

# **RAJASTHAN ELECTRICITY REGULATORY COMMISSION, JAIPUR**

**Suo-Motu**

**In the matter of:**

**MITIGATION OF IMPACT OF COVID-19 ON ELECTRICITY DISTRIBUTION LICENSEES AND CONSUMERS OF RAJASTHAN**

**Coram:**

**Sh. Shreemat Pandey, Chairman  
Sh. S.C.Dinkar, Member  
Sh. Prithvi Raj, Member**

Date of order: 15.04.2020

## **ORDER**

1. Ministry of Power (MoP), Government of India in the current scenario of COVID-19 outbreak and nationwide lockdown and a need to ensure uninterrupted power supply, in the interest of public, under Section 107 of the Electricity Act, 2003 issued directions vide its Order No. 23/22/2019-R&R Part-4 dated 28/03/2020 to Central Electricity Regulatory Commission (CERC) as follows:

*"i. The Commission may specify a reduced rate of Late Payment Surcharge (LPS) for payments which become delayed beyond a period 45 days (from the date of presentation of the bill) during the period from 24th March, 2020 to 30th June, 2020 to generating companies and licensees treating the restrictions placed by the central government vide its order dated 24.03.2020 to contain COVID-19 as an event of force majeure. The reduced LPS shall be applicable for such delayed payments till 30th June, 2020. The LPS should not be more than the cost that the Generating Companies or Transmission Licensees would have to bear because of the delayed payment.*

*ii. For generating companies and transmission licensees whose tariff was determined under section 63 by the Central Commission, discoms may claim relief from its obligations regarding the rate at which LPS is to be paid, as per the force majeure provisions given in the respective power purchase agreement"*

2. CERC, in compliance to above mentioned direction of MoP , has passed a suo-motu Order dated 03/04/2020 regarding reduction of Late Payment Surcharge, as follows:

*“13. Keeping in view the directions issued by the Government of India under section 107 of the Act and to address the difficulties faced by the distribution companies (beneficiaries of the generating stations and long term customers of inter-State transmission systems) on account of the unprecedented situation arising out of the restrictions placed by the Central Government and State Governments on the movement of public and opening of offices and establishments etc., the Commission in exercise of its powers under Regulation 76 of the 2019 Tariff Regulations relaxes the provisions of Regulation 59 of 2019 Tariff Regulations to provide that if any delayed payment by the distribution companies to the generating companies and inter-State Transmission licensees beyond 45 days from the date of the presentation of the bills falls between 24.03.2020 and 30.06.2020, the concerned distribution companies shall make the payment with LPS at the reduced rate of 12% per annum that translates into 1% per month.” .....*

3. The above order further clarified the position as regards to applicable period and position of LPS for the projects covered under section 63 of the Electricity Act,2003.
4. Ministry of Power (MoP), Government of India vide its Order No. 23/22/2019-R&R Part-4 dated 06/04/2020 to Secretary-in-charge (Power/Energy), All State Governments/UTs has further clarified its order dated 23/22/2019-R&R Part-4 dated 28/03/2020as under:

“

*1. Vide letter No.23/22/2019-RR dated 27.03.2020, the requirement of either making pre-payment or giving Letter of Credit (LoC) for the entire cost of the power sought to be scheduled, that was put in place on the 20.06.2019, was relaxed to the effect that during the period 24.03.2020 to 30.06.2020, the requirement of prepayment / giving LoC before power is scheduled shall be for 50% of the cost of power. There has been some mis-conception regarding the interpretation of this order and queries have been received in this Ministry. It is made clear that the obligation to pay for the power within 45 days of the presentation of bill (or the period given in the PPA) remains the same. Therefore, while for scheduling power the Distribution Companies will need to either deposit or give LoC for 50% of the cost of power they want to be scheduled, the remaining 50% will have to be paid within the period given in the PPA, failing which the delayed payment surcharge will apply.*

*2. In case of nonpayment of dues within the stipulated period, late payment surcharge is applicable which in most cases goes up to 18% per year. Keeping in mind the present situation, the Government of India have vide letter dated 28.03.2020 advised the CERC to reduce the rates of late payment surcharge applicable for the period 24.03.2020 to 30.06.2020. From*

*01.07.2020, the delayed payment surcharge shall apply at the rate given in the PPA. It is clear, therefore, that the reduced rate of late payment surcharge on electricity dues will be available only up to 30.06.2020. From the 01.07.2020, onwards the normal/penal rates of late payment surcharge, as per PPA/regulations, shall apply.*

*3. Therefore, in brief –*

*(a) The obligation to pay for power within 45 days of the presentation of the bill or as provided in the PPA remains unchanged.*

*(b) Late payment surcharge shall apply at reduced rate only for the period between 24.03.2020 to 30.06.2020 (on those payments that become overdue during the period 24.03.2020 to 30.06.2020 and not on those payments which were already overdue before 24.03.2020) and after 30.06.2020 the delayed payment surcharge shall be payable at rates given in the PPA/regulations.*

*(c) Obligation to pay for capacity charges as per the PPA shall continue, as does the obligation to pay for transmission charges.*

*4. Efforts are also being made to infuse some liquidity in the power sector, the details of which would be shared with Discoms shortly. However, Discoms may also raise funds, if required, to meet this crisis. Suggestions in this regard may be sent to the undersigned.*

*5. This issues with the approval of Minister of State (Independent Charge) for Power and New and Renewable Energy, Government of India.”*

5. The State of Rajasthan is in a state of lockdown since 22.03.2020 and the country since 25.03.2020. Due to lockdown conditions, many consumers across all categories may find it difficult to make payment of their bills on time. Because of tight cash flow situation it will be difficult for Discoms to make timely payments to the generators and transmission companies. The Commission also observes that the Reserve Bank of India has permitted lending institutions and banks to grant a moratorium of three months on repayment in respect of all term loans and has clarified that interest shall continue to accrue on the outstanding portion of the term loans during the moratorium period. Similarly, in respect of working capital facilities, the Reserve Bank of India has permitted lending institutions and banks to defer the recovery of interest on such facilities, but has clarified that accumulated accrued interest shall be payable after the deferment period from 01.03.2020 up to 31.05.2020.
6. Accordingly , Gencos and intra-State transmission licensees can opt for moratorium on payment of installments of term loan and defer the payment of interest in respect of working capital facilities during the period from March 1, 2020 up to May 31, 2020 (“deferment”), but the interest accrued is not waived. Further, in case of working capital facilities, accumulated accrued interest shall be recovered immediately after the completion of this period. The interest rate applicable will be

the lending rate of the lending institutions or banks. Thus, the generating companies and the transmission licensees will have to incur the cost of working capital facilities even during the deferment period and arrange for working capital for day to day operation of their generating stations and transmission assets.

7. As regards the generating companies and transmission licensee whose tariff is determined by the Commission under Section 62 of the Act, as per the 'Rajasthan Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2019, as amended from time to time, provision for payment of late payment surcharge is as under:

**“Regulation 33 of the RERC Tariff Regulations, 2019**

*33. Late payment surcharge*

*a) In case the payment of bills of generation tariff, transmission charges, operating charges of SLDC, wheeling charges or charges for electricity purchased by a person other than a consumer is delayed beyond a period of 45 days from the date of presentation of bills, a late payment surcharge equivalent to Base Rate as on 1st April of the respective year plus 400 basis points per annum on daily basis shall be levied by the Generating Company or Licensee.*

*b) For delay in payment of bill by a consumer beyond the period specified by the Commission, a late payment surcharge as laid down by the Commission from time to time shall be payable to the Licensee.”*

8. Looking to all above and keeping in view the existing unprecedented situation the Commission is of the view that some relief is required to be given to Discoms in the applicable rate of late payment surcharge for any delay in its payments to the generators and transmission licensee during the specified period and at the same time it is to be ensured that Generators and transmission licensee are able to recover interest equivalent to the rate of interest on working capital .
9. The Commission determines the tariff of the generating companies and intra-State transmission licensee in accordance with the tariff regulations framed under Section 61 read with Section 181 of the Act. Further, the Commission also adopts the tariff of the generating companies under Section 63 of the Act, where the tariff has been discovered through competitive bidding in accordance with the Guidelines issued by the Government of India under Section 63 of the Act.

10. The Commission is of the view that in the given situation, a normative rate equivalent to interest rate on working capital should be adopted in place of the penal rate of LPS specified under Regulation 33 of the Tariff Regulations 2019, for delayed payments falling due beyond the period of 45 days, during the period from 22.03.2020 to 30.06.2020 and has accordingly issued directions in this regard later in this order.
11. The Government of Rajasthan to address the difficulties faced by the distribution licensee on account of the unprecedented situation arising out of the lockdown has also announce various measures which inter-alia includes deferment of the fixed Charges for industrial and non domestic consumers, deferment of The payment of the bill of agricultural consumers and Domestic consumer consuming up-to 150 units and a rebate for timely payment and Government has also announced for financial support.
12. The Commission is of the view that at this point of time it would be necessary in public interest to immediately take various measures without the requirement of a hearing. The Regulation 74 of RERC(Transaction of Business)Regulations, 2005 provides that nothing in these Regulations shall be deemed to bar the Commission to deal with any matter or exercise any power under the Act for which no regulation has been framed, and the Commission may deal with such matters or exercise such power in such manner as it thinks fit. The Commission as per regulation 77 of the Rajasthan State Electricity Regulatory Commission (Transaction of Business) Regulations, 2005 as amended from time to time is vested with the power to dispense with the requirements of any of the Regulations in a particular case. Regulation 77 of the Transaction of Business Regulations, 2005, as amended from time to time, is extracted as under:

***“Power to dispense with the requirement of the Regulations:-***

*The Commission shall have the power, for reasons to be recorded in writing and with notice to the affected parties, dispense with the requirements of any of the Regulations in a particular case subject to such terms and conditions as it may be specify.”*

13. The present circumstances due to COVID-19 are unforeseen and unprecedented which requires the Commission to act for balancing the interest of consumers and utilities. The effect of lock-down due to COVID-19 is well known to each constituent of the Power Sector and measures to mitigate hardships to the consumers and the utilities in public interest are being taken across the nation while ensuring continuity in operation of each utility. The prime function of the Commission is to protect the interest of the consumer and at the same time ensuring recovery of cost by utilities. In view of this the Commission issues following directions to Generators and Licensees.

### Direction to Generators and Transmission Licensee

14. The Commission directs to equate the rate of late payment surcharge to normative Rate of Interest on Working Capital as per Tariff Regulations 2019 for such delayed payments from 22.03.2020 till 30.06.2020 (on those payments that become overdue during the period 22.03.2020 to 30.06.2020 and not on those payments which were already overdue before 22.03.2020), payable by Discoms to the generating companies and Transmission Licensee for which the tariff is determined by the Commission u/s 62 of the Act.
15. It is clarified that if the period of 45 days beyond the due date of the presentation of the bill by the generating companies or intra-State transmission licensee, falls before 22.03.2020 or after 30.06.2020, Discoms shall be liable to pay the LPS as per applicable Regulation 33 of the RERC Tariff Regulations 2019.
16. It is further clarified that the Discoms will continue to avail rebates under Tariff Regulations, 2019, if the payments are made to the generating companies and the transmission licensees within the timeline specified in the said Regulations.
17. For generating companies/Transmission companies whose tariff has been adopted by the Commission under Section 63 of the Act, Discoms may claim the relief from its obligations regarding the rate at which LPS is to be paid for payments which become delayed beyond the stipulated period during the period from 22.03.2020 to 30.06.2020, as per the force majeure provisions given in the respective power purchase agreement or Transmission Service Agreements (TSAs) as the case may be.

### Directions to DISCOMS

18. The Commission directs Discoms to give effect to measures adopted by the State Government to provide relief to the consumers. Apart from above for smoother operation the Discoms the Commission issues following Directions to Discoms:-
  - i. The Commission vide its order dated 06.02.2020 has allowed prompt payment rebate of 0.15% on energy and fixed charges in the next bill if payment is received before seven (7) days from the due date of the bill and 0.35% on energy and fixed charges in the next bill if payment is received before ten (10) days from the due date of the bill. Govt of Rajasthan has provided for a rebate of 5% to consumers of Agriculture and Domestic categories for paying their bills by 31 May 2020. In addition to this, Commission directs to provide a rebate of 1% to consumers of all other categories if they pay their bills issued in April and May 2020 by 31 May 2020.
  - ii. Electricity Bills may be raised on provisional basis based on average in accordance with the provisions of Supply Code Regulations in respect of

- consumers not covered under Smart Meters and Automatic Meter Reading. These bills will be subject to adjustment after issuance of final bill .
- iii. During the period of 22.3.2020 to 31.5.2020 ,consumers shall be encouraged to communicate their meter reading (figure & photo) to Discoms call centre or concerned officer through whatsapp for which they will get a rebate of 1% subject to maximum of Rs.50/- in their bills.
  - iv. In addition to physical copy, the Electricity Bills, actual or provisional, shall also be sent to consumers through electronic mode viz. E-mail, SMS and Whatsapp etc.
  - v. Further to facilitate consumers during this period, Commission directs that the DISCOMS shall bear all types of banking charges/processing fee if any, for all modes of digital payments against the bills raised during the period of March 22, 2020 till May 31, 2020. In case payment is made through a debit card/ credit card, no transaction charges shall be charged by the Licensee upto bill payment of Rs 5000/- .However, in case payment of a bill amounting more than Rs 5000/- is made through debit card/credit card, licensee may recover the actual charges paid by it to debit card/credit card company/service provider.
  - vi. For the amount not deferred under relief package announced by the Government the DISCOM may allow part payment/ full payment facility to the consumers even after scheduled due date without disconnection during the period 22.3.2020 to 31.5.2020 .
  - vii. All the above measures shall be communicated by Discoms through Social media, Electronic media and Print media for wider publicity.
  - viii. The aforesaid directions are subject to any further direction issued by the Commission from time to time and are to be strictly complied by all Generators and Licensees.

(Prithvi Raj)  
Member

(S.C. Dinkar)  
Member

(Shreemat Pandey)  
Chairman