PROJECTS, ENERGY & INFRASTRUCTURE

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LEGAL & POLICY UPDATES

In this Section

Ministry of Power (MoP) has notified the Electricity (Amendment) Rules, 2026 on Captive Generating Plants under Rule 3 of the Electricity Rules, 2005 on January 2, 2026

- The Ministry of Power **(MoP),** Government of India, has issued draft amendments to Rule 3 of the Electricity Rules, 2005, for stakeholder consultation, proposing a refined framework for captive generating plants and captive consumption to improve regulatory clarity and compliance under the Electricity Act, 2003.
- For the purposes of these rules, the Draft Rules clarify key concepts governing captive generating plants, including the following:
  - By introducing flexibility in the "*assessment period*," captive users may opt for a financial year or any continuous period within a financial year for compliance verification, replacing a rigid annual assessment.
  - By broadening the definition of "*captive user*," the Draft Rules recognise consumption of electricity either directly or through an Energy Storage System (**ESS**) used to store power generated from the Captive Generating Plant; further, where the captive user is a company, its subsidiaries, holding company, and fellow subsidiaries are deemed a single captive user, thereby legitimising group captive structures.
  - By clarifying the concept of "*ownership*," the Draft Rules extend the scope beyond direct equity holding to include indirect ownership and control through subsidiaries and holding companies, aligning the regime with modern corporate and SPV-led project structures while retaining the emphasis on voting rights and control.
  - By formally defining "*Special Purpose Vehicle*" (**SPV**), the Draft Rules restrict such entities to the sole business of owning, operating, and maintaining a generating station, and expressly treat SPVs as an Association of Persons for the purposes of captive power regulation.
- A power plant will qualify as a Captive Generating Plant only if at least 26% ownership is held by captive user(s) and a minimum of 51% of the electricity generated during the chosen assessment period is consumed for captive use, reaffirming the statutory captive thresholds under the Electricity Act, 2003.
- For multi-unit generating stations, including SPV-owned projects, captive ownership and consumption are assessed only for the identified captive generating unit(s), requiring 26% proportionate equity and 51% consumption from those units alone, not the entire station. In captive power plants established by co-operative societies or associations of persons (**AoP**), compliance with ownership and consumption thresholds is assessed on an aggregate basis, while individual captive users may consume power only in proportion to their equity holding, except where a captive user holds 26% or

Seventh Amendment to the Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Wheeling and Retail Sale of Electricity) Regulation, 2005 (Regulation No. 09 of 2025)

First Amendment to the Andhra Pradesh Electricity Regulatory Commission (Green Energy Open Access, Charges, and Banking) Regulation, 2024 (Regulation No. 11 of 2025)

First Amendment to the Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions for Tariff Determination from Renewable Energy Sources) (Regulation, 2025 (Regulation No. 12 of 2025)

more ownership, in which case the proportionate consumption restriction is inapplicable.

- Captive users are placed under a clear compliance obligation to satisfy the ownership and minimum captive consumption requirements throughout the assessment period, failing which the entire electricity generated by the plant will be treated as supply by a generating company, exposing it to applicable regulatory charges.
- The framework for verification of captive status is streamlined by assigning responsibility to State-designated nodal agencies where the plant and captive users are within the same State, while inter-State captive arrangements will be verified by the National Load Despatch Centre **(NLDC)** under a Central Government-approved procedure.
- To ease cash-flow pressures, cross-subsidy surcharge and additional surcharge are not to be levied pending verification, subject to a declaration by the captive users; however, if captive status is ultimately denied, the full surcharge liability along with carrying cost, at the Late Payment Surcharge base rate under the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022, becomes payable retrospectively.
- A statutory appeal mechanism is provided, allowing challenges to verification decisions before a Grievance Redressal Committee constituted by the Appropriate Government.

Ministry of New and Renewable Energy (MNRE) has notified the Revised Guidelines for series approval of SPV Modules for conducting testing in Test Labs for implementation of Solar Systems, Devices, and Components Goods Order on December 19, 2025

- The Ministry of New and Renewable Energy (**MNRE**) has notified the Revised Guidelines for series approval of SPV Modules on December 19, 2025. These guidelines aim to simplify and standardize testing of solar PV modules in test labs for compulsory BIS registration under the Solar Systems, Devices and Components Goods Order, 2025 **(Quality Control Order, 2025)**.
- The guidelines apply to crystalline and thin-film modules, including bifacial types, while SPV modules in the 0.2–20 W range used in solar luminaries are currently excluded. Modules up to 5 W for solar lanterns will follow IS 16476 under Part I, and BIS will introduce a separate standard for 5-20 W modules in the future.
- A product family is defined by the maximum configuration of components or sub-assemblies and common design, construction, or essential parts. This allows representative testing of a few modules instead of every model, reducing costs and simplifying certification.
- For series approval, at least two modules each from the lower, median, and higher power classes of the family must be tested. The resulting test report will cover all models in that family, and product labels must be included in the report. If there are changes in the Bill of Materials **(BOM)**, design, or manufacturing process, retesting is required.
- Where a median power class does not exist, the next higher class will be used. Efficiency verification may be skipped for the median module if the highest and lowest power modules pass the minimum efficiency criteria, provided their module areas are identical.
- For fewer-cell models, manufacturers can self-declare efficiency based on module area and output power, and submit relevant drawings to the testing lab for inclusion in the report.
- The guidelines ensure compliance with Indian Standards under the Quality Control Order, 2025, covering test scope, sampling, procedures, pass criteria, and marking requirements, thereby promoting uniformity, reliability, and ease of certification for solar PV modules across India.
- All PV modules must bear clear and indelible markings indicating the manufacturer, model, serial number, nominal wattage, efficiency, country of origin, and brand, with permissible tolerances and actual power output specified in accordance with applicable Quality Control Orders **(QCO)** and standards.

- These Revised Guidelines supersede the earlier series approval guidelines issued on August 13, 2025, updating procedures for testing, efficiency verification, and BIS registration of SPV modules under the Solar Systems, Devices and Components Goods Order, 2025.

The Ministry of Power (MoP) has notified Supplementary Guidelines for payment of compensation concerning Right of Way (RoW) for transmission lines on December 15, 2025

- The Ministry of Power **(MoP)** has issued Supplementary Guidelines to streamline payment of compensation for Right of Way **(RoW)** for transmission lines, addressing delays in land valuation and submission of reports.
- The guidelines now require the Market Rate Committee **(MRC)** to engage land valuers empaneled with the Insolvency and Bankruptcy Board of India **(IBBI)**, preferably from the same State or adjoining States if local valuers are insufficient.
- The MRC must appoint three valuers simultaneously, one each nominated by the landowners' representative, the Transmission Service Provider **(TSP)**, and the District Magistrate **(DM),** with the landowners' representative chosen from among the affected landowners.
- Nominated valuers are required to submit their reports in sealed envelopes directly to the DM within 21 days. Once all three reports are received, two reports are opened via a lottery system to determine the reference market rate.
- The reference market rate is determined such that if the difference between the two selected valuations is less than 20%, their average is taken; if the difference exceeds 20%, the reference rate is fixed at 10% above the lower valuation, or, if not agreed, as the average of the two lowest valuations, including the third valuer's report.
- This assessed reference market rate forms the basis for final RoW compensation determined by the MRC, and professional fees for valuers are to be equally borne by the TSP, forming part of the total compensation cost.

Central Electricity Regulatory Commission (CERC) issued Guidelines for Virtual Power Purchase Agreements dated December 24, 2025

- CERC has issued guidelines outlining the statutory framework for Virtual Power Purchase Agreements **(VPPAs)** with the intent to describe the statutory framework for VPPAs.
- A VPPA is defined as a non-tradable, non-standard delivery **(NTSD)** over-the-counter contract between a consumer (or designated consumer) and a renewable energy generating station **(REGS)**, under which the consumer guarantees payment of an agreed strike price for the contract term.
- CERC has clarified that a VPPA is a bilateral, non-tradable and non-transferable over-the-counter contract between a REGS and a Consumer or Designated Consumer, with a minimum tenure of one year. Under a VPPA, the REGS sells electricity for physical delivery through modes permitted under the Electricity Act, 2003 or the Power Market Regulations, 2021 **(PMR 2021)**, and such sale is not for RPO/RCO compliance.
- CERC permits Consumers or Designated Consumers to enter into bilateral OTC VPPAs with registered REGS on mutually agreed terms. While the electricity may be sold through permitted market modes for non-RPO/RCO purposes, the associated Renewable Energy Certificates **(RECs)** are transferred to the consumer for RPO/RCO compliance, and the VPPA remains non-tradable and binding for its full term, including upon change of ownership.
- Under a VPPA, the REGS sells electricity through permitted market modes, and any difference between the VPPA strike price and the market settlement price is settled bilaterally between the parties as per their agreed terms.
- REGS under a VPPA are eligible for RECs upon registration and must declare the contracted capacity to avoid double counting. Issued RECs are transferred to the Consumer or Designated Consumer, extinguished once used for RPO/RCO compliance, and any surplus can be carried forward for future compliance. The

Consumer or Designated Consumer can thus use these RECs to meet their RPO/RCO obligations.

- Any disputes under a VPPA are to be resolved mutually between the parties in accordance with the contract terms.
- The framework ensures clarity on contract duration, registration, REC allocation, and payment settlement, promoting accountability and transparency. Overall, the CERC framework balances the interests of generators and consumers, supporting growth in the renewable energy market.

Third Amendment to the Rajasthan Electricity Regulatory Commission (Grid Interactive Distributed Renewable Energy Generating Systems) Regulations, 2025

- The Rajasthan Electricity Regulatory Commission (RERC), through its notification dated October 13, 2025, has issued the Third Amendment to the Grid Interactive Distributed Renewable Energy Generating Systems Regulations, 2021. Exercising powers under Section 181 read with Sections 61, 66, and 86(1)(e) of the Electricity Act, 2003, this amendment formally modifies the Principal Regulations to democratize renewable energy adoption across the state.
- The amendment significantly broadens the scope of distributed renewable energy by introducing definitions for "Virtual Net Metering (VNM)," "Group Net Metering (GNM)," and "Lead Consumer" under Regulation 2.1. It expands the permissible arrangements under Regulation 3.2 to officially include Group Net Metering, Virtual Net Metering, Peer-to-Peer (P2P) Trading, and Plug-and-Play solar systems alongside existing Net Metering and Net Billing mechanisms. Regulation 19(A) further lays the groundwork for future technologies, empowering the Commission to implement Plug-and-Play Solar Systems and blockchain-based P2P trading.
- At its core, the amendment seeks to expand solar installations for households, housing societies, and government buildings by officially recognizing Group Net Metering (GNM) and Virtual Net Metering (VNM). Under Regulation 12.6(A).4, these arrangements are applicable for systems sized between 1 kW and 1 MW. Projects exceeding 1 MW must proceed under the Commission's tariff regulations and the Green Energy Open Access framework.
- Regulation 12.6(A).2, systems can be Self-owned, installed through RESCO models, or developed by Utility-led aggregators. However, Regulation 7.7 clarifies that third-party sales are not allowed under these arrangements, except for the permitted RESCO models.
- Under the new GNM framework governed by Regulation 12.6(A).12, surplus energy from a main system is adjusted among a consumer's other service connections based on a declared priority list, allowing a single entity to optimize energy use across multiple facilities. Conversely, for VNM as per Regulation 12.6(A).13, energy credits are shared among participating consumers (such as apartment residents) via an agreement/MoU, with unused year-end credits purchased by the DISCOM at prevailing rates.
- To ensure fair access, Regulation 4.1 mandates that DISCOMs must offer these provisions on a non-discriminatory and 'first-come-first-serve' basis. Furthermore, Regulation 4.2 ensures inclusivity by allowing consumers with pending arrears to participate upon depositing the disputed amount as per Section 56 of the Electricity Act, and explicitly permits Government connections to participate even with conditional arrears.
- To protect local grid stability, Regulation 12.6(A).5 stipulates that the maximum installed capacity to be installed at consumer premises under Group net metering arrangement shall also be subject to the cumulative capacity of the relevant Distribution Transformer. Additionally, Regulation 12.6(A).7 allows GNM consumers to upgrade or enhance capacity within permissible limits after following due procedure.
- The amendment introduces significant timeline reforms under Regulation 8.8. Applications for domestic systems up to 10 kW are now "Deemed Technically Feasible" without a study. For other categories, DISCOMs must complete feasibility studies within 15 days for existing connections and 30 days for new connections, with connectivity granted within 30 days of approval.

- A major regulatory shift regarding financial viability is introduced via Regulation 15. Regulation 15.4 provides Domestic consumers under VNM/GNM a 100% exemption from wheeling, banking, transmission charges, and cross-Subsidy surcharge (CSS). Non-domestic self-owned systems are exempt from banking and transmission charges under Regulation 15.5, though wheeling charges apply if installed off-site. For Non-domestic RESCO projects, Regulation 15.6 provides exemptions from banking and transmission charges but levies 50% of the applicable CSS and additional surcharge.
- To encourage grid stability through storage, Regulation 15.7 introduces a direct financial incentive: a 75% waiver on wheeling charges is granted if a Battery Energy Storage System (BESS) of at least 5% of the solar capacity is installed. This waiver increases by 1% for every 1% increase in BESS capacity beyond the base 5%, capped at a 100% waiver for storage exceeding 30% of solar capacity. Technical standards for BESS are defined under Regulation 10.15 and Annexure-VII.

Second Amendment to the Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions of Open Access) Regulation, 2005 (Regulation No. 08 of 2025)

- The Andhra Pradesh Electricity Regulatory Commission (**APERC**) through its notification dated December 08, 2025, has issued the Second Amendment to the Open Access Regulations, 2005, exercising its rule-making powers under Section 181(1) read with Sections 39, 40, 42, and 86 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 grid connectivity and energy balancing, specifically to align with the Government of Andhra Pradesh's Integrated Clean Energy Policy, 2024. This policy aims to achieve 50% electric power capacity from non-fossil fuel sources by 2030 and net-zero emissions by 2047.
- A significant change has been introduced under Clause 9.2, where a new proviso mandates that grant of grid connectivity for Clean Energy Projects shall be based on the progress and recommendation of the State Nodal Agency. This alignment ensures that connectivity is granted in accordance with specific government orders and technical compliance standards.
- Clause 19.4 has been substituted in its entirety to clarify Energy and Demand Balancing rules. For open access consumers, drawl is strictly restricted to the sanctioned capacity, while for scheduled consumers, Long-term open access may be granted beyond the contracted maximum demand provided the metering infrastructure is suitably upgraded.
- For open access generators, the amendment specifies that injection into the grid is limited to the sanctioned capacity. Notably, for solar generators, the inverter capacity rather than the DC capacity is now the definitive measure for granting open access. Any energy injected by suppliers in excess of technical limits or CMD will be treated as inadvertent energy.
- In cases where open access capacity is sought beyond existing technical limits or contracted maximum demand, the open access user is responsible for the expenditure required for strengthening or augmenting the network and upgrading metering infrastructure, in addition to paying development charges.
- The amendment simplifies the integration of renewable energy by allowing Green Energy Open Access consumers to enter multiple contracts with various RE sources, while maintaining strict technical drawl limits during any 15-minute time block to ensure grid stability.

Seventh Amendment to the Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Wheeling and Retail Sale of Electricity) Regulation, 2005 (Regulation No. 09 of 2025)

- The APERC through its notification dated December 08, 2025, has issued the Seventh Amendment to the Wheeling and Retail Sale of Electricity Tariff Regulations, 2005, exercising its powers under Section 181(2) read with Sections 61, 62, and 86(1)(e) of the Electricity Act, 2003. The amendment modifies the Principal Regulations to align with the State's clean energy objectives and applies statewide from the date of publication.
- The amendment is primarily driven by the Government of Andhra Pradesh's (**GoAP**) Integrated Clean Energy Policy, 2024, which seeks to position the State as a leader in sustainable development. By invoking Section 108 of the Electricity Act, 2003, the GoAP proposed these regulatory changes to support a target of 50% non-fossil fuel power capacity by 2030 and net-zero emissions by 2047.
- The amendment introduces a formal definition for 'Charge Point Operator' or 'CPO,' identifying them as individuals or entities operating Electric Vehicle (**EV**) charging stations. This provides a clear legal basis for the subsequent introduction of specialized tariff structures for the EV sector.
- A significant change has been introduced under Clause 20.1, where a new proviso grants exemptions from distribution and wheeling charges for clean energy and renewable energy manufacturing projects. This exemption applies to projects availing open access under Regulation No. 3 of 2024 that meet specific commissioning or financial closure timelines as outlined in G.O. Ms. No. 37, provided the injection and drawl of power occur at the same voltage level within the State.
- To ensure the financial stability of utilities, the amendment specifies that DISCOMs shall claim these exempted charges from the State Government as subsidies under Section 65 of the Electricity Act, 2003. This mechanism allows for the promotion of clean energy without imposing an undue financial burden on the DISCOMs.
- Procedural updates for the EV sector now mandate the implementation of Time-of-Day and Dynamic tariff mechanisms specifically for CPOs. These tariffs will be determined by APERC in the Retail Supply Tariff Orders issued annually, aiming to optimize grid usage and support the rollout of EV charging infrastructure.

First Amendment to the Andhra Pradesh Electricity Regulatory Commission (Green Energy Open Access, Charges, and Banking) Regulation, 2024 (Regulation No. 11 of 2025)

- The APERC through its notification dated December 08, 2025, has issued the First Amendment to the Green Energy Open Access Regulations, 2024, exercising its rule-making powers under Section 181(1) read with Sections 39(2)(d), 40(c), 42(2), 42(3), and 86(1)(e) of the Electricity Act, 2003. The amendment formally modifies the Principal Regulations and applies statewide from the date of its publication in the Andhra Pradesh Gazette.
- A significant change has been introduced under Clause 7, where a new proviso explicitly permits EV charging stations to procure input power through Green Energy Open Access (**GEOA**) generators. This modification supports the broader state objective of promoting electric mobility and sustainable charging infrastructure.
- Clause 9(2) has been substituted to mandate day-ahead scheduling for all GEOA generators, with 15-minute block-wise energy settlement. Excess or under-utilised energy from wind, solar, wind-solar hybrid, and mini-hydel sources is eligible for banking, subject to specified conditions.
- The amendment introduces a structured Time-of-Day mechanism for energy banking and settlement to ensure grid stability. Banking now operates on a monthly billing cycle, with specific drawl rules based on the time of injection: energy banked during peak hours (5 AM–9 AM and 7 PM–11 PM) can be drawn

across all slots, while energy banked during off-peak solar hours (9 AM–5 PM) is restricted to the same slot.

- Banking is capped at 30% of the consumer's total monthly consumption. Surplus energy beyond this cap is treated as lapsed energy and may be considered for Renewable Energy Certificates (RECs) or adjusted towards DISCOM renewable compliance obligations.
- Under Clause 11, Smart Meters are now mandatory for Low Tension consumers and prosumers seeking Open Access under the GEOA framework. Check meters and standby meters are not mandatory for LT consumers.
- Revised provisions under Clause 12(d) clarify applicability of standby arrangements, billing methodology, and tariff determination. The current standby charge framework remains applicable until 31 March 2026, after which charges will be determined through Retail Supply Tariff Orders.
- Banking charges have been fixed at 8% of the banked energy, with compensation payable for unutilised surplus energy.
- Exemptions from Cross-Subsidy Surcharge and Additional Surcharge have been introduced for specific clean energy manufacturing projects. Projects related to Green Hydrogen and its derivatives, as well as Solar Module and Wind Turbine manufacturing, receive surcharge exemptions for sourcing renewable energy through third-party open access within the State for specified periods.

First Amendment to the Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions for Tariff Determination from Renewable Energy Sources) Regulation, 2025 (Regulation No. 12 of 2025)

- The APERC through its notification dated December 08, 2025, has issued the First Amendment to the Renewable Energy Tariff Regulations, 2025, exercising its powers under Sections 61, 62, and 86(1)(b) read with Section 181 of the Electricity Act, 2003. The amendment formally modifies the Principal Regulation (Regulation No. 6 of 2025) and applies to the entire State of Andhra Pradesh from the date of its publication.
- The amendment primarily focuses on revising normative benchmarks for small hydro generating stations following an operational performance review undertaken by the Commission. This review was initiated to ensure that the regulatory framework for tariff determination remains aligned with the actual technical capabilities and hydrological conditions observed in the State.
- A significant change has been introduced under Clause 27 of the Principal Regulation, which has been substituted in its entirety to revise the Capacity Utilization Factor (CUF). The Commission determined that the minimum normative CUF for small hydro projects shall now be project-specific and established at a baseline of not less than 30%.
- The revised regulation also addresses the treatment of surplus generation from these facilities. It specifies that in the event a small hydro project generates energy in excess of its capacity utilization factor or plant load factor in any given year, the tariff applicable for such excess energy shall be equal to the standard tariff determined for that year.

RECENT JUDGMENTS

In this Section

Gujarat Urja Vikas Nigam Limited v. Central Electricity Regulatory Commission & Ors.

SC order dated January 5, 2026, in Civil Appeal No. 15195 of 2025 & 96 of 2026

Background facts

- The dispute stems from directions issued under Section 11(1) of the Electricity Act, 2003, requiring generating stations to supply power using imported coal in public interest due to domestic coal shortages and high demand.
- These directions applied to several generators, including Tata Power Company Limited's Mundra Ultra Mega Power Project (formerly Coastal Gujarat Power Limited).The Energy Charge Rate (ECR) notified under the Section 11 directions was significantly lower than the actual cost of generation using imported coal.
- As a result, generators suffered a sustained adverse financial impact while operating under statutory compulsion.
- The generator approached CERC under Section 11(2) seeking adjudication of the financial impact and interim financial relief pending final determination.

Issues at Hand

- Whether interim financial relief can be granted to power generators under Section 11(2) of the Electricity Act, 2003 for adverse financial impact arising from directions issued under Section 11(1).
- Whether APTEL was justified in upholding CERC's power to grant such interim relief pending final adjudication.
- Whether the Supreme Court should interfere with APTEL's interim order granting relief to generators.
- Whether the matter required a limited remand to CERC for arithmetical re-computation without disturbing the grant of interim relief.

Decision of the Supreme Court

- The Supreme Court dismissed the Civil Appeals and declined to interfere with the APTEL judgment.
- The Court upheld CERC's competence to grant interim relief under Section 94(2) in proceedings under Section 11(2).
- The balanced interim framework devised by APTEL was affirmed, including bank guarantees, restitution safeguards, and carrying cost to protect procurers.
- The Court recognised the provisional and adjustable nature of the interim relief, subject to final adjudication by CERC.
- Consequently, the interim recovery mechanism continues to operate pending final determination by CERC.

In this Section

HSA
Viewpoint

The decision is a significant reaffirmation of the regulatory framework under the Electricity Act, 2003, recognising the power of CERC to grant interim relief where generators suffer adverse financial impact due to statutory directions under Section 11. By upholding APTEL's balanced interim mechanism while safeguarding the interests of procurers through restitutionary measures the Supreme Court has reinforced regulatory certainty and deference to expert bodies in complex tariff and cost recovery disputes pending final adjudication.

Adani Power Ltd. and Ors. Vs. Union of India (UOI) and Ors.

SC order dated January 05, 2026, in Civil Appeal No. 22 of 2026
2026 INSC 1.

Background facts

- The appellant, Adani Power Ltd., operates a 5,200MW thermal power plant within the Mundra Special Economic Zone (SEZ) in Gujarat and supplies substantial electrical energy to the Domestic Tariff Area (DTA).
- Under Section 30 of the SEZ Act, 2005, goods removed from an SEZ to the DTA are chargeable to customs duties "as if such goods had been imported into India." However, prior to 2009, imported electrical energy attracted a nil rate of customs duty.
- Rule 47(3) of SEZ Rules, 2006 required clawback of duty benefits on inputs (e.g., imported coal) proportionate to electricity supplied to DTA, but no separate duty on electricity itself.
- In 2010, the Central Government issued Notification No. 25/2010-Cus., as per the Finance Act, purporting to be an "exemption" notification, which effectively imposed a customs duty of 16% ad valorem on electricity cleared from SEZ to DTA, retrospectively from June 26, 2009.
- The Gujarat High Court, in a judgment dated July 15, 2015, struck down this levy for the period up to September 15, 2010, holding that there was no charging event under Section 12 of the Customs Act and that an exemption notification cannot be used to create a fresh levy. This decision was affirmed by the Supreme Court and attained finality.
- While the 2015 litigation was pending, the Union issued subsequent notifications (No. 91/2010-Cus. and No. 26/2012-Cus.) which replaced the 16% duty with a specific rate of ₹0.10 per unit and later ₹0.03 per unit for the period between September 16, 2010, and February 15, 2016.
- After the 2015 judgment, the appellant sought a refund of the amounts paid under these subsequent notifications, arguing that the foundational illegality of the levy had already been established.
- The appellant filed a Writ Petition in 2016 (SCA No. 2233 of 2016) seeking a declaration that no duty was leviable for the subsequent period and consequential refunds.
- By the impugned judgment dated June 28, 2019, a Division Bench of the Gujarat High Court dismissed the petition. The High Court held that the relief in the 2015 judgment was limited to the specific notification and period mentioned therein, and since the appellant had not specifically challenged the validity of the subsequent notifications (prescribing the 10 paise and 3 paise rates), no relief could be granted.
- Aggrieved by this refusal to extend the benefit of the 2015 declaration of law to the subsequent period, the appellant approached the Supreme Court.

Issues at hand

- Whether the declaration of law in the 2015 High Court judgment, holding the customs levy on SEZ-to-DTA electricity clearances ultra vires, was limited to a specific time period or established a general legal principle applicable to subsequent periods.
- Whether the Executive can sustain a levy already declared unconstitutional by merely issuing new notifications with altered rates (from 16% to specific rates) without curing the fundamental lack of legislative competence.

Smt. Sharada Doddi Vs. Gulbarga Electricity Supply Company Limited (GESCOM) & Karnataka Electricity Regulatory Commission (KERC)

Maharashtra State Electricity Distribution Company Limited Vs. Central Electricity Regulatory Commission & Ratnagiri Gas and Power Private Limited

Noida Power Company Limited Vs. Uttar Pradesh Electricity Regulatory Commission & Anr.

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

CERC Suo Motu Order on Removal of Difficulties under GNA Regulations

ACME Solar Holdings Ltd. & Anr. Vs. Central Transmission Utility of India Limited

Layer Hybren Private Limited Vs. Central Transmission Utility of India Limited & Anr.

Scatec India Renewables One Private Limited Vs. Solar Energy Corporation of India Limited & Ors.

M/s Rathi Steel & Powers Limited Vs. Uttar Pradesh Power Corporation Limited & Ors.

Minar Renewable Energy Projects Private Limited v. Kerala State Electricity Board Limited & Ors.

In the matter of RERC (Electricity Supply Code and Connected Matters) (Second Amendment) Regulations, 2025

M/s EGNI Generation Private Limited Vs. Bengaluru Electricity Supply Company Limited.

Adani Green Energy (UP) Limited Vs. Gulbarga Electricity Supply Company Limited.

M.K. Ranjitsinh v. Union of India.

Tamil Nadu Generation and Distribution Corporation Ltd v. Penna Electricity Ltd.

Maiki Jain Vs. BSES Rajdhani Power Ltd.

State of Maharashtra Vs. Gulab Ali Sayyad Bannu

Bhopal Dhule Transmission Company Limited & Power Grid Corporation of India Limited Vs. Central Electricity Regulatory Commission & Ors.

- Whether the subsequent per-unit duty notifications (2010–2016) stood on a materially different footing so as to escape the 2015 declaration?
- Whether a coordinate Bench of the High Court violated the doctrine of stare decisis by narrowing the effect of a binding earlier judgment of the same Court.

Decision of the Tribunal

- The Supreme Court allowed the appeal and set aside the 2019 judgment of the Gujarat High Court.
- The Court held that the 2015 judgment was not a "one-time indulgence" or limited to a closed span of time. It was a structural declaration of law stating that under the then-existing framework, there was no "import into India" regarding electricity moving from SEZ to DTA to trigger a charge under Section 12 of the Customs Act.
- It was ruled that Section 25 of the Customs Act confers a power to exempt, not a power to tax. The Union's attempt to use an "exemption" notification to introduce a levy constituted a colourable exercise of delegated legislation. The Court noted that "where the root is ultra vires, the branch cannot claim legitimacy by altering its foliage."
- The Court affirmed that Section 30 of the SEZ Act mandates parity; since actual imported electricity bore nil customs duty, SEZ electricity must also bear nil duty. Differential treatment violates Article 14 of the Constitution.
- The argument that the subsequent notifications (prescribing 10 paise and 3 paise rates) required a fresh, separate challenge was rejected. The Court held that insisting on repetitive challenges to substantially identical measures when the levy itself is without authority of law elevates "form over substance."
- The Court severely criticized the 2019 High Court Bench for failing to follow the binding precedent of the 2015 coordinate Bench. It was emphasized that if the later Bench doubted the earlier view, the only permissible course was to refer the matter to a larger Bench, not to artificially whittle down the judgment.
- The Union of India was directed to refund the amounts deposited by the appellant towards customs duty for the period from September 16, 2010, to February 15, 2016.
- The verification and refund exercise is to be completed by the jurisdictional Commissioner of Customs within eight weeks. The Court clarified that the refund shall not carry interest.

HSA
Viewpoint

This judgment serves as a stern reminder to the Executive that it cannot circumvent judicial pronouncements by engaging in "legislative camouflage." The Court has reinforced the principle that if the source of power for a tax is declared non-existent, merely changing the rate or the notification number does not validate the exaction. The decision upholds the sanctity of "Judicial Discipline" and stare decisis, sending a clear signal to High Courts that coordinate benches cannot ignore or narrowly interpret binding precedents of their own court based on personal predilection. By rejecting the State's technical defense regarding the lack of a specific challenge to subsequent notifications, the Supreme Court has prioritized substantive justice over procedural formalism, ensuring that the State does not profit from retaining taxes collected without the authority of law.

JLT Energy 9 SAS v. Hindustan Clean Energy Limited

Delhi High Court order dated January 06, 2026, in O.M.P.(I) (COMM.) 464/2025
2026 SCC OnLine Del 69.

Background facts

- The petitioner, JLT Energy 9 SAS (a French company) engaged in renewable energy, and the respondents entered into two Securities Purchase Agreements (SPAs) dated December 31, 2024, for the acquisition of solar power projects in Tamil Nadu and Bihar.
- The two SPAs were intrinsically interconnected, whereby the Closing of the Tamil Nadu SPA constituted a Condition Precedent (CP) to the Closing of the Bihar SPA.

- Clause 5 of the Tamil Nadu SPA subjected the transaction to the fulfillment of specific Conditions Precedent. Clause 11 of Schedule VII specifically required the respondents to obtain a "NA Conversion Condition"—a definitive order converting the project land from agricultural to non-agricultural use.
- Clause 5.6 of the SPA provided a "self-collapsing mechanism," stating that if the CPs were not fulfilled to the purchaser's satisfaction by the Closing Long Stop Date (CLSD), the Agreement would "automatically terminate."
- The original CLSD was April 30, 2025, which was mutually extended to May 31, 2025. The NA Conversion Condition remained unfulfilled by this date.
- The petitioner invoked arbitration under the Singapore International Arbitration Centre (SIAC) Rules and obtained an Emergency Interim Award on August 27/28, 2025. However, the petitioner approached the Delhi High Court under Section 9 of the Arbitration and Conciliation Act, 1996, seeking independent interim protection to restrain the respondents from creating third-party rights.
- The petitioner argued that the NA Conversion Condition had been converted into a Condition Subsequent (CS) via a meeting on January 30, 2025, and a draft Amendment dated June 03, 2025. Alternatively, they argued that the non-fulfillment was due to the respondents' fault, and thus, the respondents should not benefit from their own wrong.
- Petitioner seeks injunction restraining creation of third-party rights in assets/securities of respondent nos. 3 and 4 in solar projects in Tamil Nadu and Bihar.

Issues at hand

- Whether the "NA Conversion Condition" (Condition Precedent) was validly converted into a "Condition Subsequent" through email exchanges or unsigned draft amendments, thereby averting the automatic termination of the SPA.
- Whether the "automatic termination" clause (Clause 5.6) applies even if the non-fulfillment of the Condition Precedent is alleged to be the fault of the respondents.
- Whether the terminated SPAs can be specifically performed, and if a prima facie case exists for granting interim injunction under Section 9.

Decision of the Tribunal

- The High Court dismissed the main prayer for a prohibitory injunction, holding that the SPA had automatically terminated on May 31, 2025, due to the non-fulfillment of the Conditions Precedent.
- The Court rejected the argument that the CP was converted into a CS. It noted that Clause 17.5 of the SPA expressly required any amendment to be in writing and "duly signed by each of the Parties." The draft amendment relied upon by the petitioner was unsigned, undated, and marked "Draft for discussion purposes only."
- The Court held that strict adherence to the amendment procedure in the contract is necessary. Correspondence or email exchanges expressing a willingness to sign do not amount to a valid amendment under the specific terms of the SPA.
- Regarding the allegation of fault, the Court ruled that Clause 5.6 contains no carve-out for "fault." It is a "self-collapsing mechanism" that triggers automatic termination if satisfaction is not achieved by the cut-off date. To read an exception into the word "automatic" would amount to rewriting the contract.
- The Court further observed that specific performance could not be granted because the contract had already terminated.
- The Court cannot compel government authorities (who are not parties to the contract) to grant the Change of Land Use permission required to satisfy the condition.
- However, recognizing that the petitioner had incurred significant costs in maintaining a credit line for the transaction, the Court directed the respondents to deposit a lump sum of INR 3,00,00,000/- (Three Crores) or furnish a bank guarantee of an equivalent amount with the Arbitral Tribunal within 15 days, to secure the petitioner's interest regarding damages.
- The cross-petition filed by the respondents (O.M.P.(I) (COMM.) 489/2025) was dismissed as infructuous.

HSA
Viewpoint

This judgment reinforces a "hands-off approach" by the judiciary regarding commercial contracts, particularly those involving sophisticated parties. The Court strictly interpreted the "automatic termination" clause, refusing to use "creative indulgence" to resurrect a contract that had died a natural death according to its own terms. It serves as a critical precedent regarding contract amendments: if an agreement stipulates that amendments must be signed and written, email consensus or unsigned drafts will not suffice to alter the contract's core obligations. The decision also highlights the practical limitation of specific performance in infrastructure projects. Where a closing condition depends on discretionary government approvals, courts will not issue futile writs compelling the performance of such conditions..

Shri Ajay Jain v. Tata Power Delhi Distribution Limited & Ors.

Delhi High Court order dated January 13, 2026, in W.P.(C) No. 1656 of 2025

Background facts

- The dispute arose from a long-standing property and possession conflict between two brothers, Shri Ajay Jain (petitioner) and Shri Anil Jain (respondent no. 2), concerning an industrial property at Badli Industrial Area, Delhi, where the impugned electricity connection was installed.
- The petitioner claimed possession of the premises on the strength of a registered General Power of Attorney (GPA) dated May 10, 1993, executed by the erstwhile owner, Mr. V.P. Singhal.
- The Electricity Consumer Grievance Redressal Forum (ECGRF) declined to interfere, holding that questions of title and possession fall exclusively within the jurisdiction of a civil court, and that electricity authorities cannot be used to resolve private property disputes.
- On appeal, however, the Electricity Ombudsman overturned the ECGRF’s decision, relying on Regulation 10(3) of the DERC Supply Code, 2017, and held that the GPA ceased to have effect upon the death of the original owner under Section 201 of the Indian Contract Act, 1872, directing restoration of status quo in respect of the electricity connection.
- Aggrieved, the petitioner approached the Delhi High Court, contending that the Ombudsman had erred by ignoring Sections 202 and 209 of the Indian Contract Act, which protect agencies coupled with interest even after the death of the principal.

Issues at hand

- Whether the Electricity Ombudsman exceeded its jurisdiction by effectively adjudicating property title and possession under the guise of an electricity dispute.
- Whether a registered GPA coupled with interest automatically stands extinguished upon the death of the principal under Section 201 of the Indian Contract Act.
- Whether Sections 202 and 209 of the Indian Contract Act were required to be considered while examining the validity of the electricity connection held by the petitioner.

Decision of the Tribunal

- The Court held that the Electricity Ombudsman committed a clear legal error by applying Section 201 of the Indian Contract Act in isolation, without considering Sections 202 and 209, which expressly protect an agency where the agent has an interest in the subject matter.
- Relying on the Supreme Court’s decision in P. Seshareddy v. State of Karnataka (2022), the Court reaffirmed that a GPA coupled with interest does not automatically terminate upon the death of the principal, and that statutory authorities cannot ignore vested contractual interests.

- The Bench emphasized that electricity authorities and consumer forums are not competent to adjudicate disputes relating to ownership or possession of immovable property, which must be left to civil courts.
- Accordingly, the impugned order of the Electricity Ombudsman was set aside, and the matter was remanded for fresh consideration, with a specific direction to examine the case in light of Sections 202 and 209 of the Indian Contract Act.
- The Court directed that interim arrangements regarding the electricity connection shall continue, subject to the petitioner regularly paying consumption charges, until the Ombudsman decides the matter afresh.

HSA
Viewpoint

This decision reinforces the principle that electricity regulatory forums must operate within clearly defined jurisdictional limits and cannot be used as substitutes for civil courts in resolving property disputes. By clarifying that a General Power of Attorney coupled with interest cannot be invalidated through a narrow application of agency law, the Court has ensured greater legal certainty in connection-related disputes. The ruling promotes regulatory discipline while safeguarding continuity of essential services pending adjudication of underlying property rights.

M/s Pali Hill Breweries Pvt. Ltd. & Ors. v. State of Jharkhand & Ors.

Jharkhand High Court order dated January 5, 2026, in W.P.(T). No. 3228 of 2021 and connected writ petitions

Background facts

- Multiple industrial consumers (e.g., Pali Hill Breweries Pvt. Ltd., Brahmaputra Metallics Ltd., Ramkrishna Forgings Ltd.) and captive power plants (CPPs) challenged Sections 2 & 3 of the Jharkhand Electricity Duty (1st Amendment) Act, 2021 (notified July 7, 2021), which shifted duty computation from per unit (e.g., 5 paise/unit) to percentage of "net charges" (6-15% based on category, e.g., 8% for HT industrial <10 MVA), causing hikes up to 1600% (e.g., Rs. 5,507 to Rs. 55,556 for 1.1 lakh units).
- The 1st Amendment added a proviso to Section 3(1) of Bihar Electricity Duty Act, 1948 (as adopted), empowering executive notifications to alter Schedule rates without guidelines; undefined "net charges" led to ambiguity on rebates/surcharges.
- Jharkhand Electricity Duty (Amendment) Rules, 2021 (notified April 1, 2022, retrospective to July 7, 2021) defined "net charges" by excluding demand/fixed charges, meter rent, etc. CPPs argued unworkable as no external tariff applies to self-generated power.
- 2nd Amendment Act, 2021 (notified Feb. 17, 2022) added Schedule A for CPPs at 50 paise/unit (10x prior rate), exempting small generating sets. Petitioners paid under interim orders, sought refunds.

Issues at hand

- Whether electricity duty could be levied on the basis of “net charges” without amending the charging provision of the parent Act.
- Whether the delegation of power to the executive to amend rates and categories through the Schedule amounted to excessive delegation.
- Whether retrospective application of the Rules, 2021 violated settled principles of delegated legislation.
- Whether the steep increase in electricity duty was arbitrary and violative of Articles 14 and 265 of the Constitution of India.

Decision of the Tribunal

- The Jharkhand High Court held that the charging section of the Act, 1948 authorises levy of electricity duty only on units of electricity consumed or sold, and not on the value or “net charges” of electricity. It struck down Sections 2 & 3 of 1st Amendment Act, 2021 (proviso to Section 3 & substituted Schedule) as ultra vires the Act, 1948 as the Schedule cannot override charging provision mandating levy on units, not value/net charges; inconsistent machinery provisions (Sections 3-4).

- The State could not indirectly introduce a value-based levy by amending only the Schedule, without correspondingly amending the charging provision, as this would render the levy ultra vires the parent statute. The Court further struck down the retrospective operation of the Rules, 2021, holding that delegated legislation cannot operate retrospectively in the absence of express statutory authorization.
- It Upheld 2nd Amendment Act, 2021 which is for Schedule A, 50 paise/unit levied on the CPP power stations as intra vires, not exorbitant because it is stagnant since 2011 and justified by revenue data vs. neighbours like Odisha/Chhattisgarh) have prospective effect from Feb. 17, 2022.
- Directed adjustments/refunds: CPP excess payments under 1st Amendment adjustable against future Schedule A liability; consumer payments adjustable in future bills, recoverable by licensees from State.

HSA

Viewpoint

The ruling reinforces that Schedules cannot alter levy basis (units vs. value) without amending charging sections, upholding tax certainty under Article 265. By quashing unguided delegation and retrospective rules, it curbs executive overreach in fiscal matters. Validates measured CPP hikes post-11-year stasis, balancing state revenue needs with industry viability while shielding against arbitrary value-based duties exploitable via tariff hikes. Prevents licensees from passing invalid hikes, aiding energy-intensive industries in the state of Jharkhand.

The Commission on its own motion v. GMR-Kamalanga Energy Limited & Ors.

Central Electricity Regulatory Commission's (CERC) Order dated December 29, 2025 in Petition No. 10/SM/2025 (Suo motu).

Background facts

- The present petition was filed *suo motu* by the Central Electricity Regulatory Commission (CERC) to ensure uniform regulatory treatment of recent tax-related statutory changes affecting the cost of coal and, consequently, electricity tariffs under Power Purchase Agreements (PPAs) governed by Section 63 of the Electricity Act, 2003.
- By way of background, Parliament introduced a unified indirect tax regime through the enactment of the Central Goods and Services Tax Act, 2017 (CGST Act), Integrated Goods and Services Tax Act, 2017 (IGST Act), Union Territories Goods and Services Tax Act, 2017 (UTGST Act), and the Goods and Services Tax (Compensation to States) Act, 2017 (GST Compensation Act), with effect from July 01, 2017. As part of this transition, several existing taxes were subsumed, while sector-specific levies such as the Clean Energy Cess were abolished by the Taxation Laws (Amendment) Act, 2017. Simultaneously, a GST Compensation Cess of ₹400 per metric tonne on coal and lignite was introduced under the GST Compensation Act.
- To address the financial impact of these changes on electricity generators, CERC had earlier initiated Petition No. 13/SM/2017. By order dated March 14, 2018, CERC held that the abolition of the Clean Energy Cess and the introduction of the GST Compensation Cess constituted "Change in Law" events under the PPAs, as these statutory measures were introduced after the respective cut-off dates. CERC also laid down a mechanism for recovery of the GST Compensation Cess and directed generators and distribution companies to mutually reconcile the impact of GST and the subsuming or abolition of taxes, duties, and cesses, in order to balance stakeholder interests.
- Subsequently, the Government of India (GOI), through Ministry of Finance (MoF) Notification No. 9/2025–Central Tax (Rate) dated September 17, 2025, increased the GST rate on coal from 5% to 18%. In parallel, Notification No. 2/2025–Compensation Cess (Rate) dated September 17, 2025, abolished the GST Compensation Cess of ₹400 per metric tonne. Both changes came into

effect on September 22, 2025. CERC noted that these measures would materially alter the cost of coal procurement for generating companies.

- CERC observed that these statutory notifications squarely fall within the scope of "Change in Law" under PPAs involving a composite scheme and tariff determination under Section 63 of the Electricity Act, 2003. Given their sector-wide implications, CERC found it necessary to issue uniform regulatory directions to ensure consistent treatment of such change-in-law claims and facilitate the timely settlement of dues across all affected PPAs.
- Accordingly, CERC initiated *suo motu* proceedings in Petition No. 10/SM/2025 and, by order dated October 01, 2025, issued a public notice inviting written submissions from stakeholders. The matter was thereafter listed for public hearing on October 14, 2025.
- CERC sought to issue uniform and binding regulatory directions for the treatment and settlement of Change in Law claims arising from the GOI notifications dated September 17, 2025, with effect from September 22, 2025, across all PPAs regulated by the Commission.

Issues at hand

- Whether the increase in GST on coal and the abolition of GST Compensation Cess under the GOI notifications dated September 17, 2025 constitute Change in Law events warranting tariff adjustment under Section 63 PPAs.

Decision of the court/tribunal

- The Hon'ble Commission noted that certain stakeholders contended that the increase in GST and the abolition of the Compensation Cess were distinct Change in Law events requiring separate computation under the PPAs, while also supporting continuation of the previously approved methodology to ensure regulatory certainty, avoid multiplicity of proceedings, and enable efficient reconciliation between contracting parties.
- The Hon'ble Commission found that submissions seeking restriction of Change in Law relief only to coal physically received at the project site after the cut-off date were untenable, as GST liability arises on invoicing by coal companies, and eligibility must therefore be determined with reference to the date of the coal invoice issued in the name of the generating company.
- The Hon'ble Commission further held that the increase in GST from 5% to 18% had a cost-escalating impact, while the abolition of the Compensation Cess resulted in cost reduction, and therefore the financial impact of these two events must be computed separately, though the final adjustment was required to be settled on a net basis through billing and passed on to or recovered from the beneficiaries.
- The Hon'ble Commission noted that stakeholder submissions advocating adoption of a uniform methodology, adherence to principles of restitution, and resolution of disputes on a case-to-case basis were acceptable, and further found merit in requiring Change in Law claims to be supported by independent third-party auditor certification.
- The Hon'ble Commission held that issues relating to re-determination of Special Allowance, normative O&M expenses, or interest on working capital under the 2024 Tariff Regulations were beyond the scope of the present proceedings, which were confined strictly to Change in Law events under Section 63 PPAs.
- The Hon'ble Commission found that the combined effect of abolition of the Compensation Cess and increase in GST could result in either an increase or decrease in generation cost depending on the base price of coal, and such impact was required to be passed on to or recovered from the Discoms/beneficiary States for coal procured on or after September 22, 2025.
- The Hon'ble Commission directed, in exercise of powers under Section 79(1) of the Electricity Act, 2003, that all generating companies shall compute the net station-wise and month-wise impact of these statutory changes on landed coal cost, furnish supporting documents along with auditor-certified details to the Discoms/beneficiaries, and refund or recover amounts accordingly, with reconciliation of any provisional differences in accordance with the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021, while reserving liberty for parties to approach the Commission in case of disputes.

HSA

Viewpoint

In our view, the Hon'ble Commission has correctly treated the GST hike and abolition of Compensation Cess as Change in Law events and struck a workable balance by requiring separate computation but net settlement, grounded in actual invoices and audited data. The approach ensures predictability for generators while protecting beneficiaries from over-recovery, without reopening settled tariff structures.

Shree Ambika Sugars Ltd. & Ors. v. Tamil Nadu Electricity Regulatory Commission & Anr.

Appellate Tribunal for Electricity's (APTEL) Order dated December 22, 2025 in Appeal No. 139 of 2016 & 375 of 2017.

Background facts

- he present appeal was filed by multiple appellants challenging the Order dated March 31, 2016 (Impugned Order) passed by the Tamil Nadu Electricity Regulatory Commission (TNERC) in P.P.A.P. No. 8 of 2011. The impugned order pertains to the determination of tariff for bagasse-based cogeneration power projects (BBCGPP) established prior to May 15, 2006.
- To promote cogeneration and renewable energy, the State Government issued G.O. Ms. No. 230 dated June 16, 1993 providing for HT-1 tariff, with 2% transmission loss, for cogeneration units, pursuant to which the appellants executed PPAs with TNEB; the tariff regime was subsequently governed by Board Proceedings providing escalation but later imposing tariff caps, and was clarified under TNERC Tariff Order No. 3 of 2006 and the 2008 Regulations to continue for pre-2006 BBCGPP in accordance with existing PPAs.
- Upon expiry of the PPAs of the 1st and 8th Appellants on March 31, 2010 and in the absence of any decision on continuation of supply, petitions were initially filed seeking tariff determination from April 1, 2010, which were later withdrawn with liberty to re-approach the Commission; thereafter, as negotiations remained inconclusive, TANGEDCO filed P.P.A.P. No. 3 of 2011 seeking determination of tariff for pre-2006 biomass and BBCGPP with effect from April 1, 2010, pursuant to which the Commission directed filing of separate petitions and invited stakeholder comments.
- The 1st and 8th Appellants submitted their views on August 18, 2011 seeking continuation of the existing tariff with 5% annual escalation, which was also supported by the South India Sugar Mills Association; thereafter, TANGEDCO filed P.P.A.P. No. 8 of 2011 on November 21, 2011 seeking fixation of a two-part tariff by applying the norms under Tariff Order No. 3 of 2009 with specified exclusions, during which period the Commission also issued tariff orders applicable to post-2006 NCES projects.
- By the impugned order dated March 31, 2016, passed in P.P.A.P. No. 8 of 2011, the Commission determined the tariff for pre-2006 BBCGPP with effect from November 21, 2011, being the date of filing of the petition, aggrieving the appellants and leading to the filing of the present appeal.
- Since both appeals challenge the same impugned order and seek identical reliefs, they are being heard together for convenience, with Appeal No. 139 of 2016 treated as the lead appeal.
- The appellants by the present appeal have prayed for setting aside the impugned order to the extent challenged; application of the tariff from April 1, 2010; re-determination of capital cost, fuel cost, and station heat rate in accordance with applicable principles and precedent; payment of the consequential differential tariff; and grant of carrying cost on all arrears payable to the appellants.

Issues at hand

- Whether the tariff determined by the Commission should be made applicable from the claimed start date of the control period.
- Whether the capital cost has been correctly determined by the Commission and is liable for re-determination.

- Whether the critical variable cost components, including fuel cost and station heat rate, have been properly determined by the Commission.
- Whether carrying cost is payable on the arrears arising from the re-determination of tariff components.

Decision of the Court/Tribunal

- The Hon'ble Tribunal noted that the concept of "Control Period" was not applicable to pre-2006 BBCGPP, as these plants were operating under existing arrangements. While the Control Period for post-2006 plants ended on March 31, 2011, the appellants' contention that the pre-2006 Control Period expired on March 31, 2010, was on weak footing. However, the Hon'ble Tribunal found that the PPAs of the 1st and 8th Appellants had indeed expired on March 31, 2010, and their claim of approaching TANGEDCO on that date before filing petitions on August 23, 2010, was undisputed.
- The Hon'ble Tribunal held that it would be unfair to link the revised tariff solely to the date of filing by TANGEDCO, as the responsibility to negotiate and review rested with both parties. Consequently, the Hon'ble Tribunal concluded that the tariff resulting from the Impugned Order, including any changes, should be applicable from April 01 2010.
- The Hon'ble Tribunal noted that the contention of the Respondents regarding the promotional nature of the capital cost and the age of the plants did not justify the method adopted by TNERC. The Hon'ble Tribunal found that the BBCGPP was commissioned over a period of up to 16 years with design variations, and fixing a single capital cost for all pre-2006 plants without detailed analysis may not be just to either TANGEDCO, its consumers, or the BBCGPP.
- The Hon'ble Tribunal, while deciding issue 2, held that the issue of capital cost requires fresh consideration by TNERC, taking into account factors such as depreciation, interest on loans, and other relevant inputs. The Hon'ble Tribunal clarified that its observations are illustrative and not binding, and TNERC is free to adopt an appropriate methodology in its re-analysis.
- The Hon'ble Tribunal noted that the cost of bagasse, as determined by TNERC for post-2006 plants, shall also apply to pre-2006 BBCGPP. While remand proceedings under the SISMA-2016 judgment are still underway, the Hon'ble Tribunal refrained from commenting on the interpretation of the effective date, observing that the price of bagasse cannot differ between old and new plants. The Hon'ble Tribunal held that the tariff for pre-2006 plants shall remain effective from April 1, 2010, and the bagasse cost determined for post-2006 plants, including any adjustments from final remand proceedings, shall apply to pre-2006 plants.
- The Hon'ble Tribunal, while deciding issue 3, found that the rationale adopted by TNERC in the Impugned Order regarding variable and fixed cost interplay was not tenable, particularly given that the capital cost issue has been remanded. The Hon'ble Tribunal noted inconsistencies in SHR submissions by the appellants and found that TNERC had not prudently determined a normative Station Heat Rate (SHR) for pre-2006 plants, despite SHR being critical for variable cost calculation.
- The Hon'ble Tribunal, while deciding issue 3, held that the matter of SHR is remanded to TNERC to determine appropriate normative values for pre-2006 plants, ensuring that SHR is not set lower than that of post-2006 plants, while accounting for technological differences, operational efficiency, and promotion of efficiency and emission reduction. TNERC is directed not to rely solely on actual plant data, which may incentivise inefficiency, but to adopt reasonable values reflecting best practices.
- The Hon'ble Tribunal, while deciding issue 4, noted that carrying cost arises when a party is deprived of receiving its lawful dues on time, compensating for delay and ensuring the generator recovers costs without financial loss. The Hon'ble Tribunal held that, since the revised tariff is applicable from April 01, 2010, the carrying cost is payable on the differential amount between the tariff determined pursuant to this judgment and the tariff actually paid.

HSA
Viewpoint

The Hon'ble Tribunal has taken a practical and balanced approach by ensuring that generators receive their lawful dues from April 01, 2010, while directing TNERC to reconsider critical aspects like capital cost and normative SHR. The decision rightly recognises the need for a fair methodology that reflects the differences across pre-2006 plants rather than applying a uniform approach.

NTPC Ltd. v. Chhattisgarh State Power Distribution Company Ltd. & Ors.

Appellate Tribunal for Electricity's (APTEL) Order dated January 13, 2026 in Appeal No. 299 of 2019

Background facts

- The present appeal was filed by NTPC challenging the Order dated August 28, 2019 (Impugned Order) passed by the Central Electricity Regulatory Commission (CERC/Central Commission) in Petition No. 46/MP/2018, whereby the CERC denied relaxation in the Normative Annual Plant Availability Factor (NAPAF) for certain generating stations of NTPC for the period from April 01, 2017, to March 31, 2019, on account of coal non-availability.
- The Petition (No. 46/MP/2018) was filed by NTPC before CERC, invoking Sections 62, 64, and 79 of the Electricity Act, 2003 read with Regulations 36(a) and 54 of the CERC (Terms and Conditions of Tariff) Regulations, 2014 (2014 Tariff Regulations), seeking relaxation of NAPAF for the above generating stations. NTPC contended that it could not achieve the target NAPAF of 85% during the relevant period due to reasons beyond its control, mainly arising from domestic coal shortage caused by policy decisions and directives of the Government of India restricting coal import by public sector generating companies.
- NTPC submitted that it made continuous representations to the Ministry of Coal, Ministry of Power, and Coal India Limited (CIL) to address the shortfall. NTPC placed before CERC a series of letters issued between October 2016 and November 2017, demonstrating its efforts to augment coal supply and mitigate operational challenges, and requested that the shortfall in NAPAF be treated as deemed generation for the purpose of computing fixed capacity charges.
- The Impugned Order rejected NTPC's claim, holding that it was not entitled to relaxation in NAPAF for the stated period on account of coal non-availability.
- The appellant, by present appeal, has prayed for setting aside of the Impugned Order, allowing relaxation of NAPAF for the affected generating stations for FY 2017-18 and FY 2018-19, and treating the shortfall due to non-availability of coal as deemed generation for recovery of fixed capacity charges.

Issues at hand

- Whether the directions issued by the Government of India through the Minutes of Meetings constitute a binding directive and fall within the scope of Force Majeure or Change in Law.
- Whether the domestic coal shortage at these stations qualifies as a Force Majeure event.

Decision of the court/tribunal

- The Hon'ble Tribunal noted that NTPC's contention of domestic coal shortage preventing achievement of NAPAF is not acceptable. Despite a CEA target of 22 MMT for coal imports in 2015-16, only 6.4 MMT (29%) was imported by September 2015, and no explanation was provided for not utilizing the full ceiling. The Hon'ble Tribunal held that the alleged restriction on coal imports since 2015 did not justify the shortage at these stations.
- The Hon'ble Tribunal noted that the May 3–4, 2017 meeting resolution directing reduction of coal imports by PSUs to zero did not provide a timeline or create a binding legal obligation. NTPC failed to show that this affected its contractual NAPF obligations or that a formal Government directive was issued. Accordingly, the Hon'ble Tribunal held that there was no legal bar preventing NTPC from

sourcing coal from alternate sources, as other western region plants met the prescribed NAPAF during the same period.

- The Hon'ble Tribunal noted that under the New Coal Distribution Policy, CIL could import coal and supply it to willing power plants, or the plants could import directly, discharging FSA obligations. The Hon'ble Tribunal found that NTPC, despite anticipating or facing domestic coal shortages, did not pursue coal imports through CIL or directly, and merely relied on the GOI directions restricting imports.
- The Hon'ble Tribunal noted that "Change in Law" covers events like enactment, amendment, repeal of laws, or judicial interpretations that directly affect a regulated entity's cost or revenue. The Hon'ble Tribunal held that executive or administrative directions do not have the force of law and therefore cannot be treated as a "Change in Law" under Regulation 12.2, finding no error in CERC's Impugned Order on this point. Accordingly, the Hon'ble Tribunal noted that NTPC's contention that the Government of India directions issued on October 20, 2015, May 3, 2017, and May 4, 2017, adversely affected coal availability and should be treated as Force Majeure or Change in Law lacks merit. The Hon'ble Tribunal held that these directions did not justify treating the difference between actual and specified NAPAF as deemed availability for calculating Fixed Capacity Charges.
- The Hon'ble Tribunal noted that the CEA Notification dated June 8, 2016, allowed flexibility in using domestic coal across generating stations while maintaining normative availability. The Hon'ble Tribunal found that in FY 2017-18 and FY 2018-19, most NTPC stations met or exceeded prescribed plant availability, with only a few exceptions. The Hon'ble Tribunal held that NTPC failed to demonstrate sufficient efforts to optimally utilize available coal to achieve the specified NAPAF for the affected projects.
- The Hon'ble Tribunal concluded that the Impugned Order of the Commission was unsustainable for failing to invoke its power to relax under Regulation 54 of the 2014 CERC Regulations. The Hon'ble Tribunal held the order set aside and directed the Commission to relax the NAPAF for the appellant's thermal power plants from 85% to 83% for the period April 1, 2017 to March 31, 2019 for the recovery of fixed charges..

HSA
Viewpoint

The Hon'ble Tribunal has rightly held that government directions alone cannot excuse NTPC from meeting its contractual NAPAF obligations. At the same time, the decision to allow a modest relaxation from 85% to 83% strikes a practical balance, acknowledging the operational challenges while maintaining the principle that companies must take proactive steps to manage fuel supply.

Mokia Green Energy Private Limited v. Punjab State Power Corporation Limited & Anr.

Appellate Tribunal for Electricity's (APTEL) Order dated January 8, 2026 in Appeal No. 323 of 2025

Background facts

- The present appeal was filed by Mokia Green Energy Private Limited (Appellant) challenging the order dated June 09, 2025 (Impugned Order) passed by the Punjab State Electricity Regulatory Commission (PSERC) in Petition No. 05 of 2025.
- In March 2013, a Request for Proposal (RfP) was issued by PEDA requiring bidders to submit a price bid with a discount on the PSERC-approved tariff and to choose either normal or accelerated depreciation for accounting purposes.The RfP also required submission of audited accounts, tax audit reports, and income-tax returns for the first five years post-commissioning to verify the depreciation option. It was stipulated that claiming accelerated depreciation when opting for normal depreciation would result in tariff revision to the PSERC tariff applicable for accelerated depreciation from the date of commissioning.
- The Appellant was declared a successful bidder and developed a 4 MW solar photovoltaic power project at Village Boha, District Mansa, Punjab (The Project), commissioned on April 21, 2015, supplying electricity to Respondent No. 1

under a Power Purchase Agreement (PPA) dated December 30, 2013. The Appellant had opted for normal depreciation, and the tariff in the PPA was Rs. 8.59/kWh.

- On January 30, 2025, PSPCL reduced the applicable tariff to Rs. 7.71/kWh and raised a demand of Rs. 7,95,97,650/- (principal Rs. 4,89,69,360/- and penal interest Rs. 3,06,28,290/-), alleging availment of accelerated depreciation under the Income Tax Act, 1961. The Appellant submitted documents, including a CA certificate dated November 08, 2023, and a clarificatory note dated December 14, 2023, showing depreciation claimed under Section 32(1)(ii) and no reduction in tax liability.
- The Impugned Order dated June 09, 2025 upheld the tariff revision and recovery, treating the depreciation reflected in the Appellant's financial statements as accelerated depreciation for PPA purposes. Aggrieved, the Appellant filed the present appeal.
- The appellants by present appeal have prayed for setting aside the Impugned Order, canceling the tariff reduction and demand notice dated January 30, 2025, granting interim relief and release of amounts withheld, and any other relief deemed fit in the interest of justice.

Issues at hand

- Whether the depreciation claimed by the Appellant under the Income Tax Act, 1961, amounts to availing of Accelerated Depreciation for the purposes of the PPA dated 30.12.2013?
- If the answer to Issue No. 1 is in the affirmative, whether, in view of the "Entire Agreement" clause contained in the PPA, the tariff can be reset or revised by placing reliance on the provisions of the RfP?
- If Issue Nos. 1 and 2 are answered against the Appellant, whether the Appellant can be directed to pass on or refund any alleged benefit on account of depreciation in the absence of any financial benefit having accrued to it?
- If the issue Nos. 1 to 3 are held against the Appellant, will it be fair if we order not to deduct the entire monthly billing amount against the dues as per the Impugned Order and fix a reasonable percentage of the billing amount to be adjusted so that the difficulty claimed by the Appellant in debt repayment gets alleviated?

Decision of the Commission

- The Hon'ble Tribunal noted that the term "Accelerated Depreciation" is not defined under the Income Tax Act, 1961, or its Rules, but is used in policy and regulatory contexts to provide higher depreciation rates for certain assets as a fiscal incentive. The Hon'ble Tribunal also observed that the regulatory perspective on accelerated depreciation is reflected in the CERC's 2009 Regulations on Tariff Determination from Renewable Energy Sources.
- Accordingly, the Hon'ble Tribunal noted that, based on accounting principles, regulatory guidance, and policy context, depreciation yielding higher amounts in initial years qualifies as "Accelerated Depreciation". The Hon'ble Tribunal held that Section 32(1)(ii), read with Rule 5(1A) and Appendix 1, constitutes Accelerated Depreciation, and upheld the Impugned Order's finding that the appellant availed Accelerated Depreciation for FY 2015-16 at rates of 80%/40%, despite their objection to the characterization.
- The Hon'ble Tribunal, while deciding issue 2, noted that the tariff is not just a numerical figure but is closely linked to the terms and conditions of the bid documents. The Hon'ble Tribunal held that the PPA incorporates the Implementation Agreement (IA) and the RfP terms as an integral part, meaning the appellant remains bound by all conditions of the RfP, notwithstanding the "entire agreement" clause in the PPA. Any consequences of breach of these terms must be derived from the bidding documents themselves.
- While adjudicating Issue 3, the Hon'ble Tribunal held that although the PPA does not expressly provide for passing of benefits arising from Accelerated Depreciation, the RfP contains a clear stipulation requiring tariff revision in such cases. Since the RfP forms an integral part of the contractual framework, the absence of an explicit clause in the PPA is immaterial. Accordingly, the Hon'ble Tribunal held that the actual benefit derived by the Appellant from Accelerated Depreciation is irrelevant, as tariff revision must follow the RfP conditions once Accelerated Depreciation is availed.

- While adjudicating Issue 4, the Hon'ble Tribunal held that since the question of penalty for delay in commissioning is the subject matter of a separate appeal pending before the Hon'ble Tribunal, it could not be examined in the present proceedings. The Hon'ble Tribunal also declined to verify the specific debt repayment figures cited by the Appellant. However, taking note of the fact that the Appellant was operating the plant without receiving any payment for a considerable period due to the Respondent's actions affirmed by the Impugned Order, the Hon'ble Tribunal remanded the matter to PSERC to determine the appropriate percentage of billing amount to be paid to the Appellant to ensure continued operation of the project, directing PSERC to decide the issue within two months.

HSA
Viewpoint

The Hon'ble Tribunal rightly clarified that Accelerated Depreciation cannot be ignored simply because the PPA lacks an explicit clause; the RfP's terms govern the tariff outcome. Treating the RfP as binding ensures that contractual obligations are not circumvented. At the same time, directing PSERC to fix a reasonable percentage of billing protects the Appellant from financial disruption while keeping the project running.

Minar Renewable Energy Projects Private Limited v. Kerala State Electricity Board Limited & Ors.

Appellate Tribunal for Electricity's (APTEL) Order dated January 5, 2026 in Appeal No. 431 of 2019

Background facts

- The present appeal was filed by Minar Renewable Energy Projects Private Limited (Appellant), challenging the order dated September 06, 2019 (Impugned Order) passed by the Kerala State Electricity Regulatory Commission (Commission) in Petition No. OA 8 of 2018. The Appellant had filed the petition under Section 86(1)(e) of the Electricity Act, 2003, seeking the determination of a generic tariff for its small hydro project above 5 MW for FY 2016-17 and subsequent years. However, the Commission proceeded to determine a project-specific tariff based on the State Government's decision dated July 01, 2017.
- In December 2012, the Government of Kerala (GO NO. 30 of 2012) invited bids for 62 small hydro power projects on a Build, Own, Operate, and Transfer (BOOT) basis. Selection was based solely on the premium offered. The Appellant was declared successful for the Pathamkayam Small Hydro Electric Project (The Project). The project capacity was initially 4 MW but later enhanced to 8 MW with government approval dated July 07, 2015.
- The Appellant commenced construction in May 2015, completed it by January 17, 2017, and applied for grid connectivity and temporary power evacuation in 2015-2016. The project was reclassified from Captive Power Plant (CPP) to Independent Power Producer (IPP) with approval on August 01, 2017, and was synchronized with the grid on March 17, 2017, certified by KSEB on March 27, 2017.
- Despite supplying electricity since 2017, the PPA between the Appellant and KSEB was not executed due to disagreements on draft terms. An interim tariff of Rs. 4.65 per unit was being paid. The Appellant approached the Commission under Petition No. OA 8 of 2018 for the determination of a generic tariff, but the Commission fixed a project-specific tariff citing the State Government's July 01, 2017 decision.
- The appellant by present appeal has prayed for setting aside the Impugned Order, arguing that the Commission erred in not determining the generic tariff in line with Regulation 20 and 22 of the Kerala State Electricity Regulatory Commission (Renewable Energy Regulations), 2015, (the 2015 RE Regulations) which permit project-specific tariff determination only upon a developer's application.

Issues at hand

- Whether the State Regulatory Commission, while exercising its adjudicatory powers in tariff determination for a power project, is bound by directions issued by the State Government in that regard.

Decision of the Court/Tribunal

- he Hon'ble Tribunal held that a combined reading of Regulations 20 and 22 mandates the Commission to determine a generic tariff for renewable energy projects unless a specific application is made for a project-specific tariff. Since the Appellant had only sought the determination of a generic tariff for its 8 MW small hydro project and no application under Regulation 22 was filed, the Hon'ble Tribunal hence concluded that the Commission ought to have proceeded with the determination of the generic tariff.
- The Hon'ble Tribunal noted that the bids, including the project allotted to the Appellant, were invited pursuant to the Kerala Small Hydro Power Policy, 2012, which expressly provides that power from small hydro projects shall be procured at the Feed-in Tariff fixed by KSERC. Accordingly, the Hon'ble Tribunal held that the applicable tariff framework under the policy was a generic (Feed-in) tariff, and not a project-specific tariff.
- The Hon'ble Tribunal found that despite clear provisions in the 2012 Policy and the 2015 RE Regulations mandating the determination of a generic tariff, the Commission proceeded to fix a project-specific tariff solely on the basis of alleged State Government directions dated July 01, 2017. The Hon'ble Tribunal noted that no such directive was placed on record by the Respondents and that, at best, only minutes of a meeting were produced by the Appellant. The Hon'ble Tribunal held that any such direction, if intended to bind the Commission, ought to have been issued as a formal policy directive under Section 108 of the Electricity Act, 2003, and the absence of clarity on the issuance of such a directive rendered the Commission's approach untenable.
- The Hon'ble Tribunal held that the amended Regulation 23, which provides for a levelised tariff, applies only to small hydro projects below 5 MW and was therefore inapplicable to the Appellant's 8 MW project. The Hon'ble Tribunal further held that even assuming a policy direction was issued by the State Government under Section 108 of the Electricity Act, such a direction cannot override or interfere with the Commission's adjudicatory functions, and the Commission is not bound by policy directions while exercising its quasi-judicial powers.
- The Hon'ble Tribunal held that the Commission's submissions lack merit, as the Impugned Order does not show adoption of CERC parameters under Regulation 17(4) of the 2015 RE Regulations, and instead clearly reflects that the Commission determined a project-specific tariff solely based on the State Government's decision dated July 1, 2017, which was impermissible.
- The Hon'ble Tribunal concluded and held that the Impugned Order of the Commission was wholly erroneous and unsustainable, and accordingly allowed the Appeal. The Impugned Order was set aside, and the matter was remanded to the Commission with a direction to determine the generic tariff for the Appellant's power project strictly in accordance with the Kerala Small Hydro Power Policy, 2012, and the 2012 RE Regulations. The Hon'ble Tribunal further directed payment of the interim tariff at Rs. 4.65 per unit to the Appellant, being the tariff applicable before the Impugned Order, until final determination by the Commission.

HSA
Viewpoint

The Hon'ble Tribunal's decision rightly emphasizes the primacy of statutory and regulatory provisions over informal government directions. By directing the Commission to determine the generic tariff strictly under the Kerala Small Hydro Power Policy, 2012, and the 2015 RE Regulations, while allowing interim tariff payments, the Hon'ble Tribunal protects the Appellant's operational continuity without condoning deviation from established tariff norms.

In the matter of RERC (Electricity Supply Code and Connected Matters) (Second Amendment) Regulations, 2025.

Suo Motu Petition No. 2358/2025.

Background facts

- The Rajasthan Electricity Regulatory Commission (RERC) initiated Suo-moto petition No. 2358/2025 to amend the RERC (Electricity Supply Code and Connected Matters) Regulations, 2021 (referred to as the Principal Regulations).
- The proceedings stemmed from petitions filed by Rajasthan Discoms (Petition Nos. RERC/2247/2024, RERC/2262/2024 & 2346/2025) under Sections 43, 46, 50, 86(1), and 181 of the Electricity Act, 2003. The Discoms sought necessary amendments to address difficulties in implementing existing provisions and to make the Supply Code more consumer-oriented.
- The Commission observed that the proposed amendments involved significant matters, including aligning regulations with judicial pronouncements and simplifying connection procedures. Specifically, the Discoms relied on the Hon’ble Supreme Court judgment dated 19.05.2023 in the matter of K.C. Ninan vs. Kerala State Electricity Board, which established that electricity dues are a "charge on the premises."
- Additionally, the Discoms proposed revisions to the timeline for restoration of supply for disconnected consumers and sought to introduce a standardized connection charge mechanism (per kW basis) up to 150 kW, citing the need for simplification under the Right to Consumer Rules, 2020, and to avoid individual site estimation.
- In compliance with Regulation 1.2 of the Principal Regulations, the Commission placed the draft Regulations, Explanatory Memorandum, and Public Notice on its website. Notices were published on 12.09.2025 in three newspapers (Rajasthan Patrika, Dainik Navjyoti, and Times of India) to invite comments from stakeholders.
- The last date for submission of comments was 06.10.2025. Public hearings were subsequently conducted on 29.10.2025 and 19.11.2025.
- After considering the submissions from the Discoms and various stakeholders (including concerns regarding the liability of new owners for past dues and the rationale for connection charges), the Commission finalized the amendments and issued the Order on 19.12.2025.

Issues at hand

- Whether a distribution licensee can recover outstanding electricity dues from a new owner or occupier of a premises where the connection was permanently disconnected, specifically in light of the Supreme Court's ruling in K.C. Ninan vs. Kerala State Electricity Board (2023).
- Whether the existing timelines for consumers to apply for the restoration of disconnected supply (1 year for HT/EHT and 2 years for others) were sufficient, or if they required extension to accommodate consumer needs while balancing the Discoms' costs of maintaining idle infrastructure.
- Whether the methodology for calculating connection charges should be shifted from an "estimation-based" model to a "standardized per-kW" model for loads up to 150 kW to enhance transparency and Ease of Doing Business.

Decision of the Court/Tribunal

- The Commission amended Regulation 11.7(d) to permit Discoms to recover outstanding dues from "another existing or new connection in the name of the Owner/Occupier." This aligns with the Supreme Court’s K.C. Ninan judgment, which rejected the automatic notion that electricity arrears constitute a charge on property as recognized by ordinary principles; it clarified that arrears becoming a charge depends on express statutory/regulatory provisions.
- The Commission mandated strict procedural safeguards: the licensee must serve a 30-day notice, provide an opportunity for a personal hearing, and issue a "speaking order" before effecting recovery or disconnection.
- The Commission extended the permissible period for applying for restoration of supply. For HT/EHT Consumers it was extended from 1 year to 2 years from the date of disconnection. For other Consumers (LT) it was extended from 2 years to 5 years.

- A crucial proviso was added stating that if an applicant applies after 1 year (HT/EHT) or 2 years (Others) and the licensee has removed the line material, the applicant will be treated as a "new consumer" and must bear the cost of the line and plant. The Commission introduced a new Clause 2A to simplify charges for loads up to 150 kW. It is applicable on Domestic/Non-Domestic premises within 300 meters and Industrial/Mixed Load premises within 200 meters of an available 24-hour three-phase LT network.Charges would now be fixed on a per-kW basis (e.g., differentiated by Rural/Urban and Overhead/Underground), eliminating the need for individual site estimation.
- The Commission rejected stakeholder requests to extend the base distance to 500m or 1000m, noting that the per-kW rates were calculated based on average costs within the specified 300m/200m limits.
- The Commission maintained that for private industrial areas, multi-story buildings, and developer-built colonies, the full electrification cost must still be borne by the developer/applicant, as per existing policies.

HSA
Viewpoint

This Order represents a significant shift towards regulatory pragmatism and financial discipline in the power sector. By codifying the *K.C. Ninan* ratio into Regulation 11.7(d), the Commission has empowered Discoms to plug revenue leakages often caused by consumers hiding connections under different names at the same defaulted premises. However, the mandatory requirement of a "speaking order" is a commendable safeguard that prevents arbitrary exercise of this power. Furthermore, the standardization of connection charges under the new Clause 2A is a welcome "Ease of Doing Business" reform. Moving away from case-by-case estimates to a flat per-kW rate reduces administrative discretion, potential corruption, and processing delays. While the "new consumer" proviso for restoration after line removal may seem harsh, it is economically logical; it prevents the socialization of costs where Discoms would otherwise be forced to re-erect infrastructure for free after long periods of dormancy. Overall, the amendments strike a balanced tone between consumer convenience and the financial viability of the utilities.

M/s EGNI Generation Private Limited Vs. Bengaluru Electricity Supply Company Limited

KERC order dated December 19, 2025, in OP No. 47/2024.

Background facts

- The Petitioner, M/s EGNI Generation Private Limited (an SPV incorporated by Shapoorji Pallonji Infrastructure Capital Company Private Limited), entered into a Power Purchase Agreement with Respondent, Bengaluru Electricity Supply Company Limited on January 09, 2019, for a 20 MW Solar Power Project in Raichur, Karnataka.
- The PPA was approved by the Commission on March 25, 2019, establishing the SCOD as September 24, 2020 (18 months from the effective date). The Petitioner furnished a performance bank guarantee of Rs. 2 Crores.
- From February 2020 onwards, the Petitioner's supply chain was disrupted by the COVID-19 outbreak and nationwide lockdowns in India, which prevented the implementation of the project.
- The Petitioner issued several notices between March and June 2020 intimating Respondent of these force majeure events. Subsequently, on July 31, 2020, the Petitioner issued a Termination Notice under Article 5.7.4 (j) of the PPA, citing that the force majeure events had continued for more than four months.
- Respondent resisted the termination, contending that the Petitioner should have first commissioned the project and then sought condonation of delay under Article 5.7.1 of the PPA.
- Respondent further argued that the Petitioner had not made sufficient efforts toward the project prior to the pandemic and that the termination did not follow the procedure prescribed in Article 16 of the PPA (Termination for Default).

- The Petitioner filed the present petition seeking a declaration of valid termination and for sought direction against the Respondent to return the PBG.

Issues at hand

- Whether the PPA was validly terminated by the Petitioner under Article 5.7.4 of the PPA?
- Whether the Respondent is entitled to retain or encash the performance bank guarantee after such termination?

Decision of the Court/Tribunal

- he Karnataka Electricity Regulatory Commission allowed the petition and declared that the PPA stood validly terminated with effect from July 31, 2020.
- The Commission found that the Petitioner had indeed taken preparatory steps (Load Flow Analysis, land acquisition LOAs, and supply contracts) after PPA approval, and therefore Respondnet's allegation of "lack of effort" was rejected.
- It was held that Article 5.7.4 provides a substantive and independent right to terminate the PPA if a force majeure event prevents progress for more than four months. The Commission clarified that the option to commission and seek delay condonation under Article 5.7.1 is merely an option available to the developer and not a mandatory obligation.
- On the procedural issue, the Commission ruled that Article 5.7.4 does not contemplate a "defaulting party." Since there is no default to "cure" in a force majeure scenario, the requirement for a preliminary default notice or cure period under Article 16 of the PPA is not applicable. The issuance of a termination notice is sufficient compliance.
- The Commission held that the contract was terminated in accordance with its provisions and no liability was incurred by the Petitioner prior to termination, Respondent has no right to retain the bank guarantee. Therefore, Respondent was directed to return the performance bank guarantees to the Petitioner within three months.

HSA
Viewpoint

This judgment provides critical clarity on the hierarchy of remedies available to developers during prolonged force majeure events. By affirming that the right to terminate under Article 5.7.4 of the PPA is a "substantive right," the KERC has ensured that developers are not forced into the commercially onerous position of completing a project under duress just to seek a post-facto condonation of delay. Most importantly, the Commission’s interpretation of the "Termination for Default" procedure (Article 16) in the context of force majeure is a welcome move; it recognizes that Acts of God should not be treated as contractual defaults. This prevents the "cure notice" period from being used as a tool to unnecessarily prolong a dead contract. The ruling reinforces the principle that performance bank guarantees are meant to secure performance, not to serve as a penalty when a contract is ended via validly exercised exit clauses.

Adani Green Energy (UP) Limited Vs. Gulbarga Electricity Supply Company Limited.

KERC order dated December 19, 2025, in OP No. 01/2025.

Background facts

- The Petitioner, Adani Green Energy (UP) Limited, developed a 20 MW ground-mount solar project in Periyapatna Taluk, Karnataka, and executed a Power Purchase Agreement with Respondent, Gulbarga Electricity Supply Company Limited on June 29, 2016, at a tariff of Rs. 4.93 per unit.
- The project was commissioned on September 28, 2017. While the Petitioner consistently supplied energy, Respondent frequently delayed payments for monthly energy bills beyond the stipulated "Due Date."
- Article 13.4 of the PPA provided for a Late Payment Surcharge (LPS) at 1.25% per month for delays in payment "within 30 days beyond its Due Date."

- A dispute arose regarding three primary factors: Whether LPS triggers from the Due Date or only after the expiry of a 30-day grace period; Whether the Petitioner is entitled to monthly compounding of LPS and appropriation of Payments; and Whether payments made by Respondent should be adjusted first against LPS arrears (FIFO/LPS Rules 2022 method) or against the specific energy invoices for which they were issued (Section 59, Contract Act).
- Further Respondent also argued the claim was partially time-barred as the claim of the petitioner for LPS accruing due prior to three years from 07.01.2025, the date of e-filing the present petition.

Issues at hand

- Whether in terms of the Article 13.4 of the PPA, the LPS should be calculated from the due date or from 30 days beyond the due date?
- Whether the PPA allows for the compounding of interest accruing due?
- Whether the payments made by the respondent can be adjusted first towards LPS dues and the balance towards monthly bills on the principle of First in – First out (FIFO) as contended by the petitioner?
- Whether the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022, override the specific terms of a 2016 PPA?
- Whether the claim for LPS is barred by time?

Decision of the Tribunal

- The Commission held that as per the literal and plain reading of Article 13.4, the liability to pay LPS triggers only if payment is delayed beyond 30 days from the Due Date. Consequently, LPS is to be calculated starting from the 31st day after the Due Date, not from the Due Date itself.
- The Commission clarified that since LPS is claimed via supplementary bills and if a supplementary bill for LPS is itself delayed, that delay attracts further LPS. This creates a functional "interest on interest" but not standard compounding.
- The Commission applied Section 59 of the Indian Contract Act, 1872. Since Respondent paid the exact amounts corresponding to specific energy invoices, there was an "implied intimation" that the payment was for that specific debt. The Petitioner could not unilaterally redirect those funds to LPS arrears.
- The Commission rejected the Petitioner's reliance on the LPS Rules 2022. It ruled that subsequent regulations cannot override concluded PPAs unless they expressly specify retrospective application. The 2016 PPA remains governed by its own terms.
- The plea of limitation was rejected. The Commission found that ongoing reconciliation meetings and part-payments made by Respondent (as recently as April 2025) constituted an acknowledgment of debt under Section 19 of the Limitation Act, extending the period for the entire claim from COD.
- The Petitioner was directed to redraw and resubmit supplementary bills for the period from COD to December 2024 based on these findings (simple interest, 30-day grace period, and specific appropriation).

HSA
Viewpoint

This judgment underscores the sanctity of the "Literal Rule" of contract interpretation in commercial energy disputes. By refusing to apply the LPS Rules 2022 retrospectively, the KERC has protected the original commercial bargain struck between the parties in 2016. For developers, the ruling is a double-edged sword: while it safeguards claims against the statute of limitations through the "running account/part-payment" principle, it severely restricts the ability to use the FIFO method of accounting unless expressly written into the PPA. The decision serves as a reminder that Section 59 of the Contract Act remains the default law for payment appropriation; if a Discom pays an amount identical to an invoice, a generator cannot redirect a portion of that payment to cover interest arrears without prior consent or a specific PPA clause.

M.K. Ranjitsinh v. Union of India

SC order dated December 19,2025 in W.P. (C) No. 838/2019 (2025 INSC 1472)

Background facts

- The writ petition was filed under Article 32 of the Constitution of India seeking urgent judicial intervention to prevent the extinction of the Great Indian Bustard (GIB), a critically endangered species.
- The petitioner highlighted the drastic decline in the GIB population, attributing it to factors such as habitat fragmentation, climate change, low reproductive rates, and most significantly, fatal collisions with overhead power transmission lines.
- Reliance was placed on expert studies, including the Power Lines Mitigation Report (2018), which estimated that nearly one lakh birds die annually due to collisions with power lines, with the GIB being particularly vulnerable due to its poor frontal vision and large body size.
- It was noted that as per data placed on record by the Government of Rajasthan, the GIB population had dwindled to approximately 125 birds by 2013, underscoring the imminent threat of extinction.
- In an interim Order dated April 19,2021, the Supreme Court imposed extensive restrictions on the construction of overhead transmission lines across nearly 99,000 square kilometres in Rajasthan and Gujarat and directed the undergrounding of existing power lines in identified GIB habitats.
- Subsequently, the Union of India and renewable energy stakeholders sought modification of the interim directions, citing:
  - Technical and engineering infeasibility of undergrounding high-voltage lines,
  - Safety concerns, particularly in desert terrain, and
  - Serious adverse implications for India's renewable energy expansion, climate change mitigation goals, and international commitments.
  - Acknowledging the competing imperatives of wildlife conservation and climate action, the Court revisited its earlier directions.
- By an Order dated March 21,2024, the Supreme Court modified its interim directions and constituted a high-level Expert Committee comprising wildlife scientists, conservation biologists, and power sector experts.
- The Expert Committee submitted detailed, state-specific reports for Rajasthan and Gujarat, proposing:
  - Revised priority and core conservation areas,
  - Species-specific mitigation measures such as bird diverters, and
  - A calibrated framework to balance ecological protection with sustainable infrastructure development.
- The findings of the Expert Committee, along with objections and representations from various stakeholders, ultimately led to the adjudication culminating in the present judgment.

Issues at hand

- How to balance the constitutional obligation to protect endangered species (Articles 48A and 51A(g)) with the national policy of expanding renewable energy infrastructure.
- Determination of the specific geographical boundaries for "Priority Areas" and the technical feasibility of undergrounding high-voltage (66 kV and above) transmission lines.

Decision of the Tribunal

- The Court undertook a comprehensive analysis grounded in constitutional principles, scientific evidence, and established environmental jurisprudence. At the outset, the Court reaffirmed that the protection of endangered species is a constitutional imperative, flowing directly from: Article 21 (Right to life and a healthy environment), Article 48A (Directive Principle mandating protection of the environment), and Article 51A(g) (Fundamental duty to protect wildlife and the natural environment).
- The Revised Priority Area for the conservation of the Great Indian Bustard (GIB) in Rajasthan is fixed at 14,013 sq. km.
- The Revised Priority Area for GIB conservation in Gujarat is fixed at 740 sq. km.

- Within the Revised Priority Areas, no new wind turbines or solar power plants with a capacity exceeding 2 MW shall be permitted.
- No new overhead power transmission lines (excluding lines of 11 kV and below) shall be permitted within the Revised Priority Areas.Any future power transmission lines of 66 kV and above passing through the Revised Priority Areas shall be routed strictly through designated power line corridors.
- All existing and new power lines of 11 kV and below within the Revised Priority Areas shall be installed or converted into Aerial Bunched Cables (ABCs).
- Existing power lines of 33 kV and below within the Revised Priority Areas shall be undergrounded or rerouted in accordance with the specific technical recommendations of the Expert Committee.
- No new limestone or other mining leases shall be granted within the Revised Priority Areas.
- The Government shall immediately initiate the restoration and consolidation of the grassland ecosystem, including the identification of five critical sites for focused conservation.
- Ecologically significant habitats, namely Degrai Oran in Rajasthan and Naliya Grasslands in Gujarat, shall be notified as Conservation Reserves or Community Reserves, as applicable under law.
- A scientific study shall be conducted by the Wildlife Institute of India (WII) along with an independent expert agency to assess the effectiveness and durability of Bird Flight Diverters (BFDs), to be completed within one year.
- The competent authority shall examine the findings of the scientific study and take appropriate decisions regarding future deployment of BFDs.
- Power transmission lines originating from different renewable energy pooling stations but terminating at a common grid station shall have their routes optimised to maximise the sharing of common transmission corridors.
- Similarly, transmission lines originating from different renewable energy plants but terminating at a common pooling station shall be routed to share the maximum possible common stretch.
- The competent authority shall ensure the undergrounding of 250 km of critical power lines in Rajasthan, as identified by the Wildlife Institute of India, within a strict timeline of two years.
- All other recommendations of the Expert Committee, not expressly listed above, shall be implemented expeditiously.

HSA
Viewpoint

This judgment signifies a move toward a "science-driven" regulatory regime where environmental trade-offs are managed through specific zoning rather than blanket bans. By strictly defining 14,753 sq. km as "Priority Areas" across two states, the Court has created clear "No-Go" zones for major energy infrastructure while providing a legal framework for developers to operate in "Potential Areas" using mandated mitigation strategies. The 24-month deadline for undergrounding 250 km of lines marks one of the most significant infrastructure-related conservation mandates in Indian legal history.

Tamil Nadu Generation and Distribution Corporation Ltd v. Penna Electricity Ltd.

SC order dated December 16, 2025, in Civil Appeal No. 5700 of 20142025 SCC OnLine SC 2825

Background facts

- The dispute arose from an appeal challenging the Appellate Tribunal for Electricity (APTEL) judgment dated July 10, 2013, which affirmed a finding in favour of the respondent, M/s Penna Electricity Limited.
- The central issue was whether power supplied by the respondent via an open cycle gas turbine from October 29, 2005, to June 30, 2006 (the “Relevant Period”) should be classified as “firm power” or “infirm power.”

- The respondent synchronized its Gas Turbine on October 29, 2005, and delivered power on a continuous basis (30 MW) during the Relevant Period.
- The appellant, TANGEDCO, contended that under the Power Purchase Agreement (PPA) dated April 29, 1998 (amended August 25, 2004), the Commercial Operation Date (COD) was only achieved when the entire project reached combined cycle operation on July 1, 2006.
- TANGEDCO argued that any power supplied prior to this project-wide COD was "infirm power," entitling the respondent only to variable charges (fuel costs) rather than fixed charges.
- Notably, the amended PPA of 2004, which changed the project's technology and location, was never placed before the Tamil Nadu Electricity Regulatory Commission (TNERC) for approval under Section 86(1)(b) of the Electricity Act, 2003.The Appellant further relied on correspondence where the respondent had initially agreed that power supplied until the final COD would be treated as "infirm.".

Issues at hand

- Whether electricity generated and supplied continuously after unit synchronization but before the entire project's completion constitutes "firm power" or "infirm power."
- Whether the definitions of COD and Tariff in a PPA can override the Central Electricity Regulatory Commission (CERC) and State Commission Regulations if the PPA has not been approved under Section 86(1)(b).
- Whether the respondent's correspondence agreeing to "infirm power" treatment constituted a legal waiver or estoppel against claiming fixed charges.

Decision of the Tribunal

- The Court drew a sharp line here. It ruled that if a power plant is supplying a steady, reliable flow of electricity (in this case, 30 MW) to the grid, that power is "firm." You can't call it "infirm" just because the final project phase isn't finished. "Infirm power" is really meant for the trial and testing phase—not for months of continuous commercial supply.
- A major takeaway was the Court's stance on the Power Purchase Agreement (PPA). Since the 2004 amended PPA was never officially approved by the TNERC under Section 86(1)(b), the Court decided its specific terms couldn't override the general Tariff Regulations. Essentially, you can't use an unapproved private contract to bypass the law.
- The Bench agreed that for gas-based plants, the Gas Turbine (Open Cycle) and the Steam Turbine (Combined Cycle) are distinct units. Therefore, the Commercial Operation Date (COD) for the Gas Turbine was triggered the moment it synchronized and started its steady supply to the grid on October 29, 2005. The generator didn't have to wait for the entire combined-cycle project to be "done" to start recovering its fixed costs.
- TANGEDCO tried to argue that the respondent had basically given up their right to fixed charges by agreeing in letters to accept "infirm power" rates. The Court shut this down, stating that statutory regulations (which mandate cost recovery for firm power) take precedence over any such correspondence or "waivers" between the parties.
- The Court dismissed TANGEDCO's appeal entirely and upheld the orders from TNERC and APTEL. Since TANGEDCO had already paid Rs. 50 Crores back in 2014 following an interim order, the Court directed them to calculate and pay the remaining balance of the fixed charges to the respondent within 12 weeks.

HSA
Viewpoint

This is a landmark ruling emphasizing that statutory Tariff Regulations hold primacy over private contracts (PPAs) that lack regulatory approval. By upholding the "Unit-wise COD" principle for gas-based plants, the Supreme Court has protected the commercial interests of generators who commission parts of a project ahead of the full combined cycle. It prevents distribution licensees from utilizing "firm" power while only paying "infirm" rates (variable costs), ensuring that the financial burden of capital costs (fixed charges) is fairly recovered as soon as a unit begins continuous commercial supply to the grid.

Maiki Jain v. BSES Rajdhani Power Ltd.

Delhi High Court order dated December 15, 2025, in W.P.(C) 18953/2025, CM APPL. 78. 2025 SCC OnLine Del 9148

Background facts

- The petitioner has been a tenant in possession of the third floor of a premises in Shivaji Enclave, New Delhi, since 2016.
- There is an ongoing legal battle between the tenant and the landlords (Respondents 2 and 3), including a civil suit for possession and arrears of rent.
- On November 28, 2025, the electricity provider (BSES) disconnected the supply and removed the meter because the petitioner had failed to pay the bills for September and October.
- Although the petitioner cleared all outstanding dues on the very same day, BSES refused to restore the connection.
- BSES insisted on a "No Objection Certificate" (NOC) from the landlords, who are the registered consumers of the connection.
- The landlords not only refused the NOC but also explicitly instructed BSES not to reconnect the power, keeping the meter area under lock and key.

Issues at hand

- Whether a tenant's right to a basic amenity like electricity can be withheld due to a pending dispute with a landlord.
- Whether an electricity distribution company can legally insist on an NOC from a landlord before restoring supply to a lawful occupant who has cleared their dues.
- Whether the right to electricity is protected under the fundamental "Right to Life" (Article 21) of the Constitution.

Decision of the Tribunal

- The Court was very clear that electricity isn't just a convenience—it's a basic necessity and a fundamental right under Article 21. The judge ruled that as long as someone is in lawful possession (meaning they haven't been officially evicted by a court), they cannot be forced to live without power.
- The Court ordered BSES to restore the connection immediately and told them they *cannot* insist on an NOC from the landlords. This effectively stopped the landlords from using the electricity connection as a weapon in their private dispute.
- Since the landlords were being uncooperative, the Court set a specific deadline (Friday, December 19, 2025, at 11:00 AM) for BSES to visit the site. It gave BSES the green light to take the local police along if the landlords tried to block them.
- The Judge made it clear that this order is *only* about getting the lights back on. It doesn't mean the tenant has "won" the property dispute or has a permanent right to stay there; those issues will still be decided in the separate pending civil suit.
- To keep things fair, the tenant was ordered to pay all future bills on time, and the Court gave BSES the right to cut the power again if they fall behind on payments in the future.

HSA
Viewpoint

This judgment is a crucial reminder that basic amenities cannot be used as leverage in civil disputes. The Delhi High Court has reinforced the "occupant's right to electricity," making it clear that distribution companies (DISCOMs) should not act as adjudicators in landlord-tenant conflicts. By removing the "NOC hurdle," the Court has protected vulnerable occupants from being "starved out" of their premises through the disconnection of essential services. It balances the scales by ensuring the DISCOM gets its dues while preventing landlords from taking the law into their own hands.

State of Maharashtra v. Gulab Ali Sayyad Bannu.

Bombay High Court order dated October 15, 2025, in Criminal Appeal No. 264 of 2010.
2025 SCC OnLine Bom 3966

Background facts

- On June 15, 2006, an electricity "Flying Squad" inspected an Ice Factory run by the respondent and discovered that the electricity meter had been tampered with.
- A pulse test revealed the meter was running 73.68% slower than normal, and internal inspection found three resistances hidden in a PVC cover.
- The electricity company estimated a theft of 8,768 units over 24 months, resulting in a financial loss of approximately ₹46,032.
- An FIR was registered four days later, on June 19, 2006, by PW-1, an "In-charge Deputy Executive Engineer".
- After a full trial, the Special Court acquitted the respondent, leading the State to file this appeal.
- During the appeal, the respondent argued that the entire prosecution was void from the start because the officer who filed the FIR was not legally authorized to do so under the Electricity Act.

Issues at hand

- Whether an In-charge Deputy Executive Engineer is a "proper authority" to lodge an FIR under Section 151 of the Electricity Act, 2003.
- Whether the failure to have an authorized person file the FIR is a mere technical "irregularity" that can be ignored, or a fundamental "illegality" that ruins the entire trial.
- Whether a Court can legally take cognizance of an electricity theft case if the starting police report is based on an unauthorized complaint.

Decision of the Tribunal

- The Court took a very strict look at Section 151 of the Act. It pointed out that the law doesn't just let *any* employee of a power company file a criminal case. Only specifically authorized officers or designated government inspectors have that power.
- When the Court checked the records, it found that the officer (PW-1) couldn't produce a single document proving he was actually authorized by the company or the government to file that FIR. He was just an "in-charge" engineer, which didn't cut it under the strict rules of the Act.
- The State tried to argue that this was just a small technical mistake (an "irregularity"). The Court firmly rejected this, stating that when the law says "No Court shall take cognizance" except under specific conditions, you can't just bypass those rules. Filing the case without authority was a "fundamental flaw" that went to the very root of the matter.
- Because the very foundation of the case (the FIR and the Court's initial notice of it) was illegal, the High Court ruled that the entire trial was "vitiated"—essentially meaning it was legally dead on arrival.
- Even though the lower court had focused on the actual evidence of the theft, the High Court dismissed the appeal based on this procedural breakdown. The respondent walked free not because he was necessarily innocent of tampering, but because the prosecution didn't follow the "user manual" of the Electricity Act.

HSA
Viewpoint

This judgment is a crucial reminder that basic amenities cannot be used as leverage in civil disputes. The Delhi High Court has reinforced the "occupant's right to electricity," making it clear that distribution companies (DISCOMs) should not act as adjudicators in landlord-tenant conflicts. By removing the "NOC hurdle," the Court has protected vulnerable occupants from being "starved out" of their premises through the disconnection of essential services. It balances the scales by ensuring the DISCOM gets its dues while preventing landlords from taking the law into their own hands.

Bhopal Dhule Transmission Company Limited & Power Grid Corporation of India Limited v. Central Electricity Regulatory Commission & Ors.

APTEL Order dated December 11, 2025, in Appeal No. 272 of 2018 & Appeal No. 24 of 2021

Background facts

- Two appeals (Appeal Nos. 272 of 2018 & 24 of 2021) were clubbed and heard together by the Appellate Tribunal for Electricity (APTEL) as they concerned interlinked issues of "mismatch liability" between two transmission licensees.
- Appeal No. 272 of 2018: Filed by Bhopal Dhule Transmission Company Limited (BDTCL), a Tariff-Based Competitive Bidding (TBCB) licensee, challenging a CERC order (Impugned Order 1: 20.09.2017). This order held BDTCL liable to pay transmission charges to Power Grid Corporation of India Limited (PGCIL) for the period PGCIL's transmission bays at Jabalpur, Indore, and Aurangabad substations (Assets I, II, III) were ready but could not be used due to delay in BDTCL's interconnecting transmission lines.
- Appeal No. 24 of 2021: Filed by PGCIL, a Regulated Tariff Mechanism (RTM) licensee, challenging a separate CERC order (Impugned Order 2: 25.06.2018). This order held PGCIL liable to pay transmission charges to BDTCL for the period BDTCL's Dhule-Vadodara (DV) transmission line was ready (deemed COD: 09.02.2015) but could not be used due to delay in PGCIL's interconnecting bay at the Vadodara substation.
- The core dispute revolved around who should bear the financial liability (transmission charges) for "stranded" transmission assets during the "mismatch period" when one licensee's asset is ready but cannot be utilized because the other licensee's interlinked asset is delayed.
- Both BDTCL and PGCIL argued that the delays in their respective projects were due to Force Majeure events, which had been condoned by CERC, and thus mismatch liability should not be imposed on them.

Issues at hand

- Whether CERC's imposition of bilateral mismatch liability on a transmission licensee, whose delay is attributable to Force Majeure events, is valid when the extant Tariff Regulations (2014) and Sharing Regulations (2010) do not explicitly provide for such liability?
- Whether the principles laid down by APTEL in the NRSS XXXI (B) Transmission Ltd. judgment (which set aside mismatch liability for an entity affected by Force Majeure) or the principles in the Patran Transmission and Nuclear Power Corporation (NPCIL) judgments (which upheld such liability on the defaulting entity) apply to the present facts?
- Whether the mismatch liability, if upheld, can be passed on to the Long-Term Transmission Customers (LTTCs) or the Point of Connection (PoC) Pool under the Sharing Regulations, 2010, instead of being borne bilaterally by the delayed licensee?
- Whether PGCIL's challenge to the deemed Commercial Operation Date (COD) of BDTCL's DV line (09.02.2015) is maintainable at the appellate stage?

Decision of the Court/Tribunal

- APTEL held that the CERC (Terms and Conditions of Tariff) Regulations, 2014 and the CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 do not contain specific provisions to deal with the consequences of a mismatch between two interlinked transmission licensees. In the absence of such regulations, CERC is empowered under Section 79(1) of the Electricity Act, 2003 to exercise its regulatory power to fill this gap, as upheld by the Supreme Court in PTC India Ltd. v. CERC.
- APTEL distinguished its earlier judgment in NRSS XXXI (B) Transmission Ltd., which had set aside mismatch liability for a Force Majeure-affected entity. The Tribunal held that the Force Majeure clause in a Transmission Service Agreement (TSA) provides relief only between the contracting parties (i.e., the TSP and its LTTCs). It does not, and cannot, extinguish liability towards a third-party transmission licensee (like PGCIL/BDTCL) with whom there is no contractual privity. The relief from liquidated damages under the TSA is separate from the statutory/regulatory liability to compensate another licensee for stranding its asset.
- APTEL affirmed the principles established in Patran Transmission and NPCIL judgments, which were later endorsed by the Supreme Court in POWERGRID v. M.P. Power Transmission Co. Ltd. (2025). The settled principle is that the entity responsible for the delay (the "defaulting party") must bear the transmission charges of the ready-but-stranded asset of the other licensee. This principle aligns with the Supreme Court's ruling in Power Grid Corporation of India Ltd. v. Punjab State Power Corporation Ltd. (Barh-Balia case), which held that beneficiaries cannot pay for an asset not in use.
- APTEL rejected the argument that mismatch liability should be borne by the LTTCs or serviced through the PoC Pool. It held that the Sharing Regulations, 2010, and the PoC mechanism are triggered only when a transmission asset is put to use. Since the stranded assets were not utilized, charging the LTTCs or the pool would be unjust, as they derived no benefit. The TSA clauses are superseded by the Sharing Regulations on this aspect.
- APTEL rejected PGCIL's belated challenge to the deemed COD (09.02.2015) of BDTCL's DV line, noting that this plea was not raised before CERC and would amount to challenging the validity of a certificate issued by the Central Electricity Authority (CEA).
- Final Ruling: APTEL found no error in CERC's Impugned Orders.
- Appeal No. 272 of 2018 (BDTCL's Appeal): Dismissed. BDTCL is liable to pay transmission charges to PGCIL for the mismatch period for Assets I, II, and III.
- Appeal No. 24 of 2021 (PGCIL's Appeal): Dismissed. PGCIL is liable to pay transmission charges to BDTCL for the mismatch period for the DV line.

HSA

Viewpoint

This is a landmark judgment by APTEL that brings much-needed clarity and finality to the long-contested issue of "mismatch liability" in the inter-state transmission sector. The judgment firmly establishes that regulatory powers under Section 79 of the Electricity Act can be validly exercised to address gaps in regulations, and such exercise is not ultra vires. It draws a critical and clear distinction between contractual relief (under TSA's *Force Majeure* clause) and regulatory liability towards a non-contracting third party. This clarifies that approval of *Force Majeure* and extension of SCOD protects a licensee from its LTTCs but not from its interconnected transmission counterpart.

The ruling reinforces the "defaulting party pays" principle as the cornerstone for allocating financial risk during commissioning mismatches, protecting innocent beneficiaries from bearing the cost of non-utilized assets.

By upholding CERC's orders and dismissing both appeals, APTEL has endorsed a stable and predictable regulatory framework, ensuring that transmission licensees account for the risk of stranding another licensee's asset in their project planning and bidding.

Smt. Sharada Doddi v. Gulbarga Electricity Supply Company Limited (GESCOM) & Karnataka Electricity Regulatory Commission (KERC).

APTEL Order dated December 4, 2025in Appeal No. 418 of 2023

Background facts

- Smt. Sharada Doddi, a farmer, received a Letter of Award on March 16, 2015, from KREDL for a 1 MW solar project on 5 acres 24 guntas in Sy. No. 973, Hamilapur Village, Bidar Taluk. A Power Purchase Agreement (PPA) was executed with GESCOM on July 1, 2015, setting the Scheduled Commissioning Date (SCD) as January 1, 2017 (18 months from effective date).
- Delays arose in land conversion: Initial application under Section 109 of Karnataka Land Reforms Act on July 17, 2015; refiled under Section 95 of Karnataka Land Revenue Act on March 8, 2016; approved on September 1, 2016, after government circulars and departmental correspondences addressing generic issues for solar developers.
- Evacuation approvals from KPTCL: Tentative on May 27, 2016; regular on October 20, 2016. EPC contract signed October 25, 2016; breaker ordered September 7, 2016, delivered March 2017; loan sanctioned March 2017 amid demonetization impacts.
- GESCOM granted 6-month SCD extension to June 30, 2017, via order dated March 10, 2017, and supplemental agreement. Project commissioned April 29, 2017, within extended period but 4 months past original SCD.
- KERC dismissed OP No. 122/2017 on February 21, 2019, rejecting extension, imposing damages under PPA Articles 2.2 and 2.5.7, and applying reduced tariff of Rs. 4.36/kWh per April 12, 2017, order (vs. original Rs. 8.40/kWh).

Issues at hand

- Whether KERC was justified in rejecting GESCOM's 6-month SCD extension granted on March 10, 2017, and imposing delay penalties.
- Whether KERC was justified in reducing tariff from Rs. 8.40/kWh to Rs. 4.36/kWh based on actual commissioning date.

Decision of the Court/Tribunal

- Extension approved as force majeure under PPA Clause 8.3(vi) due to delays in land conversion beyond appellant's control, despite policy allowing deemed conversion upon application—banks required formal approval, and issues were generic per ministerial meeting minutes (November 4, 2015) and government circular (December 1, 2015). GESCOM's extension upheld; no penalties as commissioning met extended timeline. Breaker delay not material given land approval lag.
- Remitted to KERC to verify if capital costs crystallized before January 1, 2017 (original SCD). If yes, tariff fixed at Rs. 8.40/kWh; else, Rs. 4.36/kWh applies per PPA Article 5.1 and actual COD. No cost-plus tariff determination; no interest/carrying cost from February 21, 2019, to delay condonation payment date per tribunal's May 26, 2023, order.

HSA
Viewpoint

This judgment reinforces force majeure protections for small-scale farmer solar developers under PPA Clause 8.3(vi), distinguishing policy intent from practical hurdles like bank financing tied to land approvals, and aligns with precedents like Chennamangathihalli Solar (Appeal No. 351/2018, affirmed by Supreme Court). The remand ensures equitable tariff application without windfall gains, balancing developer diligence with regulatory timelines amid falling solar costs.

Maharashtra State Electricity Distribution Company Limited v. Central Electricity Regulatory Commission & Ratnagiri Gas and Power Private Limited.

APTEL Order dated 28.11.2025 in Appeal No. 232 of 2025

Background facts

- On 12.06.2025, the Central Electricity Regulatory Commission ("CERC") passed an order in Petition No. 276/MP/2024 filed by Maharashtra State Electricity Distribution Company Limited ("MSEDCL") under Section 79(1)(f) of the Electricity Act, 2003. The petition challenged the validity of invoices raised by Ratnagiri Gas and Power Private Limited ("RGPPL") under the Power Purchase Agreement dated 10.04.2007 ("PPA"), contending that the PPA stood validly terminated by MSEDCL with effect from 01.04.2014.
- MSEDCL sought quashing of the invoices uploaded on the PRAAPTI portal and restraint on any coercive action, including curtailment of open access under the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022. The CERC dismissed the petition holding that the issue of termination of the PPA had already attained finality against MSEDCL and that the petition was barred by limitation and principles of res judicata.
- Aggrieved by the said order, MSEDCL preferred Appeal No. 232 of 2025 before the Hon'ble Appellate Tribunal for Electricity ("APTEL").

Issues at hand

- Whether MSEDCL could re-agitate the issue of termination of the PPA dated 10.04.2007, after the same had been raised and rejected in earlier proceedings up to the Hon'ble Supreme Court?
- Whether the petition filed by MSEDCL before the CERC was barred by limitation and the principles of constructive res judicata?

Decision of the Court/Tribunal

- APTEL held that the issue of termination of the PPA had been expressly raised by MSEDCL in earlier proceedings before the Hon'ble Supreme Court and stood rejected. In view of the dismissal of the Civil Appeal and the Review Petition, the issue had attained finality and could not be reopened in subsequent proceeding.
- The Tribunal upheld the finding of the CERC that the petition was barred by limitation and the principles of constructive res judicata. APTEL held that MSEDCL could not indirectly seek a declaration on termination of the PPA after having failed to obtain such relief in earlier proceedings. Accordingly, the appeal was dismissed.

HSA

Viewpoint

This judgment reinforces the doctrine of finality in regulatory litigation and underscores that parties cannot repeatedly re-agitate settled issues under the guise of fresh causes of action. The Tribunal's affirmation of limitation and constructive res judicata principles provides certainty to generators and strengthens enforcement of long-term PPAs. The decision is particularly relevant for distribution licensees and power sector stakeholders dealing with legacy contractual disputes.

Noida Power Company Limited v. Uttar Pradesh Electricity Regulatory Commission & Anr.

APTEL Order dated November 28, 2025, in Appeal No. 98 of 2021 & Appeal No. 465 of 2023

Background facts

- On 04.12.2020, the Uttar Pradesh Electricity Regulatory Commission ("UPERC") passed a Tariff Order in Petition No. 1541 of 2019 approving the True-up for FY 2018–19, Annual Performance Review ("APR") for FY 2019–20 and Annual Revenue Requirement ("ARR") for FY 2020–21 of Noida Power Company Limited ("NPCL"), the distribution licensee for Greater Noida.

- Aggrieved by various disallowances, modifications and alterations made in the said Tariff Order, NPCL filed Appeal No. 98 of 2021 before the Hon'ble Appellate Tribunal for Electricity ("APTEL"). Separately, a consumer, Mr. Rama Shanker Awasthi, filed Appeal No. 465 of 2023 challenging UPERC's decision to not revisit certain expenditure and asset-related claims of NPCL pertaining to earlier tariff periods.
- Both appeals arose from the same Tariff Order and involved overlapping questions relating to the scope of tariff determination, true-up proceedings and the extent of regulatory discretion exercised by UPERC. Accordingly, APTEL heard and disposed of both appeals by a common judgment dated 28.11.2025.

Issues at hand

- Whether tariff determination under Sections 62 and 64 of the Electricity Act, 2003 is legislative, regulatory or quasi-judicial in nature?
- Whether UPERC is obligated to record reasons for disallowances made in tariff orders and whether such reasons can be supplemented at the appellate stage?
- Whether issues pertaining to past tariff periods, which have attained finality, can be reopened in true-up proceedings at the instance of a consumer?

Decision of the Court/Tribunal

- APTEL held that tariff determination is generally legislative and regulatory in character, akin to price fixation. However, since tariff orders are appealable under Section 111 of the Electricity Act, the exercise also bears quasi-judicial characteristics. Tariff determination under the Act is therefore a hybrid function combining legislative, regulatory and adjudicatory elements.
- APTEL held that even in tariff proceedings, the Commission is required to record cogent reasons for disallowing claims, particularly where it departs from past practice. The Commission cannot supplement or improve its reasoning at the appellate stage.
- The Tribunal held that tariff orders for prior years, once finalized, cannot be indirectly reopened through true-up proceedings. Consumer challenges must remain confined to the relevant tariff period.

HSA
Viewpoint

This judgment provides important clarity on the nature of tariff determination under the Electricity Act and reinforces the obligation of regulatory commissions to pass reasoned tariff orders. By restricting retrospective reopening of settled tariff periods, the Tribunal has strengthened regulatory certainty and financial discipline. The decision is significant for distribution licensees, regulators and consumers alike, as it clearly delineates the limits of true-up proceedings and appellate scrutiny.

Gujarat Urja Vikas Nigam Limited and Ors. v. Tata Power Company Limited and Ors.

CERC Order dated November 19, 2025, in Petition Nos. 85/MP/2022, 123/MP/2022, 246/MP/2022, 56/MP/2023, 107/MP/2023, 185/MP/2023 & 205/MP/2023

Background facts

- On November 19, 2025, the Central Electricity Regulatory Commission ("CERC"), passed an Order in Petition Nos. 107/MP/2023, 85/MP/2022, 123/MP/2022, 246/MP/2022, 56/MP/2023, 185/MP/2023, and 205/MP/2023 ("Specific Performance Petitions").
- These petitions were filed by Gujarat Urja Vikas Nigam Limited ("GUVNL"), Punjab State Power Corporation Limited ("PSPCL"), Haryana Power Purchase Centre ("HPPC"), Maharashtra State Electricity Distribution Company Limited ("MSEDCL"), Rajasthan Urja Vikas Nigam Limited ("RUVNL"), and Tata Power Company Limited ("TPCL"), concerning disputes arising under the Power Purchase Agreement dated 22.4.2007 ("PPA") for supply of electricity at an aggregate contracted capacity of 3800 MW from TPCL's Mundra Ultra Mega Power Project.

- The petitioners sought various reliefs including directions for specific performance to supply electricity as per contracted capacity, compensation for alleged short-supply and non-supply of electricity, refunds of excess payments, and determination on methodology for calculating penalties and availability under the PPA.
- The Order addresses fundamental issues regarding the demarcation between tariff and non-tariff disputes, the scope of CERC's adjudicatory jurisdiction under Section 79(1)(f) of the Electricity Act, 2003, the applicability of Section 8 of the Arbitration and Conciliation Act, 1996 ("A&C Act"), and the permissibility of bifurcating disputes with WRLDC from the principal contractual disputes with TPCL, ultimately concluding that these disputes are non-tariff in nature and must be referred to a three-member arbitral panel for resolution.

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?
- Directions to the Parties, if any.

Decision of the Court/Tribunal

- CERC held that the core test, as laid down in the Judgment dated August 28, 2024in Appeal No. 309 of 2019 by the Hon'ble Appellate Tribunal for Electricity ("DVC Case"), is to examine the true nature of the primary dispute and not the mere presence of tariff-linked monetary claims. Applying this test, CERC concluded that the disputes relate to alleged breach of contractual obligations by TPCL concerning supply, availability, and performance under the PPA, and that tariff-based prayers are only incidental. Since the Procurers' grievances revolve around non-supply/short-supply and contractual performance, the disputes do not fall within "tariff" or "regulation of tariff" and are non-tariff disputes mandatorily referable to arbitration.
- CERC held that once the disputes are found to be non-tariff in nature, it lacks adjudicatory jurisdiction under Section 79(1)(f) read with Section 79(1)(b), and jurisdictional objections can be raised at any stage. In such circumstances, the absence or timing of invocation of Section 8 of the A&C Act loses relevance, as a statutory tribunal cannot adjudicate a dispute over which it has no jurisdiction. CERC further held that Section 79(1)(f) itself contains an independent mandate obligating reference of non-tariff disputes to arbitration even in the absence of, or delay in, a Section 8 application.
- CERC rejected the Procurers' reliance on Sukanya Holding (P) Ltd. v. Jayesh H Pandya and Another, (2003) 5 SCC 531, holding that once the disputes between TPCL and the Procurers are non-tariff, CERC's adjudicatory jurisdiction does not extend to them and its only statutory course is to refer the disputes to arbitration. Accepting the Procurers' argument would force CERC to adjudicate matters beyond its jurisdiction. However, CERC clarified that the Procurers are at liberty to pursue independent statutory remedies before CERC for any standalone grievances against WRLDC.
- CERC reiterated that the disputes do not relate to tariff or regulation of tariff and must be referred to arbitration under Section 79(1)(f), and that neither delay in invoking Section 8 nor the presence of prayers involving WRLDC can bar such reference. Accordingly, invoking Regulation 49 of the CERC (Conduct of Business) Regulations, 2023, CERC directed reference of the disputes to a three-member arbitral tribunal, directed the parties to propose their nominees within two weeks, and listed the matter on 16.12.2025 for finalisation of the arbitral panel.

HSA

Viewpoint

This is an important judgement by the Hon'ble CERC as the law laid down in the DVC Case has been applied to arrive at this decision. The Hon'ble CERC has held in unequivocal terms that the latter part of Section 79(1)(f) of the Act which states "and to refer any dispute for arbitration" gives power to CERC to refer disputes to arbitration. This judgement clearly demarcates and clarifies the disputes over which CERC exercises adjudicatory jurisdiction and those which must be mandatorily referred to arbitration. The judgment provides greater clarity regarding the appropriate forum for adjudication of disputes arising in the regulatory sector.

CERC Suo Motu Order on Removal of Difficulties under GNA Regulations.

CERC Suo Moto Order dated December 8, 2025, in Petition 14/SM/2025

Background facts

- The Central Electricity Regulatory Commission ("CERC") passed a suo motu order under Petition No. 14/SM/2025 addressing implementation challenges arising from the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 ("GNA Regulations").
- The GNA Regulations were notified on 07.06.2022 and subsequently amended on 01.04.2023, 19.06.2024, and 31.08.2025. The Third Amendment, effective from 09.09.2025, introduced the concept of solar hour access and non-solar hour access.
- Post implementation of the Third Amendment, several Renewable Energy ("RE") developers and industry associations raised practical and procedural difficulties in relation to conversion timelines, installation of additional technical capacity, ESS withdrawal, land requirements, source change, and Right of First Refusal ("ROFR") mechanisms.
- In light of these representations, CERC exercised its powers under Regulations 42 and 44 of the GNA Regulations to remove difficulties and issue practice directions to ensure smooth implementation of the regulatory framework.

Issues at hand

- Whether the timeline for conversion of existing REGS / RPPDs to solar hour access under Regulation 5.11(b) required extension?
- Whether additional inverters, WTGs or equivalent equipment installed solely for reactive power compensation, internal losses, or technical compliance should be treated as additional installed capacity requiring separate connectivity and bank guarantees?
- Whether ESS projects should be permitted to draw power under T-GNA pending completion of drawal studies by CTUIL?
- Whether changes in land parcels made prior to the Third Amendment should be counted towards the "one-time change" restriction?
- Whether RPPDs are eligible to apply for non-solar hour access under the ROFR framework.
- Whether transition cases relating to change in energy source required regulatory relaxation.
- Whether timelines for submission of land documents under Regulation 11A required clarification where final connectivity or coordinates were delayed by CTUIL.

Decision of the Court/Tribunal

- CERC acknowledged that solar hour access is a newly introduced concept and, as a one-time measure, extended the conversion timeline under Regulation 5.11(b) from three months to five and a half months from the effective date of the Third Amendment. A corresponding extension was also granted for submission of SCODs under Regulation 37.10(g).

- CERC held that additional inverters, WTGs, or equivalent equipment installed purely for reactive power compliance, internal losses, or other technical requirements at the Point of Injection should not be treated as additional capacity requiring separate connectivity or Conn-BGs. The Commission relaxed Regulation 5.1 for REGS and clarified that such capacity shall not permit active power injection beyond the granted connectivity quantum.
- Recognising operational realities, CERC permitted ESS projects to draw charging power from the grid under T-GNA, subject to available margins, until CTUIL completes drawal studies. CTUIL was directed to complete such studies within four months.
- CERC clarified that land parcel changes made prior to the Third Amendment shall not be counted for the purpose of the "one-time change" restriction. Entities are permitted one change post-amendment, even if changes were made earlier.
- The Commission clarified that RPPDs are eligible to apply for non-solar hour access only under the ROFR mechanism in terms of Regulation 5.11(b), read with Annexure-IV. The timeline for such applications was also aligned with the extended five and a half month period.
- CERC permitted entities that had received in-principle connectivity prior to the Third Amendment to exercise one opportunity to change energy source post-amendment, irrespective of whether such change had been undertaken earlier or whether the earlier timelines had expired.
- CERC directed that where final connectivity or coordinates are delayed by CTUIL, developers shall be granted at least nine months from communication of tentative coordinates to furnish land documents, even if the delay is attributable to the nodal agency.

HSA
Viewpoint

This suo motu order shows CERC's practical and responsive approach in dealing with the implementation issues that emerged after the Third Amendment to the GNA Regulations. By invoking its power to remove difficulties, the Commission has sought to balance regulatory requirements with the on-ground challenges faced by renewable energy developers, especially in areas such as solar hour access, ESS operations, land-related compliances, and transition arrangements. The limited and well-calibrated relaxations granted by CERC provide much-needed clarity and comfort to stakeholders, while continuing to safeguard the broader objective of efficient utilisation of the ISTS. Overall, the order underlines CERC's proactive regulatory role and is expected to support smoother execution of renewable energy projects under the evolving GNA framework.

ACME Solar Holdings Ltd. & Anr. v. Central Transmission Utility of India Limited.

CERC Order dated December 12, 2025in Petition No.452/MP/2025

Background facts

- The present petition was filed by ACME Solar Holdings Limited ("ASHL") and its SPV, ACME Sikar Solar Private Limited ("ASSPL"), seeking extension of time to commission a 300 MW ISTS-connected solar power project located at Bikaner, Rajasthan, and protection of the connectivity granted at the Bikaner-II Pooling Substation.
- ASHL was granted Stage-II Connectivity on May 10, 2022 and LTA on June 15, 2022 under the 2009 Connectivity Regulations, which were later transitioned to the GNA framework on September 25, 2023.
- By an earlier order dated November 25, 2024 in Petition No. 326/MP/2024, CERC had granted time up to April 21, 2025 to commission the project, subject to payment of compensation of ₹9.5 crore.

- Owing to protests by local villagers and environmental groups, along with last-mile technical and SCADA-related issues, the project could not be fully commissioned within the stipulated timeline, prompting the Petitioners to seek an additional extension of 65 days.
- During the pendency of the petition, CTUIL revoked the connectivity on April 23, 2025, leading the Petitioners to seek interim protection, restoration of connectivity, and directions to permit commissioning activities.
- The Petitioners also sought directions to CTUIL to process an application filed under Regulation 5.2 of the GNA Regulations for addition of solar and ESS capacity within the existing connectivity quantum.

Issues at hand

- Whether the additional period of 65 days taken by the Petitioners to commission the project beyond the timeline stipulated under the Order dated 25.11.2024 could be allowed?
- If such additional time is allowed, what should be the consequential liability and compensation payable by the Petitioners for delayed commissioning?
- What should be the treatment of the Petitioners' application under Regulation 5.2 of the GNA Regulations for addition of solar and ESS capacity within the existing connectivity quantum?

Decision of the Court/Tribunal

- CERC held that although the Petitioners failed to meet the committed commissioning deadline of 21.04.2025, the entire 300 MW project had subsequently achieved commercial operation by 25.06.2025 in a phased manner. The Commission observed that revocation of connectivity at this advanced stage would not serve the objective of optimal utilisation of transmission infrastructure. Accordingly, CERC allowed the additional 65-day period for commissioning, quashed CTUIL's revocation letter dated 23.04.2025, and directed restoration of the Petitioners' connectivity.
- While granting the extension, CERC imposed escalated compensation for the delay beyond 21.04.2025. The Commission directed that compensation be calculated on a per-MW-per-day basis, with an escalation of 10% for each month of delay, and adjusted against the ₹9.5 crore amount deposited by the Petitioners. CTUIL was directed to refund the balance amount after re-furnishing of the applicable Connectivity Bank Guarantees. The Commission further clarified that the relaxed commissioning timeline would not dilute the Petitioners' liabilities under the Sharing Regulations, 2020.
- CERC held that since the connectivity had been restored, CTUIL could not keep the Petitioners' application under Regulation 5.2 in abeyance. CTUIL was directed to process the application for addition of 190 MW solar capacity and 250 MW ESS within the existing connectivity quantum, in accordance with the GNA Regulations and subject to compliance with the compensation directions.

HSA
Viewpoint

This decision reflects CERC's balanced approach in dealing with repeated commissioning delays while safeguarding the larger objective of efficient transmission utilisation. While the Commission did not condone the Petitioners' failure to adhere to committed timelines and imposed enhanced compensation for the delay, it rightly avoided a mechanical revocation of connectivity once the project had achieved full commercial operation. The order also reinforces the principle that connectivity is a scarce public resource, while at the same time recognising genuine last-mile and system-level challenges faced by developers. Overall, the ruling provides important guidance on the consequences of delayed commissioning under the GNA regime and clarifies the treatment of post-COD applications for additional capacity under Regulation 5.2.

Layer Hybren Private Limited v. Central Transmission Utility of India Limited & Anr.

CERC Order dated November 28, 2025, in Petition No. 273/MP/2024

Background facts

- Layer Hybren Private Limited ("LHPL") filed the present petition seeking reliefs in relation to the grant of 140 MW connectivity for a hybrid renewable energy project (100 MW solar + 40 MW wind) at Davangere Sub-station in Karnataka under the GNA Regulations, 2022.
- The Petitioner had applied for connectivity under the land bank guarantee route and was required to submit documents evidencing possession of land rights for 50% of the project land within the timelines prescribed under Regulation 11A of the GNA Regulations.
- LHPL contended that after its application for connectivity, the National Institute of Wind Energy ("NIWE") reclassified a substantial portion of the Davangere region as a "No Wind Turbine Generator (WTG) Zone", which adversely impacted the wind component of the project and delayed land acquisition.
- On this basis, the Petitioner sought a declaration that such reclassification constituted a force majeure event beyond its control, exemption from transmission charges and penalties in case of delay, retention of connectivity, and an extension of three months to submit the requisite land documents.
- The Petitioner also filed an interlocutory application seeking interim protection against invocation of bank guarantees and revocation of connectivity by CTUIL.

Issues at hand

- Whether the reclassification of the Davangere region as a "No WTG Zone" affected the Petitioner's wind capacity and constituted a force majeure event?
- Whether the Petitioner could be exempted from liability towards transmission charges, penalties or other charges under the GNA Regulations and the Sharing Regulations, 2020, in case of delay in commissioning of the project?
- Whether the Petitioner was in possession of ownership, lease or land use rights for 50% of the land required for the wind capacity, as mandated under Regulation 11A of the GNA Regulations?

Decision of the Court/Tribunal

- The Commission rejected the Petitioner's plea that the reclassification of the Davangere region as a "No WTG Zone" constituted a force majeure event. CERC observed that NIWE's records showed that the relevant maps had been updated prior to the Petitioner's application for connectivity, and no documentary evidence was produced to substantiate the claim of a subsequent reclassification. Further, the Commission noted that the solar component was unaffected and the wind component also met the prescribed land requirements. Accordingly, the plea for declaration of force majeure and extension of timelines was rejected.
- CERC held that the Petitioner's request for exemption from future transmission charges and penalties was premature, as the connectivity start date was more than a year away. In the absence of an actual delay or crystallised liability, the Commission declined to grant any prospective exemption.
- CERC held that the Petitioner had already secured land rights exceeding 50% of the requirement for the wind component of the project and was therefore compliant with Regulation 11A of the GNA Regulations. Consequently, no immediate risk of revocation of connectivity arose on this count.

HSA
Viewpoint

This order underscores CERC's strict and evidence-driven approach while dealing with claims of force majeure under the GNA framework. The Commission has clarified that extensions cannot be claimed merely by citing unforeseen events. Such relief will be considered only where the claims are backed by clear, contemporaneous, and verifiable material demonstrating a direct and unavoidable impact. While recognising that connectivity is a valuable and scarce resource, CERC reaffirmed that developers must exercise due diligence at the pre-application stage and cannot seek post-facto relief where regulatory requirements are demonstrably met. The decision provides important guidance on the limits of force majeure claims and reinforces regulatory certainty in the implementation of land and connectivity obligations under the GNA Regulations.

Scatec India Renewables One Private Limited v. Solar Energy Corporation of India Ltd. & Ors.

CERC Order dated November 28, 2025 in Petition No. 26/MP/2024

Background facts

- Scatec India Renewables One Private Limited ("SIROPL") was awarded a 300 MW ISTS-connected wind project under SECI's Wind Tranche-XIII scheme, with power to be supplied to GRIDCO under a back-to-back PPA–PSA structure.
- At the bidding stage, waiver of ISTS charges was available under MoP orders dated November 23, 2021 and November 30, 2021, including extensions in cases of force majeure, transmission delays or government delays.
- Subsequently, the MoP issued an order dated June 9, 2023 restricting such extensions to two periods of six months each.
- SIROPL contended that this restriction fundamentally altered the bidding framework, created uncertainty on future ISTS liability, and impacted project viability in light of delays in tariff adoption and transmission readiness.
- The Petitioner sought a declaration that the MoP order constituted a Change in Law, or alternatively, permission to exit the project without penalty. Additional reliefs were also sought seeking clarity on ISTS liability and directions to GRIDCO to approach OERC for modification of the PSA approval.

Issues at hand

- Whether the MoP order dated 09.06.2023 qualifies as a Change in Law under the PPA?
- Whether the Petitioner can be allowed to withdraw from the project if Change in Law relief is not granted?
- Whether the Commission can clarify, at this stage, the liability for ISTS charges if the project is commissioned beyond the waiver period?

Decision of the Court/Tribunal

- CERC held that although the MoP order dated 09.06.2023 is a government order issued after the cut-off date under the PPA, it does not presently result in any change in project cost requiring a change in tariff. Since the project has not yet been commissioned, the alleged impact remains uncertain. Accordingly, the Change in Law claim was rejected as premature.
- The Commission declined to examine the Petitioner's request to withdraw from the project in the present proceedings, noting that a separate petition seeking discharge from the PPA is already pending. The issue was left open to be decided in those proceedings.
- CERC held that liability for ISTS charges depends on the reasons for delay, if any, in commissioning of the project. As the project has not yet been commissioned, the Commission found it premature to clarify ISTS liability at this stage and rejected the prayer.

HSA
Viewpoint

This order clearly reaffirms that Change in Law relief under the PPA is impact-based and cannot be granted in anticipation of future events. By confining its analysis strictly to the issues framed, CERC has also avoided speculative adjudication on ISTS liability and contractual exit. The decision reinforces regulatory certainty by confirming that such issues must be examined only when circumstances arise.

M/s Rathi Steel & Powers Ltd. v. Uttar Pradesh Power Corporation Ltd. & Ors.

UPERC Petition No. 2247/2025, Order dated November 11, 2025 (Rathi Steel & Powers Ltd.)

Background facts

- M/s Rathi Steel & Powers Ltd. filed Petition No. 2247 of 2025 before the Uttar Pradesh Electricity Regulatory Commission ("UPERC") under Clause 9.5 of the UP Electricity Supply Code, 2005, seeking removal of difficulties in the interpretation and application of Clause 4.20(g) of the Supply Code, 2005 read with Chapter III of the Cost Data Book, 2019.
- The dispute arose in the context of security deposit requirements applicable to consumers. The Petitioner contended that the provisions of the Cost Data Book, 2019 were applicable only at the stage of grant of new connection or enhancement of load, and that for subsequent years, the security deposit ought to be governed solely by Clause 4.20(g) of the Supply Code, 2005, i.e., based on actual consumption.
- The Respondents (UPPCL and the distribution licensee) opposed the petition, contending that the Cost Data Book applies throughout the subsistence of the electricity connection and prescribes a minimum security deposit which must be retained at all times, subject to adjustment where consumption-based security exceeds such minimum.

Issues at hand

- Whether the minimum security deposit in Chapter 3 of the Cost Data Book 2019 applies only initially for new connections or load enhancements.
- Whether the distribution licensee is entitled to retain the minimum-security deposit prescribed under Chapter III of the Cost Data Book even where consumption-based security works out to a lower amount.

Decision of the Court/Tribunal

- UPERC rejected the Petitioner's contention and held that the Cost Data Book is not confined to the stage of new connection or load enhancement, but applies throughout the life of the electricity connection.; it includes ongoing activities and sets an ongoing "Minimum Security" instead of "Initial Security."
- The Commission adopted a harmonious interpretation of Note 1 to Chapter III of the Cost Data Book, holding that the licensee is entitled to retain the minimum-security deposit at all times. It was clarified that where security calculated on the basis of 45 days' consumption exceeds the minimum security, the higher amount would be applicable; otherwise, the minimum security would prevail.
- The use of the word "However" in the Cost Data Book does not indicate an overriding effect over the minimum-security requirement. Had the intention been to override, the provision would have employed the term "Notwithstanding".
- Applying principles of literal interpretation, as laid down by the Hon'ble Supreme Court in Padmasundara Rao v. State of Tamil Nadu, the Commission held that both provisions must be harmoniously construed and given full effect.
- Accordingly, the Petition was disposed of with the above clarification, affirming the continued applicability of the Cost Data Book.
- Order dated: November 21, 2025, Lucknow.

HSA
Viewpoint

UPERC has rightly rejected a narrow and stage-specific reading of the Cost Data Book and has affirmed that the concept of "minimum security deposit" is a continuing obligation, not a one-time requirement. The Commission's distinction between the terms "however" and "notwithstanding" is particularly instructive and reflects a sound application of statutory interpretation principles. The analogy drawn with minimum consumption charges under tariff structures further strengthens the reasoning and aligns security deposit treatment with established billing jurisprudence. Importantly, the order also recognises the operational realities faced by distribution licensees, who remain obligated to supply contracted load at all times, irrespective of a consumer's reduced drawal due to open access procurement.

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