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Legal Updates

APTEL clarifies that liability to pay Liquidated Damages under PPA must be ascertained against actual loss suffered

The Appellate Tribunal for Electricity ("**Tribunal**") *vide* Order dated 29.07.2026 in APL No. 151 of 2021, *Raasi Green Earth Energy Pvt Ltd v. Tamil Nadu Electricity Regulatory Commission and Ors* partially allowed the Appeal filed by Raasi Green Earth Energy Pvt Ltd ("**Appellant**"). The Tribunal allowed the challenge against Order dated 02.02.2021 ("**Impugned Order**") passed by the Tamil Nadu Electricity Regulatory Commission ("**TNERC**") in DRP 8 of 2020 to the limited extent that liquidated damages granted under Article 14 of PPA have to be tested against the proof of actual loss suffered by party in case of non-commissioning of project within the prescribed timeline.

Appellant was selected by TANGEDCO for development of 1500 MW solar power project, in view of which, Appellant furnished two Performance Bank Guarantees ("**PBG**") for a total amount of INR 20 crores. Subsequent to execution of PPA, Ministry of Finance levied Safeguard Duty on modules and solar panels imported rendering the price of the modules and panels to increase by 25%. Due to such increase, Appellant approached TANGEDCO for revision of tariff, permission for part commissioning, alternative evacuation arrangement and extension of Commercial Operation Date ("**COD**"). While TANGEDCO accepted part commissioning, it rejected all other reliefs sought. Accordingly Appellant approached TNERC for extension of COD. TNERC *vide* the Impugned Order rejected extension of COD and held that the PPA stood automatically terminated. The Commission further allowed relief under Article 14 of the PPA on account of non-commissioning within time. During the pendency of the Petition, TANGEDCO had encashed the Performance Bank Guarantees submitted by the Appellant. Appellant approached the Tribunal on the limited the scope of whether TANGEDCO was entitled to encash the Bank Guarantees in view of the fact that they did not incur any loss due to non-commissioning.

The Tribunal upheld TNERC's decision regarding automatic termination of PPA considering that the project did not commission within the maximum time period allowed as per PPA. In view of the same, Tribunal held that TANGEDCO was entitled to encash the entire PBG. On the issue of refund of encashed PBG, Tribunal upheld the decision in the Impugned Order that the Appellant neither amended its Petition to challenge the encashment nor sought a specific prayer for refund.

On the issue of proving losses suffered, Tribunal clarified that it is only when delay in commissioning is condoned and SCOD of project is extended on account of force majeure under the PPA, the party may not be entitled to encash the PBG furnished by the Developer. However, in this case wherein there was express breach of PPA, Tribunal relied on Section 73 and 74 of the Contract Act and the essential elements required to be established by a party claiming damages on account of breach of contract. Tribunal noted that (a) There has to be breach of contract by the other party; (b) party complaining of such breach has suffered in injury or damage as a result of the breach of contract by the other party; and (c) the injury suffered is proximate and direct result of the breach committed by the other party.

The Tribunal held that liquidated damages stipulated under the PPA cannot be awarded as an automatic consequence of breach and can be granted only as reasonable compensation for loss or damage suffered by the aggrieved party. It was further held that where loss is capable of being proved, the claimant must establish such loss. It is only where the loss is difficult or impossible to quantify can a genuine pre-estimate of damages specified in the contract be relied upon. Applying this principle, the Tribunal held that TNERC had failed to examine whether TANGEDCO had actually suffered any loss due to non-commissioning of the project and therefore set aside the finding on liquidated damages. The matter was remanded to TNERC to determine whether any loss was suffered by TANGEDCO and, upon such determination, assess the Appellant’s liability for liquidated damages under Article 14 of the PPA.

MoC invites comments on the Draft Guidelines for Preparation of Mining Plan and Mine Closure Plan for Coal and Lignite Mines, 2026

The Ministry of Coal (“**MoC**”) has, vide notice dated 31.07.2026, invited comments and suggestions on the Draft Guidelines for Preparation of Mining Plan and Mine Closure Plan for Coal and Lignite Mines, 2026 (“**Draft Revised Guidelines / proposed Guidelines**”) within 15 days from the date of issuance of the Notice. MoC has proposed to revise the Guidelines for Preparation of Mining Plan and Mine Closure Plan for Coal and Lignite Blocks, 2025 issued on 31.01.2025 (“**earlier Guidelines**”).

The earlier Guidelines laid down the framework for preparation, submission, scrutiny, approval, modification and revision of Mining Plans and Mine Closure Plans for coal and lignite blocks, including the information and documents required to accompany a Mining Plan and the procedure for its submission through the Single Window Clearance System (“**SWCS**”). The Draft Revised Guidelines seek to streamline the preparation and approval of Mining Plans, while promoting scientific, sustainable and environmentally responsible mining practices.

The Draft Revised Guidelines propose to:
(a) integrate the Progressive Mine Closure Plan and Final Mine Closure Plan into the Mining Plan framework,
(b) incorporate the Guidelines for Preparation and Approval of Mining Plan for Coal and Lignite Blocks / Mines for Underground Gasification, 2026 as an integral part thereof, and
(c) revise the prescribed formats and technical requirements relating to geology and reserves, mine planning, production scheduling, mining operations, safety, infrastructure, land use, environmental management, reclamation, rehabilitation, financial assurance and mine closure.

As per the Draft Revised Guidelines, the same shall come into force 30 days from the date of issuance. The Mining Plans uploaded on the SWCS portal before its commencement shall continue to be governed by the earlier Guidelines. The Mining Plans already approved under the earlier Guidelines shall be deemed to have been approved under the proposed Guidelines, however, any subsequent modification / revision thereof shall be governed by the Draft Revised Guidelines.

	The notice dated 31.07.2026 along with the Draft Regulations can be accessed here. The guidelines issued on 31.01.2025 can be accessed *here*.
MoC has launched an online portal for applications under the Coal Gasification Scheme	The MoC has, vide notice dated 29.07.2026, informed all the stakeholders that a dedicated online portal has been launched for the registration and submission of applications under the Scheme for Promotion of Surface Coal / Lignite Gasification. The said portal intends to facilitate a seamless, transparent and efficient application process. Applicants intending to set up projects under the said Scheme are required to register on the portal and submit their applications along with the requisite documents within the stipulated timelines. The notice dated 29.07.2026 can be accessed *here*.
MoC has extended the tenure of Coal Linkages for the "Production of Syn-Gas leading to Coal Gasification" sub-sector	The MoC has, vide letter dated 24.07.2026, approved the extension of the tenure of coal linkages from 15 years to 30 years for the sub-sector "Production of Syn-Gas leading to Coal Gasification" under the Non-Regulated Sector ("**NRS**") Linkage Auction. The MoC had, vide letter dated 15.02.2016, issued the policy guidelines for auction of coal linkages for the NRS. Subsequently, the MoC issued another letter dated 14.02.2022 with regard to the creation of the aforesaid sub-sector. The policy provided that the tenure of new Fuel Supply Agreements ("**FSAs**") may be decided by MoC, subject to a maximum period of 15 years. The MoC letter dated 24.07.2026 can be accessed *here*.
MNRE has rescinded its office memorandum dated 29.03.2024 relating to Approved List of Models & Manufacturers (ALMM) for solar PV modules	The Ministry of New and Renewable Energy ("**MNRE**") has, vide Office Memorandum dated 30.07.2026, rescinded its office memorandum dated 29.03.2024. Vide office memorandum dated 29.03.2024, the Approved List of Models & Manufacturers ("**ALMM**") for solar PV modules came into effect from 01.04.2024 i.e., only those modules and manufacturers of solar PV modules, which are enlisted in the ALMM List – I, are eligible for use in Government Projects, Government-assisted Projects, Projects under Government Schemes and Programmes, and Open Access / Net-Metering Projects installed in the country. This requirement was kept in abeyance for FY 2023 – 24 i.e., projects commissioned by 31.03.2024 were exempt. As per office memorandum dated 29.03.2024, the projects, where the modules were received by 31.03.2024 at the site but could not be commissioned for reasons beyond the project developer's control, were to be separately examined. The MNRE has however clarified that in case a renewable power project, which has not yet been commissioned, wishes to seek exemption from the office memorandum dated 29.03.2024, can submit its request, which, if received within a reasonable time period, shall be examined on a case-to-case basis. This will however be in the nature of "removal of difficulties" but not otherwise. The office memorandum dated 30.07.2026 can be accessed *here*.
MNRE has published the Model Service Agreement for Electrolyser as a Service (EaaS)	The MNRE has, vide Office Memorandum dated 23.07.2026, published the Model Service Agreement for "Electrolyser as a Service" ("**EaaS**"). Under EaaS, the technology provider can establish, own, and operate electrolytic hydrogen generation plants at the consumer's premises, thereby mitigating the upfront capital expenditure for the consumer. The Model Agreement has been prepared to facilitate the ease of doing business, reduce transaction costs, and minimise the time taken in contract negotiations. It outlines the standard industry practices regarding the division of responsibilities, performance guarantees, threshold energy consumption metrics, and risk allocation mechanisms.

	The Model Agreement sets out provisions for the establishment of the Hydrogen Plant Equipment, access to site, operation and maintenance, term of the contract, consideration, consent and compliance with law, taxes, planned shutdown, obligations and responsibilities of parties, representations and warranties of parties, force majeure, environmental conditions, safety and liability, insurance, events of default, termination and consequences, intellectual property, etc. MNRE has clarified that the Model Agreement is for reference and the parties are free to mutually negotiate, alter, modify, add, or delete any clauses and numbers based on their specific commercial requirements, risk appetite, and project-specific technical parameters. The office memorandum dated 23.07.2026 along with the Model Service Agreement can be accessed *here*.
MNRE has issued the 8th Revision of ALMM List – II for solar PV cells	The MNRE has, vide office memorandum dated 22.07.2026, published the 8th Revision of the ALMM List-II for solar PV cells. The list was issued by the MNRE vide office memorandum dated 31.07.2025. By way of the said revision, the MNRE has added capacity enhancement for an existing manufacturer, M/s Fujiyama Power Systems Limited, and added a new manufacturer, M/s Avaada Electro Limited. The office memorandum dated 22.07.2026 along with the revision can be accessed *here*.
MNRE makes provisions to make rooftop solar more affordable	The MNRE has issued a Press Release dated 28.07.2026 outlining the provisions made to make rooftop solar ("**RTS**") systems affordable for middle-income and economically weaker households under the PM Surya Ghar: Muft Bijli Yojana. The following provisions have been made: (i) Higher Central Financial Assistance ("**CFA**") for the first two kWp of RTS capacity. (ii) Availability of collateral-free loans from nationalised banks at a concessional interest rate of repo-rate plus 50 bps (currently 5.75% per annum) with a 10-year tenure. (iii) Inclusion of RESCO/Utility-Led Aggregation Models. As a result of the various measures that have been taken, a total of 39,72,447 RTS systems has been installed, covering 48,02,717 households, as on 22.07.2026. The electricity bills of such consumers have reduced and over 18.93 households have reported zero electricity bills for some months. The Press Release dated 28.07.2026 can be accessed *here*.
MNRE is implementing a New Solar Power Scheme under PM-JANMAN and DAJGUA	The MNRE has issued a Press Release dated 29.07.2026 stating that under the Pradhan Mantri Janjati Adivasi Nyaya Maha Abhiyan (PM-JANMAN) and the Dharti Aaba Janjatiya Gram Utkarsh Abhiyan (DAJGUA), a New Solar Power Scheme is being implemented for the following: (a) electrification of un-electrified households in Particularly Vulnerable Tribal Group ("**PVTG**") and Tribal habitations/villages, (b) solarisation of Multi-Purpose Centres in PVTG areas, and (c) solarisation of public institutions in identified tribal habitations/villages. This is being done through off-grid solar systems where electricity supply through grid is not techno-economically feasible. Under the said scheme, there is a provision of 100% CFA for different components thereof. As on 30.06.2026, CFA of Rs. 57.10 crores have been released under the scheme. Further, as on 30.06.2026, 11,838 households are reported to be electrified through solar off-grid systems in different states. The Press Release dated 29.07.2026 can be accessed *here*.

MNRE has obtained approval for continuation of the Renewable Energy Research and Technology Development Programme in the 16th Finance Cycle	The MNRE has, vide order dated 17.07.2026, has notified that it has received approval for continuation of the Renewable Energy Research and Technology Development Programme (RE-RTD) in the 16th Finance Cycle (period from 2026 – 27 to 2030 – 31) at a total cost of Rs. 436.93 crores. The scheme aims to scale up R&D efforts for promoting indigenous technology development and manufacture, enabling widespread and cost-effective application of new and renewable energy across the country. The objective of the programme includes supporting R&D projects for relevant research and development, early TRL support for innovative technologies, promoting cost-effective and reliable renewable energy technologies for large-scale deployment, and strengthening linkages between academia, R&D institutions, start-ups, and industry to accelerate commercialisation. The scheme has the following components: (a) Support for Research / Design / Technology / Development / Pilot / Demonstration / international collaboration / resource assessment / Centre of Excellence in RE / test labs, etc. (b) Perovskite PV Manufacturing Pilot Line and allied projects. (c) Supports for Incubation Centers. (d) Studies / meetings / conclaves / workshops / monitoring. The programme will be implemented through national bodies, R&D and academic institutions, public and private industries, societies, trusts, NGOs, duly recognised start-ups, organisations engaged in R&D and Section 8 companies. The order also provides for the manner in which the proposals can be submitted, the steps that will be following for appraisal of the proposals, evaluation criteria, sanction and release of funds, etc. The guidelines contained in the order, which will govern the programme, will remain effective till 31.03.2031, subject to periodic review and amendments. The order dated 17.07.2026 can be accessed *here*.
CERC issues Draft Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) (Fifth Amendment) Regulations, 2026	The Central Electricity Regulatory Commission (**“CERC”**), vide its Notification dated 31.07.2026, has issued the Draft Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) (Fifth Amendment) Regulations, 2026. The proposed amendments seek to strengthen the framework governing Inter-State Transmission System ("ISTS") charges and losses by facilitating renewable energy integration, expanding transmission charge waivers for Battery Energy Storage Systems ("BESS"), and aligning the Sharing Regulations with the General Network Access ("GNA") framework. Some of the key highlights are as follows: • **Transmission Charge Waiver for RE Projects delayed due to ISTS unavailability:** Renewable energy projects delayed solely due to the non-availability of the ISTS are proposed to retain their applicable transmission charge waiver based on the original Firm Start Date of Connectivity ("FSDC"), provided they achieve commercial operation within two months of the effectiveness of their GNA. The proposal applies to eligible wind, solar and renewable hybrid projects having power purchase arrangements of at least seven years, executed on or before 31.12.2026. • **Extension of ISTS Waivers to Co-located BESS**: The draft extends ISTS transmission charge waiver benefits to electricity supplied from Battery Energy Storage Systems ("BESS") co-located with Renewable Energy Generating Stations ("REGS") or Renewable Hybrid Generating Stations ("RHGS"), where the renewable project and BESS are scheduled as a single entity. The waiver would be available for up to 25 years from the

commercial operation date of the renewable project, subject to the applicable waiver trajectory.

- **Separate Treatment of BESS Charging**: Charging of co-located BESS from the associated renewable energy project would continue to enjoy applicable transmission charge waivers, whereas charging from other sources would be governed under a separate waiver framework. The National Load Despatch Centre ("NLDC") has been entrusted with issuing detailed procedures for data collection and energy accounting.

- **Recognition of GDAM Procurement for Renewable Requirement**: Energy Storage Systems procuring electricity through the Green Day Ahead Market ("GDAM") would be permitted to count such energy towards the prescribed 51% renewable energy requirement, subject to certification by the concerned power exchange. For hydro pumped storage projects, compliance would be assessed on a contract-wise basis.

- **Alignment with the GNA Framework:** The draft introduces the definition of Renewable Energy Implementing Agency ("REIA"), revises provisions relating to GNARE and Temporary GNARE (T-GNARE), and updates the methodology for computation of transmission deviations to align the Sharing Regulations with the GNA framework.

- **Framework for Dual Connectivity:** New provisions have been proposed for entities connected to both the inter-State and intra-State transmission systems. State Transmission Utilities ("STUs") would be required to share connectivity and access details with the NLDC and the Central Transmission Utility of India Limited ("CTUIL") to facilitate coordinated scheduling and accounting.

- **One-time Option for Applicable Waiver Mechanism:** Projects eligible under more than one transmission charge waiver provision would be required to exercise a one-time option selecting the applicable waiver mechanism within 15 days of achieving commercial operation. The selected option would remain binding throughout the waiver period.

- **Implementation and Procedural Changes:** The draft also proposes that the Implementing Agency publish revised implementation procedures within 60 days of notification after stakeholder consultation and empowers the Commission to issue suo motu orders and practice directions for effective implementation of the regulation.

The CERC has invited comments/suggestions/objections from the stakeholders and interested persons on the above Draft Regulation. The comments/suggestions/objections may be sent by email to secy@cercind.gov.in and shilpa@cercind.gov.in on or before 31.08.2026.

A copy of the Draft Regulation can be viewed *here*.

RERC invites comments on the Review Petition filed by Rajasthan Rajya Vidyut Utpadan Nigam Limited seeking review of Suo Motu order dated 05.05.2026 passed by RERC

Rajasthan Electricity Regulatory Commission **("RERC")** has invited comments from the stakeholders regarding the Review Petition filed by Rajasthan Rajya Vidyut Utpadan Nigam Limited **("RRVUNL")** seeking review of the Suo Motu Order dated 05.05.2026 passed by RERC. The Order records alleged non-compliance of directions in Tariff Order dated 09.03.2026 regarding submission of a Government approved proposal on Flue Gas Desulphurization **("FGD")** installation and directing immediate stoppage of work under – construction FGD systems at RRVUNL's generating stations.

As per RRVUNL FGD implementation originally flowed from Ministry of Environment, Forest and Climate Change's **("MOEF&CC")** emission norms dated 07.12.2015 and RERC's order dated 21.08.2019 in Petition No. 1459/2019 permitting RRVUNL to undertake capital expenditure for FGD compliance. Pursuant thereto, EPC contracts were awarded in May-June 2022 for FGD systems at category – C stations. MOEF&CC's Fourth Amendment Rules, 2025 dated 11.07.2025 had exempted category -C plants complying with stack height norms SO_2 standards, a condition satisfied by RRUVNL's plants thereby altering the statutory necessity of FGD at such stations.

In Tariff Petition No. 2376/2025 RERC vide order dated 12.02.2026 and Tariff Order dated 09.03.2026 directed RRVUNL to submit a status report on FGD works and a final proposal, duly approved by Government of Rajasthan on the future course of FGD installations. RRVUNL placed a detailed case before Government of Rajasthan on 30.01.2026 and apprised RERC that the matter was pending before Government of Rajasthan and undertook to file the approved proposal upon receipt which according to RRVUNL constituted a substantive compliance report to the Tariff Order. Despite noting RRVUNL's 08.04.2026 communication RERC in the impugned Suo Motu Order dated 05.05.2026 has mentioned that no compliance report had been filed and directed immediate stoppage of all under -construction FGD works and a bar on the capital expenditure. On these facts, RRVUNL has sought review of impugned Suo Motu Order dated 05.05.2026 on the grounds of (i) apparent error on the face of the record in holding that no compliance report was filed despite RERC's acknowledgement of the letter dated 08.04.2026, (ii) discovery of new and important matter viz. the State Committee's constitution order dated 22.04.2026 and Committee's Report dated 01.05.2026 directly bearing on the future course of FGD projects and (iii) direction of immediate stoppage being procedurally and substantively improper. RRUVNL has prayed to set aside or suitably modify the impugned Suo Motu Order dated 05.05.2026 and restore the calibrated framework envisaged in the Tariff Order dated 09.03.2026.

RERC has invited stakeholder comments and the last date for submission of the comments is 07.08.2026. RERC notice can be accessed *here*.

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