

A nighttime photograph of a city skyline. In the foreground, a multi-level highway interchange is visible with light trails from moving vehicles. Behind the highway, several modern skyscrapers are illuminated. The central focus is a tall, rectangular building with many lit windows. To its right is a taller, more cylindrical skyscraper with blue lighting accents and the word 'SKYHOUSE' visible at the top. The sky is a deep twilight blue, and the city lights create a vibrant, glowing atmosphere.

Electricity Newsletter

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SIGNIFICANT JUDGEMENTS

A. CERC EXERCISES REGULATORY POWER UNDER SECTION 79(1) WHICH ARE OF AD-HOC NATURE

While allowing the Appeal filed by PGCIL against the Judgment of the Madhya Pradesh High Court, Indore Bench which admitted the Writ Petitions of the Madhya Pradesh Power Transmission Company Limited (MPPTCL), the Hon'ble Supreme court has once again reaffirmed by its judgment dated 15.05.2025¹ that CERC has wide regulatory powers under Section 79 of the Electricity Act, 2003 which is not limited to only adjudicatory orders, but also includes administrative functions.

In this Appeal, the Supreme Court was ascertaining the maintainability of writ petitions filed by the Respondent before the High Court challenging CERC's jurisdiction in granting liberty to the Appellant for claiming compensation for the delay in commissioning of the downstream transmission system.

Findings of the Court

The Apex Court set aside the order passed by the High Court while holding that the regulatory powers provided to the CERC under Section 79 are of ad hoc nature and are required to be exercised by the CERC in context of the specific circumstances of the parties before it. This is to ensure that regulatory gaps, if any, that may be discovered on a case-to-case basis, are filled or removed. Therefore, such orders made in exercise of regulatory power under Section 79(1) are amenable to challenge before the Appellate Tribunal under Section 111 of the Act.

Significance of the Judgement:

In this case, the Court has reaffirmed the law laid down in PTC V. CERC (2010) 4 SCC 603 that Section 178 which deals with making of regulations by way of subordinate legislation by the CERC, is wider than Section 79(1) which enumerates specified areas where the CERC exercises regulatory functions to be discharged by orders or decisions. Therefore, unlike the regulations enacted under Section 178 that have a general application, the CERC, under Section 79, has both regulatory and adjudicatory functions which it exercises in respect of specific issues arising between specific parties.

B. PUBLIC INTEREST GROUPS MUST MEET STRICT LOCUS STANDI REQUIREMENTS IN ELECTRICITY REGULATORY MATTERS, RULES APTEL

The Hon'ble Appellate Tribunal for Electricity (APTEL), in its judgment dated 8th April 2025, dismissed a review petition filed by Surat Citizens Council Trust ("the Trust"), reaffirming that public interest groups must meet strict statutory standing requirements under the Electricity Act, 2003 to challenge regulatory decisions². The Tribunal underscored the primacy of procedural discipline and statutory compliance over generalized claims of public interest.

The review petition stemmed from APTEL's earlier dismissal of Appeal No. 341 of 2017, wherein the Trust had sought to challenge tariff orders issued by the Gujarat Electricity Regulatory Commission ("GERC") on public interest grounds, without being a direct consumer or holding any statutory representative mandate.

¹ https://www.verdictum.in/pdf_upload/power-grid-corporation-of-india-limited-v-madhya-pradesh-power-transmission-company-limitedwatermark-1712621.pdf

² <https://aptel.gov.in/sites/default/files/2025-04/RP%201%20of%202025%20.pdf>

Tribunal's Findings:

The Hon'ble Tribunal held that the Trust lacked locus standi under Section 2(15) of the Electricity Act, 2003, which defines "consumer" as a person who is supplied electricity for their own use. The Trust was not a direct recipient of electricity. It did not have express objectives related to representing consumers under its governing documents. Additionally, it had not been authorized by any identified group of affected consumers.

APTEL emphasized that the requirement of locus standi is not merely procedural but substantive. The legal injury asserted must be direct, and not abstract or derivative. Accordingly, the Trust's characterization of its challenge as being in the "public interest" was held insufficient to satisfy statutory thresholds.

On merits of the Review Petition, the Tribunal reiterated that review proceedings are not a forum to re-argue matters already adjudicated unless a glaring omission or error is evident.

Significance of the Judgement:

This decision clarifies that public interest litigants must demonstrate a clear statutory right or direct injury to maintain a challenge in electricity regulatory proceedings. The ruling restricts the scope for generalized public interest advocacy without statutory standing and highlights the importance of participating in tariff proceedings at an early stage.

C. ONLY GRID-CONNECTED UNITS WITH VALID PPAS ELIGIBLE FOR TARIFF DETERMINATION UNDER UPERC REGULATIONS

In a significant judgment dated 28th April, 2025, the Hon'ble Appellate Tribunal for Electricity ("APTEL"), in *K.M. Sugar Mills Ltd. v. Uttar Pradesh Electricity Regulatory Commission* (Appeal No. 224 of 2016)³, clarified the scope of tariff determination under Regulation 30 of the Uttar Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 ("CNCE Regulations"). The Tribunal held that only grid-connected generating units operating under valid Power Purchase Agreements ("PPAs") qualify for tariff determination, and captive units without such linkage or contractual commitments are to be excluded.

The appeal arose out of a dispute concerning the eligibility of a 7 MW captive generating unit for tariff determination, despite the absence of grid connectivity or a formal PPA covering its surplus power.

Tribunal's Findings

The Hon'ble Tribunal affirmed that a generating unit must be physically connected to the grid and operate under a valid PPA in order to qualify for tariff determination under Regulation 30. The presence of a PPA acts as the contractual anchor for assessing surplus power supplied to the grid.

The Tribunal held that the 7 MW captive unit of the Appellant could not be considered for tariff calculation because it operated exclusively for internal consumption, lacked grid connectivity, and had no contractual arrangement for the supply of surplus power.

This interpretation was supported by Regulation 30, the UPERC's clarification issued in 2007, and the precedent established in *Mawana Sugar Mills*, which restricts tariff applicability to grid-linked, PPA-bound generating stations.

³ <https://aptel.gov.in/sites/default/files/2025-04/Apl%20224%20of%202016.pdf>

The Tribunal emphasized that erroneous references in the PPA to non-grid-connected capacity cannot override operational realities. Tariff determination must be grounded in the actual contracted supply and not hypothetical or misrepresented figures.

Significance of the Judgement:

This ruling underscores the regulatory emphasis on procedural compliance and contractual clarity in the tariff determination process. By reiterating that both grid connectivity and a valid PPA are threshold conditions, the Tribunal has reinforced safeguards against speculative tariff claims based on misclassification or drafting ambiguities.

For generators, the decision serves as a cautionary directive to ensure that only grid-connected capacities are included in PPAs, while captive units are clearly demarcated. For regulators, the judgment mandates strict adherence to operational evidence in tariff orders. Distribution companies are reminded that weighted average tariffs can only apply to verifiable, contracted power and not to internal or non-existent capacity.

SIGNIFICANT AMENDMENTS

A. AMENDMENT TO STANDARD BIDDING DOCUMENTS FOR PROCUREMENT OF INTER-STATE TRANSMISSION SERVICES THROUGH TARIFF BASED COMPETITIVE BIDDING

The Ministry of Power, vide its notification dated 30.04.2025, has issued a significant amendment to the Standard Bidding Documents (SBDs) for procurement of Inter-State Transmission Services under the Tariff Based Competitive Bidding (TBCB) process⁴. This amendment addresses concerns raised by transmission service providers regarding the practical constraints in siting substations and associated infrastructure.

Under the previous SBD framework, strict geographical limits were imposed on the permissible distance between the actual location of substations (including switching stations, HVDC terminals, and inverter stations) and the reference locations identified by the Bid Process Coordinator (BPC) in the survey reports. Specifically, the SBDs required that Generation Pooling Substations and Load Serving Substations be located within a 3-kilometre radius of the proposed site. Additionally, Greenfield Intermediate Substations must be located within a 10-kilometre radius. Transmission developers highlighted that these constraints often posed challenges due to land availability, topographical conditions, and environmental clearances.

The revised permissible distances are as follows:

Substation Type	Old Limit	New Limit
Generation Pooling Substation	3 km	3 km
Load Serving Substation	3 km	5 km
Intermediate Substation	10 km	10 km

The 3 km limit for Generation Pooling Substations remains unchanged, reflecting the need for proximity to generation sources. For Load Serving Substations, the permissible distance has been increased from 3 km to 5 km, offering developers greater flexibility in site selection, especially in densely populated or geographically

⁴https://powermin.gov.in/sites/default/files/webform/notices/Amendment_in_Standard_Bidding_Documents_for_procurement_of_Inter_State_Transmission_Services_through_Tariff_Based_Competitive_Bidding_%28TBCB%29_process.pdf

constrained areas. The 10 km limit for Intermediate Substations is retained, maintaining a balance between operational requirements and practical considerations.

These amendments apply to all future bids issued under the TBCB process. The revised limits are expected to expedite project implementation by reducing delays associated with land acquisition and statutory clearances, without compromising the technical and operational requirements of the transmission network.

Enhanced flexibility in substation siting is likely to facilitate smoother project execution and reduce costs associated with land procurement and resettlement, which presents significant implications for developers. For the sector as a whole, the amendment is expected to accelerate the pace of inter-state transmission projects. This, in turn, will support the integration of renewable energy and contribute to strengthening the national grid.

B. CERC ISSUED NEW DIRECTIONS TO POWER EXCHANGES UNDER POWER MARKET REGULATIONS, 2021

The Central Electricity Regulatory Commission (CERC), on 28th April, 2025, has issued a set of directions to the Power Exchanges (“PXs”) registered under the CERC (Power Market) Regulations, 2021⁵ in furtherance/addition to the directions in Orders dated 7.6.2022 in Petition No. 219/MP/2021 (of IEX) and 229/MP/2021 (of PXIL) and Order dated 30.12.2022 in Petition No. 206/MP/2022 (of HPX) mainly to address the concerns over high prices in Day-Ahead Contingency contracts and potential deficiencies in the price discovery mechanism in Term-Ahead Market. The key directions include are explained in brief as under:

- 1. Transition to Uniform Price Step Auctions:** PXs are now required to shift from continuous matching to Uniform Price Step Auctions for Day-Ahead Contingency (DAC) contracts. This move addresses concerns over price volatility and potential manipulation associated with continuous matching. The adoption of a single market-clearing price is expected to enhance transparency, promote non-discriminatory price discovery, and align Indian market practices with global standards.
- 2. Standardisation of Trading Slots:** All overlapping or custom time slots across Term Ahead Market (TAM) variants-including Green TAM and High Price TAM-are to be discontinued. PXs must revert to standard hourly trading blocks, a measure aimed at consolidating liquidity, reducing participant confusion, and fostering uniformity in market operations. Commission has further directed power exchanges to carry out consultation with market participants for selection of pre-specified time slots from within RTC, Peak/Off-Peak hour, Solar/Non-Solar hours for TAM and HP-TAM and a similar exercise for G_TAM based on generation profile of different technologies. Thereafter, the Exchanges are required to get the identified pre-specified time Slots approved by the Commission.
- 3. Bidding Window Protocol:** CERC has specified the duration for all the stages involved in Assured Delivery-Based Contracts (ADSS) contracts for all buyers. CERC now mandates a clear separation between bidding and execution windows for ADSS. Additionally, duplicate bids across exchanges are strictly prohibited so as to ensure certainty for sellers. In this context, the PXs have been directed to obtain a declaration from the buyer at the requisition stage if any auction notice has been issued for the same requisition (quantum and duration) on any other power exchange(s) and/or other platform. In addition to that, PXs should desist from giving any rebates/waivers on the auction initiation fee and charge a minimal non-refundable auction initiation fee irrespective of the acceptance/ partial acceptance/ rejection of the auction results. These changes are intended to prevent arbitrage and duplicate trading, thereby strengthening market integrity.

⁵ <https://www.cercind.gov.in/2025/orders/8-SM-2024.pdf>

4. **Discontinuation of Dynamic Contracts:** All intra-day dynamic contracts classified as “non-standard” are to be withdrawn with immediate effect. This amendment seeks to consolidate liquidity within regulated and predictable contract formats.
5. **Enhanced Market Transparency:** PXs are now obligated to publish not only traded volumes but also bid volumes and the number of bids for DAC and TAM contracts. This measure is designed to improve informational symmetry, promote fair competition, and bolster participant confidence.
6. **Compliance Deadlines and Enforcement:** Certain reforms, such as the discontinuation of dynamic contracts, take effect immediately. Others, including changes to auction design, are subject to short-term implementation deadlines ranging from one week to one month.

C. MINISTRY OF POWER HAS ISSUED AMENDMENT TO THE ELECTRICITY (LATE PAYMENT SURCHARGE AND RELATED MATTERS) RULES, 2022

Vide gazette notification dated 02.05.2025, MoP has issued the Electricity (Late Payment Surcharge and Related Matters) (Amendment) Rules, 2025⁶ for substituting the words “generating companies inter-state transmission licensees” with the words “generating companies, transmission licensees”. Thus, this amendment brings intra-state Transmission licensees also within the purview of these Rules thereby affecting the dues of the State Discoms towards the intra-state Transmission licensees under various PPA/PSA/TSA.

D. CERC HAS ISSUED DRAFT GUIDELINES FOR VIRTUAL POWER PURCHASE AGREEMENTS(VPPAS)

While acting upon the MoP’s request to devise a suitable regulatory framework for VPPA, CERC has issued the draft guidelines⁷ explaining VPPAs as under:

- a) It is a long term Over the counter contract between the consumer and an RE Generator that will be "Non-transferable" and "Non tradable".
- b) It does not involve physical electricity transaction i.e. buyer doesn't actually receive or take responsibility for monetizing/ selling physical electricity generation.
- c) Consumer or the buyer will pay a fix price to the Genco for the entire duration of the contract.
- d) This Price will be mutually agreed between the contracting parties either directly or through trader or listing on a OTC platform.
- e) Against the payment of this price, the buyer will get green attributes i.e. Renewable Energy Certificates (RECs) that can be used against Consumer’s RPO compliance. But these REC again are Non- transferable, Non tradable
- f) RE Generator will sell this electricity on exchange or any other authorised mode under the Electricity Act at prevailing market prices.

⁶https://powermin.gov.in/sites/default/files/webform/notices/34_b_Electricity_Late_Payment_Surcharge_and_Related_Matters_Amendment.pdf

⁷ https://cercind.gov.in/2025/draft_reg/Draft%20Guidelines%20for%20VPPAs.pdf

- g) Difference in the market price i.e price at which electricity is sold in open market and the price payable by Consumer under the VPPA, will be settled between the consumer and the Genco on mutually agreed terms.
- h) Disputes under the VPPA are to be resolved mutually as per the agreed terms.

Stakeholders' can give their comments to these guidelines by 20.06.2025.

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