

**No. 23/22/2019-R&R(Part-4A)**  
**Government of India**  
**Ministry of Power**

Shram Shakti Bhawan, Rafi Marg,  
New Delhi, 19<sup>th</sup> August, 2021

To,

1. Secretary, MNRE, New Delhi
2. The Chairperson, Central Electricity Authority, Sewa Bhavan, R.K. Puram, New Delhi
3. The Secretary, Central Electricity Regulatory Commission (CERC), New Delhi
4. Principal Secretaries/Secretaries (Power/Energy) of all State Governments/UTs
5. Secretaries of All State Electricity Regulatory Commissions/JERCs.
6. Chairman/CMDs of all PSUs under administrative control of Ministry of Power
7. CMD, SECI, New Delhi
8. CMDs/MDs of Discoms/Gencos of all State Governments
9. CMD, IEX LTD New Delhi & MD/CEO, PXIL , Mumbai
10. DG, Association of Power Producers, New Delhi.
11. President, FICCI, House No. 1, Tansen Marg New Delhi
12. President, CII, New Delhi
13. President, PHDCCI, New Delhi
14. ASSOCHAM, Chanakyapuri, New Delhi
15. Member, PRAYAS Energy Group, Pune
16. DG, Electric Power Transmission Association (EPTA), New Delhi
17. Chairman Indian Wind Power Association, New Delhi
18. Chairman, Indian Wind Turbine Manufacturers Association, New Delhi
19. Director General, National Solar Energy Federation of India (NSEFI), New Delhi.

**Subject: Draft Electricity (Late Payment Surcharge) Amendment Rules, 2021- Reg.**

Sir/Madam,

I am directed to forward herewith the Draft Electricity (Late Payment Surcharge) Amendment Rules, 2021, with the request to provide your comments, if any, to this Ministry within 30 days from the date of this letter i.e. by 18.09.2021. The comments may also be emailed at [debranjan.chattopadhyay@nic.in](mailto:debranjan.chattopadhyay@nic.in).

2. This issues with the approval of Competent Authority.

Yours faithfully

Encl: as above



(Debranjan Chattopadhyay)  
Deputy Secretary to the Govt. of India  
Ph: 011-2371 5250

**Copy for information to:** PS to Hon'ble Minister for Power and NRE, Sr. PPS to Secy. (P), Sr. PPS to JS (R&R), Ministry of Power.

**Copy to:** Technical Director, NIC Cell for uploading on MOP's website under "Current Notices" with the heading of "**Seeking comments on Draft Electricity (Late Payment Surcharge) Amendment Rules, 2021**".

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART-II,  
SECTION 3, SUB-SECTION (ii)]

## MINISTRY OF POWER

### NOTIFICATION

New Delhi, the ..... August, 2021

G.S.R. .... (E).- In exercise of powers conferred by section 176 of the Electricity Act, 2003 (36 of 2003), the Central Government hereby makes the following rules, to amend the Electricity (Late Payment Surcharge) Rules, 2021, namely:-

1. (1) These rules may be called the Electricity (Late Payment Surcharge) Amendment Rules, 2021.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Electricity (Late Payment Surcharge) Rules, 2021 (hereinafter referred to as the said rule), rule 2 shall be deleted.

3. In the said Rules in Rule 4, the following provision shall be inserted, namely:-

Provided further that the rule 4 shall be applicable for payments to be made in pursuance of --

- a. All Power Purchase Agreements, Power Supply Agreements and Transmission Service Agreements, in which tariff is determined under section 62 of the Act; and
- b. such Power Purchase Agreements, Power Supply Agreements and Transmission Service Agreements that become effective after these rules come into force, in which tariff is determined under section 63 of the Act.

4. In the said rules, for rule 5 the following shall be substituted, namely:-

**“5. Order of Payment and Adjustment towards Late Payment Surcharge.-**

- i. All the bills payable by a distribution licensee to a generating company or a trading licensee for power procured from it or to a transmission licensee shall be time tagged with respect to the prescribed date of payment specified in the Power Purchase Agreement, and the payment shall be made by the distribution licensee first against the oldest procurement of power and then to the second oldest procurement and so on so as to ensure that payment against a procurement is not made unless and until all procurement older than it have been paid for.
  - ii. All payments by a distribution licensee to a generating company or a trading licensee for power procured from it or by a user of a transmission system to a transmission licensee shall be first adjusted towards Late Payment Surcharge and thereafter, towards monthly charges, starting from the longest overdue bill.”
5. In the said rules, after rule 5, the following new rule shall be inserted, namely:-

“6. If a distribution licensee has any payment including Late Payment Surcharge outstanding after the expiry of seven months from the due date of payment as prescribed in the PPA; then, notwithstanding anything contained in the Power Purchase Agreement or the Power Supply Agreement, the generating company may sell power to any consumer or any other licensee or power exchanges, for the period of such default, while retaining its claim on payment of fixed charges or capacity charges from the distribution licensee, after giving a notice of at least fifteen days to the distribution licensee. The claim, if any, shall be reconciled on annual basis and shall be limited, to only under recovery of the fixed charges or capacity charges.”

[No. 23/22/2019-R&R Part-4]

(Ghanshyam Prasad)  
Joint Secretary to the Government of India

Note: The principal rules were published in the Gazette of India, Extraordinary vide notification number G.S.R. 128 (E), dated 22<sup>nd</sup> February, 2021.