

**IN THE JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION AT  
RANCHI**

**Suo-Moto Case No. 06 of 2020**

In the matter of:

Implementation of directions of the Government of Jharkhand vide its letter no. 720/SC dated 22.04.2020 and letter no. 36/SC dated 01<sup>st</sup> April, 2020 under Section 108 of the Electricity Act, 2003 to specify a reduced rate of Delayed payment surcharge (DPS)/late payment surcharge(LPS) for payment which becomes delayed beyond the due date during the period from 24.03.2020 to 30.06.2020 to the Generating Companies or Transmission licensee, treating the restrictions imposed by the Central and State Government to contain COVID-19 as an event of Force Majeure.

**And**

In the matter of:

The Commission on its own Motion  
Vs

1. Jharkhand Bijli Vitran Nigam Limited, (JBVNL)
2. Damodar Valley Corporation Limited, (DVC)
3. Jamshedpur Utilities and Services Company Limited,(JUSCO)
4. Tata Steel Limited, (TSL)
5. Steel Authority of India Limited, (SAIL),Bokaro
6. All Generators Supplying Power to the above DISCOMs
7. All Transmission Licensees transmitting Power to the Above DISCOMs

**.....Respondents**

**CORAM: HON'BLE MR. (DR) ARBIND PRASAD, CHAIRPERSON  
HON'BLE MR. R.N. SINGH, MEMBER (ENGINEERING)  
HON'BLE MR. P.K. SINGH, MEMBER (LEGAL)**

## **ORDER**

**Date –24<sup>th</sup> April, 2020**

1. The Government of Jharkhand vide its letter No. 720/SC dated 22.04.2020 and letter no. 36/SC dated 01<sup>st</sup> April, 2020 has issued following directions under Section 108 of the Electricity Act, 2003:

- I. *JSERC may reduce rate of LPS/DPS or waive off DPS for bills raised by Generation and Transmission Companies falling under JSERC jurisdiction, whose due date of payment falls in the period 24<sup>th</sup> March, 2020 to 30<sup>th</sup> June, 2020. The reduced DPS/LPS rate can be made applicable for delayed payments on such bills till 30<sup>th</sup> June, 2020. The reduced DPS/LPS rate may not be more than the cost that Generation and Transmission companies raising such bills would have to bear due to delayed payment by DISCOMs.*
- II. *For Generating and Transmission companies whose tariff was determined under section 63 of the Electricity Act, 2003 (through competitive bidding), distribution licensees may claim relief from its obligation regarding the rate at which DPS/LPS is to be paid, as per the force majeure provision given in respective Power Purchase Agreement (PPA).*
- III. *JSERC may also advise Generating and Transmission companies to not take any coercive action or regulation of power supply against the delay in payments by DISCOMs.*

2. The Commission refers to Section 108 of the Electricity Act, 2003, which reads as under:

**Section 108 (Directions by State Government):**

*(1) In the discharge of its functions, the State Commission shall be guided by such directions in matters of policy involving public interest as the State Government may give to it in writing.*

*(2) If any question arises as to whether any such direction relates to a matter of policy involving public interest, the decision of the State Government thereon shall be final.*

The Commission has considered the above directions of the Government of Jharkhand issued under Section 108 of the Electricity Act, 2003 as the Ministry of Home Affairs (MHA), Government of India owing to the dangers posed by spread of COVID-19 vide directives dated 24<sup>th</sup> March 2020 has placed restriction on movement of public and opening of establishment and offices. The Ministry of Home Affairs (MHA), Government of India vide its order dated 15.04.2020 has also extended the restrictions period till 3<sup>rd</sup> May, 2020 to contain the spread of COVID-19 in the country with certain conditions. As such the consumers of various Electricity Distribution Licensees of Jharkhand State are facing difficulty in payment of their Electricity bills. In these circumstances, it would lead to weakening of financial and liquidity position of Distribution Licensees of the State, which may lead to delay in payments to Generating Companies (GENCOs) and Transmission Companies (TRANSCOs). The Commission observes that the Reserve Bank of India has also provided three months moratorium on repayment of outstanding loans and interest on working capital. Thus, the Commission agrees that this is a matter of public interest and keeping in view the existing unprecedented situation some relief is required to be given to DISCOMs with regard to the applicable rate of late payment surcharge for any delay in its payments to the GENCOs and TRANSCOs during the specified period .

4. The Commission determines the tariff of the generating companies in accordance with the tariff regulations framed under Section 61 read with Section 181 of the Act. Further, the Commission also adopts the tariff of the Generating companies under Section 63 of the Act, where the tariff has been discovered through competitive bidding in accordance with the Guidelines issued by the Government of India under Section 63 of the Act.
5. As regards the Generating Companies whose tariff is determined by the Commission under Section 62 of the Act, the provision for payment of late payment surcharge under Regulation 10.6 of JSERC (Terms and Condition for Determination of Generation Tariff) Regulations, 2015 is applicable, it reads as under:

***“Late Payment Surcharge***

*10.6 In case the payment of any bill for charges payable under these Regulations is delayed by a beneficiary beyond a period of 60 days from the date of billing a late payment surcharge at the rate of 1.25% per month, calculated on daily basis, shall be levied by the Generating Company”.*

Further, Regulation 8.16 of JSERC (Terms and Condition for Determination of Transmission Tariff) Regulations, 2015 reads as under:

***“Late Payment Surcharge***

*8.16 In case the payment of any bills for charges payable under these Regulations is delayed by a beneficiary beyond a period of 60 days from the date of billing a late payment surcharge at the rate of 1.25% per month, calculated on daily basis, shall be levied by the Transmission Licensee”.*

6. The Commission is of the view that in the given situation, a reduced rate should be adopted in place of the penal rate of LPS specified under Regulation 10.6 and 8.16 of the Generation and Transmission Tariff Regulations, 2015, respectively for delayed payments falling due beyond the period of 60 days i.e. during the period from 24.03.2020 to 30.06.2020.
7. Thus, in view of the extraordinary circumstances as noted above, the Commission has considered it necessary to exercise its powers specified under Regulation 14.4 of JSERC (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2015 and Regulation 16.4 of JSERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015, to relax the provision of these Regulations. Power of relaxation reads as under:-

***“POWER OF RELAXATION***

*The Commission may in public interest and for reasons to be recorded in writing, relax any of the provision of these Regulations.”*

8. Further, keeping in view the directions issued by the Government of Jharkhand under Section 108 of the Act and to address the difficulties on account of the unprecedented situation arising out of the restrictions placed by the Central Government and State Government on the movement of

public and opening of establishments etc., the Commission is of the view that at this point of time it would be necessary in public interest to dispense with the requirement of a hearing. The Commission as per regulation 48.1 of JSERC (Conduct of Business) Regulations, 2016 and other enabling provisions is vested with the power to dispense with the requirements of any of the Regulations in a specific case or cases on its own motion and with notice to the affected parties. Regulation 48.1 of the JSERC (Conduct of Business) Regulations, 2016 is extracted as under:

***“Power to dispense with the requirement of the Regulations:-***

*The Commission shall have the power, for reasons to be recorded in writing and with notice to the affected parties, to dispense with the requirements of any of the Regulations in a specific case or cases subject to such terms and conditions as may be Specified”.*

9. Accordingly, the Commission in exercise of its powers under Regulation 14.4 of JSERC (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2015 and Regulation 16.4 of JSERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015, by way of an ad-interim order, hereby order to relax the provisions of Regulations and directs to provisionally reduce the rate of late payment surcharge to 6% per annum, for such payments which become delayed beyond the due date for the period from 24.03.2020 till 30.06.2020, payable by DISCOMs to the GENCOs and TRANSCO . It is clarified that if the period of 60 days beyond the due date of the presentation of the bill by the GENCOs and TRANSCO, falls before 24.03.2020 or after 30.06.2020, DISCOMs shall be liable to pay the LPS as per the applicable Regulations.
10. For Generating Companies whose tariff has been adopted by the Commission under Section 63 of the Act, DISCOMs may claim the relief from its obligations regarding the rate at which LPS is to be paid for payments which become delayed beyond the stipulated period during the period from 24.03.2020 to 30.06.2020, as per the force majeure provisions given in the respective Power Purchase Agreements (PPAs).

11. All concern GENCOs and TRANSCO's supplying and transmitting power to the DISCOMs of the State of Jharkhand shall not use any coercive means for recovering dues and shall continue supply/transmit power since it is an essential service as recognised by the Central Government vide its order dated 24.03.2020.
12. The office is directed to list the matter for hearing on 10<sup>th</sup> June, 2020 at 2.30 pm. All concerned GENCOs, TRANSCO's and DISCOMs may send their comments and objections, if any, by 26<sup>th</sup> May, 2020. They may also send an advance copy via email at info@jserc.org .
13. Let an extract copy of the order be served to all DISCOMs of the State for compliance and with a direction to forward it to all concerned GENCOs and TRANSCO's supplying or transmitting power to them. Let a copy of the order be sent to the Secretary, Department of Energy, Government of Jharkhand, in reference to his letters dated 1<sup>st</sup> April 2020 & 22<sup>nd</sup> April 2020.

Sd/-  
Member (L)

Sd/-  
Member (E)

Sd/-  
Chairpers