

Suo-Moto Petition No.: 25 /2016

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION, SHIMLA

In the matter of:

Mechanism for the Adjustment of Advance Cost Share towards Infrastructural Development Charges (IDC) paid under paragraphs 3.2.2 and 3.2.5 of the Himachal Pradesh Electricity Supply Code, 2009.

The Himachal Pradesh Electricity Regulatory Commission (hereinafter referred as "the Commission") made the Himachal Pradesh Electricity Supply Code, 2009 published in the Rajpatra, Himachal Pradesh, on dated 29th May, 2009 (hereinafter referred "the Supply Code, 2009");

2. Para-3.2.2 of the Supply Code, 2009 provides that the consumer shall apply for the grant of Power Availability Certificate, on payment of Advance Cost Share towards Infrastructural Development Charges (IDC), calculated @ Rs. 1000 per kVA of the Contract Demand applied for.
3. The Himachal Pradesh State Electricity Board Limited (HPSEBL), vide their letter dated 08.04.2011 sought clarification regarding mechanism for the adjustment of Advance Cost Share towards Infrastructural Development Charges (IDC), paid by consumer(s) as per para-3.2.2, read with para-3.2.5 of the Supply Code, 2009, stating that there is no specific provision for adjustment/recovery of the Infrastructural Development Charges (IDC) under HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005, then in force.
4. The Commission vide its clarificatory Order dated 02.05.2011, stated that the Advance Cost Share taken at the time of issuance of the Power Availability Certificate (PAC) shall be adjusted, at the time of connecting the supply to the consumer(s), on the basis of final demand notice issued as per the provisions of HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005.
5. Subsequent to the issuance of the said clarificatory Order, the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 were replaced by the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2012.
6. The Commission's clarificatory order dated 02.05.2011 has been set-aside by the Hon'ble APTEL, vide its judgment dated 18th December, 2015, rendered in Appeal Nos. 188 of 2014, 189 of 2014, 190 of 2014, 191 of 2014, 192 of 2014, 194 of 2014 and 195 of 2014 with the direction to the Commission to issue notices to the Appellants and other industrial consumers of the State of Himachal Pradesh and also to issue public notice, seeking their objections or comments and, thereafter, giving reasonable opportunity of hearing to such kind of consumers, including the Appellants to pass the Order afresh.
7. In compliance to the Order dated 18.10.2015, passed by the Hon'ble APTEL, the Commission vide letter dated 05.04.2016, asked the HPSEBL to submit

a formal self contained reference, clearly indicating the background and the point(s) on which clarification is sought alongwith their views thereon.

8. As sequel to this Commission letter dated 05.04.2016, the HPSEBL now submits as under:-

“HPSEBL had sought clarification from Commission for mechanism for adjustment of the amount of Advance Cost Share towards Infrastructural Development Charges (IDC) @ Rs. 1000/- per kW/kVA of load applied at the time of issuance of PAC so that the application of Supply Code is done on uniform basis by all the field units of HPSEBL.

The HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 contain provisions for recovery for following components, for release of connections:-

- (a) Cost of Service Line and Metering equipment.*
- (b) Cost of Feeding Sub-station and Line on per kVA basis.*

HPSEBL is of the view that the Advance Cost Share for Infrastructural Development Charges (IDC) @ Rs. 1000/- per kW/kVA will obviously be adjusted against the cost of Feeding Sub-station & Line, being a part of infrastructure development activities. In absence of the clarification whether to adjust against Item No. (b), this amount would have been additional third component of recovery of expenditure cost for which the clarification was sought. There is no such provision in the HPERC Regulations-419/2015, hence this needs to be clarified. The recovery of expenditure in respect of the connections released after notification of the regulations could not be done due to various petitions filed by the consumers in HPERC, High Court.

HPSEBL has issued directions to all the field units not to pursue cases related to recovery of expenditure for supply of electricity under Regulations 419/2005.

In view of Order, it is requested to issue clarification as per Order of APTEL Tribunal so that recovery of expenditure for supply of electricity in respect of old Regulations 419/2005 (i.e. connections released w.e.f 04.04.2005 to 22.05.2012) is done accordingly”.

9. In the light of the position set out in the preceding paragraphs and submissions made by the HPSEBL, the Commission by invoking the provisions, contained in paras 9.5 and 9.6 of the Supply Code, 2009, proposes that the amount received, per para 3.2.2 of the Supply Code, 2009, from the prospective consumer(s), for grant of Power Availability Certificate(s) @ of Rs. 1000/ per kVA in respect of the Contract Demand applied by them, may be adjusted as under:-

Category-I

Such amount in respect of the Contract Demand for which the application for supply of electricity is not, or is not to be, submitted within the validity period may be adjusted or refunded, as the case may be, in accordance with paras 3.2.6 and 3.2.7 of the Supply Code, 2009.

Category-II

Such amount in respect of the Contract Demand for which the application(s) for supply of electricity is submitted within the validity period may be adjusted as under:-

- A. in case of the Application(s) for supply of electricity, covered under the Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure) Regulations, 2005,-
- (i) such amount, in respect of the Contract Demand for which Application is made, shall be adjusted against the various lump sum amounts, except for the cost of service line, recoverable from the Applicant for supply of electricity under the aforesaid Regulations of 2005;
 - (ii) if there remains a surplus amount after the adjustment under item (i) above, such surplus amount shall be adjusted towards the cost of service line, recoverable under the said Regulations of 2005;
 - (iii) if there is still some surplus amount left even after adjustments under items (i) and (ii) above, the balance amount shall be refundable to the Applicant by way of adjustment in monthly bills after release of connection;
- B. in case of application falling under HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2012, such amount in respect of the Contract Demand for which application for supply of electricity is made, shall be adjusted against the amount, recoverable under Regulation 5 of the said Regulations of 2012 and the balance, if any, shall be adjusted towards the cost of service line. The balance surplus amount, if any, shall be refundable to the consumer in accordance with item (iii) of sub-para-A above;
- C. in case there are more than one application for supply of electricity under this category-II, the adjustment shall be made separately in respect of the Contract Demand, applied for under each such application under sub-para (A) or (B), as the case may be, by apportioning the amount deposited under para 3.2.2 of the Supply Code, 2009, on pro-rata basis.
10. Comments and suggestions, in relation to the mechanism so proposed in the preceding para 9, are invited in general from the public and in particular from the Appellants in Appeal Nos. 188 of 2014, 189 of 2014, 190 of 2014, 191 of 2014, 192 of 2014, 194 of 2014 and 195 of 2014 before Hon'ble APTEL i.e. M/s Hi-Tech Industries, M/s Asian Concretes and Cement (P) Ltd., M/s Parvati Steel Alloy, M/s Akorn India Pvt. Ltd., M/s S.P.S Steel Rolling Mills Ltd., M/s Suraj Fabrics Industries Ltd. and M/s Him Chem Ltd. and also from the Industrial Consumers in the State of the Himachal Pradesh, to reach the Commission office by **24.06.2016** and the comments/suggestions so received shall be considered before taking any decision on the submissions made by the Distribution Licensee i.e. HPSEBL.

Shimla:
Dated: 24th May,2016

Sd/-
Secretary
HPERC