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Legal Updates

The Hon'ble Supreme Court in the case of *Municipal Corporation of Delhi (MCD) v. Gagan Narang & Ors.*, Civil Appeal Nos. 7463-7464 of 2023, has observed that the Municipal Corporation of Delhi ("MCD"), as a local authority, is entitled to initiate a tariff adoption application under Section 63 of the Electricity Act, 2003, for Waste-to-Energy ("WTE") projects. The Hon'ble Supreme Court held that the statutory obligations of the MCD under the Solid Waste Management Rules, 2016 ("SMW Rules, 2016") cannot be undermined, and the interpretation of Section 63 of the Electricity Act, 2003 ("Act") by the Ld. Appellate Tribunal for Electricity ("Ld. Tribunal") was narrow and incorrect.

The Court clarified that Section 63 does not restrict itself to Distribution Licensees or Generating Companies alone. Instead, it empowers the Appropriate Commission to adopt tariffs determined through a transparent process of bidding, provided such processes comply with the guidelines issued by the Central Government. It emphasized that the provision must be read harmoniously with Section 86(1)(b) of the Electricity Act, 2003 which provides broad powers to the State Commissions to regulate electricity procurement and pricing.

Furthermore, the Hon'ble Supreme Court observed that the MCD's role in conducting the bidding process for the WTE project at Narela Bawana, Delhi, stemmed from its statutory mandate to manage solid waste. The ownership of the project was always with the MCD, and it was implementing the project in the larger public interest of addressing the escalating waste management crisis in Delhi. It criticized the Ld. Tribunal's finding that the MCD was a "stranger" to the process, highlighting that this conclusion overlooked the MCD's statutory obligations and the larger environmental benefits of the project. The Hon'ble Supreme Court also reaffirmed that regulatory commissions, such as the Delhi Electricity Regulatory Commission ("DERC"), have the authority to oversee and approve tariffs for projects like WTE. It highlighted the transparent bidding process conducted by the MCD, which resulted in DERC approving the tariff of Rs. 7.38/kWh for the

Supreme Court observes that Local Authorities can make application under Section 63 of the Electricity Act, 2003 for adoption of Tariff

project. The Hon'ble Supreme Court held that public interest and statutory compliance should take precedence over hyper-technical objections.

The Hon'ble High Court of Gujarat ("**Gujarat High Court**") vide its judgment dated 24.12.2024 passed in the case of *Uttar Gujarat Vij Company Ltd. Vs. Gupta Power Infrastructure Ltd., First Appeal No. 172 8 of 2022*, has held that the jurisdiction of the Court to adjudicate a petition, filed, under Section 34 of the Arbitration and Conciliation Act 1996 ("**Arbitration Act**") challenging the award passed under Section 18(4) of the Micro Small and Medium Enterprises Development Act, 2006 ("**MSMED Act**") would be governed by the agreement between the parties, conferring exclusive jurisdiction to a particular Court.

The court at the outset while noting the interplay between the MSMED Act and the Arbitration Act observed that the overriding effect has been given by virtue of Section 18(4) read with Section 24 of the MSMED Act over any agreement between the parties in relation to the dispute covered by the MSMED Act and in so far as the claim under Section 17, where it has been kept open to the parties to refer the dispute to the MSMEFC. The court further noted that with the language employed under sub-section(3) of Section 18 of the MSMED Act, if the provisions of sub-section(4) of Section 18 are read and understood, it would mean that the provisions of sub-section(4) of Section 18 would have an overriding effect only with respect to the jurisdiction of the MSMEFC in adjudication of the dispute as an Arbitrator and has no application beyond that point.

It further observed that the Legislature which fixes the jurisdiction of the MSMEFC by virtue of sub-section(4) of Section 18 of the MSMED Act, has not prescribed any provision dealing with the jurisdiction of the Courts entertaining Petition/Application for setting aside any decree, award or other order made either by the Council itself or by any institution referred to by the Council, in view of the fact that the provisions of the Arbitration Act are applicable at both the stages of making of the award and post-passing of the award.

Gujarat High Court in this regard lastly observed that provision of Section 18(4) of the MSMED Act cannot be read to exclude the jurisdiction of the Civil Court at Mehsana which otherwise has jurisdiction to deal with the dispute being the Civil Court within the jurisdiction of which the tender / contract was executed and supply was made. The judgment and order dated 05.04.2022 passed by the Commercial Court-5th Additional District Judge, Mehsana in rejecting the Petition under Section 34 of the Arbitration Act, 1996 read with Section 19 of the MSMED on the ground that the Court lacks territorial jurisdiction, was thus set aside.

The Hon'ble High Court of Karnataka, in its judgment dated 20.12.2024, adjudicated upon the legality and validity of the Electricity (Promoting Renewable Energy through Green Energy Open Access) Rules, 2022 ("**GEOA Rules**") and Karnataka Electricity Regulatory Commission (Terms and Conditions for Green Energy Open Access) Regulations, 2022 ("**KERC Regulations, 2022**") and has observed that the Central Government lacked legislative competence to frame the GEOA Rules, rendering them ultra vires. Consequently, the KERC Regulations, 2022, framed in pursuance of the GEOA Rules without independent exercise of regulatory authority by KERC under the Electricity Act, 2003 ("**EA 2003**"), were also struck down.

The High Court further observed that The EA 2003 demarcates a clear division of responsibilities, wherein the Central Government's role is confined to policy formulation, and Electricity Regulatory Commissions ("**ERCs**") have been exclusively empowered to regulate all aspects of electricity transmission, supply, distribution, and trading. Neither the Central Government nor the State Governments are vested with regulatory powers in these domains. While transmission utilities bear the statutory obligation to provide non-discriminatory open access, the charges are to be determined by the ERCs and similarly in the matter of distribution of electricity and open access, apart from the ERCs, no other entity has been given any role to play. It, therefore, indicates the legislative intent to vest ERCs with unfettered regulatory control in this regard as they are also entrusted with the function of determining the tariff for generation, supply, transmission and wheeling of electricity. The proviso to Section 86 makes it clear that where open access has been permitted to a category of consumers under Section 42, the ERC is required to determine the wheeling charges and surcharge thereon. Therefore, all aspects of determination of tariff and regulation of electricity purchase and

Gujarat High Court observes that court's jurisdiction under Section 34 of Arbitration and Conciliation Act, 1996 against award passed under Micro Small and Medium Enterprises Development Act, 2006 has to be determined as per the Agreement between parties

Karnataka High Court strikes down Centre's Electricity (Promoting Renewable Energy through Green Energy Open Access) Rules, 2022, and KERC (Terms and Conditions for Green Energy Open Access) Regulations, 2022

the facilitation of intra-State transmission is to be monitored by the ERC and there is no governmental interference of any kind in providing open access and levying a charge for availing open access.

The Hon'ble Court has thus directed the KERC to frame appropriate regulations, if it desires, concerning the grant of open access to green energy generators and consumers. Alternatively, the KERC may continue to operate under the extant KERC (Terms and Conditions for Open Access) Regulations, 2004.

The Appellate Tribunal for Electricity (**APTEL**) in an Execution Petition No. 05 of 2024, filed by GMR Energy Limited and GMR Energy Trading Limited (“**Appellants**”), whereby the Appellants sought enforcement of Commissions Order directing the Karnataka Discoms to pay ₹135.65 crores towards unpaid principal dues, interest, and compensation for delayed payments for electricity supplied and which claims were upheld by the Supreme Court in 2022.

APTEL directs Karnataka DISCOMs to pay Compound Interest over principal dues, interest, and compensation for delayed payments

The claim of the Appellants was premised on the ground that the Discom failed to honour the payment timelines set out in the original judgment, which required payment within four weeks of the Commission's order and therefore the claim for compound interest at 12% annually (with quarterly compounding) on all outstanding dues, including unpaid interest, from June 2014 until full payment. In defence, the Discom contended that they had already settled the principal amount by February 2016 under interim orders of the Supreme Court, which had stayed the payment of interest until the appeal was disposed off and thus no further liability for interest existed beyond 2016.

APTEL, however observed that the liability for compound interest revived after the Supreme Court dismissed the appeals in March 2022, effectively invalidating the interim stay. The Tribunal also clarified that the original judgment mandated compound interest not only on the principal dues but also on the accumulated unpaid interest and the application of compound interest was a penalty for the prolonged delay.

The Central Electricity Regulatory Commission (“**CERC**”), vide notification bearing No. 13/2/7/2015-PM/CERC dated 31.12.2024, has notified the draft CERC (Cross Border Trade of Electricity) (Second Amendment) Regulations, 2024 (“**Draft 2nd Amendment**”) proposing to amend several regulations of the CERC (Cross Border Trade of Electricity) Regulations, 2019 (“**Principal CBTE Regulations**”).

CERC notifies Draft CERC (Cross Border Trade of Electricity) (Second Amendment) Regulations, 2024

The proposed amendments aim to harmonize the Cross Border Trade of Electricity framework with the General Network Access (“**GNA**”) enshrined under the CERC (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 (“**GNA Regulations**”) and incorporate recent changes in cross-border electricity guidelines issued by the Ministry of Power (“**MoP**”) vide Office Memorandum dated 12.08.2024.

Key proposals of the Draft 2nd Amendment are as follows:

- **Regulation 8:** It introduces the requirement for participating entities from neighboring countries to apply separately for connectivity, GNA, or T-GNA for injection into or drawal from the Indian grid. Further, Indian trading licensees engaged in cross-border trade will also be required to apply separately for GNA or T-GNA under the CBTE framework. The proposed amendment includes a new provision clarifying that connectivity alone does not confer transmission access rights, which must be obtained through separate applications.
- **Regulations 5 and 7:** It will enhance the planning, implementation, and tariff determination for Cross Border Transmission Links (**CBTL**). The amendments include provisions for determining the tariff for import/export of electricity through mutual agreements or competitive bidding after the expiry of existing Inter-Government Agreements. Moreover, the planning and

construction of CBTL between India and neighboring countries will be jointly handled by transmission planning agencies of both countries, with provisions for dedicated transmission systems constructed by generating stations or drawee entities.

- **Regulation 9** is proposed to be amended to align it with the application fee of Rs. 5 lakhs for each application for grant of Connectivity or GNA and an application fee of Rs. 5,000/- for each application for T-GNA, as prescribed under the GNA Regulations.
- **Regulation 10** is proposed to be amended to include a new Clause (7), allowing generating stations supplying power exclusively to neighboring countries through a dedicated transmission system to seek connectivity and access to the Indian Grid as per Annexure-I to the regulations.
- **Regulations 11 to 13** are proposed to be amended to introduce the requirement for entities applying for GNA under these regulations to enter into an agreement with CTUIL specifying the GNA commencement date and relevant terms.
- **Regulation 14:** It clarifies that if a generating station or unit in a neighboring country is delayed in achieving its COD, the entity (either the generator or trading licensee) that has obtained GNA for injection into the Indian Grid will be liable for transmission charges. If the GNA is granted with augmentation of the Indian transmission system, the transmission charges will be payable proportionate to the quantum of GNA until the generating station or unit achieves COD. In cases where no augmentation is required, the transmission charges will be payable at 2% of the TGNA rate.
- **Regulation 15:** The proposed amendments include provisions for Indian trading licensees who seek GNA on behalf of cross-border entities. These trading licensees will be required to submit both the Conn-BGs under the GNA Regulations and the Access Bank Guarantee under the CBTE Regulations. Furthermore, the amendment introduces a new provision in Regulation 15(9), which allows Indian trading licensees to furnish the Access Bank Guarantee issued by the entity on whose behalf the trading licensee has sought GNA.
- **Regulation 30:** It introduces a new provision specifying that transmission charges for the use of ISTS of India by cross-border customers will be payable as per the provisions of the Sharing Regulations. It also outlines that transmission charges for CBTLs covered under specific clauses of Regulation 7 will be determined through Government-to-Government negotiations. Furthermore, it establishes that transmission charges for CBTLs developed under Clause (2-i) and (2-ii) of Regulation 7 by entities will be recovered according to the detailed methodology outlined in Annexure-II of the Draft 2nd Amendment.

The CERC, vide Public Notice dated 31.12.2024, has invited comments, suggestions/ objections from the stakeholders and interested persons on the Draft 2nd Amendment. The comments/ suggestions/ objections may be sent to the Secretary on or before 31.01.2025 at secy@cercind.gov.in and shilpa@cercind.gov.in. The registered users shall upload their comments/ suggestions/ objections through the SAUDAMINI Portal.

Moreover, the CERC has also issued Explanatory Memorandum (“**EM**”) accompanying the Draft 2nd Amendment, which elaborates on the rationale behind the proposals to amend.

The Draft 2nd Amendment and the EM can be accessed from the following [link](#).

The CERC, vide notification bearing No. L -1/2064/2022-CERC dated 07.01.2025, has notified the CERC (Conduct of Business) (First Amendment) Regulations, 2025 (“**1st Amendment**”) amending Regulation 60, and inserting a new Regulation 60A to the CERC (Conduct of Business) Regulations, 2023 (“**Principal COB Regulations**”).

**CERC notifies CERC
(Conduct of Business)
(First Amendment)
Regulations, 2025**

Key amendments of 1st Amendment include:

- **Regulation 60:** The entitlements and allowances for Central Advisory Committee members have been revised to align with current practices followed by other regulatory bodies and institutions.
- **Regulation 60A:** A new provision which allows experts or persons of eminence to participate in seminars, lectures, or expert committees organized/ initiated by the CERC.

Moreover, the CERC has also issued a Statement of Reasons (“**SOR**”) accompanying the 1st Amendment, which elaborates on the rationale behind the amendments.

The 1st Amendment and the SOR can be accessed from the following [link](#).

CERC, vide an Order dated 02.01.2025 passed in Petition No. 10/SM/2024, issued directives to the parties to existing PPAs to adopt mutually agreed methodology for the transition from six-monthly to monthly escalation rates for Imported Coal.

Previously, CERC notified escalation rates for imported coal every six months. Following the MoP letter dated 12.04.2022, CERC vide Order dated 06.06.2022 passed in Petition No. 7/SM/2022, specified a methodology for computing the escalation rates for imported coal for payment on a monthly basis.

In pursuance of the same, the CERC proposed the following two (2) options for transitioning from six-monthly to monthly escalation rates:

- **Option 1: Corrected Application of Six-Monthly Rates:** The six-monthly rates will be applied for the current period rather than future periods, ensuring that the base energy charges remain consistent from the start of the PPA until the transition date.
- **Option 2: Direct Adoption of Monthly Rates:** This option allows parties to directly switch to the monthly rates as notified by CERC. It is recommended for cases where parties have already agreed on escalation methodologies under existing PPAs.

Comments and suggestions were made by Adani Power Ltd., Tata Power Company Ltd., JSW Energy Ltd., and Gujarat Urja Vikas Nigam Ltd. In this regard.

After analysing and considering the stakeholder’ submissions as well as possible approaches for addressing the transition, the CERC directed that the parties to existing PPAs, where the generating company and the procurer agree to use the monthly escalation rates, adopt their own mutually agreed methodology for the transition from six-monthly to monthly escalation rates.

The Order dated 02.01.2025 can be accessed from the following [link](#).

CERC, vide an Order dated 08.01.2025 passed in Petition No. 01/SM/2025, issued a clarification regarding the recovery of legacy dues in the Deviation Settlement Mechanism (**DSM**) Pool Account.

On 05.08.2024, the CERC notified the CERC (Deviation Settlement Mechanism and Related Matters) Regulations, 2024, which introduced provisions for recovering deficits in the DSM Pool Account as stipulated in Regulation 9(7). Subsequently, the National Load Dispatch Centre (“**NLDC**”) submitted a detailed procedure for the recovery of charges, which outlined two categories of dues:

- **Legacy Dues:** Dues accrued before 16.09.2024.
- **Current Dues:** Dues accruing from 16.09.2024 onwards.

CERC passes an Order directing parties to adopt mutually agreed methodology for the transition from six-monthly to monthly escalation rates for Imported Coal

CERC issues clarification on Recovery of Legacy Dues in DSM Pool Account

However, certain distribution companies raised concerns about the legality and fairness of recovering legacy dues, questioning the lack of explicit provisions for such recovery in the detailed procedure.

The CERC addressed these concerns and clarified that the methodology for recovering charges as outlined in the detailed procedure approved by the CERC vide Order 15.10.2024 is applicable for the recovery of charges in case of the deficits in the DSM Pool Account “as on and from 16.09.2024.”

The Order dated 08.01.2025 can be accessed from the following [link](#).

CERC, vide an Order dated 03.01.2025 passed in Petition No. 92/MP/2024, addressed the issue raised by Indosol Solar Private Limited regarding the submission of Payment on Order Instrument (“**POI**”) in lieu of Connectivity Bank Guarantees (“**Conn-BGs**”) under Regulation 8 of the CERC (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 (“**GNA Regulations**”).

The petitioner sought to replace the required Conn-BGs with POI issued by the Indian Renewable Energy Development Agency (**IREDA**), citing the double security cost associated with bank guarantees i.e., first to the financial institution for issuing a counter-guarantee and second to the bank for issuance of a bank guarantee. However, the CERC upheld the provisions of Regulation 8.4, which mandates the submission of Conn-BGs issued by scheduled commercial banks. The CERC rejected the petitioner’s request to accept POI in lieu of Conn-BGs, observing that the instant case does not fall within the CERC’s powers to relax under the ‘Power to Relax’ provisions.

The CERC observed that while POI is not a valid substitute for Conn-BGs under the current GNA Regulations, it directed its staff to explore acceptable alternatives to bank guarantees and process any necessary amendments to the GNA Regulations in accordance with the law.

The Order dated 03.01.2025 can be accessed from the following [link](#).

CERC, vide an Order dated 02.01.2025 passed in Petition No. 138/AT/2024, addressed the issue raised by Solar Energy Corporation of India Limited (“**SECI**”) regarding the adoption of tariffs for the pilot projects of 500 MW/1000 MWh Standalone Battery Energy Storage Systems (“**BESS**”) under the Tariff-Based Global Competitive Bidding (ESS-I) process, as per the guidelines for procurement and utilization of BESSs.

In this petition, SECI sought approval for the adoption of the tariffs for the projects which were bid on under the guidelines issued by the Ministry of Power, including amendments notified on 30.05.2022. SECI acted as the intermediary agency, procuring BESS capacity from developers and selling it to end procurers. The bidding process, which closed on 29.07.2022, resulted in JSW Renew Energy Five Limited being the successful bidder for two (2) BESS projects of 250 MW/ 500 MWh each. However, SECI faced delays in issuing Letters of Award (“**LoAs**”), leading to a delay of 145 days after the e-reverse auction, and further delays in executing the Battery Energy Storage Purchase Agreement (“**BESPA**”) and the Battery Energy Storage Sale Agreement (“**BESSA**”).

The CERC observed that despite the delays, the competitive bidding process had been transparent and in line with the guidelines. It, however, also noted that developments subsequent to the selection process have a bearing on the issue of adoption of the tariff so discovered.

The CERC noted that subsequent to e-reverse auction conducted on 25.08.2022, several bids for similar projects were conducted and the rates discovered in the subsequent bidding for similar projects were considerably lower than the price discovered in the said project. It held that the delay and subsequent cost reduction made the initially proposed tariff misaligned with market prices, and

CERC directs CERC’s staff to examine the acceptable instruments other than the Bank Guarantee for providing adequate guarantees against default and process the same through amendment to the GNA Regulations

CERC rejects the petition to approve tariff for SECI’s 1st standalone BESS project on account of tariff being higher than market price

it rejected the adoption of the tariff as it was deemed to be against public interest in view of the inherent power of the CERC for rejection of the tariff, which, according to the regulator, is not aligned with the market and is not in the interest of the public at large.

The CERC clarified that such rejection was based on the unique circumstances of the case—particularly the inordinate delay in project completion. The CERC further acknowledged that typically, price reductions after bidding cannot be grounds for rejecting a tariff, but the delay in this case created an exception.

The Jharkhand State Electricity Regulatory Commission (“**JSERC**”), vide Gazette Notification No. 784 dated 16.12.2024, notified JSERC (Rooftop Solar PV Grid Interactive System and Net/Gross Metering) (Fifth Amendment) Regulations, 2024 (“**5th Amendment**”) amending Clause 8.2 of the JSERC (Rooftop Solar PV Grid Interactive System and Net/ Gross Metering) Regulations, 2015 (“**Principal Regulations**”).

The Clause 8.2 of the Principal Regulations is deleted and replaced as follows:

“The voltage level at which the rooftop solar PV system installed at the premises of the consumer shall be connected with the distribution system according to Clause 4.3 of JSERC (Electricity Supply Code) Regulations, 2015 and amendments thereon.”

The 5th Amendment can be accessed from the following [link](#).

The Tamil Nadu Electricity Regulatory Commission (“**TNERC**”), vide Notification bearing No. TNERC/DSM&RM/22-3 dated 27.12.2024, notified the TNERC (Deviation Settlement Mechanism and related matters) (Amendment) Regulations, 2024 (“**DSM Amendment**”) amending several regulations of the TNERC (Deviation Settlement Mechanism and related matters) Regulations, 2019 (“**Principal DSM Regulations**”).

Key amendments include:

- **Regulation 4:** The amended regulations now apply to all buyers (distribution licensees, deemed distribution licensees, and open access consumers) and sellers (open access generating stations, state-owned generating stations) except for wind, solar, and state-owned hydro generators including run of river projects connected to intra-state transmission system or distribution system.
- **Regulation 10:** The previous cap on deviation charges (311 paise/kWh for tariff-regulated generators and 303.04 paise/kWh for non-tariff-regulated generators) has been deleted.
- **Regulation 11:** The total daily deviation is capped at 3% of the scheduled energy for drawee entities and 1% for generators. An additional charge of 20% over and above the daily base DSM payable / receivable shall be applicable in case of said violation and this additional charge is in addition to the penalty for gaming. Further, the allowable operating frequency range for allowing deviation is now 49.90 Hz to 50.05 Hz, aligned with the Indian Electricity Grid Code (IEGC).

The TNERC DSM Amendment along with Explanatory Memorandum can be accessed from the following [link](#).

The Joint Electricity Regulatory Commission for the State of Goa and UTs (“**JERC**”) has notified draft JERC (Framework for Resource Adequacy) Regulations, 2024 (“**Draft RAF Regulations**”). The Draft RAF Regulations proposes that the Resource Adequacy framework shall cover a mechanism for demand assessment and forecasting, generation resource planning, power procurement planning, and monitoring and compliance.

JSERC notifies JSERC (Rooftop Solar PV Grid Interactive System and Net/Gross Metering) (Fifth Amendment) Regulations, 2024

TNERC notifies TNERC (Deviation Settlement Mechanism and related matters) (Amendment) Regulations, 2024

**JERC notifies draft JERC
(Framework for Resource
Adequacy) Regulations,
2024**

The primary objective of the Draft RAF Regulations is to enable the implementation of Resource Adequacy framework by outlining a mechanism for planning of generation and transmission resources for reliably meeting the projected demand in compliance with specified reliability standards for serving the load with an optimum generation mix.

Regulations 6.1 to 6.3 provides for a detailed approach in assessing electricity demand, planning generation resources, and ensuring adequate power procurement. It mandates that all relevant entities develop both long-term and medium-term demand forecasts, ensuring that power supply consistently meets demand across various timeframes.

Regulation 9 of the Draft RAF Regulations stipulates the key contours and important steps in generation resource planning including capacity crediting of generation resources, assessment of planning reserve margin, and ascertaining resource adequacy requirement and allocation for obligated entities within control area (state/ distribution licensee).

Regulation 10 has introduced capacity credits for renewable energy projects, recognizing the variability of renewable generation. Furthermore, Regulation 10.2 provides the method for calculating how much of these resources can be reliably counted towards meeting the state's electricity demand, given the intermittent nature of renewable sources such as wind and solar power.

Regulation 14 requires the distribution licensees to plan an optimal mix of generation resources through contracts corresponding to results of MT-DRAP capacity addition requirement. Furthermore, Regulation 14.2 states that the power procurement strategies shall be based on least-cost modelling techniques to avoid the risk of stranded assets.

Regulation 17.1 states that all PPAs will be subject to JERC's approval to ensure transparency and cost-effectiveness.

Regulation 19 of the Draft RAF Regulations establishes a strict monitoring and compliance mechanism. Further, non-compliance with the resource adequacy requirements will result in non-compliance charges equivalent to 1.1 times of the Marginal Capacity Charge (Rs./kW/month) or 1.25 times the Average Capacity Charge (Rs./kW/month) whichever is higher.

The Draft RAF Regulations can be accessed from the following [link](#).

**CSERC notifies CSERC
(Intra-State Deviation
Settlement Mechanism and
Related Matters)
Regulations, 2025.**

The Chhattisgarh State Electricity Regulatory Commission ("CSERC") vide notification bearing No. D-20/CSERC/2025 dated 28.12.2024 has notified the CSERC (Intra-State Deviation Settlement Mechanism and Related Matters) Regulations, 2025.

It outlines the regulatory framework for managing deviations in electricity drawl and injection schedules within Chhattisgarh's grid.

1. Purpose and Scope

- Ensures grid stability and security through adherence to scheduled electricity drawl and injection.
- Applies to all inter/intra-state entities connected to Chhattisgarh's State Transmission Utility ("STU").
- Effective from April 1, 2025.

2. Definitions

- Provides detailed definitions for terms like "Buyer," "Deviation," "Deviation Charges," "Grid Code," "Seller," and "Scheduled Generation."

3. Tariff Structure

- Introduces Availability-Based Tariff ("ABT") with three components:

- **Fixed/Capacity Charges:** Linked to the declared capacity of generators.
- **Energy/Variable Charges:** Based on scheduled energy.
- **Deviation Charges:** For differences between scheduled and actual injection/drawl.

4. Applicability

- Covers state and private generators, distribution licensees, open-access consumers, and captive users.

5. Deviation Charges

- Charges vary based on the percentage deviation and grid frequency.
- Specific rules for different types of generators, including renewable energy sources, biomass, and energy storage systems.

6. Scheduling and Dispatch

- Specifies rules for submission and approval of schedules by entities like sellers, buyers, and open-access users.
- Allows revisions to declared capacity and schedules under certain conditions.

7. Energy Accounting and Settlement

- Details mechanisms for settlement of energy deviations, including adjustments for grid losses.
- Special provisions for renewable energy generators and consumers under banking mechanisms.

8. State DSM Account

- Establishes a centralized account managed by CSPDCL for managing deviation charges.
- Specifies timelines for billing, payment, and penalties for late payments.

9. Powers and Repeal

- Grants the Commission authority to relax provisions or address difficulties in implementation.
- Repeals the 2016 regulations on intra-state availability-based tariffs and deviations.

The Karnataka Electricity Regulatory Commission (“**KERC**”), vide Notification No. KERC/S/F-31/Vol-1402/1251 dated 01.01.2025, has issued the Draft Karnataka Electricity Regulatory Commission (Ancillary Services) Regulations, 2024 (“**Draft Regulations**”) for public consultation. These draft regulations have been formulated to address the increasing complexities of grid management due to growing renewable energy penetration and rising demand. The following are the key highlights of the draft regulations:

1. **Objective and Applicability:** The draft regulations aim to ensure grid security and stability by establishing mechanisms for the procurement, deployment, and payment of Ancillary Services. These regulations are applicable to generating stations, transmission licensees, distribution licensees, load dispatch centers, and other stakeholders involved in the electricity value chain. The focus is on maintaining grid frequency near 50 Hz, resolving network congestion, and ensuring the safety and reliability of the State grid.
2. **Types of Ancillary Services:** The draft regulations define three types of ancillary services:
 - **Primary Reserve Ancillary Service (“PRAS”).**
 - **Secondary Reserve Ancillary Service (“SRAS”).**
 - **Tertiary Reserve Ancillary Service (“TRAS”).**

The draft also allows for other ancillary services as may be specified in the Karnataka Electricity Grid Code (“**KEGC**”).

3. **Eligibility and Procurement of SRAS:** The generating stations, entities with energy storage resources, and entities capable of demand response are eligible to provide SRAS, subject to compliance with technical requirements like AGC (“**Automatic Generation Control**”) capability and bi-directional communication with the State Load Dispatch Centre (SLDC). SRAS will be procured through a structured mechanism, with the Nodal Agency estimating and updating SRAS requirements on a day-ahead and real-time basis.

KERC issues Draft Ancillary Services Regulations, 2024

4. **Roles of the Nodal Agency:** The SLDC is designated as the Nodal Agency responsible for the activation, deployment, and monitoring of ancillary services. The Nodal Agency will also ensure timely reporting of SRAS data, including performance monitoring and settlement of payments, as specified in the regulations.
5. **Payment and Settlement Mechanism:** The SRAS providers will be compensated based on energy or compensation charges declared upfront. Payments will be processed weekly through the State Deviation Settlement Mechanism Account (“SDSMA”). There will be no retrospective settlement of energy or compensation charges will be allowed.
6. **Compliance and Monitoring:** The performance of SRAS providers will be evaluated based on their response to secondary control signals. Providers failing to meet the required standards may face disqualification or penalties as per the provisions of the regulations.
7. **Enforcement and Timelines:** The draft regulations propose a timeline for implementation and direct the Nodal Agency to submit a detailed procedure for approval by the Commission within three months of notification.

KERC has invited stakeholders, including generating stations, transmission licensees, distribution licensees, and open access consumers, to submit their objections, suggestions, and views on the draft regulations within 30 days of publication in the Official Gazette of Karnataka. The draft regulations may be accessed from this [link](#).

The Madhya Pradesh Electricity Regulatory Commission (“MPERC”) issues Draft Guidelines for Capital Expenditure by Distribution Licensees in Madhya Pradesh, 2025 (“**Draft MPERC Guidelines**”). The draft MPERC guidelines revise the earlier framework specified under the 2005 Guidelines and Regulation 10.3 of the MPERC (Conditions of Distribution License for Distribution Licensees) Regulations, 2004. Following are the key highlights of the draft guidelines:

1. **Categorization of Capital Investment Schemes:** The draft guidelines classify capital investment schemes into categories such as government-funded schemes, infrastructure for new connections, system strengthening, agricultural connections, and smart grid projects. Special focus is placed on renewable energy integration, energy conservation measures, and emerging technologies like AI-based predictive maintenance.
2. **Approval Process:** The draft guidelines establish a two-stage approval process for capital investments exceeding ₹10 crore:
 - (i.) In-principle approval prior to the commencement of works.
 - (ii.) Final approval upon capitalization of the asset.For fully grant-funded schemes and emergency works, prior approval is waived, though final approval is mandatory.
3. **Submission Requirements:** Distribution Licensees must submit a Detailed Project Report (DPR) for each scheme, including financial and technical justifications, cost-benefit analysis, and implementation timelines with PERT or Gantt charts.
4. **Monitoring and Compliance:** The Commission will undertake a prudence check of petitions, requiring licensees to file a five-year Rolling Capital Investment Plan by 1st October annually. Completed schemes must also undergo evaluation for cost and timeline variations.

MPERC issues Draft Guidelines for Capital Expenditure by Distribution Licensees, 2025

5. **Repeal of 2005 Guidelines:** The 2005 Guidelines for Distribution Licensees are repealed with immediate effect, while those applicable to Transmission Licensees remain valid until new guidelines are issued.

The MPERC invites comments and suggestions from stakeholders on the draft guidelines. Submissions should be made in writing to the Secretary, MPERC. Draft Guidelines for Capital Expenditure by Distribution Licensees, 2025 may be accessed from this [link](#).

NCLAT Delhi clarifies that claims for damages arising from non-performance of a contract cannot be adjudicated by Resolution Professional

The National Company Law Appellate Tribunal (“NCLAT”) vide Judgment dated 03.01.2025 passed in the case titled as “**CSA Corporation Pvt. Ltd. vs. Rajiv Bhatnagar**” bearing Company Appeal (AT) (Insolvency) No. 1497 of 2024 has clarified that the claims in respect of damages arising out of non-performance of contract are the claims which could not have been adjudicated upon by the Resolution Professional (“RP”) at his level given the limited jurisdiction conferred on the RP by the Insolvency and Bankruptcy Code, 2016 (“**IBC, 2016**”).

Hon’ble NCLAT further observed that an RP only acts as a facilitator of the Corporate Insolvency Resolution Process (“**CIRP**”), it is incumbent upon the RP to assist in the CIRP process in a fair and objective manner. The RP is not expected to process and verify the claims of a creditor without supporting proof. Claims for damages require consideration by a court of competent authority for the claims to crystallise. Unadjudicated claims for damages cannot be said to be crystallised claims and hence their non-admittance by the RP is not found unwarranted.

NCLAT, Delhi observes that any acknowledgement of debt by the principal borrower is also considered as an acknowledgment by the guarantor under the Limitation Act, 1963

NCLAT vide Judgment dated 06.01.2025 passed in the case titled as “**State Bank of India vs. Gourishankar Poddar and ANr.**” bearing Company Appeal (AT) (Ins.) No. 689 of 2024 along with “Vineeta Maheshwari vs. State Bank of India and Anr.” bearing Company Appeal No. 663 of 2024 has allowed the appeal by State Bank of India (“**SBI**”), challenging the dismissal of its application under Section 95 of the Insolvency and Bankruptcy Code, 2016 (“**IBC**”) against personal guarantor. NCLAT observed that the personal guarantees so executed were irrevocable, unconditional, and continuous in nature and the dismissal by the NCLT Ahmedabad on grounds of unenforceability and limitation was legally unsustainable.

The personal guarantor resigned as a director of the Corporate Debtor in March 2014. Subsequently, he attempted to revoke his personal guarantees through letters to SBI, which the bank explicitly rejected. Following defaults by the Corporate Debtor, SBI issued a demand notice to the personal guarantor under the IBC in 2021 and filed an application under Section 95 to initiate insolvency proceedings against him. The NCLT dismissed the application, citing that the guarantees were unenforceable or time-barred.

NCLAT observed that attempts by the guarantor to unilaterally revoke the guarantees were legally unsustainable, as these guarantees explicitly waived such rights under Section 130 of the Indian Contract Act, 1872. NCLAT further observed that acknowledgments of debt by the Corporate Debtor extended the limitation period under Section 18 of the Limitation Act, 1963. The revival letters and demand notices issued by SBI were held to be sufficient to restart the limitation period. Furthermore, the COVID-related suspension of limitation provided additional time for filing the insolvency application, rendering it within the permissible period.

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