficulties.** – In case any difficulty arises 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.
- 11. Issue of orders and directions.** – Subject to the provisions of the Act and these regulations, the Commission may, from time to time, issue orders and practice directions with regard to the implementation of these regulations and procedure to be followed for such implementation and matter incidental or ancillary thereto.
- 12. Interpretation .**– All issues arising in relating to interpretation of these regulations shall be determined by the Commission and the decision of the Commission on such issues shall be final.

By Order

Sd/-
Secretary
Himachal Pradesh State Electricity Commission