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PROJECTS, ENERGY & INFRASTRUCTURE

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LEGAL & POLICY UPDATES

In this Section

Gujarat Electricity Regulatory Commission notifies the Net Metering Rooftop Solar PV Grid Interactive Systems (Fifth Amendment) Regulations, 2025

- Gujarat Electricity Regulatory Commission (**GERC**) through its notification dated November 3, 2025, has issued the Fifth Amendment to the Net Metering Regulations, 2016, exercising its rule-making powers under Sections 61, 66, 86(1)(e) and 181 of the Electricity Act, 2003. The amendment formally modifies the Principal Regulations and applies statewide from the date of publication.
- The amendment primarily revises procedural requirements governing connectivity for rooftop solar installations, especially those being deployed under the Government of India's PM Surya Ghar Muft Bijli Yojana.
- A significant change has been introduced under Regulation 7, where a new proviso eliminates the need for consumers under the PM Surya Ghar scheme to execute a separate written connectivity agreement with the Distribution Licensee. Instead, such consumers will automatically be deemed to be governed by the terms and conditions of the Principal Regulations once the rooftop system is commissioned.
- The date of commissioning of the rooftop PV system is now deemed to be the commencement date of the contractual relationship between the consumer and the DISCOM. The earlier requirement of signing a formal agreement has been replaced with a simplified communication process to reduce delays and paperwork.
- In place of a full agreement, the concerned DISCOM must provide a written acknowledgment to the applicant, recording (a) the commencement date of the deemed agreement, and (b) the applicable rate at which surplus energy injected into the grid will be purchased. This requirement ensures compliance documentation without imposing a full contract execution process.
- Regulation 8(2) has been substituted in entirety, clarifying that the connectivity level for rooftop PV systems must follow the voltage-level provisions prescribed under the GERC Electricity Supply Code 2015, as updated from time to time. This alignment avoids conflicting technical rules and provides uniform standards for interconnection across the State.
- The amendment simplifies procedural requirements for rooftop installations, particularly under the central PM Surya Ghar program, and aligns connectivity norms with existing supply-code standards.

APERC Issues Draft First Amendment to Renewable Energy Tariff Regulations, 2025 (Regulation No. 6 of 2025) dated November 18, 2025

- APERC had earlier notified the APERC (Terms and Conditions for Tariff Determination from Renewable Energy Sources) Regulation, 2025 (Regulation No. 6 of 2025), published in the Andhra Pradesh Gazette on September 12, 2025.
- After issuing the Principal Regulation, APERC undertook a performance review of operational small hydro generating stations across the State.
- This operational review showed that the normative CUF of 40% prescribed in Clause 27 of the Principal Regulation does not match the actual CUF achieved by many small hydel projects, considering prevailing hydrological flow conditions.
- APERC noted that several small hydro stations in Andhra Pradesh are operating below the 40% CUF normative benchmark, making the existing CUF unrealistic for tariff-setting purposes.
- APERC further observed that the CERC (RE Tariff) Regulations, 2024 prescribe 30% CUF for small hydro projects in Andhra Pradesh, indicating that the national regulatory framework has already recognized lower achievable CUF levels.
- APERC found it necessary to ensure that the State's tariff framework is aligned with ground performance, avoids overestimation of generation, and provides realistic tariff signals for investors and utilities.
- Therefore, under its powers under Sections 61, 62, 86(1)(b) and 181 of the Electricity Act, 2003, APERC issued the Draft First Amendment to the Principal Regulation.
- The Draft Amendment specifies the Short Title, Extent, and Commencement as follows:
  - It shall be called the First Amendment to the APERC RE Tariff Regulations, 2025.
  - It extends to the entire State of Andhra Pradesh.
  - It comes into force on the date of publication in the Andhra Pradesh Gazette.
- The Draft Amendment proposes a complete substitution of Clause 27 of the Principal Regulation. The substituted Clause 27 reads as "It shall be project-specific and shall not be less than 30% (Project specific).
- This amendment replaces the earlier minimum CUF of 40% with a minimum project-specific CUF of 30%, creating flexibility for actual project conditions.

Ministry of Power Issues Comprehensive Policy for Co-firing of Biomass Pellets & Torrefied MSW Charcoal in Coal-based Thermal Power Plants

- MoP has issued a Letter dated November 07, 2025 wherein it provided a Comprehensive Policy for co-firing biomass pellets and torrefied charcoal made from Municipal Solid Waste (MSW) in coal-based Thermal Power Plants (TPPs), replacing the 2021 biomass co-firing policy and its 2023 modification.
- The policy's objective is to Reduce GHG emissions, Promote utilisation of surplus agricultural residue and MSW, Support the Swachh Bharat Mission, Address biomass supply-chain constraints, stubble-burning issues, and TPP operational difficulties.
- Mandatory co-firing from FY 2025-26:
  - All coal based TPPs of power generation utilities in the NCR shall on annual basis use 5% blend (by weight) of biomass pellets and additional 2% blend (by weight) either from biomass pellets and/or torrefied MSW charcoal.
  - TPPs in other region shall on annual basis use 5% (by weight) biomass pellets and/or torrefied MSW charcoal.
- A Biomass pellets may be non-torrefied, semi-torrefied (VM >22–40%), or fully torrefied (VM <22%), subject to OEM suitability.
- The percentage of biomass/torrefied MSW blending may be revised in future based on fuel availability and TPP performance.

- Exemptions/relaxations may be granted on a case-by-case basis by a Committee headed by Chief Engineer (TE&TD), CEA, with members from CAQM, NTPC, BHEL, CPRI, MoP.
- For TPPs set up under Section 63 of the Electricity Act, 2003, any increase in Energy Charge Rate (ECR) due to co-firing is eligible under Change in Law, and cost shall pass through the ECR. Additional ECR impact will not affect Merit Order Dispatch (MOD) and DISCOMs may fulfil Renewable Consumption Obligations (RCO) through co-firing-based generation.
- Eligible biomass sources include agro-residue from crops like paddy, soya, cotton, bajra, moong, mustard, sesame, til, maize, sunflower, jute, coffee, coconut shell, groundnut shell, castor seed shell, plus horticulture waste, leaves, plant/stem trimmings, pine needles, elephant grass, sarkanda, etc.
- For TPPs in NCR and adjoining areas, at least 50% of raw material used in pellets must be rice paddy residue sourced exclusively from NCR and nearby areas.
- MoP has referenced the Revised Model Contract for Biomass use in TPPs (MoP letter dated January 06, 2023), which may be updated periodically.
- MoP will notify benchmark regional prices for biomass pellets; TPPs may be procure Aw3at benchmark prices or through transparent competitive bidding.

Ministry of Petroleum and Natural Gas Invites Public Consultation on LNG Amendment Rules 2025

- On October 24, 2025, the Ministry of Petroleum and Natural Gas (MoPNG), Government of India issued a public notice inviting comments on the Draft Petroleum and Natural Gas Regulatory Board (Eligibility Conditions for Registration of Liquefied Natural Gas Terminal) (Amendment) Rules, 2025 (LNG Amendment Rules 2025). The draft seeks to modify the Petroleum and Natural Gas Regulatory Board (Eligibility Conditions for Registration of Liquefied Natural Gas Terminal) Rules, 2012 (Conditions for Registration Rules).
- The proposed amendments are issued under the legal framework of the Petroleum and Natural Gas Regulatory Board Act, 2006 (PNGRB Act). Under Section 11(b) of the PNGRB Act, the Board is empowered to register entities intending to establish or operate LNG terminals. In addition, Section 15(1) requires that such entities meet the eligibility conditions prescribed by the Board before submitting an application for registration.
- MoPNG states that the amendments are necessary in light of India's growing energy demand, limited domestic gas production, and the strategic importance of LNG in enhancing the country's natural gas availability. The draft rules emphasize commercial transparency, equitable access, and the public interest, aiming to ensure that LNG terminal operators provide non-discriminatory access and maintain transparent operations.
- The draft introduces stricter eligibility criteria, requiring entities or their parent/promoter companies to have a minimum net worth of INR 1,500 crore for each of the preceding three financial years and experience in completing an infrastructure project exceeding INR 1,000 crore or operating a hydrocarbon project over INR 600 crore within the last five years. Additionally, applicants intending to operate an LNG terminal must maintain a credible plan to hold storage capacity at least 10% above daily regasification requirements, which must be made available upon direction of the Central Government. Existing LNG terminal operators predating the establishment of PNGRB must also furnish details of their facilities as prescribed.

RECENT JUDGMENTS

In this Section

Gujarat Urja Vikas Nigam Limited Vs CERC &Ors.

APTEL order dated October 31, 2025, in APPEAL NO. 122, 129 & 169 of 2025

Background facts

- Three Appeals (Nos. 122, 129 and 169 of 2025) were filed by GUVNL, PSPCL and Rajasthan Discoms challenging the CERC interim order dated March 10, 2025 passed in Petition No. 179/MP/2023.
- TPCL filed Petition No. 179/MP/2023 under Section 11(2) read with Section 79, seeking determination of compensation methodology for power supplied under the MoP Directions dated February 20, 2023 issued under Section 11(1), requiring IC-based plants to operate at full capacity from March 01, 2023 onwards, later extended to April 30, 2025.
- TPCL sought interim relief including (i) payments at a provisional tariff of INR 6.25/kWh (as in CERC's order in Petition 128/MP/2022), (ii) LC from Haryana Discoms, and (iii) fixed charges for declared availability.
- The 2023 Directions allowed supply at mutually agreed rates or rates determined by an MoP Committee, which issued benchmark ECR fortnightly.
- CERC's earlier order dated January 03, 2023 in Petition 128/MP/2022 (for 2022 Directions) had laid down a methodology for offsetting adverse financial impact; this order was under APTEL stay, subject to 50% payment.
- TPCL claimed the Committee-determined provisional tariff did not cover its actual coal costs, resulting in substantial under-recovery, and therefore sought interim compensation.
- GUVNL, PSPCL and Rajasthan Discoms opposed the interim relief, arguing that TPCL had not produced actual documentary evidence (coal invoices, freight, insurance, port documents, stock details etc) and its claims exceeded Argus-index based admissible prices. They further argued that TPCL failed all tests for interim relief and was seeking a mandatory injunction.
- TPCL countered that it had been consistently raising its under-recovery claim and that procurers were buying costlier power from PX/bilateral markets, demonstrating the need for interim support.
- By interim order dated March 10, 2025, CERC granted interim compensation to TPCL for the period from April 18, 2023 onwards, pending final determination of adverse financial impact under Section 11(2).
- In APTEL hearings, all parties agreed that instead of deciding only the interim order, the Tribunal may take up and decide the entire Appeals finally.

Issues at Hand

- Whether the power conferred on the Central Electricity Regulatory Commission under Section 94(2) of the Electricity Act, 2003 to grant interim relief can be exercised even in proceedings instituted under Section 11(2) of the Act.

- What is the scope of the Appellate Tribunal's jurisdiction to interfere with an interim order passed by the Commission, and under what circumstances can such interference be justified.
- Whether the interim relief granted by the CERC in the impugned order amounts, in substance, to an interim mandatory injunction, thereby attracting a higher threshold for grant of such relief.
- Whether TPCL satisfied the well-established triple test for grant of interim relief (a) existence of a prima facie case, (b) balance of convenience, and (c) irreparable injury and whether CERC correctly applied these tests.
- Whether the CERC failed to consider the objections and material contentions raised by the Procurers, including issues relating to TPCL's conduct, non-submission of essential documents, and non-compliance with Section 11(1) directions, while granting interim relief.

Decision of the Tribunal

- The Tribunal held that the CERC's interim order dated March 10, 2025, suffered from fundamental errors in applying the settled tests for interim relief. It found that CERC failed to properly assess prima facie case, irreparable injury, balance of convenience, and the higher threshold applicable to interim mandatory injunctions.
- It held that TPCL's relief being purely monetary amounted to a mandatory injunction, requiring a stricter standard. CERC, however, did not examine whether TPCL met this heightened threshold.
- The Tribunal held that TPCL could not claim irreparable injury, since its petition sought only financial compensation under Section 11(2), and any loss was compensable in money. CERC's conclusion to the contrary was found to be unsustainable.
- On balance of convenience, the Tribunal noted that CERC failed to consider the impact on procurers or weigh the comparative hardship. Its findings were held to be unsupported by evidence.
- The Tribunal held that no prima facie case was established, as TPCL had not placed essential documents (coal invoices, cost data, freight/insurance details) required to substantiate under-recovery. Thus, there was "no material" to support interim directions.
- The Tribunal concluded that the interim order was legally unsustainable due to non-application of the correct legal standards and absence of supporting material, warranting appellate interference.
- While setting aside the order, the Tribunal clarified that it would not decide TPCL's entitlement on merits; this must be determined first by CERC after examining all evidence.
- The matter was remanded to CERC for fresh consideration of TPCL's interim relief application, with directions to apply the correct legal tests. The Tribunal directed the CERC to pass a fully reasoned order within three months from receipt of the judgment.

HSA
Viewpoint

The Tribunal's decision rightly reinforces that interim monetary relief in Section 11(2) proceedings must satisfy the settled legal standards for interim injunctions, particularly the stricter threshold for mandatory directions. By setting aside the CERC's interim order for failing to examine prima facie case, irreparable injury, and balance of convenience, while directing a limited remand solely for accurate computation based on existing data, the Tribunal has strengthened procedural discipline, ensured transparency in application of Section 11(2), and safeguarded procurers from unsupported interim financial liabilities.

Bihar State Power Transmission Company Ltd. (BSPTCL) V/S The Chairman, Bihar Electricity Regulatory Commission and ORS.

APTEL order dated October 31, 2025, in Appeal No. 59 Of 2022.

Background facts

- The Appeal was filed by Bihar State Power Transmission Company Limited (BSPTCL) challenging the Tariff Order dated February 15, 2019, in Case No. 51 of 2018 and the Review Order dated July 25, 2019 passed in Review Case No. 12 of 2019 by the Bihar Electricity Regulatory Commission (BERC).
- The Tariff Order dated February 15, 2019, determined the True-Up for FY 2017–18, Annual Performance Review for FY 2018–19, and Revised Annual Revenue Requirement
- and Transmission Charges for FY 2019–20.
- BSPTCL filed its initial petition on November 30, 2018, under Sections 61 and 62 of the Electricity Act, 2003 seeking True-Up for FY 2017–18, Annual Performance Review for FY 2018–19, and Revised Annual Revenue Requirement for FY 2019–20, which was registered as Case No. 51 of 2018.
- A revised tariff petition was filed on December 31, 2018, in Case No. 42 of 2018 and Case No. 51 of 2018 covering the same periods, and BERC issued the final Tariff Order for both cases on February 15, 2019.
- Aggrieved by the Tariff Order, BSPTCL filed Review Petition Case No. 09 of 2019 on April 18, 2019. BERC directed the Appellant to file a fresh review petition and BSPTCL filed Review Petition No. 12 of 2019 on May 24, 2019.
- BERC passed the Review Order dated July 25, 2019, wherein it partially allowed the review to the extent of amending Clause 7.15 of the Tariff Order but rejected BSPTCL's claim for additional incentive of INR 6.02 crores relating to Transmission Availability Factor for FY 2017–18.
- BERC reiterated that Regulation 68 of the BERC Tariff Regulations, 2007 prescribes 98% target availability for full transmission charges and Regulation 76 provides incentives for availability above target. However, BERC relied on Regulation 4 of the same Regulations, which requires it to be guided by CERC principles, and therefore applied the normative availability threshold of 98.50% as per Regulation 38 of the CERC Tariff Regulations, 2014–19 for incentive computation.
- BERC held that BSPTCL's claim based solely on Regulation 68 ignored Regulation 4 and therefore reaffirmed its earlier methodology and rejected BSPTCL's claim for additional incentive of INR 6.02 crores.
- Aggrieved by the rejection of its claim, BSPTCL filed Appeal No. 59 of 2022 seeking modification of the Tariff Order dated February 15, 2019, and setting aside of the Review Order dated July 25, 2019.

Issues at hand

- Whether BERC was justified in adopting a Transmission Availability Factor (TAF) of 98.5% instead of 98% for the purpose of determining incentive eligibility for BSPTCL for FY 2017–18.
- Whether Regulation 4 of the BERC Tariff Regulations, 2007, requiring the Commission to be guided by CERC regulations, could override the specific provisions of Regulations 68 and 76 relating to target availability and incentive computation.

Decision of the Tribunal

- The Tribunal held that Regulation 4 of the BERC Tariff Regulations, 2007 is a general provision, whereas Regulations 68 and 76 are specific provisions relating to target availability and incentive computation for a transmission licensee. It concluded that the specific provisions must prevail over the general provision.
- The Tribunal found that Regulation 4 could be applied only when a gap or void exists in the BERC Regulations that is covered by CERC Regulations. It held that this was *not* the situation in the present case, because Regulations 68 and 76 already contain complete provisions governing TAF and incentive.
- The Tribunal interpreted Section 61 of the Electricity Act, 2003 and held that the requirement to be "guided by" CERC regulations applies at the stage of framing the State Commission's tariff regulations, and not for overriding specific provisions already specified in the State Regulations.

- Applying the above reasoning, the Tribunal held that BERC ought to have applied the TAF of 98% specified in Regulation 68, read with Regulation 76, for determining the incentive payable to BSPTCL for FY 2017–18.
- The Tribunal observed that BSPTCL's actual availability of 99.134% and the equity base of ₹872.27 crores were undisputed parameters, and therefore there was no doubt regarding the incentive amount claimed.
- Accordingly, the Tribunal held that the Appeal had merit and deserved to be allowed.
- The Tribunal set aside the Tariff Order dated February 15, 2019 (Case No. 51 of 2018) and the Review Order dated July 25, 2019 (Case No. 12 of 2019) to the extent they relate to BSPTCL's incentive claim for FY 2017–18.
- The Tribunal allowed BSPTCL's claim for the additional incentive amount of ₹6.02 crores for FY 2017–18. The Appeal and pending IAs were disposed of in these terms.

HSA
Viewpoint

The Tribunal's decision reaffirms that State Commissions must apply their own tariff regulations as written, and that specific provisions on target availability and incentives cannot be overridden by broadly-worded guidance clauses. By holding that Regulations 68 and 76 of the BERC Tariff Regulations govern incentive computation and that the 98% target must be applied, the judgment strengthens regulatory certainty and ensures that licensees receive incentives strictly in accordance with the framework prescribed in the State Regulations.

M/S Asian Fine Cements Pvt. Ltd V/S Punjab State Electricity Regulatory Commission and Anr

APTEL order dated November 17, 2025, in Appeal No. 258 Of 2017.

Background facts

- The Appeal was filed by Asian Fine Cements Pvt. Ltd. challenging the order dated 29.03.2017 passed by the Punjab State Electricity Regulatory Commission (PSERC) in Petition No. 63 of 2016.
- The State Commission held in the Impugned Order that although the Appellant's 66 kV line was extended from the nearest 66 kV grid substation (Focal Point, Rajpura), the Appellant's load was actually fed from the 220 kV mother substation at Rajpura. Accordingly, PSERC held that the Appellant was liable to pay the proportionate cost of the 66 kV line from the 220 kV Rajpura substation to the 66 kV Focal Point Rajpura substation, in addition to the full cost of the 66 kV service line from Focal Point Rajpura to the Appellant's premises.
- Asian Fine Cements Pvt. Ltd. had set up a cement grinding plant at Rajpura Road, Patiala, and applied for an electricity connection with a load of 7500 kW and contract demand of 6500 kVA. The connection was released from the 66 kV substation at Focal Point Rajpura.
- The Appellant objected to the demand notice dated May 18, 2016 issued by PSPCL, which included charges beyond the 66 kV Focal Point Rajpura substation, covering proportionate cost of the 66 kV line segment between the 220 kV Rajpura substation and the 66 kV Focal Point Rajpura substation.
- Key chronology of events:
  - October 01, 2014: Application for electricity connection filed; feasibility clearance granted.
  - January 27, 2015: Revised feasibility clearance issued.
  - June 15, 2015: PSERC directed PSPCL to give the Appellant a personal hearing on objections to feasibility.
  - July 17, 2015: PSPCL upheld the revised feasibility clearance after personal hearing.
  - May 18, 2016: PSPCL issued demand notice of INR 3,65,85,380 as service connection charges.
  - May 30, 2016: PSPCL provided breakup of four cost components, including costs relating to existing line between 220 kV Rajpura and 66 kV Focal Point Rajpura.

- June 12, 2016, and July 02, 2016: Appellant objected to the demand, citing Regulation 9.1.1(a)(ii) of Supply Code 2014.
- July 25/27, 2016: Appellant deposited INR 2,42,75,000 (full cost of service line and out-bay charges).
- August 01, 2016: Petition No. 63 of 2016 filed before PSERC challenging cost components relating to the upstream line.
- March 29, 2017: Impugned Order passed, upholding levy of proportionate cost of upstream line.

- The Appellant argued that the charges imposed for the common line between the 220 kV and 66 kV substations violated Regulation 9.1.1(a)(ii) of the Supply Code, 2014, since recovery is permissible only up to the feeding substation, which in their view was the 66 kV Focal Point Rajpura.
- Aggrieved by the Impugned Order, the Appellant filed the present Appeal seeking quashing of the order, refund of amounts charged under item 3 & 4 of the demand notice, and consequential reliefs.

Issues at hand

- Whether the Appellant is liable to bear proportionate charges towards the 66 kV transmission line extending from the 220 kV Rajpura Substation to the 66 kV Rajpura Focal Point, in addition to the entire cost of the 66 kV service line laid from the Focal Point Rajpura to the Appellant's premises.

Decision of the Tribunal

- The Tribunal found that neither the January 27, 2015 nor the July 17, 2015 feasibility letters stated that the connection was being provided from the 220 kV Rajpura substation, and PSPCL never indicated that 220 kV was the feeding substation It held that the 66 kV Rajpura Focal Point is a substation under the Electricity Act and that the Supply Code does not distinguish between a "focal point" and a "feeding substation".
- Regulation 9.1.1(a)(ii) requires consumers to pay the cost of the individual service line and the proportionate cost of common infrastructure only up to the feeding substation.
- The only new line created was the 66 kV service line from the Focal Point to the Appellant's premises, and the Appellant had already paid this cost without dispute. The 66 kV system between the 220 kV Rajpura Substation and the 66 kV Focal Point was pre-existing, and no new expenditure was incurred for providing the Appellant's connection.
- Under Section 46, a distribution licensee can recover only expenses reasonably incurred for providing a connection, not the cost of existing infrastructure.
- The Tribunal reiterated that costs cannot be recovered from a consumer for infrastructure not created specifically for that consumer.
- PSPCL's claim that the 220 kV station was the feeding substation was rejected, as this interpretation would incorrectly require tracing the supply back to generating stations.
- PSPCL admitted that the 66 kV system between the 220 kV and 66 kV substations is included in the ARR and recovered through tariff, making further recovery impermissible double recovery.
- The Appellant was therefore not liable to pay proportionate cost of the 66 kV line from the 220 kV Substation to the 66 kV Focal Point.

- The Tribunal set aside the Impugned Order and directed PSPCL to refund ₹73,87,380 within one month; the appeal was fully allowed.

HSA
Viewpoint

The Tribunal's decision firmly clarifies that a distribution licensee can recover only those expenses "reasonably incurred" for providing a new connection, and cannot impose proportionate charges for pre-existing upstream infrastructure that forms part of its ARR. By holding that the 220 kV to 66 kV Rajpura network was an existing system already recovered through tariff and that PSPCL never identified the 220 kV substation as the feeding station in its feasibility clearances, the judgment reinforces adherence to Regulation 9.1(a)(ii) of the Supply Code and Section 46 of the Electricity Act. The ruling strengthens consumer protection against double recovery and ensures that cost-recovery is strictly limited to actual, connection-specific expenditure.

Suo Moto: Violation of the provisions of the Central Electricity Regulatory Commission (Power Market) Regulations, 2021.

Central Electricity Regulatory Commission (CERC) order dated October 28, 2025, in Petition No. 11/SM/2025

Background facts

- The Commission took up the matter suo motu in light of SEBI's interim order dated October 15, 2025, invoking Regulation 49(2) of the PMR 2021, Section 128 of the Electricity Act, 2003, and Regulation 51 of the COB Regulations, 2023.
- GNA Energy Pvt Ltd (GNAEPL) had earlier filed Petition No. 380/MP/2022 seeking registration to operate an OTC Platform under Regulation 40 of PMR 2021 and Clause 8 of the OTC Guidelines.
- In its additional reply dated April 25, 2023, GNAEPL submitted details of the roles of its KMPs, including the CEO and CMD and the Chief Technology and Information Security Officer responsible for the OTC platform. By order dated May 31, 2023, CERC granted GNAEPL a five-year registration to run the OTC platform, subject to compliance with PMR 2021, OTC Guidelines and Commission directions.
- SEBI's October 15, 2025 interim order recorded insider trading in IEX derivatives using UPSI related to CERC's July 23, 2025, market coupling order. SEBI found that directors and shareholders of GNAEPL had access to confidential CERC documents, including a draft order, and traded on the basis of this UPSI.
- Devices of persons connected to GNAEPL contained internal CERC files, and they were in frequent communication with CERC officials during the relevant period.
- SEBI concluded prima facie violations of insider trading regulations and ordered impounding of INR 173,14,23,475.30, freezing of bank accounts and creation of lien-marked FDs. SEBI forwarded its order to CERC noting that part of the gains had moved to connected entities including GNAEPL, a CERC-regulated entity.
- CERC observed that GNAEPL's shareholders and MDs appeared to have engaged in insider trading using confidential information on market coupling, amounting to prima facie violations of Regulation 49(2)(b)(i) and (iii) of PMR 2021 relating to market manipulation and insider trading. CERC therefore decided to initiate investigation and enquiry under Section 128 of the Electricity Act read with Regulation 49(2) of PMR 2021 and Regulation 51 of COB Regulations, 2023.

Issues at hand

- Whether GNA Energy Pvt Ltd (GNAEPL) and its representatives have prima facie engaged in insider trading and market manipulation based on UPSI related to the Commission's Market Coupling Order dated July 23, 2025, as noted in SEBI's interim order dated October 15, 2025.
- Whether the Respondent violated PMR 2021 (Regulation 49(2)(b)(i) and (iii)) by (a) possessing or using confidential Commission documents and (b) undertaking acts amounting to insider trading or market manipulation.
- Whether grounds exist under Regulation 49(2) of PMR 2021, Section 128 of the Electricity Act, 2003 and Regulation 51 of the COB Regulations, 2023 to justify initiation of an investigation or enquiry into the Respondent's conduct.

Decision of the Commission

- The Commission noted that shareholders and key managerial personnel of GNA Energy Pvt Ltd (GNAEPL), on the basis of prior knowledge and possession of unpublished price sensitive information relating to the Commission's order dated July 23, 2025 on market coupling, prima facie appeared to have indulged in insider trading and market manipulation as recorded in SEBI's interim order dated October 15, 2025.
- The Commission observed that confidential documents and internal information relating to its market coupling order had been accessed by the Respondent and used for insider trading, thereby violating the provisions of the Central Electricity Regulatory Commission (Power Market) Regulations, 2021 (PMR 2021).
- The Commission held that there existed sufficient reasons to order an investigation/enquiry into the alleged involvement of GNAEPL in market manipulation and insider trading, in accordance with Regulation 49(2)(b)(i) and 49(2)(b)(iii) of the PMR 2021.
- The Commission clarified that the expression "in accordance with the provisions of the Act" in Regulation 49(2) required application of Section 128 of the Electricity Act, 2003, relating to investigation of licensees or generating companies.
- Invoking Regulation 49(2) of the PMR 2021 read with Section 128 of the Act and Regulation 51 of the CERC (Conduct of Business) Regulations, 2023, the Commission ordered a formal investigation into the Respondent's alleged actions.
- The Commission appointed Shri R. Pushkarna, Chief (Finance), assisted by Shri Manish Choudhry, Joint Chief, as the Investigating Authority to undertake the investigation.
- The Investigating Authority was directed to submit a report to the Commission on the investigation preferably within 21 days from the date of the order.

HSA
Viewpoint

The Commission reiterated that entities registered under PMR 2021 must maintain strict confidentiality and regulatory neutrality. It ordered an investigation under Regulation 49(2)(b)(i) & (iii) of PMR 2021, Section 128 of the Electricity Act, and Regulation 51 of the COB Regulations 2023, highlighting that any involvement of a regulated entity's KMP or shareholders in insider trading, market manipulation, or misuse of UPSI constitutes a serious regulatory violation. The decision affirms that any breach involving confidential CERC documents or market-sensitive information will attract immediate scrutiny to safeguard market integrity and transparency.

Haryana Vidyut Prasaran Nigam Limited Vs Union of India & Ors.

Central Electricity Regulatory Commission (CERC) order dated October 27, 2025, in Review Petition No. 38/RP/2023 in Petition No. 252/MP/2021

Background facts

- The Review Petitioner filed Petition No. 252/MP/2021 for referring a dispute between the Review Petitioner and Bhakra Beas Management Board (BBMB), Respondent No. 4, to arbitral proceedings under Section 79(1)(f) of the Act and to appoint an Arbitral Tribunal in terms of Section 158 of the Act.
- By virtue of the reorganization of the composite State of Punjab and the coming into force of the Punjab Reorganization Act, 1966, the successor States of Punjab, the State of Haryana, the UT of Chandigarh and the State of Himachal Pradesh became entitled to a share of power generated by the Bhakra Beas Hydro Electric Project functioning under the supervision and control of BBMB.
- The power from the project was transmitted to Chandigarh through the 66 kV substation at Chandigarh, which received power from Dhulkote and Pinjore in the State of Haryana. The 66 kV substation at Chandigarh was also supplying power directly to Bhushan Industries through a 33 kV independent feeder (D-3 feeder).

- A complaint was received by the Vigilance Cell of the then HSEB, and on investigation it was found that Bhushan Industries had drawn more energy than the sanctioned load illegally, under-metering the energy consumed by the UT of Chandigarh, resulting in the State of Haryana paying for more energy than it actually consumed. It was found that Haryana made an excess payment of INR 11,15,64,377.30 to BBMB.
- HSEB sought refund of INR 11,15,64,377.30 (up to August 1991) along with interest of INR 8,18,31,360.98 from BBMB, but despite reminders and legal notices BBMB failed to refund the amount.
- The Review Petitioner filed Civil Writ Petition No. 13117 of 1999 before the Punjab and Haryana High Court seeking a mandamus for refund. The writ petition was dismissed on April 01, 2015 and the subsequent Letters Patent Appeal No. 231 of 2016 was dismissed on July 27, 2016.
- The Review Petitioner thereafter sought review before the High Court in light of the CBI Court order dated September 02, 2016, and the review was disposed on May 23, 2018 with liberty granted to approach the appropriate forum for compensation or loss claims.
- In terms of the liberty granted by the High Court, the Review Petitioner approached CERC seeking reference of the dispute with BBMB to arbitration, and the Commission dismissed the petition holding that the dispute did not pertain to tariff and that CERC did not have jurisdiction.

Issues at hand

- Whether the Review Petitioner has made out any case for review under Order 47 Rule 1 of the CPC, 1908, on grounds of discovery of new and important matter, mistake or error apparent on the face of the record, or any other sufficient reason.
- Whether the dispute raised by the Review Petitioner pertains to tariff or tariff-related matters involving BBMB, attracting adjudicatory jurisdiction under Section 79(1)(f) of the Electricity Act, 2003, or whether it relates to “unauthorized abstraction or pilferage of electricity”, which is outside the jurisdiction of the Commission.
- Whether the Review Petition is an attempt to re-argue the matter or substitute a view already considered in the original order dated 8.2.2023, which is impermissible within the limited scope of review jurisdiction.

Decision of the Commission

- The Commission held that the dispute raised in the petition is in respect of unauthorized abstraction or pilferage of electricity and that the power to regulate inter-State transmission of electricity under Section 79(1)(c) cannot be extended to fraud or pilferage of electricity, which is not a function of the Commission under the Act.
- The Commission held that offences relating to pilferage or theft of electricity fall under Section 135 of the Electricity Act, which is outside the purview of the Commission and must be dealt with by Special Courts constituted under Section 153 of the Act.
- The Commission reaffirmed its earlier finding in the order dated February 08, 2023 that the dispute neither pertains to regulation of tariff under Section 79(1)(a) or (b) nor to inter-State transmission under Section 79(1)(c), and therefore is not amenable to adjudicatory jurisdiction under Section 79(1)(f) of the Act.
- The Commission held that the grounds raised by the Review Petitioner amount to re-arguing the matter, which is not permissible under Order 47 Rule 1 of CPC, as review cannot be treated as an appeal in disguise, relying on the Supreme Court judgments in Lily Thomas and Sandur Manganese.
- The Commission held that the Review Petitioner failed to demonstrate any mistake or error apparent on the face of the record or discovery of new evidence as required under Order 47 Rule 1 CPC to justify review of the earlier order.
- Accordingly, the Commission held that the contention of the Review Petitioner that the dispute relates to non-refund of excess payment and not to pilferage does not fall within the permissible grounds of review.
- The Commission concluded that the review petition does not satisfy the requirements of Order 47 Rule 1 CPC and therefore cannot be entertained.
- The Commission accordingly disposed of Review Petition No. 38/RP/2023.

HSA
Viewpoint

The Commission's decision reinforces the narrow and clearly defined scope of review jurisdiction and clarifies that disputes arising from pilferage or unauthorized abstraction of electricity cannot be reframed as tariff disputes to invoke Section 79(1)(f). By firmly holding that such matters fall outside the Commission's adjudicatory domain and must be dealt with under the special statutory mechanism for electricity theft, the order strengthens jurisdictional clarity and prevents misuse of the review process to reopen settled findings.

Suo Moto: Reduction of GST rate on procurement of renewable energy devices and parts for their manufacture from 12% to 5%.

Central Electricity Regulatory Commission (CERC) order dated November 04, 2025, in Petition No. 13/SM/2025

Background facts

- The Commission regulates the tariff of generating companies owned or controlled by the Central Government and those having a composite scheme for generation and supply in more than one State under Section 79 of the Electricity Act, 2003.
- Tariff regulation is carried out either through determination of tariff under Section 62(1)(a) or adoption of tariff under Section 63 of the Act.
- Under Section 178(2)(s) of the Act, the Commission is empowered to determine the terms and conditions for Renewable Energy tariff.
- While determining tariffs, the Commission safeguards consumer interests and ensures reasonable recovery of electricity costs, issuing regulatory measures consistent with the Act.
- The Commission has been issuing multi-year Tariff Regulations for Renewable Energy sources since 2009.
- Distribution Companies procure power from RE generating stations and tariffs are determined as per PPAs between RE generators and DISCOMs. PPAs provide tariff adjustment relief for Change in Law events.
- The Commission determines the impact of Change in Law events and grants appropriate relief under the PPAs, Section 79(1)(f), the Guidelines and relevant PPA provisions.
- GST laws came into force on July 01, 2017, through the CGST Act, IGST Act, UTGST Act and Compensation to States Act, replacing previous indirect taxes.
- GST introduced a tax slab (previously exempted) ranging from 5% to 28% for goods and services required for solar project execution, construction and operation.
- Notification No. 8/2021–Central Tax (Rate) dated September 30, 2021, increased GST on renewable-energy-related goods from 5% to 12% effective October 01, 2021, which the Commission has previously held to be a Change in Law. Notification No. 9/2025–Central Tax (Rate) dated September 17, 2025, superseded earlier Notification No. 01/2017, prescribing a revised Central GST rate of 2.5% (total 5% GST) on renewable energy devices and parts for their manufacture effective September 22, 2025.
- The reduction in GST rate from 12% to 5% with effect from September 22, 2025, again results in a change in the cost of inputs required for RE generation.
- Accordingly, the Commission took suo motu cognisance of the statutory change involving the reduction in GST rates for procurement of renewable energy devices and components with effect from September 22, 2025.

Issues at hand

- Whether the reduction of GST on renewable energy devices and parts from 12% to 5% (Notification No. 9/2025–CTR dated September 17, 2025) amounts to a statutory Change in Law impacting input costs for RE generation.
- Whether the revised GST rate effective September 22, 2025 applies to RE projects where bids were submitted before September 22, 2025, but invoices or payments are made on or after that date.

- Whether Section 171 of the GST Act relating to anti-profiteering requires RE developers to pass on the GST rate reduction through a commensurate reduction in project cost.
- Whether RE generators and DISCOMs must carry out tariff adjustment or refund under applicable PPAs and the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 on account of the GST reduction.

Decision of the Commission

- The Commission held that the reduction of GST rate from 12% to 5% with effect from September 22, 2025 has resulted in a change in the cost of inputs of goods required for renewable energy generation.
- The Commission observed that under the GST Act, 2017, any reduction in GST rate or benefit of input tax credit must be passed on to the recipient by way of commensurate reduction in prices as an anti-profiteering measure.
- The Commission held that the revised GST rate shall apply in all cases where the bid submission date is prior to September 22, 2025 and either (i) the invoice for goods or supply of services is raised on or after September 22, 2025 or (ii) consideration for goods or supply of services has been received and tax has been paid on or after September 22, 2025, irrespective of whether consideration has been paid wholly or partly.
- The Commission further held that there must be a clear one-to-one correlation between the project, the supply of goods or services and the invoices raised by the supplier of goods or services.
- The Commission directed that the monthly tariff or charges need to be adjusted or refunded, as the case may be, on account of the change in GST rates pursuant to Notification No. 9/2025–Central Tax (Rate) dated September 17, 2025 from the date of occurrence of the event.
- Exercising powers under Section 79(1) of the Electricity Act, 2003, the Commission directed that where procurement, commissioning, COD or SCOD occurs on or after September 22, 2025 but the bid submission date precedes September 22, 2025, both RE generating stations and DISCOMs must consider the impact of this GST reduction before approaching the Commission for determination of tariff under the Change in Law provisions.
- The Commission directed that RE generating stations must furnish to DISCOMs or beneficiary entities all relevant documentation backed by an Auditor certificate to enable reconciliation of expenditure on account of the GST reduction, clearly showing one-to-one correlation with the project and invoices raised.

HSA
Viewpoint

The Commission's suo-motu directions appropriately ensure that the reduction of GST from 12% to 5% on renewable energy devices is passed on through commensurate tariff adjustment, in line with Section 171 of the GST Act and the Change-in-Law framework under PPAs. By clarifying that the revised rate applies wherever bid submission predates September,22,2025 and invoices or tax payments occur thereafter, and by requiring one-to-one correlation supported by audited documentation, the Commission has reinforced transparency, consistency, and anti-profiteering compliance in renewable energy tariff determination.

ReNew Wind Energy (AP2) Private Limited vs. Solar Energy Corporation of India Ltd. & Ors.

Central Electricity Regulatory Commission (CERC) order dated November 14, 2025, in Review Petition No. 56/MP/2022

Background facts

- The Petition was filed by ReNew Wind Energy (AP2) Private Limited seeking discharge from the Power Purchase Agreement dated May 23, 2018, for 100 MW on account of impossibility and frustration of contract due to intervening events.

- SECI had issued the Request for Selection on January 12, 2018, for 2000 MW ISTS-connected Wind Power Projects (Tranche III), and ReNew submitted its bid on February 02, 2018.
- The E-Reverse Auction was conducted on February 13, 2018, and two Letters of Award dated February 23, 2018, were issued to ReNew for a total capacity of 400 MW (300 MW and 100 MW).
- SECI executed Power Sale Agreements with GRIDCO on March 23, 2018, and with HPPC on May 17, 2018.
- ReNew executed two PPAs with SECI on May 23, 2018, for 300 MW and 100 MW projects, with the effective date as May 24, 2018. The 300 MW project was commissioned progressively between October 16, 2020, and March 12, 2021.
- ReNew sought discharge from the 100 MW PPA due to delay in land allocation for the 100 MW project caused by changes in the Government of Gujarat's land policy and due to Covid-19 and the resulting lockdown disrupting the supply chain. ReNew issued a termination notice to SECI on February 06, 2022.
- The Petition seeking discharge of the PPA was filed on March 04, 2022. The matter was admitted on March 21, 2022, and interim protection was granted. During the hearing on October 17, 2024, ReNew sought permission to make submissions on arbitrability in light of APTEL's judgment dated August 28, 2024, in Appeal No. 309 of 2019 (DVC case), and the Commission allowed filing of submissions by the parties.

Issues at hand

- Whether the dispute, as explained by the DVC Judgment, is a 'tariff' dispute or a 'non-tariff' dispute.
- Whether the dispute raised in the Petition is arbitrable and required to be referred to arbitration, or whether the Commission has jurisdiction to adjudicate it under Section 79(1)(f) read with Section 79(1)(b) of the Act.

Decision of the Court/Tribunal

- The Commission held that the main issue in the Petition is "whether the PPA is legally and validly terminated," and that, as per the DVC Judgment, such issues cannot be termed as tariff disputes, and therefore do not fall under the Commission's adjudicatory jurisdiction under Section 79(1)(f) read with Section 79(1)(b).
- The Commission held that disputes relating to termination or breach of contract, which do not impact the tariff directly or indirectly, are non-tariff disputes and therefore referable to arbitration as per Section 79(1)(f), the Bidding Guidelines, and Article 16.3 of the PPA.
- The Commission held that approval of the tariff and PPA earlier (Order dated 28.02.2020 in Petition No. 161/AT/2019) included approval of the arbitration clause, which mandates arbitration for all non-tariff matters.
- The Commission rejected the Respondents' objection regarding delay in seeking arbitration, holding that such objections cannot be accepted and that a party bringing the arbitration clause to the notice of the forum is sufficient compliance under Section 8 of the Arbitration Act.
- The Commission rejected the contention of HPPC that third-party rights prevent arbitration. It referred to Article 9.5 of the PSA, under which termination of the PPA automatically terminates the PSA, and to Article 16.3.1(ii) of the PPA, which allows SECI to co-opt buying entities as supporting parties in arbitration. It held that HPPC's objection is devoid of merit.
- The Commission determined that the dispute is a non-tariff matter, and in terms of the Bidding Guidelines, Section 79(1)(f), the GUVNL Supreme Court Judgment, and the DVC Judgment, the matter must be resolved through arbitration.
- Accordingly, the Commission decided to refer the dispute to arbitration by a panel of three arbitrators, in terms of Regulation 49(b) of the Conduct of Business Regulations, 2023. Both contracting parties are directed to suggest names of arbitrators within two weeks, after which the Commission will proceed with appointment of the Arbitral Tribunal.
- The Commission directed that the Petition will be listed for deciding the panel of arbitrators in due course.

HSA
Viewpoint

The Commission correctly held that termination-related disputes under the PPA are non-tariff matters and must be resolved through arbitration as required by Article 16.3 of the PPA and Clause 23 of the Competitive Bidding Guidelines. By relying on the DVC judgment, the order reaffirms that only tariff disputes fall within regulatory adjudication, ensuring clarity and consistency in the dispute-resolution framework for competitively bid RE PPAs.

Jindal India Power Limited Vs The Brihan Mumbai Electric Supply and Transport Undertaking Ors.

Central Electricity Regulatory Commission (CERC) order dated November 01, 2025, in Petition No. 253/MP/2024

Background facts

- The petition was filed by Jindal India Power Limited (JIPL) under Section 79 of the Electricity Act, 2003 read with Clause 7 of the Letter of Intent dated January 14, 2016 issued by BEST seeking directions for payment of Late Payment Surcharge due to delays by BEST in honoring invoices raised by JITPL or TPTCL for increased Clean Environment Cess.
- Tata Power Trading Company Ltd acted as an inter-State trading licensee supplying power from JITPL's generating station to BEST under a back-to-back arrangement via the LOI dated January 14, 2016.
- BEST initiated a competitive bidding process for short-term power procurement for February to December 2016 in which TPTCL was selected as the successful bidder and a Letter of Intent dated January 14, 2016, was issued specifying supply months, quantum and rate.
- Clause 8 of the EOI and Clause 7 of the LOI provided that delayed payments beyond the due date attract a Late Payment Surcharge of 1.25% per month on a day-to-day basis.
- On February 29, 2016, the Ministry of Finance increased the Clean Energy Cess renamed Clean Environment Cess from INR 200 per tonne to INR 400 per tonne effective March 01, 2016 which was communicated to JITPL on March 01, 2016.
- JITPL requested TPTCL on March 10, 2016, to accept a tariff increase of INR 0.151 per kWh due to the increased cess. TPTCL informed BEST about the Change in Law and requested acceptance of the revised tariff. BEST rejected the claim on April 18, 2016.
- JITPL and TPTCL filed Petition No. 159/MP/2017 and the Commission through its order dated November 05, 2018, held that the increase in Clean Environment Cess was a Change in Law under Clause 17(E) of the LOI and directed BEST to pay the differential amount within 60 days.
- BEST filed Appeal No. 3 of 2019 before APTEL but no stay was granted. Despite the CIL order BEST did not pay leading JITPL to file Execution Petition No. 139/MP/2022 under Sections 142 and 149 of the Act.
- APTEL through orders dated September 02, 2022, and October 28, 2022, and the Supreme Court order dated February 01, 2023, refused relief to BEST and affirmed liability. BEST ultimately paid INR 1.81 crore on May 03, 2023.
- The Commission through order dated May 17, 2024, held that BEST had not fully complied with the CIL order and directed reconciliation and final payment while also holding that Late Payment Surcharge was not covered under the earlier CIL petition. BEST paid the remaining INR 18,02,018 on June 11, 2024.
- JIPL raised an invoice for Late Payment Surcharge or interest amounting to INR 3,79,96,613 calculated till June 14, 2024, which BEST refused to pay. Consequently, the present Petition No. 253/MP/2024 was filed.

Issues at hand

- Whether the claim of the Petitioner for LPS is barred by Limitation?
- Whether the claim of the Petitioner for LPS is barred by the principles of Constructive Res judicata as well as Order II Rule 2 of the Code of Civil Procedure, 1908?
- Whether the Petitioner is entitled to the payment of LPS?

- Whether the Petitioner is entitled to interest on the outstanding LPS till the actual date of payment?

Decision of the Commission

- The Commission held that the claim for Late Payment Surcharge is not barred by limitation as the right to claim LPS commences only subsequent to the payment of the principal amount and BEST paid the principal dues only on May 03, 2023, and June 11, 2024. It also held that failure to discharge liability towards LPS constitutes a continuing breach giving rise to a fresh cause of action.
- The Commission rejected BEST's objection on limitation by noting that the Petitioner's claims are within the limitation period even when reckoned from the earlier payment date.
- The Commission held that the claim for LPS is not barred by the principles of constructive res judicata or Order II Rule 2 CPC noting that the Change in Law proceedings did not involve any determination of LPS and therefore the present claim cannot be said to be barred on these grounds.
- The Commission held that Clauses 6 and 8 of the EOI and Clauses 6 and 7 of the LOI clearly provide that any delay in payment beyond the due date attracts surcharge at 1.25% per month calculated on a day-to-day basis. It reaffirmed that the LOI is a legally binding contract as already held in its earlier order dated November 05, 2018.
- Referring to its earlier decision dated November 05, 2018, the Commission reiterated that JIPL was entitled to compensation for the additional expenditure incurred towards the differential Clean Energy Cess confirming the contractual basis of the payment obligations.
- The Commission held that JIPL is entitled to the payment of LPS from BEST in terms of the surcharge provisions of the EOI and LOI.
- The Commission further held that JIPL is entitled to interest on the outstanding LPS amount till the actual date of payment by BEST relying on the principle that LPS is a form of restitution meant to restore the claimant to the same economic position.

HSA
Viewpoint

The Commission's decision underscores a strict application of contractual terms and statutory limits on review, reaffirming that Late Payment Surcharge (LPS) claims must be pursued in a timely manner and cannot be revived through review when the original order has already determined the nature of the dispute. By upholding that issues relating to unauthorized abstraction or pilferage lie outside its adjudicatory jurisdiction under Section 79(1)(f), the Commission reinforces the boundaries of regulatory authority and the limited scope of review under Order 47 Rule 1 CPC.

Gujarat Urja Vikas Nigam Limited Vs Tata Power Company Limited &Ors.

Central Electricity Regulatory Commission (CERC) order dated November 19, 2025, in Petition Nos. 85/MP/2022 and batch

Background facts

- All Procurers across five States (GUVNL, PSPCL, HPPC Haryana, MSEDCL, RUVNL and Rajasthan Discoms) have a Power Purchase Agreement dated April 22, 2007, with Coastal Gujarat Power Limited or Tata Power for supply of contracted capacities from the Mundra UMPP. From 2021 onwards, Procurers allege that TPCL failed to declare availability and did not supply power to the extent of contracted capacities. PSPCL claims non supply and non-declaration of availability from September 18, 2021, onwards forcing it to procure expensive alternate power.
- GUVNL claims TPCL did not supply contracted power during March 01, 2021 to May 05, 2022, and January 01, 2023, to February 12, 2023, causing it losses and additional procurement costs.
- HPPC Haryana alleges non supply and short supply up to February 28, 2022, claiming compensation for power purchased from other sources. MSEDCL

claims TPCL stopped supply under the PPA and additionally objected to TPCL's letter attempting to invoke its Letter of Credit during the dispute period.

- Rajasthan Discoms allege TPCL failed to meet minimum availability conditions of 65% from August 2020 to September 2021 and wrongfully billed capacity charges for January and February 2023.
- Several Procurers made payments to TPCL over and above PPA tariff as temporary arrangements during the period of Central Government Section 11 Directions from May 06, 2022, to December 31, 2022, and later sought refund of these amounts.
- GUVNL claims refunds of INR 657 crore and INR 516.62 crore paid in excess of PPA tariff. HPPC claims refund of INR 316.42 crore. PSPCL claims refund of INR 289 crore.
- Rajasthan Discoms additionally claim refund of INR 66.07 crore towards off bar capacity charges.
- Various Procurers claim damages for losses suffered due to non-supply during different periods between 2021 and 2023. TPCL issued invoices for January and February 2023 which MSEDCL and Rajasthan Discoms claim were contrary to PPA provisions.
- TPCL filed its own Petition No. 205/MP/2023 challenging deductions made by GUVNL and RUVNL towards Declared Capacity Penalty and Capacity Charges for FY 2022–23 alleging the Procurers wrongly split the contract year during computation.
- TPCL seeks reversal of deductions amounting to approximately INR 120.99 crore arguing the calculation methodology applied by Procurers was erroneous.
- All petitions were filed under Sections 79(1)(b) and 79(1)(f) read with Section 63 of the Electricity Act for adjudication of disputes arising from the same 2007 PPA. The Commission clubbed all petitions together as they arise from identical facts relate to the same PPA and involve overlapping periods of alleged non supply and billing disputes.
- After APTEL's DVC judgment dated August 28, 2024, and Supreme Court's affirmation dated September 23, 2024, TPCL filed an affidavit arguing that all these disputes are contractual in nature and arise from alleged breach of the PPA and therefore should be referred to arbitration.

Issues at hand

- Whether the dispute involved in this batch of Petitions is connected with the *'regulation of tariff'* of TPCL*?* In other words, whether the dispute, as explained by the DVC Judgment, is a 'tariff' dispute or a 'nontariff' dispute?
- Whether the timely invocation of Section 8 of the A&C Act is an essential prerequisite for the Commission to refer a dispute to arbitration under the Electricity Act?
- Whether the relief as sought against WRLDC acts as a legal deterrent to any reference of the dispute to Arbitration?

Decision of the Commission

- The Commission held that all the disputes raised in the batch of petitions are non-tariff disputes arising from alleged breaches of contractual obligations under the PPA. Since the disputes do not relate to tariff regulation or matters connected to tariff determination, the Commission does not have jurisdiction to adjudicate them under Section 79(1)(f).
- All the petitions must therefore be referred to arbitration in accordance with the arbitration clause in the PPA. The Commission applied the principles laid down by the APTEL in the DVC Judgment and affirmed by the Supreme Court, holding that disputes that do not impact tariffs must be decided through arbitration.
- Claims such as specific performance of the PPA, damages for non-supply, refund of excess amounts, non-declaration of availability, LC invocation disputes, and capacity charge disputes were all treated as contractual issues, not tariff issues.
- The Commission clarified that the existence or non-invocation of Section 8 of the Arbitration & Conciliation Act does not restrict its power to refer matters to arbitration. Monetary claims like refunds, damages, penalties, and compensation were viewed as ancillary or consequential to the core contractual dispute and therefore did not convert the dispute into a tariff matter.

- As a result, the Commission referred all petitions in the batch to arbitration and declined to adjudicate them on merits.

HSA
Viewpoint

The disputes arise solely from TPCL's alleged breach of the PPA and therefore qualify as non-tariff matters. The Procurers' claims for damages, refunds, and performance obligations do not affect tariff and are merely contractual consequences. Since the PPA mandates arbitration for such disputes, CERC correctly found that it lacked jurisdiction. In line with the DVC ruling and Supreme Court affirmation, these matters must be resolved through arbitration alone.

Juniper Green Three Private Limited v. Gujarat Urja Vikas Nigam Limited (GUVNL) – BCD and GST Increase as Change in Law under PPA.

Gujrat Electricity Regulatory Commission's (GERC) Order dated November 05, 2025 in Petition No. 2063 of 2022

Background facts

- Juniper Green Three Pvt Ltd is developing a 190 MW solar PV project awarded under the Gujarat Solar Policy 2015 through tariff based competitive bidding. The bid submission date was March 07, 2020 and the tariff discovered was INR 2.63 per kWh adopted by GERC through order dated July 20, 2020.
- A PPA was executed on July 08, 2020, between Juniper and GUVNL.
- Article 9 of the PPA specifies the scope of Change in Law and provides for restitution to restore the generator's economic position. After the bid deadline, the Ministry of Finance issued Customs Notifications (03/2021 & 07/2021) increasing Basic Customs Duty (BCD) on solar inverters from 5% to 20% (01.02.2021).
- Further, GST on solar modules and solar power generator equipment was increased from 5% to 12% via Notification 08/2021–IGST (30.09.2021). Juniper issued Change in Law notices in 2021 & 2022, stating that both BCD and GST increases imposed substantial financial burden on project cost.
- Imports of solar inverters and modules had already been completed or were in advanced stages, resulting in major additional expenditure.
- Juniper claimed the following adverse financial impacts:
  - Rs. 4.25 crore due to BCD increase.
  - Rs. 23.53 crore already incurred + Rs. 20.37 crore expected due to increased GST;
  - Resulting incremental tariff impact of Rs. 0.12/kWh.
- Juniper sought declaration of Change in Law, compensation under Article 9.2.2, and carrying cost.
- GUVNL opposed the petition arguing that:
  - The PPA restricts Change in Law only to specific taxes;
  - GST is not covered under Article 9.1;
  - PPA terms, once mutually agreed, cannot be expanded or rewritten;
  - The impact relates to construction-stage inputs and therefore falls outside the narrow scope of Change in Law.
- Both sides relied heavily on Supreme Court and APTEL precedents regarding interpretation of Change in Law clauses, sanctity of contract, and restitution.

Issues at hand

- Whether the increase in BCD from 5% to 20% (Customs Notifications dated 01.02.2021) constitutes a "Change in Law" under Article 9 of the PPA?
- Whether the increase in GST from 5% to 12% (Notification dated 30.09.2021) also qualifies as a Change in Law event?
- Whether Juniper is entitled to full restitution, including compensatory tariff adjustment and carrying cost?
- Whether GST on modules and other equipment, though not expressly listed in Article 9.1, must still be treated as Change in Law?

Decision of the Court/Tribunal

- GERC held that the February 01, 2021, Customs Notifications increasing BCD on solar inverters from 5% to 20% are squarely covered under Article 9.1(b) of the PPA and therefore qualify as Change in Law. Juniper's claim for the BCD related impact was allowed in full.
- GERC held that GST on solar modules, inverters, and solar generator equipment constitutes a tax directly affecting project cost. These components are essential for generation and sale of electricity.
- Therefore, the GST hike qualifies as a Change in Law even though GST is not expressly mentioned in Article 9.1(b). The Commission applied principles of business efficacy, commercial purpose, and restitution.
- GERC granted Juniper Rs. 41.84 crore as restitutionary relief for Change in Law impacts. Claim of Rs. 2.26 crore towards balance-of-system items was rejected due to insufficient nexus with essential components.
- Carrying cost was allowed at 8.89% from the date of Juniper's actual statutory payments until SCOD. This was consistent with settled jurisprudence on restitution and Change in Law compensation.
- Total Change in Law impact translated into an incremental tariff of Rs. 0.12/kWh. Consequently, the project's effective tariff increased from Rs. 2.63/unit to Rs. 2.75/unit for the full PPA tenure.
- Juniper may raise supplementary bills on GUVNL. If delayed payments occur, Late Payment Surcharge under the PPA will apply.

HSA
Viewpoint

GERC's order clearly affirms that post-bid increases in BCD and GST on key solar components must be treated as Change in Law to maintain the project's financial balance. By granting compensation and carrying cost while limiting relief to essential equipment, the Commission strengthens regulatory certainty and supports investor confidence in competitively bid renewable projects.

Adani Power Limited v. Maharashtra State Electricity Distribution Co. Ltd.

Maharashtra Electricity Regulatory Commission Order dated November 04, 2025, in Case No. 132 of 2024.

Background facts

- Adani Power Limited (APL) operates a 3300 MW thermal power project at Tiroda, Maharashtra and supplies power to MSEDCL under four competitive-bid PPAs. The bid cut-off dates for the PPAs were February 14, 2008 (1320 MW PPA) and July 31, 2009 (for 1200 MW, 125 MW, and 440 MW PPAs). No Forest Transit Fee/Forest Tax existed in Chhattisgarh on these cut-off dates.
- Subsequently, State of Chhattisgarh introduced Forest Tax as follows:
  - Rs. 7/tonne through circulars dated October 26, 2012 / October 31, 2012.
  - Rs. 15/tonne through circular dated June 30, 2015.
  - Rs. 57/tonne through Forest Department Circular dated August,04 2022, implemented by SECL Notification dated September 22, 2022, effective July 27, 2022.
- APL earlier filed Change in Law petitions in 2014 challenging the Rs. 7/tonne levy; MERC rejected them vide its Orders dated March 25, 2015 & April 20, 2015.
- APL did not appeal those decisions for nearly a decade, absorbed the cost for the period 2012–2022, and withdrew a belated APTEL appeal in 2024.
- After 2022 the increase to Rs. 57/tonne dramatically increasing the financial burden, APL issued a Change in Law notice on January 20, 2023.
- On January 03, 2023, SECL issued a notice requiring consumers to pay differential Forest Cess at Rs. 57/tonne.
- APL filed the present petition on August 06, 2024, seeking Change in Law declaration, compensation, and Carrying Cost.
- During proceedings, APL restricted its claim to the differential increase from Rs. 15 to Rs. 57 (Rs. 42/tonne) and agreed on affidavit to absorb all past levies.

- APL estimated the total impact as Rs. 97.66 crore, subject to verification by MSEDCL.
- MSEDCL opposed the petition on grounds of (a) past final orders, (b) waiver, (c) APL's delay of nearly two years, and (d) lack of documentary evidence.

Issues at hand

- Whether the increase of Forest Tax from Rs. 15/tonne to Rs. 57/tonne (via Circular dated August 04, 2022, and SECL Notification dated September 22, 2022) qualifies as a "Change in Law" event under the PPAs?
- Whether Carrying Cost is payable on the Change in Law compensation, and if so, for which period?

Decision of the Court/Tribunal

- MERC held that the 2022 notifications issued by the Forest Department of Chhattisgarh and SECL are statutory instruments issued by Indian Governmental Instrumentalities, satisfying the "Change in Law" definition.
- The increase occurred after the bid cut-off dates, causing direct financial impact. The Supreme Court's GMR Warora judgment, which held identical Forest Tax levies to be Change in Law, applies squarely.
- Therefore, the increase from Rs. 15/tonne to Rs. 57/tonne (Rs. 42 differential) qualifies as a Change in Law.
- Since APL voluntarily absorbed earlier levies (Rs. 7 and Rs. 15 per tonne), MERC accepted that the compensable amount is only Rs. 42/tonne.
- Compensation will be payable only upon submission of documentary evidence and subject to the 1% LC materiality threshold.
- MERC accepted that restitution principles established by Supreme Court and APTEL require Carrying Cost at the Late Payment Surcharge (LPS) rate on a compounding basis. This applies to the verified differential amount (Rs. 42/tonne).
- Under Regulation 33.10 of the MERC State Grid Code, Change in Law petitions must be filed within 1 month of first occurrence.
- APL filed its petition on August 06, 2024, almost 2 years late (instead of the required September 04, 2022). Therefore, Carrying Cost will not be granted for the period September 04, 2022, to August 06, 2024. Carrying Cost will apply only for the remaining period, consistent with restitution but without rewarding delay.

HSA
Viewpoint

The Commission's decision strikes a balanced middle path—recognising the 2022 Forest Tax hike as a valid Change in Law while limiting Carrying Cost due to APL's delayed petition. It upholds restitution for genuine statutory impacts but protects consumers from avoidable interest burdens, offering clear regulatory guidance for future levy-related claims.

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AT A GLANCE

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