

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

MINISTRY OF POWER
NOTIFICATION

New Delhi, the December, 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, namely:-

1. **Short title and commencement.** - (1) These rules may be called the Electricity (Late Payment Surcharge and related matters) Rules, 2021.

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

2. **Definitions.** – (1) In these rules, unless the context otherwise requires, -

(a) “**Act**” means the Electricity Act, 2003 (36 of 2003);

(b) **Agreement** means the following:

- (i) Power Purchase Agreement (PPA) between the distribution licensee and the generating company or electricity trading licensee, or
- (ii) Power Supply Agreement (PSA) between the distribution licensee and the electricity trading licensee, or
- (iii) Transmission Service Agreement (TSA) between the distribution licensee and transmission licensee, or
- (iv) such other agreements by whatever name called and binding on the generating company or electricity trading licensee or transmission licensee and a distribution licensee;

(c) “**Base rate of Late Payment Surcharge**” means the marginal cost of funds based lending rate for one year of the State Bank of India, as applicable on the 1st April of the financial year in which the period lies, plus five percent and in the absence of marginal cost of funds based lending rate, any other arrangement that substitutes it, which the Central Government may, by notification, in the Official Gazette, specify:

Provided that if the period of default lies in two or more financial years, the base rate of Late Payment Surcharge shall be calculated separately for the periods falling in different years;

(d) **"Due date"** means the date by which the bill for the charges for power supplied by the generating company or electricity trading licensee or for the transmission service provided by a transmission licensee are to be paid, in accordance with the Agreement, as the case may be, and if not specified in the Agreement, forty-five days from the date of presentation of the bill by such generating company, electricity trading licensee or transmission licensee;

(e) **"Default Trigger Date"** shall mean

- i. in case of non-payment of dues, one month after the due date of payment or two and half months after the presentation of bill by the generating company, electricity trading licensee or the transmission licensee, as the case may be, whichever is later, and;
- ii. in case of non-maintenance of the Payment Security Mechanism, shall be from the next day after the Payment Security Mechanism due for to be replenished but not done;

(f) **"Defaulting entity"** means a distribution licensee having outstanding dues of a generating company or electricity trading licensee or transmission licensee.

(g) **"Late Payment Surcharge"** means the charges payable by a distribution licensee to a generating company or electricity trading licensee for power procured from it, or by a user of a transmission system to a transmission licensee on account of delay in payment of monthly charges beyond the due date;

(h) **"Outstanding Dues"** means the dues of a generating company, electricity trading licensee, or a transmission licensee, which remains unpaid by the beneficiary beyond the due date and includes the amount of installment not paid after the redetermined due date under rule 4.

(i) **"Payment Security Mechanism"** means Letter of Credit (LC) or/and LC backed by Escrow Agreement as provided in the Agreement:

Provided that, advance payment shall constitute payment security if there are no outstanding dues;

Provided further that the payment security may be for a shorter duration or lower capacity in case of generating company, if there are no outstanding dues;

(j) **"Regulating Entity"** means the generating company or the electricity trading licensee or the transmission licensee, as the case may be, which notifies the Regional Load Despatch Centre or the State Load Despatch Centre, to regulate the power supply of the defaulting entity;

(k) **"Regulated Entity"** means the Defaulting Entity whose power supply is regulated in accordance with these Rules.

(2) Words and expressions used and not defined herein but defined in the Act shall have the meaning respectively assigned to them in the Act.

3. **Late Payment Surcharge.-** (1) Late Payment Surcharge (LPS) shall be payable on the payment outstanding after the due date at the base rate of Late Payment Surcharge applicable for the period for the first month of default.

(2) The rate of Late Payment Surcharge for the successive months of default shall increase by 0.5 percent for every month of delay provided that the Late Payment Surcharge shall not be more than three percent higher than the base rate at any time.

Provided that the rate, at which Late Payment Surcharge shall be payable, shall not be higher than the rate of Late Payment Surcharge specified in the Agreement, if any.

4. **Adjustment towards Late Payment Surcharge.-** 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. **Liquidation of Arrears.-** (1) The outstanding dues including LPS upto the day of the notification of these rules shall be rescheduled and the due dates redetermined for payment by a distribution licensee in the following maximum number of equated monthly installments: