

The Electricity (Late Payment Surcharge) Rules, 2021¹

In exercise of powers conferred by Section 176 of the Electricity Act, 2003 (36 of 2003), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement.—(1) These rules may be called the **Electricity (Late Payment Surcharge) Rules, 2021**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Application.—These rules shall be applicable for payments to be made in pursuance of—

- (a) Power Purchase Agreements, Power Supply Agreements and Transmission Service Agreements, in which tariff is determined under Section 62 of the Act; and
- (b) such Power Purchase Agreements, Power Supply Agreements and Transmission Service Agreements that become effective after these rules come into force, in which tariff is determined under Section 63 of the Act.

3. Definitions.—(1) In these rules, unless the context otherwise requires,—

- (a) “Act” means the Electricity Act, 2003 (36 of 2003);
- (b) “base rate of Late Payment Surcharge” means the marginal cost of funds based lending rate for one year of the State Bank of India, as applicable on the 1st April of the financial year in which the period lies, plus five percent and in the absence of marginal cost of funds based lending rate, any other arrangement that substitutes it, which the Central Government may, by notification, in the Official Gazette, specify:

Provided that if the period of default lies in two or more financial years, the base rate of Late Payment Surcharge shall be calculated separately for the periods falling in different years;

- (c) “due date” means the date by which the bill for the charges for power supplied by the generating company or electricity trader or for the transmission service provided by a transmission licensee are to be paid, in accordance with the Power Purchase Agreement, Power Supply Agreement or Transmission Service Agreement, as the case may be, and if not specified in the agreement, forty-five days from the date of presentation of the bill by such generating company, electricity trader or transmission licensee;

1. Vide Noti. No. G.S.R. 128(E), Extra., Part II, S. 3(i), dated 22-02-2021, published in the Gazette of India, dated 22-02-2021.

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(d) "Late Payment Surcharge" means the charges payable by a distribution company to a generating company or electricity trader 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 charges beyond the due date;

(2) Words and expressions used and not defined herein but defined in the Act shall have the meaning respectively assigned to them in the Act.

4. Late Payment Surcharge.—(1) 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.

(2) The rate of Late Payment Surcharge for the successive months of default shall increase by 0.5 percent for every month of delay provided that the Late Payment Surcharge shall not be more than 3 percent higher than the base rate at any time:

Provided that the rate at which Late Payment Surcharge shall be payable shall not be higher than the rate specified in the agreement for purchase or transmission of power, if any:

Provided further that, if a distribution licensee has any payment including Late Payment Surcharge outstanding against a bill after the expiry of seven months from the due date of the bill, it shall be debarred from procuring power from a power exchange or grant of short term open access till such bill is paid.

5. Adjustment towards Late Payment Surcharge.—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.
