कार्यक्रम से अवगत कराएगा, जिसमें विफल रहने पर उत्पादक कंपनी मांग नहीं की गई विद्युत का विद्युत विनिमय में विक्रय कर सकती है।

(2) ऐसी विद्युत के विक्रय से प्राप्त लाभ निम्नलिखित क्रम में समायोजित किए जाएंगे:-

(i) उत्पादक कंपनी को तीन पैसे प्रति यूनिट तक भुगतान;

(ii) नियत प्रभारों की वसूली;

(iii) अतिदेय रकम का परिसमापन;

(iv) अतिशेष का वितरण अनुज्ञप्तिधारी और उत्पादक कंपनी के बीच 50:50 के अनुपात में बंटवारा किया जाएगा।

(3) इस लाभ की गणना ऐसी विद्युत के विद्युत विनिमय में विक्रय मूल्य और ऊर्जा प्रभार, पारेषण प्रभार और अन्य आनुषंगिक प्रभारों सहित उत्पादक कंपनी द्वारा वहन किए जा रहे व्ययों के अंतर के रूप में की जाएगी।

(4) मांग नहीं की गई विद्युत के लिए नियत प्रभारों के भुगतान का दायित्व वितरण अनुज्ञप्तिधारी का रहेगा।

(5) यदि वितरण अनुज्ञप्तिधारी किसी मस्ट रन विद्युत संयंत्र से विद्युत की मांग नहीं करता है तो अनुज्ञप्तिधारी द्वारा मस्ट रन विद्युत संयंत्र के स्वामी उत्पादक कंपनी को विद्युत के क्रय के लिए करार में विनिर्दिष्ट दर पर, और यदि करार में कोई दर विनिर्दिष्ट नहीं है तो विद्युत (मस्ट रन विद्युत संयंत्र से विद्युत के उत्पादन का संवर्धन) नियम, 2021 के अनुसार क्षतिपूर्ति का भुगतान देय होगा।

10. **विलंब भुगतान अधिभार के लिए भुगतान और समायोजन का क्रम:-** वितरण अनुज्ञप्तिधारी द्वारा किसी उत्पादक कंपनी या पारेषण कंपनी या किसी व्यापार कंपनी को इससे विद्युत के क्रय के लिए देय सभी बिल, बिल प्रस्तुत करने की तारीख और समय के संबंध में समय अंकित होंगे और वितरण अनुज्ञप्तिधारी द्वारा किया गया भुगतान पहले सबसे पुराने बिल के लिए और फिर दूसरे सबसे पुराने बिल के लिए और फिर इसी क्रम में समायोजित किया जाएगा ताकि यह सुनिश्चित किया जा सके कि जब तक कि सभी पुराने बिलों का भुगतान न कर दिया गया हो, तब तक किसी बिल के भुगतान को समायोजित नहीं किया जाए।

परंतु विलंब भुगतान अधिभार के लिए कोई समायोजन नियम 4 में यथाविनिर्दिष्ट रीति से किया जाएगा।

11. **भार प्रेषण केन्द्रों को सुरक्षित रखना:-** इन नियमों के अधीन की गई किसी भी कार्रवाई के कारण उत्पन्न मुकदमेबाजी की लागत सहित किन्ही परिणामों या दायित्वों से संबंधित राष्ट्रीय भार प्रेषण केन्द्र या क्षेत्रीय भार प्रेषण केन्द्र या राज्य भार प्रेषण केन्द्र को सुरक्षित रखा जाएगा।

[फा. सं. 23/22/2019-आरएंडआर पार्ट-4]

घनश्याम प्रसाद, संयुक्त सचिव

MINISTRY OF POWER

NOTIFICATION

New Delhi, the 3rd June, 2022

G.S.R. 416(E).—In exercise of powers conferred by sub-section (1) of section 176 of the Electricity Act, 2003 (36 of 2003), and in supersession of the Electricity (Late Payment Surcharge) Rules, 2021, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:-

1. **Short title, Commencement and Applicability.** - (1) These rules may be called the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022.

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

   (3) These rules shall be applicable to outstanding dues of generating companies inter-state transmission licensees and electricity trading licensees.

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

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

(b) **"agreement"** means and includes the following, namely:-

(i) Power Purchase Agreement between the distribution licensee and the generating company or electricity trading licensee; or

(ii) Power Supply Agreement between the distribution licensee and the electricity trading licensee; or

(iii) Transmission Service Agreement between the transmission licensee and distribution licensee or other user of transmission system;

(iv) such other agreements by whatever name called and binding on the generating company ,electricity trading licensee, transmission licensee, distribution licensee, and other user of transmission system, for supply of power and transmission services.

(c) **"base rate of Late Payment Surcharge"** means the marginal cost of funds based on 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 per. cent 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) **"defaulting entity"** means a distribution licensee or other user of transmission system having outstanding dues of a generating company or electricity trading licensee or transmission licensee.

(e) **"default trigger date"** means,-

(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 bank working day after the payment security mechanism due to be replenished but is not done.

(f) **"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:

Provided that if due date for payment of any invoice falls on a bank non-working day, the next bank working day shall be considered as due date for payment.

(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, **not stayed by a competent court or Tribunal or dispute resolution agency as designated in the Power Purchase Agreement,** which remains unpaid by the beneficiary beyond the due date and includes the amount of installment not paid after the re-determined due date under rule 5.

(i) **"payment security mechanism"** means Letter of Credit or Letter of Credit backed by Escrow Account as per 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) **"regulated entity"** means the defaulting entity whose power supply is regulated in accordance with these rules.

(k) **"regulating entity"** means the generating company or the electricity trading licensee or the transmission licensee or the Central Transmission Utility as the case may be, which notifies the Regional Load Despatch Centre or the State Load Despatch Centre in whose control area the source of power is located, to regulate the power supply of the defaulting entity.

(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 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 per. cent for every month of delay provided that the Late Payment Surcharge shall not be more than three per. cent higher than the base rate at anytime:

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 total outstanding dues including Late Payment Surcharge upto the date of the notification of these rules shall be rescheduled and the due dates re-determined for payment by a distribution licensee in the following maximum number of equated monthly installments:-

Outstanding dues amount (in Rs. Crore)	**Maximum no. of equated monthly installments (months)**
Up to 500	**12**
501 - 1,000	**20**
1,001 - 2,000	**28**
2,001 - 4,000	**34**
4,001 - 10,000	**40**
>10,000	**48**

(2) The distribution licensee shall communicate, in writing, to the generating company, transmission licensee, electricity trading licensee, as the case may be, the outstanding dues and number of installments in which, the outstanding dues would be paid and this communication shall be sent within thirty days of the promulgation of these rules:

Provided that if distribution licensees fails to communicate to generating company, transmission licensee, electricity trading licensee, as the case may be, the rescheduling of dues in accordance with sub-rule (1) of rule 5 within thirty days, these provisions shall not be applicable to it:

Provided further that the distribution licensee may make payment in a month more than the equated monthly installment for the month.

Provided also that the first due date for payment of the equated monthly installment shall be the fifth day of the immediate month that comes after forty five days from notification of these rules and due date for all subsequent equated monthly installments shall be due on fifth day of date the subsequent months.

Illustration: If these rules come into effect on 10th March, 2022 then the due date of the equated monthly installment shall start from 5th May, 2022 and subsequent equated monthly installment shall be due on 5th of subsequent months i.e. 5th June, 2022 and so on:

Provided also that the payment of installment shall be done to all the concerned generating companies, transmission licensees, electricity trading licensees, as the case may be, on pro-rata basis, depending upon the proportion of their individual outstanding dues.

(3) Notwithstanding anything contained in rule 3, if the distribution licensee agrees to payment of the arrears dues as per the installment fixed under the rule, and makes timely payment of these installment then Late Payment Surcharge shall not be payable on the outstanding dues from the day of the notification of these rules:

(4) In case of delay in payment of an installment under sub-rule (1), Late Payment Surcharge shall be payable on the entire outstanding dues as on the date of notification of these rules.

(5) In case of non rescheduling of the arrears in accordance with this rule, all payments made by the Distribution Company shall first be adjusted against the arrears.

6. Operationalising the payment security mechanism and its consequences- (1) A distribution licensee or other user of transmission system, as the case may be, shall maintain unconditional, irrevocable and adequate payment security mechanism.

(2) In case of non-maintenance of payment security mechanism generating companies, electricity trading licensees and transmission licensees shall regulate power supply to the distribution licensee in accordance with these rules.

(3) The supply of power shall only be made if an adequate payment security mechanism is maintained or in the absence thereof, advance payment is made:

Provided that in case the generating company supplies power without the payment security mechanism or without advance payment, it shall lose the right to collect the late payment surcharge from the distribution licensee:

Provided further that in case of non-payment of outstanding dues by the default trigger date, the obligation of the generating company to supply power shall be reduced to Seventy five per cent of the contracted power to distribution licensee and balance Twenty five per cent of contracted power may be sold by the generating company through the Power Exchanges.

Provided also that if the distribution licensee does not establish payment security mechanism or continues to default in payment of outstanding dues for a period of thirty days then the generating company shall be entitled to sell 100 per. cent of the contracted power through Power Exchanges.

(4) During the period of default, the distribution licensee shall continue to be liable for the payment of fixed charges or capacity charges as applicable under the agreement.

(5) The gains from the sale of such power, which shall be the difference between selling price of such power in the power exchange and the expense borne by the generating company including

energy charges, transmission charges; other incidental charges and shall be adjusted in the following order:-

(i) recovery of fixed charges;

(ii) liquidation of overdue amount;

(iii) the balance shall be shared in the ratio of 75:25 between the distribution licensee and the generating company.

(6) The regulating entity shall share the detailed calculation for above, with the regulated entity on a monthly basis.

7. Regulation of access to defaulting entities.-In case of non-payment of dues, by the distribution licensee or other user of transmission system, even after two and half months from presentation of bill by the generating company or transmission licensee or trading licensee, or in case of default in the payment of instalments fixed under rule 5, the power supply to the defaulting entity shall be regulated as follows:-

(1) Short-term access, for sale and purchase of electricity including in the power exchange shall be regulated entirely:

Provided that the same shall be also applicable on already approved short-term access:

Provided further that the National Load Despatch Centre may, under exceptional circumstances for grid security, temporarily review the regulation of short-term access under this rule, and record the reasons for doing so, in writing.

(2) If, even one month after the regulation of the short-term access or if the dues have remained unpaid for three and a half months, apart from the regulation of the short-term access in its entirety, the long and medium- term access shall be regulated by Ten per cent.

(3) Reduction or withdrawal of long-term access and medium-term open access shall be in such manner that the quantum of reduction in drawl schedule increases progressively by Ten per cent for each month of default.

(4) On payment of outstanding dues, the regulation of access under this rule shall end and it shall be restored at the earliest, but not later than two days.

(5) National Load Despatch Centre shall issue detailed procedure to implement the regulation of access according to these rules.

(6) In case of such reduction of drawl schedule, the liability for payment of capacity charges for its original share in the generating station as also the inter-state transmission charges shall remain with the regulated entity.

Explanation: For the purposes of this rule, the expression "short-term access" means access to inter-state transmission system for periods up to one year, medium term open access means access to inter-state transmission system for one to three years and long-term open access means access to inter-state transmission system for periods of more than three years.

8. Supply obligation of the generating company. – (1) In case a generating company fails to offer the contracted power as per the agreement to a distribution licensee and sells the contracted power without its consent to any other party, the said generating company, on a complaint to this effect by the licensee to the load dispatch centre concerned, shall be debarred from participating in Power Exchanges and on the Discovery of Efficient Electricity Pricing portal and scheduling of any new short-term contracts from that generating station for a period of three months from the date on which the default has been taken cognizance by the concerned load dispatch centre.

(2) The period of debarment shall increase to six months for second default and shall be one year for each successive default. Such debarment of the generating company shall be without prejudice to the rights of the distribution licensee for seeking compensation for the default by the generating company:

Provided that this rule shall not be applicable on the sale of contracted power to third parties, in case of regulation of power supply under rule 6 and rule 7 of these rules.

9. **Power not requisitioned by a distribution licensee.-**(1) A distribution licensee shall intimate its schedule for requisitioning power for each day from each generating company with which it has an agreement for purchase of power at least two hour before the end of the time for placing proposals or bids in the day ahead market for that day, failing which the generating company may sell the un-requisitioned power in the power exchange.

(2) The gain from the sale of such power shall be adjusted in the following order:-

(i) payment to generating company of upto three paise per unit;

(ii) recovery of fixed charges;

(iii) liquidation of overdue amount;

(iv) the balance shall be shared in the ratio of 50:50 between the distribution licensee and the generating company.

(3) The gain will be calculated as the difference between selling price of such power in the power exchange and the expense borne by the generating company including energy charges, transmission charges and other incidental charges.

(4) The liability of payment of fixed charges towards the un-requisitioned power shall remain with the distribution licensee.

(5) In case a distribution licensee does not requisition power from a must-run power plant, the compensation shall be payable by the licensee to the generating company owning the must-run power plant at the rate specified in the agreement for purchase of power and if no rate is specified in the agreement then in accordance with the Electricity (Promotion of Generation of Electricity from Must-Run Power Plant) Rules,2021.

10. Order of payment and adjustment towards Late Payment Surcharge.- All the bills payable by a distribution licensee to a generating company or a transmission company or a trading company for power procured from it, shall be time tagged with respect to the date and time of submission of the bill and the payment made by the distribution licensee shall be adjusted first against the oldest bill and then to the second oldest bill and so on so as to ensure that payment against a bill is not adjusted unless and until all bills older than it have been paid for:

Provided that any adjustment towards late payment surcharge shall be done in the manner as specified in rule 4.

11. Indemnifying Load Dispatch Centers: The concerned National Load Despatch Centre or Regional Load Despatch Centre or State Load Despatch Centre shall stand indemnified against any consequences or liability, including the cost of litigation that arise on account of action taken under these rules.

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

GHANSHYAM PRASAD, Jt. Secy.

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