

EXPLANATORY MEMORANDUM

On 03.06.2022, the Ministry of Power, Government of India, notified the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 (LPS Rules 2022), prescribing the modalities of late payment surcharge. In Clause 29 of the Chhattisgarh State Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff according to Multi-Year Tariff Principles and Methodology and Procedure for Determination of Expected Revenue from Tariff and Charges) Regulations, 2021, this Commission has also specified modalities for payment of Late Payment Surcharge (CSERC MYT Regulations, 2021). The State Commission is mandated by Section 181 of the Electricity Act of 2003 to notify regulations that are consistent with the Act and rules notified to carry out its provisions.

In light of this, the Commission registered a Suo-motu Petition No. 63 and issued an order on October 18, 2022, deciding to harmonise the CSERC MYT Regulations 2021 with the LPS Rules 2022.

Accordingly, the Commission has issued draft CSERC MYT (First Amendment) Regulations, 2022, proposing amendments to Clause 3.10, 3.24, 3.54, 26.1, and 29 of the principal Regulations, and will hold a public hearing on the same on January 3, 2023.

Meanwhile, the Hon'ble Supreme Court, in its judgement dated November 23, 2022 in Civil Appeal No. 1933/2022 in the matter of "the TATA Power Company Limited Transmission V/s Maharashtra Electricity Regulatory Commission & Ors." has directed all State Regulatory Commissions as under:

“131. We direct all State Regulatory Commissions to frame Regulations under Section 181 of the Act on the terms and conditions for determination of tariff within three months from the date of this judgment. While framing these guidelines on determination of tariff, the Appropriate Commission shall be guided by the principles prescribed in Section 61, which also includes the NEP and NTP. Where the Appropriate Commission(s) has already framed regulations, they shall be amended to include provisions on the criteria for choosing the modalities to determine the tariff, in case they have not been already included. The Commissions while being guided by the principles contained in Section 61 shall effectuate a balance that would create a sustainable model of electricity regulation in the States. The Regulatory Commission shall curate to the specific needs of the State while framing these regulations. Further, the regulations framed must be in consonance with the objective of the Electricity Act 2003, which is to enhance the investment of private stakeholders in the electricity regulatory sector so as to create a sustainable and effective system of tariff determination that is cost efficient so that such benefits percolate to the end consumers.”

Clauses 2.2 and 72 of the CSERC MYT Regulations 2021 is required to be amended to comply with the aforementioned Hon'ble Supreme Court directive. Considering the historical capital investment plan petitions filed by Chhattisgarh State Power Transmission Company Ltd in the past, the Commission proposes a threshold limit of Rs. 250 crores for TBCB in order to implement tariff-based competitive bidding for the development of new projects of intra-state transmission system.

In addition, on December 29, 2022, the Ministry of Power, Government of India, notified the Electricity (Amendment) Rules, 2022 to amend the Electricity Rules, 2005, in which Rule 14 regarding timely recovery of power purchase costs by distribution licensee was inserted. According to the newly inserted Rule 14, the Commission shall specify a price adjustment formula for the recovery of costs arising from variations in the price of fuel or power purchase costs within 90 days of the publication of the Electricity (Amendment) Rules, 2022, and the impact in the cost due to such variation shall be automatically passed through in the consumer tariff on a monthly basis.

To ensure that the CSERC MYT Regulations 2021 are consistent with the Central Government Rules, relevant Clauses 37.1, 45.6, 45.8, 45.11, 73.1, 92.4.4, and 93 of the CSERC MYT Regulations 2021 needs to be amended, as well as some new clauses needs to be inserted.

Accordingly, the aforementioned clauses have been modified in the draft CSERC MYT (First Amendment) Regulations, 2023.