

Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17.

No. F.11(1464)/DERC/2017-18/5686

Petition No. 08/2018

In the matter of: Petition regarding inconsistency between rate of Late Payment Surcharge levied by State Utilities & rate of carrying cost allowed by the Commission on the Regulatory Asset.

BSES Rajdhani Power Limited
Through its : **CEO**
BSES Bhawan, Nehru Place
New Delhi – 110 019

.....**Petitioner**

Vs.

1. Indraprastha Power Generation Co. Ltd.
Rajghat Power House Complex,
New Delhi 110 002
2. Pragati Power Corporation Limited
Himadri, Rajghat Power House Complex
New Delhi- 110002
3. Delhi Transco Limited
Shakti Sadan, Kotla Marg,
New Delhi- 110002

...**Respondents**

Coram: Sh. B.P. Singh, Member

Appearance:

1. Mr. Buddy A Ranganadhan, Adv., BRPL
2. Mr. Rahul Kinra, Adv. BRPL
3. Mr. Ashutosh Kr. Srivastava, Adv., BRPL
4. Ms. Megha Bajpai, BRPL
5. Mr. Mayank Ahlawat, BRPL
6. Mr. Kanishk, BRPL
7. Mr. Ravi Shandilya, BRPL
8. Mr. Arindam Das, BRPL
9. Mr. Rajesh Chattarwal, IPGCL&PPCL
10. Mr. Amit Nagpal, IPGCL&PPCL

INTERIM ORDER

(Date of Hearing: 20.02.2018)

(Date of Order: 22 .02.2018)

1. The petitioner has made the following prayers in the petition:

- a) Relax following Regulations and permit the petitioner to pay Late Payment Surcharge (LPSC) equivalent to rate of carrying cost

allowed by the Commission to the petitioner for amortization of Regulatory Asset:

- i. Regulation 7.24 of MYT Generation Regulations, 2005;
 - ii. Regulation 5.32 of MYT Transmission Regulations, 2007;
 - iii. Regulation 7.25 of MYT Generation Regulations, 2011;
 - iv. Regulation 5.27 of MYT Transmission Regulations, 2011 and
 - v. Regulation 137 of MYT Tariff Regulations, 2017.
- b) In the alternative, increase the rate of carrying cost allowed by the Commission equivalent to the LPSC being levied by the State Utilities.

2. The Counsel for the petitioner submitted that:

- i. The Commission has allowed carrying cost at a rate of 11.26% outstanding Regulatory Asset of Rs. 5105 Crore during FY 2015-16, whereas the state utilities, i.e. IPGCL, PPCL and DTL are levying LPSC at the rate of 15% in terms of MYT Regulations, 2007 and MYT Regulations, 2011. The rate of LPSC has been further increased to 18% in accordance with Regulation 137 of DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 applicable from 01.02.2017. Therefore, there is a substantial mismatch in the interest rate allowed by the Commission for amortization of Regulatory Asset and the LPSC being charges by the State Utilities from the petitioner as it again leads to a gap of approximately 4% and consequently the LPSC is not cost neutral for the petitioners but in fact financially detrimental. The same is also contrary to Clause 8.2.2 (e) of the Tariff Policy, 2006 which provides that if Regulatory Asset is proposed, then the State Commission has to ensure that the return on equity should not become unreasonably low in any year so that the capability of the licensee to borrow is not adversely affected.
- ii. Vide Tariff Order dated 31.08.2017, the LPSC has since been made part of NTI. However, for previous years the LPSC was not accounted for in the respective ARR's.
- iii. The LPSC is being levied by the State Utilities in their bills on account of delay in clearing payments by the Petitioner. The delay in

payments to the State Utilities is primarily on account of the non-cost reflective tariff determined by the Commission on a year to year basis since FY 2009-10.

- iv. The present petition has been necessitated since, the MYT Regulations framed by the Commission from time to time is causing financial prejudice to the petitioner and the petitioner's borrowing capabilities has been constrained by the Commission itself by repeated creation of Regulatory Assets due to which the petitioner has not been able to pay the dues of State Utilities and on the other hand, the State Utilities have been permitted recovery of LPSC from the petitioner that for at a higher rate.
3. The petition is admitted. Issue Notices to respondents. The petitioner is directed to provide a copy of the petition to the respondents within a week and the respondent may file reply to the petition within four weeks thereafter, with an advance copy to the petitioner.
 4. The next date of hearing shall be informed to the parties in due course.

(B.P. Singh)
Member