HIMACHAL PRADESH STATE ELECTRICITY BOARD LIMITED
(A STATE GOVERNMENT UNDERTAKING)

REGISTERED OFFICE :- VIDYUT BHAWAN, HPSEBL,
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No. : HPSEBL/CE-(Comm.)/ SERC-14/2020-21- 11773-88 **Dated:** 15-12-2020

To

All the Dy. CEs/ Superintending Engineers,
Op-Circles, HPSEBL.

Sub: Himachal Pradesh Electricity Regulatory Commission (Security Deposit) (Third Amendment) Regulations, 2020.

This is in supersession to this office letter No. HPSEBL/CE(Comm.)/SERC-14/2020-21-8666-81 dated 04.09.2020. In this regard, it is informed that Hon'ble High Court of Himachal Pradesh vide its Order in Ex. Pet. No. 8 of 2016 dated 27.11.2020 has held the subject cited Amendment Regulations dated 3rd July, 2020 in abeyance.

Accordingly, the previous Regulations namely Himachal Pradesh Electricity Regulatory Commission (Security Deposit) Regulations, 2005 shall continue to remain effective till further orders.

With regards,

(Er. Ram Prakash)
Chief Engineer (Commercial),
HPSEBL, Vidyut Bhawan,
Shimla-171004.

Copy of above is forwarded to the following for information and necessary action please:

1. The Chief Engineer (Operation), South/Central/North Zone, HPSEBL, Shimla/Mandi/Dharamshala.
2. The Superintending Engineer (IT), HPSEBL, Vidyut Bhawan, Shimla-171004 for uploading on HPSEBL website along with the Hon'ble High Court Order dated 27.11.2020.

Chief Engineer (Commercial),
HPSEBL, Vidyut Bhawan,
Shimla - 171004.

Ex. Pet. No. 8 of 2016

27.11.2020 Present: Mr. Tara Singh Chauhan, Advocate, for the Decree Holders/Applicants.

Mr. Bimal Gupta, Senior Advocate, with Ms. Kusum Chaudhary, Advocate, for Judgment Debtors No.2 to 4.

Mr. N.K.Sood, Senior Advocate, with Mr. Aman Sood, Advocate, for respondent No.5/HPERC.

(Through Video Conferencing).

<u>OMP No. 378 of 2020</u>

By medium of this application, which otherwise has wrongly been shown to have been disposed of vide order dated 30.11.2020, whereas, this application is pending adjudication and has been filed by the Decree Holders /Applicants seeking permission therein to re-visit the Regulations of 2020 in view of the directive of the State under Section 108 of the Electricity Act and also in the larger public interest with a further prayer to issue appropriate directions for keeping the Regulations of 2020 in abeyance till the finalization of the aforesaid process.

2. The Decree Holders (for short 'DHs') have filed the instant Execution Petition for execution of an exparte decree and since the judgment debtors (for short 'JDs') were not being served, this Court vide order dated 31.07.2019 passed the following directions:

> *"It appears that decree holder is not at all serious in executing the decree that has been passed in its favour for Rs.1, 04,07,143/- alongwith interest at the rate of 6% per annum, as it has not taken steps to serve the JDs No. 5 and 6 despite time having been*

3/12/2020
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granted from 02.11.2018. The decree holder has to remember that it is a public money which is at stake. As a matter of sheer indulgence and by way of last opportunity, four weeks' further time is granted to do the needful, failing which the Executive Director (Personnel) shall personally remain present before this Court."

3. Subsequently, the matter came up for consideration on 11.09.2020 when this Court passed the following order:

"In compliance to the directions passed by this Court, Mr.Ashwani Sharma, Executive Director (Personnel) is present in the Court. He states that the Board intends to lay down certain criteria and guidelines so as to detect that the electricity charges of the consumers do not go over board and it shall also be ensured that the industries availing of electricity facilities have adequate resources and finances to pay the outstanding charges towards electricity consumed by them.

Let these guidelines be placed before the Court on the next date of hearing. The personal presence of the Executive Director (Personnel) is dispensed with till further orders."

4. It was in compliance to the aforesaid directions that a proposal was submitted before this Court and after going through the same, this Court on 20.11.2019 passed the following directions:

"Proposal for amendment in provisions of Himachal Pradesh Electricity Supply Code 2009 has been sent by the Himachal Pradesh State Electricity Board to the Himachal Pradesh Electricity Regulatory Commission on 20.11.2019.

I have gone through the proposal, the gist of which is as under:-

A) It is proposed to get security deposited equivalent to consumption charges for a billing cycle plus one month extra and fixed charges for the period of temporary disconnection.

B) The security shall be got deposited in the form of cash instead of Bank Guarantee. Provided that he consumers who have already furnished the security in the shape of Bank Guarantee shall convert the same to cash before sixty days of expiry date of such Bank Guarantee.

C) The initial security deposit rates were notified long back during the year 2005 based on the tariff applicable during FY 2004-05 which has increased on year to year basis and accordingly these rates need to be revised in order to have secured amount with HPSEBL for consumer defaulting due to various reasons. It is proposed to calculate the equivalent consumption based on the LDHF formula as per HP Electricity Supply code for assessment of the units for the load being released to the consumer and taking the average tariff rates for the respective category as per HPERC Tariff order to be circulated annually by HPSEBL.

D) The provisions for revising the security of existing consumer based as per tariff order and average consumption including such consumers who were availing the benefit of exemption to deposit security before the commencement of these Regulations.

E) At present as per provisions of supply code, the licensee is not entitled for recovery of payments of outstanding amount on a premises from the next occupier of the premises, whereas, supply code of Uttrakhand, Haryana and Delhi is having such provision for recovery of the amount from next occupier. It is proposed to include the same in the Supply code for HP.

F) The electricity connection is disconnected temporarily after 15 days notice and in case the default is continued, the connection is disconnected permanently after six months. During the period of temporary disconnection, the fixed charges are levied to the consumer due to which the outstanding amount goes on accumulating alongwith surcharge. In order to avoid such accumulation for the period of

temporary disconnection, is proposed to reduce the period from six months to three months.
G) The provisions for permanent address alongwith details of properties/fixed assets of Board of Directors in case of Companies/Firms/individual consumers where the security is more than five lakh is proposed to be incorporated in the Supply code. The details are to be updated on change of ownership/partnership and regularly on yearly basis to have updated information of the consumer and recovery of outstanding amount.

Having perused these suggestions /recommendations, this Court is of the considered view that these proposals need to be approved by the Himachal Pradesh Electricity Regulatory Commission, since these proposals go a long way to augment and safeguard the interest of the Electricity Board, which otherwise is already running into losses. That apart, it is a duty of every stakeholder to safeguard and protect public money from unscrupulous or inefficient enterpreneurs.

It is expected that the recommendations would be accepted before the next date of hearing. It is made clear that in case the Himachal Pradesh Electricity Regulatory Commission still desires some more time to consider and deliberate upon the proposal, it may approach this Court by filing an application before the next date of hearing."

5. In compliance to the aforesaid directions, the DHs initiated further process for carrying out the amendment in the HPERC (Security Deposit) Regulations, 2005 in accordance with the procedure prescribed therefor after conducting the pubic hearing on 13.03.2020, the draft regulations were ultimately finalized on 03.07.2020 and placed before this Court. The Amended Security Deposit Regulations inter-alia provided that the "distribution licensee" shall workout per kW

or per kVA rates of 'Initial Security' deposit in accordance with the formula i.e. Rate in Rs/kW of connected load= L*D*H*F*T*(n+1.35),.'L'= Connected Load (kW),'D'=Average no of working days in a month for the relevant tariff category, 'H' =No of hours per day for which power used on average basis by the consumer under respective categories, 'F'= Demand Factor for respective categories of consumers,'T'=Average Tariff in Rs/kWH or Rs/kVAHand 'n' is the number of months contained in billing cycle. Here in this formula the product of 'LDHF' yield the estimated Energy Consumption in a month. The factor 'F' is very vital as this indicates the percentage usage of power against the connected load.

6. It appears that after applying the aforesaid formula there was a disproportionate hike in the rates of security amounts as compared to the existing rates, as is evident from the following table:

Area Wise Increase in initial security deposit amount.

Areas	Category	Initial security rate as on March,2005(Rs/per kW/kVA)	Initial security rate i.e Oct,2020 (Rs/per kW/kVA)	% age increase
Tribal areas, remote, difficult and hard areas for load upto 20kW	Domestic	82.5	849	929.6%
	Non Domestic Non Commercial	82.5	1624	1868.9%
	Commercial	82.5	1686	1944.1%
	Temporary	850	7555	788.8%
	SIP	82.5	1723	1988.5%

	IDWPSi/c Agriculture	82.5	4932	5878.4%
	Street lighting	500	3596	619.1%
Tribal areas, remote, difficult and hard areas for load above 20kW and Rural Areas	Domestic	120	849	607.8%
	Non Domestic	120	1624	1253.6%
	Non Commercial	120	1686	1305.3%
	Commercial			
	Temporary	850	7555	788.8%
	SIP	500	1723	244.6%
	MIP	750	2568	242.3%
	LIP	1000	4979	397.9%
	IDWPSi/c Agriculture	120	4932	4010.2%
	Street lighting	500	3596	619.1%
	Bulk Supply	850	5059	495.2%
Urban Areas	Domestic	170	849	399.6%
	Non Domestic Non Commercial	350	1624	364.1%
	Commercial	350	1686	381.8%
	Temporary	850	7555	788.8%
	SIP	500	1723	244.6%
	MIP	750	2568	242.3%
	LIP	1000	4979	397.9%
	IDWPSi/c Agriculture	350	4932	1309.2%
	Street lighting	500	3596	619.1%
	Bulk Supply	850	5059	495.2%

7. The net result appears to be that the Domestic, Temporary, Street Light, Irrigation Water, Pumping Scheme including Agriculture categories especially in tribal and rural arrears has been worsely affected as the security amount has increased from 7 times to 59 times. Whereas, for the other categories like Commercial, NDNC, SIP, MIP, Large Industries and Bulk, the hike is ranging from 3 to 13 times.

complying with all the statutory requirements laid down under the Act and the Rules framed thereunder. Till such time, the Amended Regulations of 2020, are order to be kept in abeyance.

12. The HPERC will consider and decide the proposals as expeditiously as possible preferably before the next date of hearing

13. List on **04.06.2021**. It is made clear that in case the HPERC re-examines the revised proposal prior to the aforesaid date, then it shall be free to make a mention for preponement of the case.

27th November, 2020.
(GR)

(Tarlok Singh Chauhan)
Judge