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Legal Updates

Bombay HC quashes MERC review order passed in breach of principles of natural justice

The Bombay High Court, vide order dated 03.11.2025 in *O2 Renewable Energy VII Private Limited v Maharashtra Electricity Regulatory Commission and Anr.*, set aside the Maharashtra Electricity Regulatory Commission (“MERC”) review order dated 25.06.2025, which was issued on a review petition filed by MSEDCL against the Multi Year Tariff Order (“MYT Order”) dated 28.03.2025. In the impugned review order, MERC had significantly altered the permissible Time-of-Day (“TOD”) slots for withdrawal of banked renewable power and modified tariff categorisation for certain consumer classes. These changes were introduced without conducting any public hearing or stakeholder consultation.

The Court held that MERC’s review order was issued in violation of mandatory procedural requirements and the principles of natural justice, observing that the Electricity Act, 2003 and the MERC (Transactions of Business and Fees and Charges) Regulations, 2022 (“TOB Regulations, 2022”) mandate notice and opportunity of hearing before any modifications/amendments to a tariff order.

Rejecting MERC’s submission that tariff review is purely a regulatory function exempt from these requirements, the Court emphasised that it would be untenable to suggest that affected parties need not be heard when MERC itself was legally mandated to hear all stakeholders at the time of passing the original MYT order. Given that the review order had far-reaching implications for all stakeholders, including consumers, adherence to a participatory process was mandatory.

Therefore, the Court observed that even though a public hearing had taken place at the time of the original tariff determination, any substantial modification of the tariff structure in review

such as changes in TOD slots or tariff categorisation, required a fresh public hearing, and MERC cannot rely on its inherent powers to bypass statutory procedures. It further elaborated that Regulations 28, and 40 of the TOB Regulations 2022, collectively require notice to affected parties for any review or amendment of the MYT Order, allowing them to make their submissions to the proposed amendments/rectifications, and ensure transparency under Section 86(3) of the Electricity Act, 2003, in exercising powers and functions of the State Commission.

Since the impugned review order was passed *ex parte*, without hearing any affected consumers and stakeholders, the Court quashed and set aside the review order, remanding the matter back to MERC to conduct a fresh process after issuing notice and inviting objections from all stakeholders. Until such procedure, the parties shall be governed by the original MYT order dated 28.03.2025

Note: The order dated 03.11.2025 was appealed before the Supreme Court and was heard on 17.11.2025. Accordingly, the matter was disposed off, directing MERC to decide the review within 12 weeks after notice to the concerned stakeholders.

A copy of the order dated 03.11.2025 can be accessed [here](#).

The Ministry of Coal (“**MoC**”), vide its Office Memorandum dated 27.10.2025, has issued the Draft Guidelines for the Preparation of Mining Plan and Mine Closure Plan for Underground Coal and Lignite Gasification Blocks, 2025 (“**Draft Guidelines**”).

The Draft Guidelines have been issued with the objective of:

- i. optimizing coal and lignite extraction using sustainable in-situ gasification technology with minimal waste and surface impact;
- ii. mitigating risks like subsidence, fire, and water contamination through continuous monitoring and control;
- iii. minimizing environmental impact and ensuring compliance with regulations and integrate progressive mine closure with operations;
- iv. ensuring final closure tasks such as site rehabilitation, well sealing, cavity stabilization, and ongoing post-closure monitoring for sustainability and safety.

The Draft Guidelines stipulate that all coal or lignite gasification mines shall have a mining plan approved by the competent authority to produce syngas, which shall be valid for the entire life of the mine. Any revision(s) or modification(s) of the mining plan, duly approved by the competent authority, shall remain valid for the balance life of the mine.

Chapter II states that the mining plan must include detailed phases of the mine life – 1st year, rate capacity year, final year and post-closure year as it ensures proper management and monitoring throughout the mine’s operational and closure phases. It deals with pilot study for feasibility assessment, project information (location, allotment, etc.), geology, mining method, safety management, site-specific study for surface subsidence and control of possible coal seam fire, subsidence monitoring, hydrogeology, emergency response plan, infrastructure facilities, etc.

Chapter III, which deals with mine closure plans, aims to ensure scientific mine closure and rehabilitation of mining sites, minimizing environmental degradation, safeguarding public health, and promoting sustainable development by restoring the land to a condition suitable for future use of land or returning it to its near-natural state or better, while also holding project proponents accountable for their closure obligations.

MoC has invited the views / observations / comments on the Draft Guidelines for the Preparation of Mining Plan and Mine Closure Plan for Underground Coal and Lignite Gasification Blocks, 2025

Chapter V deals with the formulation of the mining plan by a qualified person or accredited Mining Plan Preparing Agency, submission to the approving authority, scrutiny and processing of the mining plan, approval, revision and timeline of the mining plan.

MoC has invited views / observation / comments on the Draft Guidelines from the stakeholders within 30 days of uploading of the Draft Guidelines on the website of the MoC.

The Draft MoC Guidelines can be accessed [here](#).

The Ministry of New and Renewable Energy (“**MNRE**”), vide its Office Memorandum dated 29.10.2025, has issued the Standard Operating Procedure (“**SOP**”) for Approved List of Manufacturers and Models for Wind Turbines (“**ALMM-Wind**”) and Approved List of Manufacturers and Models for Wind Turbine Components (“**ALMM-WTC**”). The SOP governs the process for all entities applying for enlistment in either the ALMM-Wind or ALMM-WTC.

The foundational scientific and technical documentation for a wind turbine’s eligibility for enlistment in the ALMM-Wind is the Type Certificate of a wind turbine model issued by an accredited Type Certification Body (CB), which must include an approved and the associated list of major components, including the blade, tower, generator, gearbox, and special bearings (Main, Pitch, and Yaw Bearing).

The enlistment of components in the ALMM-WTC list depends on the inclusion in an approved wind turbine Type Certificate & RLMM-Wind, submission of a valid, independent component certificate and subsequent inspection by a designated team, which will ensure a direct and verifiable link between the component and its certified performance within a specific wind turbine model.

The ALMM-Wind and ALMM-WTC enlistment process is a multi-stage procedure which includes scrutiny of documents by the ALMM-Wind committee / ALMM-WTC committee, inspection of manufacturing facility by the technical team, if required, etc. to ensure technical compliance and quality assurance to safeguard interest of various stakeholders including consumers, grid operators, funding agencies, State and Central Government Agencies, etc.

The SOP envisages 4 types of applications for ALMM-Wind – (a) application for new enlistment of Wind Turbine Model and Manufacturer, (b) application for enlistment of a new Wind Turbine Model by a Manufacturer already on the ALMM-Wind list, (c) application for the updation of the Wind Turbine Model and (d) application for updation of revised documents including ISO certificate. Further, it envisages 2 types of applications for ALMM-WTC – (a) application for new enlistment of a component, and (b) application for updation of a component.

The MNRE SOP can be accessed [here](#).

The Tripura Electricity Regulatory Commission (“**TERC**”) has issued the Draft TERC (The Grid Interactive Solar Rooftop Photovoltaic System under Gross/Net Metering) Regulations, 2024 (First Amendment). The amendment has been introduced after the Tripura Renewable Energy Development Agency (TREDA) sought clarifications regarding metering capacity provisions and billing / settlement mechanisms. The draft modifies key provisions related to permissible system capacity, voltage-level-wise installation limits, and settlement timelines.

The salient features of the amendment are as follows:

MNRE issues the Standard Operating Procedure for Approved List of Manufacturers and Models for Wind Turbines and Approved List of Manufacturers and Models for Wind Turbine Components

TERC has published the Draft TERC (The Grid Interactive Solar Rooftop Photovoltaic System under Gross / Net Metering) Regulations, 2024 (First Amendment)



- i. As per the amendment, individual consumers may avail net metering up to 10 kWp, while group net-metering and multiple-point installations may go up to 500 kWp. Gross metering applies to systems above 10 kWp.
- ii. The amendment also modifies the voltage-linked capacity thresholds from LT single phase (up to 4 kWp) to EHT 132 kV and above (beyond 10,000 kWp).
- iii. The billing and settlement cycle is shifted to a quarterly basis, and provisions have been introduced regarding payment for excess generation.
- iv. Domestic, irrigation, and water-works consumers exporting more than 100 units will now be paid quarterly at feed-in tariff rates, subject to a generation cap of 3.8 units per kW per day. For other categories, any quarterly surplus beyond allowable limits will lapse.

The Draft Grid Interactive Solar Rooftop Photovoltaic System under Gross/Net Metering Regulations can be accessed [here](#).

TERC has published the Draft TERC (Fuel and Power Purchase Price Adjustment) Regulations, 2025, to amend and replace the TERC (Fuel and Power Purchase Price Adjustment) Regulations, 2011 and to align the mechanism with Rule 14 of the Electricity (Amendment) Rules, 2022. The Draft Regulations introduce an automatic monthly pass-through of variations in fuel cost, power purchase cost, and transmission charges, without requiring prior regulatory approval, which will be based on a standard formula prescribed by the Commission.

As per the Draft Regulations, the FPPPA Surcharge is computed and billed to consumers automatically on a monthly basis, without approval from the Commission however, it is subject to an annual true-up determined by the Commission. The distribution licensees are required to compute and charge the FPPPA Surcharge (as per the prescribed formula) for the power supplied in a given month and levy it after 2 months (n+2 cycle). If the distribution licensee fails to levy the FPPPA Surcharge within the stipulated timeline then its rights for recovery shall be forfeited.

TERC has published the Draft TERC (Fuel and Power Purchase Price Adjustment) Regulations, 2025

The Draft Regulations specifically exclude the charges due to Deviation Settlement Mechanism, and other charges, such as Ancillary Services and Security Constrained Economic Despatch, from the FPPPA Surcharge, which are required to be adjusted later through the true-up approved by the Commission.

The tariff shock to consumers is mitigated through a cap on the automatic pass-through limits – (a) if FPPPA Surcharge is up to 5% then 100% of the computed FPPPA Surcharge is levied automatically using the formula, and (b) if FPPPA Surcharge is more than 5% then 5% is recoverable automatically, 90% is recoverable automatically using the formula and the differential claim is recoverable after the Commission's approval during true-up.

The distribution licensee can carry forward the FPPPA Surcharge or a part thereof to the subsequent month to avoid any tariff shock to consumers however, the carry forward shall not exceed a maximum duration of 2 months. The carry forward is only applicable if the total FPPPA Surcharge for a Billing Month (including any previous carry forward) exceeds 20% of the variable component of the approved tariff. Further, a carrying cost is allowed on the carried-forward amount until recovery (calculated at the SBI Marginal cost of Funds-based lending Rate plus 150 basis points).

The Draft Regulations can be accessed [here](#).

TERC has published the Draft TERC (Framework for Resource Adequacy) Regulations, 2025, with the objective of ensuring that distribution licensees in Tripura maintain sufficient contracted generation capacity to meet peak demand reliably. It establishes a structured

TERC has published the Draft TERC (Framework for Resource Adequacy) Regulations, 2025

planning mechanism i.e., Short-Term (ST-DRAP), Medium-Term (MT-DRAP), and Long-Term (LT-DRAP), which requires distribution licensees to forecast demand using scientific modelling methods, map existing and future generation resources, and maintain a planning reserve margin.

As per the Draft Regulations, distribution licensees must tie up 70% of their Resource Adequacy Requirement (RAR) through long-term contracts, 20% through medium-term contracts, and the balance through short-term contract, which will ensure power availability even during variability of renewable generation.

It also mandates the establishment of a dedicated Resource Adequacy Planning Cell, transparent data sharing with SLDC / STU, and annual rolling procurement plans aligned to national and state-level load forecasting.

The framework also introduces non-compliance charges w.e.f. FY 2025 – 26 if the distribution licensees fail to meet their resource adequacy targets. The said charges are equivalent to 1.1 times the marginal capacity rate or 1.25 times the Average Capacity Charge, whichever is higher.

The Draft Regulations can be accessed [here](#).

BERC issues BERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2025

Bihar Electricity Regulatory Commission (**“BERC”**) has formulated the BERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2025 (**“Regulations”**). The Regulations are made effective retrospectively from 01.04.2025 for sake of uniformity in the tariff determination and unless reviewed earlier or extended by the Commission, shall remain in force for a period of 3 years.

The Regulations shall apply to cases where tariff for a grid connected generating station or a unit thereof commissioned during the Control Period and based on renewable energy sources, is to be determined by BERC under Section 62 read with Section 86 of the Electricity Act. Provided that in cases of Biomass power based on Rankine cycle, non-fossil fuel-based co-generation projects, Solar PV power projects, Solar Thermal power projects, Floating Solar projects, renewable hybrid energy projects, renewable energy with storage projects, Biomass gasifier, Biogas power project, Municipal solid waste and refuse derived fuel-based power projects, the Regulations shall be applicable subject to the fulfilment of the eligibility criteria.

The eligibility criteria include wind power projects that is the project that uses new wind turbine generators and is located at sites, on – shore or off – shore approved by State Nodal Agency or Appropriate Government. It also includes small hydro project that is the project that uses new plant and machinery and is located at sites approved by State Nodal Agency or Appropriate Government. It further includes Biomass power project with Rankine cycle technology that is the project that uses new plant and machinery, is based on Rankine cycle technology and does not use any fossil fuel. It also includes non-fossil-based co-generation that is the project or a unit that uses new plant and machinery and is based on topping cycle mode of co-generation.

The Regulations further specify that the Project Specific Tariff under Section 62 of the Electricity Act may be determined on case-to-case basis by BERC for Biomass projects, biomass gasifier based power projects, biogas-based power projects, solar PV power projects, Municipal solid waste – based power projects, renewable energy storage projects etc. The Regulations further specify that the tariff for renewable energy sources shall consist of return on equity, interest on loan, depreciation, interest on working capital and operation and maintenance expenses.

The Regulations further provide that the generic tariff shall be determined, on levelized basis, considering the year of commissioning of the project, for the tariff period of the project provided that for renewable energy projects having single part tariff with two components, fixed cost component shall be determined on levelized basis considering the year of commissioning of the project while fuel cost component shall be determined on year of operation basis in the Tariff Order to be issued by BERC.

The BERC (Terms and Conditions for Tariff determination from (Renewable Energy Sources) Regulations, 2025 can be accessed [here](#).

BERC issues BERC (Fees, Fines and Charges) (1st Amendment) Regulations, 2025

BERC vide its order dated 31.10.2025 in Suo-Motu Case No. SMP-30/2025, has issued BERC (Fees, Fines and Charges) (1st Amendment) Regulations, 2025. The amendment seeks to update and rationalise the existing 2019 Regulations to align with present sectoral realities, rising administrative costs, and recent technological advancements, including battery storage systems and resource adequacy frameworks.

The said regulation will come into effect from the date of their publication in the Official Gazette. The Commission has directed that copies be circulated to all relevant licensees and utilities, including BSP(H)CL and BSPGCL, for compliance and implementation and the same can be accessed [here](#).

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