

**HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION
SHIMLA**

NOTIFICATION

Shimla, the 18th June, 2007

No.HPERC/428.- In exercise of the powers conferred under sub-section (1) of section 62 clauses (a), (b) and (e) of sub-section (1) of section 86 and sub-section (1) of section 181 of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in that behalf, and after previous publication, the Himachal Pradesh Electricity Regulatory Commission makes the following regulations:-

REGULATIONS:

- 1. Short title, extent and commencement.** - (1) These regulations may be called the Himachal Pradesh Electricity Regulatory Commission (Power Procurement from Renewable Sources and Co-generation by Distribution Licensee) Regulations, 2007.
 - (2) These regulations shall extend to the whole of 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.-**In these regulations, unless the context otherwise requires,-
 - (a) "Act" means the Electricity Act, 2003 (Act 36 of 2003);
 - (b) "Commission" means the Himachal Pradesh Electricity Regulatory Commission;
 - (c) "Empowered Committee" means a committee constituted under regulation 4;
 - (d) "generator" means the person(s) generating or intending to generate energy from renewable sources and co-generation;
 - (e) "grid code" means the grid code specified by the Central Commission under clause(h) of sub-section (1) of section 79 of the Act and includes the State Code specified by the State Commission under clause (h) of sub-section (1) of section 86 of the Act;
 - (f) "HIMURJA" means the Himachal Pradesh Energy Development Agency set up by the State Government for the development of the small Hydro Projects;
 - [(ff) "HPPTCL" means the Himachal Pradesh Power Transmission Corporation Limited set up by the State Government for the development of transmission network in the State;]

- (g) “interconnection facilities” means all the facilities which shall include, without limitation, switching equipment, control, protection and metering devices etc. for the incoming bay (s) for the project line(s), to be installed and maintained by the licensee at the Inter-Connection Point at the cost of the generator to enable evacuation of electrical output from the Project;
- (h) “interconnection point”: means the physical touch point where the project line(s) and the allied equipment forming a part of the interconnection facilities are connected to the licensee’s power system;
- (i) “licensee” means a person who is granted a licence or is a deemed licensee under section 14 of the Act;
- (j) “project” means the generation project for producing power from renewable sources and co-generation and shall also include the project line(s) and inter- connection facilities;
- (k) “project line(s)” means the transmission line(s) from the generating station to the interconnection point which shall be constructed, operated and maintained as a part of the project by the generator, but shall not include the inter-connection facilities;
- (l) “regulation” means the Himachal Pradesh Electricity Regulatory Commission (Power Procurement from Renewable Sources and Co-generation by the Distribution Licensee) Regulations, 2007;
- (m) “renewable sources and co-generation” in this context means non-conventional renewable electricity generating sources such as mini/micro/small hydro power projects upto and including 25 MW capacity, wind, solar, biomass, urban/municipal waste, or other such sources as approved by the Central Government;
- (n) "State" means the State of Himachal Pradesh; and
- (o) the words and expressions used and not defined in these regulations but defined in the Act shall have the meanings assigned to them in the Act; expressions used herein but not specifically defined in these regulations or in the Act but defined under any law, passed by a competent legislature and applicable to the electricity industry in the State shall have the meaning assigned to them in such law; expressions used herein but not specifically defined in the regulations or in the Act or any law passed by a competent legislature shall have the meaning as is generally assigned to them in the electricity industry.

3. Promotion of renewable sources of energy. –

- (1) Any generator irrespective of installed capacity, shall have open access to

any licensee's transmission system and/or distribution system or grid, as the case may be under the HPERC (Terms and Conditions of Open Access) Regulations, 2005. On an application from such person, the licensee shall provide appropriate inter-connection facilities, and such facilities will be consistent with the grid connectivity standards as specified by the Authority or as specified in the grid code;

Provided that the generator shall bear the expenditure incurred for connectivity upto inter-connection point.

- (2) The licensee shall provide interconnection of the project line(s) at its nearest control sub-station:

Provided that where it is not feasible for the licensee to provide inter-connection at the nearest control sub-station, it shall propose to the generator, other feasible interconnection sub-station(s) and the said proposal, along with the reasons for not allowing interconnection at the nearest sub-station, shall be submitted by the licensee for approval of the Commission;

- (3) Where there are right of way problems or there are space limitations at the sub-stations of the licensee or where the generator opts on his own, the generator may, with the approval of the Commission, enter into a suitable arrangement for joint project lines for two or more projects and inject power into the grid through the joint evacuation system.

[(3-A) Notwithstanding anything in preceding sub-regulation(3), where there are right of way problems or there are space limitations at the substation of the licensee, the licensee may require the generators to enter into suitable arrangements for joint project lines for two or more projects and inject power into the Grid through the joint evacuation system:

Provided that the joint evacuation arrangements shall be subject to the approval of the Commission.]

- (4) For evacuation of power from renewable sources and co-generation beyond the interconnection point, the licensee shall, in consultation with the HIMURJA or any other person whom it may deem fit to consult prepare for the Eleventh Five Year Plan a comprehensive plan for augmenting and establishing the transmission/sub-transmission system corresponding to the commissioning of the projects indicating therein, the year-wise time lines to match the commissioning of the project with the establishment of the related evacuation system and the plan for the projects expected to be commissioned during the subsequent Five Year Plan period shall be prepared by the licensee at least one year in advance of the corresponding Five Year Plan.

Provided that where the time lines laid down in the plan approved under this sub- regulation are not adhered to, the defaulting licensee or the generator, as the case may be, shall be liable to pay such penalty as the Commission may, after affording opportunity, impose.

- (5) The plan prepared under sub-regulation (4) shall be submitted by the licensee for approval of the Commission and any expenditure on account of the plan for the works beyond the interconnection points, but not including the interconnection facilities and the project lines (joint or otherwise), for the respective projects, shall be recovered by the licensee for the works implemented by them, in the following manner:- i) for the generators who enter into Power Purchase Agreements (PPAs) with the distribution licensee, the HPPTCL shall recover the charges for the system constructed by it (other than the interconnection facilities and projects lines if any) from the distribution licensee as fixed by the Commission from time to time and such liabilities of the distribution licensee, alongwith the additional expenditure if any, incurred by it on the plan implemented by it, shall be pass through to the distribution licensee; and ii) the generators/beneficiaries who opt to avail open access, shall, in accordance with the agreements executed for this purpose, be liable to pay the transmission and/or wheeling charges alongwith other open access charges, to the licensee, as fixed by the Commission from time to time, under open access regulations.
- (6) The generators may, in consultation with the licensee and with the prior approval of the Commission, augment or establish, on behalf of the licensee, the transmission system beyond, interconnection point, on build and transfer basis, and the expenditure so incurred by the generators shall be repaid by the licensee alongwith interest in five equal installments, spread over a period of 5 years commencing from one year after the date of commissioning of the project, and such expenditure shall be allowed as a pass through to the licensee.

[Explanation,- For the purpose of this regulation, the expression “Licensee” shall include “The HPPTCL”]

4. Empowered Committee:

- [(1) For the purposes of regulation 3, the Commission shall constitute an Empowered Committee comprising of one representative each from - (i) the Commission; (ii) the State Transmission Utility; (iii) the distribution licensee; (iv) the Himachal Pradesh Power Transmission Corporation Limited (HPPTCL); (v) the Himachal Pradesh Energy Development Agency (HIMURJA). (1-A) The Commission, whenever it considers expedient and necessary to do so, may appoint any other person to be the member of the Empowered Committee.]

- (2) The Commission shall appoint one member of the Empowered Committee to be its Convener and one officer of the Commission, as may be designated by the Commission, shall be the Secretary to the Committee.
- (3) The functions of the Empowered Committee shall be-
 - (a) to examine the change in the inter-connection sub-station under sub-regulation (2) of regulation 3 before the Commission accords approval to it;
 - (b) to examine the proposals for the joint evacuation system under sub-regulation (3) of regulation 3 with respect to the overall transmission/ sub-transmission plan of the licensee before the Commission accords approval to it;
 - (c) to monitor the adherence to the approved time lines, and submission of quarterly reports to the Commission under sub-regulation (4) of regulation 3;
 - (d) to monitor the augmentation or establishment of the transmission/ sub-transmission system as per the best industry practices under sub-regulation (6) of regulation 3.

6. Determination of Tariff for electricity from Renewable sources:

- (1) The Commission shall, by a general or special order, determine the tariff for the purchase of energy from renewable sources and co-generation by the distribution licensee;

Provided that the Commission may determine tariff -

- (i) by a general order, for small hydro projects not exceeding 5 MW capacity; and
- (ii) by a special order, for small hydro projects of more than 5 MW and not exceeding 25 MW capacity, on individual project basis:

Provided further that-

- (i) where the power purchase agreement, approved prior to the commencement of these regulations, is not subject to the provisions of the Commission's regulations on power procurement from renewable sources; or
- (ii) where, after the approval of the power purchase agreements, there is change in the statutory laws, or rules, or the State Govt. Policy;

the Commission, in order to promote co-generation or generation of electricity from renewable sources of energy, may, after recording reasons, by an order, review or modify such a power purchase agreement or a class of such power purchase agreements.

Provided further that the Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government.

- (2) The Commission shall determine the tariff separately for each category of renewable source mentioned in clause (m) of regulation 2.
- (3) While deciding the terms and conditions of tariff for energy from renewable sources and co-generation, the Commission shall, as far as possible, be guided by the principles and methodologies specified by the Central Commission, the National Electricity Policy, the Tariff Policy and the tariff regulations notified by the Central Commission.

Provided that the Commission, may for sufficient reasons and after exercising due diligence and applying prudence check, deviate from the terms and conditions of the generation tariff notified by the Central Commission:

- (4) While determining the tariff, the Commission may, to the extent possible consider to permit an allowance based on technology, fuel, market risk, environmental benefits and social contribution etc., of each type of renewable source.
- (5) While determining the tariff, the Commission shall consider appropriate operational and financial parameters.
- (6) The tariff for small hydro projects not exceeding 5 MW capacity determined by the Commission shall be applicable for a period of 40 years from the date as notified by the Commission;
- (7) The tariff for small hydro projects not exceeding 5 MW capacity, determined by the Commission is subject to review after every 5 years and such revised tariff shall be applicable to power purchase agreements entered into after that date.

7. Overriding effect.- The provisions of these regulations shall have effect notwithstanding anything inconsistent therewith contained in any other regulations, framed by the Commission, relating to the determination of tariff and/or making provisions for open access under the Act.

8. Power to remove difficulties. – If 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, by general or special order, direct the licensee/generator or any other person 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.

- 9. 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 matters incidental or ancillary thereto.
- 10. Saving of Inherent Powers of the Commission:** Nothing contained in these Regulations shall limit or otherwise affect the inherent powers of the Commission to adopt 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.
- 11. Interpretation**— All issues arising in relation to interpretation of these regulations shall be determined by the Commission and the decision of the Commission on such issues shall be final.



REALIDEA
Consultants

(By the order of the Commission)

Sd/-

Secretary

Himachal Pradesh Electricity Regulatory Commission