

**BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION
AT PANCHKULA
SUO-MOTO**

**Date of Hearing : 27.08.2020
Date of Order : 14.09.2020**

In the Matter of

Haryana Electricity Regulatory Commission (Terms and Conditions of License for Deemed Licensee) Regulations, 2020

Present through Video Conferencing:-

1. Shri Sanjay Singh, GM/Elec., REMCL (Railways)
2. Shri Kshitij Dhingra, M/s. IEX
3. Shri Amit Kamboj, Xen, Commercial, DHBVN
4. Ms. Nitika Choukse, Counsel for DHBVN
5. Shri Vijay Upadhyay, SDO, Haryana Vidyut Prasaran Nigam Ltd. (HVPNL)

QUORUM

**Shri Pravindra Singh Chauhan (in Chair), Member
Shri Naresh Sardana, Member**

ORDER

Brief Background

1. The Commission, in accordance with the powers conferred on it by section 181 of the Electricity Act 2003 read with Section 14 and 16 of the Act and all other powers enabling it in this behalf considered it appropriate to suo moto frame Regulations specifying the Terms & Conditions for Deemed Licensee in Haryana.
2. Accordingly, draft discussion paper on HERC (Terms & Conditions of License for Deemed Licensee) Regulations, 2020 was prepared for public consultation and appended to the Order dated 17.06.2020 passed by the Commission in the matter of *“Petition seeking clarification on various applicable charges under Clause 19, 20, 21, 22, 23, 24, 57, 58 and 59 of Haryana Electricity Regulatory*

Commission (Terms and conditions for grant of connectivity and open access for intra State transmission and distribution system) Regulations, 2012 (No. 25/HERC/2012 dated 11.01.2012) to be levied on Northern Railways (Deemed Distribution Licensee) for availing medium term open access.” (HERC/PRO-11 of 2017). The draft was also hosted on the website of the Commission inviting comments/objections from stakeholders and interested persons.

3. The Commission, as part of the proceedings, issued Public Notice in Indian Express (English) and Dainik Tribune (Hindi) dated 14th July 2020, inviting comments/objections from general public/stakeholders, on or before 20th August, 2020. The date of public hearing i.e. 27.08.2020, through Video Conferencing, was also mentioned in the said notice with link of Video Conferencing will be shared with the stakeholders filing comments/objections.
4. In response, to the ibid public notice & subsequent hearing held on 27.08.2020, the following stakeholders filed their comments/suggestions/objections: -
 - (a) M/s Haryana Vidyut Prasaran Nigam Ltd. (HVPNL), Panchkula.
 - (b) M/s Indian Energy Exchange (IEX).
 - (c) Indian Railways.
 - (d) Dakshin Haryana Bijli Vitran Nigam (DHBVN).
5. The issues raised by the afore mentioned interveners and the Commission's view thereto are as under: -
 - i) **As per Draft Regulations: Clause 2.1:** These regulations shall be applicable to deemed to be distribution licensee under Section 14 of the Act read with the proviso (s) under the territorial jurisdiction of Haryana State.
Comments of HVPNL: -
The phrase “deemed to be distribution licensee” in this regulation may be modified to “Deemed Licensee” in line with Regulation no. 1.1 above.

Comments of Indian Railways: -

These regulations shall be applicable to deemed to be distribution licensee under third proviso to Section 14 of the Act read with the proviso (s) under the territorial jurisdiction of Haryana State.

The Commission has considered the above suggestions and accordingly the said Clause shall read as under: -

“These regulations shall be applicable to “deemed licensee” under Section 14 of the Act read with the proviso (s) under the territorial jurisdiction of Haryana State”.

- ii) **As per Draft Regulations: Clause 3.3: Full Open Access Consumer** shall mean Open Access Consumer connected to transmission system or distribution system but not having any contract demand with the distribution licensee within the State.

Clause 3.7 Partial Open Access Consumer/ Embedded Open Access Consumer shall mean Open Access Consumer connected to transmission system or distribution system and having part of his contract demand with the distribution licensee within the state.

Comments of Indian Railways: -

Title of the proposed Regulation is HERC (Terms and Conditions of License for Deemed Licensee) Regulations, 2020 and therefore definition of full open access consumer/Partial Open Access Consumer/ Embedded Open Access Consumer may be deleted and may be made a part of HERC (Open Access to Intrastate Transmission) Regulations.

The Commission has considered the above suggestion and is of the view that since special dispensation has been made for Full Open Access Consumers, it is of utmost importance to define

the terminology. Hence, no change in the definition, as appearing in the draft discussion paper, is required.

iii) Comments of Indian Railways regarding incorporating new clause: -

New Definition of Deemed Licensee may be inserted as under: -

Deemed Licensee means any entity covered under Section 14 of Indian Electricity Act, 2003 or licensee status granted/clarified by State/Central Regulatory Commission or Ministry of Power.

The Commission has considered the above suggestion and is of the view that the scope of Regulations mentioned in Clause 2.1 is definitive as well as conclusive, therefore, no separate definition of “deemed licensee” is required.

iv) Comments of HVPNL regarding incorporating new clause: -

Definition of deemed licensee may be added in the Regulations.

The Commission has considered the above suggestion and accordingly the Clause 3.8 shall be inserted to read as under: -

“Deemed Licensee means a person, who is deemed to be a licensee under Section 14 of the Act”.

v) As per Draft Regulations: Clause 1.1:

The deemed licensee, under fifth proviso to Section 14 read with Section 16 of the Electricity Act, 2003, shall comply with the regulations/ codes/ orders/ guidelines/ directions including practice directions issued by the Commission from time to time and shall act in accordance with these terms, except where the licensee obtains the approval of the Commission for any deviation of such regulations/ codes/ orders/ guidelines/ directions and terms.

Comments of Indian Railways: -

Electricity Act' 2003 recognises deemed licensee under third proviso the Section 14 of Electricity Act, 2003 and accordingly it is proposed that fifth proviso may be replaced with third proviso.

Comments of DHBVN: -

This following provision maybe added to this regulation:

The Licensee shall also comply with Regulations, Orders and Directions issued by National Load Despatch Centre, Regional Load Despatch Centre and the State Load Despatch Centre, Central Electricity Authority and other statutory authorities under the Electricity Act, 2003.

The Licensee shall not transfer or assign the Licence to any other person without the prior approval of the Commission.

The Commission has considered the above suggestion and accordingly the Clause shall be read as under: -

“5.1 The deemed licensee, under Section 14 read with Section 16 of the Electricity Act, 2003, shall comply with the regulations/ codes/ orders/ guidelines/ directions including practice directions issued by the Commission from time to time and shall act in accordance with these terms, except where the licensee obtains the approval of the Commission for any deviation of such regulations/ codes/ orders/ guidelines/ directions and terms. The Licensee shall also comply with Regulations, Orders and Directions issued by National Load Despatch Centre, Regional Load Despatch Centre and the State Load Despatch Centre, Central Electricity Authority and other statutory authorities under the Electricity Act, 2003.

Further, on the issue of 'Licensee shall not transfer or assign the Licence to any other person without prior approval of the Commission' it is observed that as per the statute deemed licensee is not required to apply / obtain license from the Commission, hence, inserting such clause will be irrelevant and not enforceable. In case there is any change in the status due to assets being transferred / assigned to any other person who does not fit into the pre-requisites of a 'deemed licensee' then the deemed licensee status of such person shall automatically cease.

- vi) **As per Draft Regulations: Clause 2.1:** The Licensee shall be liable to pay to the Commission an annual license fee as prescribed under regulation 3 (c) of the Haryana Electricity Regulatory Commission (Fee) Regulation, 2005, 2nd Amendment Regulations, 2016 dated 28th February, 2017 as amended from time to time.

Comments of HVPNL: -

This provision may be modified as under: -

2.1 The Licensee shall be liable to pay to the Commission an annual license fee as prescribed under fee schedule 2 (c) of regulation 3 of the Haryana Electricity Regulatory Commission (Fee) Regulation, 2005, 2nd Amendment Regulations, 2016 dated 28th February, 2017 as amended from time to time.

The Commission has considered the above suggestions. Further, the General conditions mentioned in the draft Regulations has been numbered as 5 and subsequent clauses have also been renumbered accordingly. The said Clause shall now be read as under: -

“6.1 The Licensee shall be liable to pay to the Commission an annual license fee as prescribed under Schedule 2 (c) of

Regulation 3 of the Haryana Electricity Regulatory Commission (Fee) Regulation, 2005, 2nd Amendment Regulations, 2016 dated 28th February, 2017 as amended from time to time.”

- vii) **As per Draft Regulations: Clause 4.1:** Load Forecast - The Licensee shall on an annual basis: (a) forecast the demand for electricity within the Area of Supply in each of the next succeeding 10 years; (b) prepare and submit such forecasts to the Commission in accordance with the guidelines issued by the Commission from time to time; and (c) Co-operate with the State Transmission Utility in the preparation of electricity demand forecasts for the state of Haryana in such manner as the State Transmission Utility reasonably considers appropriate.

Comments of HVPNL: -

The word “Shall” may be deleted.

Comments of Indian Railways: -

The period of demand forecast has been proposed as 3 years in place of 10 years as 10 years forecast would be difficult. Further, definition of Area of Supply is included for clarification. Accordingly, the clause is proposed to be read as under: -

Load Forecast - The Licensee shall on an annual basis:-

- (a) forecast the demand for electricity within the Area of Supply in each of the next succeeding 3 years;
- (b) prepare and submit such forecasts to the Commission in accordance with the guidelines issued by the Commission from time to time; and
- (c) Co-operate with the State Transmission Utility in the preparation of electricity demand forecasts for the state of Haryana in such

manner as the State Transmission Utility reasonably considers appropriate.

Further, it is submitted, that the term 'Area of Supply' be defined in the definition clause to avoid any doubt as under:

The Area of Supply within which Indian Railways is authorized to undertake distribution of electricity shall be the area in the State of Haryana under jurisdiction and operational control of Indian Railway in terms of Railways Act, 1989.

The Commission has considered the above suggestion and observes that the aforesaid definition is appropriate / widely accepted. Further, the condition of 10 years load forecast has been imposed on other Licensees as well. Hence, no change in the draft regulation is required on this issue.

- viii) **As per Draft Regulations: Clause 4.2: Power Procurement Procedure** - The Licensee shall, in all circumstances, purchase electrical capacity and/or energy in an efficient and economical manner under a transparent procurement process from the sources identified by them.

Provided that it shall be the responsibility of the Licensee to make available power from alternate sources in case of outage of the sources / generator or in situations no power could be transmitted / wheeled due to congestion in the interstate transmission corridor or for whatsoever reasons.

Provided that the Licensee may make standby arrangements with existing distribution licensee of the area i.e. DHBVN / UHBVN, as the case may be, subject to payment of tariff / charges as the Commission may determine. Till the time tariff / charges for stand by supply is determined by the Commission, for any such supply, the Discom shall levy tariff as per tariff determined by the Commission from time to time for temporary supply for the relevant tariff category.

Comments of Indian Railways:-

The provision of procurement of power under short term bilateral arrangement or through collective transaction may be explored by deemed licensee before entering into standby arrangement with DHBVN/UHBVN. Tariff discovered by deemed licensee from transparent procurement process from the sources identified through competitive bidding shall be intimated to the Commission for record.

Accordingly, the clause is proposed to be modified as under: -

.....

.....

Provided that the Licensee may either purchase power under Short Term bilateral arrangement or through collective transactions or make standby arrangements with existing distribution licensee of the area i.e. DHBVN / UHBVN, as the case may be, subject to payment of tariff / charges as the Commission may determine. Till the time tariff / charges for stand by supply is determined by the Commission, for any such supply, the Discom shall levy tariff as per tariff determined by the Commission from time to time for temporary supply for the relevant tariff category.

Comments of DHBVN: -

This regulation may be modified as under to make it in line with Regulation 9:

“Provided that the Licensee may make standby arrangements with existing distribution licensee of the area i.e. DHBVN / UHBVN, as the case may be, subject to payment of tariff / charges as the Commission may determine. Till the time tariff / charges for stand by supply is determined by the Commission, for any such supply, the Discom shall levy tariff as per tariff determined by the Commission from time to time for temporary supply i.e. 1.5 times the tariff (Fixed + Energy) of the relevant category including FSA, PLEC if applicable.”

The Commission has considered the above suggestion and observes that the existing clause cast responsibility on the Licensee to make suitable arrangement of power which includes short term arrangement or through any other arrangement including standby arrangement with the DISCOMs. Accordingly, the clause shall be read as under: -

“Clause 8.2: Power Procurement Procedure - The Licensee shall, in all circumstances, purchase electrical capacity and/or energy in an efficient and economical manner under a transparent procurement process from the sources identified by them.

Provided that it shall be the responsibility of the Licensee to make available power from alternate sources in case of outage of the sources / generator or in situations no power could be transmitted / wheeled due to congestion in the interstate transmission corridor or for whatsoever reasons.

Provided that the Licensee may make standby arrangements with existing distribution licensee of the are i.e. DHBVN / UHBVN, as the case may be, subject to payment of tariff / charges as the Commission may determine.

Provided further that in the absence of stand by power charges determined by the Commission, the temporary tariff i.e. 1.5 times the tariff (Fixed + Energy) of the relevant category as determined by the Commission and amended from time to time including FSA, PLEC if applicable.”

- ix) **As per Draft Regulations: Clause 5.1:** The Licensee shall implement and comply with the Distribution Code specified by the Commission; provided that the Commission may issue an order either on an application or suo-moto relieving the Licensee of its obligations under the Distribution Code in respect of such parts of the Licensee's

Distribution System and to such extent as the Commission may lay down.

Comments of Indian Railways: -

Licensee shall implement and comply to Distribution code/Indian Electricity Rules, as applicable, as all conditions may not be complied to by deemed licensee.

This provision may be modified as under: -

The Licensee shall implement and comply with the Distribution Code/Indian Electricity Rules specified by the Commission, as applicable; provided that the Commission may issue an order either on an application or suo-motu relieving the Licensee of its obligations under the Distribution Code in respect of such parts of the Licensee's Distribution System and to such extent as the Commission may lay down.

The Commission has considered the above suggestion and observes that the draft already incorporates the provision to the effect that the Licensee may be relieved of its obligations under the Distribution Code in respect of such parts of the Licensee's Distribution System and to such extent as the Commission may lay down, on an application or suo-motu by the Commission. Hence, no change in the draft regulations, is required.

- x) As per Draft Regulations: Clause 6.1:** The Licensee shall operate its Distribution System / TSS) connected to the Grid Sub-Stations in accordance with the Distribution System Operating Standards together with the Distribution Code as approved by the Commission.

Comments of HVPNL:-

This provision may be modified as under:-

6.1 The Licensee shall operate its Transmission system/Distribution System / Traction Sub-station connected to the Grid Sub-Stations in

accordance with the Distribution System Operating Standards/State Grid Code/Distribution Code as approved by the Commission.

Comments of Indian Railways: -

The Licensee shall operate its Distribution System (~~TSS~~) connected to the Grid Sub-Stations in accordance with the Distribution System Operating Standards together with the Distribution Code as approved by the Commission.

Licensee shall implement and comply to Distribution code/Indian Electricity Rules, as applicable, as all conditions may not be complied to by deemed licensee.

The Commission has considered the above suggestion. Accordingly the Clause shall be read as under:-

“10.1 The Licensee shall operate its Transmission system/Distribution System / Traction Sub-station (TSS) connected to the Grid Sub-Stations in accordance with the Distribution System Operating Standards/State Grid Code together with the Distribution Code as approved by the Commission.”

- xi) As per Draft Regulations: Clause 7.3:** The Licensee shall co-operate with the generating companies, other Licensees in Haryana with the SLDC for the efficient and coordinated operation of the power system.

Comments of HVPNL: -

This provision may be modified as under:-

7.3 The Licensee shall co-operate with the generating companies, other Licensees in Haryana in coordination with SLDC for the efficient and coordinated operation of the power system.

The Commission has considered the above suggestion. Accordingly the Clause shall be read as under:-

“11.3 The Licensee shall operate its Transmission system/Distribution System / Traction Sub-station (TSS) connected to the Grid Sub-Stations in accordance with the Distribution System Operating Standards/State Grid Code together with the Distribution Code as approved by the Commission.”

- xii) As per Draft Regulations: Clause 8.i:** pay all dues, arrears to the Haryana Power Utilities, prior to disconnection of supply from the existing distribution licensee of the area.

Comments of HVPNL: -

This provision may be modified as under: -

- i) clear all dues, arrears to the Haryana Power Utilities, prior to disconnection of supply from the existing distribution licensee of the area.

The Commission has considered the above suggestion. Accordingly, the Clause shall be read as under: -

“12.i clear all dues and arrears, if any, to the Haryana Power Utilities, prior to disconnection of supply from the existing distribution licensee of the area.”

- xiii) As per Draft Regulations: Clause 8.ii:** install main and check ABT meter and associated equipments at all the Traction Sub-Stations of the Northern Railways before drawl of power from JIPTL or any other source for that matter under Open Access Mechanism.

Comments of HVPNL:-

This provision may be modified as under: -

install main/check/Stand-by ABT meter and associated equipments at all the Interface points of deemed licensee with the Transmission system before drawl of power from any source under Open Access Mechanism.

Comments of IEX:-

The installation of meters and associated equipments is to be done in accordance with the CEA Regulations.

Comments of Indian Railways:-

Install main and check ABT meter and associated equipments at all the **interconnection points as per CEA Metering Regulation/ HERC Grid Code Traction Sub-Stations of the Northern Railways** before drawl of power from **Open Access Source(s) JIPTL** or any other source for that matter under Open Access Mechanism.

ABT Meters are to be provided at point of interconnection in compliance to CEA Metering Regulation/ HERC Grid Code as per HERC Open Access Regulations.

Indian Railways as of today is availing power through JITPL and BRBCL at its traction substations situated in the State of Haryana. However, Indian Railways is at liberty to change the source of power as may be found deem fit by it.

The Commission observes that the issue raised was addressed by the Commission earlier also in its memo no. 2213-16/HERC/Tech. dated 26.09.2017 with the following substitution of the condition to the “NOC”, specified in the Order of the Commission dated 23.02.2017:-

Original condition: -

“ii) Provide ABT meter and associated equipments as per Central Electricity Authority Metering Regulations, 2006 at all their Traction Sub – Stations prior to drawl of power from JIPTL,

or any other source for that matter, under Open Access Mechanism.”

Substituted by:

“ii) Metering as per Central Electricity Authority, Metering Regulations, 2006 read with subsequent amendment thereof.”

Accordingly, the Clause shall be read as under: -

“12.ii install main/check/Stand-by ABT meter and associated equipments at all the Interface points of deemed licensee with the Transmission system before drawl of power from any source under Open Access Mechanism, as per Central Electricity Authority, Metering Regulations, 2006 read with subsequent amendments thereof.”

- xiv) **As per Draft Regulations: Clause 8.iii:** co-ordinate with the DHBVN/HVPN regarding final joint meter reading as per the schedule agreed upon between them.

Comments of HVPNL: -

This provision may be modified as under: -

co-ordinate with the DISCOMs/HVPN regarding final joint meter reading as per the schedule agreed upon between them.

The Commission has considered the above suggestion. Accordingly, the Clause shall be read as under: -

“12.iii co-ordinate with the DISCOMs/HVPN regarding final joint meter reading as per the schedule agreed upon between them.”

- xv) **As per Draft Regulations: Clause 9:**

A deemed distribution licensee shall, comply with all the terms and conditions of the Haryana Electricity Regulatory Commission (Conditions of Licence for Distribution and Retail Supply Business) Regulations, 2004 notified on 30th November, 2004 as may be amended from time to time.

Provided that a deemed distribution licensee, who utilizes the entire quantum of electricity purchased for its own consumption and not for the purpose of onward supply / sale to consumers through its distribution system i.e. does not have any other consumer, shall be considered as embedded Open Access Consumer in case he continues to be a consumer of the Distribution Licensee or Fully Open Access Consumer as defined in the Haryana Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2019.

Provided that all Open Access Consumer shall be liable to pay all charges as per the relevant Regulations including Transmission / Wheeling, Cross-subsidy Surcharge and Additional Surcharge as well as charges for standby power as may be determined by the Commission for the relevant year.

Provided that in the absence of stand by power charges determined by the Commission, the temporary tariff i.e. 1.5 times the tariff (Fixed + Energy) of the relevant category as determined by the Commission and amended from time to time including FSA, PLEC if applicable.

Comments of HVPNL: -

This provision may be modified as under: -

Provided that such Open Access Consumer shall be liable to pay all charges as per the relevant Regulations including Transmission / Wheeling, Cross-subsidy Surcharge and Additional Surcharge as well

as charges for standby power as may be determined by the Commission for the relevant year.

Provided that in the absence of stand by power charges determined by the Commission, such open access consumers shall be liable to pay the temporary tariff i.e. 1.5 times the tariff (Fixed + Energy) of the relevant category as determined by the Commission and amended from time to time including FSA, PLEC if applicable.

Comments of IEX: -

Since the proposed draft regulations deal with the deemed Distribution Licensees and provides for the specific requirements to be met by the deemed Distribution Licensees, the stated para 9 is redundant and may be deleted.

Further, 1st proviso to regulation 9 captures the scenario when the Licensee consumes the entire power for itself, by adding the following proviso:-

Provided that where a deemed distribution licensee, who utilizes the entire quantum of electricity purchased for the purpose of onward supply / sale to consumers through its distribution system, shall not be subjected to levy of Cross-subsidy Surcharge and Additional Surcharge.

Comments of DHBVN: -

The Commission may clarify which provisions of the Haryana Electricity Regulatory Commission (Conditions of Licence for Distribution and Retail Supply Business) Regulations, 2004 notified on 30th November, 2004 will not be applicable to deemed licensee considering that in the Order dated 17.06.2020 passed in PRO 11 of 2017, the Commission on page 58 observed that some of the terms and conditions of Haryana Electricity Regulatory Commission

(Conditions of Licence for Distribution and Retail Supply Business) Regulations, 2004 may not be relevant in case of a deemed licensee.

The Commission has considered the above suggestions and is of the view that Cross-subsidy surcharge and Additional Surcharge is leviable even where the deemed distribution licensee utilizes its own distribution system. Further, the deemed distribution licensee shall comply with the specific conditions mentioned in these Regulations and other terms and conditions of the Haryana Electricity Regulatory Commission (Conditions of Licence for Distribution and Retail Supply Business) Regulations, 2004 notified on 30th November, 2004 as may be amended from time to time, to the extent relevant. Accordingly, the Clause shall be read as under: -

“13. A deemed distribution licensee shall, comply with all the relevant terms and conditions of the Haryana Electricity Regulatory Commission (Conditions of Licence for Distribution and Retail Supply Business) Regulations, 2004 notified on 30th November, 2004 as may be amended from time to time.

Provided that a deemed distribution licensee, who utilizes the entire quantum of electricity purchased for its own consumption and not for the purpose of onward supply / sale to consumers through its distribution system i.e. does not have any other consumer, shall be considered as embedded Open Access Consumer in case he continues to be a consumer of the Distribution Licensee or Fully Open Access Consumer as defined in the Haryana Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2019.

Provided that such Open Access Consumer shall be liable to pay all charges as per the relevant Regulations including Transmission / Wheeling, Cross-subsidy Surcharge and

Additional Surcharge as well as charges for standby power as may be determined by the Commission for the relevant year.

Provided that in the absence of stand by power charges determined by the Commission, such open access consumers shall be liable to pay the temporary tariff i.e. 1.5 times the tariff (Fixed + Energy) of the relevant category as determined by the Commission and amended from time to time including FSA, PLEC if applicable.”

xvi) Additional clauses proposed to be added in the Draft Regulations:

Comments of DHBVN: -

Following Proviso may be inserted after the other provisos:

“Provided that all such Open Access consumers shall be liable for payment of the imbalance charges/ deviations in line with the terms of the Haryana Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2019 dated 29th April, 2019

The Commission may further consider incorporating a list of Regulations framed by the Commission which will be applicable to the Deemed Licensee.

The Commission may further make provision for the RPO obligation of the Deemed licensee in terms of the Haryana Electricity Regulatory Commission (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2017 wherein distribution licensee are obligated to purchase energy from renewable energy sources under the Renewable Purchase Obligation.

The Commission observes that comments of DHBVN also form part of the Order dated 17.06.2020 passed by the Commission in the case of “*Petition seeking clarification on various applicable charges under Clause 19, 20, 21, 22, 23, 24, 57, 58 and 59 of Haryana Electricity Regulatory Commission (Terms and*

conditions for grant of connectivity and open access for intra State transmission and distribution system) Regulations, 2012 (No. 25/HERC/2012 dated 11.01.2012) to be levied on Northern Railways (Deemed Distribution Licensee) for availing medium term open access. (HERC/PRO-11 of 2017)", wherein the Commission has decided as under:-

"VIII. Imbalance Charges – The Commission observes that the imbalance is currently being settled in line with the HERC OA Regulations, 2012. The relevant clause has been reproduced earlier in the present Order. It is observed that specific Regulations have been notified by the Commission namely Haryana Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2019 dated 29th April, 2019. In this set of regulations fully open access consumer has also been defined as an Open Access Consumer connected to transmission system or distribution system but not having any contract demand with the distribution licensee within the state; which is the NR case. Hence, imbalances / deviations shall be settled in line with the terms of the said Regulations instead of HERC OA Regulations, 2012 as amended from time to time.

In conclusion, the Commission Orders that all the relevant regulations and charges including losses and RPO Obligations as applicable to Long Term / Medium Term Open Access consumers shall be applicable to NR also except any deviation specifically allowed in the present Order till such time the NR fulfils all the terms and conditions including payment of Fees specified for a distribution licensee / deemed to be distribution licensee."

Accordingly, the following shall be added as clause no. 14 in the Regulations: -

***“14. Provided that all such Open Access consumers shall be liable for payment of the imbalance charges/ deviations in line with the terms of the Haryana Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2019 dated 29th April, 2019
Provided further that all the relevant Regulations and charges including losses and RPO Obligations as applicable to Long Term / Medium Term Open Access consumers shall be applicable to the Deemed Licensee.”***

6. The present sou – moto Petition is accordingly disposed of. The Haryana Electricity Regulatory Commission (Terms and Conditions of License for Deemed Licensee) Regulations, 2020 attached herewith at Annexure “A” shall be notified in the Haryana Government Gazette at the earliest.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 14.09.2020.

Date: 14.09.2020 (Naresh Sardana)
Place: Panchkula Member

(Pravindra Singh Chauhan)
Member

ANNEXURE - A

HARYANA ELECTRICITY REGULATORY COMMISSION

BAYS NO. 33-36, SECTOR-4, PANCHKULA – 134112

WWW.HERC.GOV.IN

Email: herc-chd@nic.in

Regulation No. HERC/ xx / 2020: - The Haryana Electricity Regulatory Commission, in exercise of the powers conferred on it by section 181 of the Electricity Act 2003 (Act 36 of 2003) read with Section 14 and 16 of the Act and all other powers enabling it in this behalf, after previous publication, hereby frames the following regulations: -

PART - I PRELIMINARY

1. SHORT TITLE, COMMENCEMENT, EXTENT, AND INTERPRETATION

- 1.1 These regulations shall be called the Haryana Electricity Regulatory Commission (Terms and Conditions of License for Deemed Licensee) Regulations, 2020.
- 1.2 These regulations shall come into force w.e.f. the date of publication in the Haryana Government Gazette and shall remain in force till reviewed, amended or repealed by the Commission.
- 1.3 These regulations shall extend to the whole of the State of Haryana.

2. SCOPE OF APPLICATION

- 2.1 These regulations shall be applicable to deemed licensee under Section 14 of the Act read with the proviso (s) under the territorial jurisdiction of Haryana State.

3. DEFINITIONS AND INTERPRETATION

- 3.1 **“Act”** means the Electricity Act, 2003 (36 of 2003) as amended from time to time;
- 3.2 **‘Commission’** means the Haryana Electricity Regulatory Commission referred to in sub-section (1) of section 82 of the Act;
- 3.3 **‘Full Open Access Consumer’** shall mean Open Access Consumer connected to transmission system or distribution system but not having any contract demand with the distribution licensee within the state;
- 3.4 **‘Grid Code’** means the Grid Code specified by the Commission under clause

(h) of sub-section (1) of Section 86 of the Act.

- 3.5 **‘Indian Electricity Grid Code’ (or ‘IEGC’)** means the Grid Code specified by the Central Electricity Regulatory Commission under Section 79(1)(h) of the Act;
- 3.6 **‘Load Despatch Centre’** means National Load Despatch Centre, Regional Load Despatch Centre or State Load Despatch Centre, as the case may be, responsible for coordinating scheduling of the Buyers and the Sellers in accordance with the provisions of the Grid Code;
- 3.7 **‘Partial Open Access Consumer’ / ‘Embedded Open Access Consumer’** shall mean Open Access Consumer connected to transmission system or distribution system and having part of his contract demand with the distribution licensee within the state;
- 3.8 **‘Deemed Licensee’** means a person, who is deemed to be a licensee under Section 14 of the Act.

4. Save as aforesaid and unless repugnant to the context or the subject-matter otherwise requires, words and expressions used in these regulations and not defined, but defined in the Act, or the Grid Code or any other regulations of this Commission shall have the meaning assigned to them respectively in the Act or the Grid Code or any other regulation as the case may be.

5. **General Conditions**

Compliance with Regulations, Codes, Orders, Guidelines and Directions

- 5.1 The deemed licensee, under Section 14 read with Section 16 of the Electricity Act, 2003, shall comply with the regulations/ codes/ orders/ guidelines/ directions including practice directions issued by the Commission from time to time and shall act in accordance with these terms, except where the licensee obtains the approval of the Commission for any deviation of such regulations/ codes/ orders/ guidelines/ directions and terms. The Licensee shall also comply with Regulations, Orders and Directions issued by National Load Despatch Centre, Regional Load Despatch Centre and the State Load Despatch Centre, Central Electricity Authority and other statutory authorities under the Electricity Act, 2003.
- 5.2 The Licensee shall refer all disputes arising under the purview of the license for settlement by the Commission.

6. Payment of Fees

- 6.1 The Licensee shall be liable to pay to the Commission annual license fee as prescribed under Schedule 2 (c) of Regulation 3 of the Haryana Electricity Regulatory Commission (Fee) Regulation, 2005, 2nd Amendment Regulations, 2016 dated 28th February, 2017 as amended from time to time.
- 6.2 Where the Licensee fails to pay any fee under condition 2.1, the Commission may bar the licensee from undertaking any activity as a deemed licensee pursuant to Section 19 of the Electricity Act, 2003.

7. Standards and Procedures

- 7.1 The Licensee shall participate and assist the Commission, to the extent required by the Commission, in the development, issue and review of any standards, codes, and procedures proposed or notified by the Commission.
- 7.2 Penalty for Contravention of Conditions of the License.

The Licensee shall be liable for action under Sections 142 and 146 of the Act in appropriate cases for contravening any one or more of the provisions of these terms.

8. Technical Conditions

- 8.1 Load Forecast - The Licensee shall on an annual basis: -

- forecast the demand for electricity within the Area of Supply in each of the next succeeding 10 years;
- prepare and submit such forecasts to the Commission in accordance with the guidelines issued by the Commission from time to time; and
- Co-operate with the State Transmission Utility in the preparation of electricity demand forecasts for the state of Haryana in such manner as the State Transmission Utility reasonably considers appropriate.

- 8.2 **Power Procurement Procedure –**

The Licensee shall, in all circumstances, purchase electrical capacity and/or energy in an efficient and economical manner under a transparent procurement process from the sources identified by them.

Provided that it shall be the responsibility of the Licensee to make available power from alternate sources in case of outage of the sources / generator or in situations no power could be transmitted / wheeled due to congestion in the interstate transmission corridor or for whatsoever reasons.

Provided that the Licensee may make standby arrangements with existing distribution licensee of the area i.e. DHBVN / UHBVN, as the case may be, subject to payment of tariff / charges as the Commission may determine.

Provided further that in the absence of stand by power charges determined by the Commission, the temporary tariff i.e. 1.5 times the tariff (Fixed + Energy) of the relevant category as determined by the Commission and amended from time to time including FSA, PLEC if applicable.

- 8.3 The Licensee shall comply with the provisions of the State Grid Code, in so far as applicable to it.

9. Compliance with the Distribution Code

- 9.1 The Licensee shall implement and comply with the Distribution Code specified by the Commission; provided that the Commission may issue an order either on an application or suo - motu relieving the Licensee of its obligations under the Distribution Code in respect of such parts of the Licensee's Distribution System and to such extent as the Commission may lay down.

10. Compliance with Standards

- 10.1 The Licensee shall operate its Transmission system/Distribution System / Traction Sub-station (TSS) connected to the Grid Sub-Stations in accordance with the Distribution System Operating Standards/State Grid Code together with the Distribution Code as approved by the Commission.

11. Co-operation with STU, SLDC and other Licensees

- 11.1 The Licensee shall provide to SLDC, STU and/or to other Licensees such information that may reasonably be required to perform its functions and exercise its powers under the Act.
- 11.2 The Licensee shall comply with the directions of SLDC and STU issued under the Act.
- 11.3 The Licensee shall operate its Transmission system/Distribution System / Traction Sub-station (TSS) connected to the Grid Sub-Stations in accordance with the Distribution System Operating Standards/State Grid Code together with the Distribution Code as approved by the Commission.

12. The Licensee shall:-

- i) Clear all dues, arrears to the Haryana Power Utilities, prior to disconnection of supply from the existing distribution licensee of the area.

- ii) install main/check/Stand-by ABT meter and associated equipments at all the Interface points of deemed licensee with the Transmission system before drawl of power from any source under Open Access Mechanism, as per Central Electricity Authority, Metering Regulations, 2006 read with subsequent amendments thereof.
 - iii) co-ordinate with the DISCOMs/HVPN regarding final joint meter reading as per the schedule agreed upon between them.
 - iv) pay reactive energy charges as per the Regulations in vogue in the State or in its absence the reactive energy charges specified by the Central Electricity Regulatory Commission (CERC) from time to time.
 - v) settle/ disburse the transmission charges / Open Access charges and SLDC Charges for use of State Transmission/ Distribution Utilities Network directly with HVPNL/Discoms.
 - vi) provide telemetry to the SCADA system of Haryana SLDC/ HVPNL for monitoring purpose.
13. A deemed distribution licensee shall comply with all the relevant terms and conditions of the Haryana Electricity Regulatory Commission (Conditions of Licence for Distribution and Retail Supply Business) Regulations, 2004 notified on 30th November, 2004 as may be amended from time to time.

Provided that a deemed distribution licensee, who utilizes the entire quantum of electricity purchased for its own consumption and not for the purpose of onward supply / sale to consumers through its distribution system i.e. does not have any other consumer, shall be considered as embedded Open Access Consumer in case he continues to be a consumer of the Distribution Licensee or Fully Open Access Consumer as defined in the Haryana Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2019.

Provided that such Open Access Consumer shall be liable to pay all charges as per the relevant Regulations including Transmission / Wheeling, Cross-subsidy Surcharge and Additional Surcharge as well as charges for standby power as may be determined by the Commission for the relevant year.

Provided that in the absence of stand by power charges determined by the Commission, such open access consumers shall be liable to pay the temporary tariff i.e. 1.5 times the tariff (Fixed + Energy) of the relevant category as determined by the Commission and amended from time to time including FSA, PLEC if applicable.

14. Other conditions: -

Provided that all such Open Access consumers shall be liable for payment of the imbalance charges/ deviations in line with the terms of the Haryana Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2019 dated 29th April, 2019.

Provided further that all the relevant Regulations and charges including losses and RPO Obligations as applicable to Long Term / Medium Term Open Access consumers shall be applicable to the Deemed Licensee.

15. ISSUE OF ORDERS AND DIRECTIONS.

Subject to the provision of the Act and these regulations, the Commission may, from time to time, issue orders and directions in regard to the implementation of these regulations and procedure to be followed on various matters.

16. POWERS TO REMOVE DIFFICULTIES.

If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by a general or special order, not being inconsistent with the provisions of these regulations or the Act, do or undertake to do things or direct the deemed licensee to do or undertake such things which appear to be necessary or expedient for the purpose of removing the difficulties.

17. POWER TO RELAX

The Commission may in public interest and for reasons to be recorded in writing, relax any of the provision of these regulations.

18. INTERPRETATION

If any question arises relating to the interpretation of any provision of these regulations, the decision of the Commission shall be final and binding.

19. SAVING OF INHERENT POWERS OF THE COMMISSION

Nothing in these regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for ends of justice or to protect consumers' interest or to prevent the abuse of the process of the Commission.

20. ENQUIRY AND INVESTIGATION

All enquiries, investigations and adjudications under these Regulations shall be done by the Commission through the proceedings in accordance with the provisions of the

Conduct of Business Regulations, 2004 as amended from time to time.

21. POWER TO AMEND

The Commission, for reasons to be recorded in writing, may at any time vary, alter or modify any of the provision of these regulations after following the due process.

Date: 14.09.2020
Place: Panchkula

(Naresh Sardana)
Member

(Pravindra Singh Chauhan)
Member

HERC