

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION, SHIMLA

Notification

Shimla, the 28th January, 2019

No. HPERC/428.- The Himachal Pradesh Regulatory Commission, in exercise of the powers conferred under sub-section (1) of Section 61, sub-section(1) of Section 62, clauses (a), (b) and (e) of sub-section (1) of Section 86 and clause (zd) of sub-section (2) of Section 181, of the Electricity Act, 2003 (36 of 2003), and all other powers enabling it in this behalf, after previous publication, hereby makes the following amendment regulations, namely:-

REGULATIONS

- 1. Short title and commencement.** - (1) These regulations may be called the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) (Second Amendment) Regulations, 2019.

(2) These regulations shall come into force from the date of their publication in the Rajpatra, Himachal Pradesh.
- 2. Amendment of regulation 1.-** In sub-regulation (2) of regulation 1 of the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017 (hereinafter referred as “the said regulations”) for the words, signs and figures “unless reviewed earlier or extended by the Commission, shall remain in force till 31st March, 2019 or the date of commencement of renewable energy regulations framed by the Commission, whichever is earlier.”, the words and signs “shall remain in force till the same are reviewed, amended and repealed by the Commission.”, shall be substituted.
- 3. Amendment of regulation 2.-** In sub-regulation (1) of regulation 2 of the said regulations-
 - (i) for clause (f) the following clause shall be substituted, namely:-

“(f) ‘**Control period or review period**’ means the respective periods during which the norms for determination of tariff as specified or fixed under these Regulations from time to time shall remain valid;”;
 - (ii) in clause (g), for the signs and words ‘**Date of commencement of operation of the project**’, the signs and words ‘**Date of commencement of operation of the project/Commercial operation date of the project/COD of the project**’ shall be substituted;

(iii) after clause (h) the following clause (hh) shall be inserted, namely:-

“(hh) ‘Government Designated Agency/Designated Agency’ means the agency designated by the State Government for certifying the zero date as well as for issuing certificates under regulation 13 of these regulations and for discharging such other functions relating to implementation of SHPs as may be assigned to it by the State Government:

Provided that the State Government may designate different agencies for different categories of SHPs;”;

(iv) after clause (ad) the following clause (ae) shall be inserted, namely;-

“(ae) ‘Zero date’ means the date as may be defined by the State Government in the State Hydro Policy or as may be notified separately by the State Government pursuant to the same.”

4. Amendment of regulation 3.- In sub-regulation (2) of regulation 3 of the said regulations-

- (a) in sub-clause (i), for the words “where long term agreements for disposal/use of energy”, the words “where agreements for disposal/use of energy, whether on long term basis or under REC mechanism or otherwise,” shall be substituted;
- (b) in clause (ii), for the word “Projects”, the words “Small Hydro Projects” shall be substituted;
- (c) in clause (iii), for the sign “.”, the sign “;” shall be substituted; and
- (d) after clause (iii), the following clause (iv) shall be added, namely:-
“(iv) where the renewable energy generator, implementing the small hydro project, has commenced the operation of its project, prior to the date of commencement of these Regulations.”.

5. Amendment of regulation 8.- For the proviso to the sub-regulation (2) of regulation 8 of the said regulations, the following shall be substituted, namely.-

“Provided that if the parties have arrived at a mutual understanding on the various issues of the power purchase agreement, as aforesaid, and the renewable energy generator requires in principle approval for purchase of power by the distribution licensee to achieve the Zero Date or financial closure, the distribution licensee may, in first instance, grant such approval within the framework of State Hydro Policy of the State Government, subject to the following conditions, namely:-

- (a) such an approval shall also incorporate the outer date upto which it shall remain valid, which shall be fixed keeping in view the status and progress of the project towards achieving financial closure, but shall in no case, extend beyond the time line for achieving zero date/financial closure as stipulated in the first implementation agreement for that project;

- (b) the in principle approval so granted shall automatically lapse if the developer fails to file joint petition for approval of the PPA within such outer date, unless the Commission grants extension of the validity period in accordance with the succeeding clause(c); and
- (c) in case the renewable energy developer seeks any extension of the validity period of the in principle approval accorded to him as per the above provisions, he may, before the expiry of the validity period, file a petition before the Commission for such extension upto an outer date of his achieving zero date or financial closure:

Provided further that the distribution licensee shall expeditiously fix such outer dates in all such cases where any such in principle approvals for purchase of power from SHPs have already been issued under the State Hydro Policy on or before 11.02.2019 and shall also modify such approvals suitably.”

6. Amendment of regulation 9.- For sub-regulation (1) of regulation 9 of the said regulations, the following shall be substituted, namely:-

“(1) The Commission shall fix the durations of the control period(s) for the respective Renewable Energy Technologies under these regulations from time to time:

Provided that the first control period for the small hydro projects under these Regulations shall start from the 1st October, 2017 and shall end on the 30th September, 2019:

Provided further that the technology specific parameters for the renewable energy sources, other than small hydro projects, may be fixed for such durations and reviewed at such intervals, as the Commission may find appropriate in accordance with Regulation 18.”

7. Omission of regulation 11.- The existing regulation 11 of the said regulations shall be omitted.

8. Amendment of regulation 13.- In sub-regulation (1) of regulation 13 of the said regulations the existing clause (i) shall be omitted; and in clause (ii) the words, brackets and figures “(ii) for the small hydro projects not covered under preceding clause (i):” shall be omitted; and for clause (a) the following shall be substituted, namely:-

(a) to be governed by the generic levelled tariff to be determined by the Commission, in accordance with regulation 14, in relation to the control period in which the RE Generator and Distribution Licensee file the joint petition for approval of PPA:

Provided that if a SHP achieves the date of commencement of operation of the project within the stipulated time period, as approved in the Technical Concurrence(TC) or Techno Economic Clearance (TEC) or in the first implementation agreement signed by RE generator with the State Government whichever is lesser or least, after achieving the zero date except force majeure conditions or reasons not attributable to the developer and a certificate to this effect is issued by the Government designated agency, the Commission, on receipt of such a certificate alongwith other details as it may require, may, on a petition from the concerned SHP developer, allow the tariff applicable for the control period in which the date of commencement of operation of the project falls:

Provided further that the Government designated agency shall, for the purposes of certifying the zero date and issuing the certificate as per the preceding proviso to this regulation, follow uniform and transparent procedures, including extra checks in cases where tariff is likely to be impacted, to be framed by it with the approval of the State Government and shall also duly take into account the various provisions of State Hydro Policy as applicable from time to time.”

9. Substitution of regulation 14.- For the existing regulation 14 of the said regulations the following regulation 14 shall be substituted, namely:-

“14. Generic levellised tariff.- (1)The Commission, from time to time and at such intervals as it may consider appropriate in line with the duration of respective control periods as per Regulation 9, shall-

- (i) specify the financial norms to be used for determination of tariffs for various RE technologies;
- (ii) specify the technological specific parameters for the small hydro projects; and
- (iii) fix the technological specific parameters for the various RE technologies, other than SHPs, in accordance with Regulation 18:

Provided that the financial parameters for all the renewable energy technologies and the technological specific parameters for the SHPs already specified under Chapter-IV and Chapter-V respectively, shall remain in force upto 30th September, 2019:

Provided further that the technological specific parameters already fixed by the Commission for Solar PV technology in respect of the financial years 2017-18 and 2018-19 shall also continue to be in force till the expiry of the respective periods for which the same were fixed.

(2) The Commission shall, within 90 days from the date on which the norms in relation to the respective control periods are notified/fixed under these regulations, determine separate generic levellised tariffs and associated terms and conditions, for each

category of small hydro projects, as mentioned in regulation 33, by taking into account the norms specified under these Regulations for the respective control periods:

Provided that in case of renewable energy technologies, other than small hydro projects, the Commission may fix the generic levellised tariffs in accordance with the Regulation 18:

Provided further that the generic levellised tariffs already determined for the SHPs, in relation to the first control period under these Regulations, shall remain in force upto 30th September, 2019:

Provided further that the generic levellised tariffs determined, for the solar PV technology in respect of the financial years 2017-18 and 2018-19 shall also remain in force until the expiry of the respective periods for which the same had been fixed.

(3) The tariff being normative, any shortfall or gain due to performance or any other reasons is to be borne/retained, as the case may be, by the renewable energy generator and no true up of any parameter, including additional capitalisation for whatsoever reasons, shall be taken up during the validity of the tariff except for the specific provisions in these Regulations.

(4) Where the parties have, as per the power purchase agreements executed by them, opted for generic levellised tariff or the same is otherwise applicable under regulation 16, the generic levellised tariff determined in relation to the control period under sub-regulation (2) shall be applicable for all the projects of that category for which the power purchase agreements are approved by the Commission under the provisions applicable for that control period.

10. Amendment of regulation 15.- In sub-regulation (1) of regulation 15 of the said regulations, for the signs, brackets, figures and the words “, for a project, other than the small hydro projects covered in sub-regulation (1) of regulation 11” the words “for a project” shall be substituted.

11. Amendment of regulation 16.- In clause (b) of sub-regulation (1) of regulation 16 of the said regulations, the sign, brackets, figure and the words “, other than the small hydro projects covered in sub-regulation (1) of regulation 11” and in clause (c) signs, brackets, figures and the words “covered under sub-regulation (1) of Regulation 11, or” shall be omitted.

12. Amendment of regulation 17.- In regulation 17 of the said regulations-

- (a) in sub-regulation (1), for the brackets, word and figures “(2) to (7)” the brackets, word and figures “(2) to (8)” shall be substituted;
- (b) for the sub-regulation (2), sub-regulation (3) and sub-regulation (4), the following sub-regulation (2), sub-regulation (3), sub-regulation (4) and sub-regulation (5) shall be substituted, namely:-

“(2) Where, prior to commencement of Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017,-

- (a) any part of the original capacity as well as that of the additional capacity has been synchronized with the grid at least once; or
 - (b) joint petition(s) for the approval, whether under the REC mechanism or on long term basis, of PPA(s) in relation to the original capacity as well as of the supplementary PPA in relation to additional/ enhanced capacity, has/have been filed before the Commission; or
 - (c) PPA(s), or the supplementary PPA, whether under the REC mechanism or on long term basis, for purchase of net saleable energy from the original capacity and the additional capacity or the enhanced capacity has/have been signed by the concerned developer with Distribution Licensee;
the tariff(s) for the original capacity and the additional capacity, or the composite rate for the enhanced capacity as the case may be, and the associated conditions for each of such tariffs, shall be regulated as per the provisions of Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2012.
- 3) Where, prior to commencement of Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017,-
- (a) in relation to the original capacity of the project or a part thereof,-
 - (i) either synchronization of the same with the Grid has taken place at least once, or
 - (ii) a joint petition for the approval of PPA for purchase/sale of net saleable energy has been filed before the Commission, or
 - (iii) the PPA for the sale/purchase of net saleable energy from the same, whether under REC mechanism or on long term basis, has been signed by the developer of the concerned project with the Distribution Licensee; and
 - (b) in relation to the additional capacity of the project or a part thereof,-
 - (i) neither any synchronization of the same, with the Grid has taken place even once, nor
 - (ii) any joint petition for approval

of any PPA (or supplementary PPA), in relation for such additional/enhanced capacity, whether under REC mechanism or long term basis, has been filed before the Commission, nor (iii) any PPA, or supplementary PPA, for such additional/enhanced capacity has been signed by the developer of the concerned project with the distribution licensee for such additional/enhanced capacity;

the tariff for the net saleable energy in relation to the original capacity shall be determined as per the provisions of Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2012 and the same for the additional capacity shall be determined as per the provisions of Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017 as applicable on the date on which the joint petition for approval of PPA in relation to the additional capacity/enhanced capacity is filed before the Commission or on the date on which such additional capacity, or a part thereof, is synchronized with the grid for the first time, whichever is earlier.

- (4) Where, prior to commencement of Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017,-
- (a) no part of the original or enhanced capacity has been synchronized with the grid even once; and
 - (b) no joint petition for the approval of PPA(s), whether under REC mechanism or long term basis, in relation to any part of the enhanced capacity of the project, i.e. the original capacity and/or for the additional capacity and/or for the enhanced capacity, has been filed before the Commission; and
 - (c) no PPA, whether under the REC mechanism or on long term basis, for the original capacity or for the additional capacity or for the enhanced capacity or any part thereof has/have been signed by the developer of the concerned project developer with the Distribution Licensee; and
 - (d) the joint petition(s) for approval of PPA(s) or for the supplementary PPA, in relation to of the original capacity as well as for the additional capacity or for the enhanced capacity is filed before the Commission for the first time only after the commencement of Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017;

the tariff for the net saleable energy for the relevant capacity/ capacities for which PPA, or supplementary PPA, is sought to be approved shall be fixed in accordance with the norms and Generic Levellised rate and other conditions as per the provisions of Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017 as applicable on the date(s) of filing such petition(s) or on the corresponding date(s) of synchronization of any such part capacity(ies) with the Grid for the first time, whichever is/are earlier:

Provided that if separate joint petitions are filed on or after the commencement of Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017, for approval of PPAs, or the supplementary PPA, before the Commission in relation to the original capacity and the additional capacity, the provisions of Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017, as applicable on the respective dates of filing such petitions, or the respective dates of synchronization of the corresponding capacities, whichever are earlier, shall apply.

- (5) Where different sets of Commission's regulations as per sub- regulation 3 of this regulation, or different sets of provisions/ norms of Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017 as per the provisions under Sub-Regulations (4) of this regulation, are applicable for the net saleable energy corresponding to the original capacity and for the additional capacity, a composite rate shall be worked out, on normative basis, for the net saleable energy corresponding to the enhanced capacity, as follows, namely;-
- (i) the generic levellised tariff applicable for the net saleable energy in relation to the original capacity as per the sub regulation (3) or sub regulation (4) as applicable, shall be considered for the net saleable energy in relation to the annual energy generation corresponding to 75% dependable year as per the Detailed Project Report for the original capacity, irrespective of the date of signing of the power purchase agreement for the original capacity;
 - (ii) for the net saleable energy in relation to the annual incremental energy generation due to enhancement of capacity i.e. the annual additional energy generation which is expected to take place in the 75% dependable year as per the detailed project report for the enhanced capacity, the generic levellised tariff applicable for the net saleable energy in relation to the additional capacity as per the provisions of

sub-regulation (3) or sub-regulation (4), of this regulation, as applicable, shall be considered:

Provided that the tariffs considered for the respective energy quantum as per clauses (i) and (ii) of this sub-regulation shall be governed by the respective associated terms and conditions as per the respective power purchase agreements and the applicable provisions for respective capacities:

Provided further that in case the applicable provisions for the respective capacities provide for any adjustment of the corresponding tariff, such adjustment(s) shall also be made only for the respective energy quantum as per clauses (i) and (ii) of this sub-regulation under this regulation and the adjusted composite rate shall be calculated accordingly:

Provided further that while computing such composite rate, the free power(in percentage) shall, save as provided in sub-regulation (7) , be accounted for as follows, namely:-

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| A | if no separate rates of free power (in percentage) are provided in supplementary IA for the original capacity and for the additional capacity and only composite rate is provided for the enhanced capacity; | composite rate of free power (in percentage), not exceeding the limits specified in regulation 36, for the entire capacity i.e. in relation to the original capacity as well as additional capacity; |
| B | if separate rates for original capacity and for the additional capacity are provided in the supplementary Implementation Agreement; | Separate adjustments in accordance with the limits specified in regulation 36 shall be made for the net saleable energy in relation to the two capacities i.e. original capacity and additional capacity at corresponding rates of free power (in percentage). In such cases the limits as per regulation 36 shall be applicable separately for the two capacities: |

Provided further that the composite rate for the entire net saleable energy shall, in no case, be higher than the generic levelled rate applicable under Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017 as on the date of approval of the PPA for the additional/enhanced capacity or the date on which any part of additional capacity is synchronized, whichever is earlier, for the small hydro project category under which the enhanced capacity falls:

Provided further that in cases where the incremental capacity is commissioned in phases, the tariff(s) during such interim stages shall be

computed based on such incremental energy generation corresponding to the additional capacity actually installed from time to time.”

- (c) The sub-regulation (5) shall be re-numbered as sub-regulations (6) and in the new sub-regulations (6)-
 - (i) in clause (i), for the brackets, signs, figures and words “(2),(3) or (4)”, the brackets, signs, figures and words “(2),(3), (4) or (5)” shall be substituted; and
 - (ii) in sub-clause (a) of clause (ii), for the bracket and figure “(6)” the bracket and figure “(7)” shall be substituted;
- (d) The sub-regulation(6)shall be re-numbered as sub-regulations (7) and in the new sub-regulations (7), for the brackets, figures and words “sub-regulations (3), (4) and clause (i) of sub-regulation (5)”, the brackets, figures and words “sub-regulations (3), (4), (5) and clause (i) of sub-regulation (6)” shall be substituted;
- (e) The sub-regulation(7)shall be re-numbered as sub-regulations (8)and in the new sub-regulations (8), for the brackets and figures “(3) to (6)”, brackets and figures “(3) to (7)”shall be substituted; and
- (f) The sub-regulation(8)shall be re-numbered as sub-regulations (9).

14. Amendment of Chapter-IV.-

For the existing heading of CHAPTER-IV of the said regulations the following heading shall be substituted, namely:-

“CHAPTER-IV
FINANCIAL PRINCIPLES
(APPLICABLE FROM 01.10.2017 TO 30.09.2019)”

15. Amendment of Chapter-V.-

For the existing heading of CHAPTER-V of the said regulations the following heading shall be substituted, namely:-

“CHAPTER-V
TECHNOLOGY SPECIFIC PARAMETERS FOR SMALL HYDRO PROJECTS
(APPLICABLE FROM 01.10.2017 TO 30.09.2019)”.

By order of the Commission

Sd/-
Secretary

