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**ORDER  
OF THE  
WEST BENGAL ELECTRICITY REGULATORY COMMISSION  
IN THE MATTER OF**

**In Case No. WBERC/OA-237/16-17**

IN RE APPLICATION SUBMITTED BY WEST BENGAL STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED (WBSEDCL) FOR ISSUANCE OF APPROPRIATE ORDER FOR SUITABLE MODIFICATION OF REGULATION NO. 4.2.3 OF WEST BENGAL ELECTRICITY REGULATORY COMMISSION (MISCELLANEOUS PROVISIONS) REGULATIONS, 2013 FOR REMOVING DIFFICULTY IN REALIZING PAYMENT OF ENERGY BILL THROUGH LETTER OF CREDIT (LC).

**PRESENT:**

**SRI RABINDRA NATH SEN, CHAIRPERSON**

**SRI AMITAVA BISWAS, MEMBER**

**SRI DURGADAS GOSWAMI, MEMBER**

**DATE: 19.02.2018**



Order of the West Bengal Electricity Regulatory Commission on an application submitted by West Bengal State Electricity Distribution Company Limited (WBSEDCL) for issuance of appropriate order for suitable modification of regulation no. 4.2.3 of West Bengal Electricity Regulatory Commission (Miscellaneous Provisions) Regulations, 2013 for removing difficulty in realizing payment of Energy Bill through Letter of Credit (LC).



Noting by Office or Advocate	Sl. No.	Date	Office notes, reports orders or proceedings with signature
		19.02.2018	<p style="text-align: center;"><b><u>ORDER</u></b></p> <p>0.0 This is in regard to the application submitted by West Bengal State Electricity Distribution Company Limited (WBSEDCL) on 05.10.2016 and subsequent exchanges of queries and communications made on 05.04.2017, 21.04.2017, 26.05.2017 and 11.07.2017 respectively regarding appropriate order of the Commission for suitable modification of regulation 4.2.3 of the West Bengal Electricity Regulatory Commission (Miscellaneous Provisions) Regulations, 2013 (in short 'Miscellaneous Provisions Regulations') for removing difficulty in realizing payment of Energy Bill through Letter of Credit (LC).</p> <p>1.0 WBSEDCL in their application has stated that regulation 3.3 of the West Bengal Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2013 (in short 'Supply Code Regulation') does not specify LC as an acceptable mode of payment.</p> <p>2.0 It is also stated that the regulation 4.2 of the Miscellaneous Provisions Regulations provides that :</p> <p>“The security deposit either in cash or Bank Guarantee shall not be required in case the supply of electricity is made through a pre-paid meter or through unconditional, confirmed, revolving, irrevocable and non-recourse Letter of Credit (LC) for a period of not less than 12 months from a</p>



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			<p>nationalized or a reputed private sector bank or the West Bengal State Cooperative Bank Limited situated in an area of the distribution licensee, within the city in which the distribution licensee is operating .....</p> <p>3.0 It is further submitted that many bulk consumers under WBSEDCL submitted LC for payment of Energy Bill and WBSEDCL is compelled to accept such LC as a payment mode without any security deposit from the consumers as per provision of the regulation 4.2.3 of the Miscellaneous Provisions Regulations.</p> <p>4.0 It is further stated that such option of payment through LC is causing a discrepancy between the consumers opting for payment through any of the mode stipulated in Supply Code Regulation and providing applicable security deposit and the consumers opting for payment through LC and exempted from providing any security deposit as per provision of Miscellaneous Provisions Regulations.</p> <p>5.0 It is further stated that regulation 4.2.3 of the Miscellaneous Provisions Regulations provides for increase in LC limit and extension of LC validity but in many cases consumers do not increase LC amount even after issuance of notice to them as per provision of the Regulations. Since the disconnection of such consumers can be effected only after expiry of LC as per the provision of the regulations, substantial quantum of dues accumulated till expiry of LC remains unrecoverable in absence of any security deposit.</p> <p>6.0 It is further submitted that difficulties are also being faced frequently while realizing payment of energy bills from the consumers who opted payment through LC for the reasons</p>
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			<p>stated in their application as follows:</p> <p>“Banks are guided by RBI Regulation only and not by WBERC regulations. Banks being conscious about their Non-Performing Assets (NPA) suddenly stop making payment through LC in spite of LC being valid. Banks are not releasing payment against energy bills in spite of rigorous persuasion with various forums of bank and consumer by WBSEDCL for obligations/ reasons created due to business relations between Bank and consumer (Industry/ Industry groups). In such cases even moving to banking ombudsmen has not yielded positive result. As a result, WBSEDCL is losing revenue and there is accumulation of outstanding dues in case of payment through LC.”</p> <p>7.0 On query, WBSEDCL has submitted the supporting documents in respect of their movement to the banking Ombudsman and corresponding orders.</p> <p>8.0 WBSEDCL has further submitted that in some instances banks are refusing to honour the LC issued by themselves due to any problem developed between the consumers and their banks and consequently payment to licensee is also withheld by their bank. Bankers are also not making payment through LC due to fear of increase of NPA and the monthly energy bill raised to an LC optee consumers is also not honoured for such reasons.</p> <p>9.0 It is further stated that consumers opting for LC payment mode mostly fall under HV and EHV categories and a substantial amount of dues accumulated from the consumers till they are disconnected complying with the</p>
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			<p>provisions of regulations 3.4.1(a), 3.4.1(b), 3.4.1(c) and 4.1.5 of Supply Code Regulations after giving 15 days' notice period. As no security deposit is kept by those consumers as per prevailing regulations WBSEDCL has no means to realize such outstanding amount by invoking security deposit.</p> <p>10.0 WBSEDCL further pointed out that as per Electricity Act, 2003 exemption from furnishing security deposit is allowed only if pre-payment is made by the consumers.</p> <p>11.0 In this regard a gist was published in the following Newspapers on 07/12/2017 inviting suggestions and objections, if any, and due date for submission of the same was on 20.12.2017</p> <ul style="list-style-type: none"><li>a) Bartaman(Bengali)</li><li>b) Sanmarg(Hindi)</li><li>c) Uttarbanga Sambad(Bengali)</li><li>d) Times of India, Kolkata Edition.</li></ul> <p>In response to this publication only All Bengal Electricity Consumers' Association (ABECA) submitted objection and suggestion on 20.12.2017.</p> <p>12.0 ABECA has raised objections against submission of WBSEDCL at para 9, 10, 12, 13 and para 14. The submission of ABECA inter alia says that the points raised by WBSEDCL are meaningless, a lame excuse and not maintainable. ABECA has also submitted that there are sufficient provisions to realize the Electricity Bill from the</p>
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			<p>concerned consumer and with the lame excuse WBSEDCL should not avoid the framed Regulation of the Commission. ABECA has not submitted any details in this regard. ABECA has not also submitted their views on the point raised by WBSEDCL that payment through LC is not a prepayment which is only exempted from furnishing security deposit as per provision of the Act.</p> <p>13.0 Commission considers the issues raised by WBSEDCL and the difficulties as stated by them due to the provisions of exemption from furnishing security deposit by the consumers making payment through LC in regulation 4.2.3 of the Miscellaneous Provisions Regulations.</p> <p>14.0 Observations of the Commission in this regard are as follows:</p> <p>a) WBSEDCL sends energy bills directly to designated bank for payment of bill amount after the end of billing cycle.</p> <p>b) The designated bank either pays the billed amount to WBSEDCL subject to fulfillment of the obligation on the part of the consumer within due date or refuses to make payment on the ground of non-fulfillment of the obligation by the consumer.</p> <p>c) Thus Commission holds that payment through LC is not a pre-payment and making payment through LC without furnishing security deposit is inconsistent in respect of the provisions of subsection 5 of section 47 of the Electricity Act, 2003.</p>
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			<p>15.0 To remove the difficulty arising in giving effect to the provision of regulation 4.2.3 of the West Bengal Electricity Regulatory Commission (Miscellaneous Provisions) Regulations, 2013, Commission in exercising its inherent power in terms of regulation 6 of the West Bengal Electricity Regulatory Commission (Miscellaneous Provisions) Regulations, 2013 decides that the consumers who are paying their electricity bills through LC are also liable to pay security deposit as per provision of Regulations 4.1 and 4.2.2 of the West Bengal Electricity Regulatory Commission (Miscellaneous Provisions) Regulations, 2013.</p> <p>16.0 The Commission will make necessary amendment in the relevant regulation while amending the Miscellaneous Provisions Regulations in future.</p> <p>17.0 This order will have immediate effect. The application of WBSEDCL is thus disposed of. Let a copy of this order be served upon all the Distribution Licensees under this Commission and uploaded in the Web-site of this Commission.</p> <p style="text-align: center;"><b>Sd/-</b> <b>(Durgadas Goswami)</b> <b>Member</b></p> <p style="text-align: center;"><b>Sd/-</b> <b>(Amitava Biswas)</b> <b>Member</b></p> <p style="text-align: center;"><b>Sd/-</b> <b>(R. N. Sen)</b> <b>Chairperson</b></p> <p>Dated : 19.02.2018</p>
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