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PROJECTS, ENERGY & INFRASTRUCTURE

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LEGAL & POLICY UPDATES

In this Section

Ministry of New and Renewable Energy (MNRE) has issued a clarification on applicability of ALMM Order for Behind-the-Meter Solar Projects

Ministry of New and Renewable Energy (MNRE) has issued amendments to Central Financial Assistance norms under the PM Surya Ghar: Muft Bijli Yojana on 08.07.2025

Ministry of New and Renewable Energy (MNRE) has issued a clarification on applicability of ALMM Order for Behind-the-Meter Solar Projects

- The Ministry of New and Renewable Energy (MNRE) issued a clarification dated July 7, 2025 regarding the applicability of the Approved List of Models and Manufacturers (ALMM) Order, 2019, to behind-the-meter (BTM) solar power projects.
- On December 9, 2024, MNRE issued an Office Memorandum (OM) extending the applicability of the ALMM framework to solar PV cells. This led to a query on whether the existing exemption from ALMM compliance, for BTM solar power plants used solely for captive consumption by individual consumers or consumer groups, also applied to BTM installations set up by government entities or PSUs.
- In response, MNRE clarified that ALMM will not be applicable to BTM solar power projects installed for captive consumption by Central/State Government offices, government institutions, and PSUs.
- MNRE further clarified that BTS solar projects set up for captive consumption by government entities or PSUs shall:
  - Be required to use ALMM-enlisted solar PV modules, but are exempt from using ALMM-enlisted solar PV cells if commissioned before June 1, 2026;
  - Be required to use both ALMM-enlisted solar PV modules and solar PV cells if commissioned on or after June 1, 2026.

Ministry of New and Renewable Energy (MNRE) has issued amendments to Central Financial Assistance norms under the PM Surya Ghar: Muft Bijli Yojana on 08.07.2025

- Ministry of New and Renewable Energy (MNRE) issued amendments to Central Financial Assistance norms under the PM Surya Ghar: Muft Bijli Yojna on July 8, 2025. Earlier, Clause 5(i) allowed State/UT governments to supplement the Central Financial Assistance (CFA) for residential rooftop solar (RTS) systems with an additional subsidy, provided it adhered to all scheme guidelines and was aligned with the central scheme, with the disbursement process integrated into the National Portal.
- After the amendment, while the core provision remains unchanged, it is now explicitly required that any additional State/UT subsidy must be updated on the National Portal, enhancing transparency and coordination.

- Earlier, as per Annexure 1 of the Guidelines, all applications submitted under Phase II of the rooftop solar programme were eligible for CFA only if the claim was received by October 2024, and claims beyond that date were not admissible. After the amendment, the deadline for submitting claims has been extended to December 31, 2025 for applications that are at the redeemed, inspected, or installed stage, provided they comply with Phase II guidelines. Additionally, applications that remain uninstalled as of April 1, 2025 will be deemed ineligible for CFA and will be removed from the database, though such consumers may reapply under the Pradhan Mantri Sarvodaya Yojana: Muft Bijli Yojana (PMSG: MBY) in the future.
- Earlier, Clause 6(f) stated that vendors installing RTS systems under the scheme must comply with the minimum technical specifications identified by the Ministry, which would be verified by DISCOMs during inspection. After the amendment, while retaining the core requirements, the clause now adds that the Ministry may amend these technical specifications prospectively, subject to the approval of the Secretary, MNRE, allowing for greater flexibility in updating standards.

RECENT JUDGMENTS

In this Section

Tamil Nadu Spinning Mills Association (TNSMA) Vs. Tamil Nadu Electricity Regulatory Commission (TNERC) and Ors..

U.P. Rajya Vidyut Utpadan Nigam Ltd. (UPRVUNL) Vs. U.P. Power Corporation Ltd. (UPPCL)

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Ms NILE Limited Vs. Transmission Corporation of Andhra Pradesh Limited (APTRANSCO) and Ors

Torrent Power Limited Vs. U.P. Electricity Regulatory Commission & others

Directions by the Central Electricity Regulatory Commission for Implementing Market Coupling in terms of the provisions of the Central Electricity Regulatory Commission (Power Market) Regulations, 2021

Tamil Nadu Spinning Mills Association (TNSMA) Vs. Tamil Nadu Electricity Regulatory Commission (TNERC) and Ors.

Appellate Tribunal for Electricity's (APTEL) appeal dated June 16, 2025 in Appeal No. 176 of 2016, Appeal No. 177 of 2016, Appeal No. 52 of 2017 and IA No. 145 of 2017, Appeal No. 102 of 2017 and IA No. 149 of 2017, Appeal No. 380 of 2017 and Appeal No. 381 of 2017

Background facts

- The batch of appeals was filed by the Tamil Nadu Spinning Mills Association (TNSMA), Indian Wind Power Association (IWPA), and Tamil Nadu Generation and Distribution Corporation Ltd. (TANGEDCO), challenging various orders issued by the Tamil Nadu Electricity Regulatory Commission (TNERC) in 2016 concerning the regulation of wind energy charges and conditions in Tamil Nadu.
- The associations representing wind generators and industrial consumers contested TNERC's decisions to increase banking charges from 5% to 10% of energy, to levy transmission and wheeling charges based on the installed capacity rather than actual generation, and to alter other conditions that they argued would raise costs and reduce the financial viability of wind power projects.
- TNSMA and IWPA argued that TNERC made these decisions without carrying out transparent, data-driven studies as earlier directed by the Appellate Tribunal for Electricity and without giving due consideration to the adverse impact on existing wind power generators.
- Separate cross-appeals were also filed by TANGEDCO challenging provisions unfavourable to the utility, particularly on the issue of banking facilities and other commercial parameters for wind energy.
- These appeals collectively sought reversal or modification of TNERC's 2016 orders, arguing that the changes imposed additional financial burdens without adequate justification or proper regulatory process, and that TNERC had not complied with the directions from APTEL in an earlier remand order.

Issues at Hand

- Whether TNERC was justified in levying transmission and wheeling charges based on installed capacity instead of actual generation.
- Whether TNERC was right in increasing the banking charges to 10% without adequate justification.
- Whether TNERC erred in withdrawing Deemed Demand Charges without any valid reason.
- Whether there was a violation of principles of natural justice in the Commission's process.
- Whether TNERC was justified in eliminating the banking facility without proper analysis of its financial impact.

Decision of the Court/Tribunal

- The Hon'ble APTEL noted that it had failed to comply with the directions issued by the Appellate Tribunal in the earlier Remand Order, particularly with regard to conducting a detailed and data-driven study before revising banking charges.
- Further, APTEL noted that the present appeal was filed by Tamil Nadu Spinning Mills and the Indian Wind Power Association against the 2016 orders of TNERC, and that these appeals concern the restriction on consumption of banked wind energy and the unjustified increase in banking charges.
- APTEL acknowledged that a distribution licensee cannot be allowed to benefit from restrictions it has itself imposed, particularly when wind energy generators were prevented from consuming the energy they had banked.
- APTEL concluded that there was no justification for increasing the banking charges from 5% to 15% or for curtailing the banking period from one year to one month, in the absence of empirical support and in light of prior Tribunal directives.
- Accordingly, APTEL decided to remand the matter back to the State Commission for fresh consideration and partly allowed the appeal to the extent indicated above.

HSA
Viewpoint

This judgment is a strong reaffirmation of regulatory accountability and procedural fairness in electricity tariff determination, particularly in how benefits like *power banking* are handled for renewable energy generators. The APTEL has sent a clear message to the State Commission decisions that affect the renewable energy sector must be evidence based, transparent, and involve meaningful consultation with stakeholders. APTEL has rightly upheld the principles of reasonableness, transparency, and statutory intent. It's a relief for wind generators and industry associations like TNSMA and IWPA, who were facing uncertainty and financial strain due to policy shifts taken without adequate analytical support.

U.P. Rajya Vidyut Utpadan Nigam Ltd. (UPRVUNL) Vs. U.P. Power Corporation Ltd. (UPPCL)

Uttar Pradesh Electricity Regulatory Commission's (UPERC) Order dated June 16, 2025 in Petition No. 2140 of 2025 along with I.A. No. 1 of 2025

Background facts

- The petition was filed by Uttar Pradesh Rajya Vidyut Utpadan Nigam Limited (UPRVUNL) before the Uttar Pradesh Electricity Regulatory Commission (UPERC) seeking in-principal approval to utilize the third raised ash dyke of the Obra B Thermal Power Project (TPP) for the disposal of ash generated from the 2x660 megawatt Obra C Thermal Power Project.
- The Obra-C project commenced power generation with the commissioning of Unit 1 on February 9, 2024. However, the development of its dedicated ash dyke was delayed due to unresolved land acquisition issues involving both civil and forest land.
- In line with the Ministry of Environment, Forest and Climate Change's (MoEFCC) notification dated December 31, 2021, which mandated 100 percent utilization of fly ash by all coal and lignite-based thermal power plants, UPRVUNL was obligated to ensure proper ash disposal from Obra C despite the infrastructure delay.
- As an interim measure, UPRVUNL began utilizing the existing ash dyke of the adjoining Obra B project, already raised in capacity, for managing ash from both projects. With Obra C's Unit 1 approaching full capacity, a third raising of the Obra B ash dyke was deemed necessary to accommodate the increased ash load from both facilities, to ensure full compliance with the MoEFCC's Notification.
- The Petitioner has submitted that, while no capital expenditure for the third raising of the ash dyke has been claimed at present, it is seeking in-principle approval.

Issues at hand

- Whether the Petitioner is entitled to claim the in-principle approval as per Regulation 20(2) of the UPERC Generation Tariff Regulations, 2019 (UPERC Tariff Regulations).

Decision of the Court/Tribunal

- UPERC noted that under the UPERC Tariff Regulations, any additional capital expenditure can be considered for approval only after it has actually been incurred, and only upon prudence check by the Commission. The regulation specifically allows the Petitioner to seek approval of such expenditure, including for the raising of the ash dyke as part of the ash disposal system, strictly in accordance with the prescribed process.
- The Commission further observed that it is a well-established principle of statutory interpretation that where a statute prescribes a particular procedure for undertaking an activity, the same must be followed, and the activity cannot be undertaken in any other manner.
- Accordingly, the Petitioner is required to submit its claim for additional capital expenditure in the manner laid down under the UPERC Tariff Regulations. Since the Regulations do not permit for any in-principal approval of additional capitalization, the Commission disposed of the Petition and directed the Petitioner to file such claims as part of the Multi-Year Tariff (MYT) Petition with necessary details and justifications, in compliance with the applicable regulatory provisions.

HSA

Viewpoint

The UPERC's decision reinforces strict adherence to regulatory procedures by denying in-principle approval for future capital expenditure, ensuring that cost claims are only considered after actual incurrence and detailed scrutiny. This promotes financial discipline among generating companies and protects consumers from premature or unjustified tariff impacts. It also highlights the need for better project planning, especially in meeting environmental obligations, ensuring sustainable and accountable growth in the energy sector.

Cleanmax Vayu Pvt. Ltd. Vs. Gujarat Energy Transmission Corporation Limited

Gujarat Electricity Regulatory Commission's (GERC) Order dated June 17th 2025 in Petition No. 2401 of 2024

Background facts

- The Petition was filed by Cleanmax Vayu Pvt. Ltd. (Petitioner) before the Gujarat Electricity Regulatory Commission (GERC / Commission), seeking extension of the commissioning timeline for the entire evacuation system, including transmission line, bays, and metering system, for its 100 MW renewable power project at the 220 kV Kalavad substation of Gujarat Energy Transmission Corporation Ltd. (GETCO) due to unforeseen delays.
- The Petitioner was initially required to share a GIS feeder bay with existing lead generators but faced delays due to uncertainty in the lead generator status, which was eventually granted by GETCO after revocation and litigation involving the prior lead generator.
- The Petitioner sought to use Chint, GETCO's existing GIS vendor, for the evacuation infrastructure, but this was denied by GETCO citing the Government of India's Cross Border Procurement Policy, leading to selection of Siemens, a domestic vendor, with a significantly longer manufacturing lead time.
- The Petitioner faced coordination challenges among multiple connectivity holders to submit joint common technical drawings for GIS approval caused further delays, aggravated by non-responsiveness of one developer and necessitating rearrangement of GIS feeder bays.
- For the abovementioned reasons, the Petitioner submitted that it sought an extension of 465 days for the commissioning timeline of the entire evacuation system, including the transmission line, bays, and metering system, and

requested to be relieved from any liability arising from delays caused by unforeseen and uncontrollable events beyond its control.

Issues at hand

- Whether the extension sought by the Petitioner for the commissioning timeline of the entire evacuation system, including the transmission line, bays, and metering system is justifiable?

Decision of the Court/Tribunal

- The Commission held that the Petitioner made multiple representations between September 22,2023 and January 01, 2024 requesting declaration as lead generator, but GETCO neither accepted, denied, nor responded, nor took any corrective action from August 12, 2023 until February 22, 2024.
- The Commission held that the delay of 256 days in obtaining vendor approval for the GIS system was beyond the control of the Petitioner, as it arose due to technical requirements linked to the GETCO's existing GIS bay and the necessity of using a common vendor. Accordingly, the Petitioner was found eligible for a timeline extension of 256 days on this account.
- The Commission observed that the delay in obtaining common drawing approval for the GIS system was beyond the control of the Petitioner. This delay was due to the technical necessity for all connectivity holders to ensure their GIS bays were compatible and integrated with the GETCO's existing Chint-manufactured GIS infrastructure. Given the need for compatibility and seamless integration with the existing system, coordination among multiple developers and GETCO was necessary, which led to the delay.
- The Commission noted that the 70-day delay in common GIS drawing approval was due to an additional condition by GETCO requiring joint submissions from all connectivity holders. Owing to interdependencies and coordination issues, the delay was held to be beyond the Petitioner's control, warranting a 70-day extension.

HSA
Viewpoint

The decision to grant extension acknowledges genuine delays beyond the developer's control, including GETCO's inaction, vendor restrictions, and coordination issues among multiple developers. It sets an important precedent for flexible regulatory support in renewable energy projects, promoting investor confidence and highlighting the need for better institutional coordination to ensure timely grid integration.

Ghatge Patil Industries Ltd. Vs. Maharashtra State Electricity Distribution Company Limited (MSEDCL)

Maharashtra Electricity Regulatory Commission's (MERC) Order dated June 19, 2025 in Petition No. 150 of 2024

Background facts

- Ghatge Patil Industries Ltd. (GPIL), operating wind power plants with a total installed capacity of 17.25 MW in Dhule, Maharashtra, filed the Petition before Maharashtra Electricity Regulatory Commission (MERC / Commission) seeking a refund of excess wheeling and transmission charges levied and collected by Maharashtra State Electricity Distribution Company Limited (MSEDCL) for the period August 2018 to May 2023. GPIL availed Open Access (OA) to use the generated wind power for captive consumption at its plants.
- GPIL contended that MSEDCL had incorrectly levied charges based on the total generation instead of the actual energy drawl at the consumption end, contrary to settled principles in earlier MERC and APTEL rulings. GPIL sought a refund of INR 1.42 crore, including interest, relying on precedents such as the APTEL judgment and MERC's own consequential and similar orders in other consumer cases.
- MSEDCL contested the claim, arguing the Petition was time-barred under the Limitation Act and denied any excess levy.

Issues at hand

- Whether GPIL is entitled to a refund of wheeling and transmission charges collected by MSEDCL in excess of what was permissible under the applicable regulations.
- Whether the claim was barred by limitation or was saved by the doctrine of continuing cause of action.
- Whether MSEDCL's computation of charges aligned with regulatory methodology and judicial precedents.

Decision of the Court/Tribunal

- MERC has partly allowed the Petition filed by GPIL and directed MSEDCL to refund excess wheeling and transmission charges levied from August 2018 to May 2023, along with applicable interest, within one month from the date of the Order, after verifying the claims submitted by GPIL.
- MERC found merit in GPIL's contention that wheeling and transmission charges were wrongly levied by MSEDCL on the basis of total energy generation rather than on the actual energy drawl at the consumption end which is in contravention of the DOA Regulations 2016, as well as the Judgment of the Hon'ble Appellate Tribunal in Appeal No. 20 of 2019 (Sridevi Trading Company Private Limited MERC) and several subsequent Commission orders in similar matters, such as Vs. *AMJ Land Holdings*, *Persistent Systems*, and *Kore* cases).
- MERC rejected MSEDCL's plea that GPIL's claim was barred by limitation, holding that the repeated wrongful levy of charges constituted a continuing wrong, thereby giving rise to a continuing cause of action. The Commission also acknowledged that Supreme Court directions issued in connection with the COVID-19 pandemic extended the limitation period, thereby making the Petition maintainable in law.
- MSEDCL's claim that it had already implemented the revised billing methodology from June 2023 was accepted by the Commission, and accordingly, the future levy of charges was found to be in compliance. However, the Commission noted that for the period prior to June 2023, MSEDCL's billing practice was non-compliant with the regulatory framework. It further observed that MSEDCL's calculations and reconciliations were not satisfactory, and in fact appeared to misrepresent compliance, as they failed to reflect the correct principles laid down by the APTEL and the Commission itself.
- As for GPIL's request for award of litigation costs, the Commission rejected the prayer on the ground that although GPIL was entitled to refund, it was the first instance where GPIL had raised such a claim, and that any refund must follow the proper procedure laid down under Regulation 18(b) of the MERC (Conduct of Business) Regulations, 2022, which prescribes the manner and fee structure for seeking such relief.
- Accordingly, MERC allowed the Petition in part and directed MSEDCL to refund excess charges (with interest) and future billing must be based on actual drawl.

HSA
Viewpoint

MERC's ruling in favour of GPIL marks a significant development in the energy sector by reaffirming that wheeling and transmission charges must be levied based on actual energy drawl, thereby ensuring regulatory consistency and protecting the interests of consumers. This decision will encourage greater compliance among distribution licensees and enhance transparency in billing practices, ultimately fostering investor confidence and promoting growth in the sector.

M/s Sona Synthetics and others Vs. The State of Karnataka

Karnataka High Court Judgement dated 20 June, 2025- Writ Petition No. 3935 OF 2008 (GM-KEB) C/W Writ Petition No. 1644 OF 2009 (GM-KEB)

Background facts

- The Petitioners - M/S Sona Synthetics & Ors. approached the Hon'ble High Court of Karnataka, challenging the amendment to Section 3 of the Karnataka Electricity (Taxation of Consumption) Act, 1959, by virtue of the amending Act 7

of 2003, and Act 5 of 2004, which came into effect from April 01, 2003, as being unconstitutional.

- These amendments expanded the scope of the electricity tax to include charges on electricity supplied, irrespective of whether it was consumed. The Petitioners contended that this levy, even on electricity not actually used, was ultra vires the legislative competence of the State under Entry 53 of List II of the Constitution.

Issues at hand

- Whether the supply of electricity to ensure minimum demand, without actual consumption of electricity, amounts to consumption or sale and enables the State to levy tax on the tariff for the supply of electricity?
- Whether Section 3(1) of the Karnataka Electricity (Taxation on Consumption) Act, 1959, as amended by Amending Act 7 of 2003 and Amending Act 5 of 2004, imposing tax on electricity charges ultra vires?

Decision of the Court/Tribunal

- The Hon'ble High Court held that if the licensee supplies electricity to a consumer and demands a certain Tariff as a minimum Tariff payable, irrespective of consumption, then such Tariff cannot be termed as a Tariff on consumption or a tariff on sale.
- The charges for consumption start only when the electricity is consumed.
- The minimum Tariff imposed is towards the cost of ensuring a continuous supply of electricity. Only when the said supply is consumed by the consumer, has to pay for consumption charges. Thus, only when the electricity is consumed is sold. Till then, it is only a supply. If the supply of electricity to a consumer is charged, then it is a Tariff on supply, not on sale.
- When the supplier of electricity supplies electricity to the designated point at the consumer's place, it is quite possible that the consumer may tap the electricity so supplied for consumption or may not use it at all. If it is consumed by the consumer, then the consumer has to pay the price fixed for such consumption, where the delivery actually takes place, and electricity is utilised by the consumer. In such an event, the delivery is complete and the electricity is used, and the sale of electricity is complete.
- However, if the consumer does not tap and consume the electricity so supplied, the delivery of the goods (electricity) does not take place, and the contract for sale of electricity does not end up in a contract of sale, and it only remains a contract for sale, in which situation there is no sale.
- When the supplier of electricity supplies electricity to a specified point at a place belonging to the consumer, from where the consumer can tap the electricity for consumption, it is only an 'agreement to sell' electricity and not a 'sale' of electricity.
- If the consumer is taxed on the 'minimum tariff' charged for the supply of electricity for ensuring constant supply for consumption of electricity at any given point of time, then it amounts to taxation on electricity which is not yet sold but only agreed to be sold.
- For the aforementioned reasons, this Court is of the view that the provisions of the amended Section 3(1) of the Act, 1959 as amended vide Act No.7 of 2003 and Act No.5 of 2004 providing for tax on electricity charges which includes the 'minimum tariff' are unconstitutional as the State has no legislative competence to levy tax on 'minimum tariff' for the electricity which is not consumed.

HSA
Viewpoint

The Hon'ble Karnataka High Court has provided a significant and much-needed clarification regarding the supply and utilization of electricity. Industrial establishments were previously subjected to unjust taxation on unutilized electricity. This landmark judgment ensures that taxation is aligned with actual consumption, rather than being based on notional or hypothetical billing.

Ms NILE Limited Vs. Transmission Corporation of Andhra Pradesh Limited (APTRANSCO) and Ors

Central Electricity Regulatory Commission's (CERC) Order dated July 1st, 2025 in Petition No. 71/MP/2021

Background facts

- The present petition was filed by M/s NILE Limited, who operates a 2 MW wind power project commissioned in 1995 at Ramagiri, Anantapur, Andhra Pradesh, and had entered into a Power Purchase Agreement (PPA) for the sale of wind energy to the erstwhile APCPDCL.
- The case stemmed from APCPDCL's partial payment of monthly energy bills, where from July 2011 to December 2012, only 50% of billed amounts were paid due to a pending tariff dispute, despite applicable tariff orders and repeated requests for full payments by the petitioner.
- Following the bifurcation of Andhra Pradesh in 2014, the liability for these dues became contested between the new DISCOMs, APSPDCL and TSSPDCL, each disputing responsibility for payment based on post-bifurcation jurisdiction.
- CERC after examining the contractual provisions and the Andhra Pradesh Reorganization Act, apportioned the pending dues, from August 2011 to December 2012, between APSPDCL (17.45%) and TSSPDCL (82.55%) and directed both to settle the outstanding amounts with 10% annual interest.

Issues at hand

- Whether APSPDCL and TSSPDCL are jointly or severally liable to pay the outstanding energy dues from August 2011 to December 2012, along with contractual interest and further interest until full payment is made.
- Whether the DISCOMs must pay interest at 10% per annum, jointly or severally, on delayed payments made between January 2013 and October 2013.
- Whether the DISCOMs are required to refund INR 1,09,624, deducted as maintenance charges, with interest at 18% per annum from November 28, 2011, until the date of payment.

Decision of the Court/Tribunal

- CERC examined the petitioner's claim for reimbursement of INR 1,09,624, which had been deducted by APSPDCL as maintenance charges despite the petitioner having already paid this amount to APTRANSCO. Although TSSPDCL argued that supporting evidence was absent, the Commission found documentary evidence submitted on record and directed NILE Limited to provide relevant bank statements to APSPDCL for verification.
- Upon confirmation, both APSPDCL and TSSPDCL are required to reimburse the claimed amount with 10% interest, to be paid within 60 days of the order.
- On the broader issue of historical dues, the Commission clarified, following a government order, that while APSPDCL is responsible for 17.45% of pre-bifurcation liabilities originating from Anantapur, TSSPDCL is to reimburse the remaining 82.55%. Accordingly, both DISCOMs have been directed to pay their apportioned shares of the outstanding bills for August 2011 to December 2012, along with 10% annual interest, in line with the territorial and financial arrangements determined after Andhra Pradesh's bifurcation.

HSA
Viewpoint

The judgment reinforces the binding nature of PPAs and regulatory directives, even after state bifurcation. It deals with delayed payments to a wind generator under a PPA with the former APTRANSCO and clarifies post-bifurcation liability. The Commission fairly apportioned dues between APSPDCL and TSSPDCL based on consumption and location. This decision sets a significant precedent for resolving inter-state liability issues in future jurisdictional disputes.

Torrent Power Limited Vs. U.P. Electricity Regulatory Commission & others

Supreme Court Judgment dated July 14, 2025 CIVIL APPEAL NO. 23514 OF 2017

Background facts

- An Appeal was filed by Torrent Power Ltd. (Appellant / Distribution Franchisee) challenging the jurisdiction of the Ld. Uttar Pradesh Electricity Regulatory Commission (UPERC) to entertain a complaint regarding the legality of the Distribution Franchisee Agreement (DFA) executed between the Appellant and Dakshinanchal Vidyut Vitran Nigam Ltd.('DVVNL').
- The Appellant entered into a DFA with DVVNL on May 18, 2009 followed by a Supplementary Agreement on March 17, 2010, distribution of power in Agra.
- A petition was filed before Ld. UPERC in 2012 alleging that the DFA violated provisions of the Electricity Act, 2003 ('the Act'), including the absence of a prior approval under Section 17 of the Act.
- The Appellant raised preliminary objections on maintainability and jurisdiction of the said Petition, citing the private nature of the agreement and lack of consumer status of the petitioner.
- However, the UPERC vide order dated July 16, 2015 held that the petition was maintainable on the grounds of public interest and the Electricity Regulatory Commissions (ERC) were empowered to look into the DFA to assess the benefits of such franchisee for the DISCOMs as well as for the general public. In furtherance of this finding, the UPERC ordered for the formation of an Expert Committee to give its finding on the aspects of the yearly reduction in loss levels by the Appellant as well as the improvement in collection efficiency with information as to how such benefits have been passed on to the consumers.
- After which, an appeal was made before the Hon'ble APTEL challenging the Ld. UPERC's Order dated July 16, 2015. The APTEL vide Order dated July 28, 2016 held that while the Act does not permit public interest litigation before ERCs, the Petition was not in the nature of a PIL. It upheld the maintainability, observing that the Ld. UPERC could exercise regulatory oversight over distribution licensees, and franchisee arrangements could be examined due to their work impact.
- The Order dated July 28, 2016 was challenged by the Appellant before the Hon'ble Supreme Court in the captioned Civil Appeal.

Issues at hand

- Whether the UPERC the jurisdiction to consider matters in public interest?
- Whether the petition filed by the respondent no. 4 under Section 128 of the Act, 2003 was maintainable in law?
- Whether the ERCs have the jurisdiction to review the functioning of a distribution licensee to supply electricity through a franchisee?

Decision of the Court/Tribunal

- The Supreme Court acknowledged that under the Act, State Electricity Regulatory Commissions possess broad regulatory powers, including the authority to act suo motu. This is particularly true when discharging functions under Sections 128 and 129 of the Act, which allow for investigations into the conduct of licensees. However, it emphasized that such powers must be exercised within the framework of the statute and not solely on the ground of abstract public interest.
- Section 128 of the Act empowers the Commission to direct an investigation only after it records its satisfaction that the licensee has contravened provisions of the Act, license conditions, rules, or tariff orders. This satisfaction is a statutory prerequisite.
- The Supreme Court held that UPERC failed to record any such satisfaction before initiating the investigation. The action was based on general concerns without identifying any specific contravention.
- The Supreme Court held that while a franchisee operates under the authority of a distribution licensee, it does not independently fall within the regulatory jurisdiction of the State Commission. The franchisee's actions are attributable to the licensee, who remains responsible for compliance with the Act, license

conditions, and regulatory directives. Therefore, any scrutiny of the franchisee's functioning must be routed through the licensee. The Court found that UPERC and APTEL exceeded their statutory mandate by directly assessing the franchisee's performance and initiating an investigation. Such direct intervention amounted to an unwarranted expansion of regulatory powers and violated the structure envisaged under the Act.

HSA
Viewpoint

The Hon'ble Supreme Court has reiterated the well-settled principle of locus standi and has held that Electricity Regulatory Commissions cannot entertain public interest litigation. The Hon'ble Supreme Court has further held that even though the Electricity Regulatory Commission ought to place consumer interest at a high pedestal, it cannot be a ground to entertain Public interest litigations.

Directions by the Central Electricity Regulatory Commission for Implementing Market Coupling in terms of the provisions of the Central Electricity Regulatory Commission (Power Market) Regulations, 2021

Order dated 23.07.2025 in Petition No. 8/SM/2025

Background facts

- The instant matter arises out of a Suo Motu initiative of the Central Electricity Regulatory Commission ("CERC") seeking to implement 'market coupling' in India's power markets in accordance with powers conferred by the Electricity Act, 2003 ("Act") and the Central Electricity Regulatory Commission (Power Market) Regulations, 2021 ("PMR 2021").
- Pursuant to CERC's earlier Order dated 06.02.2024 in Petition No. 1/SM/2024, Grid Controller of India ("GridCo") was directed to develop and run a shadow pilot coupling project. The scope included coupling – (i) the Real-Time Market ("RTM") across the three power exchanges; (ii) RTM with Security Constrained Economic Dispatch ("SCED"); and (iii) the Day-Ahead Market ("DAM").
- GridCo, between December 2024 and March 2025, executed the shadow pilot, collecting feedback on welfare, operational issues, and the feasibility of scaling market coupling. The report indicated quantifiable welfare gains and informed the regulatory framework for market coupling. Based on the feedback, CERC issued the instant order to direct a phased implementation of market coupling and to set the schedule, method, and regulatory amendments required.

Issues at hand

- What methodology and sequencing should be adopted for the safe and effective implementation of market coupling, including whether to phase the coupling across different market segments, what operational safeguards are necessary?
- Whether stakeholders' concerns (such as those of exchanges, the System Operator, and market participants) regarding operational and technical complexities have been adequately addressed??

Decision of the Court/Tribunal

- The shadow pilot, as per GridCo's feedback, indicated clear welfare gains: DAM coupling resulted in a INR 38 Cr surplus (0.3%) and higher volume (by 52 MU or 0.2%), RTM coupling brought smaller but positive welfare and volume gains, and RTM-SCED coupling showed daily net savings. Price impacts were found to be negligible.
- The Commission ordered a phased approach, starting with mandatory DAM coupling across power exchanges by January 2026 using a round-robin Market Coupling Operator ("MCO") model among the exchanges, with GridCo as the audit/contingency MCO. Coupling for other segments (RTM, RTM-SCED) was deferred for additional validation and stakeholder consultations.
- The Commission directed GridCo to launch a shadow pilot for coupling of the Term-Ahead Market ("TAM"), develop necessary software, and submit feedback after a three-month test period. All power exchanges and market participants

were directed to cooperate with GridCo and the Commission by providing necessary data and supporting regulatory amendments.

HSA

Viewpoint

The Commission by way of the instant order took a significant step toward enhancing market efficiency and transparency in India's power sector. By adopting a phased and sequenced implementation of market coupling, beginning with the DAM and deferring RTM and RTM-SCED coupling. This strategy ensures that welfare benefits and operational risks are thoroughly evaluated before wider rollout, providing reassurance to industry actors about systemic stability. The introduction of a round-robin MCO system, audited by GridCo, directly addresses the need for fairness and operational neutrality. Further, the order's emphasis on stakeholder consultation and structured data sharing exemplifies transparent, accountable, and modern regulatory practice.

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Tushar Srivastava | Associate Partner
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Kamya Sharma | Associate
Harshit Dhamija | Trainee Associate
Shaurya Kapoor | Trainee Associate

Shubhi Sharma | Partner
Nimesh Jha | Principal Associate
Deepak Thakur | Associate
Varnika Tyagi | Associate
Mahima Kaur | Trainee Associate
Vandana Ragwani | Trainee Associate

HSA AT A GLANCE

FULL-SERVICE CAPABILITIES

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DEFENCE & AEROSPACE

INVESTIGATIONS

PROJECT FINANCE

RESTRUCTURING & INSOLVENCY

COMPETITION & ANTITRUST

DISPUTE RESOLUTION

LABOR & EMPLOYMENT

REAL ESTATE

TAXATION

CORPORATE & COMMERCIAL

ENVIRONMENT, HEALTH & SAFETY

PROJECTS, ENERGY & INFRASTRUCTURE

REGULATORY & POLICY

TECHNOLOGY, MEDIA & TELECOMMUNICATIONS

GLOBAL RECOGNITION

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