

Karnataka Electricity Regulatory Commission

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Order

Dated: 08.05.2020

Present:

- | | |
|-----------------------------|----------|
| 1. Sri. Shambhu Dayal Meena | Chairman |
| 2. Sri. H M Manjunatha | Member |
| 3. Sri. M.D. Ravi | Member |

In the matter of:

Implementation of the directions of the Government of Karnataka dated 16.04.2020 under Section 108 of the Electricity Act, 2003 issued to the Karnataka Electricity Regulatory Commission regarding waiver/Reduction of Late Payment Surcharge-reg.

1. The Energy Department, Government of Karnataka (GoK), vide its letter No. ENERGY26 PPT 2020 dated 16.04.2020 has issued directions in public interest under the provisions of Section 108 of the Electricity Act, 2003, to the Karnataka Electricity Regulatory Commission (KERC) in the matter of waiver/reduction of Late Payment Surcharge as follows:

"1. The Commission may specify a reduced rate of interest of Late payment surcharge (LPS), preferably at the MCLR bank interest rate, for payments which become delayed beyond period of 15 days/30 days/45 days/60 days (from the date of presentation of bill) for the period from 24th March 2020 to 30th June 2020 to Generating Companies and Transmission license, 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 licensee would have to bear because of the delayed payment.

2. *For Generating Companies and Transmission licensee, whose tariff was determined under Section 63 by the State Commission, ESCOMs may claim relief from its obligation regarding the rate at which LPS is to be paid, as per 'Force Majeure' provisions given in respective Power Purchase Agreement."*
2. The Commission has considered the above directions of the Government of Karnataka issued under Section 108 of the Act. This Commission is mandated to determine the tariff of the Generating companies and the transmission licensees under Section 86(1)(a) of the Electricity Act, 2003 and in accordance with the tariff regulations framed under section 61 read with Section 181 of the Act. Further, this Commission also adopts the tariff of the generating companies and transmission licensees under Section 63 of the Act where the tariff has been discovered through competitive bidding in accordance with the Guidelines issued by Government of India under Section 63 of the Act.
3. The Regulation 35 of the Karnataka Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) Regulations, 2009, which came into force from the date of their publication in the Karnataka Gazette and remained valid up to 31st March, 2014 and were applicable to all Conventional generating power plant specifies the Clause for 'Late Payment Surcharge'. Subsequently, the KERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2014, issued on 26.08.2015 applicable to plants having commercial operation during the period from 1st April, 2014 up to 31st March, 2019 were issued wherein, the Clause pertaining to late payment Surcharge has been retained. Regulation 32 of the KERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2014 specifies the following:

"32. Late payment surcharges:

In case the payment of any bill for charges payable under these regulations is delayed by a beneficiary, beyond a period of **sixty days** from the date of billing, a late payment surcharge at the rate of **1.25% per month** shall be charged by the generating company."

Thus, the late payment surcharge to be paid by the distribution licensee to the State owned conventional generating Stations in case the payment is delayed beyond a period of 60 days from the date of billing works out to be 15% per annum.

4. As regards surcharge on delayed payment by the ESCOMs to the Transmission Licensee, Regulation 3.19 of the KERC (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2006 (as amended from time to time) is applicable, which specifies as follows:

"3.19 Late payment surcharge:

In case the payment of bills of transmission charges by the beneficiary (s) is delayed beyond a period of 1 month from the date of billing a late payment surcharge at the rate of 1.25% per month shall be levied by the Transmission Licensee."

5. Further, in case of RE generators, depending upon the PPA, as submitted by GoK, the LPS varies from 12% to 24% and the period varies from 15 days to 60 days.
6. As per the directions issued by Government of Karnataka under Section 108 of the Act, the Commission is required to specify a reduced rate of LPS, preferably at the MCLR bank interest rate, for payments which become delayed beyond period of 15 days/30 days/45 days/60 days (from the date of presentation of bill) for the period from 24th March 2020 to 30th June 2020 to Generating Companies and Transmission license and for the generating companies and transmission licensees whose tariff has been determined under Section 63 of the Act by this Commission, the ESCOMs may claim relief from its obligations regarding the rate at which Late Payment Surcharge is to be paid, as per 'Force Majeure' provisions given in the respective agreements.
7. Therefore, Commission is of the view that in the given situation, MCLR rate as directed by GoK should be adopted as the normative rate of LPS in place of the penal rate of LPS, for delayed payments falling due beyond the period of 15 days/30 days/45 days/60 days as applicable, during the period from 24.03.2020 and 30.06.2020. As per the MCLR historical data from website of State Bank of India, three-months MCLR as on 10.04.2020 is 7.15% per annum., which works out to 0.595% per month. Thus, after rounding off, the Commission decides to adopt 0.60% per month as the normative rate of LPS in place of the penal rate of LPS.

8. Keeping in view the directions issued by the Government of Karnataka under section 108 of the Act in public interest and to address the difficulties faced by the distribution companies 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 conferred under the Electricity Act/ Regulations, orders as follows:

- i. The Commission hereby specifies interest rate of 0.60% per month towards Late Payment Surcharge (LPS), for payments which become delayed beyond the period of 15 days/30 days/45 days/60 days, as the case may be (from the date of presentation of bill,) for the period from 24th March 2020 to 30th June 2020 payable to Generating Companies and Transmission licensee, 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 shall not be more than the cost that the Generating companies or the Transmission licensee would have to bear, because of the delayed payment.
- ii. For Generating Companies and Transmission licensee, whose tariff has been determined under Section 63 and adopted by the State Commission, ESCOMs may claim relief from its obligation regarding the rate at which LPS to be paid, as per 'Force Majeure' provisions given in respective Agreements.
- iii. Further, if the period of delayed payment falls before 24.03.2020 or after 30.06.2020, the concerned distribution company shall pay the LPS as per the rates prescribed in relevant clauses of the power purchase agreement.

9. This Order is signed and issued by the Karnataka Electricity Regulatory Commission at Bengaluru, on Friday, the 08th of May, 2020.


Shambhu Dayal Meena
Chairman
8/5/2020


H.M. Manjunatha
Member
8/5/2020


M.D. Ravi
Member
8/5/2020