

11/9/2019-EFM
Ministry of New & Renewable Energy

Block No. 14, CGO Complex,
Lodi Road, New Delhi- 110003
Dated: 31 July 2019

OFFICE MEMORANDUM

Subject: Opening and maintaining of adequate Letter of Credit (LC) as Payment Security Mechanism under Power Purchase Agreements by Distribution Licensees – Clarification –reg.

This is with reference to Ministry of Power's Order No. 23/22/2019-R&R dated 28 June 2019 on the subject cited above, whereby provision of opening of Letter of Credit (LC) has been made mandatory for Distribution Licensees for ensuring payment security (copy enclosed) .

2. The clause 5 (vi) of the above referred order reads as “ *In the event power is not dispatched for any reason given above, the Distribution licensee shall continue to pay the Fixed Charge to the Generating Company.*”

3. It is hereby clarified that Fixed Charge as referred to in paragraph 2 above, in cases of Solar, Wind and Small Hydro Power, would constitute the following:-

“For the purpose of Clause 5 (vi) of the Ministry of Power's order no 23/22/2019-R&R dated 28 June 2019, the Fixed Charge in the cases of Solar, Wind and Small Hydro Power will be the tariff on which the power is being purchased by the Distribution licensee as it reflects the cost of installation, operation and maintenance of the power plant. The energy generated during the non-dispatch period, as stated in Clause 5 (vi) of the order referred above, shall be calculated on the basis of Capacity Utilization Factor as declared by the Generators in Power Purchase Agreements (PPAs), and for projects having more than one year operation, the power not-dispatched shall be calculated on the basis of pro-rated actual energy generated in the last twelve months”

4. This issues with the approval of Minister of State (I/C) for Power and New and Renewable Energy.

(P.C.Maithani)
Adviser

To

1. CMD, POSOCO/Heads of NLDC/RLDCs/SLDCs
2. Principal Secretary/Secretary (Power/Energy), State Governments/UTs-For necessary communication to Discoms
3. All Generating Companies
4. All Distribution Companies
5. Secretaries of All State Electricity Regulatory Commissions (SERCs)/JERCs

Copy to

1. Secretary, Ministry of Power, New Delhi
2. Chairperson, CEA, Sewa Bhawa, RK Puram, New Delhi
3. Chief Engineer (R&R), Ministry of Power, New Delhi
4. Secretary, CERC/FOR, Chandralok Building, Janpath, New Delhi

Copy also for information to

1. PS to Hon'ble Minister, New and Renewable Energy and Power
2. Sr PPS to Secretary, MNRE
3. Sr PPS to Additional Secretary, MNRE

No. 23/22/2019-R&R
Government of India
Ministry of Power

Shram Shakti Bhawan, Rafi Marg,
New Delhi, 28th June, 2019

ORDER

Subject: Opening and maintaining of adequate Letter of Credit (LC) as Payment Security Mechanism under Power Purchase Agreements by Distribution Licensees -Reg

1.0 Under the Electricity Act 2003, Regional Load Despatch Centres (RLDC) and State Load Despatch Centres (SLDC) are cast with the statutory responsibility to ensure that that the supply of electricity is made in accordance with the contracts.

2.0 Section 28 (3) (a) of the Electricity Act 2003 provides that the Regional Load Despatch Centre shall be responsible for optimum scheduling and despatch of electricity within the region, in accordance with the contracts entered into with the licensees or the generating companies operating in the region.

3.0 Similarly as per provisions of Section 32 (2)(a) the State Load Despatch Centre shall be responsible for optimum scheduling and despatch of electricity within a State, in accordance with the contracts entered into with the licensees or the generating companies operating in that State.

4.0 The Power Purchase Agreements have the provision regarding maintenance of adequate Payment Security Mechanism mainly in the form of Letters of Credit by the Distribution Licensees/ Procurers of Power. A robust Payment Security System requires adequacy and validity of Letter of Credit to cover the payments due on account of drawal of power.

5.0 It has been seen that despite the above provisions, the Letters of Credit are not being given and there is huge outstanding on account of unpaid power bills. This makes it difficult for the Generators to pay for the fuel, which has to be pre-paid, to continue the generation. The Generators are also required to pay to the Railways in advance for the rakes. If this situation persists, the Generators will not be able to pay for fuel/transportation leading to shortfall in generation of electricity. There will thus be wide spread load shedding on account of lack of generation. It is essential therefore that all the provisions mentioned above are implemented strictly. NLDC & RLDC are therefore directed as follows:

- i. In accordance with Section 28 (3) (a), the NLDC & RLDC shall despatch power only after it is intimated by the Generating Company and /Distribution Companies that a Letter of Credit for the desired quantum of power has been opened and copies made available to the concerned Generating Company.
- ii. The intimation to NLDC and RLDC shall specify the period of supply.


- iii. RLDC shall dispatch electricity only up to the quantity equivalent of value of Letter of Credit.
- iv. The dispatch shall stop once the quantum of electricity under LC is supplied.
- v. The concerned generating company shall be entitled to encash the LC after expiry of grace period, i.e. 45 to 60 days as provided in the PPA.
- vi. In the event power is not dispatched for any reason given above, the Distribution licensee shall continue to pay the Fixed Charge to the Generating Company.

6.0 It shall also be ensured by the Load Despatch Centre that the regulated entity, during the period of regulation, has no access to procure power from the Power Exchanges and they shall not be granted Short Term Open Access (STOA).

7.0 In case scheduling and despatch of power produced by any generator is not done due to non-opening of Letter of Credit by the Distribution licensee, then the Distribution licensee would be liable to pay compensation to the generator as per the terms of Power Purchase Agreement or Power Sale Agreement, as the case may be, the distribution licensee has entered in with the generator.

8.0 NLDC/ RLDC/SLDC shall carry out such duty cast under Electricity Act, 2003 from 01.08.2019.

9.0 This issues with the approval of Minister of State (I/C) for Power and NRE.



(Debranjana Chattopadhyay)
Under Secretary to the Government of India
Ph: 011-2373 0265

To,

1. CMD, POSOCO / Heads of NLDC & RLDCs
2. Principal Secretary/Secretary (Power/Energy), State Governments/UTs – For necessary communication to Discoms/ SLDCs
3. All Generating Companies
4. All Distribution Companies
5. Secretaries of All State Electricity Regulatory Commissions(SERCs)/JERCs.

Copy to:

1. Chairperson, CEA, Sewa Bhawan, RK Puram, New.,Delhi
2. Secretary, CERC/FOR, Chandralok Building, Janpath, New Delhi

Copy also for information to:

1. All Joint Secretaries, Ministry of Power
 2. PS to MOS (I/C) for Power and NRE
 3. PPS to Secy.(P), PPS to AS(SNS),PPS to CE(RR)
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