Rajasthan Electricity Regulatory Commission, Jaipur

Petition No. RERC/1960/2021, 1971/2021, 1973/2021,
1976/2021, 1977/2021, 1982/2022, 1983/2022,
1984/2022, 1986/2022, 1994/2022, 1996/2022,
1997/2022, 1999/2022, 2002/2022, 2003/2022,
2004/2022, 2005/2022, 2006/2022, 2007/2022,
2008/2022, 2049/2022

In the matter of petition(s) filed under section 86(1) (f) of the Electricity Act, 2003 for Non-Payment of Principle and LPS amount.

Coram:

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

Petitioner : 1. M/s Ajeet SEEDs Pvt. Ltd. (1960/2021)
2. M/s Avon Cycles Ltd. (1971/2021, 1999/2022)
3. M/s Link Enterprises (1973/2021, 1976/2021)
4. M/s Maxwell Inc. (1977/2021)
5. M/s Mukand Industries Pvt Ltd. (1982/2022)
6. M/s Arora Textiles Pvt Ltd (1983/2022, 1984/2022)
7. M/s Kundan Care Products Ltd (1986/2022)
8. M/s Bhabani Pigments Pvt Ltd (1994/2022)
9. M/s Kukreja Builders Pvt Ltd. (1996/2022)
10. M/s Emerald Electronics Pvt Ltd. (1997/2022)
11. M/s Ushdev Engitech Ltd. (2002/2022, 2003/2022, 2004/2022)
12. M/s Ushdev Windpark Ltd. (2005/2022, 2006/2022, 2007/2022)
13. M/s Pawan Enterprises (2008/2022)
14. M/s Western Drugs Ltd. (2049/2022)

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 : 09.02.2022, 16.02.2022, 23.02.2022, 08.03.2022, 09.03.2022, 15.03.2022, 23.03.2022, 24.03.2022, 31.03.2022, 26.04.2022, 27.09.2022, 20.10.2022, 24.11.2022, 15.12.2022, 06.04.2023

Present : 1. Sh. Vipin Agrawal, Advocate for Petitioner (1960/2021)
2. Sh. Ravi Chirania , Advocate for petitioners (1971/2021, 1973/2021, 1976/2021, 1977/2021, 1982/2022, 1983/2022, 1984/2022, 1986/2022, 1999/2022, 2002/2022, 2003/2022, 2004/2022, 2005/2022, 2006/2022, 2007/2022, 2008/2022)
3. Sh. Aklesh Jain, Advocate for petitioners (1994/2022, 2049/2022)
4. Sh. VN Bohra, Advocate for petitioners (1996/2022, 1997/2022)
5. 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 for adjudication of dispute under section 86(1)(f) of the Electricity Act, 2003 regarding non-payment of principal amount and 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 issue that arises in all the petitions for consideration and decision of the Commission is similar, all the petitions referred to in cause title are clubbed and are being disposed of by this common order.

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

7.1 The petitioners 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 Petitioners further submitted that the PPAs have clear provisions for payment of Late Payment Surcharge (LPS) in case there is a delay in payment of the bills raised for the electricity supplied. The LPS clause defined in the PPAs has binding force in law and it is a contractual binding on Discoms to pay the LPS. The Discoms are overlooking and ignoring said agreed term of PPA.

7.3 The petitioners further submitted that the power generated is being sold to Respondents under the respective Power Purchase Agreements (PPAs). The petitioners have been raising invoices from time to time in accordance with the terms and conditions of the respective PPAs and Tariff Orders. However for the past few years, the payments that have been received from Respondents are being consistently incomplete and delayed. Even when payments are made belatedly, they are being made without any interest for such delay. Such non-payment of principal amount of invoices and the interest on delayed payment is a denial of a valuable right of the petitioners which is conferred by the respective PPA and also conferred by the specific Tariff Orders and the judgments of the Hon'ble Appellate Tribunal for Electricity as well as Hon'ble RERC, Which is binding in nature.

7.4 Further, the petitioners submitted that the present issue has also been fairly settled by Hon'ble Appellate Tribunal for Electricity in its judgment in Chairman, TNEB & Anr. Vs. Indian Wind Power Association and Ors in Appeal No. 11 of 2012 dated 17.04.2012. The relevant paragraphs are extracted hereunder:

> *"It is settled law, when a certain time limit has been prescribed within which payments have to be made, it would mean that any payments made after the said time period would be subject to payment of interest as indicated above.*
> *In any power project, one of the important aspects is the promptitude in payment since the delays would seriously affect the viability of the project. All these projects are substantially funded through finances obtained from various funding organizations require regular payment of principal loan amount with interest by the generators. Only if regular payments are made for the power generated and supplied the loans can be serviced long with the promised return of investment.*
> *Hence our conclusion is as follows:*
> *"The wind power generators are entitled for payment of interest on delayed payment made by the appellant for the purchase of the power from the generators."*

7.5 The petitioners further submitted that the commission has also fairly settled this issue in many matters. In the Petition No. RERC/1707/2020 which was filed by the petitioner against the respondents Hon'ble Rajasthan Electricity Regulatory Commission by it's judgment dated 07.12.2020 held that -

> *"Commission observes that the Discoms should make payment to the generators in time bound manner without dragging them to legal recourse.*
>
> *Commission would like to record that it is not appropriate on the part of Discoms to drive every generator to file petitions for making*

payment of principal and LPS. When commission has given clear directions in the earlier cases to pay interest against the delayed payments as per the terms 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 the agreements otherwise their credibility will get a dent.

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 by the end of this FY, i.e., 31.03.2021 which is due up to March 20 irrespective of the fact that they have filed a petition or not.

The Discoms are further directed to ensure that in future, payment 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 of not.

Commission before parting with these cases desires that the Respondents should make regular arrangements to discharge their liability undertaken in contracts. Discoms shall ensure that confidence of generators is not dented."

7.6 In view of above, Petitioners have prayed for payment of principal amount as well as LPS due to the respective Discoms in terms of PPAs.

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

8.1 Respondents submitted that on 07.12.2020, Commission passed an order regarding payment of interest on delayed payment by Discoms. At para 20 of the said order, the Commission held as under:

> *"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 by the end of this FY, i.e., 31.03.202 1 which is due up to March 20 irrespective of the fact that they have filed a petition or not."*

8.2 Respondents further submitted that in compliance to this order, RUVNL has released the payment towards LPS which is due up to March, 20 to all the generators irrespective of the fact that they have filed a petition or not.

8.3 Respondents also submitted that while determining the priority of payment amongst power generations, 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.

8.4 The Respondents further submitted that it has prioritized payments so as to reduce the financial burden of LPS and avail benefit of rebate. Due to the financial constraints the Respondent Discoms are facing and to Resolve the same, in the 17th meeting of the Board of Directors of the Raiasthan Urja Vikas Nigam Ltd held on 14th December, 2017 it was decided to release payments to the power generators at the earliest in the following order of priority:

(i) Principal dues to conventional power generators/ Transmission service providers with availing maximum rebate for prompt payment as per PPAs/TSAs.

(ii) Conventional Power generators offering extra rebate over and above the PPA subject to approval of the Board.

(iii) Principal dues of Non-conventional sources with availing maximum rebate for prompt payment as per PPAs.

(iv) Non-conventional sources offering extra rebate over and above the PPA.

(v) Principal dues of the power generators, if any, to avoid incidence of LPS.

(vi) Current energy dues of RVUNL/RVPNL.

(vii) Principal overdue to RVUNL/RVPNL.

(viii) Payment of Late Payment Surcharge at concessional rate.

(ix) Payment of LPS as per prescribed rate in PPA.

8.5 The Respondents also submitted that in spite of the severe financial crisis, the respondent has taken all care and precaution to ensure timely payments and also taking efforts to release LPS at the earliest. The delay in releasing the LPS is due to reasons beyond the Control of the respondents.

8.6 The Respondents further submitted that the Hon'ble High Court in S.B. Civil Writ Petition No.281/2018 and other connected matters where the petitioners therein approached the Hon'ble High Court for the non-compliance of the order passed u/s.142 of Electricity Act, 2003. The High Court vide order dated 05.02.2018 has directed to release 50% of the payment within a period of one month from the date of order and granted one year time for the payment of the remaining 50% from the date of release of 50% payment. While passing the order dated 05.02.2018, High Court orally expressed that the respondents are at liberty to approach the Hon'ble Court seeking extension of time for payment, if the problem still persists. It is stated that the present petition is filed under section 86(1)(f) of the Electricity Act and the respondents therefore seek time for releasing the LPS due to the petitioners, as per the terms of the PPA. Further, PPAs does not specify about interest upon interest as alleged by the petitioners. The respondents are ready and willing to make the payments. However, the respondents seek the permission of this Commission to make the Payments as per the priority decided by the Board of Directors of RUVNL. Further no interest is payable on the late payment surcharge as in none of the case the Respondents have paid interest at 9% p.a. , as claimed by the petitioners.

8.7 Further, the Respondents submitted that without prejudice to the above submissions, it is also stated that in the Power Purchase Agreement between the wind generators and the distribution companies, it specifically provided as under:

> "*In case of default the non defaulting party shall issue a default notice to the defaulting party. If default is not the fully set date of the right within one month from the default notice, then, in case of default by –*
> (*ii) Discom (s):- After first ten operational years, renewable energy power station shall have the option to. terminate the power purchase agreement and supply the energy generated to open access consumer, captive power station or other licensees or traders within or Outside the state as per RERC notification.*"

However, no such notice has been given to any Discoms by any of the petitioners. If the generators are so aggrieved, they are at liberty to exercise this option & the Discoms will take prompt steps to facilitate the same, even if the period of ten years is not completed.

8.8 The respondents also submitted that as per the direction of Hon'ble Commission vide ROP date 27.09.2022, detailed affidavit in respect of each Petitioner segregating their due amounts as on 31.08.2022 in terms of Principle amount, period for which the amount of Principle and /or LPS is due and rate of interest applied. The information is tabulated as below :

S. No	Petition No.	Discom	Principle Payment	Period of Principle Amount due	LPS Amount	Period of LPS amount due	Rate of interest
1		JVVNL	Nil	Nil	Rs. 6,296	April22-May 22	11.00%

	1960/2021	Jdvvnl	Nil	Nil	Rs. 20,14,910	May, 20-Mar-21	11.75%
						Apr 21-May 22	11.00%
2	1971/2021	AVVNL	Nil	Nil	Rs. 26,730	April 22-May 22	11.00%
3	1973/2021	JVVNL	Nil	Nil	Rs. 7347	April 22-May 22	11.00%
4	1976/2021	JdVVNL	Nil	Nil	Rs. 3,77,408	April 20- Mar 21	11.75%
						Apr- 22- May 22	11.00%
5	1977/2021	AVVNL	Nil	Nil	Rs. 5892	Apr 22-May 22	11.00%
6	1982/22	AVVNL	Nil	Nil	Rs. 5859	Apr 22-May 22	11.00%
7	1983/22	JdVVNL	NIL	NIL	Rs. 15,90,319	May 20 –Mar 21	11.75%
						Apr-21-May 22	11.00%
8	1984/22	JdVVNL	NIL	NIL	Rs. 1,11,224	June 20 –Mar 21	11.75%
						Apr-21-May 22	11.00%
9	1986/22	JdVVNL	44,94,655/-	June 22	Rs. 24,43,393	April 20 –Mar 21	11.75%
						Apr-21-May 22	11.00%
10	1994/22	AVVNL	NIL	NIL	Rs. 8582	April 22 –May 22	11.00%
		JVVNL	NIL	NIL	Rs. 6868	April 22 –May 22	11.00%
		JVVNL	NIL	NIL	Rs. 9786	April 22 –May 22	11.00%
11	1996/2022	JdVVNL	NIL	NIL	Rs. 8,83,663	June 20 –Mar 21	11.75%
						Apr-21-May 22	11.00%
		AVVNL	NIL	NIL	Rs. 18044	Apr-22-May 22	11.00%
12	1997/2022	AVVNL	NIL	NIL	Rs. 18504	Apr-22-May 22	11.00%
13	1999/2022	JdVVN	NIL	NIL	Rs. 7,80,185	May 20 –Mar 21	11.75%
						Apr-21-Apr 22	11.00%
14	2002/22	JdVVNL	NIL	NIL	Rs. 11,25,862/-	May 20 –Mar 21	11.75%

						Apr-21-May 22	11.00%
15	2003/22	JdVVNL	NIL	NIL	Rs. 9,60,889/-	May 20 –Mar 21	11.75%
						Apr-21-May 22	11.00%
16	2004/22	JVVNL	NIL	NIL	Rs. 30718	April 22 –May 22	11.00%
17	2005/22	AVVNL	NIL	NIL	Rs. 65,823	April 22 –May 22	11.00%
18	2006/22	JdVVNL	NIL	NIL	Rs. 13,20,785/-	May 20 –Mar 21	11.75%
						Apr-21-May 22	11.00%
19	2007/22	AVVNL	NIL	NIL	Rs. 30,129	April 22 –May 22	11.00%
20	2008/22	JdVVNL	NIL	NIL	Rs. 3,44,729/-	Oct 20 –Mar 21	11.75%
						Apr-21-Mar 22	11.00%

The respondents also submitted that the affidavit filed by the respondents regarding due amounts as on 31.08.2022 has neither been challenged nor any response has been filed from the petitioners.

8.9 Further, the respondents submitted that the Commission vide ROP dated 15.12.2022, issued following directives :

> *"After hearing the parties, Commission is of the view that parties must engage into reconciliation and bring out the discrepancies before the Commission. Accordingly, the Respondents are directed to have minimum two meetings with each of the Petitioners. Director (Finance) of the respective Discoms are also directed to ensure minimum two meetings, with proper documentation and should personally get involved in the reconciliation process. The Commission also directs Petitioners to attend the above reconciliation meetings."*

Respondents also submitted that in compliance of above directives, the respondent Discoms contacted and communicated with the petitioners and issued letters and emails for the reconciliation process but only a few in numbers were present in the reconciliation process. The respondents have submitted Minutes of Meeting on 24.05.2023, which indicates that the only dispute persists between the petitioners and the respondents is regarding the rate of LPS. The petitioners are claiming LPS at the rate given in respective PPAs wherein the respondents are contending that the rate of LPS should be as per the prevailing Regulations. Relevant portion of MoM of some of the meetings are extracted under:

> "*<u>Meeting held on 22.12.2022 (AVVNL) –</u>*
>
> *Sh. Mudit Lakhotia appeared for kukreja Builders Pvt Ltd & Emerald Electronics Pvt Ltd Mumbai was agreed with the version of Discom for computation of LPS. Sh. Bhupen Tiwari who appeared for Bhabani Pigments did not expressed his opinion on the same. Apart from this, there is no other discrepancy. On this issue the Commission may take a call and decode accordingly.*
>
> *<u>Meeting held on 06.01.2023 (JVVNL) -</u>*
>
> *Sh. Jitendra Bijutkar who appeared for Ushdev Engitech Limited, Maharashtra raised the discrepancy in Rates of charging Late Payment Surcharge for which he was given the the bill wise calculation of LPS along with copies of RERC Tariff Regulations in accordance which LPS has been calculated by RUVNL. Sh. Jitendra Bijutkar agreed to consider the sane after discussing the matter with their accounts department.*
>
> *Sh. Ashok Gupta who appeared for Bhabani Pigments Pvt. Ltd. raised the discrepancy n Bill receipt dates and difference in Rates of charging Late Payment Surcharge. Bil receipt dates were reconciled with Sh. Ashok Gupta on which he agreed. However, he claimed that LPS should be charged as per PPA and not as per RERC Regulation.*
>
> *Sh. Bhupen Tiwari who appeared for Western Drugs, Mumbai also claimed that there was no other discrepancy except that LPS should be charged as per PPA.*
>
> *<u>Meeting held on 06.01.2023 – (JdVVNL)</u>*
>
> *Sh. Ravi Kumar who appeared for Kundan Care Products Ltd., New Delhi was agreed with the version of Discom for computation of LPS.*
>
> *Sh. Manoj Çhoudhary, who appeared for Pawan Enterprises, Jaipur was not agreed and insisted to pay LPS only as per PPA provision.*
>
> *Sh. Jitendra Bijutkar who appeared for Ushdev Engitech Limited and Ushdey Windpark Pvt. Ltd., Maharashtra also pointed out the*

discrepancy in Rates of charging Late Payment Surcharge. He was given bill wise calculation of LPS along with copies of RERC Tariff Regulations according to which LPS has been calculated by RUVNL. Sh. Jitendra Bjutkar agreed to consider the same after discussing the matter with their accounts department.

Sh, Bhupen Tiwari who appeared for Western Drugs, Mumbai also claimed that there was no other discrepancy except that LPS should be charged as per PPA.

Now the only issue remains is with regard to computation of LPS as per prevailing RERC Regulations as being done by RUVNL for all renewable owner generators or as per PPA provision which are not in uniformity. The Hon'ble Commission may take a call and decide the matter so that Discom/RUVNL may adopt the same accordingly."

8.10 Further, 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 the difference in computation of interest. However, generally, no supplementary invoices /calculation sheets are raised by the generators with detailed computations 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.

8.11 Respondents further submitted that the erring petitioners were never interested in the reconciliation process after filling the petitions because most of the outstanding amount in respect to the prayer was already made and the remaining amount, if any, is due to calculation criteria adopted by the petitioner and respondents.

8.12 The respondents also submitted that Hon'ble Commission on dated 06.04.2023 after hearing both Petitioners & Respondents, directed the petitioners to file the calculation sheet indicating the 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 but except two petitioners , none of the other petitioners provided the documents and calculation sheet up to 31.03.2023 as per the direction.

8.13 In view of above Respondents have prayed to allow them to follow the payment priority as decided in RUVNL BOD meeting held on 14.12.2017.

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 respondents are neither paying principal amount of energy bills on time nor the late payment surcharge (LPS) as per PPAs.

11. Per contra the counsel for the respondents contended that 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. The Respondents therefore requested to allow them to make the payments as per the priority decided by the BOD of RUVNL.

12. The Commission observes that in compliance of Commission's directions vide ROP dated 27.09.2022 , the respondents have submitted detailed affidavit in respect of each petitioner segregating their due amounts as on 31.08.2022 in terms of principal amount , LPS amount, period for which the amount of principal and/or LPS is due and rate of interest

applied.

13. Further, the Commission vide ROP dated 15.12.2022, issued following directives :

> *"After hearing the parties, Commission is of the view that parties must engage into reconciliation and bring out the discrepancies before the Commission. Accordingly, the Respondents are directed to have minimum two meetings with each of the Petitioners. Director (Finance) of the respective Discoms are also directed to ensure minimum two meetings, with proper documentation and should personally get involved in the reconciliation process. The Commission also directs Petitioners to attend the above reconciliation meetings."*

In compliance of above directives, the respondent Discoms held reconciliation meetings. The respondents have submitted Minutes of Meeting on 24.05.2023, which indicates that the only dispute persists between the petitioners and the respondents is regarding the rate of LPS. The petitioners are claiming LPS at the rate given in respective PPAs wherein the respondents are contending that the rate of LPS should be as per the prevailing Regulations. We will deal with this issue in subsequent paras of this order.

14. The respondents also submitted that the Commission vide ROP dated 06.04.2023, directed 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 , within two weeks time but except two petitioners M/s Bhabani Pigments (1994/2022) and M/s Western Drugs (2049/2022) , none of the other petitioners provided the documents and calculation sheet as per the directions of the Commission. The respondents further submitted that the petitioners filed the petitions without following proper procedure and calculations. The Commission partially agrees with the submission of the respondents that after giving sufficient time to the petitioners, out of twenty one petitioners only two petitioners have submitted the calculation sheet as per directions of the Commission. Also, as submitted by the respondents, only few petitioners participated in the reconciliation meetings held in compliance to the directions of the Commission. It shows lack of

commitment and seriousness on the part of the petitioners. This being the case, the Commission is constrained to observe that mere filing petitions may not fulfil the ultimate purpose and it may not possible for the Commission to reach on the sum due, agreed by both the parties, without proper assistance by the petitioners.

15. 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. In this regards, the Commission observes that the issue has already been dealt with vide order of the Commission dated 19.07.2023 in the matter of M/s Wind World Wind Farms (Jaisalmer) Pvt Ltd & Others Vs RUVNL. In the said order, it was held that the present methodology adopted by the Respondents requires no interference at this stage. Thus, the issue is decided accordingly.
16. Having heard the learned counsel appearing for both the parties, the following question is left out for consideration –

    "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."

17. 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 in favour of the respondents.

18. The Commission observes that it is the submission of the petitioners that there is evident delay in making principal payment as well as LPS amount to wind & solar generators 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 and avail benefit of rebate as per the decision of their Board of Directors in meeting dated 14.12.2017. In this regard, the Commission is of the considered view that the decision of the board of respondents does not have any sanctity in the eyes of Law. As directed earlier in various orders of the Commission, Discoms are 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.

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

    (i) The rate of LPS specified in the prevailing regulations for respective control period, shall prevail over the rate of LPS mentioned in the PPA.

    (ii) The Commission directs the respondent Discoms to pay entitled principal amount, if any, as sought in respective petitions along with LPS due to the petitioners within 45 days from the date of this order, if not already paid and submit compliance report before the Commission.

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

(Dr. Rajesh Sharma)	(Hemant Kumar Jain)	(Dr. B. N. Sharma)
Member	Member	Chairman