

Rajasthan Electricity Regulatory Commission, Jaipur

Petition No. RERC/2033/2022, 2034/2022, 2035/2022,
2036/2022, 2037/2022, 2038/2022

In the matter of petitions under Section 142 read with Section 146 of the Electricity Act, 2003 inter alia seeking direction against the Respondents for non-compliance of this Commission's common order dated 22.12.2021 issued in Petition No. RERC/1926/21 and batch matters insofar as the Respondents have not discharged their liability towards payment of applicable Late Payment Surcharge on delayed payments.

Coram:

Dr. B.N. Sharma,	Chairman
Shri Hemant Kumar Jain,	Member
Dr. Rajesh Sharma,	Member

Petitioner : 1. M/s Wind World Wind farms (Jaisalmer) Pvt Ltd (2033/2022)
2. M/s Vaayu India Power Corporation Pvt Ltd (2034/2022)
3. M/s Wind World Wind Farms (Rajasthan) Pvt Ltd. (2035/2022)
4. M/s Wind World Wind Farms (Hindustan) Pvt Ltd (2036/2022)
5. M/s Wind World Wind Farms (Temdarai) Pvt Ltd (2037/2022)
6. M/s Vish Wind Infrastructure LLP (2038/2022)

Respondents : 1. Rajasthan Urja Vikas Nigam Ltd
2. Jaipur Vidyut Vitran Nigam Ltd.
3. Jodhpur Vidyut Vitran Nigam Ltd.
4. Ajmer Vidyut Vitran Nigam Ltd.

Date of hearing: 31.08.2022, 10.11.2022, 13.12.2022, 16.02.2023, 06.04.2023

Present : 1. Sh. Aniket Prasoon, Advocate for Petitioners
2. Sh. Jeetam Kumar Saini, Advocate for Respondents

Order Date:

19.07.2023

Order

1. The Petitioners referred to in the cause title are generating companies which have filed petitions under section 142 read with section 146 of the Electricity Act, 2003 seeking directions against the respondents for non-compliance of the order of the Commission dated 22.12.2021 regarding non-payment of Late Payment Surcharge (LPS) by the Discoms.
2. Rajasthan Urja Vikas Nigam Limited (hereinafter also referred as "RUVNL" or "Respondent No. 1") is a company formed by the State of Rajasthan and is an authorized representative of Rajasthan DISCOMS (Distribution Licensees), to carry out Power trading activities.
3. Jaipur Vidyut Vitran Nigam Ltd. (hereinafter also referred as "JVVNL" or "Respondent No. 2") is a company for carrying on the business of distribution and supply of electricity in the area of supply mentioned in its license and having its registered office at 1st Floor, Vidhyut Bhawan, Janpath, Jyoti Nagar, Jaipur.
4. Jodhpur Vidyut Vitran Nigam Ltd (hereinafter also referred as "JdVVNL" or Respondent No. 3) is a company carrying on the business of distribution and supply of electricity in the area of supply mentioned in its license and having its registered office at New Power House, Basni industrial area, Jodhpur.
5. Ajmer Vidyut Vitran Nigam Ltd (hereinafter also referred as "AVVNL" or "Respondent No. 4") is a company for carrying on the business of distribution and supply of electricity in the area of supply mentioned in its license and having its registered office at Hathi Bhata Power Office, Jaipur Road, Ajmer.
6. As the issues that arise in all the petitions for consideration and decision of the Commission is similar, all the petitions referred to in cause title are clubbed and being disposed of by this common order.

7. Petitioners in their petitions and during hearing(s) mainly made following submissions:

7.1 The petitioners submitted that they have entered into Power Purchase Agreements (PPAs) with the respective Discoms and are supplying electricity as per the terms of the said PPAs.

7.2 The petitioners further submitted that it is most significant to highlight that the Commission vide its common order 22.12.2021 has held that in the matter related to the non-payment of principal amount and LPS, the relevant Discoms should verify each and every claim made by the wind/solar generators , subject to the claims being within the limitation period in accordance with law and the terms of the power purchase agreement, and to pay the LPS amount of wind and solar generators of the State, irrespective of whether or not they have filed a petition before the Commission. Further, the Commission directed the Discoms to ensure that the payments to solar and wind generators shall be made on a first come first serve basis irrespective of whether or not they have filed a petition. The aforesaid directions issued by the Commission are issued in rem and are binding inter alia on the Respondents, herein in context of all the intra state wind and solar generators. The relevant excerpts of Common Order dated 22.12.2021 are reproduced herein below:

"13. Commission would like to record that it is not appropriate on the part of Discoms to drive every generator to file petitions for making payments of principal and LPS. When commission has given clear directions in the earlier cases to pay interest against the delayed payments as per the term of PPA they should follow the said directions scrupulously in all similar cases so that multiplicity of litigations can be avoided. Discoms which have signed the agreement consciously are bound by their agreements; otherwise credibility will get a dent.

14, Accordingly, we direct Respondent Discoms to verify each of the claims made by wind/solar generators of the State, subject to the claims

being within limitation period in accordance with law and the terms of PPA and pay the LPS amount of wind and solar generators of the State irrespective of the fact that they have filed petition or not.

15. The Discoms are further directed to ensure that payments to Solar and Wind Generators shall be made on the first come first serve basis irrespective of the fact that they have filed a petition or not. Commission before parting with these cases desires that the Respondents should make regular arrangements to discharge their liability undertaken in contracts.”

7.3 The petitioners also submitted that pursuant to the issuance of the common order, the Petitioners vide their various letters apprised the Respondents, but despite having given assurances on several occasions as regards timely payment of future invoices, the Respondents have constantly delayed the payments due to the Petitioners on account of supply of power, as per the terms of the PPA. Thereafter, the Respondents have paid the entire principal amount as on 31.03.2022; however, they have not made the entire payment towards LPS, in direct contravention of this Commission's Common Order.

7.4 Further, petitioners submitted that the aforesaid delayed payments of invoices and/or non-payment of the applicable LPS by the Respondents have caused great financial hardship not only to the Petitioners but also to the other similarly placed wind/solar generators.

7.5 It is the submission of the petitioners that under Section 142 of the Electricity Act, this Commission empowered to impose penalty(ies) for non-compliance with the directions issued by the Commission. The direction issued by the Commission vide its Common Order for payment of LPS amount and Respondent's failure to pay the same should be strictly construed as a contravention of this Commission's Common Order. In view of the same, the

penalties as prescribed under Section 142 of the Electricity Act are to be imposed on the Respondents for such contravention.

7.6 Further, Petitioners submitted that for any financial difficulty on part of Respondents is no ground for non-compliance of the Common Order. That the Respondents have already utilized the power generated by the Petitioner and sold the same to the consumers and accordingly, has already recovered the amount pursuant to such sale of power.

Rejoinder by the petitioners dated 16.01.2023

7.7 Petitioners also submitted that while denying its liability to pay the LPS to the Petitioner, respondents sought to rely upon certain undertakings given to it by the petitioners, wherein the petitioners had purportedly agreed to waive off the LPS payable to it for the period as mentioned in the undertakings. In this regard, it is pertinent to highlight that owing to the Respondents' consistent failure to act in accordance with the PPA and accordingly, clear the outstanding (legitimate) dues of the petitioners, the petitioners had been reeling under immense financial stress.

7.8 Petitioners also submitted that upon following up with respondents for its outstanding dues under the PPA, the petitioners were repeatedly (orally) asked to furnish undertaking(s) waiving off Discom's payment obligation towards LPS. It was in these circumstances that the Petitioners were left with no other meaningful choice but to waive off the LPS which it was rightfully entitled to in terms of the PPA for it to be able to recover the principal amount.

- 7.9 The Petitioners further submitted that since the said undertakings were given to respondents under economic duress, the same cannot be relied upon by respondents to escape their payment obligations under the PPA.
- 7.10 Further, petitioners submitted that without prejudice to the above, even assuming (without admitting) that the said undertakings were given by the petitioners to respondents voluntarily, even then, it is only for the period for which the said undertakings were given can the LPS be said to be waived off and accordingly, respondents cannot seek to escape its liability for the remainder of the period (i.e. for which the undertakings were not given).
- 7.11 Additionally, petitioners submitted that the respondents have admittedly (albeit erroneously) been calculating the LPS payable to the petitioners at a lower rate than what has been stipulated in the PPA. While doing so the respondents arbitrarily relied upon Rajasthan Electricity Regulatory Commission (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2020" ("RERC RE Regulations 2020"), particularly Regulation 23 which stipulates the LPS to be "equivalent to Base Rate as on 1st April of the respective year plus 400 basis points per annum".
- 7.12 Petitioners Further submitted that respondents' reliance on RERC RE Regulations 2020 is completely misplaced as they are not applicable to the present Project. Regulation 3 read with Regulation 5 of the RERC RE Regulations 2020 categorically states that the Regulations will apply to only those projects which got/get commissioned within the Control Period (i.e., 1st April 2020 till 31st March 2024). Clearly, since the present Projects got commissioned before the said Control Period, the RERC RE Regulations 2020 is not applicable.

Written Submission by the petitioner dated 05.05.2023

7.13 The petitioners further submitted that during the hearing of the captioned petitions, the Commission vide its order dated 06.04.2023 directed the petitioners to place on record calculation sheet indicating the Principal amount, rate of interest applied and delay in number of days (period), up to 31.03.2023 in payment of the Principal amount. The petitioner submitted the information on 05.05.2023. Gist of the said information is tabulated as under -

Petition		LPS (as per the rate specified in PPA)(in Rs.) (as on January 2022)	LPS after considering the undertakings (in Rs.) (as on January 2022)	LPS received from the Discoms (in Rs.) (till 31.03.2023)	Balance LPS to be recovered from Discoms (in Rs.) (as on 31.03.2023)
2033/2022		2,76,39,736/-	1,85,98,927/-	1,23,77,351/-	62,21,576/-
2034/2022		5,29,20,111/-	4,37,06,966/-	1,86,06,483/-	2,51,00,483/-
2035/2022		1,45,19,723/-	1,06,01,753/-	62,42,857/-	43,58,896/-
2036/2022	Project-1 (28.8 MW)	1,82,59,837/-	1,35,05,933/-	73,29,585/-	61,76,348/-
	Project-2 (31.2 MW)	2,04,46,391/-	1,46,91,265/-	88,58,033/-	58,33,232/-
2037/2022	AVVNL	1,09,11,875/-	7,23,798/-	4,24,783/-	2,99,015/-
	JVVNL		25,20,010/-	13,41,593/-	11,78,417/-
	JdVVNL		42,90,864/-	37,09,099/-	5,81,765/-
2038/2022	JdVVNL	3,37,14,900/-	1,39,46,745/-	69,85,861/-	69,60,884/-
	AVVNL		1,61,01,528/-	73,07,295/-	87,94,233/-

7.14 In view of above, Petitioners have prayed to –

- (i) Direct the Respondents to comply with the common Order dated 22.12.2021 passed by this Commission in Petition No. RERC/1926/21 and batch matters and accordingly, immediately and forthwith pay the LPS due as on 02.06.2022 to the Petitioners and in any event, within two weeks from the date of the order by this Commission;
- (ii) Direct the Respondents to further make payment of the additional late payment surcharge which would accrue on the aforesaid amount as claimed at prayer above to the Petitioner till the date of actual payment:
- (iii) Initiate the proceeding under Section 142 of the Electricity Act,2003 against the Respondents for failure to comply with the directions of this Commission;
- (iv) Award costs of these proceedings against the Respondents and in favour of the Petitioner; and
- (v) Grant such other relief(s) as the Commission may deem just and equitable in favor of the Petitioner.

8. Respondents in their written submissions and during hearing(s) have mainly submitted as under :-

8.1. The Respondents submitted that present petition is liable to be dismissed on the ground of misleading facts. As the petitioners miscalculated the amount of the LPS by taking wrong delay days and unauthenticated interest rates.

- 8.2. The Respondents further submitted that the petitioners filed the petition with unclean hands and intention. Petitioners intentionally enclosed the document with wrong facts. Petitioners trying to take Undue advantage of court, so, that they can receive more than actual amount. That, in view of the above facts and circumstances, the present petition is not maintainable in the eye of law.
- 8.3. The Respondents also submitted that respondents have no intention to shun from its contractual obligations under the PPA entered into with the Petitioners. However, due to huge financial crisis facing by the respondents; payments to the extent of about Rs. 15030.36 Cr. are due to various generation and transmission companies. The reason for the current financial position of respondents are also attributed to the large percentage of agriculture consumers i.e. since the electricity is being supplied to the much bulk of agriculture consumers at a tariff much less than the tariff at which the electricity is being purchased by the Rajasthan Urja Vikas Nigam Limited and therefore the deficit is being borne by the Rajasthan Urja Vikas Nigam Limited/ Rajasthan Discoms, in this backdrop of the matter, admittedly the financial position of respondents is highly alarming.
- 8.4. Respondents further submitted that Rajasthan Rajya Vidyut Utpadan Nigam Limited has filed a petition before this Commission bearing No. 1317 /2018 against the three distribution companies seeking a direction to pay the outstanding dues which has been accumulated to the tune of Rs. 8305.94/- crore as on 29.08.2022. In the said petition it has been pleaded that on account of nonpayment of the aforesaid huge amount RRVUNL is facing huge financial crisis, apart from that the financial institutions are also charging higher rate of debt financing due to the lower credit rating of the company. It was also contented by RRVUNL that on account of nonpayment of the aforesaid amount, it is experiencing acute liquidity crunch for meeting the

day to day fund requirement towards payment of fuel, railway freight for coal, other misc expenses of the operating power station as well as debt servicing payment obligations of the RRVUNL.

- 8.5. Also, the Respondents submitted that the financial position of the three Distribution companies has been in the recent years severely stressed as can be seen from the overdue to different companies as listed below:

Generators	Total Outstanding dues as on 29.08.2022 (in Crores)
<u>RUVNL</u>	
JVVNL	3786.62
AVVNL	787.92
JdVVNL	3731.4
<u>Total</u>	8305.94
<u>RVPNL</u>	
JVVNL	1793.63
AVVNL	766.82
JdVVNL	1363.961
<u>Total</u>	3924.41
<u>RUVNL</u>	
JVVNL	209.48
AVVNL	88.57
JdVVNL	360.24
<u>Total</u>	658.29

8.6. The Respondents submitted that from the above it is clear that there are huge outstanding amounts to be paid to the State Generating Company, State Transmission Company and Wind Generators including the petitioners. The three Distribution Licensees are maintaining supply of electricity in the State. To ensure uninterrupted power supply, it is essential to make payments on priority to the conventional power generators who are supplying about 92% of the total energy being supplied by the Distribution Companies, which are stable and meets base load requirements of the public. The respondents will not be able to maintain the supply of electricity to the consumers if the conventional power plants which are base-load stations are not operated. The consequences of not creating some priority to conventional generators will have a cascading effect.

Additional submission by Respondent dated 02.06.23

8.7. The Respondents further submitted that on different dates during hearing, the Commission observed certain issues and admission by the respondent regarding the cleared amount, claimed by three Petitioners and amount of rest three Petitioners is under reconciliation. And directed both the Petitioners and Respondents to carry out reconciliation process together.

8.8. The Respondents submitted that RUVNL/ Discoms are computing LPS as per the relevant provision given in RERC Tariff Regulations as applicable, under clause 33(a) of RERC, (Terms & Conditions for determination of Tariff) Regulations 2019 and this could be the main reason for difference in computation of interest. However, generally no supplementary invoices are raised by the generators with detailed computation for claiming LPS. Since the rate of interest is volatile as per the market trend and it can't be static

over a period of time therefore, Discom is computing LPS as per the provisions of the RERC tariff regulations as mentioned above.

8.9. Further, the Respondents submitted that the Commission on dated 06.04.2023 after hearing both Petitioners & Respondents directs the Petitioners to file the calculation sheet indicating Principal amount, rate of interest applied and delay in number of days (period) up to 31.03.2023 and direction was also given to file the supporting documents i.e. ICAI Accounting Standards, Provisions narrated in Regulations, Rules prevailing in Banks, etc. regarding adjustment of the payment of the Petitioners against interest and principal amount within 2 weeks' time with copy to respondent.

8.10. The Respondents submitted that to the utter shock and dismay, Petitioners filed the response on dated 05.05.2023, far later than the time duration given by the commission. Here petitioners provided data till January 2022, without considering the Commission direction to provide calculation sheet up to 31.03.2023.

8.11. Respondents also submitted that while determining the priority of payment amongst power generators, have to keep in mind the cost and consequences of late payment. Timely payments entitle the respondents for a rebate in payment of up to 2.5%. For example, Rawatbhata Atomic Power Station and Narora Automatic Power Station have provisions in the Power Purchase Agreement for rebate of 2.5% in case the payment is made within 30 days from the date of presentation of bill. Similarly, as per Power Purchase Agreement with National Thermal Power Corporation, rebate of 2% is applicable if the payment is made within three days and become zero on the 60th day, thereafter LPS becomes applicable. Therefore, to avail the benefit of rebates, the respondents have evolved inter-se priority of payment

amongst the conventional power generators.

- 8.12 In view of above, Respondents have prayed to dispose the petitions by granting time to the respondents to release the total outstanding due, if any to the petitioners as per the priority order.

Commission's View

9. The Commission has considered the submissions made by the Petitioners/Respondents in petitions, written submissions and oral arguments during hearing(s).
10. It has been submitted on behalf of the counsel for the petitioners that the Commission vide its order dated 22.12.2021 has held that the relevant Discoms should verify each claim made by the Wind/Solar generators and to pay the LPS amount , irrespective of whether or not they have filed a petition before the Commission. The directions issued in this order were in rem and binding on the respondents in context of all the intra-state Wind and Solar generators. Thereafter, the respondents have paid the entire principal amount as on 31.03.2022 however, they have not made the entire payment towards LPS, in direct contravention of this Hon'ble Commission's order.
11. The counsel for the petitioners also submitted that the respondents, while denying their liability to pay the LPS to the petitioners, sought to rely upon certain undertakings given to them by the petitioners wherein the petitioners had purportedly agreed to waive off the LPS payable for the period as mentioned in the undertakings. It is further submitted by the petitioners that they were forced to furnish such undertakings under economic duress, the same cannot be relied upon by the respondents to escape their payment obligations under the PPA. Without prejudice to the above , even assuming

(without admitting) that the said undertakings were given by the petitioners voluntarily, even then, it is only for the period for which the said undertakings were given, the LPS can be said to be waived off and accordingly, the respondents cannot seek to escape its liability for the remainder of the period.

12. The counsel for the petitioners further submitted that the respondents have been calculating the LPS payable to the petitioners at a lower rate than what has been stipulated in the PPA. The respondents relied upon RERC (Terms and Conditions for Tariff Determination from RE Sources) Regulations, 2020 for the rate of LPS. The projects in the present petitions got commissioned before the control period of the said Regulations, the Regulations is not applicable to these projects.
13. The matter was heard along with other matters of LPS and during the course of hearing, the issue regarding methodology for adjustment of the amount paid by the Discoms i.e. first against the principal or the LPS, was also raised by the RE generators. It was also submitted that the Late Payment Surcharge Rules issued by the Government of India should be followed in payment of LPS.
14. Per contra the counsel for the respondents contended that the petitioners miscalculated the amount of the LPS by taking wrong delay days and unauthenticated interest rates. They have no intention to shun from their contractual obligations under the PPAs. However, due to financial crisis being faced by the Discoms, huge payments are due to various generation and transmission companies. Further to ensure uninterrupted power supply, it is essential to make payments on priority to the conventional power generators who are supplying majority share of the total energy supply.

15. Having heard the learned counsel appearing for both the parties, the following issues arise for consideration of the Commission –
- (i) Whether the undertakings given by the petitioners to the respondents for waiving of LPS for a particular time period are valid or not ?
 - (ii) Whether methodology for adjustment of the payment, received from the respondents, against the principal and interest as suggested by petitioners, is valid or not ?
 - (iii) Whether the rate of LPS specified in the prevailing Regulations from time to time shall prevail over the rate of LPS specified in PPA or not ?

Let us consider these issues one by one.

Undertakings given by the petitioners to the respondents for waiving of LPS for a particular time

16. The Commission observes that the petitioners have given undertakings for waiving LPS for some particular time period and now they are contending that they were forced to furnish such undertakings under economic duress and the same cannot be relied upon by the respondents to escape their payment obligations under the PPA. The Commission also observes that the undertakings were given in 2019-20 for the period of 2018-2019 and the petitioners filed these petitions in 2022, after almost three years from the period of the undertakings. The Commission also observes that the petitioners are big companies/corporates and having legal assistance. In our considered view, they cannot be forced to sign undertakings. The petitioners are, without giving any material evidence, merely raising allegations on the respondents regarding pressurizing them to sign undertakings. The Commission don't agree with the arguments of the petitioners. Thus, the contentions of the petitioners,

on account of this issue, are devoid of any merit and hence rejected.

17. The Commission also notes that the undertakings were given for specific time period and they should be considered for that particular period and not prior to or beyond that.

Methodology for adjustment of the payment, received from the respondents, against the principal and interest

18. The Commission observes that the petitioners were directed vide ROP dated 06.04.2023 to submit supporting documents i.e. ICAI Accounting Standards, Provisions narrated in Regulations, Rules prevailing in Banks etc. regarding adjustment of the payment of the petitioners against interest and principal amount. But despite clear directions, the petitioners did not submit the said documents. It shows lack of commitment and seriousness on the part of the petitioners regarding the issue. Merely raising issue, without any supporting documents, is not sustainable in view of the Commission. This being the case, the Commission is constrained to note that the petitioners have failed to make out of any case on the issue.
19. Regarding the other issue which came up for consideration of Commission during course of hearing is regarding implementation of LPS Rules notified by the Government of India. The Commission notes that the issue has been dealt in detail by the Commission in its order dated 10.01.2023 in the matter of JSW Energy (Barmer) Ltd Vs RUVNL, wherein it was held that the Commission is bound by its Regulations and cannot act or go beyond the Regulations framed by it. However, the Commission noted the Petitioners' submissions that MoP, GOI has framed LPS Rules, 2021 and 2022 and noted that the Commission will take an appropriate view regarding amendment in Regulations as and when it deems appropriate after following due

procedure. In that order Commission has also clarified that when Commission initiates the process for amendment in the Regulations, it would treat the proposal of Petitioners as a suggestion/input. Petitioners were also given liberty to give more inputs when Commission invites comments/suggestions during the amendment in Regulations.

20. In view of the above, the commission holds that the present methodology adopted by the Respondents requires no interference at this stage.

Whether the rate of LPS specified in the prevailing Regulations from time to time shall prevail over the rate of LPS specified in PPA or not.

21. The Commission observes that the petitioners, in compliance of the directions of the Commission, submitted calculation sheet indicating delay in number of days in payments, rate of LPS and LPS due to the petitioners as on 31.03.2023. The respondents vide their written submissions dated 02.06.2023 submitted that the petitioners are computing LPS as per the rate given in respective PPAs while the respondents are computing LPS as per the relevant provisions given in RERC Tariff Regulations as applicable and this appears to be the main reason for difference in computation of LPS.
22. The Commission would like to note that the issue of rate of LPS has been dealt in detail by the Commission in order dated 23.06.2023 in the matter of M/s Sun n Sand Hotels Vs RUVNL & Othrs, wherein the Commission held that if the rate of LPS in the PPA is different from the rate specified in the prevailing regulations, the rate specified in the regulations shall be considered for calculation of the amount of LPS. The said order of the Commission applies to these cases also and hence the issue is settled accordingly.

23. The Commission observes that it is the submission of the petitioners that there is evident delay in making payment of principal and LPS by the Discoms. The respondent Discoms did not dispute this contention of the petitioners rather they have submitted that the delay is because of financial crisis which the Discoms are facing. The respondents further submitted that they have prioritized payments so as to reduce the financial burden of LPS. In this regard, the Commission is of the considered view that as directed earlier in various orders of the Commission, Discoms are required to ensure that the payments to Solar & Wind generators shall be made on the first come first serve basis irrespective of the fact that whether they have filed a petition before the Commission or not.
24. The petitioners also prayed for imposing penalty on the respondents under section 142 of the Act for non-compliance of the order of the Commission dated 22.12.2021. The Commission observes that, as submitted by the petitioners, the respondents had paid principal amount as on 31.03.2022 to the petitioners in pursuance of the order of the Commission dated 22.12.2021. Further, according to the calculation sheet submitted by the petitioners, the respondents also paid major part of the LPS as on 31.03.2023 and the difference is mainly because of the rate of LPS, considered differently by the petitioners and Respondents. In view of this, the Commission is of the considered view that imposition of any penalty is not justified at this stage.
25. The petitioners also prayed to direct the respondents to make payments of the additional late payment surcharge which would accrue on the LPS amount as claimed in the petitions to the petitioners till the date of actual payment. The Commission does not agree with the prayer of the petitioners. Additional LPS on the LPS amount due is neither sustainable under the provisions of Regulations nor as per the prevailing practice in the sector. Also,

the petitioners have not submitted any provisions of the Regulations in support of their prayer. Hence, the prayer of the petitioners, on this account, does not merit acceptance.

26. In view of above, the Commission orders as under :

- (i) The undertakings given by the petitioners regarding waiving of LPS, shall be considered for particular period for which they were given and not prior to or beyond that period.
- (ii) The rate of LPS specified in the prevailing regulations for respective control period, shall prevail over the rate of LPS mentioned in the PPA.
- (iii) The Commission directs the respondent Discoms to pay entitled LPS amount due, if any, as sought in respective petitions, considering the above two directions of the Commission, within 45 days from the date of this order, if not already paid and submit compliance report before the Commission.

27. The matter is disposed in above terms with no order as to cost.

(Dr. Rajesh Sharma)

Member

(Hemant Kumar Jain)

Member

(Dr. B. N. Sharma)

Chairman