

TAMIL NADU ELECTRICITY REGULATORY COMMISSION

Order of the Commission dated this the 1st Day of April 2025

PRESENT:

Thiru.K.Venkatesan

.... **Member**

and

Thiru.B.Mohan

.... **Member (Legal)**

M.P. No. 3 of 2024

The Chief Financial Controller / Revenue,
Tamil Nadu Power Distribution Corporation Ltd.,(TNPDCCL)
144 Anna Salai,
Chennai – 600 002.

... Petitioner
(Thiru.N.Kumanan &
Thiru.A.P.Venkatachalapathy
Standing Counsel for TNPDCCL)

This Miscellaneous Petition stands preferred by the Petitioner, Tamil Nadu Power Distribution Corporation Limited., with a prayer to waive the Belated Payment Surcharge for an amount of Rs.137.13 crores as on 31.03.2023 in respect of all local bodies on payment of 50% of the outstanding dues by them as decided in the Chief Secretary's review meeting held on 08.03.2023.

This Miscellaneous Petition coming up for final hearing on 17-12-2024 in the presence of Tvl. N.Kumanan, & A.P.Venkatachalapathy Standing Counsel for the Petitioner and on consideration of the submission made by the Counsel for the Petitioner, this Commission passes the following:

ORDER

1. Contentions of the Petitioner:-

1.1 The instant Miscellaneous Petition has been filed for permitting the petitioner to waive the Belated Payment Surcharge detailed below aggregating a sum of Rs.137.13 crores as on 31.03.2023 in respect of local bodies.

Sl. No.	Name of the Local body	BPSC
		Rs.in crore
I	RD&PR Department	
	Village Panchayat	28.94
II	MA&WS Department	
1	Town Panchayat	0.84
2	Municipalities	25.91
3	Corporations	56.20
4	Chennai Corporations	25.24
		108.19
	Total	137.13

1.2. Tamil Nadu has 21 Nos. of corporations, 138 Nos. of Municipalities, 490 Nos. of Town panchayat and 12,525 Village Panchayats.

- i. It was decided in the Chief Secretary's review meeting to consider the waiver of BPSC after payment of 50% of outstanding dues by local bodies, which would be paid as 24 equal monthly installments. However, the BPSC for the period for 24 installments shall not be levied if it had been

paid without any lapses along with the current month demand on the due dates.

- ii. During the Chief Secretary's meeting, the HODs of all the departments accepted the decisions made to liquidate the CC dues in 24 installments along with the current demand if the proposal was approved and the long pending outstanding dues would be liquidated in the said manner by June' 2025.
- iii. Also it is stated that the Local bodies are responsible for providing basic and essential services such as water supply, street lighting facilities and sanitation.
 - For the above delivery of basic services, the local bodies have been maintaining 8.69 lakh electricity service connections.
 - For the above EB connections approximately an amount of Rs.200 crores to be paid by all the local bodies every billing cycle and were unable to meet the CC charges every billing cycle and it was accumulated and attracted BPSC.

1.3. The outstanding CC dues of all Local bodies as on 31.03.2023 is Rs.1618.54 crores as detailed below.

Sl. No.	Name of the Local body	No. of Services	CC Charges	BPSC	Total dues
					Rs.in crore
I	RD&PR Department				
1	Village Panchayat	649212	605.76	28.94	634.70
II	MA&WS Department				
1	Town Panchayat	81169	40.67	0.84	41.50
2	Municipalities	60693	274.81	25.91	300.72
3	Corporations	65484	374.84	56.20	431.04
4	Chennai Corporations	12050	185.34	25.24	210.58

Sl. No.	Name of the Local body	No. of Services	CC Charges	BPSC	Total dues
		219396	875.65	108.19	983.84
	Total	868608	1481.41	137.13	1618.54

The above outstanding dues did not include the dues towards Additional Current Consumption Deposit (ACCD) amount since, the ACCD for the LT services would be reviewed once in 2 years during 2023-24.

1.4. It was placed before the Board of TNPDC

- i. To permit the Local bodies to settle the outstanding CC dues of Rs. 1618.54 crore as on 31.03.2023 in 24 equal monthly instalments along with the current month demand within the due dates
- ii. To consider the proposal of waiver of Belated Payment Surcharge on payment of 50% of the outstanding dues by the Local bodies. However, the BPSC for the period for 24 installments shall not be levied if it is being paid without any lapses along with the current month demand on due dates.

1.5. In the 114th Board meeting, the Board recommended that the Commission might be requested to waive of Belated Payment Surcharge on payment of 50% of the outstanding dues by the Local bodies as resolved in the Chief Secretary's review meeting on 08.03.2023 and thus the Miscellaneous Petition is filed.

Hence, Commission may be pleased to permit waiver of belated payment surcharge for an amount of Rs.137.13 crores as on 31.03.2023 in respect of all local

bodies on payment of 50% of the outstanding dues by them as decided in the Chief Secretary's review meeting held on 08.03.2023.

2. Memos filed by the petitioner on 14.11.2024 and on 04-03-2025.:-

2.1. The petitioner, in the Memo filed on 14.11.2024, stated as follows:

2.1.1. As the Commission has called for additional details of service wise amount of BPSC prayed to be waived for those service connections for which more than 50% of CC dues as on 31.03.2023 were paid, the petitioner has prepared the service wise amount of BPSC for which more than 50% of CC dues as on 31.03.2023 was paid in 12 instalments and the proposed waiver of BPSC stood at Rs.52,05,49,706.50 for 2,80,372 services of Local Bodies. The service wise details for 2.8 lakhs services requires about 5000 pages, if it is prepared in hard copy.

2.1.2. The petitioner prayed in the Memo to permit petitioner TNPDCCL to file service wise additional details as per the direction of TNERC by soft copy in the PDF format, apart from the abstract of the same to submit both in hard and soft copies in compliance with the direction of the Commission.

2.2. The petitioner filed another Memo on 04.03.2025 annexing the Minutes of the meeting chaired by the Chief Secretary to the Government of Tamil Nadu on outstanding current consumption dues of all Local bodies and TWAD Board on 08.03.2023.

2.3. The pivotal point that crops up for consideration is as to whether permission can be accorded to the petitioner for waiver of the BPSC amount set out in the petition ?

3) In the light of the arguments submitted by the counsel for the petitioner and also the averments made in the petition, the point that arise for determination is whether the prayer sought for by the petitioner seeking permission to waive the Belated Payment Surcharge set out in the petition is sustainable on facts and law?

4) Findings of the Commission :-

4.1. Summation of the facts which are necessary and germane for complete and effective disposal of the petition are as follows:-

On account of non-payment of electricity charges by majority of the local bodies in Tamil Nadu, as on 31.03.2023 the dues accumulated to Rs.1618.54 Crores which include Rs.137.13 Crores towards Belated Payment Surcharge (for brevity BPSC). Since the dues have reached gigantical proportion, a meeting chaired by the Chief Secretary of Tamil Nadu was held on 08.03.2023. On much deliberations the following came to be resolved in the meeting.

- (i) On payment of 50% of the outstanding dues by the Local Bodies in 24 monthly instalments the Board of TANGEDCO may consider waiver of BPSC dues payable by the local bodies.
- (ii) In respect of local bodies who have CC arrears, service connections provided to the Rural and Urban local bodies buildings with exception to

essential services such as street lights; over-head tanks; hospitals etc. shall be disconnected.

- (iii) Disconnection shall be effected for high mast lights if CC dues are not paid by the local bodies.

4.2. In pursuance of the above referred resolution, the petitioner, the Chief Financial Controller (Revenue) placed the subject before the Board of TANGEDCO to decide as to whether BPSC waiver can be allowed to be waived as per the resolution passed in the Chief Secretary's Review meeting held on 08.03.2023. In the 114th meeting, the Board recommended TANGEDCO to approach the Tamil Nadu Electricity Regulatory Commission (for convenience "Commission") for approval of the proposal for waiver of BPSC on payment of 50% of the outstanding dues by the local bodies.

5) Subsequent to the admission of the present petition, upon directions by the Commission, on 27.02.2024 and 17.12.2024 the petitioner filed status report in regard to payments made by the local bodies towards CC dues. The status reports submitted by the petitioner revealed that in respect of 8,68,608 service connections for which CC charges are due from the respective local bodies, as on 31.03.2023 only in respect of 2,80,372 service connections 50% of the CC dues came to be paid. The status report further disclosed that out of the aggregate dues of Rs.1481.41 Crores towards CC, only Rs.752.21 Crores came to be paid / collected from the local bodies. From the status report filed by the petitioner it can be readily inferred that in respect of 5,88,236 service connections, the respective local bodies have not remitted 50% of the CC charges.

6) For evaluating the merit of the petitioner's prayer in regard to waiver of BPSC to the local bodies, it is very much necessary to consider the relevant regulations provided in the Supply Code framed by the Commission drawing source from section 50 of the Electricity Act, which read as follows :-

5. Miscellaneous charges

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(4) Belated payment surcharge (BPSC)

(i) All bills are to be paid in the case of HT consumers, within the due date specified in the bill and in the case of LT consumers, within the due date and notice period specified in the consumer meter card.

(ii) (a) Where any HT consumer neglects to pay any bill by the due date, he shall be liable to pay belated payment surcharge from the day following the due date for payment. Where any LT consumer (except services relating to Public lighting and water supply and other services belonging to Local Bodies) neglects to pay any bill by the last day of the notice period, he shall be liable to pay belated payment surcharge from the day following the last day of the notice period.

(b) Where the local bodies neglect / fail to pay any bills in respect of LT services for Public Lighting and Public Water Works, and other services of Local Bodies, the belated payment surcharge shall be applicable for the payments made beyond 60 days from the date of demand. In case of payment made beyond 60 days from the date of demand, the belated payment surcharge shall be payable from the day following the 60th day of demand.

(c) The surcharge shall be for a minimum period of fifteen days and where the delay exceeds fifteen days but does not exceed one month, it shall be for the number of

whole months, and for any fraction of a month, it shall be proportionate to the number of days.

(iii) If the due date in the case of HT consumers and the last day of the notice period in the case of LT consumers falls on a holiday, the surcharge is payable from the day following the next working day.

(iv) In the case of LT Consumers (except Local Bodies) the surcharge shall be 1.5% per month for the outstanding arrears towards the price of electricity supplied. In respect of LT services belonging to Local Bodies, the surcharge shall be 0.5% per month for the outstanding arrears towards the price of electricity supplied.

(v) In the case of HT consumers except Local Bodies and Government Departments the surcharge shall be 1.5% per month for the notice period. In the case of Local Bodies and Government Departments, the surcharge shall be 1% per month for the notice period.

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7) The above referred provision of law make it abundantly clear that Belated Payment Surcharge is a statutory provision and any due arising therefrom cannot be waived at the drop of the hat by the Commission merely for the asking moreso when special circumstances are not pleaded and established warranting waiver.

8) This Commission is not oblivious of the order passed by it in M.P.No.15 of 2014 whereby the scheme of waiver of BPSC floated by TANGEDCO was approved as one time measure to facilitate recovery of CC charges which were due to TANGEDCO for a period of six months from the date of order in respect of certain category of consumers requiring reconnection of electricity service connection; granting of new service connections and for the purpose of regulating the service connections in whose case

violation / unauthorized use / theft has been detected, whether such service connections are under disconnection or under reconnection in view of court orders, under exceptional circumstances.

9) The fact that in regard to LT service connections provided to the local bodies the percentage of BPSC is only 0.5% as against 1.5% fixed for the other LT consumers and that the time limit for payment to the local bodies is larger than the time fixed for the other LT consumers is evident from sub-regulation 4(ii), 4(iii), 4(iv) and 4(v) of Regulation 5 of TNERC Supply Code now in vogue.

10) Since already considerable latitude has been shown to the local bodies in the payment of BPSC, in the absence of special or compelling circumstances it would not be fair to confer further concessions to the local bodies in the payment of BPSC. The one time concession given vide order passed in M.P.No.15 of 2014 cannot be relied by the petitioner to seek the perennial relief of waiver sought for in the petition when the BPSC is low in terms of percentage as regard to the local bodies when compared to the other consumers.

11) Apposite to point out that Section 61(b) of the Electricity Act 2003 mandate that the business of the licensee shall be conducted on commercial principles. Section 61(d) postulate safeguarding of consumer interest. Thus it is apparent that any relief in regard to BPSC in the absence of special circumstances would be against the letter and spirit of Section 61(b) and 61(d) of the Electricity Act 2003.

12) Relevant to point out that the Electricity (Late Payment Surcharge and Related matters) Rules 2002 mandate payment by the DISCOMS to the Generators and other entities, but the same do not provide waiver of interest due on the late payment. As per the rigour of the above referred Rules, the State Commission can grant relief to the distribution companies only to the extent of allowing them to pay the outstanding dues in instalments. As per the rules, late payment surcharge can be reduced or rescheduled, that too only in the exceptional circumstances.

13) Pertinent here to point out that the Commission on an earlier occasion vide order passed in M.P.No.1 of 2011 had turned down the proposal made by TANGEDCO for amending Section 5(4) of the Tamil Nadu Electricity Supply Code 2004 conferring power on the licensee to waive BPSC by itself. The refusal was made on the ground that an amendment to that effect in the Supply Code would institutionalize indiscipline among the consumers and would encourage consumers to resort to delayed payment since they would be hopeful of BPSC being waived sooner or later.

14) Averments set out in the petition indicate that the Board of TANGEDCO has simply recommended the petitioner to approach TNERC for approval of the proposed BPSC waiver without specifying the extenuating circumstances which warranted waiver of BPSC payable by the local bodies. Further how the loss arising out of waiver of BPSC would be recouped by TANGEDCO has not been explained in the petition. Needless to say that in the absence of any scheme for recouping the loss that would be occasioned due to waiver of BPSC, to the local bodies, in all probability the burden has to be passed

only upon the end consumers only. The Commission being a Regulator cannot encourage acts which would cause adverse effect on the common consumers.

15) Further the recalcitrant attitude exhibited by majority of the local bodies to make payment of even 50% of CC charges payable by them to TANGEDCO in monthly instalments recommended by the Chief Secretary of Government of Tamil Nadu, in the considered opinion of this Commission, impel this Commission to come to the conclusion that the impending proposal of the Board of TNPDCCL to waive the BPSC payable by the local bodies arising out of non-payment of CC charges is not only irrational but wholly unjustifiable.

16) The fact that the local bodies functioning in the State of Tamil Nadu are in arrears of CC charges aggregating a sum of Rs.1618.54 Crores which include Rs.137.13Crores towards BPSC as on 31.03.2023 is not disputed. Even after put to notice that a scheme is intended to be floated by the distribution licensee TNPDCCL with the explicit approval of the Government of Tamil Nadu for permitting the local bodies to settle the outstanding dues of Rs.1618.54 Crores in 24 equal month instalments along with current month demand within the due dates and for waiver of BPSC on payment of 50% of the outstanding dues as decided in the Chief Secretary's meeting held on 08.03.2023, as per the status report filed by the petitioner only 32% of the local bodies have paid the CC charges due and rest of the 68% local bodies have not evinced any interest to avail the concession proposed to be offered by TNPDCCL.

17) This Commission being a Regulator cannot be a mute spectator exhibiting stoic silence even after coming to knowledge that the CC charges due from the local bodies to TNPDCCL stood at a staggering figure of Rs.1618 Crores. As per the powers vested with Commission under the relevant provisions of the Electricity Act 2003, this Commission is under legal obligation to issue directions to TNPDCCL to ensure recovery of the CC charges and BPSC from the local bodies at the earliest by initiating swift and appropriate action. Therefore this Commission issues the following directives to TNPDCCL in regard to recovery of CC charges and BPSC from the local bodies.

18) **DIRECTIVES :-**

(a) TNPDCCL (the erstwhile TANGEDCO) shall initiate action for recovery of CC charges and BPSC due from the local bodies who are in arrears by issuing prior notice as contemplated in the Electricity Act 2003 and the relevant Regulations fixing reasonable timeline for the payment of the arrears.

(b) However if TNPDCCL desires to have the arrears recovered in 24 equal monthly instalments, the same may be indicated in the notice subject to the approval of the Board of TNPDCCL.

(c) If a local body makes default in payment of the arrears of CC charges and BPSC within the timeline set out in the notice or makes default in payment of any monthly instalment mentioned in the notice, TNPDCCL shall contemplate action for disconnection of the service connection in respect of which default has been made on issuance of due notice.

(d) While deciding to effect disconnection on account of default above referred, in regard to service connections provided to the essential services such as street lights, O.H.T, and hospitals of the concerned local body, TNPDCCL may contemplate providing additional opportunity for payment of the dues.

(e) Supply to High Mast Lights having CC charges arrears shall be disconnected after due notice.

(f) TNPDCCL shall initiate swift action for providing pre-paid meters in respect of all existing service connections covered under the category of Local Bodies and also Service Connections Covered under TWAD, TNSCB, State Undertaking Companies and all Government owned institutions on top priority. While effecting new connections for the above categories fixing of pre-paid meter shall be made mandatory by TNPDCCL.

(g) TNPDCCL shall make every endeavour to sensitize the President / Chairman of each and every local bodies to inculcate the habit of timely payment of the CC Charges due by issuing notice on regular basis.

19) Ultimately, this Commission decides that the prayer sought for by the petitioner seeking permission for waiver of the Belated Payment Surcharge set out in the petition which is payable by the local bodies is not sustainable on facts as well as law.

Accordingly this point is decided.

20) In the result the petition is dismissed. The directives issued by the Commission in this order shall be implemented by TNPDCCL without delay and a report in this regard shall be submitted to the Commission as and when required by the Commission.

Petition ordered accordingly.

(Sd.....)
Member (Legal)

(Sd.....)
Member

/True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission