

# PROJECTS, ENERGY & INFRASTRUCTURE

## MONTHLY NEWSLETTER

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# LEGAL & POLICY UPDATES



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## CERC announced Draft Power Market Regulations

- Central Electricity Regulatory Commission (**CERC**) on July 18, 2020 issued Draft Power Market Regulations, 2020 (**Draft Regulations**). These regulations will be applicable to Power Exchanges, Market Participants and Over-the-Counter (**OTC**) Market, and will be applied to contracts transacted on Power Exchange, contracts relating to Renewable Energy Certificates, contracts relating to Energy Saving Certificates, contracts in the OTC Market and any other contracts as may be approved by CERC. The salient features of the Draft Regulations are as follows:
  - Introduction of Term-Ahead Contracts on Power Exchanges with mandatory physical delivery and introduction of OTC platform**

With the introduction of real-time market on Power Exchanges, there exist two markets for collective transactions at the Power Exchanges viz. Day Ahead market and Real-time market. Along with this, CERC has proposed the introduction of longer duration Term-Ahead Contracts, which will allow buyers and sellers to transact electricity for a duration of more than 11 days ahead, subject to specific conditions. The Draft Regulations also propose introduction of OTC Platform as an electronic platform for facilitating information exchange amongst buyers and sellers of electricity in the OTC Market
  - Net-worth**

The existing regulations specify minimum net worth requirement of INR 25 crores for a Power Exchange when the clearing function is carried out in-house, and INR 5 crores once the Power Exchange separates its clearing function to a Clearing Corporation. Under the Draft Regulations, the net worth requirement for Power Exchanges has been increased to INR 50 crores.
  - Transaction charges**

The existing regulations provide that the member service charge for Facilitator Members for providing services to their clients shall not be more than 0.75% of the transaction value. In the Draft Regulations, the methodology for calculating service charge for Facilitator Members is proposed to be on basis of paise/kWh rather than on basis of percentage of transaction value, in order to align it to the manner in which Trader Members would charge trading margin.
  - Introduction of Market Coupling Structure**

The Draft Regulations provide an enabling provision to introduce market coupling among the Power Exchanges, with the objective of discovering uniform clearing prices in the Day Ahead and Real-time markets, ensuring optimal utilization of resources and maximization of economic surplus. Further, the charges for deviation settlement are currently indexed to the Day Ahead market clearing price. The job will be carried on by a 'Market Coupling Operator', an entity to be notified by the regulator.
  - Other compliances**

Under the Draft Regulations, CERC will also undertake inspection, conduct inquiries or audit of any Power Exchange anytime either through its officers or through a third-party agency, in accordance with the provisions of the Act. Exchange fee charged by Power Exchanges will also be regulated.

## Proposed Amendment to Detailed Procedure for Grant of Connectivity to Projects Based on Renewable Sources to ISTS

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- CERC on July 24, 2020 has proposed amendments to the Detailed Procedure for 'Grant of Connectivity to Projects Based on Renewable Sources to Inter-State Transmission System' (Proposed Connectivity Procedure) in view of 7th Amendment to Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in Inter-State Transmission and related matters) Regulations, 2009 notified on January 09, 2019 by CERC (**7th Amendment to Connectivity Regulations**). CERC has invited comments, suggestions and objections from stakeholders on the provisions proposed to be amended on or before August 16, 2020.
- The key highlights of the Proposed Connectivity Procedure are set out herein below:
  - **Proposed connectivity procedure is applicable to the following**
    - RE generating station with installed capacity of 50 MW and above
    - Hydro generating station with installed capacity between 50 MW and 250 MW
    - RE generating station individually having less than 50 MW installed capacity, but collectively having an aggregate installed capacity of 50 MW and above, and one of them acting on behalf of all these generating stations, and seeking connection from Central Transmission Utility (CTU) at a single connection point at the pooling sub-station forming part of Inter-State Transmission System (ISTS), termed as the lead generator
    - Any company or entity authorized by Central Government or State Government as Renewable Power Park developer
    - Any company or entity designated by Central Government or State Government as Renewable Energy Implementing Agency on behalf of Renewable Energy Generating Station(s) of as described in Clause 2(1)(b)(i)(aa) and 2(1)(b)(i)(cc)
    - Project based on standalone storage source(s) of installed capacity 50 MW or above
    - CTU, Ministry of New and Renewable Energy, Regional Load Despatch Centres, State Load Despatch Centres, State Transmission Utility, concerned distribution companies and Renewable Energy Implementing Agencies like Solar Energy Corporation of India
  - **Utilization of connectivity granted to Parent Company by its subsidiary company(ies) and transfer of connectivity:** Currently, the connectivity granted to a company can be utilized by its Wholly Owned Subsidiary (WOS), including special purpose vehicles. In such cases, the parent company cannot sell its shareholding in the subsidiary company before the lock-in period of one year after the commencement of supply of power. However, by way of Proposed Connectivity Procedure, the utilization and transfer of Connectivity Procedure have been made coherent with Clause 8A of 7th Amendment to Connectivity Regulations, which provides that a person will not transfer, assign or pledge its connectivity or LTA and the associated rights and obligations to any other person except in the cases where:
    - Transfer of connectivity from a WOS subsidiary to parent company, which will be allowed one year after achieving commercial operation of Renewable Energy generating station(s)
    - Transfer of connectivity and LTA from the parent company to more than one WOS will be permitted one year after the commercial operation of the generating station of the last subsidiary and subject to minimum capacity provided
  - **Scope of bay(s) for dedicated transmission line:** In the current scenario, for the connectivity system, dedicated transmission line including line bays at generation pooling station will be applicant's responsibility and terminal bays at ISTS sub-station will be under the scope of transmission licensee owning the ISTS sub-station. However, proposed amendment provides that the applicant has liberty to construct the associated bay(s) itself, subject to the approval of CTU and agreement with transmission licensee owning ISTS sub-station.
  - **Eligibility & Grant of Stage-II Connectivity**
    - As per the Proposed Connectivity Procedure, an entity issued the Letter of Award by or in a Power Purchase Agreement (PPA) with a Renewable Energy Implementing Agency or distribution licensee consequent to tariff based competitive bidding will be eligible for Stage-II connectivity.
    - The bank guarantee (Conn BG) for Stage-II connectivity has been reduced to INR 50 lakh (Conn BG-1) and INR 3 crore (Conn BG-2) for connectivity quantum of 132 kV to 330 kV. The bank guarantee amount for quantum up to 300 kV earlier was INR 5 crore. For 400 kV, Conn BG-1 will be INR 50 lakh and Conn BG-2 INR 6 crore.
    - Contingent on whether the entity satisfies certain criteria, the grantee for Stage-II connectivity will be required to complete dedicated transmission lines and pooling substations on or before the Scheduled date of Commercial Operation (SCOD) of generation project or six months after SCOD. The connectivity will be revoked and Conn-BG1 and Conn-BG2 be encashed if the grantee is unable to adhere to the timelines. On specific request of connectivity grantee, and for purpose



of optimal utilization of transmission infrastructure, CTU may, after consultation with connectivity grantee(s) concerned, carry out rearrangement or shifting of connectivity across different bay(s) of same substation.

- A Stage-I connectivity grantee or applicants seeking Stage-I and Stage-II connectivity simultaneously may also be able to share a transmission line with another Stage-II connectivity grantee, provided there is a duly signed agreement between the applicant and Stage-II Connectivity grantee for sharing dedicated transmission line.
- **Application for Additional Quantum (Enhancement) of Stage-II Connectivity**
  - According to the Proposed Connectivity Procedure, Grantee of Stage-II Connectivity may apply for additional quantum of connectivity in its dedicated transmission line and associated bay.

## Ministry of Power extends the waiver on ISTS Charges for solar and wind projects

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- Ministry of Power (**MOP**) on August 05, 2020 issued an Order extending the waiver of inter-state transmission charges and losses on transmission of the electricity (**ISTS Charges and Losses**) generated from solar and wind powered projects in terms of revised National Tariff Policy.
- As per the said Order, ISTS Charges and Losses will not be levied on the transmission of electricity generated from following power plants:
  - Solar and Wind Power Plants including Solar-Wind hybrid Power Plants with or without storage, commissioned till June 30, 2023, for sale to entities having a Renewable Purchase Obligation (**RPO**)
  - Solar PV Power Plants commissioned under MNRE's Central Public Sector Undertaking Scheme Phase-II dated March 05, 2019
  - Solar PV Power Plants commissioned under SECI Tender for manufacturing linked capacity scheme for sale to entities having RPO
  - The decision has been taken in light of the difficulties being faced by solar and wind developers in terms of planning about capacity addition, development and execution on ground which has been affected and is expected to get delayed further on account of the ongoing pandemic

## Draft Environmental Impact Assessment Notification, 2020

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- Ministry of Environment, Forest and Climate Change (**MoEFCC**) issued a Draft EIA Notification, 2020 (**Draft Notification**) which will replace the earlier EIA Notification, 2006. The Draft Notification proposes a new set of rules for various industrial projects and aims to make the process of issuing environmental clearances more transparent and expedient through implementation of an online system.
- The two most significant changes in the new EIA draft are provisions for a post facto clearance of projects and abandoning the public trust doctrine. The notification codifies the process to identify and evaluate the environmental effects of proposed development and industrial projects and also provides the basis of a plan to mitigate these effects.
- The salient features of the Draft Notification are:
  - It mentions three categories of projects namely A, B1 and B2 founded on social, economical and geographical impacts.
  - It also mentions two types of approvals – prior environment clearance (**EC**) with the approval of expert committees and environmental permission or provision (**EP**) without the approval of expert committees.
  - Nearly 40 different projects such as clay and sand extraction or digging well or foundations of buildings, solar thermal power plants and common effluent treatment plants are exempted from prior EC or prior EP.
  - Several projects such as all B2 projects, irrigation, production of halogens, chemical fertilizers, acids manufacturing, biomedical waste treatment facilities, building construction and area development, elevated roads and flyovers, highways or expressways are exempted from public consultation.
  - Further construction projects of up to 1,50,000 square metre are exempted from EIA norms. Additionally, all inland waterways and national highways projects are exempted from prior clearance.
  - In cases of a violation reported by a government authority or by the regulatory authority processing an application, the violator under the Environmental Management Plan process shall be only liable for remediation and resource augmentation equivalent to 1.5-2 times of the ecological damage and the economic benefit derived from the violation. As for late applicants, a fee of INR 2,000 - 10,000 per day shall be paid by the project developer for the period of delay.

## MOP releases Tariff Based Guidelines

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- In order to facilitate grid connected solar power, first phase of National Solar Mission provided for a scheme of 'bundling' wherein the relatively expensive solar power was to be bundled with cheaper thermal power from the unallocated quota of the MOP, generated at NTPC coal-based stations. De-risking of renewable energy sector coupled with advancement of technologies and economies of scale have resulted in bringing down the tariffs in solar and wind power sector thereby aiding in rapid deployment of solar and wind capacity in the country.
- The developments in the renewable energy sector and the necessity to address the issues of intermittency, limited hours of supply and low capacity utilization of transmission infrastructure presents a case for 'bundling', wherein coal based thermal power is bundled with renewable energy, and provides electricity round-the-clock to the relevant DISCOM, thereby obviating the need for DISCOMs to balance power.
- Power purchase costs constitute the largest cost element for distribution licensees. Competitive procurement of electricity by the distribution licensees is expected to reduce the overall cost of procurement of power and facilitate development of power markets. Internationally, competition in wholesale electricity markets has led to reduction in prices of electricity and in significant benefits for consumers.
- These guidelines have been issued under Section 63 of the Electricity Act, 2003 by the MOP to enable procurement of round-the-clock power by DISCOMs from grid-connected renewable energy power projects, complemented/balanced with power from coal based thermal power projects, through a tariff based competitive bidding process.

## FDI permitted in commercial coal mining in India

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- The FDI Policy, 2017 was recently amended vide the Press Note 4 of 2019, issued by the Government of India (GoI), to permit 100% FDI under automatic route in coal mining activities including associated processing infrastructure, for sale of coal, subject to the provisions of Coal Mines (Special Provisions) Act, 2015 and the Mines and Minerals (Development and Regulation) Act, 1957 as amended from time to time and other relevant acts on the subject.
- This move has been initiated in reference to the ongoing auction process of coal mines for commercial coal mining in India, which was launched by the Nominated Authority, Ministry of Coal, GoI in June 2020.
- The amendment further clarifies that any FDI in the commercial coal mining is subject to applicable laws including the Press Note 3 of 2020 issued by the GoI according to which 'an entity of a country, which shares land border with India or where the beneficial owner of an investment into India is situated in or is a citizen of any such country, can invest only under the government route. Further, a citizen of Pakistan or an entity incorporated in Pakistan can invest, only under the government route, in sectors/activities other than defence, space, atomic energy and sectors/activities prohibited for foreign investment.'

## Draft Gujarat Electricity Regulatory Commission MYT Regulation, 2021

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- Gujarat Electricity Regulatory Commission (GERC) has issued Draft Gujarat Electricity Regulatory Commission (Multi-Year Tariff) Regulations, 2021 (**Draft Regulations**) to specify the terms and conditions of tariff for a five-year Control Period commencing from April 1, 2021 to March 31, 2026. The Draft Regulations supersede Gujarat Electricity Regulatory Commission (Multi-Year Tariff) Regulations, 2016 which was notified for a five-year control period from April 1, 2016 to March 31, 2021.
- The Draft Regulations shall come into effect from the date of their publication in the Official Gazette and to remain in force till March 31, 2026, unless otherwise reviewed/extended. These Regulations are applicable to all the existing and future Generating Companies supplying power under Section 62 of the Electricity Act 2003, Transmission Licensees, SLDC and Distribution Licensees and their successors, if any.

# RECENT JUDGMENTS



## In this Issue

Lanco Kondapalli Power Ltd. v. Southern Power  
Distribution Co of AP Ltd & Anr

Kamal Encon Industries Ltd. v. MSEDCL  
& Anr

MSEDCL v. MSLDC

Tata Power Delhi Distribution Ltd v.  
Power Grid Corporation of India  
Ltd & Ors

Amplus Green Power Pvt Ltd v. U.P.  
Power Corp Ltd & Ors

Damodar Valley Corporation Ltd v. BSES  
Yamuna Power Ltd & Ors

Gujarat Urja Vikas Nigam Ltd & Ors v.  
Renew Wind Energy (Rajkot)  
Pvt Ltd

NTPC Ltd v. Power System Operation  
Corp Ltd

## Lanco Kondapalli Power Ltd. v. Southern Power Distribution Company of AP Ltd & Anr

GERC Order dated August 05, 2020 O.P. 8 of 2018 (and tagged matters)

### Background facts

- A common order dated July 22, 2020 had been passed by Andhra Pradesh Electricity Regulatory Commission (**APERC**) wherein Lanco Kondapalli Power Pvt Ltd (**Lanco**), Srivastha Power Projects Pvt Ltd (**Srivastha**) and Spectrum Power Generation Ltd (Spectrum) approached APERC seeking similar reliefs against Southern Power Distribution Company of Andhra Pradesh Ltd and Eastern Power Distribution Co Ltd (**collectively AP Discoms**).
- Spectrum with gas-based power plant of 208 MW capacity entered into PPA with AP Discoms which expired on April 18, 2016. However, it was allowed to supply short-term power to the AP Discoms by the APERC at an ad hoc tariff.
- Spectrum claimed that the variable cost component in ad hoc tariff at which it was permitted to supply power to AP Discoms is subject to variations in prices of Administered Price Mechanism (**APM**) cost of natural gas and, therefore, should be allowed as pass-through.
- Such claims were objected by AP Discoms on the ground that APERC, while allowing short-term procurement, did not make any provision for revision of fixed or variable costs and that continuing process of entering into PPA cannot be grounds for seeking revisions in variable costs.
- Spectrum further claimed that fixed cost being paid at INR 0.92 ps/kWh on the supplied units by taking a Plant Load Factor (**PLF**) of 40% (697MU) needs to be revised (to INR 108.17 crores) to account for the higher PLF of 68.49% recorded by it.

### Issue at hand

- Whether Spectrum and all other Petitioners are entitled to pass-through of variations in APM price of natural gas after commencement of supply of power?
- Whether Spectrum is entitled to higher fixed costs of INR 0.92 ps/ kWh on actual units supplied subject to an overall ceiling of INR 108.17 crores?

### Decision of the Commission

- As regards the first issue, APERC held that when consideration of availability of cheaper power was the only reason for permitting procurement outside respective PPAs at an ad hoc tariff, Spectrum is not entitled in law or in equity to claim any amount in excess of the ones fixed under the orders of Commission in name of pass-through, especially in absence of any provision made by Commission to allow increased variable cost as pass-through.

- It further held that until Commission itself alters its initial order increasing or decreasing the price, it is not permissible for either party to increase or reduce the price fixed by the Commission. The Commission further discussed that ordinarily, in case of long-term supplies covered by PPAs, variable cost is claimed as pass-through on account of possible increase in fuel prices in the long run. However, in the present case, there is surplus availability of power which is being allowed to be purchased by AP Discoms on short term purchases. Short term purchases are guided by price consideration. Allowing pass-through would inevitably defeat the purpose for which power is sought to be procured on short term basis. Therefore, unless specifically permitted based on the prevailing conditions, Spectrum or any other party cannot seek variations in procurement price.
- As regards the second issue, Commission held that the parties are allowed to work out fixed cost amount payable to Spectrum based on actual PLF during 2018-19.



#### Our viewpoint

In this case the Commission has considered the underlying reason basis which short-term purchase of power by Discoms was undertaken. The Commission's emphasis on refusal of granting pass through for absence of long term PPAs and the power being procured on short term basis and hence being price sensitive, can be reasoned for being in favor of consumers of the State.

## Kamal Encon Industries Ltd. v. MSEDCL & Anr

Case No. 73 of 2020

### Background facts

- Maharashtra Electricity Regulatory Commission (**MERC**) on August 2, 2020 issued an order wherein Kamal Encon Industries Ltd (**KEIL**) had approached MERC in review petition on a limited issue regarding applicability of condition to be connected through a separate feeder as per Regulation 8 of Maharashtra Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2018 (**MERC F&S Regulations**).
- KEIL is a wind generator with a capacity of 1.65 MW, commissioned in 2006 at Bhramanvel in Dhule District, Maharashtra. KEIL intended to supply power to its captive units in the state of Haryana under Inter-State Long Term Open Access (**LTOA**) after expiry of its Long-Term Energy Purchase Agreement (EPA-I) with Maharashtra State Electricity Distribution Co Ltd (**MSEDCL**) for 13 years.
- For the same, KEIL requested Maharashtra State Electricity Transmission Co Ltd (**MSETCL**) for grant of No Objection Certificate (**NOC**) for supplying power under Inter-State Open Access. However, MSETCL issued a conditional NOC with the conditions of:
  - Opening of Letter of Credit (**LC**)
  - Signing the Bulk Power Transmission Agreement (**BPTA**) with STU/MSETCL prior to the commencement date
  - Construction of a separate feeder for injecting power from the concerned generator to the grid as per Regulation 8.2 of MERC F & S Regulations.
  - Installation of separate SEM at generating unit and interface point, as per TOA (First amendment) Regulations, 2019 and also make arrangement for visibility of generator to SLDC.
- Due to issuance of conditional NC by MSETCL, after the expiry of Long-Term EPA-I on February 7, 2019, KEIL was constrained to sell power to MSEDCL under Short Term EPA (**EPA-II**). However, EPA-II also expired on February 29, 2019. After the expiry of EPA II, there was no sale of power from this plant.
- KEIL approached MERC vide its Case No. 280 of 2019 inter alia regarding the NOC issued by MSETCL. MERC vide its Order dated November 14, 2019 (Impugned Order) upheld the conditional NOC regarding construction of a separate feeder from the plant of KEIL to the Pooling sub-station (PSS).
- KEIL challenged the above Order dated November 14, 2019 by filing Appeal No. 65 of 2020 before the Appellate Tribunal for Electricity (**ATE**). ATE vide its judgement dated February 25, 2020 granted a liberty to KEIL to pursue its case for relaxation of MERC F&S Regulations, by filing a review petition before the Commission.
- Hence, this review petition was filed.

## Issues at hand

- Whether sufficient opportunity was not given to KEIL for placing its case before the Commission seeking exemption from Regulations when impugned Order was passed?
- Whether alternate arrangement suggested by KEIL would be fully compliant with Regulations and be sufficient for purpose of scheduling and settlement of the account for inter-state transactions and therefore, can the requirement of separate feeder be done away with?
- Whether the Regulation 8.2 of F & S Regulations requiring a separate feeder for inter-state transactions is purely a transient and temporary Regulation?
- Considering the requirement of separate feeder only till the time, the intra-state transactions move to a 'schedule' based settlement from 'actual' based settlement, can KEIL be exempted from the requirement of laying separate feeder?
- Whether cost implication on KEIL can be considered as a ground for relaxation of Regulation 8.2 of F & S Regulations?

## Decision of the Commission

- As regards the first issue, MERC held that in the Impugned order it had duly considered KEIL's objection on requirement of laying of separate feeder and provided its reasoned ruling highlighting the necessity of separate feeder in KEIL's case. The Commission observed that KEIL should have presented all the facts of the case to the ATE. However, as per the liberty granted to KEIL, Commission heard the present case on merits.
- With respect to the second issue, KEIL had suggested an alternate arrangement of setting up of Remote Terminal Unit (RTU) and Special Energy Meters (SEM) with Automate Meter Date Reading (AMR) at the outgoing feeders of KEIL's wind generating plant would be sufficient for the purpose of scheduling and settlement of accounts for its Inter-State transaction. The Commission noted that with the suggested alternate arrangement, the same feeder would be used for both Inter-State and Intra-State transactions and common meter at PSS would record the total flow of energy for both transactions. This arrangement would not be in line with the MERC F & S Regulations as both Intra-State and Inter-State transaction would be happening through a common feeder making it difficult to separate out from one another. Hence, the requirement of separate feeder cannot be done away with.
- As regards third and fourth issue, MERC held that regulations, once notified, attain finality and come into force. It cannot be treated as temporary/interim in nature, unless amended after following due regulatory process including stakeholders' consultation. Therefore, there can be no relaxation provided to KEIL on the ground that Regulation 8.2 is transient and temporary in nature.
- As far as the fifth issue is concerned, MERC held that expenditure cannot be termed as hardship or injustice to a party especially when there is a fully justified requirement for an arrangement in the regulations. The necessity of the same has been reasoned out in the MERC F & S Regulations and the Statement of Reasons which have been notified after due Public process.
- Hence, the Review Petition filed by KEIL was dismissed.



### Our viewpoint

The Commission upheld the sanctity of regulations once notified. In terms of the specific requirement for separate feeder for inter-state transactions at a Pooling-Station under Regulation 8.2 of the MERC F&S Regulations, MERC held that no relaxation can be provided, despite any commercial hardship, if at all, being faced by the generator for the same. This is to be taken note of by the generators so that they plan the finances for supply of power accordingly rather than not abiding with the strict requirements of the regulations.

## Maharashtra State Electricity Distribution Company Ltd v. Maharashtra State Load Dispatch Centre

Case No. 90 of 2020

## Background facts

- MERC on July 20, 2020 has issued an order wherein MSEDCL approached MERC seeking immediate recovery of its claims alongwith carrying costs towards variable charges under Final Balancing and Settlement Mechanism (FBSM) and for recovery of differential amount towards variable charges on account of revision in Weighted Average System Marginal Price (WASMP) rate and fixed charges as per MERC's order dated September 26, 2019.
- The variation was on account of over-drawl by Mumbai utilities during FY 2018-19 and 2019-20.
- MERC vide its order dated September 26, 2019 had directed the Maharashtra State Load Dispatch Centre (MSLDC) to:



- Consider the rate of power purchased from the Power Exchange and Captive Power Plants (**CPP**) for WASMP calculation for next FBSM bills with immediate effect from the date of the Order.
- Recompute the WASMP for the period from FY 2011-12 to FY 2017-18 after including the rate of power purchased from the Power Exchange and CPPs and to recalculate the imbalance pool settlement for these years and work out the associated liabilities of State Pool Participants (**SPPs**) for raising the supplementary bills for these years by January 31, 2020.
- Compute Fixed Cost Reconciliation (**FCR**) Pool Volume and FCR Pool Value for the period from FY 2011-12 to FY 2017-18 based on principles given in the Order for issuance of the final bills for settlement of FCR among SPPs within a period of one year from the date of the Order.
- MSEDCL forwarded the details of rates of power purchased from power exchange and CPPs to MSLDC for re-computation of WASMP for the period from FY 2011-12 to FY 2017-18.
- However, none of the directions passed by MERC were complied with by MSLDC, due to which there were huge financial implications on MSEDCL's consumers, as claimed by MSEDCL. Therefore, the present petition was filed by MSEDCL raising the following key issues.

### Issues at hand

- Whether computation of claims towards imbalance pool settlement by MSEDCL is incorrect?
- Whether claims on computation towards FCR is incorrect?
- Whether claims can be allowed considering the Appeals are pending before the ATE?
- Whether over-drawal by Mumbai Utilities is on account of Merit Order Dispatch (**MOD**) Operations?
- Whether carrying cost is applicable?
- Whether MYT Orders require payment only after FBSM billing?
- Whether Power Purchase cost recovery has been covered in MSEDCL's MYT Order?

### Decision of the Commission

- As regards the first issue, MERC held that revised WASMP rate on the basis of one particular time block in a particular day cannot be extrapolated for entire settlement period of 10 years comprising of 3,50,400 time blocks and entitlement/liability of SPPs could be authentically ascertained by MSLDC only. It acknowledged that the calculation made by MSEDCL is just a provisional calculation solely account of MSLDC's inability to finalize the FBSM settlement. Thus, though the exact calculations are necessary to ascertain the correct amounts, there is a possibility that the MSEDCL may be financially suffering on account of delay on the part of MSLDC.
- As far as the second issue is concerned, MERC observed that since the calculation made by MSEDCL towards FCR amount was on a provisional basis and raising of bills and recovery towards FCR for FY 2018-19 and FY 2019-20 was pending, the Commission directed MSLDC to raise FCR bills for FY 2018-19 and FY 2019-20 within two months of this Order.
- As regards the third issue, MERC has clearly declared that mere pendency of an appeal against MERC's order dated September 26, 2019 before higher court should not be the reason for non-implementation of the order of lower court, if no stay has been granted to such an order. The affected party can always seek its appropriate remedy before the lower court if its order is not implemented within the given timeframe.
- As far as the fourth issue is concerned, Commission held that any imbalance in the pool mechanism cannot be treated as a source of procuring power and is only meant for settling the deviations in the real time power interchange between various pool participants. The purchasers should plan their power procurement in a way that the purchases from the imbalance pool is minimized. The fact remains that the power procurers have utilized the imbalance pool power for supplying to their consumers, therefore, settlement of such power needs to be undertaken within a stipulated timeframe so as to compensate the incrementing SPP.
- With respect to the fifth issue, MERC has observed that the carrying cost computation under the FBSM settlement needs to be undertaken in terms of this Commission's order dated September 26, 2019 whereby the Commission held that carrying cost would be payable to the incrementing SPPs, alongwith the amount towards re-computed imbalance pool settlement on account of revised WASMP and also towards settlement of fixed charge reconciliation period.
- As regards the sixth issue, the Commission held that since the Commission had already approved the amount in ARR of Mumbai Utilities towards cost of energy utilized from FBSM pool and allowed recovery of amounts in FY 2020-21, it is not open for MSLDC to not pay said amount.
- As far as the seventh issue is concerned, in order to balance out the interests of all parties, Commission allowed recovery in two phases instead of immediate recovery as sought by MSEDCL and provided certain directions and mechanism to MSLDC for raising of bills.



#### Our viewpoint

MERC has taken a pragmatic approach to resolve the impending issues and expeditious disposal of the issues will help pass on the benefit to the consumers of the State.

# Tata Power Delhi Distribution Ltd v. Power Grid Corporation of India Ltd & Ors

Petition No. 329/MP/2020

## Background facts

- Tata Power Delhi Distribution Ltd (**TPDDL**) filed the petition seeking relaxation of Regulation 7(8)(i-a) of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (**Tariff Regulations, 2014**) and permit differential amounts payable to Pragati Power Corp Ltd (**PPCL**) under Tariff Order dated November 26, 2019 in Petition No. 221/GT/2015 be paid in 12 equal instalments instead of 3 as required under Regulation 7(8)(i-a) of Tariff Regulations, 2014. The petition was being heard at the admission stage.
- TPDDL also contended that in case of differential payments of PGCIL, the Billing, Collection and Disbursement Procedure, 2011 (**BCD Procedure**) does not contemplate payment by installments and hence there is no bar for Commission to relax the period of installment payments.
- Respondents raised issue on the maintainability of Petition contending, inter alia, that redetermination of timelines for making payments subsequent to the determination of generation tariff by the Commission is contrary to Regulation 7(8)(i-a) of Tariff Regulations.
- TPDDL responded to the said averments of Respondents stating that the issue of maintainability at the preliminary stage is confined to basic aspects such as patent lack of jurisdiction or absence of cause of action as per the provisions of Civil Procedure Code, 1908 (**CPC**). However, objections raised by PPCL regarding maintainability of the petition are not on jurisdiction but merits. Therefore, the petition is required to be admitted and listed for final hearing.

## Issues at hand

- Whether the provisions of CPC on the maintainability of the Petition is applicable to the Electricity Act, 2003?
- Whether the petition is maintainable in terms of Regulation 7(8)(i-a) of Tariff Regulations, 2014?

## Decision of the Commission

- Commission dismissed Petitioner's averments made on objections raised by Respondents regarding maintainability of the petition. Commission observed that Electricity Act, 2003 (Act) is an exhaustive code and provisions of CPC do not strictly apply to the proceedings before Appropriate Commission. The Commission is well within its right to decide on its own procedure which satisfies principles of natural justice and transparency. The Commission also held that it has liberty to decide question of maintainability at outset and thereafter proceed with merits of case.
- Regarding issue of relaxation of Regulation 7(8)(i-a) of Tariff Regulations, 2014, Commission observed that Section 61(d) of the Act enjoins upon Appropriate Commission to safeguard the interest of consumers and at same time, ensure recovery of cost of electricity in a reasonable manner. Appropriation of the amounts payable in extended installments will be subjected to carrying cost and same will result in heavy financial burden to consumers of Delhi. Therefore, extension of payment period by 12 instalments will not be in interest of consumers of Delhi.
- Further, BCD Procedure is derived from Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 which does not govern differential tariff payments. This aspect is governed by Regulation 7(8)(i-a) of Tariff Regulations, 2014 which provides for recovery or refund of tariff in three equal monthly installments.



### Our viewpoint

The Commission while referring to Supreme Court's order dated October 18, 2012 in matter of *PTC v. GERC* in Appeal No. 7524 of 2012 held that, the Commission is not barred in terms of the said judgment to decide upon issue of maintainability at the outset. Further, while Commission has held that the Act is an exhaustive code and provisions of CPC do not strictly apply to the proceedings before it, the same needs a closer look from the perspective as to which powers are vested (as that of Civil Court under the CPC) with the Commission through Section 94 of the Act. Further, importantly, the Commission has denied the entities to seek relaxation of basic regulations as it would set a bad precedent.

## Amplus Green Power Pvt Ltd v. U.P. Power Corp Ltd & Ors

Petition No. 1517/2019

### Background facts

- Amplus Green Power Pvt Ltd (**Amplus**) filed petition before Uttar Pradesh Electricity Regulatory Commission (**UPERC**) seeking approval of submitted Wheeling and Banking Agreement (**WBA**) in reference to UPERC (Captive and Renewable Energy Generating Plants) Regulations, 2019 (**CRE Regulations**). UPERC directed Amplus to submit documents establishing Date of Commercial Operation (**COD**) required pursuant to obtaining its Maximum Continuous Rating (**MCR**) certified by Independent Engineer and State Load Dispatch Centre (**SLDC**) as provided in Indian Electricity Grid Code (**IEGC**).
- Amplus submitted the Commissioning Certificate instead of certificate of COD, stating that UPERC Grid Code Regulations, 2007 provides procedure for declaring commissioning and COD for thermal generating units and no such procedure is prescribed for renewable projects as in the instant case.
- Moreover, CRE Regulations prescribes that COD certificate has to demonstrate the generation capacity as per the terms of PPA which is entered between generating company and distribution licensee for supply of power with the provisions that the tariff for sale of power shall be determined by the Commission.
- In the present case, Amplus has to supply power from its Project to its captive users and not DISCOM, therefore, it is not required to demonstrate the generation capacity as per the terms of PPA.

### Issue at hand

- Whether Amplus is required to submit the generation data of the captive generating plant in respect of declaration of COD to SLDC before injecting power into the grid?

### Decision of the Commission

- UPERC, vide its order dated July 27, 2020, observed that Clause 4.8.5 of UP Electricity Grid Code, 2007 clearly states that no generating units shall be synchronized with the state power grid without the necessary instructions from the SLDC and inject power into the Grid without declaration of COD.
- UPERC held that in case of third-party sale where there is no PPA or generator is seeking power at exchange, the installed capacity for which generator seeks COD, must be demonstrated. Therefore, the Petitioner shall provide the generation data to SLDC which will be, thereafter, verified by the SLDC from the data available with it and accordingly provide the clearance for issuance of COD in accordance with the relevant procedure and regulations and grant of connectivity.
- Further, in view of the intermittent nature of renewable energy generation, the developer has to establish that its project has the ability to maintain peak output in line with its installed capacity for at least one 15-minute time block for three days within a continuous period of 2 weeks.
- UPERC directed Amplus to provide its generation data to the SLDC, which in turn, would verify it and provide clearance for the declaration of COD. Pursuant thereto, Amplus shall be allowed to sign WBA.



#### Our viewpoint

UPERC, vide its judgment, has made an important precedent that irrespective of generating unit being renewable or thermal, captive or non-captive, the developer has to mandatorily and within the terms of the governing law being the UP Electricity Grid Code, 2007 is required to declare COD to demonstrate generation capacity and submit the data to SLDC before injecting power into the grid. It is pivotal for all proposed and in-construction phase generating stations in State of UP to take note of this judgment.

## Damodar Valley Corporation Ltd v. BSES Yamuna Power Ltd & Ors

Petition No. 101/MP/2019

### Background facts

- Damodar Valley Corporation Ltd. (**DVC**) filed the petition before the Central Electricity Regulatory Commission (**CERC**) seeking a declaration that the issuance of Fly Ash Notification on January 25, 2016 by the Ministry of Forest, Environment & Climate Change, Government of India (**2016 Fly Ash Notification**) is a 'Change in Law' event under Regulation 8(3)(ii) of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (**2014 Tariff Regulations**).
- As per the said notification, coal-based thermal power plants shall attain 100% fly ash utilization before December 31, 2017. However, DVC had achieved ash utilization of around 79% from the year 2003-04 to

2017-18. In order to achieve 100% ash utilization on sustainable basis and to comply with the other requirements of 2016 Fly Ash Notification, DVC incurred additional expenditure.

- It is the case of DVC that since this expenditure is the effect of Change in Law event and is uncontrollable in nature, generating company can pass on the additional expenditure incurred to the beneficiaries in terms of Regulation 8 of the 2014 Tariff Regulations. Therefore, vide instant petition, DVC also sought in-principle approval of the expenditure on actual basis from the beneficiaries.

### Issues at hand

- Whether the Petition is barred by limitation?
- Whether the 2016 Fly Ash Notification is a 'Change in Law' event? If yes, whether DVC is allowed to recover additional expenditure incurred on account of fly ash transportation through monthly billing?

### Decision of the Commission

- The Commission observed that the provisions of the Limitation Act, 1963 are squarely applicable on the Electricity Act, 2003 in terms of the Apex Court judgment dated October 16, 2016 passed in *Andhra Pradesh Power Corp Committee & Ors v. Lanco Kondapalli Power Ltd & Ors*. As per the Limitation Act, the limitation period for instituting the suit to obtain any declaration is 3 years from the date when the right to sue first accrues.
- Herein, the right to sue first accrues to DVC on or after April 01, 2016 when the audited certificate of the first expenditure got prepared by DVC. Therefore, the limitation period of 3 years will be counted from April 01, 2016. Since, the Petition was filed on March 18, 2019 which is within a period of 3 years from April 01, 2016, the petition is not barred by limitation.
- The second issue has already been covered by the Commission vide its order dated November 05, 2018 passed in 172/MP/2016 with similar facts wherein 2016 Fly Ash Notification was declared as an event of Change in Law by the Commission.
- In terms of the said order dated November 05, 2018, CERC also granted liberty to DVC to approach the Commission at the time of revision of tariff of the generating stations for recovering the additional cost based on true up exercise of generating station for the period 2014-19 in terms of Regulation 8 of the 2014 Tariff Regulations.



#### Our viewpoint

CERC has interpreted the accrual of right to sue from the date additional expenditure is approved by auditor's certificate, which is beyond the date when the actual expenditure was made. While this expands the time period in a certain manner to pursue legitimate remedy, the same may be tested further if appealed. SC in the matter of *State of Punjab and Ors. v. Gurudev Singh*, has observed that 'Right to sue' accrues when right asserted in the suit is infringed or when there is a clear and unequivocal threat to infringe that right by the defendant against whom the suit is instituted. It may be argued against DVC that its right was infringed as a matter of fact on the date it was compelled to make payments for additional expenditure incurred on account of Change in Law event (Auditor's certificate reflects the expense having been incurred and one to one correlation of such expenses). Also, Auditor's certificate in such cases may be obtained/issued much latter in time, which can in turn expand the time period thresholds as provided in the Limitation Act, 1963.

## Gujarat Urja Vikas Nigam Ltd & Ors v. Renew Wind Energy (Rajkot) Pvt Ltd

Order dated July 24, 2020 in Review Petition No. 3 of 2019

### Background facts

- Gujarat Urja Vikas Nigam Ltd (**GUVNL**) and others (**Petitioners**) filed the instant review petition seeking rectification/review of the Judgment dated December 6, 2018 (Main Order) passed by Appellate Tribunal for Electricity (**APTEL**) in Appeal No. 209 of 2015, in pursuance of the Order dated February 15, 2019 passed by SC in Civil Appeal No. 1253 of 2019.
- SC in its Order dated February 15, 2019 had granted liberty to the Petitioner (who were the Appellants before the Supreme Court), to move to APTEL seeking rectification/review of the Main Order, without making any observations on the merits of the case.



- The issue raised in the matter pertains to competence of the GERC to re-open the Power Purchase Agreement dated March 29, 2012 (**PPA**) executed between GUVNL and Renew Wind Energy (Rajkot) Pvt Ltd (**Renew**) and other similarly placed wind energy developers in its Order dated July 1, 2015.
- Renew and other similarly placed wind generators had voluntarily opted to sell power to GUVNL at a maximum tariff of INR 2.64 per kWh (pooled cost of power purchase) in terms of the CERC REC Regulations in order to avail the benefit from issuance of Renewable Energy Certificates (**REC**). However, GERC in its Order dated July 1, 2015 increased tariff envisaged in PPA to the level of the Average Power Purchase Cost (**APPC**) prevalent on a year wise basis.
- APTEL in Main Order observed that PPA was executed at APPC for previous year as stipulated in the PPA which demonstrates that the Petitioners had agreed to partake in the sale of power at APPC of the previous year and not at a price which was lower than the APPC of previous year. APTEL further observed that although, the tariff was agreed at INR 2.64 per unit at fixed rate but simultaneously, it was also linked to the APPC which is dynamic in nature and varies from year to year as determined by State Commission i.e. GERC. Thus, in Main Order APTEL opined that GERC is empowered under the statute to regulate and change the tariff and terms and conditions set out in the PPA.
- It is the Petitioner's case that GERC does not hold the competence to re-open the PPA and vary the terms set out therein with respect to tariff and neither does it hold the jurisdiction in the matter since the PPA was entered into under the CERC REC Regulations 2010. Therefore, exclusive jurisdiction of the matter lies with Central Electricity Regulatory Commission (**CERC**).
- Further, considering that REC mechanism is administered by CERC, and envisages the ability to sell REC in Power Exchange and derive benefit in terms of tariff, GERC does not have any jurisdiction to look into the issue.

### Issues at hand

- Whether GERC is competent to reopen the PPA and granting relief in terms of tariff as well as other associated conditions?
- Whether GERC is right in holding that the wind developers were coerced to agree to the terms of PPA on account of the Appellant having unequal bargaining power?

### Decision of the Commission

- APTEL has observed that the submissions made by the Petitioners were already made at the time of arguing the main appeal being 209 of 2015, and no new materials / evidence were placed on record in the instant proceedings.
- APTEL further observed that the Petitioners had sought to have the original matter heard in the guise of a review petition, and has failed to prove the mandatory criteria which are the prerequisites for seeking a review of an order or judgment.
- Based on the above observations, APTEL rejected the review petition holding that there is no error apparent on the face of record in the Judgment dated December 06, 2018 passed in Appeal No. 209 of 2015.



#### Our viewpoint

APTEL in the Judgment dated July 24, 2020 has not made any observations on the merits of the case and has proceeded for a simplicitor rejection of the review. The pertinent questions raised in the review stand unaltered since now the Main Order stands to attain finality, unless the Petitioners decide to bring a challenge to the Judgment dated July 24, 2020. The roles of GERC and CERC cannot see an overlap in terms of the Electricity Act, 2003. However APTEL's decision through the Main Order has held that GERC is empowered to regulate and change the tariff and terms and conditions set out in the PPA as per the statute in a case where agreed tariff has also been linked to the APPC. The sustainability of the said Order remains to be seen in case of a probable Appeal on the behalf of GUVNL.

## NTPC Ltd v Power System Operation Corp Ltd

Order dated July 27, 2020 in Petition No. 382/MP/2018.

### Background facts

- CERC passed an Order in a Petition filed by NTPC Limited (**NTPC**), whereby NTPC had sought for the relaxation of the provisions of Regulation 13.3 of the CERC (Ancillary Services Operations) Regulations 2015 (**ASO Regulations**) for its 5 gas based power stations.
- The ASO Regulations were notified by CERC with an objective to restore the frequency of the grid at desired level and to relieve congestion in the transmission system.
- Under the ASO Regulations, generators provide Reserves Regulation Ancillary Services (**RRAS**) which are essentially Ancillary Services that consist of Regulation Down or Regulation Up Service.
- Under the Regulation Up or Regulation Down Service the generator needs to respond to instructions of the Nodal Agency for increase or decrease in generation within the technical limit and time limit, to respond to changes in the system frequency or congestion in the system.
- Under Regulation 13.3 of ASO Regulations, RRAS provider shall be paid fixed cost and variable charges with mark up on fixed cost as determined by CERC. The proviso to Regulation 13.3 provides that fixed and variable charges allowed by CERC and as applicable at the time of delivery of RRAS shall be used to calculate payment for this service, and no retrospective settlement for same shall be undertaken even if the fixed and variable charges are revised at a later date.
- NTPC in its Petition has sought for relaxation of the above stated Regulation 13.3 on account of the peculiarities being faced by 5 of its gas based generating stations which operate on Domestic Gas and Imported Gas.
- NTPC has stated that when the 5 gas based generating stations were directed by the Nodal Agency to provide RRAS, there was a huge difference in the energy charges received and the actual cost borne by these generating stations. Therefore, instead of being incentivized, the said generating stations suffered huge losses. One of the key reasons for such losses was the high variance due to constant fluctuation in the prices of RE-gasified Liquefied Natural Gas (**RLNG**) which was imported. NTPC has stated that due to this high fluctuation, there should be truing up of the variable charges when RLNG power is scheduled to the extent of such schedule.
- NTPC has therefore sought for relaxation by invoking the powers of CERC under Regulations 15 and 16 of the ASO Regulations, which provide for the power to relax and the power to issue directions.

### Issue at hand

- Whether CERC can exercise the powers to relax the application of Regulation 13.3 on account of the difficulties as stated by NTPC?

### Decision of the Commission

- CERC has observed that it is clear from the Statement of Reasons to the ASO Regulations that NTPC had raised the question relating to the settlement of fixed/variable charges at the time of framing of the said ASO Regulations. At the time CERC had categorically clarified that there will be no retroactive settlement even if the fixed charges or variable charges are modified at a later date. CERC has taken a view that NTPC has not raised any new issue in the present petition.
- The settlement for RRAS has to be done on a weekly basis, by considering the rate which has been intimated by the generator by 12th day of the current month for the period from 16th day of the current month till the 15th day of the next month. Therefore, settlement of RRAS is different from that of long term scheduling settlement as done between a generator and its beneficiaries.
- CERC has also observed that despatch of power under RRAS is based on the principle that the cheapest available generator shall be despatched first. Thus, it is imperative that variable cost based on which the stack is prepared and power from generating station is dispatched, remains firm and is not altered.
- CERC has therefore rejected the prayer sought NTPC since the same is seen to go against the principles for implementation of RRAS.



#### Our viewpoint

CERC in its Order has stated that retroactive settlement of charges would alter the basic structure of the ASO Regulations. In its Order, CERC has looked into the Detailed Procedure and the Statement of Reasons to support its decision. This evidences that while the ASO Regulations do provide CERC with the power to relax the provisions, the same has not been done since it alters the basic structure of the ASO Regulations.

# RECENT DEVELOPMENTS

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## Extension of imposition of Safeguard Duty on solar imports

- Department of Revenue under Ministry of Finance (**MoF**) vide its notification dated July 29, 2020, in exercise of the powers under Section 8B of Customs Tariff Act read with rules 12, 14, 17 and 18 of Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997, has extended imposition of Safeguard Duty (**SGD**) on import of solar cells to India for another year starting July 30, 2020.
- Significantly, following long deliberation of Directorate General of Trade Remedies (**DGTR**), which recommended that as imports from developing nations except China, Thailand and Vietnam do not exceed 3% individually and 9% collectively, import of solar cells originating from developing nations, MOF announced SGD at the following rate for all solar cells and modules imported from the People's Republic of China, Thailand and Vietnam:
  - 14.90% ad valorem minus anti-dumping duty payable, if any, when imported during the period from July 30, 2020 to January 29, 2021 (both days inclusive)
  - 14.50% ad valorem minus anti-dumping duty payable, if any, when imported during the period from January 30, 2021 to July 29, 2021 (both days inclusive)
- Previously, MOF had imposed SGD of 25% on import of solar cells (whether or not assembled in modules or panels) from China and Malaysia by way of its notification dated July 30, 2018. This duty was imposed on the large-scale import of solar cells from China, as a measure to promote indigenous production but had affected the existing projects dependent on cheap imports. The prescribed rates on any solar cell or module imported from July 30, 2018 to July 29, 2020, are as follows:
  - 25% ad valorem minus anti-dumping duty from July 30, 2018 to July 29, 2019 (both days inclusive);
  - 20% ad valorem minus anti-dumping duty from July 30, 2019 to January 29, 2020 (both days inclusive); and
  - 15% ad valorem minus anti-dumping duty from January 30, 2020 to July 29, 2020 (both days inclusive).
- The rates of SGD will be applicable to solar cells whether or not assembled in modules or panels classifiable under the Tariff Headings 85414011 and/or 85414012 of Chapter 85 of Schedule-I of the Customs Tariff Act, 1975.

## Delhi Electric Vehicles Policy 2020

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- The Government of National Capital Territory of Delhi (**GNCTD**) approved the Delhi Electric Vehicle Policy 2020 (**Policy**) on August 8, 2020. The objective of the Policy to establish Delhi as the Elective Vehicles (**EV**) capital of India and accelerate the pace of adoption across vehicle segments, especially in the mass category of two-wheelers, public/shared transport vehicles and good carriers. The Policy will remain valid for a period of 3 years. The Policy seeks to drive the rapid adoption of battery electric vehicles so that they contribute to 25% of all new vehicle registrations by 2024.
- The Policy is brought about in an addition to the Gol's FAME II scheme which offers incentives to manufacturers, who invest in developing electric vehicles and its components, including lithium-ion batteries and electric motors. The term FAME stands for Faster Adoption and Manufacture of (Hybrid and) Electric Vehicles and the scheme was launched by the Ministry of Heavy Industries and Public Enterprises in 2015. The scheme aims to incentivize the production and promotion of eco-friendly vehicles including electric vehicles and hybrid vehicles.
- The Policy has been introduced with the aim to boost the economy, create jobs and reduce pollution levels. Currently, the electric vehicles in the capital constitute 0.29% of the total number of vehicles run in the city. The Policy aims to constitute 25% electric vehicles by 2024. The GNCTD's transport department will be the nodal department for the implementation of the Policy. A dedicated EV cell, a GNCTD EV Board and an EV fund will be constituted for the effective implementation of the Policy. The EV board will be chaired by the transport and environment minister of Delhi.
- To drive a large scale of adoption of electric vehicles, the Policy incentivizes different types of vehicles. These incentives are as follows:
  - **Electric cars**

A purchase incentive of INR 10,000 per kWh of battery capacity will be provided per elective four-wheeler (subject to a maximum incentive of INR 1.5 lakhs per vehicle) to the registered owner of the first 1000 e-cars to be registered in Delhi after issuance of the Policy.
  - **Electric two-wheelers**

The incentive offered for two-wheelers will be based on battery capacity and will be available only to two-wheelers with advanced batteries. A purchase incentive of INR 5000 per kWh of battery capacity will be provided per vehicle to the registered owner. This incentive is subject to a maximum of INR 30,000 per vehicle. Additionally, the registered owner of the electric two-wheelers will be eligible for an incentive for scrapping and de-registering old internal combustion engine two-wheelers reregistered in Delhi.
  - **Electric auto rickshaws/e-rickshaws/e-carts**

An open permit will be applicable for e-autos wherein permits will be given on first come first serve basis. Individuals with a valid light moto driving license and a public service vehicle badge will be eligible for e-auto permit. Additionally, a purchase incentive of INR 30,000 per vehicle will be provided to the registered owner of the electric auto, e-rickshaw and e-cart. The incentive will apply to all e-rickshaws and e-carts including the models with lead-acid batteries and swappable models, where the battery is not sold with the vehicle. Lastly, interest subvention of 5% on loans and hire purchase will be given on the purchase of an e-auto, e-rickshaw and e-cart if the loan is availed from Delhi Finance Corporation (**DFC**).
  - **Electric buses**

Electric buses to constitute at least 50% of all new stage carriage buses procured for the city fleet, starting with the induction of 1000 pure electric buses by 2020.
  - **Goods carriers**

Light commercial vehicles used as goods carriers will get a purchase incentive of INR 30,000 to the first 10,000 e-carriers to be registered in Delhi after issuance of the Policy. This is in addition to the interest subvention of 5% on loans availed from DFC. Additionally, the purchase of e-carriers will be eligible for an incentive for scrapping and de-registering of old goods carriers.
  - **Additional provisions and policy implementation**

All road tax and registration fees will be waived for all battery electric vehicles during the term of the Policy. If the battery is not sold with the vehicle, then 50% of the purchase incentive will be provided to the vehicle owner and the remaining 50% would be provided to energy operators for defraying the cost of any deposit that may be required from end users for a swappable battery.



## Extension granted to Transmission Licensees for completion of under construction inter-state transmission projects

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- In light of Covid-19 and difficulty faced by the transmission utilities in carrying on construction activities during the lockdown, Ministry of Power (**MoP**) on July 27, 2020 directed that all the inter-state transmission projects which were under construction at the time of imposition of the lockdown i.e. March 25, 2020, and had their Scheduled Commercial Operation Date (**SCOD**) post March 25, 2020, shall get an extension of five months on their SCOD.
- In line with the above, Ministry of Power also directed that where a Long Term Access has been granted to a generator on basis of completion of a transmission projects whose SCOD got extended by a period of five months due to Covid-19, in those cases the Start Date of the Long Term Access shall also be extended by five months.

## Extension of time for renewable energy developers

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- Previously Ministry of New and Renewable Energy (**MNRE**) by way of an Office Memorandum (O.M) dated March 20, 2020 had directed that the delay on account of Covid-19 in China or any other country may be treated as a Force Majeure and suitable extension of time for the project may be granted to the RE Developer, subject to examination of appropriate evidences / documents produced by the RE Developers demonstrating the disruption caused due to Covid-19.
- Further, by way of O.M.s dated April 17, 2020 and June 30, 2020, MNRE directed all the Renewable Energy (**RE**) implementing agencies that the lockdown period i.e. March 25, 2020 to May 31, 2020 along with an additional 30 days period for normalization after such lockdown, shall be treated as a Force Majeure Event, and accordingly a blanket extension was granted to all the RE Projects, without any examination of evidences/documents on case to case basis.
- By way of the new O.M., all the RE Projects which were under implementation as on March 25, 2020 (date of announcement of the lockdown) has now been given a blanket extension of five months i.e. from March 25, 2020 to August 24, 2020, without any examination of the documents/evidence. Further the new O.M., in line with the previous O.M also provides that the RE Projects may pass on the said benefit of time extension to its other stakeholders like Engineering Procurement Construction contractor, Equipment Manufacturers, etc. by way of granting them similar time-extensions.

## MNRE issues new benchmark costs for rooftop solar projects in FY 2020-21

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- The recently published benchmark costs will be applicable for all letters of awards (**LoA**) to be issued or for the vendors to be empaneled after July 31, 2020. The benchmark costs would be inclusive of the total project costs, which include solar modules, inverters, the balance of systems, cost of civil works, installation, commissioning, transportation, and comprehensive maintenance for five years. However, the benchmark costs do not include net metering costs and battery back-up costs.
- Benchmark cost for FY 2019-20 was INR 54 ~/W for rooftop solar systems of sizes 1-10 kW. However, in the current issue, the capacities have been split into 1 kW, 1-2 kW, 2-3 kW, and 3-10 kW to ensure efficient functioning. The order added that the capacity would be calculated based on the inverter capacity or the solar module array capacity, whichever is lower.

## Actis acquires 400 MW of solar projects from ACME

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- UK-based investor Actis has completed the acquisition of two solar projects located in Andhra Pradesh and Madhya Pradesh with a total capacity of 400 MW from ACME Solar Holdings Ltd. This respective deal is approximately valued at INR 23 Billion.
- Despite the pandemic adversely affecting the global economy, the Indian solar power industry has witnessed a stream of consolidation activity this year, with NextEnergy Capital's institutional solar fund NextPower III making its first acquisition in India, a 27.4 MW solar project in Odisha from IBC SOLAR Energy GmbH. This was followed by NTPC's offer to acquire 1 GW of operational solar projects across India and more recently Ayana Renewable Power, backed by the U.K.-based CDC Group, acquired First Solar's two solar projects with a capacity of 40 MW.

## Azure Power receives LoA for 2,000 MW Solar Power Project

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- Azure Power has received the LoA for a 2,000 MW Interstate Transmission (**ISTS**) solar power project with Solar Energy Corporation of India (**SECI**) following the exercise of a 'greenshoe' option as part of an earlier 2,000 MW win with SECI.
- Under this 'greenshoe' LoA, Azure Power will supply power for 25 years at a tariff of INR 2.92 per kWh. The project also comes with a 500 MW cell and module manufacturing capacity requirement and Azure Power intends to partner with a domestic manufacturer for this requirement in view of the renewed 'Make in India' drive.

- The combined capacity for this project is 4 GW which can be developed anywhere in India and is expected to be commissioned in staggered annual phases of 1 GW with the first commissioning expected by 2022 and full commissioning by 2025. Furthermore, the power purchase agreement allows for the waiver of ISTS transmission charges and improved protections from curtailment for Azure Power.

## ISTS charges on solar and wind projects commissioned before June 30, 2023 waived off

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- MOP has waived ISTS charges and losses on all solar and wind projects commissioned before June 30, 2023. This waiver would apply to solar, wind, and hybrid projects with or without storage. The ISTS charges would be waived for 25 years from their date of commissioning for the transmission as well as sale to entities with renewable purchase obligations.
- The objective behind the waiver of ISTS charges and losses has been notified to encourage wind and solar energy capacity in the country by reducing the cost of generation, to achieve the country's target of achieving 175 GW of renewable energy capacity by December 31, 2022.

## NTPC floats EPC tender for 1,070 MW of solar projects in Rajasthan

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- NTPC Ltd has invited bids from engineering, procurement, and construction (EPC) contractors with land for the development of up to 1,070 MW of solar projects in Rajasthan. The last date for the submission of bids is September 17, 2020.
- As per the bid documents, interested bidders are expected to pay a bid security amount ranging between INR 20 million and INR 500 million depending on the capacity they quote. The capacity that can be quoted by the prospective bidder ranges between 50 MW and 600 MW.
- The scope of work includes the design, engineering, manufacturing, supply, installation, and commissioning of the grid-connected solar projects on a turnkey basis. Moreover, successful bidders are also expected to provide three years of operations and maintenance services for the solar projects, power evacuation system, and telemetry up to the interconnecting state transmission utility substation.

## Operators running private trains can decide their fares

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- In a corrigendum issued on private train operations for the second pre-bid meeting for running private trains, the Ministry of Railways clarified that fares for private trains that are scheduled to begin operation by 2023 will not be regulated by any authority and will be decided by the private concessionaire only.
- All private parties intending to ply private trains along more than 100 key routes were informed that the fares for the trains will be market driven and would not require any approval from a regulatory body. However, as the trains would be operating in a competitive environment, the concessionaire's ability to increase the fares may be constrained.
- The document advised the Ministry of Railways to clarify to prospective bidders that the project would not be under oversight of a regulator. In infrastructure projects, PPP projects economic risks are generally assumed by the private entity as a business risk.

## India and USA sign MoU to develop strategic petroleum reserve

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- India and the USA have signed a MoU to develop a Strategic Petroleum Reserve (SPR). The two countries are in advanced stage of discussion to store crude oil in USA to increase India's stockpile.
- MoU on SPR will ensure a consistent energy supply, protect national security, and promote regional and global stability. It aims to collaborate on renewable energy, smart grids, and unconventional and clean energy sources research.
- This strategic petroleum reserve is based on a proposal from the USA after the recent historic drop in oil prices during coronavirus pandemic. Following the historic drop in global crude oil process, Gol actively considered increasing its oil reserve.
- The SPR Programme is being recognized as a key constituent of India-USA bilateral engagement. India and USA have made rapid strides in increasing bilateral hydrocarbon trade during the last 3 years. This move will further strengthen Gol's commitment to transform India into a gas-based economy and universalize power supply to all households.
- Co-operation in SPR programme will strengthen India's energy security and pave the way for greater investments and collaborations of the USA in India's future SPR programmes.
- Currently, India is the fourth-largest export destination for USA crude oil and fifth largest for USA LNG. This trend is expected to continue with Indian companies entering into more long-term contracts going forward from this year.

## Ministry of Shipping to waive waterway charges to promote eco-friendly transport

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- Ministry of Shipping has decided to waive waterway usage charges, to promote Gol's vision of the inland waterways as a supplementary, eco-friendly and cheaper mode of transport. The charges have been initially waived for 3 years.
- Currently only 2% of total cargo traffic moves through inland waterways. The decision of waiving waterway charges will attract the industries to use the national waterways for their logistical needs.
- The move has come in the backdrop of cargo moved on waterways stagnating in FY 2020-21 as against the previous fiscal year. Inland waterways as the mode of transport is eco-friendly and cheaper will not only reduce the burden on other transport modes but will also promote the ease of doing business.
- Presently, Inland Waterways Authority of India levies the waterway usage charges at a rate of INR 0.02 per gross registered tonnage per kilometer for plying of inland cargo vessels and INR 0.05 per gross registered tonnage per kilometer for plying of cruise vessels on national waterways.
- The decision is estimated to increase the inland waterway traffic movement to 110 MMT in FY 2022-23 from 72 MMT in FY 2019-20. As a result, it is bound to benefit the economic activities and development in the region

## Foundation stone laid for 13 highway projects in Manipur

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- Union Minister for Road Transport, Highways and MSMEs has laid foundation stone for 13 highway projects and inaugurated a road safety project in the north-eastern state of Manipur.
- These projects for inauguration and foundation laying carry a road length of 316 kilometers, involving construction value of about INR 3000 crores. This will pave the way for development of Manipur by enhancing better connectivity, convenience, and economic growth in this north eastern state.
- Prime Minister has accorded top priority to the development of infrastructure in the north-eastern region. Accordingly, the state must expedite land acquisition and utility shifting for faster execution of projects.
- Apart from this project, more projects are envisaged to be taken up at Manipur. This includes a 106.5-km four-lane project between Kohima and Imphal at INR 2,663 crores, a 220-km four-lane project on a stretch of NH-37 from Imphal to Jiraban at INR 5,425 crores, and a 118-km two-lane project on NH-129A at INR 1,765 crores.

## CONTRIBUTIONS BY

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## HSA AT A GLANCE

### FULL-SERVICE CAPABILITIES

	<b>BANKING &amp; FINANCE</b>		<b>COMPETITION &amp; ANTITRUST</b>		<b>CORPORATE &amp; COMMERCIAL</b>
	<b>DEFENCE &amp; AEROSPACE</b>		<b>DISPUTE RESOLUTION</b>		<b>ENVIRONMENT, HEALTH &amp; SAFETY</b>
	<b>INVESTIGATIONS</b>		<b>LABOR &amp; EMPLOYMENT</b>		<b>PROJECTS, ENERGY &amp; INFRASTRUCTURE</b>
	<b>PROJECT FINANCE</b>		<b>REAL ESTATE</b>		<b>REGULATORY &amp; POLICY</b>
	<b>RESTRUCTURING &amp; INSOLVENCY</b>		<b>TAXATION</b>		<b>TECHNOLOGY, MEDIA &amp; TELECOMMUNICATIONS</b>

### GLOBAL RECOGNITION



### STAY CONNECTED



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