PROJECTS, ENERGY & INFRASTRUCTURE

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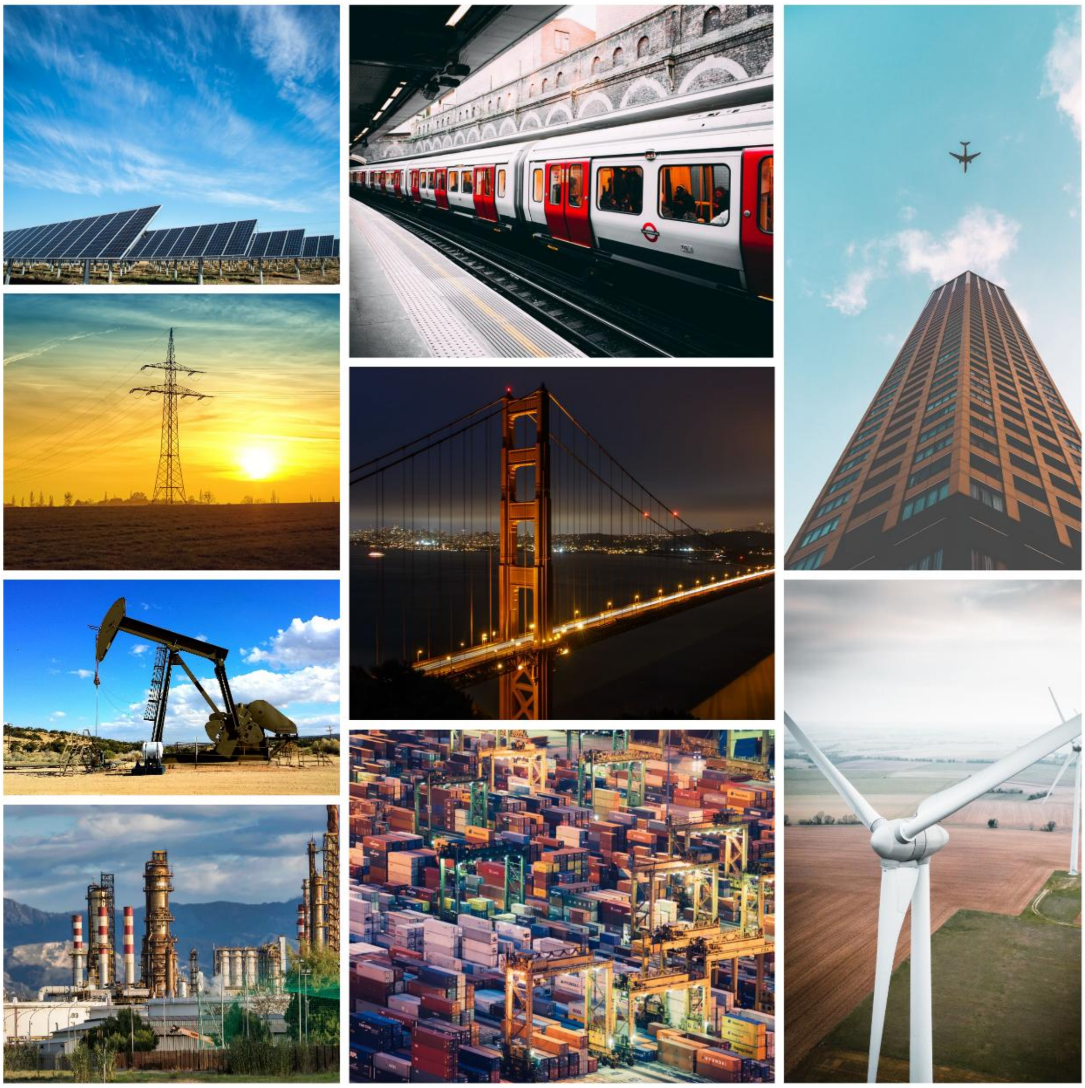

LEGAL & POLICY UPDATES

In this Section

Delhi Electricity Regulatory Commission has notified the Delhi Electricity Regulatory Commission Supply Code and Performance Standards Seventh Amendment Regulations, 2025 ("Seventh Amendment")

- The Delhi Electricity Regulatory Commission (DERC) has notified the Delhi Electricity Regulatory Commission Supply Code and Performance Standards Seventh Amendment Regulations, 2025 ("Seventh Amendment") on August 7, 2025. These regulations amend the Principal Regulations, 2017, and provide a comprehensive procedural and financial framework to govern works undertaken by Distribution Licensees on behalf of the Government of the National Capital Territory of Delhi (GNCTD) relating to "shifting of HT/LT lines," "electrification of bus depots," and other infrastructure-related activities.
- The Seventh Amendment introduces the concept of "Work Scheme," which must be submitted and approved prior to commencing such works, ensuring planning transparency and compliance with the "Cost Data Book," applicable on the date of submission.
- It introduces a milestone-based payment structure dividing payments into three stages:

  (i) Design and Procurement,

  (ii) Execution and Installation, and

  (iii) Testing, Commissioning, and Handover, facilitating phased disbursal and work accountability.
- An advance payment of 30% of the estimated project cost is payable upon submission of a proforma invoice, performance guarantee, and an undertaking to comply with the regulations; the balance of 70% is payable only upon satisfactory completion of milestones, backed by certified completion reports and utilization certificates.
- The Amendment mandates that interest calculated at State Bank of India's Marginal Cost of Funds-based Lending Rate ("MCLR") plus 350 basis points during execution be considered part of the total project cost, reimbursable to the Distribution Licensee to cover the working capital requirements.
- Distribution Licensees are exempted from furnishing bank guarantees against advances received from GNCTD departments, provided an unconditional undertaking is submitted, allowing recovery of any unutilized funds through adjustments in the Annual Revenue Requirement of Delhi Transco Limited.
- The Amendment stipulates that any delayed payment of balance amounts beyond 45 days from the date of final invoice submission shall attract an interest penalty calculated at MCLR plus 350 basis points, payable by the concerned GNCTD department to the Distribution Licensee.

- The Amendment harmonizes the processes with the General Financial Rules 2017, ensuring consistency in financial compliance applicable to governmental works.
- Overall, these Regulations provide a robust legal and procedural scaffold to coordinate execution, financial flows, compliance, and reporting for infrastructural works undertaken by Distribution Licensees on behalf of GNCTD, promoting efficiency, fiscal discipline, and consumer protection.

The Central Electricity Regulatory Commission (CERC) notified the Central Electricity Regulatory Commission (Connectivity and General Network Access to the Inter-State Transmission System) Third Amendment Regulations, 2025 ("Third Amendment")

- The Central Electricity Regulatory Commission (CERC) has notified the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Third Amendment Regulations, 2025 ("Third Amendment") on August 31, 2025. These regulations introduce significant amendments to the framework governing connectivity, access, and operational flexibility for generating companies and transmission customers seeking or utilizing access to the inter-State Transmission System (ISTS), in furtherance of grid modernization and the integration of renewable energy.
- Several new definitions have been inserted, including "Cluster of ISTS substations," "Connectivity Grantee," "Solar hours," and "Solar hour access," clarifying eligibility and scheduling entitlements for market participants.
- The Third Amendment codifies a detailed procedure for withdrawal of connectivity or GNA applications, clearly specifying the stages at which fees or bank guarantees may be forfeited or returned, and establishes binding timelines for processing such withdrawals.
- A new legal regime for differentiated injection and scheduling rights during solar and non-solar hours has been introduced, enhancing the operational versatility of renewable energy generators and storage entities.
- Applicants are expressly permitted to add additional generating or storage capacity within the quantum of granted connectivity, subject to firm caps on net output and compliance with designated regulatory processes.
- The regulations empower applicants to amend land parcels identified for project implementation, prescribe steps for document submission and rectification, and safeguard against any alteration in the point of connectivity or start date on account of such changes.
- Provision is made for phased connectivity by renewable power park developers above specified thresholds, and for sharing of terminal bays and switchyards through legally binding inter-entity agreements.
- Strict compliance requirements are imposed for the submission of project documents: such as promoter disclosures, shareholding structures, and anticipated generation/drawl profiles, to reinforce transparency and regulatory diligence.
- The rules for submission, encashment, and release of connectivity bank guarantees have been revised to provide legal certainty, including for closure of applications or non-approval of upstream augmentation proposals.
- Detailed provisions require applicants and the central nodal agency (CTU) to disclose the start date and coordinates of connectivity, with obligations for timely notification and project status reporting by all stakeholders.
- Collectively, these amendments fortify the statutory scheme for grid access and developer obligations, supporting greater flexibility, robust consumer safeguards, and the efficient operationalization of renewable and storage capacity on the national grid.

Andhra Pradesh Electricity Regulatory Commission notified the Andhra Pradesh Electricity Regulatory Commission [Planning, Procurement, Deployment, and Utilisation of Battery Energy Storage Systems (BESS)] Regulations, 2025

- The Andhra Pradesh Electricity Regulatory Commission (APERC) has notified the Andhra Pradesh Electricity Regulatory Commission [Planning, Procurement, Deployment, and Utilisation of Battery Energy Storage Systems (BESS)] Regulations, 2025 (BESS Regulations) on September 11, 2025. These Regulations establish a comprehensive regulatory framework to facilitate the planning, procurement, deployment, and utilization of Battery Energy Storage Systems (BESS) in the State, supporting Andhra Pradesh's clean energy transition and grid modernization efforts.
- The Regulations apply broadly to distribution and transmission licensees, generating companies, renewable energy developers, independent power producers (IPPs), aggregators, energy storage service providers, and third-party investors engaged in BESS projects or services.
- The regulatory framework allows flexible ownership and deployment models. BESS can be owned or operated by licensees, generators, IPPs, renewable developers, aggregators, or independent service providers. Deployment options include co-location with renewable or conventional generation assets, standalone grid-connected systems, embedded storage in transmission and distribution networks, and behind-the-meter consumer-level systems.
- The Regulations encourage innovative integrations such as BESS with electric vehicle charging and battery swapping stations, as well as vehicle-to-grid (V2G) and grid-to-vehicle (G2V) services, to enhance e-mobility and grid interaction.
- BESS assets are designed to provide crucial ancillary services, including frequency regulation at primary, secondary, and tertiary levels, spinning and non-spinning reserves, voltage support, black start capability, and demand response services, thereby enhancing grid stability and reliability.
- Procurement of BESS capacity by licensees shall be conducted through tariff-based competitive bidding with prior approval from APERC. For licensee-owned BESS assets, cost recovery will be regulated based on prudent investment norms. Market-linked services provided by BESS will be compensated at market-clearing rates in ancillary service markets.
- The regulations impose responsibilities on DISCOMs to identify suitable locations for BESS installation, especially in substations where rooftop solar penetration is high, and integrate BESS in resource planning and regulatory filings. DISCOMs' expenditures on BESS are recoverable through appropriate regulatory mechanisms.
- Generators, IPPs, captive power producers (CPPs), and BESS developers are encouraged to incorporate storage solutions to improve energy reliability, optimize renewable utilization, and participate actively in ancillary and energy markets, either directly or through aggregators.
- Consumers and prosumers may install behind-the-meter BESS for self-consumption and market participation, subject to technical standards and registration with DISCOMs. Charging BESS with renewable power preserves associated green attributes.

Ministry of New and Renewable Energy (MNRE) has notified the National Policy on Geothermal Energy

- Ministry of New and Renewable Energy (MNRE) has notified the National Policy on Geothermal Energy on September 15, 2025. This Policy aims to facilitate the exploration, development, and deployment of geothermal energy resources in India to significantly contribute to the country's renewable energy portfolio and its net-zero emissions target by 2070.
- The Policy applies to all stakeholders, including central and state governments, public and private companies, project developers, research bodies, Agencies,

Academics, Entrepreneurs, Startups, etc., engaged in geothermal energy projects.

- Key definitions and systems covered include geothermal resource assessment, drilling, power production technologies (dry steam, flash steam, binary cycle, ORC), direct-use applications, enhanced geothermal systems (EGS), geothermal heat pumps (GSHP), and mineral by-products extraction associated with geothermal operations.
- The Policy identifies 10 major geothermal provinces across India, with numerous sites offering medium to low enthalpy resources suitable for power generation and direct-use applications. Exploration and resource data will be centralized in a national geothermal resource data repository facilitated by MNRE in collaboration with agencies like the Geological Survey of India.
- Developmental models emphasize phased project implementation from exploration to operation, promotion of indigenous technology, exploration risk mitigation, and repurposing of abandoned oil and gas wells for geothermal use through joint ventures and technology sharing with the oil and gas sector.
- The Policy encourages financial and fiscal incentives, including support for research and pilot projects, facilitation of foreign direct investment, concessional loans, tax holidays, import duty exemptions, and inclusion under renewable energy regulations such as must-run status and renewable purchase obligations.
- States are directed to designate nodal agencies for streamlined single-window clearance of geothermal projects, land allocation, environmental and social impact clearances, and community engagement, particularly in tribal and remote areas. Permits and land leases are granted for exploration and development with provisions for extensions and concessions in difficult terrains.
- Implementation mechanisms include international cooperation for technology transfer, partnerships with multilateral finance institutions, establishment of Centres of Excellence for capacity building, regular progress reporting, and issuance of detailed operational guidelines.

RECENT JUDGMENTS

In this Section

Chamundeshwari Electricity Supply Company Ltd. (CESC) Vs. Saisudhir Energy (Chitradurga) Pvt. Ltd. & Anr.

Supreme Court Judgment dated August 25, 2025, in Civil Appeal No. 6888 of 2018

Background facts

- The said Appeal was filed by Chamundeshwari Electricity Supply Company Ltd. (CESC) before the Supreme Court of India challenging the judgment of the Appellate Tribunal for Electricity (APTEL) affirming the Karnataka Electricity Regulatory Commission's (KERC) order directing CESC to restore the encashed performance bank guarantee, extend contractual timelines, and renegotiate the tariff in respect of a 10 MW solar power project.
- The Appellant, CESC, is a state-owned distribution licensee; Respondent No.1 is the solar power developer, and Respondent No.2 is the state transmission utility (KPTCL), both state instrumentalities responsible for grid infrastructure.
- The solar project was subject to a Power Purchase Agreement (PPA) with an agreed tariff and timelines, including Conditions Precedent (CPs) and Commercial Operation Date (COD). Delays in commissioning the evacuation system by KPTCL prevented timely project commissioning.
- Due to KPTCL's delay in commissioning evacuation transmission lines, the Developer sought an extension of COD. CESC offered extension on condition of tariff reduction to Rs. 2.39/kWh, which Developer contested before KERC, seeking restoration of encashed bank guarantee, extension of timelines, and tariff renegotiation.
- For the abovementioned reasons, the Petitioner sought restoration of encashed bank guarantee, extension of contractual timelines due to delay in evacuation system deemed Force Majeure, and direction for tariff renegotiation to retain original tariff.

Issues at Hand

- Whether the delay of KPTCL in commissioning the system affects the timelines for fulfilment of CPs and achievement of COD under the PPA.
- Whether the Appellant is entitled to invoke and encash the performance bank guarantee in the present case.
- Whether the finding of Force Majeure recorded by the State Commission is sustainable in the absence of contractual notice under Article 14.5 of the PPA.
- Whether the PPA is in the nature of a contingent contract.
- Whether the State Commission and APTEL are competent to direct restoration of the bank guarantee, extension of timelines, and renegotiation of tariff.

Decision of the Court/Tribunal

- The Supreme Court allowed the Appeal filed by CESC, setting aside the concurrent orders of the Appellate Tribunal for Electricity (APTEL) and Karnataka Electricity Regulatory Commission (KERC).
- The Court held that the invocation and encashment of the performance bank guarantee by CESC was lawful, as the Developer failed to fulfil key Conditions Precedent within the stipulated timelines and failed to achieve the Commercial Operation Date as per the PPA.
- It was held that the delay in commissioning the evacuation system by KPTCL did not amount to a Force Majeure event entitling the Developer to extension of timelines, as no formal notice was served invoking Force Majeure as required under the contract.
- The Supreme Court emphasized the sanctity of contract, ruling that regulatory authorities do not possess jurisdiction to modify commercial contractual terms, including tariff or timeline extensions, under the guise of regulatory powers.
- The Court concluded that the Developer waived the contractual remedies by failing to adhere to the terms and that tariff renegotiation or restoration of encashed bank guarantees could not be directed by regulatory bodies in the absence of contractual compliance.
- Accordingly, all reliefs granted by KERC and upheld by APTEL in favour of the Developer were reversed, reinstating CESC's rights under the PPA and repudiating the claims of the Developer for extension and tariff revision.

HSA
Viewpoint

In our view, this judgment highlights the primacy of contractual sanctity in power purchase agreements, clarifying that regulatory bodies cannot usurp commercial contract terms under the guise of their jurisdiction. It establishes important jurisprudence restricting regulatory overreach, emphasizing adherence to contractual remedies and formal notice requirements for force majeure claims. This decision promotes certainty and predictability for developers and distribution licensees in the renewable energy sector.

Haryana Power Purchase Centre & Ors. Vs. GMR Kamalanga Energy Limited & Ors.

Supreme Court Order dated September 08, 2025, in Civil Appeal Nos. 1929 & 3429 of 2020.

Background facts

- The said Appeal was filed by Haryana Power Purchase Centre (HPPC) and others before the Supreme Court of India against the judgment and final order dated December 20, 2019, of the Appellate Tribunal for Electricity (APTEL), which upheld the Central Electricity Regulatory Commission's (CERC) order dated March 20, 2018, in Petition No. 105/MP/2017.
- The Appellants include HPPC, the nodal agency for power procurement representing distribution licensees in Haryana, and several distribution licensees of Odisha and Bihar. The Respondents include GMR Kamalanga Energy Limited (GKEL), a generating company, PTC India Limited, a trading licensee, and the regulatory authorities.
- GKEL entered into a Memorandum of Understanding (MoU) in 2006 with the Government of Odisha for the development of a 1,000 MW coal-fired thermal power project, including allocation of coal blocks and long-term coal linkage arrangements. GKEL executed Power Purchase Agreements (PPAs) with Odisha (GRIDCO), Bihar, and Haryana utilities for the supply of power from the project.
- Disputes arose regarding fuel supply arrangements, changes in coal pricing policy, and associated costs, which the Respondents characterized as Change in Law events affecting project costs and performance. GKEL filed Petition No. 105/MP/2017 seeking compensation for additional costs and relief under Change in Law provisions.
- CERC directed the Respondent distribution licensees to pay the supplementary bills raised by GKEL for additional costs due to Change in Law events, including late payment surcharge, apportioning the cost pro-rata among beneficiaries reflecting generation capacity rights.

- For the abovementioned reasons, the Appellants sought to set aside the impugned orders of the CERC and the APTEL directing payment of supplementary bills and additional costs by the Haryana Utilities, contending that such costs should not have been apportioned or ordered for payment under the Change in Law provisions without appropriate regulatory and contractual scrutiny.
- All three DISCOMs accepted GKEL's entitlement to Change in Law compensation; however, Haryana Utilities and GRIDCO disputed their liability, seeking to shift it to others, while Bihar Utilities agreed that it must be shared proportionately.

Issues at hand

- Whether CERC and APTEL's orders directing DISCOMs to pay supplementary bills and Change in Law compensation were legally sustainable.
- Whether GRIDCO was a necessary party given the different regulatory frameworks under Sections 62 and 63.
- Whether GKEL's Change in Law claim and the pro rata cost-sharing among DISCOMs were validly determined.

Decision of the Court/Tribunal

- **Civil Appeal No. 1929 OF 2020**
    - The Court held that findings of expert bodies like CERC and APTEL cannot be interfered with unless shown to be perverse, arbitrary, or contrary to statute.
    - The Court observed that Section 125 permits appeals only on substantial questions of law, and cautioned against routine challenges faced by DISCOMs and generators which cause delay and burden consumers.
    - The Court rejected the contention that interpretation of documents raised a substantial question of law, holding that no such question arose, though the merits were nevertheless examined.
    - The Court upheld CERC's formula of pro rata coal allocation for all DISCOMs, noting Haryana Utilities had initially accepted and acted upon it.
    - The Court found Haryana Utilities' belated attempt to alter the methodology was untenable and upheld APTEL's rejection of the review, and dismissed the appeal.
- **Civil Appeal No. 3429 of 2020**
    - The Court held that GRIDCO was not a necessary party since GKEL's Change in Law petitions related only to Section 63 PPAs with Haryana and Bihar.
    - The Court further held that tariff determination under Sections 62 and 63 are distinct, and proceedings under Section 63 did not require impleadment of GRIDCO.
    - The Court also held that GKEL's tariff arrangement with GRIDCO had been separately addressed under Section 62 and upheld by APTEL, thereby excluding GRIDCO from the scope of the Section 63 proceedings.
    - The Court finally held that coal allocation must be considered for the plant as a whole and apportioned among all DISCOMs in proportion to energy supplied, with no priority based on PPA date or source. GRIDCO's appeal was accordingly dismissed.

HSA
Viewpoint

In our opinion, the judgment significantly advances electricity law by curbing frivolous appellate intervention, strengthening the finality of concurrent regulatory findings, and cementing the principle that coal and cost liabilities must be shared equitably across DISCOMs irrespective of PPA chronology or framework. It also clarifies party impleadment standards, thereby streamlining Change in Law adjudication.

Vedanta Limited Vs. Odisha Electricity Regulatory Commission & Others

APTEL's Order dated September 9, 2025, in Appeal No. 107 of 2022 & Appeal No. 312 of 2022.

Background facts

- This judgment from the Appellate Tribunal for Electricity (APTEL) addresses two appeals, 107 of 2022 by Vedanta Limited and 312 of 2022 by GRIDCO Limited, both challenging an order dated June 22, 2020, issued by the Odisha Electricity Regulatory Commission (OERC) in case no. 68/2018.
- A Memorandum of Understanding (2006) and a Power Purchase Agreement (PPA) (2006, amended 2009, consolidated 2012) obligated Vedanta to supply 25% of its energy to GRIDCO at full tariff and an additional 5-7% at variable tariff.
- In 2015, Units I, III, and IV of Vedanta's plant were converted to Captive Generating Plants (CGP), while Unit II remained an Independent Power Producer (IPP) supplying the state grid.
- The OERC approved this conversion in 2016, directing Vedanta to continue its supply commitments to GRIDCO.
- Disputes emerged due to non-payment of dues to Vedanta and alleged short supply of power by Vedanta to GRIDCO.
- On November 9, 2018, GRIDCO filed Case No. 68/2018 with the OERC seeking execution of a revised PPA.
- Under OERC's direction, on June 7, 2019, a meeting was held with the Director (Regulatory Affairs) where a specific protocol for computing compensation for past short supply (FY 2017-18 and 2018-19) was agreed upon by all three parties (Vedanta, GRIDCO, and OERC's Director). This protocol detailed additional costs based on marginal ISGS or Power Exchange rates.
- On September 10, 2019, GRIDCO claimed the June 7, 2019, protocol was "not implementable" and requested another meeting.
- Another meeting was held on September 20, 2019, but no further agreement was reached.
- The OERC in June 2020 disposed of Case No. 68/2018, unilaterally devising its own compensation protocol for short supply and making observations regarding Vedanta's alleged misutilization of linkage coal.

Issues at hand

- Whether the OERC had the authority to unilaterally create a compensation protocol for short supply of power, overriding the mutual agreement between the parties.
- The extent to which regulatory bodies can interfere with the terms of a commercial contract, particularly a PPA, when parties have already reached a consensual agreement on certain clauses.
- Whether the compensation for short supply should include a "deterrence" element or strictly adhere to the actual loss incurred.
- The validity of OERC's observations regarding Vedanta's alleged misutilization of linkage coal for captive purposes, given the lack of a proper inquiry and previous communications from MCL and GRIDCO certifying proper utilization
- Which compensation methodology should be applied for short supply, the OERC's devised protocol, the November 1, 2016, agreement, or the June 7, 2019 agreement.

Decision of the Court/Tribunal

- The Appellate Tribunal for Electricity, in its judgment dated September 9th, 2025, held that the OERC exceeded its jurisdiction by unilaterally devising a new compensation protocol. It emphasized that a PPA is a commercial contract, and the Commission's role is to approve it, not to rewrite its terms, especially when a consensual agreement has been reached.
- The Tribunal ruled that the compensation must adhere to the last agreed methodology as per the Minutes of Meeting dated June 7, 2019, which was signed by all three parties, including the Director (Regulatory Affairs) of OERC.
- The Tribunal found the OERC's observations in Paragraph 10(k) of the impugned order regarding the alleged misutilization of linkage coal by Vedanta to be baseless, uncalled for, and made without proper inquiry. It noted that GRIDCO

itself had not denied communications indicating Vedanta's proper utilization of coal for state supply. These observations were set aside.

- The OERC's impugned order dated June 22, 2020, was set aside. The case was remanded back to the OERC with a direction to call upon the parties to execute a revised PPA based on their mutual agreement in terms of the OERC's order dated January 27, 2016.
- GRIDCO was directed to release/reimburse all withheld payments to Vedanta within three months from the date of the judgment.
- Vedanta's Appeal No. 107 of 2022 was allowed, and GRIDCO's Appeal No. 312 of 2022 was dismissed.

HSA
Viewpoint

APTEL's decision emphasizes that a PPA is a commercial contract between parties, and the Commission's role is to approve it, not to rewrite its terms. The Tribunal affirms that regulatory bodies cannot modify or rewrite a contract or an arrangement that exists between the parties, especially when a consensual agreement, has been reached. Additionally, the compensation must adhere to the last agreed methodology.

Punjab State Power Corporation Limited & Ors. Vs. Punjab State Electricity Regulatory Commission & Ors.

APTEL Order dated September 12, 2025, in Appeal No. 26 of 2017

Background facts

- The said set of Appeals was filed by Punjab State Power Corporation Limited (PSPCL) before the Appellate Tribunal for Electricity (APTEL), challenging the legality of the orders passed by the Punjab State Electricity Regulatory Commission (PSERC) concerning the levy of Peak Load Exemption Charges (PLEC) on Large Supply Industrial Consumers (LSICs) who had opted for the Time of Day (ToD) tariff and sourced power through open access during peak load hours.
- The Appellant, PSPCL, is the statutory distribution licensee engaged in electricity generation and distribution in Punjab, while the Respondents include PSERC (the regulatory commission for the state) and several Large Supply Industrial Consumers with individual electric connections in Punjab.
- The dispute arose after the State Commission held, in multiple orders during 2015 and 2016, that PSPCL could not lawfully levy PLEC on ToD tariff consumers availing power through open access during peak hours, and directed the refund of such amounts collected, together with interest, to the affected consumers.
- PSPCL, invoking Regulation 18(2)(g), levied PLEC on ToD open access consumers through circulars citing grid stability, while consumers and PSERC contended that such charges, absent in the FY 2014-15 and 2015-16 Tariff Orders, could only arise from explicit tariff or statutory provisions.
- For the abovementioned reasons, the Appellant prayed for setting aside the PSERC's order and for APTEL to permit the levy and recovery of PLEC or, in the alternative, a compensatory charge as per the applicable Tariff, from ToD tariff opting Large Supply Industrial Consumers sourcing power through open access during peak load hours, treating such drawal at par with supply from PSPCL.

Issues at hand

- Whether PSPCL can levy PLEC on LSICs under ToD tariff availing open access during peak hours through circulars without PSERC's approval?
- Whether LSICs under ToD tariff drawing power via open access must pay PLEC under the Tariff Orders and 2011 Regulations, or are exempt during the ToD period, irrespective of source?

Decision of the Court/Tribunal

- The Tribunal held that PSPCL did not have lawful authority to levy or recover PLEC from Large Supply Industrial Consumers who had opted for the ToD tariff and availed open access power during peak load hours, where such levy was not expressly approved by the PSERC in its Tariff Orders or under the applicable regulations.

- The Tribunal observed that the impugned administrative circulars issued by PSPCL, for the recovery of PLEC from such consumers, constituted a direct and actionable breach of the statutory scheme, as all consumer charges must be expressly sanctioned by the regulatory commission in the tariff framework.
- The Tribunal emphasized that nowhere in the Tariff Orders (for FY 2014–15 or FY 2015–16) was there any provision for the simultaneous recovery of both ToD charge and PLEC from the same consumer during peak hours, and any deviation by PSPCL amounted to creation of a new charge and an impermissible sub-category outside the regulatory scheme
- .The Tribunal also clarified that Regulation 18(2)(g) of the Open Access Regulations, 2011, regulates the permissible quantum of drawal by open access consumers but does not itself authorize recovery of PLEC in the absence of specific commission approval through a tariff order.
- The Tribunal upheld the direction for refund (with interest) to consumers, holding that PSPCL could not collect a charge beyond that expressly sanctioned by the commission, and that any excess recovery must be returned to affected consumers in accordance with Section 62(6) of the Electricity Act, 2003 and the regulations.
- Accordingly, the appeals filed by PSPCL were dismissed and the orders passed by PSERC directing refund of PLEC (with interest) to ToD open access consumers were affirmed, thereby restoring regulatory discipline and consumer protection in line with the commission's approved tariff structure.

HSA
Viewpoint

Our viewpoint is that this judgment strengthens consumer protection within the electricity sector by prohibiting recovery of unsanctioned charges, reinforcing that all electricity tariffs and levies must be explicitly specified in regulatory commission orders. The Tribunal's mandate for refund with interest under Section 62(6) of the Electricity Act further upholds transparency and accountability in distribution licensee practices. This decision sets a valuable precedent for strict tariff discipline and judicial scrutiny of extra-statutory demands by utilities.

Adani Power Ltd. (Udupi) Vs. Central Electricity Regulatory Commission (CERC) & Anr.

Appellate Tribunal for Electricity's (APTEL) Judgment dated September 15, 2025, in Appeal Nos. 76 of 2020 & 98 of 2023

Background facts

- Adani Power Ltd. (formerly Udupi Power Corporation) operates a 1200 MW (2×600 MW) coal-based thermal power plant at Udupi, Karnataka.
- Power is supplied under long-term Power Purchase Agreements (PPAs) to Karnataka ESCOMs through Power Company of Karnataka Ltd. (PCKL) and to Punjab State Power Corporation Ltd.
- CERC, by order dated January 2, 2020, in Petition No. 251/GT/2017, determined tariff for the period 2014–2019.
- CERC disallowed several claims of Adani, including additional capitalisation on works such as seawater return pipeline, silt settling chamber, sewage treatment plant, fire-fighting piping, chimney treatment, rack and pinion lift, transit loss of coal beyond 0.2 per cent, electricity tax on auxiliary consumption, and O&M for transmission bays.
- At the same time, CERC allowed certain claims opposed by procurers, such as partial cost of the MS seawater pipeline, additional O&M for Jetty, External Coal Handling Plant and FGD system, inclusion of certain port/rail charges in landed fuel cost, fixing NAPAF at 83 per cent, application of MAT on return on equity, and not adjusting revenue from infirm power sales against capital cost.
- Adani filed Appeal No. 76 of 2020 challenging disallowances, while PCKL filed cross Appeal No. 98 of 2023 contesting the reliefs granted to Adani.

Issues at hand

- Whether replacement of GRP seawater pipeline with MS pipeline should be fully capitalised.
- Whether additional capitalisation beyond the cut-off date can be allowed under Tariff Regulations or by invoking relaxation/removal of difficulties.
- Whether compensation paid to fishermen as per Deputy Commissioner's letter qualifies as capital expenditure.
- Whether additional O&M for Jetty, ECHP, FGD system and statutory cess/taxes is payable beyond normative O&M.
- Whether levy of electricity tax on auxiliary consumption is a Change in Law event recoverable separately.
- Whether the transit and handling loss of imported coal should be capped at 0.2 per cent.
- Validity of NAPAF fixed at 83 per cent.
- Correct approach to return on equity taxation and adjustment of infirm power revenue.

Decision of the Court/Tribunal

- Replacement of GRP seawater pipeline with MS pipeline was necessitated by statutory directions of the Karnataka State Pollution Control Board.
- CERC erred in de-capitalising the entire cost of the GRP pipeline; only salvage value (10 per cent) should have been deducted, allowing Adani to recover the balance cost.
- Additional capitalisation claimed beyond the cut-off date was not properly examined by CERC under Regulations 54 Power to Relax and 55 Power to Remove Difficulties; matter remanded for fresh consideration.
- Compensation of about INR. 3.02 crore paid to fishermen was pursuant to a government direction, but possible duplication with CSR and R&R funds requires scrutiny; issue remanded to CERC.
- Additional O&M expenses for Jetty, External Coal Handling Plant, FGD system, and statutory cess/taxes are justified for coastal imported-coal stations and were rightly allowed, subject to prudence check at true-up.
- Electricity tax on auxiliary consumption imposed in 2014 after execution of the PPA qualifies as a Change in Law event and must be reimbursed separately to Adani.
- Normative transit and handling loss of 0.2 per cent applied by CERC is unrealistic in the context of imported coal logistics; CERC directed to reassess a reasonable limit.
- NAPAF fixed at 83 per cent by CERC was found to be reasonable and was upheld.

HSA
Viewpoint

The case reflects the complexities involved in power sector regulation, especially concerning cost recovery and tariff determination. It highlights the challenges thermal power projects face due to evolving statutory and operational requirements. The judgment emphasizes regulatory flexibility and the need for balanced decision-making. Overall, it underscores the importance of clarity and consistency in power sector governance.

Adhunik Power and Natural Resources Limited Vs. PTC India Limited & Tamil Nadu Generation and Distribution Corporation Limited

Central Electricity Regulatory Commission's (CERC) Order dated August 30, 2025, in appeal no. 264 OF 2022

Background facts

- Adhunik Power and Natural Resources Limited (APNRL), operating a 540 MW thermal power project in Jharkhand.

- On December 18, 2013, Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) and PTC India Limited (PTC) entered into a PPA for the supply of 100 MW for 15 years.
- On December 19, 2013, APNRL entered into a back-to-back PPA with PTC for the same power supply.
- APNRL filed a petition with the CERC seeking a declaration that deductions made by PTC and TANGEDCO from its bills for December 2018 to February 2019, towards penalty and capacity charges, were illegal. APNRL sought payment of these deducted/withheld amounts with carrying cost.
- CERC Order (August 15, 2020):
  - Held that TANGEDCO-PPA and PTC-PPA are interlinked, and payment obligations rest on both PTC and TANGEDCO.
  - Found that both PTC and TANGEDCO failed to make payments and provide Letter of Credit (LC) as per their respective PPAs.
  - Ruled that APNRL is entitled to a refund of capacity charges and penalty.
  - Directed PTC to pay APNRL, including Late Payment Surcharge (LPS), and subsequently entitled PTC to recover the same amount from TANGEDCO, also with LPS.
- APTEL Appeal (Appeal No. 168 of 2020): PTC appealed the CERC's August 15, 2020 order to the Appellate Tribunal for Electricity (APTEL), arguing that:
  - It was erroneously directed to pay APNRL first and then recover from TANGEDCO; TANGEDCO should have been directed to pay PTC directly.
  - The CERC misinterpreted Article 8.5 of the PPA by imposing liability without determining if APNRL sold power to a third party or if the capacity was actually available.
- While PTC's appeal was pending before APTEL, APNRL filed this petition with CERC seeking execution of the August 15, 2020 order and initiation of proceedings under Section 142 (non-compliance) of the Electricity Act, 2003.

Issues at hand

- Whether the CERC's previous order, which directed PTC to pay APNRL and then recover from TANGEDCO, should be enforced.
- Who is ultimately responsible for paying the deducted/withheld capacity charges and penalties to APNRL for December 2018 to February 2019, along with Late Payment Surcharge (LPS).
- Whether PTC and TANGEDCO can, in execution proceedings, raise new objections (e.g., regarding APNRL's plant availability or third-party sales) that were not raised or were dismissed in the original proceedings or subsequent appeal.
- Whether PTC's role as an intermediary/trader absolves it of direct liability to APNRL if TANGEDCO defaults on payment.
- Whether proceedings for non-compliance should be initiated against the Respondents.

Decision of the Court/Tribunal

- The Central Electricity Regulatory Commission (CERC) disposed of Petition by directing the Respondents to comply with its earlier order, which was upheld by APTEL.
- The CERC confirmed that its order dated August 15, 2020, in Petition No. 158/MP/2019, has been categorically upheld by the Appellate Tribunal for Electricity (APTEL) in its judgment dated May 8, 2025 (Appeal No. 168 of 2020).
- The CERC reiterated and reinforced APTEL's clear finding that PTC is liable to make payment to APNRL, irrespective of whether it receives payment from TANGEDCO. The back-to-back nature of the agreements does not negate PTC's independent financial obligations under the PTC-PPA.
- TANGEDCO remains liable to pay PTC in terms of the TANGEDCO-PPA.
- The CERC dismissed the new objections raised by PTC and TANGEDCO during the execution proceedings (e.g., regarding APNRL's third-party sales or plant availability/outages). It held that these issues were either not raised in the original proceedings (and thus precluded in appeal) or had been previously admitted by the respondents themselves. The scope of execution proceedings is limited and cannot go behind the already adjudicated order.

- The Commission emphasized that the obligation for payment and furnishing of LC rests with both PTC (under PTC-PPA) and TANGEDCO (under Procurer-PPA), by virtue of the back-to-back nature of the agreements.
- In essence, the CERC fully enforced its original order, noting that APTEL had confirmed PTC's primary liability to APNRL despite the back-to-back nature of the PPAs, and rejected subsequent attempts by the respondents to re-litigate settled issues.

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Viewpoint

This judgment reinforces that trading licensees like PTC cannot shirk their primary payment obligations to generators based on back-to-back agreements or delays by procurers. The decision ensures timely payments to power generators and upholds the sanctity of regulatory orders in the electricity sector.

Dhariwal Infrastructure Ltd. (DIL) Vs. Noida Power Company Ltd.

Order dated August 20, 2025, in Petition No. 2130 of 2024

Background facts

- Dhariwal Infrastructure Ltd. (DIL) filed a petition seeking approval for additional capital expenditure incurred on installing a De-NOx system for Unit 2 of its 2 x 300 MW coal-based generating station.
- This was necessitated by a "Change in Law" event, specifically the Environment (Protection) Amendment Rules issued by the Ministry of Environment, Forest and Climate Change between 2015 and 2022.
- DIL also sought approval for the incremental tariff due to this expenditure.
- DIL has a long-term Power Purchase Agreement (PPA) with Noida Power Company Limited (NPCL) for the supply of 187 MW Gross Contracted Capacity from Unit 2.
- NPCL contended that the "Change in Law" claim was not applicable as the requirement for pollution control measures was envisaged in the Environmental Clearance (EC) granted to DIL in 2009.

Issues at hand

- Whether the Environment (Protection) Amendment Rules (2015, 2018, 2020, 2021, and 2022) qualify as a "Change in Law" event for Unit 2 of DIL's project, entitling DIL to compensation under Article 13 of the NPCL PPA.
- Whether the additional Capital Expenditure incurred on the De-NOx system should be approved, and consequently, an incremental tariff be allowed.
- Whether DIL falls under the exception of the Ministry of Power's letter dated May 30, 2018, meaning the installation of the De-NOx system was already mandated by its original EC in 2009.
- Whether there is any overlap or duplication in the determination of compensation between the NPCL PPA and the TNPDCL PPA (Tamil Nadu Power Distribution Corporation Limited).
- Justification for the increase in total hard capital cost of the De-NOx system compared to the provisional cost approved by CERC for the TNPDCL PPA.

Decision of the Court/Tribunal

- The Uttar Pradesh Electricity Regulatory Commission (UPERC) observed that the Central Electricity Regulatory Commission (CERC) in its order dated January 8, 2024, in a related matter concerning TNPDCL, had concluded that the EC issued to DIL in 2009 did not specifically include the De-NOx system. Therefore, DIL could not have envisaged the installation of such a system at that time.
- Considering this, the UPERC concluded that NPCL had misinterpreted the conditions of the EC dated December 4, 2009, granted to DIL. The Commission ruled that DIL does not fall under the exception mentioned in the Ministry of Power's letter dated May 30, 2018, as there was no prior requirement for the installation of the De-NOx system under the EC granted to the Petitioner.

- Therefore, the Petitioner (DIL) is entitled to claim the expenditure incurred towards the installation of the De-NOx System under UPERC Generation Tariff Regulations, 2019.
- The Commission noted that CERC had reserved its order on April 28, 2025, regarding the approval of the final capital cost for the De-NOx system in Unit 2 corresponding to power supplied to TNPDCL.
- The Petition No. 2130 of 2024 was disposed of with the direction that the Commission will carry out a truing-up exercise, taking into account the CERC approved cost of the De-NOx System under applicable provisions for additional capitalization during FY 2023-24.
- The Petitioner was also directed to file an additional affidavit with the tariff impact of the proportionate cost for the De-NOx system allocated to NPCL as per the CERC order, once it is issued.

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Viewpoint

The judgement affirms that the requirement to install a De-NOx system is a "Change in Law" event, entitling Dhariwal Infrastructure Ltd. to claim the associated capital expenditure. The court rejected the argument that this was already mandated by the original Environmental Clearance. The final approval of costs and tariff impact will be determined after CERC's order in a related matter.

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