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-LAW IN ACTION



Legal Updates

Supreme Court upholds Section 62 vs. 63 distinction and Pro-Rata Cost Sharing in GMR Power Case

The Supreme Court, in its judgment dated 08.09.2025 in Civil Appeal Nos. 1929 of 2020 and 3429 of 2020, ***Haryana Power Purchase Centre and others vs. GMR Kamalanga Energy Limited and others***, dismissed the Appeals filed by Haryana Power Purchase Centre (“**HPPC**”) and GRID Corporation of Orissa Limited (“**GRIDCO**”). These Appeals were filed against the judgment of the Appellate Tribunal for Electricity (“**APTEL**”), which had dismissed the same and upheld the order of the Central Electricity Regulatory Commission (“**CERC**”). The Court noted that proceedings under Sections 62 and 63 of the Electricity Act, 2003 are entirely different, with Section 63 providing for tariff determination through competitive bidding, and Section 62 through a cost-plus mechanism.

The Bench, comprising Chief Justice of India B.R. Gavai and Justice K. Vinod Chandran, noted that the petitions filed by GMR Kamalanga Energy Ltd. (GKEL) before CERC sought compensation for Change in Law events affecting PPAs with Haryana and Bihar utilities, which were concluded under Section 63. In contrast, the PPA with GRIDCO was under Section 62. This distinction was critical in determining the applicability of the proceedings.

GKEL had established a thermal power plant in Odisha using coal as the primary fuel and entered into PPAs with GRIDCO, Haryana Utilities, and Bihar Utilities. The company faced fuel supply challenges due to changes in coal linkage and policy, which resulted in increased costs. GKEL approached the Government of Odisha for a recommendation to the Ministry of Coal for long-term coal linkage allocation, and the Department of Energy pursued the matter with the Central Government.

Haryana Power Generation Corporation (“**HPGC**”), acting on behalf of Haryana Utilities, issued a request for proposal (“**RfP**”) for the procurement of 2,000 MW power on a long-term basis, conducted under Section 63 of the Electricity Act. Subsequently, the Standing Linkage Committee approved a firm coal linkage for the plant, and the Ministry of Coal confirmed the allotment of the relevant coal blocks to the consortium.

During this period, GKEL filed a petition before CERC seeking adjustment of tariff on account of Change in Law events affecting the project, aiming to restore its economic position as if such events had not occurred. CERC directed Haryana Utilities to pay the supplementary bills raised by GKEL, along with the applicable late payment surcharge, as per the PPAs, within one month. Aggrieved, the Haryana Utilities filed an appeal before APTEL, followed by an appeal from GRIDCO. APTEL dismissed both appeals and upheld CERC’s order.

The Supreme Court, while considering GRIDCO’s appeal, noted that GRIDCO’s main contention was non-impleadment in CERC orders dated 03.02.2016 and 20.03.2018. The Court clarified that, as the PPA with GRIDCO was under Section 62 while the PPAs with Haryana and Bihar were under Section 63, there was no occasion for GKEL to implead GRIDCO. It also held that the tariff methodology adopted by CERC for GRIDCO had already been approved by APTEL, making GRIDCO neither a necessary nor a proper party to the proceedings.

Finally, the Supreme Court affirmed that coal supply from all procurement sources must be considered for the plant as a whole, not separately for individual PPAs, and should be apportioned among the three DISCOMs in proportion to the energy supplied to them. Accordingly, the Court dismissed the Appeals and upheld the APTEL’s judgment.

In ***Shailja Krishna v. Satori Global Ltd.***, 2025 SCC OnLine SC 1889, vide order dated 02.09.2025, the Supreme Court has held that a petition alleging oppression and mismanagement is maintainable before the NCLT and it has jurisdiction to examine the validity of a disputed gift deed.

In this case, the Respondent company was incorporated by the appellant and her husband. By the end of FY 2006 – 2007, the appellant held 98% shareholding. After their marital relationship became strained, she was divested of her shareholding, and a gift deed was executed purportedly transferring her entire shareholding to her mother-in-law. The appellant filed a petition before NCLT alleging oppression and mismanagement, which was decided in her favour. In an appeal against this order, the NCLAT set aside the order on the ground that the NCLT lacked jurisdiction to decide complex issues of fraud, coercion, and manipulation, which should be addressed by a civil court.

The Supreme Court held that the NCLT has wide jurisdiction to decide all matters that are incidental and / or integral to a complaint alleging oppression and mismanagement. The determination of the validity of the gift deed was central to the dispute and fell squarely within the NCLT's purview. The questions of fraud, coercion, and invalid share transfers need not be relegated to civil courts when they are central to such proceedings. The mere fact that determining such claims may require examining factual issues of fraud, manipulation, or coercion cannot oust the jurisdiction of the NCLT. In fact, these questions are often integral to assessing whether a company’s affairs have been conducted oppressively.

In ***Trinity Auto Components Ltd. v. Axis Bank Ltd.***, Company Appeal (AT) (Insolvency) No. 1757/2024, vide order dated 11.09.2025, the NCLAT has held that any unresolved claim under a Board for Industrial and Financial Reconstruction (“**BIFR**”) scheme qualifies as a claim under Section 3(6) of the Insolvency and Bankruptcy Code, 2016 (“**IBC**”) and must be dealt with within its framework. The failure of a BIFR scheme does not give rise to an independent cause

**Supreme Court affirms
the jurisdiction of the
NCLT over allegations of
fraud, manipulation and
coercion**



NCLAT holds that BIFR claims must be addressed under the IBC and it cannot be claimed once the Resolution Plan is approved

of action, and benefits under such schemes cannot be claimed once a resolution plan is approved.

In this case, the Appellant was placed under a rehabilitation BIFR scheme, which stipulated that the Bank (sole secured creditor) would restructure the debt by reducing the interest rate. After the Sick Industrial Companies (Special Provisions) Act, 1985 was repealed, the Bank started charging the original rate. The Appellant filed an application to initiate its own Corporate Insolvency Resolution Process (“CIRP”). A Resolution Plan was approved by the Committee of Creditors (“CoC”), in which the Bank held over 96% of the voting share, and was later approved by the NCLT. The NCLT directed the Bank to refund only the interest overcharged after the CIRP commencement date. An appeal was filed seeking full relief based on the BIFR scheme.

While dismissing the appeal, the NCLAT emphasised on the “clean slate” principle, which is an established cornerstone of the IBC framework. Once a Resolution Plan is approved, it is final and binding on all stakeholders and the claims which are not a part of it are permanently extinguished. No proceedings can be initiated or continued in respect of such claims. In this case, the claim arose from differential interest under the BIFR scheme, which was a financial debt under Section 5(8) of the IBC. The Bank, having 96% voting rights in the CoC, had every opportunity to include this claim in the Resolution Plan. Further, the Appellant’s claim for refund of excess interest charged was also a pre-existing claim, which could have been factored in the Resolution Plan. As the Resolution Plan was approved without reference to the claim, it cannot be revived later.

NCLAT holds that termination of a Concession Agreement does not extinguish a corporate debtor’s liability to repay debt

In *Vikram Bhawanishankar Sharma v. Union Bank of India & Anr.*, Comp App. (AT) (Ins) No. 794/2023, vide order dated 11.09.2025, the NCLAT has held that the termination of a Concession Agreement by the Government does not discharge the corporate debtor’s repayment obligations, particularly when such termination is unrelated to any default by the corporate debtor.

The appellant (suspended director of the corporate debtor) challenged the order passed by the NLCT whereby it admitted the financial creditor’s CIRP petition. In this case, the corporate debtor entered into a Concession Agreement with the Government for a road project on a Build, Operate, and Transfer (BOT) basis, for which significant credit facilities were availed from a consortium of lenders led by the financial creditor. The corporate debtor's account was declared a Non-Performing Asset (NPA). The financial creditor filed a petition under Section 7 of the IBC. The appellant’s primary submission was that the liability for the debt had shifted to the Government after the termination of a Concession Agreement. The appeal was dismissed by the NCLAT and it was held that the contractual liability to repay the lenders remained with the corporate debtor.

Based on the documents, the NCLAT concluded that the existence of debt and the occurrence of default were unequivocally proven, and once these two elements are established, the petition must be admitted. The submission that the liability shifted to the Government upon termination of the Concession Agreement was rejected stating that the liability to make payment to the financial creditor is enjoined upon the corporate debtor.

NCLAT holds that a written contract is not mandatory to prove financial debt if other documentary evidence exists

In *Bijendra Prasad Mishra v. M/s HS Mercantile Pvt. Ltd. and Ors.*, Company Appeal (AT) (Insolvency) No. 2364/2024, vide judgment dated 15.09.2025, the NCLAT has held that a written financial contract is not a precondition to establish a legally payable financial debt. If other documents listed under Regulation 8(2) of the CIRP Regulations are available and clearly demonstrate the existence of debt, such evidence is sufficient to maintain an insolvency application under Section 7 of the IBC.

In this case, the appellant challenged an order passed by the NCLT whereby CIRP was initiated against the corporate debtor. An amount of Rs. 50,00,000/- was disbursed by a company which later amalgamated with the financial creditor. As per the corporate debtor, the amount was an advance for goods that was later settled and as per the financial creditor, it was a financial debt that was defaulted upon. The appeal was dismissed by the NCLAT.

The NCLAT observed that the corporate debtor had acknowledged the debt in its balance sheet, deducted TDS on the interest, and reflected the liability in its financial statements, which supported the claim of financial debt. It further noted that Regulation 8(2) of the CIRP Regulations allows proof of debt through multiple kinds of documents, and the use of “or” indicates that a written contract is not mandatory. Relying on earlier precedents, the Tribunal concluded that the existence of financial debt can be proved through various documents, and the absence of a written financial contract does not negate liability.

NCLAT holds that a challenge to the legality of a layoff notice issued under the Industrial Disputes Act, 1947 cannot be examined under the IBC and workmen cannot claim dues post layoff unless they actually worked after the layoff notice

In *Unitech Machines Karamchari Sangh v. Vivek Raheja and Ors.*, Company Appeal (AT) (Insolvency) No. 1418/2023, vide judgment dated 16.09.2025, the NCLAT has held that the workmen or employees are not entitled to claim dues for the period after issuance of a layoff notice unless they can prove that they actually continued to work despite such notice. Claims for dues can only be entertained if the employees remained in service and performed work during the relevant period.

In this case, an appeal was filed against an order passed by the NCLT whereby it dismissed the union’s challenge to the layoff notice issued by the Resolution Professional (RP). The appeal was dismissed by the NCLAT.

The NCLAT held that the legality of the layoff notice issued under the Industrial Disputes Act, 1947 (“**ID Act**”) cannot be examined under the IBC. Such disputes fall within the scope of the ID Act and are outside the purview of the IBC. Relying on a Supreme Court judgment, it was further held that workmen are entitled to wages as part of CIRP costs only if two conditions are met – (a) the company was a going concern during the CIRP, and (b) the workmen actually worked during that period. In this case, the workmen did not work after the layoff notice. It was also observed that an approved Resolution Plan is final and binding on all stakeholders, including workmen. Previously, the objection to the plan had been withdrawn and the appeal did not challenge the approval.

NCLAT remands back a matter to the NCLT as it rejected the main relief without cogent reasons while allowing the alternate relief

In *Ini Agri Pvt. Ltd. & Anr.*, Company Appeal (AT) No. 218/2025, vide order dated 11.09.2025, the NCLAT has held that the NCLT cannot dismiss the main relief without giving cogent reasons while simultaneously allowing the alternative relief.

In this case, the main relief which was sought was dispensation of the requirement of convening of meeting of the unsecured creditors of the applicant companies. In the alternative, a relief was sought for convening the meeting of the unsecured creditors of the first applicant company and the second applicant company for considering and approving the scheme. The NCLT allowed the alternate prayer and rejected the main prayer qua dispensation of meetings without any cogent reasons. Additionally, it was submitted that the application was dismissed only on technical grounds i.e., the same Bench is not looking at the application of modification under Rule 11 of the NCLT Rules. In view of the said submissions, the matter was remanded to the NCLT.

Ministry of Power issues Electricity (Amendment) Rules, 2025

The Ministry of Power (“**MoP**”) vide its Notification dated 19.09.2025, in exercise of the powers conferred under Section 176 of the Electricity Act, 2003 has issued the Electricity (Amendment) Rules, 2025 (“**Amendment Rules**”). The following are the amendments brought about vide the Amendment Rules:

- i. Sub-rule (2) of Rule 18 of the Electricity Rules, 2005 are substituted as under:
"(2) The Energy Storage System shall be utilised either as independent energy storage system or as part of generation, transmission or distribution."
- ii. Sub-rules (4) and (5) of the of the Electricity Rules, 2005 are substituted as under:
"(4)(a) The Energy Storage System may be developed, owned, leased or operated by a generating company or a transmission licensee or a distribution licensee or a consumer or a system operator or an independent energy storage service provider.

(b) The Energy Storage System owned and operated by and co-located with a generating station or a transmission licensee or a distribution licensee or a consumer, shall have the same legal status as that of the owner:

Provided that if such an Energy Storage System is not co-located with, but owned and operated by, the generating station or distribution licensee or consumer, the legal status shall still be that of the owner but for the purpose of scheduling and dispatch and other matters it shall be treated at par with a separate storage element.

(5)The developer or owner of the Energy Storage System, shall have an option to sell or lease or rent out the storage capacity in whole or in part to any consumer or utility engaged in generation or transmission or distribution or to a Load Despatch Centre or any other person."

The Ministry of Coal ("**MoC**") vide its Notice dated 16.09.2025 has issued the Draft Coal Exchange Rules, 2025 ("**draft Rules**"). With the increased availability of domestic coal in the country, it is envisaged that there would be a paradigm shift towards a surplus coal scenario and resultantly the coal sales scenario is expected to undergo a major change from the existing mechanism of coal sales channel, necessitating a major market reform backed by Regulatory mechanism. In order to promote competitive markets for sale of coal, the MoC has proposed to establish Coal Exchanges. Accordingly, MoC has prepared the draft Rules which shall be applicable for coal and/or lignite.

The following are the salient provisions of the draft Rules:

- I. The draft Rules defines the term "Coal Exchange" which means a mineral exchange in terms of clause (af) of section 3 of the Mines and Minerals (Development and Regulation) Amendment Act, 2025, where buyers and sellers of coal and/or lignite, or its processed forms, transact, trade and enter into contract on an online platform.
- II. The draft Rules provides for appointment of authority for regulation of Coal Exchange known as Coal Controller Organisation ("**CCO**")
- III. The draft Rules provides that the CCO shall prepare detailed Regulations relating to Registration and revocation of Coal Exchanges, fees and other charges payable by the Coal Exchanges, notification of guidelines and procedures for the creation of Dispute Resolution and Grievance Redressal system etc.
- IV. The draft Rules further provide that CCO may issue orders or directions to Coal Exchanges as may be necessary to maintain fair and orderly trading practices, to protect the interest of the market participants and to prevent any potential market abuse.

The MoC has requested the stakeholders to send their comments/suggestions through email in MS-Office Word format to socpd.moc@nic.in . The comments/suggestions may also be addressed to the Under Secretary, CPD Section, Ministry of Coal, Government of India, Shastri Bhawan, New Delhi – 110001. A copy of the draft Rules can be viewed [here](#).

**Ministry of Coal issues
Draft Coal Exchange
Rules, 2025**

Ministry of New and Renewable Energy issues clarification under Waste to Energy Guidelines

The Ministry of New and Renewable Energy (“**MNRE**”) vide its Office Memorandum dated 19.09.2025 has issued Clarification Programme under Phase I of the National Bioenergy Programme (**NBP**) notified on 02.11.2022 and the revised guidelines dated 27.06.2025.

As per the revised guidelines, performance inspection requires three consecutive months of plant operation including continuous operation for 24 hours at a minimum 80% of the rated capacity or maximum CFA eligible capacity whichever is lower. It further provides illustrations of minimum generation requirement for BioCNG plants ranging from 2-33 TPD which is enclosed as Annexure to the Office Memorandum.

A copy of the Office Memorandum can be viewed [here](#).

MNRE issues Draft Order for implementation of ALMM for wafers

MNRE vide its Office Memorandum dated 12.09.2025 has proposed to implement the Approved List of Models & Manufacturers (“**ALMM**”) mechanism for wafers as well. It is proposed to issue List – III of wafers under ALMM which shall be effective from 01.06.2028.

The following are some of the important features of the ALMM for wafers:

1. The Wafer manufacturer should have the ingot manufacturing capacity equivalent to the wafer manufacturing capacity that it intends to get enlisted in ALMM. Thus, the wafer manufacturing capacity enlisted in ALMM List-III shall actually reflect manufacturing capacity of ingots and wafers.
2. All projects falling under purview of ALMM should source Solar PV modules from ALMM List-I. These modules must use solar PV cells from ALMM List-II and the Solar PV cells must use wafers from the proposed ALMM List-III.
3. Projects which are exempted from using ALMM enlisted solar cells are automatically exempted from using ALMM enlisted wafers.
4. Projects where the last date of bid submission falls on or before a specified “Cut-Off Date” are exempted from using wafers from ALMM List-III, regardless of their commissioning date. They are however required to use ALMM-listed modules and cells.
5. Projects wherein the Project Owner had submitted its bid or had signed PPA prior to the 'Cut-Off Date' and then issues tender for EPC / solar module supply / solar cell supply, post 'Cut-Off Date', the exemption from using ALMM enlisted wafers will continue to remain applicable.
6. The proposal further explains the applicability of the ALMM list of wafers to Net-Metering Projects and Open Access RE Power Projects, which get commissioned prior to the Effective Date and on or after the Effective Date and for Behind the meter and captive projects owned by the Government entities.

MNRE has invited comments and / or suggestions on the draft amendment to the ALMM Order which may be sent latest by 11.10.2025 by email to karndhar.sg@nic.in.

A copy of the Office Memorandum can be viewed [here](#).

MNRE grants extension in scheme timeline for Development of Solar Parks and Ultra Mega Solar Power Projects

MNRE vide its Office Memorandum dated 17.09.2025 has extended the scheme timeline for Development of Solar Parks and Ultra Mega Solar Power Projects. The Office Memorandum provides as follows:

- i. Extension in timeline of the Solar Park scheme for a period of three years i.e. upto FY2028-29 without any additional financial implication, for competition of the ongoing parks and clearing committed liabilities.
- ii. New sanctions or approvals shall be accorded for any available capacity under the scheme, only till 31st March 2026.

A copy of the Office Memorandum can be viewed [here](#).

MNRE vide its Notification dated 15.09.2025 has issued the National Policy on Geothermal Energy (**“Policy”**). The said policy has been issued with a view to facilitate exploration and development of untapped geothermal energy resources.

The important features of the National Policy on Geothermal Energy are as under:

1. The Policy’s vision is to establish geothermal energy as one of major pillars of India’s renewable energy landscape, contributing significantly to national climate commitments, 2070 Net Zero Goal, and energy security while establishing a sustainable, secure, and responsible geothermal energy sector.
2. The Policy further states about the cost of geothermal power plants which are capital intensive and site specific. It states that geothermal plants have no fuel cost, only O&M expenses and typically achieve high-capacity utilization factors above 80%, making them a reliable source of baseload renewable power.
3. It further states about potential geothermal sites which are suitable for a range of direct applications such as ground source heat pumps for building heating/cooling, greenhouse heating, and cold storage etc. Further it states about 16 geothermal energy sites identified by the Geological Survey of India.
4. The Policy further states about the scope of geothermal energy systems which shall consider geothermal resource assessment, geothermal power production, direct use of geothermal energy, emerging innovative technologies, by products of geothermal energy etc.
5. The Policy further explores various developmental model for deployment which states that various economic feasibility models including but not limited to revenue sharing, milestone-based payment and others shall be explored by the government.
6. It further specifies guidelines for States and Union Territories regarding the allocation of potential geothermal zones/blocks/sites to project developers, permitting process for timely implementation of projects, allotment / lease of government land at concessional rates for promotion of geothermal energy etc.
7. The Policy further provides implementation mechanism. The Ministry shall serve as the nodal Ministry for the implementation of Geothermal Energy based projects.

A copy of the Policy can be viewed [here](#).

APTEL, vide its order dated 12.09.2025 in Appeal Nos. 26 and 54 of 2-25, ***M/s JSW Renew Energy Five Limited v. Central Electricity Regulatory Commission & Ors***, upheld CERC’s decision rejecting the adoption of a high tariff discovered in a 2022 auction for a 500 MW/1000 MWh standalone battery energy storage system (**“BESS”**) project. The Tribunal agreed with CERC that the proposed tariff of ₹10.83 lakh per MW per month was no longer aligned with market conditions, and its adoption would have caused undue loss to consumers while providing unintended gains to the developer.

The case arose after JSW Renew Energy Five was declared the winner of two 250 MW projects under SECI’s August 2022 auction. Letters of award were issued in January 2023, followed by a battery storage sale agreement with Gujarat Urja Vikas Nigam (**“GUVNL”**) in June 2023. Subsequently, a purchase agreement between JSW and SECI was signed in March 2024, after which SECI approached CERC for tariff adoption.

On 02.01.2025, CERC rejected the petition, citing inordinate delays of over a year and seven months in moving the adoption request. The Commission also noted that subsequent auctions had discovered much lower tariffs in the range of ₹3.72–4.85 lakh per MW per month. Importantly, JSW itself had quoted ₹3.81 lakh per MW per month in SECI’s ESS-II auction conducted in August 2024.

MNRE issues National Policy on Geothermal Energy

APTEL upholds CERC’s decision against adoption of Elevated Battery Storage Tariff

APTEL supported CERC's assessment, observing that the regulator was well within its powers to examine market alignment and protect consumer interests under the Electricity Act. The Tribunal rejected JSW's contention that the bids were not comparable due to differences in contract structure, noting that the Build-Own-Operate-Transfer (BOOT) model provided no real advantage to procurers or consumers.

The Tribunal further clarified that JSW had no vested right to the tariff until it was approved by CERC. It emphasised that unreasonable delays in seeking tariff adoption could result in unintended gains for developers and losses to the public. The judgement underscores that consumer interest remains the primary consideration in tariff approval.

APTEL vide its judgment dated 15.09.2025 in Appeal No. 147 of 2020, **ACME Chittorgarh Solar Energy Pvt. Ltd. v. MERC & MSEDCL**, ruled in favour of ACME Chittorgarh Solar Energy Private Limited in a dispute against the Maharashtra Electricity Regulatory Commission ("**MERC**") and Maharashtra State Electricity Distribution Company Limited ("**MSEDCL**"). The appeal arose against MERC's order dated 15.06.2020 in Case No. 07 of 2020, concerning compensation for additional expenditure on account of the safeguard duty imposed on imported solar modules, and specifically, the rate of carrying cost payable to ACME.

ACME had developed a 250 MW solar project in Rajasthan for supply to MSEDCL under competitive bidding process. After placement of orders for imported modules, the Ministry of Finance, on 30.07.2018, imposed safeguard duty, which increased project costs. ACME claimed this as a "Change in Law" under its Power Purchase Agreement (PPA) and sought reimbursement of the additional cost, along with carrying cost for the delay in recovery of this expenditure.

MERC accepted that the safeguard duty was a "Change in Law" event but limited the carrying cost to 1-year SBI MCLR plus 1.25%. The Commission equated carrying cost with Late Payment Surcharge ("**LPS**") and adopted a lower rate, which was opposed by ACME as inadequate and not reflective of the actual financing burden incurred.

APTEL rejected this reasoning and held that carrying cost and LPS are distinct. The Tribunal emphasised that the principle underlying "Change in Law" provisions is restitution, i.e., restoring the affected party to the same financial position as if the event had not occurred. Carrying cost, being the real financing cost borne by the developer, could not be capped at the LPS rate, which serves only as a deterrent for delayed payments.

In reaching this conclusion, APTEL relied on its earlier decision in *Nisagra Renewable Energy Pvt. Ltd. v. MERC & Anr.*, reiterating that compensation must reflect actual costs. It set aside MERC's restriction and directed that carrying cost should be computed based on credible evidence of debt and equity costs, using methods such as weighted average cost of capital or an annuity approach.

Accordingly, the matter was remanded to MERC for fresh determination of carrying cost in line with these principles.

APTEL, vide its judgment dated 15.09.2025 in Appeal Nos. 397 of 2019 and 441 of 2019, **BSES Yamuna Power Limited and BSES Rajdhani Power Limited v. Delhi Electricity Regulatory Commission and Ors**, set aside the penalties imposed by the Delhi Electricity Regulatory Commission ("**DERC**") on BSES Yamuna Power Limited and BSES Rajdhani Power Limited for failing to meet Renewable Purchase Obligations ("**RPO**") during 2012–13, 2013–14, and 2014–15. The Tribunal held that while the DISCOMs were liable for non-

APTEL clarifies calculation of Carrying Cost for Change in Law Events

APTEL reduces Penalties on BSES DISCOMs for RPO Non-Compliance

compliance, the penalties were disproportionate and replaced them with a token penalty of ₹5,000 for each of the three years.

The matter arose from DERC's order dated 18.09.2019, which held the BSES DISCOMs in default of their RPO and imposed penalties at the rate of ₹5,000 per day of continuing contravention. The DISCOMs challenged this before APTEL, contending that their default was not deliberate but the result of severe financial stress. They argued that the tariffs determined by DERC in those years were not cost-reflective, forcing them into heavy borrowings and leaving them unable to procure renewable power. They also pointed out that they had subsequently overachieved their RPO in 2023–24 and sought adjustment of the surplus against earlier shortfalls.

APTEL, while affirming that RPO is mandatory, observed that the penalty provisions in law prescribe a penalty of ₹1,00,000 for each contravention and ₹6,000 per day for continuing contravention. It further clarified that financial hardship cannot excuse non-compliance but can be treated as a mitigating factor in determining penalties. The Tribunal noted that DERC itself, in its statutory advice to the Government of Delhi in 2010 and 2013, had admitted that tariffs were not cost-reflective and had led to the build-up of large regulatory assets.

APTEL found that the financial distress of the BSES DISCOMs was not entirely of their own making but was significantly attributable to regulatory decisions. It held that DERC's imposition of maximum penalties without considering these circumstances was harsh and unjustified.

Accordingly, APTEL set aside DERC's order and directed that each of the appellants shall be liable only to a token penalty of ₹5,000 for each of the three financial years 2012–13, 2013–14, and 2014–15.

The Central Electricity Regulatory Commission (**“CERC”**), in Petition No. 9/SM/2025 (Suo-Motu), has proposed the determination of the value of “X” for computing deviations for Wind, Solar, and hybrid (WS) generating stations under the Central Electricity Regulatory Commission (Deviation Settlement Mechanism and Related Matters) Regulations, 2024 (**“DSM Regulations, 2024”**) from 01.04.2026 onwards. The proposal is intended to transition WS sellers from deviation computation based on available capacity to scheduled generation.

The DSM Regulations, 2024, currently prescribe revenue-neutral tolerance bands of +/-10% for solar and hybrid projects, and +/-15% for wind projects. From 01.04.2026, these bands are proposed to be tightened to +/-5% for solar and hybrid, and +/-10% for wind projects. The deviation formula will be adjusted using the value of “X,” which will reduce gradually to align WS sellers with general sellers in a phased manner.

Grid-India conducted a simulation study covering 16 RE generating stations across Northern, Western, and Southern regions for the period 16.09.2024 to 29.06.2025. The study observed that under the existing bands, deviations remained within limits 74–84% of the time for solar, 73–93% for wind, and 72–87% for hybrid projects. Under the proposed tightened bands, these percentages reduced to 45–58%, 32–73%, and 38–47%, respectively.

The financial impact of DSM on WS sellers was also analysed for X-values ranging from 100% to 0%. Solar projects showed revenue losses of 3.5–11.1%, hybrid projects 2.4–11.8%, and wind projects 2.8–48.2%, reflecting higher variability and forecasting challenges in wind generation. The study highlighted that aggregation of WS sellers at pooling stations through a Qualified Coordinating Agency (**“QCA”**) significantly reduces DSM charges by offsetting generation fluctuations.

CERC Proposes Determination of ‘X’ for Deviation Computation for Wind and Solar Generators under DSM Regulations, 2024

Based on the analysis, the Commission proposed a phased reduction of X for existing WS projects: 100% from 01.04.2026 to 31.03.2027, 80% for 01.04.2027–31.03.2028, 60% for 01.04.2028–31.03.2029, 40% for 01.04.2029–31.03.2030, 20% for 01.04.2030–31.03.2031, and 0% from 01.04.2031 onwards. New WS projects with tendering or bid submission on or after 01.04.2026 will be treated at par with general sellers.

In addition, to maintain grid stability, no payment will be made to WS sellers for over-injection during periods when the system frequency is at or above 50.05 Hz.

The Commission also observed that renewable energy, including wind and solar, now constitutes a substantial share of installed capacity, and stricter deviation norms are essential for reliable grid operation. Aggregation at pooling stations, improved forecasting, and adherence to schedule-based deviation computation will help manage the variability of WS generators and ensure equitable treatment with conventional generators.

The Commission has invited stakeholders to submit their comments on the proposed value of X and its phased reduction. Comments may be sent by post to the Secretary, Central Electricity Regulatory Commission, Chanderlok Building, 36 Janpath, New Delhi – 110001, or by email to secyd@cercind.gov.in by 05.10.2025.

Rajasthan Electricity Regulatory Commission (“**RERC**”) invites comments and suggestions from the stakeholders on the RERC (Electricity Supply Code and Connected Matters) (Second Amendment) Regulations, 2025. (“**Draft Regulations**”).

The Draft Regulations are applicable to distribution licensees including deemed licensees and consumers in the state. The Draft Regulations aim to amend the Regulation 11 of the Rajasthan Electricity Regulatory Commission (Electricity and Supply Code and Connected Matters) Regulations, 2021 (“**Principal Regulations**”) which deals with provisions of disconnection of supply. The substituted regulation 11.7(d) mentions that any outstanding dues against any permanently disconnected connection shall be recoverable from another existing/ new connection in the name of the Owner/ Occupier by serving a notice of thirty (30) days. It also aims to substitute Sub- Regulation 11.8(b) of the Principal Regulation which deals with the application for restoration of supply for agriculture consumers, HT/EHT Consumers and others. It also aims to add a proviso below sub regulation 11.8(d) of the Principal Regulation which mentions that provided that applicant applying for reconnection will be considered as new consumer after expiry of period one year in case of HT/EHT consumers and two years in case of other consumers (other than HT and EHT) from the date of disconnection, if line material is removed by the licensee and has to bear the cost of line and plant.

The Draft Regulations aim to add a new schedule -1, 2A above existing schedule -1 of the Principal Regulations which mentions that the Connection charges up to load of 150 kW to be applicable for domestic and non-domestic applicants whose premise falls within 300 meter of available 24 hour supply three phase LT network and for industrial and mix load applicants whose premise falls within 200 meters of available 24 hour supply three phase LT network. It further explains that in case of 11 kV oil switch / RMU is to be installed as per rule then same shall be provided by applicant and in such case Rs. 24,000/- in place of Rs. 90,000/ and Rs 34,000/- in place of Rs. 1,00000/- to be read for connections for load more than 45 KW, however, Supervision charges fixed @ Rs.10,000/- will be charged towards Switchgears, HT cable etc. The domestic and non-domestic connections premises which exist beyond 300 meter of available three phase 24 hour LT network and industrial and mixed load connections premises which exist beyond 200 meter of available three phase 24 hour LT network shall be released by recovering charges as per applicable provisions of the Principal Regulations and amendment from time to time.

RERC invites comments and suggestions from the stakeholders on the draft RERC (Electricity Supply Code and Connected Matters) (Second Amendment) Regulations, 2025

The Draft Regulations also aim to substitute Schedule -1, 2.2 (a) of the Principal Regulations which deals with the category of consumer and the amount to be deposited. It further explains that if the connection is not feasible from existing LT system and new sub- station to be commissioned then extension of HT distribution mains required, it shall be recovered from the consumer @ Rs 150/ meter in case of single phase 11 KV line and @ Rs. 225 / meter in case of three phase 11 KV line.

The last date for submission of comments and suggestions by the stakeholders is 06.10.2025 and can be accessed [here](#).

The Rajasthan Rajya Vidyut Prasaran Nigam Ltd. (“**RVPNL**”) has submitted the **Draft Procedure for Grant of Green Energy Open Access** for approval by the Rajasthan Electricity Regulatory Commission, in line with the Ministry of Power’s Green Energy Open Access Rules, Grid Controller of India Limited (NLDC) procedure for Grant of Green Energy Open Access, and Regulation 6(iii) of the Rajasthan Electricity Regulatory Commission (Terms and Conditions for Green Energy Open Access) Regulations, 2025.

The Draft Procedure can be obtained from the Commission’s Receiving Officer upon payment of Rs. 50, or accessed online at www.erc.rajasthan.gov.in. Comments or suggestions should reach the Receiving Officer by 29.09.2025. The draft procedure can also be accessed from this [link](#).

The draft lays out a comprehensive framework for long-term, medium-term, and short-term open access to renewable energy in the State. RVPNL is designated as the nodal agency for long- and medium-term access, while the State Load Dispatch Centre (“**SLDC**”) handles short-term access and intra-state registrations. Distribution licensees are required to ensure non-discriminatory access, verify technical feasibility, comply with captive/group captive requirements, and issue no-objection certificates.

Eligible consumers include those with a sanctioned load of 100 kW or more, with no minimum limit for captive users. New renewable projects above 5 MW must incorporate battery storage, and captive plants may operate up to twice their contract demand, subject to storage requirements. Applications are to be filed online via the Green Open Access Registry (“**GOAR**”) portal, with fees of Rs. 1 lakh for long-term, Rs. 20,000 for medium-term, and Rs. 5,000 for short-term access. Long-term applicants must also provide a bank guarantee. Timelines for processing are 15 working days for long- and medium-term and 7 days for short-term applications.

The procedure also provides detailed guidelines on scheduling, deviation settlement, and banking of renewable energy. Captive plants up to 100% of contract demand may bank up to 25% of injected energy or 30% of monthly consumption (annual settlement), while plants exceeding 100% and up to 200% of contract demand may bank up to 30% of monthly consumption (billing cycle), subject to an 8% adjustment on carried-forward energy.

Billing and settlement differ by access type: long and medium-term consumers are billed monthly with a 45-day payment cycle, while short-term consumers pay in advance. Curtailment follows a structured order: short-term first, then medium-term, and long-term last, with intra-state transactions curtailed before inter-state.

The draft also addresses relinquishment of access rights, cancellation for non-compliance or non-payment, indemnification, force majeure protections, and dispute resolution under RERC’s Green Energy Open Access Regulations, 2025. Applicants must execute agreements with

RVPNL submits Draft Procedure for Green Energy Open Access in Rajasthan for approval of the Commission



RVPNL and relevant distribution licensees on non-judicial stamp paper, bear all associated costs, and comply with the Electricity Act, 2003, RERC regulations, and grid codes.

The Central Electricity Authority (“CEA”) has issued a new circular on 10.09.2025, to clarify the process for identifying specific generating units meant for captive use. This circular is directed at Special Purpose Vehicles (“SPVs”) that own generating stations and is based on the “Procedure for verification of captive status” released earlier on 10.02.2025, with the approval of the central government. The procedure is relevant for captive generating plants and users spread across multiple states, requiring a uniform verification approach.

The circular is issued under Rule 3(1)(b) of the Electricity Rules, 2005, and Paragraph 6.8(i) of the captive verification procedure. It mandates that any SPV-owned generating station, where certain units are designated for captive use, must notify the relevant authorities before verification. These authorities include the Verifying Authority, the distribution licensee in whose jurisdiction the captive users are located, and the Regional or State Load Despatch Centre (RLDC/SLDC), depending on the plant’s grid connection.

For the financial year 2025-26, all SPV-owned generating stations intending to claim captive status are required to submit the details of the units earmarked for captive use. The circular provides a prescribed format to standardize this process, ensuring that both plant-specific and user-related information is captured. Plant-specific details include the name and address of the Captive Generating Plant (“CGP”) and the SPV, the type of power plant (thermal, hydro, or renewable), the total installed capacity in megawatts, and whether energy storage systems are included. Connectivity details such as whether the plant is connected to a Central Transmission Utility (CTU) or State Transmission Utility (STU), the voltage level, and the substation name must also be provided.

Information regarding captive users is equally important. The circular requires the names and details of the distribution companies within whose jurisdiction the captive users are located. It also specifies that the particular units within the generating station designated for captive use must be clearly listed, including the name or number of each unit and its capacity in megawatts. Authenticated generation data from these units will be necessary to complete the captive status verification.

However, it should be noted that the “Procedure for verification of captive status” issued earlier on 10.02.2025 is currently under challenge before the Karnataka High Court in WP 13316/2025, and its operation has been stayed vide order dated 02.05.2025 pending adjudication of the matter. The CEA Circular on captive power unit verification can be accessed [here](#).

CEA issues Circular to streamline Captive Power Unit Verification for SPVs

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