

Prayas (Energy Group) submission on NLDC procedure for implementation of Electricity (Late Payment Surcharge and related matters) Rules 2022 and amendment thereof

3rd May 2024

Grid India has sought comments on the operational procedure for the implementation of the Late Payment Surcharge Rules, 2022 and subsequent amendments in 2024. The procedures in particular relate to Clause 7 (e) and Clause 9 (6) of the Rules.

Rule 7 relates to regulation of power supply of defaulting entities in case of sustained non-payment of dues to generating companies, transmission licensees or trading licensees. Clause 7 (e) specifies that “the National Load Despatch Centre shall issue the detailed procedure to implement the regulation of access according to these rules”.

Rule 9 relates to the sale of un-requisitioned capacity. Clause 9 (6) specifies that the “National Load Despatch Centre shall issue the detailed procedure to implement the provisions on sub-rule (1) of this rule”

Our comments are towards effective operationalisation of the rules, in letter and spirit and covers various implementation aspects that should be addressed.

1. Applicability of the Procedures on State Owned Generating Companies

The Late Payment Surcharge Rules stipulated applicability on all generating companies, transmission licensees and trading licensees. However, the procedures (1 (b)) states that state owned generating companies are exempt from Rule 7 and Clause 9 (1).

Since the responsibility of the stipulating detailed procedures for all licensees and companies (Section 62/Section 63/ ISTS/ InSTS) rests with Grid India with clear roles specified for SLDCs, RLDCs and Power exchanges, it is unclear why state generating companies are exempt from the procedure.

The intent of the Rules is to ensure payment discipline by distribution companies to all agencies. Differential treatment or exemptions to a category of generators, based on ownership is not inline with the blanket applicability in the Rules.

Such exemptions could also defeat the purpose of ensuring payment discipline as it might incentivise DISCOMs to contract all future capacity from state-owned generating companies to avoid payment discipline and sale of URS power. Such procurement may not lead to sub-optimal planning, citing, reduced economic efficiency and will affect volumes of inter-state transfers as well trades in the power exchanges.

If required, the exemption for state generating companies should be limited for a three year period, following which NLDC procedures under Clause 7 (e) and Clause 9 (6) will be applicable on state generating companies.

2. Treatment of outstanding dues that are disputed

Outstanding dues are defined as “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.”

This provision is intended to prevent adverse impacts on DISCOMs in case of outstanding amounts that are disputed. However, it might be practically challenging for DISCOMs to obtain a stay within 45 days from the date of presentation of the bill (the timeline for clearing outstanding dues) defeating the purpose of this treatment.

Based on the timelines in PPAs about 30 days are provided from the issue of bill dispute notice (towards amicable settlement) for the matter to be even referred to the dispute resolution agency. It would potentially take time to obtain the stay as well.

As the penalty for outstanding dues are significant and to provide DISCOMs a fair chance to raise disputes, the operational guidelines can provide 45 days from the day of issue of the bill dispute notice to obtain stay from the dispute resolution agency.

In Rule 7, regulation of network access 2.5 months from presentation of the bill may be an impractical timeline in case of disputed amounts. For disputed amounts, the default trigger date can start 2 months from the bill dispute notice.

Generators with legitimate dues would be compensated for the delay as they are entitled to carrying cost on these amounts but it would be a huge relief for DISCOMs to exercise their legal right to dispute claims.

3. Provision of data

The draft procedure includes Format B, to be computed by the NLDC/RLDC/SLDC, and to be provided to the concerned RPC, as per para 7 (l) (Section F). The format includes key parameters for the tracking and monitoring of sale of power by the generating stations. The detailed format is a step in the right direction, but should be strengthened. Towards ensuring transparency and accountability of this measure, data submitted through Format B should be made accessible in the public domain. This is crucial towards verifying claims of the generator before SERC, as it will have tariff implications on consumers.

NLDC/RPC should collate Format B data for each generator from RLDCs and SLDCs and host it on the NLDC/RPC website in accessible excel formats on a monthly basis. The NLDC should also formulate annual reports based on assessment of such data, which would aid multiple sector stakeholders including regulators.

4. Supply obligation of the generating company

The procedure to operationalize Rule 8 has also been stipulated in the draft procedure. This will help ensure standardized treatment and procedures across LDCs. However, in case a generating company is debarred under Rule 8, they will be unable to sell URS power under Rule 9. In such a case it is unclear whether such capacity not offered (due to debarment) will be available for payment of fixed charges as per Rule 9.

It should be clarified that the URS capacity by any generator debarred from participation in power exchanges under Rule 8 should be deemed not offered. The fixed charges should be calculated by the RPC accordingly.

This will ensure that generators do not sell power without DISCOM's consent in some instances just to avoid planning for URS sale.

5. Typographical errors in the draft procedure

- i. In para 7 (o) of the draft procedure, the formula for computation of NOPAFM is included. The summation for Non-Offered Quantum is for the range $i=0$ to N . **However, since this average is taken across number of days in the month, the range for this summation should be $i=1$ to N .**
 - ii. Column N in Format B reads "Quantum to be offered in DAM considering ramp constraints (MW)". This is a duplication of column D. **The title of column N should be "Quantum to be offered in RTM considering ramp constraints (MW)".**
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