

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 22/MP/2019**

Subject : Petition under Section 79(1)(b) read with Section 79(1)(f) of the Electricity Act, 2003 and Article 8.3 of the Power Purchase Agreement dated 19.8.2013 entered into between the Petitioner and the Respondent, for recovery of Late Payment Surcharge on account of delay in payment of Monthly Bills of the Petitioner by the Respondent.

Petitioner : DB Power Limited (DBPL)

Respondent : Tamil Nadu Generation and Distribution Corporation Ltd.

Date of Hearing : 5.3.2019

Coram : Shri P.K. Pujari, Chairperson  
Dr. M.K. Iyer, Member  
Shri I.S. Jha, Member

Parties present : Shri Vineet Tayal, Advocate, DBPL  
Shri Vikas Adhia, DBPL

**Record of Proceedings**

Learned counsel for the Petitioner submitted that the present Petition has been filed for recovery of Late Payment Surcharge on account of delay in payment of Monthly Bills of the Petitioner by the Respondent. Learned counsel further submitted as under:

(a) As per Article 8.3 of the PPA dated 19.8.2013 entered into between the Petitioner and the Respondent, the Respondent is required to pay the amount payable under the Monthly bills on the due date to the Petitioner i.e. the 30<sup>th</sup> day after a Monthly Bills or a Supplementary Bill is received and duly acknowledged by the Respondent. Further, Article 8.3.5 of the PPA provides that in the event of delay in payment of Monthly Bill by the Respondent beyond its due date, Late Payment Surcharge shall be payable by the Respondent to the Petitioner at the rate equal to SBI- PLR per annum, on the outstanding amount, calculated on day to day basis for each day of delay which shall be claimed by the Petitioner through Supplementary Bill.

(b) The Petitioner through various letters dated 22.1.2016, 17.3.2016, 17.8.2016 and 14.10.2016 informed the Respondent about the delay in making the payment of monthly invoices. However, no response has been received by the Petitioner in this regard. Subsequently, the Respondent vide its letter dated 7.2.2017 acknowledged its liability to pay the Late Payment Surcharge on account of delay in making payments of Monthly Bills and expressed its inability to make payments due to financial difficulty.

(c) Learned counsel requested to issue notice in the Petition as well as in the interim to allow prayer made in the Petition for seeking payment of 75% of the

outstanding amount towards the Late Payment Surcharge upto December, 2018.

2. After hearing the learned counsel for the Petitioner, the Commission admitted the Petition and directed to issue notice to the Respondent.
3. The Commission directed the Petitioner to serve copy of the Petition on the Respondent immediately. The Respondent was directed to file its reply by 22.3.2019 with an advance copy to the Petitioner who may file its rejoinder, if any, by 12.4.2019. The Commission directed that due date of filing the reply and rejoinder should be strictly complied with. No extension shall be granted on that account.
4. The Petition shall be listed for hearing in due course for which separate notice will be issued.

**By order of the Commission**

**Sd/-  
(T. Rout)  
Chief (Law)**