

Summary

Electricity (Late Payment Surcharge and related matters) Rules, 2022

- Ministry of Power, vide its Notification No. G.S.R. 416 (E) dated 3rd June, 2022, has notified the Electricity (Late Payment Surcharge and related matters) Rules, 2022 which shall be effective from 3rd June, 2022
- These rules shall be applicable to the outstanding dues of generating companies, inter-state transmission licensees and electricity trading licensees
- Late payment Surcharge shall be 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 charge beyond the due date
- 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, however it shall not be higher than the rate of Late Payment Surcharge specified in the Agreement
- After that, for the successive months of default the Late Payment Surcharge shall increase by 0.5% provided that the Late Payment Surcharge shall not be more than 3% higher than the base rate at anytime
- All the payments made by a user will be first adjusted towards Late Payment Surcharge and thereafter, towards monthly charges, starting from the longest overdue bill.
- The total outstanding dues including Late Payment Surcharge upto the date of this notification of these rules shall be re-scheduled and the due date of the payment shall also be re-determined in the following monthly instalments.

Outstanding dues amount in. (Rs Cr.)	Maximum no. of equated monthly instalments (months)
Upto 500	12
501-1,000	20
1,001-2,000	28
2,001-4,000	34
4,001-10,000	40
>10,000	48

- The distribution licensee shall communicate to the generating company, the outstanding dues and number of instalments in which the outstanding dues would be paid, in writing within 30 days of the promulgation of these rules

- A distribution licensee or other user of transmission system shall maintain unconditional, irrevocable and adequate payment security mechanism. In case of non- maintenance, the generating companies, electricity trading licensees and transmission licensees shall regulate power supply to the distribution licensee in accordance with these rules.

Also, 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 75 % of the contracted power to distribution licensee and balance 25% of the contracted power may be sold by the generating company through Power Exchanges. Which means that, if the distribution licensee does not establish payment security mechanism or continues to default in payment of outstanding dues for period of 30 days, then the generating company shall be entitled to sell 100% of the contracted power through Power Exchanges.

- 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. The gains from the sale of such power 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 ration of 75:25 between the distribution licensee and the generating company.
- In case of non-payment of dues, or in case of default in the payment of installments fixed under Rule 5, the power supply shall be regulated as follow:
 - (i) Short Term Access, for sale and purchase of electricity including in the power exchange shall be regulated entirely. The same shall also be applicable on the pre-approved short-term access. Also, the National Load Dispatch Centre may, under exceptional circumstances for grid security, temporarily review the regulation of short-term access under this rule, and record the reason for doing so, in writing.
 - (ii) 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, then the long and medium-term access shall be regulated by 10%.
 - (iii) 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 increase progressively by 10% for each month of default.

- 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.
- 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, then the generating company 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 3 months from the date on which the default has been taken cognizance by the concerned load dispatch center.
- The period of debarment shall increase to 6 months for second default and shall be one year for each successive default.

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

- At least 2 hrs. before the end of the time for placing proposals or bids, 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. Failing to which, the generating company may sell the un requisitioned power in the power exchange.
- The gain from the sale of such power shall be adjusted in following order:
 - (i) Payment to generating company of upto 3 paise per unit
 - (ii) Recovery of fixed charges
 - (iii) Liquidation of overdue amount
 - (iv) The balance shall be shared in the ration of 50:50 between the distribution licensee and the generating company.
- The liability of payment of fixed charges towards un-requisitioned power shall remain with the distribution licensee.
- 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.
