

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 254/MP/2017**

Subject : Petition for re-setting of the Rate of Late Payment Surcharge under Regulation 45 of the 2014 Tariff Regulations

Petitioner : BRPL & BYPL

Respondents : NTPC & 27 Others

Date of hearing: **22.2.2018**

Coram : Shri P.K. Pujari, Chairperson  
Shri A.K. Singhal, Member  
Shri A.S. Bakshi, Member  
Dr. M.K. Iyer, Member

Parties present: Shri, Buddy Ranganathan, Advocate, BRPL & BYPL  
Ms. Varaa Masood, Advocate, BRPL & BYPL  
Shri Sameer Singh, BYPL

**Record of Proceedings**

The matter was heard on admission. During the hearing, the learned counsel for the Petitioner mainly submitted as under:

- (a) The present petition has been filed for directions to change the fixed rate of Late Payment Surcharge (LPS) of 1.50% per month in Regulation 45 of the 2014 Tariff Regulations. Moreover, the excess recovery of LPSC vis-à-vis actual rate of interest on loans be treated as non-tariff income of generating companies and transmission licensees;
- (b) The LPSC at 1.50% is a fixed rate. However, the loss of revenue till receipt of payment from the beneficiaries against the bills is mitigated by Gencos and Transcos by availing loans at floating rates of interest. There, the lacunae is that the beneficiaries are liable to pay LPSC at fixed rate whereas the Gencos and Transcos avail loans at floating rate. Hence, this anomaly can be corrected by having the LPSC at floating rate;
- (c) In view of the change in the regime of PLR to MCLR/ RBI's repo rate, the Commission may require to step in to release the debtors from hardship, as there has been a subsequent fall in the interest rates since the fixation of the LPSC at 1.50% per month. It is settled law that the discretion of a Court to award interest at a rate has to be exercised, fairly and judiciously [Central Bank of India vs. Ravindra & Ors. (2002) 1 SCC 367)].

2. The Commission, after hearing the learned counsel for the Petitioner admitted the Petition and directed to issue notice to the respondents.

3. The Commission directed the petitioner to serve the copy of the petition on the respondents by 9.3.2018 and the respondents to file their replies on the issues



including 'maintainability' on or before 16.3.2018, with advance copy to the petitioner, who may file its rejoinder, if any, by 23.3.2018.

4. Matter shall be listed for hearing the parties including the issue of 'maintainability' on **27.3.2018**.

**By order of the Commission**

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

