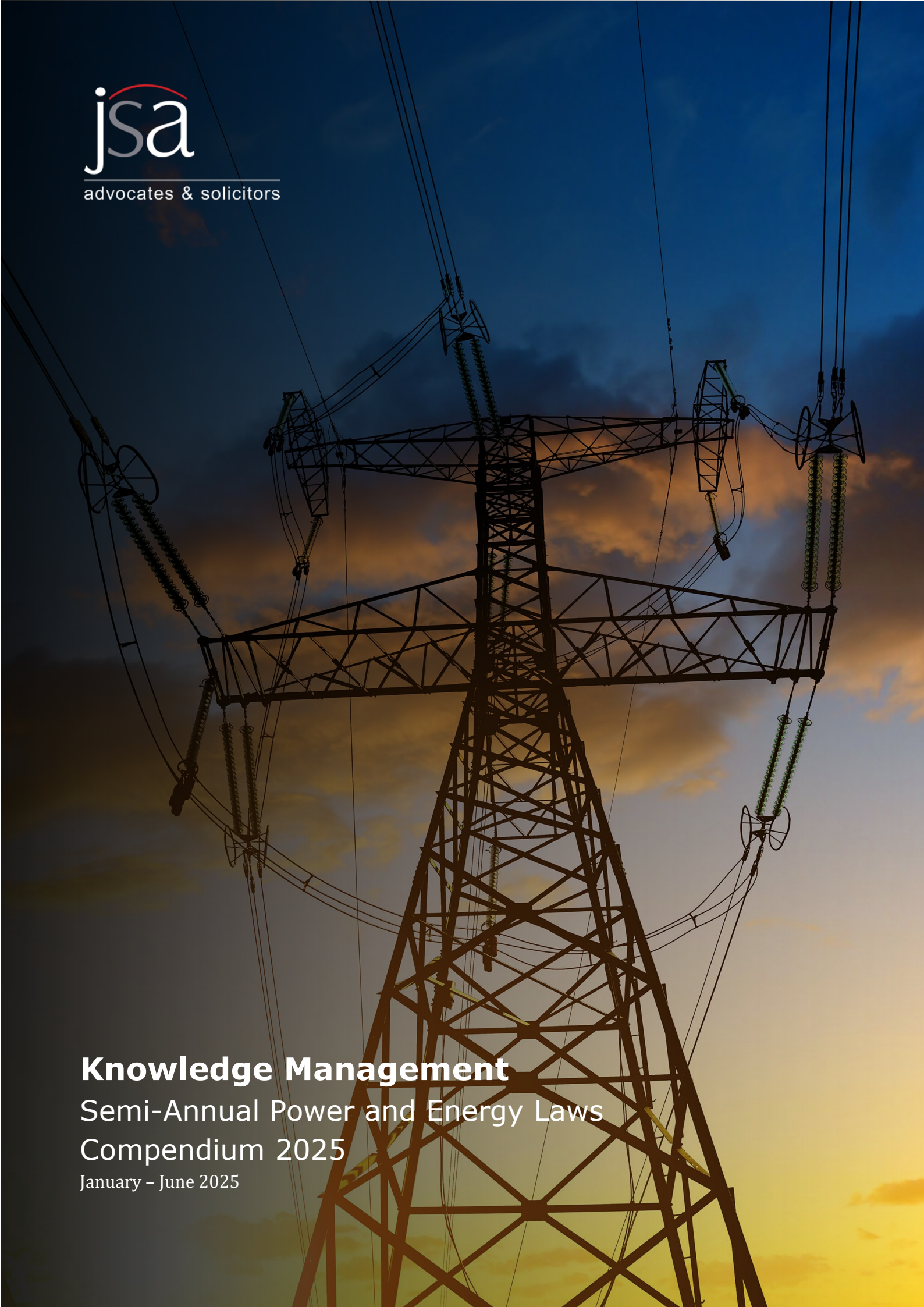

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Semi-Annual Power and Energy Laws Compendium 2025

January – June 2025

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Introduction

Power is among the most vital components of infrastructure, critical for the economic growth and welfare of nations. The existence and development of adequate power infrastructure are essential for sustained growth of the Indian economy. To enhance the growth potential and global competitiveness, the Budget for 2025-26[1], aims to initiate transformative reforms in various domains including 'power sector' during the next 5 (five) years. The power sector reforms will improve financial health and capacity of electricity companies by incentivising the electricity distribution reforms and augmenting of intra-state transmission capacity by the States.

In terms of capacity building, India added a total power generating capacity of 13,495 (thirteen thousand four hundred and ninety-five) Megawatts (**"MW"**) in the first quarter of 2025. Renewables accounted for 78.9% of all new capacity additions. Further, India's total electricity generation from all sources during the first quarter of 2025 was 445.49 (four hundred and forty-five point four nine) Billion Units ("**BUs**"), marking a 3.6% increase over the 429.85 (four hundred and twenty-nine point eight five) BUs generated in the first quarter of 2024.[2] This growth reflects both increasing demand and a transition in the energy mix.

This Compendium consolidates all the key regulatory developments, notifications, orders, judicial precedents and other updates in the climate change, power and energy sector in India, which were circulated as JSA Prisms and Newsletters during the calendar period from January till June 2025.

[1] Budget 2025-2026; Speech of Smt. Nirmala Sitharaman, Hon'ble Minister of Finance dated February 1, 2025.

[2] Press Information Bureau, Government of India – Energizing the Future: POWERup Q1 2025 Highlights dated May 6, 2025.

Judgments by the Supreme Court of India

The Supreme Court of India upholds the authority of Rajasthan Electricity Regulatory Commission to regulate intra-state aspects of open access transactions even when electricity is sourced from another State

The Hon'ble Supreme Court of India ("**Supreme Court**") by its judgment dated April 1, 2025, in ***Ramayana Ispat (P) Limited vs. State of Rajasthan***[3], *inter alia,* held that the Rajasthan Electricity Regulatory Commission (**"RERC"**) has jurisdiction under the Electricity Act, 2003 ("**Electricity Act**") to regulate intra-state aspects of 'Open Access' transactions, even when electricity is sourced from another State. This authority aligns with the objectives of the Electricity Act and ensures effective regulatory oversight.

The issue involved was in respect of the validity of RERC (Terms and Conditions for Open Access) Regulations, 2016 framed by RERC in exercise of powers under Sections 42 and 181 of the Electricity Act. Judgment clarifies that the key determinants that demarcate responsibilities between the Central Electricity Regulatory Commission's (**"CERC"**) and State Electricity Regulatory Commission (**"SERC"**) is not the source of power but its delivery, end-user, and consumption within the intra-state grid. Framework of the Electricity Act ensures that the intra-state aspects of electricity regulation remain within the purview of SERCs.

The Supreme Court settles the law on 'rate' and 'effective date' of carrying cost while allowing Adani Power Rajasthan Limited to recover carrying cost at the rate of Late Payment Surcharge provided in the Power Purchase Agreement, on compounding basis

The Supreme Court by its judgment dated May 23, 2025, in ***Jaipur Vidyut Vitran Nigam Limited vs. Adani Power Rajasthan Limited***[4] upheld the Hon'ble Appellate Tribunal for Electricity's ("**APTEL**") judgment dated April 18, 2024, in Appeal No. 237 of 2023 while laying down the following position of law:

1. Rate of carrying cost granted as part of restitution on account of change in law event: Carrying cost must be paid at the rate of Late Payment Surcharge (**"LPSC"**) provided under the Power Purchase Agreement (**"PPA"**), on compounding basis.
2. Effective date from which carrying cost will be paid: From the date the change in law occurs i.e., from the date of promulgation of the change in law.
3. When a supplementary bill for change in law can be raised: It can be raised only after due adjudication by the competent forum.
4. Parameters for entertaining a civil appeal under Section 125 of the Electricity Act: When a finding is perverse; or rendered contrary to the records, or without assigning any reason, and/or on a total misconception of the fact seen apparently on the face of the record.
5. Principle of restitution incorporated into the PPAs: must be given effect to in letter and spirit on account of change in law.

APTEL by its judgment had held that the levy of evacuation facility charges by Coal India Limited *vide* notification dated December 19, 2017, qualifies as a change in law event, entitling Adani Power Rajasthan Limited to carrying cost at the rate of LPSC, on compounding basis. The above position was upheld by the Supreme Court in the judgment dated May 23, 2025, while applying the principle of restitution.

The Supreme Court holds that the CERC has regulatory authority under Section 79 of the Electricity Act, which is not limited to adjudicatory orders

The Supreme Court by its judgment dated May 15, 2025, in ***Power Grid Corporation of India Limited vs. Madhya Pradesh Power Transmission Company Limited and Others***[5] interpreted the scope of Sections 79 and 178 of the Electricity Act and held that the CERC has regulatory powers under Section 79 of the Electricity Act, which are not limited to only adjudicatory orders, but also includes administrative functions.

[3] 2025 SCC OnLine SC 687
[4] Civil Appeal No. 4336 of 2025
[5] Civil Appeal No. 6847 of 2025 (Arising from SLP No. 7605 of 2021)

Supreme Court *inter alia* addressed the following issues:

1. Whether CERC, while exercising its functions under Section 79(1) of the Electricity Act, is circumscribed by statutory regulations enacted under Section 178 of the Electricity Act?
2. Whether CERC exercises regulatory or adjudicatory functions under Section 79 of the Electricity Act? In other words, what is the scope of the CERC's power to regulate inter-state transmission of electricity and determine tariff for the same under Section 79(1)(c) and (d) of the Electricity Act?

It was held that:

1. the absence of a regulation under Section 178 does not preclude CERC from exercising its powers under Section 79(1) to make specific regulations or pass orders between the parties before it;
2. CERC is enabled to exercise its regulatory powers by way of orders under Section 79 of the Electricity Act, and the purview of Section 79 of the Electricity Act is not only limited to adjudicatory orders but includes administrative functions as well; and
3. the Electricity Act makes no distinction between the regulatory and adjudicatory functions vested in the CERC, which is a quasi-judicial body enjoined to regulate and administer the subject of generation, transmission, and distribution.

Judgments by the High Courts

Karnataka High Court strikes down Central Government's Green Energy Open Access Rules and Karnataka Electricity Regulatory Commission's Green Energy Open Access Regulations as being ultra vires the Electricity Act

In a significant judgment, the Karnataka High Court ("**Karnataka HC**"), in the case of *Brindavan Hydropower Pvt. Ltd. vs. Union of India and Ors*[6], struck down Central Government's Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022 ("**2022 GEOA Rules**") and Karnataka Electricity Regulatory Commission ("**KERC**") (Terms and Conditions for Green Energy Open Access) Regulations, 2022 ("**2022 GEOA Regulations**") as being *ultra vires* the Electricity Act. This is bound to have a significant impact across the renewable energy space in the country.

Brief facts

1. On June 6, 2022, the Central Government framed the 2022 GEOA Rules in exercise of Sections 176(1) and 176(2)(z) of the Electricity Act. The 2022 GEOA Rules amongst others provided that banking will be permitted only for a month and prescribed the manner of charges to be levied for open access. Rule 5 provided that the Appropriate Commission may, if necessary, amend its regulations to be consistent with the 2022 GEOA Rules.
2. KERC in light of 2022 GEOA Rules, framed the 2022 GEOA Regulations.
3. Both 2022 GEOA Rules and 2022 GEOA Regulations were challenged by generators as being *ultra vires* the Electricity Act.

Issues

The questions of law framed by the Karnataka HC were:

1. Whether the provisions of the Electricity Act enable the Central Government to frame the impugned GEOA Rules 2022?

[6] Writ Petition no. 11235 of 2024

2. Whether the Central Government - by the framing of said GEOA Rules of 2022 - could have directed the KERC to frame the impugned KERC Regulations of 2022, thereby depriving it of its statutory function of being the regulator, and whether these KERC Regulations would survive in view of the answer to this issue?
3. Whether the consequential orders passed by the KERC fixing the charges for open access in exercise of its powers under said KERC Regulations can be sustained?

Findings of Karnataka HC

Findings regarding the validity of the 2022 GEAO Rules and 2022 GEOA Regulations

1. From the scheme of the Electricity Act, it is evident that the role of the Central Government is confined to formulate policy on electricity, tariff, standalone system in rural areas etc., whereas the Appropriate Commission is conferred with the power to regulate/grant of open access and the Central/ State Government has no role to play. This is evident from the following:
   (a) as per Section 3 of the Electricity Act, Central Government does not have the independent power to frame the National Electricity Policy or the Tariff Policy. Central Government is statutorily required to consult the State Governments and the Central Electricity Authority;
   (b) even under the National Electricity Policy, the responsibility and obligation to facilitate non-discriminatory open access is only on the Regulatory Commissions;
   (c) all aspects regarding tariff determination, regulation of electricity purchase and facilitation of intra-state open access are to be monitored by the State Commission;
   (d) charges for transmission and wheeling of electricity is to be determined only by the State Commission;
   (e) the purpose of creating a Regulatory Commission is to ensure that there is an independent and impartial body to deal with open access charges and that this would ensure a fair determination;
   (f) the Appropriate Commission is not required to consult the State Government when determining tariff under Section 64 of the Electricity Act. If the State Government decides to provide subsidy to those affected by a tariff order, it is required to pay such subsidy in advance; and
   (g) as per Sections 107-108 of the Electricity Act, directions of both Central and State Governments on Appropriate Commissions are only guiding factors and the same is not binding on the Appropriate Commission.
2. If the power to frame regulations for determination of transmission and wheeling charges is conferred on the KERC and the substantive provisions are also categorical that aspects of transmission and distribution, especially in relation to open access, are to be determined by the State Commission, it is obvious that no other authority can have a role to play nor can any other authority have even a supervisory role in these matters. All aspects of open access lie within the exclusive domain of the State Commission. Hence, the Central Government does not have the power to frame the rules dealing with the issue of open access and determination of wheeling and transmission charges.
3. Central Government's submission that it has the power to frame the 2022 GEAO Rules under Section 176(2) (z) of the Electricity Act, i.e. 'any other matter which is required to be, or may be, prescribed', is incorrect. The Central Government cannot take the support of the residual power to frame the 2022 GEOA Rules. If such contention is accepted, it will grant the power to the Central Government to amend Section 42(2) of the Electricity Act, by virtue of passing the 2022 GEAO Rules, which is impermissible. Hence, they have to be struck down.
4. The Central Government's submission that it has enacted 2022 GEOA Rules on account of the fact that India is a signatory to the Paris Convention and that India has committed to achieve net zero emission, is contrary to Article 253 of the Constitution of India. Article 253 does not permit the Central Government to transgress an existing

law and frame Rules/Regulations by sidestepping the Electricity Act. However, Parliament is empowered to amend the Electricity Act if it is of the view that the nation is to implement an international treaty.

5. Since the 2022 GEOA Regulations have been framed by KERC as a consequence of 2022 GEOA Rules, 2022 GEOA Regulations also have to be struck down.

Findings regarding 'Banking of Electricity'

1. The Electricity Act does not contain any provision which entitles the generating company to demand a banking facility. The banking facility is, in essence, a process where a generating company injects the energy that it has generated into the grid and withdraws the same at a subsequent point in time, as per its choice and convenience. Electricity generated by a generating company is deposited in a bank i.e., the grid and this energy is withdrawn from the bank whenever the generating company desires.
2. While the generating company has the statutory right to inject the energy that is generated into the grid and have the same to be transmitted and distributed to its consumers, it would not have any statutory right to bank its energy. If the statute does not provide for a statutory right to bank the energy so generated, the generator cannot demand that he be provided with banking facility. The facility of baking is a mere promotional benefit allowed by the KERC.

Basis the above, the following directions were passed:

1. 2022 GEAO Rules and 2022 GEOA Regulations are *ultra-vires* the Electricity Act and therefore struck down;
2. KERC is directed to frame appropriate regulations if it so desires in the matter of granting of open access to green energy generators and consumers. This does not mean that KERC has to necessarily make the regulations. It can continue with the 2004 Regulations as well;
3. since there would be vacuum till the time new regulations are formulated, an interim arrangement would therefore have to be made to ensure that the wheeling and banking facilities availed hitherto by the petitioners are facilitated;
4. the parties will continue to pay transmission charges at the rate of 50% of the transmission charges determined by KERC *vide* its order dated July 5, 2024;
5. the petitioners are also be permitted to avail banking facility subject to payment of 4% under the wheeling and baking arrangements;
6. since the wheeling and banking agreements have expired, monthly banking will be allowed till new regulations are formulated by KERC;
7. it is suggested that KERC examines the possibility of providing the annual banking facility. KERC could ensure that the generators do not take advantage of the annual banking facility, by holding that the generators would be entitled to energy charges as was prevailing on the date of injection into the grid and not the charges that are prevailing on the date they seek to withdraw the energy from the grid;
8. this would ensure that the green energy generators do not hedge their profits by taking advantage of the annual banking facility and entitle themselves to a higher energy charge during periods when the demand for electricity is high and, consequently, higher electricity prices would be prevailing in the market; and
9. an oral request for grant of stay of this order was made at the time of pronouncement of this order, and the same is refused since it was held that Central Government lacked the competence to frame the 2022 GEOA Rules and therefore the question of permitting it to continue would be illegal.

Conclusion

Karnataka HC struck down the Central Government's 2022 GEOA Rules holding them as being contrary to the Electricity Act as well as settled administrative law principles. 2022 GEOA Regulations were also struck down since these were premised on the 2022 GEOA Rules. The judgment is silent on whether the 2022 GEOA Rules and 2022 GEOA Regulations are being struck down prospectively. This lack of clarity may give rise to several questions *qua* validity of open access/banking facility granted in terms of the 2022 GEOA Rules/2022 GEOA Regulations. However, Karnataka HC has put in place an interim arrangement regarding payment of open access/banking charges until fresh regulations are framed. This judgment may have some impact on the issues stated above as well as several other rules framed by Central Government and/or regulations formulated in terms of such rules.

Hon'ble High Court of Delhi quashes Goods and Services Tax notices issued to CERC and Delhi Electricity Regulatory Commission

The Hon'ble High Court of Delhi ("**Delhi HC**"), by its recent judgment dated January 15, 2025 in ***CERC vs. Addl. Director, Directorate General of GST Intelligence and Anr.***[7] and Batch, quashed the Show Cause Notices ("**SCNs**") issued by the Directorate General of GST Intelligence ("**DGGI**") to the CERC and Delhi Electricity Regulatory Commission ("**DERC**") ("**Electricity Regulatory Commissions**"). It was *inter alia* held that the statutory functions discharged by the Electricity Regulatory Commissions under the Electricity Act, are not exigible to Goods and Services Tax ("**GST**") under the Central Goods and Services Tax Act, 2017 ("**CGST Act**") and the Integrated Goods and Services Tax Act, 2017 ("**IGST Act**").

Brief facts

1. SCNs dated May 29, 2024 and July 23, 2024, were issued by DGGI to the CERC and the DERC respectively alleging that both bodies were liable to pay GST on various fees collected while performing statutory functions under the Electricity Act. These included:
   a) filing fees for tariff petitions filed by power utilities;
   b) fees collected for determining or regulating electricity tariffs;
   c) license fees for granting licenses to transmission and distribution utilities;
   d) annual registration fees collected from registered entities; and
   e) miscellaneous fees related to other regulatory activities.
2. DGGI:
   a) classified these fees as consideration for "*support services to electricity transmission and distribution*" taxable under the Service Accounting Code ("**SAC**") 998631 as per Serial No. 466 of the Annexure to Notification No. 11/2017 - Central Tax (Rate) dated June 28, 2017, read with the explanatory notes to the Scheme of Classification of Services as adopted by the Central Board of Indirect Taxes and Customs (**"CBIC"**); and
   b) stated that the support services so rendered would be taxable with a GST rate of 18% as per Serial No. 24(ii) of notification[8] dated June 28, 2017, and thus falling within the ambit of "*support services to mining, electricity, gas and water distribution*".
3. SCNs asserted that regulatory functions of the Electricity Regulatory Commissions were distinct from adjudicatory functions. While the latter could be exempt under Schedule III of the CGST Act, the regulatory activities allegedly constituted 'supply of services'.
4. Petitioners (Electricity Regulatory Commissions) had broadly submitted as under:
   a) functions of Electricity Regulatory Commissions under the Electricity Act, including regulating tariff and licensing, are statutory and not commercial. In the absence of any commercial consideration or business objective, the discharge of such statutory

[7] W.P. (C) No. 10680 of 2024

[8] Notification No. 8 / 2017 - Integrated Tax (Rate) dated June 28, 2017.

activities in public interest cannot be subjected to a levy under either the CGST or the IGST; and

b) both the Electricity Regulatory Commissions have all the trappings of a court and thus liable to be viewed as a 'tribunal', being exempt from taxation.

5. Respondent (DGGI) had broadly submitted as under:

a) adjudicatory functions (under Section 79(1)(f) / 86(1)(f) of the Electricity Act) of the Electricity Regulatory Commissions alone qualify for exemption, while regulatory functions should attract GST liability;

b) regulatory functions appear to be a 'service' in terms of Section 2(102) of the CGST Act read with Section 2(24) of the IGST Act and as such, a 'taxable supply' in terms of Section 2(108) of the CGST, 2017 read with Section 2(24) of the IGST Act, 2017 which is leviable to tax under the Section 9 of the CGST Act read with Section 5 of IGST Act;

c) activities carried out by the Electricity Regulatory Commissions fall under the definition of 'business' as defined in Section 2(17) of the CGST Act read with Section 2(24) of the IGST Act;

d) CBIC has compiled and released a booklet containing 31 (thirty-one) frequently asked questions on GST in government services sector, stating that statutory or regulatory bodies like the Electricity Regulatory Commissions do not qualify as 'government' or 'local authority' under the CGST Act; and

e) as such, financial consideration/fees received by the CERC/DERC is towards a function/service rendered by them and, in absence of any blanket exemption available, the said services appear to be taxable under the CGST Act, 2017/IGST Act, 2017.

Issues

The following issues arose for consideration of the Delhi HC:

1. Whether GST is leviable on fees collected by the Electricity Regulatory Commissions for their regulatory functions?
2. Whether the Electricity Regulatory Commissions fall within the scope of 'tribunal' under Schedule III of the CGST Act?
3. Whether a distinction can be drawn between regulatory and adjudicatory functions of the Electricity Regulatory Commissions for the purpose of GST liability?

Findings of the Delhi HC

The Delhi HC, while allowing the writ petitions filed by CERC and DERC and setting aside the SCNs, held as under:

1. Schedule III to the CGST Act lists out activities which are neither liable to be treated as a supply of goods nor a supply of services, which includes services rendered by a tribunal established under any law. Electricity Regulatory Commissions acts as quasi-judicial bodies with all the trappings of a tribunal. Reliance is placed on *PTC India Ltd. vs. CERC*[9];
2. Regulatory function discharged by the Electricity Regulatory Commissions would clearly not fall within the scope of the word 'business' as defined by Section 2(17) of the Electricity Act. Thus, even if the fee so received by the CERC and DERC were to be assumed as being consideration received, it was

[9] (2010) 4 SCC 603

clearly not one obtained in the course or furtherance of business;

3. Schedule III of CGST Act in express and unambiguous words excludes services rendered by a court or tribunal. Once that exclusion had come to be expressly incorporated, DGGI could not have undertaken an exercise to bifurcate or draw a wedge between the adjudicatory and regulatory role of the Electricity Regulatory Commissions;
4. It cannot be accepted that regulation of tariff, inter-state transmission of electricity or the issuance of license would be liable to be construed as activities undertaken or functions discharged in the furtherance of business. Even if these were functions being performed in the exercise of a regulatory function, the same were being discharged by a quasi-judicial body (CERC/DERC) which undoubtedly had all the trappings of a tribunal. The grant of a license to transmit or distribute is clearly not in furtherance of business or trade but in extension of the statutory obligation placed upon a Commission to regulate those subjects;
5. Even though Section 2(102) of the CGST Act defines the expression 'services' to mean 'anything other than goods', the expansive reach of that definition would have to necessarily be read alongside Schedule III which excludes services *per se* rendered by a court or tribunal established under any law. The provision made in Schedule III is clearly intended to insulate and exempt the functions discharged by a court or tribunal from the levy of a tax under the CGST;
6. Electricity Act makes no distinction between the regulatory and adjudicatory functions which it vests in and confers upon an Electricity Regulatory Commission. Those functions are placed in the hands of a quasi-judicial body enjoined to regulate and administer the subject of electricity distribution. Electricity, undoubtedly, is a natural resource which vests in the State. The SCNs infringe the borders of the incredible and inconceivable; and
7. SCNs issued by DGGI were arbitrary and unsustainable. Exemption in Schedule III of the CGST Act, which applies to services provided by courts or tribunals, extends to the Electricity Regulatory Commissions. Classification of fees collected as 'support services to electricity transmission and distribution' under SAC 998631 does not override the statutory exemption provided in Schedule III of the CGST Act.

Conclusion

The Delhi HC by the judgment has held that Electricity Regulatory Commissions such as the CERC and DERC performing statutory and regulatory functions in the public interest under the Electricity Act, cannot be subjected to GST without express provisions under the statute. The exemption under Schedule III of the CGST Act protects Electricity Regulatory Commissions from their statutory roles being classified as taxable supplies. Electricity Act makes no distinction between the regulatory and adjudicatory functions which it vests in and confers upon an Electricity Regulatory Commission. Those functions are placed in the hands of a quasi-judicial body enjoined to regulate and administer the subject of electricity distribution.

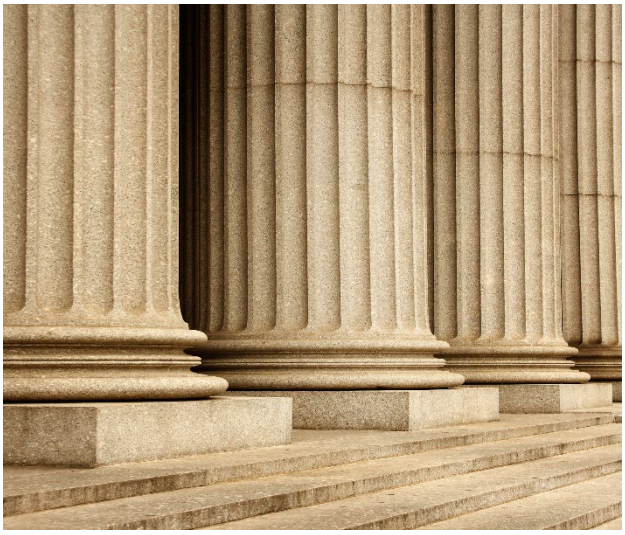
The Delhi HC holds that a Distribution Company/Distribution Licensee is not obligated to sanction electricity connection beyond its designated area of supply

The Delhi HC by judgment dated March 24, 2025, in ***BYPL vs. Gyanender and Anr.*** and connected matters[10] held that the Consumer Grievance Redressal Forum (**"CGRF"**) cannot direct a Distribution Company/Distribution Licensee ("**Discom**") to sanction electricity connection to a premises falling outside the Discom's area of supply. Notably, the CGRF by its order dated February 22, 2023, in CG No. 176 of 2022 had directed the petitioner, BSES Yamuna Power Limited (**"BYPL"**) to sanction electricity connection to a premises falling within the territory of the State of Uttar Pradesh and outside the area of supply of BYPL.

The Delhi HC *inter alia* held that the CGRF constituted by the Discom under Section 42(5) of the Electricity Act could not have issued directions in respect of premises falling beyond the Discom's designated area of supply. Such direction will be in violation of the provisions of the Electricity Act and the distribution and retail

[10] W.P. (C) No. 7736 of 2023 and connected matters

supply license issued to the Discom by the DERC. It was also directed that, before issuing any such directions, CGRF must first obtain reports from the Revenue Department, Government of National Capital Territory of Delhi (**"GoNCTD"**) to assess whether the premises fall within the jurisdiction of the Discom.



Patna High Court holds that consumers are entitled to remission if Discom fails to supply contracted demand

The Hon'ble High Court of Judicature at Patna ("**Patna HC**") by its judgment dated March 25, 2025, in ***South Bihar Power Distribution Company Limited vs. the State of Bihar, Department of Energy and Anr.***[11], upheld the order dated February 26, 2014, passed by the CGRF granting remission to Dina Metal Limited, an industrial consumer, for severely restricted supply by South Bihar Power Distribution Company Limited ranging from 1.5 MVA (one point five Mega Volt-Amperes) to 3.5 MVA (three point five Mega Volt-Amperes), against the contracted demand of 9.6 MVA (nine point six Mega Volt-Amperes).

By its order dated February 26, 2014, the CGRF had held that Dina Metal Limited was entitled to proportionate remission due to the Discom's failure to supply energy at the contracted demand. The Patna HC affirmed the CGRF's decision, which was premised on principles laid down in *Raymond Limited vs. MPEB*[12] and *Tata Iron and Steel Company vs. BSEB*[13], holding that consumers are entitled to remission when the electricity provider fails to meet the contracted demand.

Kerala High Court holds that the jurisdiction of Civil Court is not barred under Section 145 of the Electricity Act where action taken is beyond powers conferred under the Electricity Act

The Hon'ble High Court of Kerala by its judgment dated April 4, 2025, in ***Kerala State Electricity Board and Anr. vs. Gopalakrishnan and Ors.***[14], *inter alia*, held that Section 145 of the Electricity Act does not bar the jurisdiction of Civil Courts for action taken beyond the provisions of the Electricity Act.

It was also held that the action of drawing electric lines through private property, without obtaining prior consent of the landowner or permission from the District Magistrate specifically when such action is objected by the landowner, does not constitute an action taken in pursuance of any power conferred by or under the Electricity Act and hence, does not attract the bar under Section 145 of the Electricity Act. Instead, such action by the Kerala State Electricity Board would attract provision of Section 6(1) of the Indian Telegraph Act, 1885 or First Proviso to Rule 3(1) of the Works of Licensees Rules, 2006.

Rajasthan High Court grants protection against electricity disconnection pending final assessment under Section 126(3) of the Electricity Act

The Hon'ble High Court of Rajasthan ("**Rajasthan HC**"), Jodhpur Bench by its order dated April 4, 2025, in ***Hotel Darshan Palace vs. Ajmer Vidhyut Vitran Nigam Limited and Anr.***[15] directed Ajmer Vidhyut Vitran Nigam Limited to follow the process of Assessment under Section 126(3) of the Electricity Act for passing the final order of assessment before recovering any amount as per provisional assessment or disconnecting electricity supply.

[11] Civil Writ Jurisdiction Case No. 15623 of 2014
[12] 2001 (1) SCC 534
[13] AIR 1989 Patna 119
[14] RSA No. 131 of 2024
[15] 2025 SCC OnLine Raj 958

Rajasthan HC declines to intervene in NTPC Limited and Rajasthan Rajya Vidyut Utpadan Nigam Limited joint venture while holding that tariff determination cannot be gone into by High Courts

The Rajasthan HC, Jaipur Bench by its order dated April 17, 2025, in ***Ajay Chaturvedi vs. State of Rajasthan and Ors***[16] dismissed a Public Interest Litigation (**"PIL"**) challenging the joint venture between Rajasthan Rajya Vidyut Utpadan Nigam Limited and NTPC Limited for establishment, operation, and maintenance of additional 660 (six hundred and sixty) MW/800 (eight hundred) MW super-critical units at the Chhabra Thermal Power Plant. Ajay Chaturvedi (petitioner), a retired chief engineer, contended that the joint venture would result in higher electricity tariff which would be contrary to public interest. The Rajasthan HC dismissed the PIL to hold that tariff determination depends upon many factors which cannot be gone into by the Rajasthan HC.

Punjab and Haryana High Court holds that the bar on jurisdiction of a civil court under Section 145 of the Electricity Act extends to matters falling under Sections 135 to 140 and Section 150 of the Electricity Act

The Hon'ble Punjab and Haryana High Court (**"Punjab and Haryana HC"**) by its judgment dated May 14, 2025, in ***Mahesh Kumar vs. Sub Divisional Officer & Another***[17] and connected matters, held that bar on jurisdiction of a civil court under Section 145 of the Electricity Act extends to matters falling under Sections 135 to 140 and Section 150 of the Electricity Act.

Substantial question of law involved in the matter was whether the bar contained in Section 145 of the Electricity Act, on the jurisdiction of the civil court, would be restricted only to proceedings arising from an order passed by the assessing officer under Section 126 and an appellate authority under Section 127, or, in view of the language contained in Sections 154 and 155, (read with Section 145), such bar would extend to matters falling under Sections 135 to 140 and Section 150 of the Electricity Act also?

The Punjab and Haryana HC *inter alia* concluded that the sweep and plenitude of Section 145 completely ousts the jurisdiction of civil courts even in respect of matters under Sections 135 to 140 and Section 150.

Judgments by the APTEL

JSA successfully represented MB Power (Madhya Pradesh) Ltd. to secure payment of capacity charges and transmission charges withheld by Procurers

The APTEL in its recent judgment dated January 17, 2025, in ***Uttar Pradesh Power Corporation Ltd. and Ors. vs. CERC & Ors.***[18], reaffirmed Uttar Pradesh Power Corporation Limited's ("**UPPCL**") obligation to pay capacity charges and transmission charges for the capacity declared by MB Power (Madhya Pradesh) Ltd. ("**MB Power**")[19], even though the same was not scheduled.

Brief facts

1. UPPCL represents the distribution companies in Uttar Pradesh, i.e., Paschimanchal Vidyut Vitran Nigam Limited ("**Paschimanchal**"), Purvanchal Vidyut Vitran Nigam Limited ("**Purvanchal**"), Madhyanchal Vidyut Vitran Nigam Limited ("**Madhyanchal**") and Dakshinanchal Vidyut Vitran Nigam Limited ("**Dakshinanchal**") (collectively "**UP Discoms**"/ "**Procurers**").
2. MB Power is a generating company operating a 1200 (one thousand two hundred) MW thermal power project in District Anuppur, Madhya

[16] D.B. (PIL) Civil Writ Petition No. 3658 of 2025
[17] RSA No. 4181 of 2016
[18] APL No. 438 OF 2019
[19] MB Power was represented in the dispute by Amit Kapur, Akshat Jain and Shikhar Verma

Pradesh ("**Project**"). PTC India Ltd. ("**PTC**") is a trading licensee in terms of the Electricity Act.

3. On January 18, 2014, UP Discoms entered into a PPA to procure 361 (three hundred and sixty-one) MW ("**Contracted Capacity**") power from PTC from the Project ("**Procurer's PPA**"). On January 20, 2014, PTC entered into a back-to-back PPA with UPPCL to procure 361 (three hundred and sixty-one) MW from MB Power for onward supply to UP Discoms ("**PTC PPA**").
4. While executing the PTC PPA, MB Power already had Long Term Open Access ("**LTA**") of 192 (one hundred and ninety-two) MW for Northern Region. Thereafter, MB Power applied for balance LTA of 169 (one hundred and sixty-nine) MW and signed LTA Agreement with Central Transmission Utility of India Ltd. ("**CTUIL**").
5. Since operationalisation of LTA of 169 (one hundred and sixty-nine) MW by CTUIL was taking time, MB Power, secured Medium Term Open Access ("**MTOA**") as an interim arrangement till operationalisation of the corresponding LTA. MB Power's existing MTOA of 169 (one hundred and sixty-nine) MW was valid till October 29, 2016, on October 12, 2015, MB Power made an application to CTUIL for MTOA of 169 (one hundred and sixty-nine) MW for 3 (three) years, which was granted with effect from October 30, 2016.
6. After expiry of the earlier MTOA, there was delay in operationalisation of the fresh MTOA for 169 (one hundred and sixty-nine) MW and the same could only be partly operationalised (i.e., 85 (eighty-five) MW out of 169 (one hundred and sixty-nine) MW) with effect from November 10, 2016.
7. While on March 30, 2017, MB Power was ready to schedule the Contracted Capacity with immediate effect, it was only on May 15, 2017, that UPPCL conveyed its consent for scheduling Contracted Capacity of 361 (three hundred and sixty-one) MW. For the period from April 1, 2017, to May 16, 2017, UP Discoms did not schedule the entire Contracted Capacity and did not pay capacity charges and transmission charges in respect of MB Power's Declared Capacity.
8. Subsequently, MB Power filed a petition before the CERC *inter-alia* seeking directions to UP Discoms, for payment of capacity charges and transmission charges for the period from April 1, 2017, to May 16, 2017.
9. On April 30, 2019, CERC passed an Order ("**Impugned Order**") and held that UP Discoms wrongfully withheld payment of claimed capacity charges and transmission charges in MB Power's invoices for April and May 2017 and directed UPPCL to pay the amount with carrying cost.
10. The Impugned Order was challenged in appeal before APTEL by UPPCL.

Issues

1. Whether UP Discoms is liable to pay capacity charges and transmission charges for the period from April 1, 2017, to May 16, 2017, when UP Discoms scheduled only 277 (two hundred and seventy-sevent) MW out of the Contracted Capacity?
2. Whether MB Power was obligated to give 60 (sixty) days' preliminary notice plus additional 30 (thirty) days' final notice, prior to operationalisation of LTA for the Contracted Capacity?

Analysis and observations of APTEL

Payment of capacity charges

1. MB Power commenced supply of Contracted Capacity on August 26, 2015. There was no prerequisite for availability of LTA for the entire Aggregate Contracted Capacity of prior to participation in the bidding process and signing of the PPAs;
2. UP Discoms, having accepted satisfaction of condition subsequent in terms of Article 3.1.1 of the Procurer's PPA, which included obtaining necessary permission for LTA, cannot now contend to the contrary;
3. UP Discoms had granted clearance for commencement of power supply in terms of Article 4.1 of the Procurer's PPA, making no distinction whether such supply should only be through LTA alone as UPSLDC's no objection certificate had been issued for availing MTOA;
4. there is no difference whether power is received under MTOA or LTA except for the priority in the grid operation. LTA users have the highest priority

for scheduling and the least likelihood of curtailment in case of congestion while on the other hand in case of congestion, if curtailment of scheduling is required in the grid, MTOA users have higher priority than short-term access users but lower than LTA users;

5. in terms of Article 4.3.1 of the Procurer's PPA, it is the Procurer's obligation to ensure the availability of Interconnection Facilities and evacuation of power from the Delivery Point before the Scheduled Delivery Date or the Revised Scheduled Delivery Date;
6. UP Discoms are liable to pay capacity charges for the quantum (84 (eighty-four) MW) which was not scheduled by them during the period from April 1, 2017, to May 16, 2017, even though the MB Power was in a position to schedule entire quantum of 361 (three hundred and sixty-one) MW through LTOA since April 1, 2017; and
7. UP Discoms were aware of their liability to pay the Capacity Charges upon operationalisation of open access whether the power is scheduled or not.

Preliminary notice and final notice

In terms of the Procurer's PPA, the requirement of preliminary notice of 60 (sixty) days and final notice of 30 (thirty) days is only before commencement of power supply. It cannot be the case that whenever there is disruption in supply or change in type of open access, the generator will have to provide a fresh 60 (sixty)/30 (thirty) day notice to the Procurer.

Reimbursement of transmission charges

1. In terms of the PPA, UP Discoms are obligated to reimburse transmission charges to MB Power for the Contracted Capacity; and
2. once LTA is granted and operationalised for an applicant, such capacity is booked for that applicant and the Procurer is liable to pay charges for the same, whether such LTA is utilised or not.

Conclusion

The judgment passed by APTEL re-affirms the regulatory principles for payment of capacity charges and transmission charges in cases where the generating company has declared such capacity to be available, irrespective of whether such capacity is scheduled by the Procurer. The judgment provides regulatory certainty for generators and protects their interests in instances where the Procurers indulge in unilateral withholding of capacity charges and transmission charges.

The APTEL settles dispute on modification of tariff under the PPA between a Section 62 of the Electricity Act and Tamil Nadu Generation and Distribution Corporation Limited

The APTEL in the case of ***Tamil Nadu Electricity Generation and Distribution Company Ltd. vs. Tamil Nadu Electricity Regulatory Commission & Anr.***[20] disposed of the matter by granting a path-breaking relief to an imported coal based ("**ICB**") thermal power generating company which set up its power plant under Section 62 of the Electricity Act. APTEL allowed modification of terms of PPA including terms related to tariff by in effect upholding the order passed by the Ld. Tamil Nadu Electricity Regulatory Commission ("**TNERC**") i.e., order dated August 31, 2023[21] ("**Order**"). The Order relied upon *GUVNL vs. Tarini Infrastructure Ltd.*[22] ("**GUVNL Judgement**") and considered global price rise of imported coal. Due to the price rise, the thermal power generator was suffering on account of a stifling ceiling price mechanism prescribed in the PPA. TNERC appreciated

[20] Judgment dated January 27, 2025 in Appeal No. 910 of 2023
[21] In M.P. No. 3 of 2022 (*SEPC vs. TANGEDCO*)
[22] (2016) 8 SCC 743

the issue and *inter alia* allowed removal of ceiling on tariff.

TNERC's Order was challenged before APTEL by Tamil Nadu Generation and Distribution Corporation Limited ("**TANGEDCO**"). Before APTEL, TANGEDCO primarily argued against the removal of ceiling on tariff by TNERC. Without prejudice to the settled law by Hon'ble Supreme Court in the GUVNL Judgement[23], it was brought to APTEL's notice (by the ICB thermal power generator) that TANGEDCO had submitted to the jurisdiction of TNERC to determine the tariff afresh, thereby giving up on tariff under the PPA. APTEL agreed with the said understanding. It is in this view APTEL passed its final judgment dated January 27, 2025, deciding on the aspects of implementation of arrangement of power supply between the ICB generator and TANGEDCO.

With APTEL's judgment disposing of the above matter, findings of TNERC on the aspect of modification of tariff forming part of the PPA executed under Section 62 of the Electricity Act are final.

JSA represented the ICB thermal power generator before TNERC as well as before APTEL.

Brief facts

1. SEPC Power Private Limited ("**SEPC**") is an imported coal based thermal power plant of a 1 x 525 Mega Watt capacity ("**Project**"). SEPC has a PPA with TANGEDCO i.e., the distribution licensee of the State of Tamil Nadu. The PPA was executed on February 12, 1998, through a Memorandum of Understanding ("**MoU**") route which was later approved by TNERC under Section 62 of the Electricity Act. The PPA was last amended on February 25, 2021 ("**Addendum #3**") which introduced a ceiling and discount on variable fuel charge ("**VFC**") *viz*:
    a) Ceiling on VFC was linked with domestic coal prices i.e., regardless of actual imported coal price (per unit), the entitlement of SEPC's VFC would be the price of domestic coal from Talcher mines; and
    b) Discount of INR 0.225 (Indian rupees zero point two two five)/unit on VFC was made conditional i.e., discount was to be made applicable only in case the actual price of imported coal was lower than the ceiling on VFC.
2. This ceiling and discount on tariff were implemented pursuant to TNERC's order dated January 10, 2020, in M.P. No. 27 of 2016 in the case of *SEPC vs. TANGEDCO*.
3. After execution of Addendum #3, the imported coal prices rose multi-fold starting June 2021. This price rise made the ceiling and discount on VFC unviable. SEPC's Project achieved commissioning on November 30, 2021. SEPC could however not commence operation due to high price of international coal.
4. Recognising the issue of price rise and many ICBs being stranded in the country, the Ministry of Power ("**MoP**") issued directions on May 5, 2022, to all ICBs under Section 11 of the Electricity Act i.e., for them to operate at full capacity subject to certain conditions specified. TANGEDCO also issued directions akin to Section 11 directions, to SEPC on April 29, 2022, and requestioned power on pass through basis as a one-time measure. SEPC accordingly commenced Project operations from April 30, 2022, under Section 11 directions. Meanwhile, SEPC filed a petition before TNERC seeking appropriate directions including a direction for removal of ceiling and discount on VFC.

Issue

Whether a Section 62 thermal power generator *inter alia* was entitled to modification of the PPA including removal of ceiling and discount on VFC in view of global price rise of international coal?

Contentions of TANGEDCO

1. TANGEDCO broadly contended as follows:

[23] In this judgment, the Hon'ble Supreme Court dealt with the question of whether the tariff fixed under a PPA is sacrosanct and inviolable and beyond review and correction by the State Electricity Regulatory Commission. The Hon'ble Supreme Court then decided that Section 86(1)(b) of the Electricity Act empowers Regulatory Commission to regulate price of sale and purchase of electricity between generating companies and distribution licensees through agreements and that the Regulatory Commission has power to re-determine the tariff rate when the tariff rate mentioned in the PPA between generating company and distribution licensee was fixed by the Regulatory Commission in exercise of its statutory powers.

a) the PPA has to be implemented in its existing form;

b) the current situation has arisen due to SEPC's delay in completing the Project; and

c) imported coal price rise cannot lead to amendment of tariff under the PPA as per *Energy Watchdog v. CERC*[24].

Findings by TNERC

TNERC held as follows in its Order dated August 31, 2023, by formulating 2 (two) questions in order to answer the aforementioned issue:

1. Whether the contention of SEPC that the unprecedented rise in the price of the imported coal has rendered the supply of power under the PPA with the existing price mechanism an unviable one is sustainable under law and facts of the case?

   a) as per the data submitted by SEPC, the global price index of imported coal i.e. Argus Index, demonstrates manifold rise in price. The difference between ceiling limit under the PPA and the current per unit price is about INR 2 (Indian Rupees two)/unit;

   b) TANGEDCO has not disputed the factum of rise in prices;

   c) since the PPA is based on usage of imported coal as primary fuel for the supply of power, there can be no escape from the logical conclusion that the rise in the price of the imported coal has led to rise in VFC for SEPC. The loss on account of cost of VFC is a substantial one;

   d) Sections 61 and 62 of the Electricity Act mandate that commercial principles be considered for the supply of electricity.It is to protect all the parties from suffering any loss that the said provisions have been incorporated in the Electricity Act; and

   e) on a conspectus evaluation of the evidence placed on record through documents it is decided that the unprecedented rise in the price of imported coal has rendered the supply of power under the PPA with the existing price mechanism an unviable one.

2. To what relief, if any, SEPC is entitled to?

   a) ceiling price mechanism in the PPA has now become unviable in view of rise in international prices of coal. SEPC has relied on Hon'ble Supreme Court's GUVNL Judgment to pray for the relief of removal of ceiling on VFC. The Supreme Court's judgment holds as under:

      i) fixation and determination of tariff is a statutory function performed by the SERC constituted under the Act;

      ii) the power to determine tariff is statutory. Tariff incorporated in the PPA is the tariff fixed by an SERC in exercise of its statutory powers;

      iii) tariff agreed by and between parties, though finds mention in the contractual context, is not an act of volition of the parties which can in no case be altered except by mutual consent; and

      iv) Section 86 (1) (b) of the Electricity Act empowers SERCs to regulate the price of sale and purchase of electricity between generating companies and distribution licensees through agreements of power purchase;

   b) in view of the settled law, TNERC exercises its regulatory powers under the Electricity Act to ameliorate the crisis faced by the generator for non-supply of power due to factors which are beyond its control. Since SEPC is not accountable for the change in circumstances where imported coal prices have risen multi fold leading to exorbitant increase in energy charges, SEPC is entitled to some relief in accordance with Section 61 and 62 of the Act;

   c) SEPC is entitled to a permission to procure the imported coal at the cheapest price together with other related reasonable restrictions as an 'interim arrangement' for the supply of power to TANGEDCO; and

   d) long term solution for SEPC is to obtain domestic coal linkage. The interim arrangement for supply through imported coal shall be valid only until SEPC procures domestic coal linkage and commences supply

[24] 2017 (14) SCC 80

of power using domestic coal supplied through the linkage.

Findings by APTEL

1. TANGEDCO challenged the abovesaid Order passed by TNERC on the primary ground that removal of ceiling on tariff was untenable. During arguments before APTEL, we (on behalf of SEPC) pointed out the following aspects:
   a) ceiling stipulated in the PPA was never insisted upon by TANGEDCO i.e. it was not TANGEDCO's case to insist SEPC to supply power on ceiling VFC linked with domestic coal prices;
   b) TANGEDCO in fact submitted to the jurisdiction of TNERC to determine the tariff afresh; and
   c) TNERC accordingly stipulated the interim arrangement of supply of power based on procurement of imported coal on Argus Index prices i.e. at Argus index price of indices specified in the PPA.
2. Upon APTEL's observation on TANGEDCO never having argued sanctity of contracts, TANGEDCO submitted a 'proposal' for the 'interim arrangement' between parties. SEPC agreed to the proposal in part. The contentious issue which remained was regarding continuation of 'discount on VFC'.
3. APTEL based on arguments on both sides, passed the following directions in its judgment dated January 27, 2025:
   a) SEPC to supply power to TANGEDCO as per the 'interim arrangement' decided in accordance with the proposal i.e. for SEPC to procure coal as per indices specified in Addendum #3 (without ceiling);
   b) the index price of the cheapest indices shall be adjusted to the grade of coal actually procured by SPEC as per the provisions of the PPA;
   c) discount on VFC to not continue since the discount offered by SEPC earlier was valid only for the period of 3 (three) years which ended on November 30, 2024. Discount cannot be continued without going through 'Review Mechanism' under the PPA;
   d) 'interim arrangement' to continue 12 (twelve) months beyond the date on which SHAKTI Policy (revamped) comes into force. In case any proceedings are initiated by TANGEDCO regarding procurement of domestic coal linkage, SEPC is also at a liberty to initiate the required proceedings afresh; and
   e) both parties to execute Addendum #4 to the PPA based on the above directions, within three (3) months from the date of the judgment i.e., by April 27, 2025.

Conclusion

While passing the GUVNL Judgment, the Supreme Court dealt with the question of whether the tariff fixed under a PPA is sacrosanct and inviolable. The power producer in that case had sought revision of tariff on the ground of increase in cost due to longer distance to which the power was to be evacuated than the one envisaged. In that context, the Supreme Court held that the tariff determination being a statutory exercise is not inviolable. The law laid down in GUVNL Judgment is given effect to by the APTEL. Hence, law which holds the ground today so far as Section 62 of the Electricity Act projects are concerned, is as follows:

1. the power to determine tariff is undoubtedly statutory. In case tariff incorporated in the PPA is the tariff fixed by State Commission in exercise of its statutory powers then it is not possible to hold that the said tariff agreed by and between parties, though finding mention in the contractual context, is the result of an act of volition of the parties which can in no case be altered except by mutual consent;
2. through tariff, recovery of cost of electricity in a reasonable manner is also to be ensured;
3. Section 86 (1) (b) of the Electricity Act empowers SERC to regulate the price of sale and purchase of electricity between generating companies and distribution licensees through agreements of power purchase. The power regulation is of wide import; and
4. in view of Section 86 (1) (b) of the Electricity Act, the court must lean in favor of flexibility and not read inviolability in terms of PPA in so far as tariff stipulated therein as approved by the concerned SERC.

TANGEDCO though voraciously argued on maintaining ceiling and discount on VFC, however, such contentions were disallowed. TNERC and APTEL considered the intricate facts involved in the case and effectively adjudicated on the right of a generating company under Section 61 of the Electricity Act.

APTEL holds that submission of schedule of power to Haryana Discom is mandatory for Haryana open access consumers as per Regulation 42 of Haryana Electricity Regulatory Commission Open Access Regulations, 2012

APTEL by its judgment dated March 5, 2025, in ***Ranee Polymers Pvt. Limited vs. Haryana Electricity Regulatory Commission and Ors.*** and ***Hindustan Gum and Chemicals Limited vs. Haryana Electricity Regulatory Commission and Ors.***[25], held that the open access consumers in the State of Haryana were required to submit to the Discom i.e., Dakshin Haryana Bijli Vitran Nigam Limited, a schedule of power to be obtained through open access for all the 96 (ninety-six) slots of a particular day by 10 a.m. of the day preceding the day of transaction. This is the mandate of amended Regulation 42 of Haryana Electricity Regulatory Commission (Terms and Conditions for Grant of Connectivity and Open Access for intra-State Transmission and Distribution System) Regulations, 2012 (**"Open Access Regulations, 2012**") specified by Haryana Electricity Regulatory Commission (**"HERC"**).

The appellants - Ranee Polymers Private Limited and Hindustan Gum and Chemicals Limited argued that compliance with amended Regulation 42 of the Open Access Regulations, 2012 is merely directory in nature and not mandatory. While dismissing the appeals, APTEL also observed that HERC has consciously used the word 'shall' in the amended Regulation 42 of the Open Access Regulations, 2012 to make the compliance mandatory. This was done in public interest to save the consumers from being burdened with distribution losses caused due to open access consumers and to ensure grid discipline. The judgment highlights the importance of systematic planning and scheduling of power by open access consumers so that Discoms can manage their drawl from the grid while maintaining grid discipline.

JSA successfully represented the generator before the APTEL, wherein relinquishment of Long-Term Access rights without any liability was allowed, due to force majeure events

In a significant ruling, the APTEL in the case of **M*/s Brahmani Thermal Power Private Limited vs. CERC***[26] held that Brahmani Thermal Power Private. Limited (**"BTPPL"**)[27] was entitled to relinquish its Long-Term Access ("**LTA**") without any liability, due to force majeure events. By doing so, APTEL set aside Ld. CERC findings, by emphasising that the delay in land acquisition by the concerned State Government was a force majeure event beyond BTPPL's control. APTEL returned these findings after considering Regulation 18 of the CERC (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 ("**Connectivity Regulations, 2009**").

[25] Appeal Nos. 61 and 62 of 2022
[26] Judgment dated March 20, 2025, in Appeal No. 235 of 2017
[27] BTPPL was represented by JSA team comprising Abhishek Munot, Malcolm Desai and Samikrith Rao.

Brief facts

1. The Appellant, BTPPL formerly known as Navbharat Power Private Limited, planned to establish a 1050 (one thousand and fifty) MW coal-based thermal power plant in Odisha. For this, it executed a MoU with the State Government of Odisha on June 9, 2006. Under the MoU, the State Government through its instrumentality, Odisha Industrial Infrastructure Development Corporation ("**IDCO**"), was to acquire 1,200 (one thousand two hundred) acres of land and hand it over free from encumbrances to BTPPL for setting up the power plant. BTPPL thereafter executed a Bulk Power Transmission Agreement ("**BPTA**") with Power Grid Corporation of India Limited ("**PGCIL**") for LTA to the transmission network on June 7, 2010.
2. The land was identified and the acquisition process commenced. After certain payments by BTPPL, the Government of Odisha issued Section 4(1) notification under the Land Acquisition Act, 2013 on November 6, 2007, which was followed by Section 6(1) notifications on November 29, 2008, and December 11, 2008. BTPPL obtained clearances from various authorities in relation to the identified land, some even before the BPTA was executed.
3. On July 30, 2009, the Collector, Dhenkanal informed that the Project area of 546.98 (five hundred and forty-six point nine eight) hectares fell within the Ayacut area of Rengali Right Canal System ("**RRCS**"), which required the matter to be settled with the Water Resources Department. Thereafter, the Water Resources Department inter alia requested BTPPL to revise its requirement of land or relocate the project. BTPPL expressed its inability to relocate.
4. Meanwhile, the MoU expired on December 31, 2011, and was not extended by the State Government. BTPPL had submitted a proposal reducing the share of Ayacut land and requested IDCO to initiate land acquisition process. BTPPL had also requested PGCIL to postpone the commercial operation date of the plant.
5. It was only on July 16, 2012, that the Department of Water Resources gave its in-principal acceptance to establishment of the plant in the Ayacut area of RRCS. BTPPL then wrote to the State Government of Odisha to seek resumption of the land acquisition process. It also sought extension of the MoU, but in vain.
6. Finally, BTPPL issued a force majeure notice on June 25, 2013, and sought relinquishment of the LTA and return of the bank guarantee submitted by it. PGCL advised BTPPL to approach CERC. Accordingly, BTPPL filed a petition[28] before CERC claiming force majeure under the BPTA and return of the bank guarantee.
7. On April 12, 2017, CERC rejected BTPPL's claim of force majeure, ruling that the project was abandoned for commercial reasons and that force majeure under the BPTA only provided temporary relief, not an exit from obligations. CERC further held that BTPPL must pay relinquishment charges as per Regulation 18 of the Connectivity Regulations, 2009 and it was not entitled to a refund of the INR 36,00,00,000 (Indian Rupees thirty-six crore) bank guarantee.

Issue

Whether the BPTA was frustrated on account of force majeure events faced by BTPPL?

Findings of APTEL

Clause 9 of BPTA extends to permanent force majeure events

1. Clause 9 of the BPTA is not limited to only temporary force majeure events. The use of word 'practicable' in the last sentence of Clause 9 merely indicates that the agreement may be continued after the Force Majeure event ceases to exist if the affected party finds it practical so to do. To say that Clause 9 applies only in case of 'temporary failure to carry out the Terms of the Contract' would tantamount to adding words to the written agreement, which is impermissible.
2. APTEL in its earlier Judgment dated May 19, 2020 in *PEL Power Limited vs. CERC and Anr.*[29] ("**PEL Power Judgment**") regarding an identical clause had held the same. There is no stay on PEL Power Judgment. The PEL Power Judgment was followed

[28] Petition No. 317/MP/2013

[29] Appeal No. 266 of 2016

in judgment dated May 14, 2024, titled *Himachal Sorang Power Private. Limited vs. CERC and Ors.*[30]. The Appeal filed by Central Transmission Utility India Limited against the Himachal Sorang judgment is dismissed by the Supreme Court on August 27, 2024.

Force majeure events prevented BTPPL from setting up the plant

1. CERC's finding that the project was abandoned due to commercial reasons is entirely unreasoned. The practice of writing unreasoned and cryptic orders needs to be deprecated sternly. Though CERC's order could be set aside on the ground of it containing no reasons, the appeal was heard finally considering that it is pending adjudication for more than 7 (seven) years.
2. The main reasons due to which the project could not be executed were: (a) failure on the part of the State Government to acquire land for project before expiry of the notifications issued under Sections 4(1) & 6(1) of the Land Acquisition Act, 2013; and (b) failure on the part of the State Government to extend/renew the MoU beyond December 31, 2011. Both these factors were undoubtedly beyond the control of BTPPL and therefore, constitute force majeure events contemplated under Clause 9 of the BPTA.
3. When the MoU dated June 9, 2006, clearly made it an obligation upon the State Government to acquire the land required for the project through IDCO and place it at the disposal of BTPPL free from any encumbrances, there was no reason or occasion for BTPPL to initiate land acquisition process. It is the State Government which has failed to fulfil its obligations under the MoU for which BTPPL cannot be held responsible.
4. Regulation 8 of the Connectivity Regulations, 2009 is only applicable in cases of voluntary relinquishment, without being affected by force majeure events.
5. As on June 25, 2013, when BTPPL issued force majeure notice, there was no stranded spare capacity in the lines in question, since no work began on these lines. This also rules out applicability of Regulation 18 of the Connectivity Regulations, 2009, which presupposes stranded capacity on account of relinquishment.
6. Therefore, CERC's order is set aside, and the Appeal is allowed. Central Transmission Utility India Limited is directed to return BTPPL's bank guarantee within 2 (two) weeks.

Conclusion

APTEL's judgment rightly recognises force majeure conditions faced by the generator which prevented operationalisation of the LTA under BPTA. It also respects the force majeure clause in the BPTA by not resorting to a pedantic interpretation of the clause to hold that it covers permanent force majeure events also. Furthermore, it upholds the force majeure clause of the BPTA even in light of Regulation 18 of the Connectivity Regulations, 2009, by expressly holding that there was no stranded capacity in the present matter.

APTEL holds that project-specific tariff determined under Section 62 of the Electricity Act must be uniquely tailored to economic and operational realities of a particular project and must reflect actual cost incurred

APTEL by its judgment dated April 23, 2025, in ***Greenyana Solar Private Limited vs. HERC and Ors.***,[31] *inter alia*, held that project-specific tariff determination under Section 62 of the Electricity Act must be uniquely tailored to the economic and operational realities of a particular project and must reflect actual costs incurred subject to prudence check.

APTEL also placed reliance on its earlier judgment dated October 25, 2024, in *Amplus Sun Solutions*

[30] 2024 SCC OnLine APTEL 13

[31] Appeal No. 302 of 2024

Private. Limited vs. HERC and Ors.[32] which *inter alia* held that the ratio of Alternating Current ("**AC**") to Direct Current ("**DC**") modules, the associated capital cost, and the resultant Capacity Utilisation Factor (**"CUF"**) are interlinked since achievement of higher CUF requires a higher AC:DC ratio and allowance of cost of additional DC capacity.

KERC restrains distribution companies from levying Grid Support Charges on Captive Power Projects, including Solar Rooftop Photovoltaic Plants, till the commission determines such charges

On January 15, 2025, the KERC passed an order restraining electricity supply companies ("**ESCOMs**") from levying Grid Support Charges ("**GSC**") on Captive Power Plants ("**CPPs**") including Solar Rooftop Photovoltaic Plants ("**SRTPVs**"), till KERC determines the charges.

Brief facts

1. On June 1, 2023, KERC passed a tariff order determining the tariff and norms for SRTPVs. While dealing with the issue of imposition of GSC, KERC decided not to levy any GSC on SRTPVs, till it determines GSC after conducting necessary studies. However, for CPPs, KERC decided to continue levying demand charges in lieu of GSC as per the wheeling and banking agreement till determination of GSC.
2. Subsequently, KERC in its tariff orders (for retail supply of electricity) dated May 12, 2023, and February 28, 2024, held that a study needs to be conducted before it takes a view on the imposition of GSC on CPPs.
3. However, ESCOMs are continuing to levy GSC on captive and non-captive plants including SRTPVs. Representations were made by stakeholders before KERC highlighting that imposition of GSC on CPPs will discourage investment in captive power generation and is inconsistent with the provisions of the Electricity Act.

KERC Order

Pursuant to such representations, KERC passed its Order. KERC notes that captive generation is governed by Section 9 of the Electricity Act[33], which provides the right to any person to establish, operate, and main a captive generating plant; and that the Electricity Act emphasizes promoting captive generation as a means of enhancing energy security, ensuring reliability of electricity supply and reducing dependency on the grid. Accordingly, KERC held that GSC or parallel operating charges will not be imposed on CPPs including SRTPVs, till it is determined by the KERC.

Conclusion

KERC's Order is in continuation of the KERC's position taken in 2023 regarding non-levy of GSC on solar CPPs, including SRTPVs. The non-imposition of GSC can stimulate growth by helping CPPs and SRTPVs reduce their operational expenses, gain competitive advantage and encourage investment in the renewable energy sector. While KERC's Order is a welcome step towards promoting captive generation, it is subject to the KERC' final decision on determination of GSC.

Regulatory updates

Mandatory use of energy efficient appliances in Government buildings/Government aided institutions/boards/corporations

GoNCTD, *vide* its notification dated March 7, 2025, issued directions for mandatory use of energy efficient brushless DC fans, air conditioners of ratings 5 (five) star or above, and other star rated energy-efficient appliances in new as well as existing Government buildings/Government-aided institutions/boards/corporations. In existing

[32] Appeal Nos. 326 & 149 of 2021

[33] *Section 9, Electricity Act: Captive Generation*

buildings, the defective induction motor fans and air conditioners, when replaced, would be replaced with such energy-efficient appliances only.

DCR norms for solar photovoltaic cells

The Ministry of New and Renewable Energy ("**MNRE**") *vide* its Office Memorandum dated March 11, 2025, issued the DCR norms for solar Photovoltaic ("**PV**") Cells for the schemes/programmes being implemented by MNRE. As per the norms:

1. a solar PV cell (based on crystalline-silicon technology) will be domestically manufactured only if the same has been manufactured in India, using un-diffused silicon wafer (generally called Black Wafer), classifiable under Customs Tariff Head 3818 and all steps/processes required for manufacturing solar PV cell from the un-diffused silicon wafer have been carried out in India;
2. if diffused silicon wafer is imported to be used as raw material for the manufacturing of solar PV cells in India, such solar PV cells will not qualify as domestically manufactured solar PV cells, for the purpose of MNRE's schemes/programmes mandating use of domestically manufactured solar PV cells.
3. It is reiterated that thin film solar PV modules manufactured in an integrated factory located in India are eligible for deployment in projects under MNRE's schemes/programmes where the DCR provisions mandate deployment of domestically manufactured solar PV modules, as stated in MNRE's office memorandum dated May 9, 2024.

Supplementary guidelines for payment of compensation in regard to right of way for transmission lines

MoP by its communication dated March 21, 2025, issued the 'Supplementary Guidelines for Determination of Market Rate and RoW Compensation for ISTS Lines' (**"Supplementary Guidelines"**) for assessing the market rate of land for payment of Right of Way ("**RoW**") compensation while laying down ISTS lines. The Supplementary Guidelines are applicable in cases where landowners have objected to RoW compensation because circle rates are below the market rates and also where State Governments are yet to specify the manner of determination of market value of land.

Notably, if the actual RoW compensation paid by the Transmission Service Provider ("**TSP**") due to implementation of the supplementary guidelines or the extant guidelines/policy of the appropriate Government differs from the base RoW compensation determined for the ISTS Scheme as per Tariff Based Competitive Bidding Guidelines, which will be eligible for pass-through under change in law by the CERC.

Amendment to standard bidding documents for procurement of ISTS through tariff based competitive bidding process

MoP *vide* its communication dated March 27, 2025, amended the standard bidding documents (comprising of Request for Proposal ("**RfP**") and Transmission Service Agreement ("**TSA**")) for procurement of ISTS through TBCB process issued on August 6, 2021 (as amended on June 13, 2022, and June 16, 2023).

Para 1.6.1.1 of the RfP and Para 5.1.4(a) of the TSA have been amended to provide that the actual location of Greenfield Substation (Switching Station or High Voltage Direct Current Terminal or Inverter Station) in the scope of **TSP** for: -

1. a Generation Pooling Substation, will not be beyond the 3 (three) Kilometer ("**Km**") radius of the location proposed by the Bid Process Coordinator ("**BPC**") in their survey report;
2. load serving substation within the scope of TSP, will not be beyond the 5 (five) Km radius of the location proposed by the BPC in their survey report; and
3. an intermediate substation, will not be beyond 10 (ten) Km radius of the location proposed by the BPC in their survey report.

Clarification regarding co-locating energy storage systems with solar power projects

On April 1, 2025, the Central Electricity Authority ("**CEA**") issued a clarification with reference to its advisory issued on February 18, 2025, regarding co-locating energy storage systems with solar power projects to enhance grid stability and cost efficiency. The CEA has clarified that all ongoing schemes of the Government of India (including the PM Surya Ghar Muft Bijli Yojana) will continue to be governed by the existing provisions of the schemes.

List of Approved Solar PV Module manufacturers and models

MNRE issued an office memorandum dated April 21, 2025, updating the 'List I (Manufacturers and Models of Solar PV Modules) of ALMM Order, 2019 Reg' ("**OM**"). The OM references previous office memorandums and directs that only models of Solar Photovoltaic Module ("**Solar PV Modules**") manufacturers will be enlisted under Approved List of Models and Manufacturers ("**ALMM**"), which comply with the Bureau of Indian Standards ("**BIS**") and have minimum module efficiency requirements as mentioned below:

Category	Application/ Use	Minimum Efficiency requirement for crystalline-Silicon technology based Solar PV Modules	Minimum Module Efficiency requirement for Cadmium Telluride Thin Film technology based Solar PV Modules
Category I	Utility/ Grid Scale Power Plants	20.0%	19.00%
Category II	Rooftop and Solar Pumping	19.5%	18.50%
Category III	Solar Lighting	19.0%	18.00%

The ALMM was last updated on March 27, 2025, and is further revised in the OM. The validity of ALMM enlistment is subject to valid BIS Registration, otherwise, the enlisted manufacturer is deemed delisted. The details of registration number assigned by BIS are mentioned against each manufacturer/manufacturing unit enlisted in ALMM. Further details related to BIS certification, such as validity and models included, can be checked on the BIS website. The ALMM enlistment validity is subject to valid BIS Registration, and further details can be checked on the BIS website.

MoP notifies the Electricity (LPSC and Related Matters) (Amendment) Rules, 2025

The MoP by its notification dated May 2, 2025, has notified the Electricity (LPSC and Related Matters) (Amendment) Rules, 2025 to amend Rule 1(3) of the Electricity (LPSC and Related Matters) Rules, 2022 (**"LPSC Rules, 2022"**) wherein the words *'generating companies inter-state transmission licensees'* have been substituted with the words *'generating companies, transmission licensees.'*

While the LPSC Rules, 2022 specifically mentioned 'inter-state transmission licensees', the amendment extends the applicability of the LPSC Rules, 2022 to intra-state transmission licensees. Accordingly, the LPSC Rules, 2022 will now apply to all transmission licensees, regardless of whether their operations span across States or are confined within a single State.

MoP issues directions to Gas-Based Stations under Section 11 of the Electricity Act

MoP issued order dated May 16, 2025, under Section 11 of the Electricity Act with directions to all Gas-Based Generating Stations (**"GBS"**) to operate from May 26 to June 30, 2025, to ensure maximum electricity generation.

Key provisions of the order are as under:

1. based on monthly demand assessment, the order mandates that GRID-India will notify GBSs at least 14 (fourteen) days in advance of high-demand days. GBSs will be notified and scheduled by GRID-INDIA on a day-ahead basis and will be guaranteed dispatch at a minimum of 50% capacity round-the-clock during the high-demand period. Further: (i) GBSs will first offer power to respective PPA holders; (ii) if a PPA holder fails to schedule power, then unutilised power will be offered to other PPA holders; (iii) if unutilised power is not scheduled by any other PPA holders, it will be supplied to any other Discom; (iv) if no Discom schedules power, it will be supplied in the power market; and (v) any surplus capacity will be made available to GRID-INDIA;
2. GBS will offer supply to PPA holders at Energy Charge Rate (**"ECR"**) as determined by the Appropriate Commission and non-PPA holders at benchmark ECR determined by a committee comprising of: (i) chairperson of CEA; (ii) member (engineering and construction), CEA; (iii) additional secretary (thermal and operations and maintenance), MoP, (iv) executive director (marketing), Gas Authority of India Limited; and (v) chief engineer (financial and commercial appraisal division), CEA;
3. the mandate of the above-mentioned committee will ensure that the benchmark rates for procured power cover all the prudent costs incurred by GBSs which will be reviewed every 15 (fifteen) days considering the change in prices of transport, natural gas, etc.;
4. GBSs will offer power to power exchanges at a rate not exceeding 120% ECR + intra-state transmission charges as applicable. In cases where GBSs supply to PPA holders, any realisation exceeding the ECR will first be applied towards recovery of the fixed costs. Any portion of the fixed costs that remain unrecovered through market sales or dispatch for grid support, will continue to be the liability of the PPA holder, in accordance with the terms of the PPA; and
5. other miscellaneous directions as per the order include as follows: (a) applicability of the payment security mechanism under the LPSC Rules, 2022 will be on weekly basis; (b) rebate will be in accordance with CERC norms or as stipulated in the PPA, whichever is higher; (c) Payment for the power dispatched by GRID-lNDlA will be paid from the statutory pool as per CERC's regulations; and (d) GBS will operate as per the above directions irrespective of PPA or any prior outstanding dues which will be dealt with separately,

The aforesaid order will apply notwithstanding any contrary provisions in the PPA(s). The generators must submit a weekly report to GRID-INDIA for the generation and sale of power from the GBS.

MNRE revises Small Hydro Power Scheme Guidelines

MNRE by its office memorandum dated May 26, 2025, has revised the guidelines for Small Hydro Power Schemes considering the challenges faced by the stakeholders in the small hydro power sector. The amendments are as under:

1. The criteria for the release of balance Central Financial Assistance ("**CFA**") have been revised. Projects can qualify for the release of balance CFA:
   a) if project achieves 80% or more of the projected generation for any 1 (one) month (earlier this was 3 (three) consecutive months) as per the Detailed Project Report (**"DPR"**);

b) if the above condition is not met, CFA will be proportionately reduced in the second instalment of eligible CFA; and

c) developer must provide proof of energy generation.

The timeline for completion of projects remains 5 (five) years from the date of award of the contract. However, extensions by the Secretary, MNRE, in case of delays, will be granted based on justified reasons and subject to the achievement of 50% aggregate physical progress (the previous requirement of over 70% progress for extension consideration is lowered).

2. For the release of CFA, developers must now meet specific milestones. These include placement of orders for electro-mechanical equipment, disbursement of 50% of term loan, 50% expenditure of the project cost supported by the audited statement of expenditure and achievement of 50% progress on the project, certified by the state nodal agency for considering the release of the first instalment of CFA. After commissioning the project, developers must undergo physical verification and submit certificates confirming that major equipment used conform to the standards set by organisations as decided by the MNRE. For the release of the second/final instalment of CFA, submission of documents such as commissioning certificate, utilisation certificate, audited statement of expenditure, and 3 (three) months' generation data is mandatory.

A snapshot of the ALMM introduced by the MNRE[34]

The ALMM is a regulatory mechanism introduced by the MNRE in January 2019 to ensure the quality and authenticity of solar PV modules and cells used in certain projects. ALMM was conceived to address concerns regarding misrepresentation by solar manufacturers about products' origin or quality etc.

Under the ALMM framework, MNRE enlists eligible models and manufacturers of solar PV cells and modules that comply with BIS quality standards along with efficiency threshold requirements *viz*:

1. ALMM Order dated January 2, 2019 ("**2019 ALMM Order**") provided for 2 (two) separate lists i.e. List-I for solar PV modules and List-II for solar PV cells;
2. the first formal ALMM List-I (for modules) was approved and published by MNRE on March 10, 2021. This list required BIS compliance; and
3. an efficiency threshold was introduced by MNRE in its Office Memorandum ("**OM**") dated May 10, 2023.

Only the models and manufacturers included in the ALMM list are permitted for use in the designated solar power projects (detailed below). This ensures use of tested quality products from vetted manufacturing facilities.

The conditions have undergone several changes from time to time to meet the industry demands. Initially, in 2019 ALMM requirements applied only to solar projects that are implemented by the Government or receive Government support and projects set up for sale of electricity to the Government under Section 63 of Electricity Act. In January 2022, MNRE, *vide* OM dated January 13, 2022, expanded the scope of ALMM to include renewable energy projects under open access and net metering arrangements. After this amendment, any new solar projects applying for open access (third-party sale of power) or net metering (rooftop solar with grid feed-in) would also need to use ALMM-listed modules.

Key developments (2019 till 2025)

1. **January 2022 - Scope expansion**: An amendment on January 13, 2022 broadened ALMM's applicability to include open-access and net-metered projects (in addition to government and utility-scale projects). Consequently, from a set date, even privately developed projects using open access or net metering would need ALMM-approved modules.
2. **October 2022 - Exemption**: MNRE clarified that private rooftop or captive self-consumption

[34] This will start from a new page.

projects i.e. projects without any export to grid are not subject to ALMM (modules or cells).

3. **March 2023 - Temporary suspension**: In a significant move reflecting industry supply considerations, MNRE put ALMM on hold for 1 (one) year. An OM dated May 10, 2023, announced that the ALMM Order (for modules) is *"held in abeyance for one financial year, i.e. FY 2023-24."*. This meant that solar projects commissioned by March 31, 2024, were exempted from the ALMM module procurement requirement. This pause was likely aimed at relieving supply constraints or high costs.

4. **Early 2024 - Reinstatement and refocusing**: As FY 2023-24 drew to a close, MNRE prepared to reimpose ALMM from April 2024, but with some refinements. On February 9, 2024, an order was issued stating that ALMM for modules would again be mandatory w.e.f. April 1, 2024. This directive sought to narrow the scope of ALMM to its original intent (government and subsidized projects only). MNRE signalled that purely commercial projects without government support would be out of ALMM's ambit going forward.

However, shortly after, on February 15, 2024, MNRE put this re-imposition orderon hold until further notice.Ultimately, MNRE did confirm the end of the ALMM suspension through a clarification on March 29, 2024, stating that the ALMM (List-I for modules) would come back into effect from April 1, 2024 (after the 1 (one) year hiatus). Specific proposal to permanently exclude open access and captive projects was not formally enacted (since the February 9th order was suspended). As of April 2024, the ALMM requirement for modules is in force generally for Government, open access, and net-metered projects as per the earlier framework.

5. **Mid/Late 2024 - Additional exemptions and reforms**: In May 2024, MNRE issued an order providing a special exemption for renewable energy projects dedicated to green hydrogen production. Specifically, any solar/wind plants located in a Special Economic Zone ("**SEZ**") or Export Oriented Unit ("**EOU**") that supply power exclusively to an electrolyser facility (for green hydrogen or its derivatives) located within an SEZ/EOU are exempted from ALMM requirements until December 31, 2030.

6. **October 2024 - Reiteration of exemptions**: On October 14, 2024, MNRE issued a clarification essentially reiterating the earlier exemption for open access and net-metering projects with prior approvals (pre-October 1,2022).

7. **Mid 2025**: On May 16, 2025, MNRE confirmed that behind-the-meter captive plants owned by Government entities or public sector undertakings have never been exempt from ALMM modules (List I). On July 10, 2025, MNRE issued a clarification on applicability to Government/ public sector undertaking behind-the-meter solar projects commissioned before and after June 1, 2026**.** For projects commissioned after June 1, 2026, MNRE mandates usage of ALMM cells. For projects commissioned before June 1, 2026, MNRE exempts usage of ALMM cells.

Future Outlook - ALMM List-II (Solar PV Cells)

1. One major development as of late 2024 is MNRE's plan to finally operationalise ALMM List - II for solar cells. Although the 2019 ALMM Order envisioned an effective List-II alongside List - I, in practice no List-II was launched for years. The reason was that India's domestic solar cell manufacturing capacity was insufficient to meet demand. ALMM thus focused on modules (List-I) while developers were free to import solar cells for use in domestic module assembly.

2. By 2024, with Government incentives spurring new cell factories, MNRE determined that List-II can be implemented in the near future. An amendment announced in late 2024 sets a timeline: ALMM List-II (Approved List of solar PV cell manufacturers) will come into effect from June 1, 2026. This lead time gives cell manufacturers a window to ramp up and obtain BIS certification and ALMM listing.

3. When List-II becomes effective the ALMM policy will require that any solar module used in an ALMM-mandated project must be made with solar cells sourced from ALMM List-II manufacturers.

4. By mid-2026, India intends to have ALMM fully spanning the solar supply chain. This will ensure both modules and the key components (cells) are used in government facilitated projects.

Compliance of ALMM requirements for manufacturers

For manufacturers, getting onto the ALMM List is a detailed process aimed at verifying both quality and genuine manufacturing capability *viz*:

1. **BIS certification**: A manufacturer must first obtain BIS registration/certification for each model of PV module or cell it wants to list. This refers to the compulsory product certification scheme under the 'Solar Photovoltaics Systems, Devices and Components Goods (Requirements for Compulsory Registration) Order, 2017'.
2. **Application**: The manufacturer must submit an application in the prescribed format for each model along with an application fee and documentary evidence of its financial and manufacturing capabilities for the past 3 (three) years (or since inception, if newer). This includes data on raw material purchases, production output, sales, and financial statements (P&L, balance sheet). In 2023 MNRE revamped application/inspection fees (scaled to nameplate capacity) and set a uniform 2 (two) year validity for all listings (so that adding models does not extend expiry).
3. **Preliminary assessment:** MNRE examines the documents and may conduct a preliminary verification especially for new or foreign applicants where domestic filings are not available. If a unit operates outside Indian jurisdiction (e.g. a foreign module maker applying for ALMM) and necessary data isn't otherwise verifiable, MNRE can do an initial inspection to confirm the existence and operations of the factory.
4. **Factory inspection**: Before enlistment, a team from MNRE (or an authorized agency, such as NISE) conducts a thorough inspection of the manufacturing facility.
5. **Enlistment decision**: If all criteria are met MNRE issues an order enlisting the model and manufacturer in ALMM List-I or II as applicable.
6. **Validity and renewal**: The ALMM enlistment initially lasts 2 (two) years after which a manufacturer must apply for renewal to stay on the list. Renewal involves showing continued satisfactory performance of the products i.e. providing updated documents, evidence of quality maintenance and fresh inspection etc.
7. **Oversight and removal:** MNRE retains the right to conduct random audits, quality tests, and inspections at any time on ALMM-listed companies. If an enlisted manufacturer is found non-compliant, for instance, product quality issues, failure to meet standards, or evidence that they are outsourcing production contrary to ALMM's intent, MNRE can remove (delist) the manufacturer/model from the ALMM.

Therefore, manufacturers seeking ALMM listing must prove their credibility (via certifications and audits) and continually comply with monitoring.

Conclusion

ALMM has become a cornerstone of India's renewable energy procurement policy, marrying quality assurance with an implicit industrial policy to boost domestic manufacturing. For project developers and EPC contractors, ALMM compliance is now a critical checkpoint.

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We are known for our specialist domain-focused Energy practice - acknowledged for strengths in grappling with complex legal issues involving public policy, market economics, technology, finance, project management. Our practice has contributed to several landmark and precedent-setting work related to legislative and policy framework governing the industry, commercial strategies for regulated industry, presenting cases before various regulatory and judicial fora in the country, advice on tariff, licensing, market development and design, de-regulation and dispute resolution.

As part of our Energy practice, we are also involved in advising clients in the renewable energy and cleantech space. JSA team's climate change and sustainability practice is regarded as a leading specialized practice acknowledged for its domain knowledge, multi-dimensional expertise and strengths in grappling with complex issues involving public policy, economics, technology, finance, project management besides law. This practice encompasses:

- legislative, regulatory and policy reforms;
- public procurement;
- compliance and strategy; and
- transactional advice including mergers and acquisitions, project finance, structuring legal, regulatory and contractual frameworks.

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