

# PROJECTS, ENERGY & INFRASTRUCTURE

Monthly update | January 2020





# RECENT DEALS

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- Adani to buy 75% stake in Krishnapatnam Port
  - Ministry of Petroleum and Natural Gas signs contracts for 7 blocks awarded under Open Acreage Licensing Programme (OALP) Bid Round – IV
  - Vector Green Energy Acquires Rattan India's Solar Portfolio
  - NHAI Approves Reliance Infrastructure's Sale of Delhi-Agra Highway to Cube Highways
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## Adani to buy 75% stake in Krishnapatnam Port

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- Adani Ports and Special Economic Zone Ltd (**APSEZ**), has agreed to buy a 75% stake in Krishnapatnam Port Co. Limited (**KPCL**) in the all-weather deep-water port in Andhra Pradesh at an enterprise value of approximately INR 13,500 Crore. APSEZ already has 11 ports in different cities. The important highlights of this transaction are:
  - This Port is located at Krishnapatnam in Nellore district of Andhra Pradesh and was developed in 2008 by CVR Group, which owns majority stake.
  - Krishnapatnam Port is a multi-cargo facility and handled 54 MT in the financial year 2018-19. Given the best-in-class infrastructure and the distinct locality offered by KPCL, this acquisition will increase Adani's market share to 27% (from current 22%).
  - The transaction is likely to be finalized within 120 days, subject to legal approvals, including that from the Competition Commission of India. Post the acquisition, APSEZ will have access to the country's largest waterfront area (for a port) of 12.5 km and a transit storage area of 6,800 acres.

## Ministry of Petroleum and Natural Gas signs contracts for 7 blocks awarded under Open Acreage Licensing Programme (OALP) Bid Round - IV

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- Oil and Natural Gas Corporation (**ONGC**) has won exploration and production rights for 7 onshore oil and gas blocks in India offered by Ministry of Petroleum and Natural Gas (**MoPNG**)
- The blocks were awarded to ONGC during the 4th bid of the Open Acreage Licensing Policy (**OALP IV**), which was done on improved terms approved in February 2019, only two bidders i.e., ONGC and Oil India Ltd. participated.
- The blocks awarded have a total acreage of 18,510 sq. Km and can produce nearly 33 billion barrels of oil and oil equivalent gas.
- Details of the blocks awarded are as follows:
  - Five blocks in Madhya Pradesh are in Vindhya Basin (category II basin) and have an acreage of 13,259.95 Km.
  - The block in West Bengal is in Bengal Purnea Basin (category III basin) and spreads over area of 3,130.91 Km.
  - The block in Rajasthan covers 2,118.83 Km and is a category I basin, which means that the basin already has commercial production.
- The success of OALP bid rounds is under the ambit of Hydrocarbon Exploration and Licensing Policy (**HELP**) which replaced the erstwhile New Exploration Licensing Policy (NELP). HELP was introduced in 2016 and the OALP along with the National Data Repository (**NDR**) were launched in June 2017 are the key drivers to accelerate the Exploration and Production (**E&P**) activities in India.
  - The 4 OALP bid rounds conducted till date have been a success, with total of 94 blocks awarded, under the exploration policy in a time span of two and a half years. These 94 blocks cover an exploratory area of approximately 1,36,800 sq. kms over 16 Indian sedimentary basins.
  - This could be a welcome move by the Government to develop India's natural resources and for reduction of dependency of foreign oil and gas.

## Vector Green Energy Acquires Rattan India's Solar Portfolio

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- Vector Green Energy, an independent power producer has acquired 225 MW solar generation capacity from Rattan India's solar portfolio. The acquirer is a wholly-owned subsidiary of India Infrastructure Fund – II, and is managed by Global Infrastructure Partners India LLP, a partner of Global Infrastructure Partners. It owns 275MW of solar projects in India.
- This acquisition garners further significance as Vector Green Energy had completed refinancing of 2 solar projects with a pooled capacity of 223 MW in Telangana.
- With increased support of Government and improved economics, the sector has continued to attract investors with a diverse portfolio. As India aims to meet its energy demand by itself, which is expected to reach 15,820 TWh by 2040, renewable energy is set to play a significant role. FDI will play a crucial role in bringing in resources.

## NHAI Approves Reliance Infrastructure's Sale of Delhi-Agra Highway to Cube Highways

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- Reliance Infrastructure (**Rinfra**) has sought approval from the NHAI to allow the substitution of Cube Highways to commence the responsibility of operating the Delhi-Agra toll road project (**DA Project**). Cube Highways is owned by Singapore-based I Squared Capital, and a wholly owned subsidiary of Abu Dhabi Investment Authority.
- NHAI, in the interest of the DA Project, ratified the substitution on January 7, 2020. The substitution would allow Cube Highways to operate the DA Project till 2038.



## RECENT JUDGEMENTS

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- Supreme Court dismisses the challenge to APTEL Judgment in the case of acquisition of Prayagraj Power Generation Company Limited (PPGCL) through a resolution process undertaken by SBI
  - Parampujya Solar Energy Pvt Ltd v. NTPC Ltd & Ors
  - Shibani Ghosh v. Ministry of Environment, Forest & Climate Change & Ors
  - THDC India Ltd v. Uttar Pradesh Power Corporation Ltd
  - Bruhar Bengaluru Mahanagara Palike v. Vijayan Menon & Ors
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## Supreme Court dismisses the challenge to APTEL Judgment in the case of acquisition of Prayagraj Power Generation Company Ltd (PPGCL) through a resolution process undertaken by SBI

- Renascent Power Venture Private Limited (**Renascent**), a WOS of Singapore based investment platform created by Tata, ICICI Ventures along with certain other international investors, had bid for the acquisition of PPGCL through a resolution process undertaken by SBI and other lenders under the umbrella of the RBI Guidelines. This resolution process adopted by SBI/lenders is first of its kind resolution of 1890 MW thermal power project, wherein bankers have attempted to explore a solution for the stressed asset outside of IBC purview, which will undoubtedly set a precedent for the industry.
- This transaction required a prior approval from UPERC, for Renascent to step into the existing PPA with the UP-State utilities. During this process, UPERC had discounted the Tariff by INR 0.14/per unit for its erroneous understanding that Renascent shall make a windfall gain due to waiver of loan amount of INR 5000 Crore by SBI/lead bankers, whereas Renascent's total financial commitment in lieu of acquiring 75.01% equity ownership of PPGCL is INR 8223 crore, as against the proportionate figure of INR 8085 crore being the original project cost.
- UPERC further fell into error by failing to appreciate that such discounting of tariff is in excess of its jurisdiction and that the transaction is by all means in the consumer interest, especially in terms of benefits being offered by Renascent for settling all pending disputes with UPPCL/DISCOMs and settlement of capital creditors and additional capital expenditure. HSA successfully represented Renascent in obtaining a favourable Judgment from APTEL dated September 27, 2019 which set aside the Order of UPERC and granted conditional approval by reducing the bid out PPA tariff. This Judgment of Hon'ble APTEL was the subject matter of challenge before the Hon'ble Supreme Court through a civil appeal that was filed by certain individuals claiming to be consumers of the State of UP and thereby being aggrieved of Hon'ble APTEL Judgment.
- Supreme Court by virtue of its order dated January 20, 2020 has refused to grant leave for filing Appeal to certain individuals claiming to be aggrieved consumers of the State of Uttar Pradesh (Neeraj Shankar Saxena and Others vs UPERC & Ors) against the Judgment dated September 27, 2019 passed by APTEL.

**Our viewpoint:** The refusal of Hon'ble Supreme Court to grant permission for filing Appeal would deter any further challenge to the findings of APTEL which, through a detailed, cogent and weighty Judgment, has put to rest the controversy in favour of Renascent. APTEL has laid down the law in relation to the statutory role of a Regulatory Commission while discharging its regulatory functions under Section 86(1)(b) and Section 63 of the Electricity Act. APTEL has also observed that the waiver of loan amount by SBI/lenders cannot be taken as a windfall gain by Renascent, especially in terms of specific facts including that of sustainable vs unsustainable debt, the regulatory process of transparent and competitive bid process being in compliance of Section 63 of the Electricity Act is sacrosanct among such other. The APTEL Judgment also gains significance regarding the statutory role of a regulatory commission while dealing with debt resolution efforts of lenders. Refusal of Hon'ble Supreme Court to entertain an appeal against APTEL judgment maintains the above highlighted and the much-needed certainty to a debt resolution plan of a stressed asset where the provisions of IBC are not invoked.

## Parampujya Solar Energy Pvt Ltd v. NTPC Ltd & Ors

- The project developer, Parampujya, had entered into PPA with SECI for the development of solar projects in the State of Karnataka on long-term basis. After the Government of India enacted GST laws on July 1, 2017, multiple taxes levied by the Central and State Governments were replaced with GST laws. Pursuant to such enactment, the developer filed a petition for declaration of the imposition of GST as an event under 'Change in Law'.
- Issues pertaining to case are as follows:
  - Whether promulgation of the GST laws is covered under the scope of 'Change in Law' event?
  - Whether there will be incremental impact in O&M expenses on account of promulgation of the GST Laws?
  - Whether the claim of Carrying Cost for delay in reimbursement by NTPC is sustainable in law?
- The Hon'ble CERC vide the judgment allowed the promulgation of the GST laws with effect from July 1, 2017 as 'Change in Law' in terms of the respective PPAs and stated that the liability of payment on account of impact of GST on procuring of Solar PV panels and associated equipment by the developers shall lie with the SECI till COD i.e. 30 days subsequent to the actual date of commissioning of full capacity.
- With respect to the compensation amount, the developer has to prove one to one correlation between the projects and the supply of goods and services backed by invoices raised by the supplier with auditors' certificate. The amount

claimed by the developer will be on a “back to back” basis and should be paid by the DISCOMs under the respective PSAs.

- The Hon’ble CERC has also observed that the claim must be paid within 60 days from the date of this order or the date of submission of claims, failing which it will attract late payment surcharge. Alternatively, parties may mutually agree to mechanism for the payment of such compensation on annuity basis spread over the period not exceeding the duration of the PPAs as a percentage of the tariff agreed in the PPAs.
- With respect to the remaining two issues, the Hon’ble CERC has declared the claim of the developers on account of additional tax burden on “O&M” expenses (if any), as not maintainable. The Hon’ble CERC also disallowed the claim regarding separate carrying cost in the instant petitions

**Our viewpoint:** The decision of the Hon’ble CERC brings much needed respite to developers operating under similarly placed PPAs and will help developers recover significant outstanding.

## Shibani Ghosh v. Ministry of Environment, Forest & Climate Change & Ors

- The Central Government while exercising its powers under the Merchant Shipping Act 1958 has issued variety of rules with regard to pollution caused by ships from sewage, garbage and oil. However, Rules with regard to air pollution caused by ships have not been issued as mandated under the Environment (Protection) Act 1986, the Air Prevention and Control of Pollution) Act 1984 and the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act 1976.
- A petition was filed before Hon’ble National Green Tribunal to bring forward the inaction on behalf of the government for not framing laws pertaining to air pollution caused by ships which in effect results in breach of the rights of citizens to wholesome environment and is ultra vires Articles 14 and 21 read with Articles 48A and 51A(g) of the Constitution of India, in as much as, air pollution caused by ships impacts not only the marine ecology but it also adds to the pollution load of the 6000 km coastal stretches of India and its estuaries.
- The Hon’ble Tribunal observed that there is no monitoring of air pollution caused by Indian ships and also by foreign ships entering into Indian Maritime Zone. As of now these are being monitored only through the circulars issued by the Director General of Shipping. After India had acceded to the MARPOL convention (International Convention for the Prevention of Pollution from Ships), only 12 ships have been intercepted for causing air pollution for 5 years, since 2012. MARPOL do not cover fishing vessels fitted with mechanical means and registered under Merchant Shipping Act. There are no standards for such vessels as their engine capacity is lower than what is covered by MARPOL on nitrogen oxide (NOX) emissions.
- The Hon’ble Tribunal directed that all Indian vessels and Foreign vessels entering into Indian Maritime Zone will be subjected to relevant provisions of the Environment (Protection) Act, 1986; the Air (Prevention and Control of Pollution) Act, 1981, as well as rules framed thereunder until comprehensive Indian Merchant Shipping Rules come into force. Further, various regulatory authorities charged with the responsibilities under the said acts will regulate the air as well as various other pollution caused by the Indian vessels as well as the Foreign vessels entering Indian Maritime Zone.

**Our viewpoint:** The above decision of the Hon’ble Tribunal is a significant development, especially in terms of its directions qua compliance by Indian Foreign Vessels with existing Indian Legal Framework. This judgment is also a step to stringently regulate the carbon and Sulphur emissions from shipping and further to show India’s commitment towards achieving the purpose of MARPOL.

## THDC India Ltd v. Uttar Pradesh Power Corporation Ltd

- THDC filed a petition seeking directions for pre-commissioning activities, synchronization and commissioning of Dhukwan Small Hydro Electric Project (3X8 MW) subject to payment of tariff in terms of the PPA for both firm and infirm power.
- PPA executed between THDC and Uttar Pradesh Power Corporation Ltd. (UPPCL) provides for a fixed tariff or the levelized tariff to be declared by the CERC, whichever is lower. Since there was no concept of in-firm power under the PPA, therefore, the clarity was sought from CERC regarding the payment of infirm power injected by the THDC before the commissioning of its Project is required.
- Whether UPPCL shall be directed to pay tariff to THDC for both firm and infirm power in terms of the PPA?

- The CERC observed that in terms of the PPA, since the fixed tariff agreed by the parties is lower than the generic tariff determined by CERC, the parties are bound to adopt the fixed tariff post commissioning of the project.
- Regarding the payment of tariff for infirm power, the CERC observed that there is no provision in PPA regarding infirm power nor do CERC Regulations provide for treatment of infirm power in case of renewable energy projects. The practice in such cases is that the procurer is liable to pay the tariff determined or adopted by the Appropriate Commission from the date of COD of a project. Prior to COD, any infirm power injected by the generating station cannot be scheduled and, as such, there is no liability or prohibition for the procurer to take and pay for that power. Such infirm power prior to COD can be sold by the generating station by any of the recognized methods of sale under the Act read with relevant provisions of the Regulations of the Appropriate Commission.
- In the instant case, the infirm power injected by the THDC prior to the COD will be on terms as may be mutually agreed between the parties subject to technical and operational feasibility and necessary permission of RLDC/SLDC.

**Our viewpoint:** The CERC has clarified that the procurers cannot be compelled to buy power prior to COD and that the tariff for pre-COD power has to be either incorporated in the PPA or decided mutually between the generating companies and procurers. It has been clarified that the tariff determined/adopted by CERC is only applicable after COD and not prior.

## Bruhat Bengaluru Mahanagara Palike v. Vijayan Menon & Ors

- The Supreme Court by its Order dated January 9, 2020 has dismissed the Special Leave Petition filed by Bruhat Bengaluru Mahanagara Palike (BBMP) and upholding the interim High Court Order passed by the Hon'ble High Court of Karnataka in a Public Interest Litigation.
- The interim Order by the High Court was passed taking into consideration the dilapidated conditions of public roads and based on the data that out of total number of 470 roads, 108 roads appear to be affected by the potholes and 119 roads are affected by digging work by various authorities. Also, area of the damaged surface identified was 78,961.05 kms. out of which, an area of 55,969.14 kms. is yet to be attended by carrying out repair works.
- The interim Order also analyzed and interpreted the provisions of Karnataka Municipal Corporation Act, 1976 (Act of 1976) along with the applicability of Article 21 of the Constitution of India to the issue at hand.
- The need for interference of the High Court to pass appropriate directions owing to the dilapidated conditions of public streets and the ensuing public safety/convenience.
- The dismissal of the SLP filed by BBMP against the interim Order of the Karnataka High Court has in-turn upheld the findings/directions issued by the same. Relying upon previous decisions of the Supreme Court, it has been observed by the High Court in unequivocal terms that right to life as guaranteed under Article 21 of the Constitution of India includes a right to live a meaningful and dignified life.
- If there are potholes on the footpaths or on the streets, or if the same are not in good condition, the life of the citizens is exposed to danger. Hence, exposing the citizens to any danger and any loss of life or injury/permanent disability due to bad condition of streets will amount to violation of their rights under Article 21 of Constitution of India.
- Relying on the decision of Supreme Court in the matter of *Nilabet Behera v. State of Orissa*, a claim in public law for compensation for contravention of human rights and fundamental freedoms, the protection of which is guaranteed in the Constitution, is an acknowledged remedy for enforcement and protection of such rights, and such a claim based on strict liability made by resorting to a constitutional remedy provided for the enforcement of a fundamental right is distinct from, and in addition to, the remedy in private law for damages for the tort.
- The defense of sovereign immunity is inapplicable to the concept of guarantee of the fundamental rights.
- The citizens have a right to seek a reasonable compensation from the State or its agencies which are responsible for violating the fundamental rights by taking a recourse to a remedy under Article 226 of the Constitution of India.
- Among detailed instructions issued through the interim Order, the High Court has also instructed BBMP that if a citizen suffers loss or damage arising out of an accident caused due to poor condition of the street or footpath and if such a citizen files a representation to the BBMP, BBMP will consider it and will award a reasonable compensation to the citizen so that the affected person is not forced to approach the Court of law.
- If a reasonable compensation is not paid, the affected person can always adopt proper remedies including the public law remedy.

**Our viewpoint:** This Judgment has reinforced the scope of the right to life guaranteed by Article 21 of the Constitution of India, including a right to live a meaningful and dignified life. Importantly, through the statutory interpretation of Act of 1976 and upholding the principles laid down by the Hon'ble Supreme Court qua public safety, the remedy to the general public seeking compensation through public law has been held to be valid.



# RECENT DEVELOPMENTS

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- Government to provide viability gap funding to Northeast gas grid
  - NHAI Proposes amendments to Model Concession Agreement
  - Andhra Pradesh Government cancels Essel Infra's tender for Vishakhapatnam Metro
  - Indian Railways and NITI Aayog moot private participation in Passenger trains
  - NITI Aayog suggests PPP model to link private medical colleges with district hospitals
  - Draft Central Electricity Regulatory Commission (Sharing of Revenue Derived from Utilization of Transmission Assets for Other Business) Regulations, 2019
  - Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Revision – I, Regulations, 2010
  - Rajasthan Solar Energy Policy, 2019
  - Mineral Laws (Amendment) Ordinance, 2020
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## Government to provide viability gap funding to Northeast gas grid

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- The Cabinet Committee on Economic Affairs, on January 8, 2020 approved INR 5,559 Crore viability gap funding (VGF) to Indradhanush Gas Grid Limited, for setting up North East Natural Gas Pipeline Grid. Quantum of VGF is capped at 60% of the estimated project cost and would not be linked with upward capital cost variation.
- Ministry of Petroleum & Natural Gas will identify the milestones for significant activities for this project and link it for release of capital grant for the project. Some of the important aspects are:
  - Total length of pipeline is 1,656 Km and tentative project cost is INR 9,265 Crore
  - The gas pipeline grid would be developed in eight states of the North-Eastern region which includes Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura
  - The grant will guarantee the supply of natural gas to various consumers such as Industrial, PNG (Domestic), CNG (Transport) etc., besides fuel to industry and would immensely help in substituting the liquid fuels

## NHAI Proposes amendments to Model Concession Agreement

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- NHAI has proposed changes to regulatory guidelines for road projects under BOT model and amendments to MCA to make the BOT projects more investor-friendly and develop a profitable model for highway projects.
- The BOT model is a traditional PPP in which a private entity (**Concessionaire**) is responsible for building, designing and operating the road for a specified period and transferring it to the Government.
- The proposed amendments to the MCA intend to limit the liability of either party during the term of the MCA, tightening of conditions precedent prior to declaration of appointed date and amendment in dispute resolution mechanism. The suggested amendments aim to incorporate recent policy initiatives of the Ministry of Road Transport and Highways such as resolution of stuck national highway projects, introduction of a concept of mutual foreclosure of the agreement, harmonious substitution of the Concessionaire etc.

## Andhra Pradesh Government cancels Essel Infra's tender for Visakhapatnam Metro

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- GoAP has decided to appoint a new consultant through an open tender to re-examine and submit a revised detailed project report for the Visakhapatnam Metro Rail Project (**Project**). The Project has seen a delay of 5 years – the Project was first proposed in 2014 in accordance with the AP Reorganization Act, 2014 and the Central Government gave an in-principle approval in 2015.
- The Government in its Order 322 dated December 30, 2019, decided to cancel the single financial bid. Rationale given by the GoAP was that an insignificant reduction was offered by the successful bidder Essel Infra Consortium for developing 42.55 Km project on public-private partnership mode at a cost of INR 8,300 Crore.
- The GoAP has now permitted Amaravati Metro Rail Corporation – the State Government entity for operating the Vijaywada metro – to implement the Project.

## Indian Railways and NITI Aayog moot Private Participation in Passenger Trains

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- The Indian Railways and NITI Aayog have recently issued a draft document titled 'Private Participation: Passenger Trains' for discussion on private participation in Railways. The draft document has proposed running 150 trains on 100 routes by private operators, envisaging an investment of INR 22,500 Crore.
- The proposal was introduced due to an increase in the reserved passenger volume at 16% of the total non-suburban passengers (3.65 billion). Almost 88.5 million wait-listed passengers could not be accommodated due to limitations of trains.
- The Indian Railways will adopt best practices and examples before deciding on a station development program. Projects are intended to be taken up on a BOT basis, where the stations shall be developed into economic clusters.
- Key features of the proposal are as follows:
  - Indian Railways has listed 100 routes for introducing 150 private trains. These routes have been divided into 10-12 clusters
  - Indian Railways will choose private entities through a two-stage competitive bidding process
  - NITI Aayog has further stated that the time taken by a private train to complete a route shall be comparable to the fastest train of Indian Railways, operating on that route with a variation of 10%

- While the proposal is essential given the magnitude of rail travel in India, the mechanism of Railways having to pay for its non-performance to private companies and not the passengers needs to be examined. The document is also silent on security expenditure which has been a contentious issue, as seen in the Delhi Airport Metro Express project.

## NITI Aayog suggests PPP model to link private medical colleges with district hospitals

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- For overcoming the shortage of doctors in India, the National Institution for Transforming India (**NITI Aayog**) has proposed a scheme to link new and/or existing private medical colleges with functional district hospitals (**Healthcare Scheme**) through PPP.
- NITI Aayog has prepared a draft 'Concession Agreement Guiding Principles for Setting up Medical Colleges through PPP' (**Concession Agreement**) on the basis of international best practices, and similar PPP arrangements operational in the states of Gujarat and Karnataka. As per the Concession Agreement, the concessionaire will "design, build, finance, operate and maintain" the medical college and "upgrade, operate and maintain" the linked district hospital with a minimum 150 MBBS seats annually.
- Concession Agreement further provides that the associated district hospitals should have minimum 750 beds. Out of the 750 beds, 300 beds plus 20% of the outstanding beds should be reserved for free patients and remaining will be a source of revenue for the concessionaire.
- This is a welcome move to prioritize the healthcare sector on PPP for expansion of affordable healthcare service. Having said that, it requires placing proper authority, supervision and quality control mechanisms. A key challenge for medical colleges is the stringent requirement for land on a long-term lease, accreditation by regulatory bodies etc.
- While this is a positive step by the apex policy body of the Government towards institutionalizing PPP projects through introduction of model concession agreements across various sectors – however, the State Governments need to be aware of the proposed framework to successfully implement these projects.

## Draft Central Electricity Regulatory Commission (Sharing of Revenue Derived from Utilization of Transmission Assets for Other Business) Regulations, 2019

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- With the intent of reviewing the rate of sharing revenue from the telecom business (the previous revenue sharing rate of INR 3000 per year per km of the right-of-way utilized for laying one optical fiber cable was considered too high), the CERC notified the Draft Central Electricity Regulatory Commission (Sharing of Revenue Derived from Utilization of Transmission Assets for Other Business) Regulations, 2019 (**Draft Regulations**) on September 25, 2019.
- The salient features of this Draft Regulation are as under:
  - Applicability:** Inter-State transmission licensees, whose transmission charges are determined by the Commission under Section 62 of the Electricity Act, 2003 (Act) or adopted by the Commission under Section 63 of the Act
  - Prior intimation:** Transmission licensee proposing to undertake other business must give prior intimation to the Commission through a proposal for sharing of revenues and seeking its approval
  - Post-facto intimation:** Transmission licensee having already undertaken other business shall intimate the Commission within 2 months of Draft Regulations coming into force
  - Information to be provided:** Nature of business, capital investment, revenue derived or estimated, etc. as provisioned in Article 4(2) of the Draft Regulations
  - Frequency:** Information is to be provided annually with the Commission
  - Revenue share from other business:**
    - For telecommunication business: 10% of the gross revenue from such business in a financial year is to be shared with the Long-term Customers (LTC)
    - Other than telecommunication business: Quantum of sharing of revenue to be decided by the Commission on case-to-case basis
  - Revenue utilization:** Towards reduction of transmission charges payable by the LTC of the transmission assets being utilized for other businesses in proportion to the transmission charges payable by them to the transmission licensee; revenue of previous financial year to be considered to calculate monthly adjustment.

- **Separate accounts:** Transmission licensee is to maintain separate accounts for its other business, with details to be submitted on or before October 31 for the period ending March 31.
- **Restrictions:**
  - Revenue of other business not to be added to cost/revenue of transmission business
  - Transmission assets cannot be encumbered for other business
  - Utilization of assets for other business to not affect the transmission business
- **Inspection and oversight:** Commission can direct inspection and verification of accounts, records and assets of the transmission licensee for assessment of the extent of the assets of the transmission business being utilized for other businesses

## Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Revision – I, Regulations, 2010

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- MPERC on December 27, 2019, notified the Eighth Amendment to the (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Revision – I, Regulations, 2010.
- The first iteration of these regulations was introduced on October 22, 2008, with the aim of promoting the generation of electricity from renewable sources of energy and facilitating connectivity of the renewable generating plants with the grid. A subsequent significant revision occurred on November 19, 2010, with the intent of separating RPO for Solar and Non-Solar Power along with the Banking Policy of un-used power. Since then, the Regulation has been amended from time to time.
- Key changes brought about by the Eighth Amendment are as under:
  - A concept of renewable energy Captive Generating Plant was defined and provisions pertaining to it were added
  - A portion of banked power, if remains unadjusted at the end of FY, will be construed as power purchased and the payment for same will be made by the Distribution Licensee/MP Power Management Co Ltd. at the lowest rate applicable from the solar/wind bidding
  - Renewable Energy based Captive Generating plant has to be registered with the Distribution Licensees in accordance with the procedure as specified in the Eight Amendment
  - Principles, Energy Accounting and Settlement, RPO and manner of application for renewable energy Captive Generating Plant were specified are as follows:
    - The Plant will be eligible to sell its surplus power to Distribution Licensee subject to the captive user being a consumer of Distribution Licensee of Madhya Pradesh, expenses on the infrastructure having been borne by the owner of Captive Generating Plant and captive consumer not availing the facility of net metering on its premises
    - The Plant will be eligible to sell its surplus power to any 3rd party subject to the expenses on the infrastructure being borne by the owner of Captive RE Generation Plant or the 3rd party consumer and the 3rd party consumer not availing the facility of net metering on its premises
  - Specific provisions pertaining to Forecasting, Scheduling, Energy Accounting and Settlement for renewable energy Captive Generating Plant were inserted
  - Surplus electricity purchased by Distribution Licensees from the renewable energy-based Captive Generators will qualify for the RPO of the Distribution licensees

## Rajasthan Solar Energy Policy, 2019

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- State Government of Rajasthan has notified the Rajasthan Solar Energy Policy, 2019 (Policy) on December 14, 2019, with the target of installing 30,000 MW solar power projects by 2024-25 for sale of power to DISCOMs and for captive consumption within and outside the state.
- The policy is quite comprehensive in scope and addresses a range of attendant aspects such as the need for upgradation of transmission and distribution infrastructure, rooftop solar generation, decentralized solar power projects in the premises and vicinity of Grid Sub-Stations, incentives for off-grid solar applications relaxed land conversion provisions, etc.
- An SPV – Rajasthan Solar park Development Company Ltd. – a subsidiary of Rajasthan Renewable Energy Corporation (**RREC**) has been established for the development of infrastructure and management of Solar Parks



- RERC will develop Solar Parks on its own or in JV with private developers by investing up to 50% equity or any other percentage of equity participation as decided by the state government. The cost of land allotted would be part of its equity participation in the Joint Venture Company.
- The policy even includes a stated intent of shifting to green transport by promoting the use of renewable energy for charging EVs and developing the Charging Infrastructure in accordance with guidelines and standards issued by the Ministry of Power and Central Electricity Authority. Government land will be allotted at a 50% concessional rate for the first 500 Renewable Energy based EV Charging Stations installed within 5 years from the date of commencement of this policy.
- As an incentive for setting up of the Solar Power Projects, specific discounts on Transmission and Wheeling Charges have been offered, which will be applicable for individual plants with a maximum capacity of 25 MW.
- In order to top-grade the transmission and distribution infrastructure, a Rajasthan Renewable Energy Development Fund (**RREDF**) will be raised in the following manner:
  - In case of Solar Power Project set up in Rajasthan for sale of power to parties other than DISCOMs of Rajasthan, a contribution towards RREDF shall be made by the power producer, from the date of commissioning.

Projects commissioned	Rate of contribution (in MW/Year)
Up to Mar 31, 2024	INR 2 Lakh
From Apr 1, 2024 to Mar 31, 2025	INR 2 Lakh
From Apr 1, 2025 to Mar 31, 2026	INR 2 Lakh
On/after April 1, 2026	INR 5 Lakh

- RREDF shall be levied on the projects which will be commissioned on or after the commencement of this policy and for the entire life-cycle of the project, from the date of
- commissioning, however, for the projects against which bids have been submitted prior to commencement of this policy, the contribution towards RREDF shall be @ INR 1 Lakh/MW/Year for entire life cycle of the project.
- RREDF is not applicable to Solar Power Projects commissioned on or after the date of commencement of this Policy, for sale of power to DISCOMs of Rajasthan either directly or through any other Agency/Trader. However, such Projects will continue to pay the contribution towards RREDF @ INR 1 Lakh/MW/Year for the remaining life of the Project.
- There will be no requirement of contribution towards RREDF for the Solar Power Projects commissioned on or after the date of commencement of this Policy for captive consumption within the State.

## Mineral Laws (Amendment) Ordinance, 2020

- The Union Cabinet on January 10, 2020, promulgated the Mineral Laws (Amendment) Ordinance, 2020 (Ordinance), which seeks to amend the Mines and Minerals (Development and Regulation) Act, 1957 and Coal Mines (Special Provisions) Act, 2015 (**collectively referred to as Acts**).
- While the Government's move in August 2019 to allow 100% FDI in coal mining under the automatic route helped open the sector, extraction was restricted to minerals from several coal mines due to the continuing end-use restrictions. Promulgation of the Ordinance intends to remedy this operational inflexibility.
- The Ordinance has opened the sector for all companies except in the steel and power sector and removes captive end-use restrictions. These Amendments would enable the following:
  - Offering of unexplored and partially explored coal blocks for mining through composite prospecting license-cum-mining Lease (PL- cum-ML)
  - Promoting FDI by removing the restriction and eligibility criteria for participation
  - Allowing of successful bidder/allottee to utilize mined coal in any of the plant of its subsidiary or holding company
  - Attracting investment in coal mining sector by removing end use restrictions
- The Ordinance also provides that the earlier requirement for Central Government's approval for allocation of blocks will be dispensed, which will significantly improve the accessibility of coal sector and assist in establishing an efficient energy market as well as reducing coal import

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