

Ministry of Power proposes to bring in transparency and reduce the burden of distribution licensee by adopting principle of first in, first out for payment by distribution licensees

Posted On: 19 AUG 2021 2:56PM by PIB Delhi

- **Government proposes amendment to Electricity (Late Payment Surcharge) Rules; places them in public domain, calls for comments.**

Ministry of Power today circulated draft Electricity (Late Payment Surcharge) amendment Rules, 2021 seeking comments for the same. The draft amendment rules are placed on the website of Ministry of Power.

Ministry of power proposes to take one more step towards reducing the burden of the Distribution licensee in order to reduce the retail tariff for the electricity consumers. The generating companies are being given an option to sell power to third party and recover their cost. To this extent the fixed cost burden of the distribution licensee shall be reduced. Accordingly following has been proposed.

“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.”

Further, due to nonpayment of outstanding dues, the distribution licensees are burdened with the increase in the late payment surcharge. In order to boost the confidence of the investor in generation projects, the generation project developer and also to reduce the burden of the distribution licensee, the order of payment ie the principle of first in and first out for payment of bills has been proposed through the following rule.

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

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

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.

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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."

Thus, the proposed amendments are in the interest of the electricity consumers and the power sector as a whole.

The proposed draft rules are placed as annexure for reference.