

India's Electricity Sector

2025 Round Up

Key Judgments – The Supreme Court of India

MCD v Gagan Narang, 2025 SCC OnLine SC 19

Municipal Corporation of Delhi (MCD) (as a local authority) can initiate tariff-based bidding for Waste-to-Energy (WTE). Section 63 of the Electricity Act, 2003 (Electricity Act), does not contain any express restriction limiting the initiation of a tariff-based bidding process or the filing of a petition for tariff adoption solely to distribution licensees or generating companies. The language employed in Section 63 allows the "Appropriate Commission" to adopt tariffs determined by any transparent bidding process if guidelines are complied with, without restricting the category of applicants.

Ramayana Ispat (P) Ltd. v State of Rajasthan, (2025) 8 SCC 747

The right to open access under Section 42 of the Electricity Act is a regulated and conditional right, and not an unfettered entitlement. State Electricity Regulatory Commissions (SERCs) are competent to frame and enforce open access regulations governing intra-state transmission, scheduling, drawal, and consumption, even where power is procured from outside the State. The jurisdiction of the Central Electricity Regulatory Commission (CERC) is confined to inter-state transmission as such, whereas regulatory control over delivery and consumption within the State vests with the SERC. Further, procedural requirements such as advance scheduling, prior notice, and penalties for deviation are reasonable regulatory safeguards essential for grid discipline and system stability.

Powergrid Corpn. of India Ltd. v CERC, 2025 SCC OnLine SC 1026

Additional Capitalization after the commercial operation date is permissible in respect of specified events such as deferred liabilities, Change in Law, or court directions. Replacement of transformers damaged due to internal faults does not qualify as "additional works or services" nor as replacement of "old assets", and forms part of routine operation and maintenance.

POWERGRID v M.P. Power Transmission Co. Ltd., (2025) 8 SCC 705

CERC performs both regulation-making functions under Section 178 and regulatory/adjudicatory functions under Section 79 of the Electricity Act. Further, orders under Section 79 are case-specific and distinct from general regulations. In the absence of applicable regulations, CERC's power under Section 79 to issue specific regulatory orders to fill gaps is not fettered, and such orders are appealable. [Ref: PTC India Ltd. v CERC, (2010) 4 SCC 603 and Energy Watchdog v CERC, (2017) 14 SCC 80]

Torrent Power Ltd. v Uttar Pradesh Electricity Regulatory Commission, 2025 SCC OnLine SC 1410

Electricity Regulatory Commissions (ERCs) derive their jurisdiction strictly from the Electricity Act and cannot assume powers not expressly conferred by statute. The Electricity Act does not empower ERCs to entertain Public Interest Petitions or adjudicate consumer disputes. A direction for investigation under Section 128 of the Electricity Act, can be issued when

 A licensee has contravened the conditions of its license and/or

 A licensee has failed to act in accordance with the provisions of the Electricity Act or the regulations made thereunder

State of H.P. v JSW Hydro Energy Ltd., 2025 SCC OnLine SC 1460

In terms of the Electricity Act, the statutory regulator has been entrusted with discharging the function of tariff determination, including making regulations for the purpose and interpreting the same. Constitutional courts must enable the regulator to comprehensively regulate all aspects of the sector such that remedies are not fragmented and certain issues are not left outside the regulator's domain. High Court should not enter into the domain of interpreting the regulations which deal with tariff determination, as the same falls within the exclusive domain of the CERC.

Gujarat Urja Vikas Nigam Ltd. v Green Infra Corporate Wind Ltd., 2025 SCC OnLine SC 2398

In terms of the Electricity Act, the price at which power is to be procured by a distribution licensee from a generating company is not a matter of consensus and private agreement between the parties, as it is to be fixed statutorily by the Appropriate Electricity Regulatory Commission. Distribution licensee cannot, therefore, fix its own price or bind a generating company to such price, contrary to the dictum of the concerned ERC.

BSES Rajdhani Power Ltd. v Union of India, 2025 SCC OnLine SC 1637

Cost-reflective tariff is a mandatory statutory principle under the Electricity Act, and that creation of regulatory assets is permissible only as an exceptional and temporary measure. Prolonged or excessive regulatory assets are indicative of regulatory failure, impermissibly shifting financial burden onto consumers. Further, ERCs are under a binding duty to limit, manage, and liquidate regulatory assets within defined timelines, and APTEL possesses enforceable supervisory powers under Section 121 of the Electricity Act to ensure strict compliance with statutory and policy mandates governing tariff determination.





Nabha Power Ltd. v Punjab State Power Corpn. Ltd., 2025 SCC OnLine SC 1733

Press Release dated 01.10.2009 issued by Press Information Bureau, Government of India under the heading "Modification of Mega Power Policy", cannot be considered to be a law for allowing compensation for Change in Law under Power Purchase Agreement (PPA).

Chamundeshwari Electricity Supply Co. Ltd. v Saisudhir Energy (Chitradurga) (P) Ltd., 2025 SCC OnLine SC 1816

Jurisdiction of regulatory bodies does not extend to recasting the contractual framework by directing restitution of amount lawfully realised under the PPA. Further, the requirement to issue a notice for 'Force Majeure' is not merely directory but is a condition precedent for invoking the same.

Haryana Power Purchase Centre (HPPC) v GMR Kamalanga Energy Ltd., 2025 SCC OnLine SC 1928

Coal-linked benefits and corresponding Change in Law liabilities must be allocated equitably across beneficiaries on a pro rata basis, without preference based on PPA chronology or the Section 62/Section 63 route.

RattanIndia Power Ltd. v Maharashtra State Electricity Distribution Co. Ltd., 2025 SCC OnLine SC 2936

A remand order does not "petrify" the law. If a higher court clarifies a legal principle (such as the method of calculating Carrying Cost) while a remanded proceeding is still pending, the lower forum is bound to apply the law as it stands at the time of adjudication, rather than being restricted by the "guidance" in the initial remand order.

Carrying Cost is based on the principle of restitution, aimed at restoring the affected party to the same economic position as if the Change in Law had not occurred. Since the PPA's Late Payment Surcharge (LPS) clause specifically provided for monthly compounding, the same logic must apply to carrying costs to ensure full financial restoration.

TANGEDCO v Penna Electricity Ltd., 2025 SCC OnLine SC 2825

Section 61(d) of the Electricity Act mandates recovery of the cost of electricity in a reasonable manner. Denial of fixed charges for continuous supply during the open cycle period would result in permanent loss to the generator and would be contrary to the statutory framework. Further,



PPAs are subject to regulatory oversight



Existing PPAs must be modified and aligned with applicable regulations made by the Electricity Regulatory Commissions



Contractual provisions inconsistent with regulations cannot prevail

M.K. Ranjitsinh v Union of India, 2025 SCC OnLine SC 2899

Supreme Court largely accepted the expert committee's recommendation to rationalize the Great Indian Bustard (GIB) areas i.e., for

- 1 Rajasthan, the Priority Area is modified from 13,163 sq. kms. to 14,013 sq. kms. (adding 850 sq. km.)
- 2 Gujarat, the revised Priority Area is fixed at 740 sq. km. Further, the Supreme Court relaxed the earlier mandatory direction for deployment of Bird Flight Diverters.

Restrictions have also been imposed on future development, including

- A prohibition on new wind power projects and new overhead transmission lines, except through dedicated power corridors, with a limited carve-out for lines of 11 kV and below in the 100-meter buffer around the settlement.
- Restriction on development of new solar parks or solar power plants exceeding 2 MW.
- Expansion of existing solar parks within the revised priority areas.





Key Judgments – The Appellate Tribunal for Electricity

Punjab State Power Corporation Ltd. vs Punjab State Electricity Regulatory Commission & Anr., Appeal No. 215 of 2020

Under the applicable Supply Code, a distribution licensee is empowered to classify or reclassify consumers into approved tariff categories without requiring prior approval of the concerned ERC. Therefore, retrospective billing to recover tariff amounts that escaped collection on account of inadvertent error or misclassification is permissible, provided the revised billing accurately reflects the consumer's actual load characteristics and pattern of usage.

Nuclear Power Corporation of India vs Central Electricity Regulatory Commission & Anr., Appeal No. 134 of 2024

Fixation of rates and tariff for electricity generated from atomic power stations is an exclusive function of the Central Government under Section 22(1)(b) of the Atomic Energy Act, 1962. This exclusivity is reinforced by the non-obstante clause contained in aforesaid Section 22 and by Section 173 of the Electricity Act, which accords primacy to the Atomic Energy Act, 1962, in the event of any inconsistency between the two statutes. Accordingly, CERC does not possess jurisdiction to regulate or determine tariff for atomic power stations and also lacks jurisdiction under Section 79(1)(f) to adjudicate disputes "connected with" such tariff determination.

Surat Citizens Council Trust v Gujarat Electricity Regulatory Commission & Ors., Review Petition No. 1 of 2025 in Appeal No. 341 of 2017

Review under Section 114 of the Code of Civil Procedure, 1908 (CPC), read with Order XLVII Rule 1 of the CPC lies only on:

- A** Discovery of new and important matter/evidence not within knowledge despite due diligence.
- B** Error apparent on the face of record.
- C** Any other sufficient reason (analogous to the specified grounds).

Review is not an appeal in disguise and an "error apparent" must be self-evident, not requiring a process of reasoning.

K.M. Sugar Mills Ltd. v Uttar Pradesh Electricity Regulatory Commission & Ors., Appeal No. 224 of 2016

Only generating units actually supplying power under a PPA are to be considered for weighted average tariff calculations. Captive plants not connected to the grid are excluded, even if mentioned in the PPA due to typographical or factual errors. Further, regulatory bodies, such as ERCs, must address the substantive reliefs sought in petitions and cannot dispose of matters by focusing solely on incidental or secondary prayers.

Haldia Energy Ltd. v West Bengal Electricity Regulatory Commission, Appeal No. 141 of 2023

It is ERCs duty to ensure that only prudent costs are passed on to consumers. However, ERC is duty-bound to allow such costs that are necessary for the successful commissioning of the project after carrying out a prudence check.

Haldia Energy Ltd. v West Bengal Electricity Regulatory Commission, Appeal No. 95 of 2020

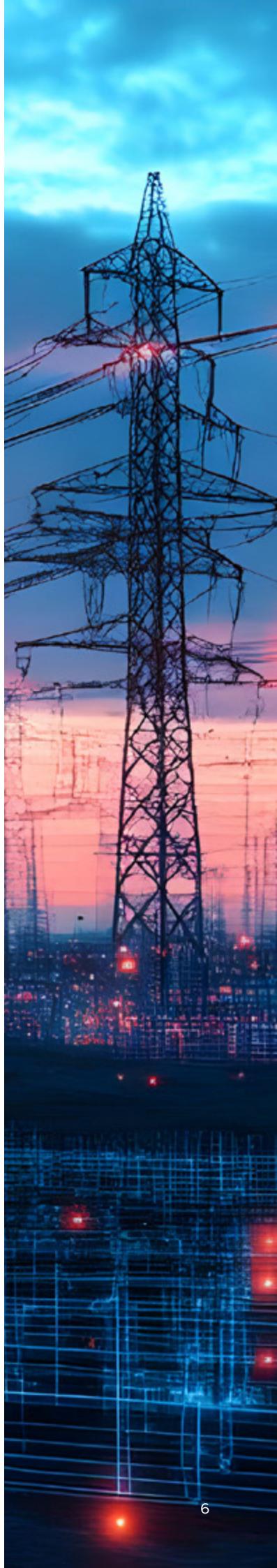
APTEL allowed various change in law and force majeure related claims, while holding that ERC ought to take into account all documents submitted by an applicant while approving project cost(s) that have been prudently incurred by such applicant. Consequentially, the proportionate Interest During Construction on the costs upheld was also allowed.

Adyah Solar Energy Pvt. Ltd. v KERC & Anr. and batch, Appeal No. 289 of 2022 and batch

Procurer of electricity cannot approbate and reprobate, i.e., having accepted the benefit of lower tariff/higher generation enabled by higher DC capacity, it cannot then deny the associated Change in Law compensation. Change in Law relief is rooted in the restitution/time value of money principle, and that denial of carrying cost defeats full restitution. However, enforcement of this judgment would remain subject to the Supreme Court's final judgment in Civil Appeal No. 8880 of 2022: Telangana Northern Power Distribution Company Ltd. v Parampujya solar energy Pvt. Ltd.

Tamil Nadu Spinning Mills Association v Tamil Nadu Electricity Regulatory Commission & Ors., Appeal No. 176 of 2016 and batch

Banking is an incentive backed by the Electricity Act, which obliges ERCs to promote renewable energy. ERCs are bound to act in compliance with the existing laws and cannot go beyond the provisions of the Electricity Act.





BSES Yamuna Power Limited & Anr. v Delhi Electricity Regulatory Commission

Relief cannot be granted on considerations of equity or hardship in derogation of the regulatory framework and doctrines such as approbate and reprobate or estoppel cannot operate against statutes or binding regulations. Further, regulatory assets must be accompanied by a time-bound recovery roadmap, and that failure of ERCS to implement final directions of APTEL or the Supreme Court warrants corrective intervention.

Chettinad Power Corporation Private Ltd. v Power Grid Corporation of India Limited & Ors., Appeal No. 99 of 2017

The word "May" used in Regulation 12(5) of Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Mid-term Open Access in the Inter-State Transmission and related matters) Regulations, 2009, does not convey any mandatory force and the said Regulation cannot be read to mean that CTUIL must necessarily encash the Bank Guarantee in all cases where the applicant withdraws the LTA application or relinquishes its Long-term Open Access (LTA) rights prior to operationalization or fails to sign LTA agreement within the stipulated period. Hence, the encashment of Bank Guarantee submitted along with LTA application is required to be assessed basis the facts and circumstances of each case and shall have to be determined by the CTUIL having regard to all those facts and circumstances.

JSW Renew Energy Five Ltd. v CERC & Ors., Appeal Nos. 26 & 54 of 2025

Even though the Guidelines for Procurement and Utilization of Battery Energy Storage Systems as part of Generation, Transmission and Distribution assets, along with Ancillary Services (BESS Guidelines), do not contain a specific clause on market alignment (unlike earlier guidelines), they acknowledge a downward trend in costs of solar panels and technology, making aggressive cost reductions likely. Therefore, CERC, while exercising the power of adoption of tariff under Section 63, can, in the exercise of their general regulatory power under Section 79(1), reject the tariff which is not aligned with the market and is not in the interest of the public at large. The rights, if any, of the successful bidder are inchoate till the tariff is adopted by the appropriate commission under Section 63 of the Electricity Act, and their right to execute and implement the project gets crystallized only on and after the tariff is adopted by the appropriate commission.

Adani Power Ltd. v Central Electricity Regulatory Commission & Ors., Appeal Nos. 76 of 2020 & 98 of 2023

Expenditure incurred towards replacement of Glass Reinforced Plastic (GRP) sea-water return pipeline with an MS pipeline, mandated by the State Pollution Control Board, constitutes expenditure towards statutory compliance is admissible as per the regulatory framework. Further, the levy of electricity tax on auxiliary consumption, introduced after execution of the PPA, was held to be a Change in Law, entitling reimbursement from procurers, subject to prudence checks.

Bihar State Power Transmission Company Ltd. v Bihar Electricity Regulatory Commission & Ors., Appeal No. 59 of 2022

APTEL accorded primacy to the CERC regulations and declined to treat them as merely having a guiding or persuasive value. Since the Bihar Electricity Regulatory Commission (BERC) regulations themselves expressly incorporate a reference to the CERC Regulations, APTEL held that the CERC regulations would have an overriding and binding effect.

NTPC Limited v Central Electricity Regulatory Commission & Anr., Appeal No. 97 of 2022

LPS is leviable only in cases of deliberate or unjustified delay in payment of correctly raised bills. Where a bill is challenged on valid grounds and later corrected by regulatory orders, the period of non-payment prior to correction cannot be treated as default and imposition of LPS in such circumstances is not attracted.

Federation of Industries Associations, Silvassa v Joint Electricity Regulatory Commission for the State of Goa and Union Territories & Anr., Appeal No. 48 of 2018

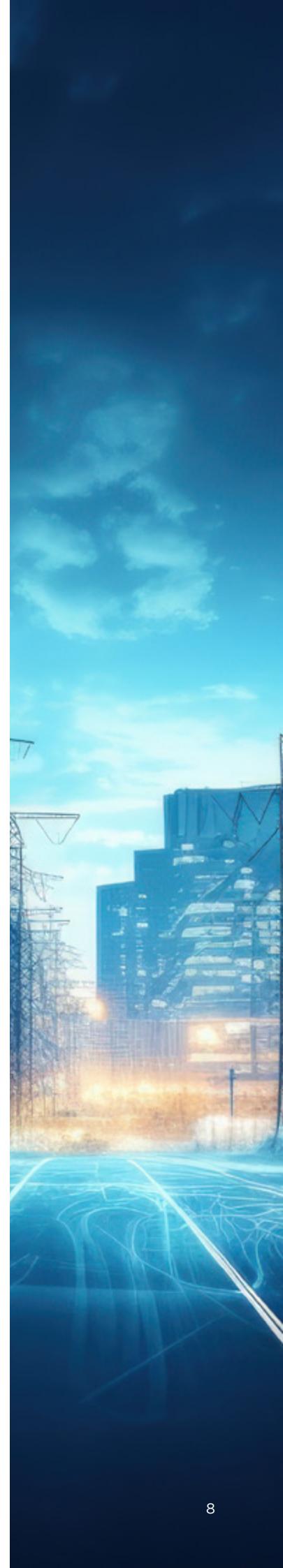
ERCs, while balancing the interests of utilities and consumers under Sections 61 and 62 of the Electricity Act are required to ensure parity in treatment of surplus and deficit so as to maintain regulatory neutrality and prevent unjust enrichment of the licensee. The principle of time value of money applies uniformly to both revenue deficit and revenue surplus, hence no regulatory asymmetry can arise qua carrying cost in cases of deficit and surplus.

Tata Power Delhi Distribution Ltd. v Delhi Electricity Regulatory Commission, Appeal No. 168 of 2018

Open Access Charges deducted as Non-Tariff Income must be based on actual receipts and not on accrual basis. Carrying cost is a mandatory component of ARR and must be included while computing working capital, as the exclusion of the same is unsustainable. Further, the error committed by Delhi Electricity Regulatory Commission in considering revenue collected instead of revenue billed was corrected, with consequential carrying costs.

Asian Fine Cements Pvt. Ltd. v Punjab State Electricity Regulatory Commission & Ors., Appeal No. 258 of 2017

Section 46 of the Electricity Act authorises recovery only of expenses "reasonably incurred" by a distribution licensee for providing an electric line or plant for supply. Such authority does not extend to recovery of costs for existing infrastructure where no fresh expenditure has been incurred to provide the consumer's connection.





Maharashtra State Electricity Distribution Co. Ltd. v Central Electricity Regulatory Commission & Anr., Appeal No. 232 of 2025

Once an issue is expressly raised before the Supreme Court and rejected, it cannot be reopened before CERC or APTEL under the guise of a fresh cause of action.

APTEL held that in the given facts, the principles of constructive res judicata and finality of litigation squarely apply and CERC was correct in holding the petition as not maintainable. Maharashtra State Electricity Distribution Company Limited could not seek a declaration of validity of termination after having failed to obtain such relief within the limitation period and after repeated adverse findings by appellate forums. Liability for payment of capacity charges cannot be avoided when the PPA had been held to subsist by binding judicial determinations.

Noida Power Company Ltd. v Uttar Pradesh Electricity Regulatory Commission & Anr., Appeal Nos. 98 of 2021 and 465 of 2023

Tariff determination, though primarily legislative/regulatory and akin to price-fixation, also has a quasi-judicial character because the tariff order is appealable under Section 111(1) of the Electricity Act.

Appropriate Commission is not required to give elaborate, judgment-style reasons in tariff orders under Sections 62 and 64, unless regulations so stipulate. However, the tariff order must briefly and clearly indicate the reasons for accepting, modifying or rejecting each claim, including claims that are fully allowed, so that appellate scrutiny under Section 111 is effective. Appropriate Commission cannot set up a completely new case in Appeal, nor justify its order on reasons not discernible from the original record. Further, past tariff orders, once trued-up and final, cannot be reopened in subsequent tariff/true-up proceedings.

Bhopal Dhule Transmission Company Ltd. v Central Electricity Regulatory Commission & Ors., Appeal Nos. 272 of 2018 & 24 of 2021

Liability arising from mismatch between interconnected transmission assets is governed by the statutory tariff framework and not solely by contractual provisions contained in a Transmission Service Agreement. Force Majeure clauses under a TSA operate strictly inter se the contracting parties and cannot be invoked to absolve a transmission licensee of liability towards another transmission licensee with whom there is no contractual relationship. In the absence of specific regulations dealing with mismatch liability between transmission licensees, CERC is empowered to allocate such liability in exercise of its regulatory jurisdiction provided such allocation is consistent with the Electricity Act and the Tariff Regulations.

Shree Ambika Sugars Ltd. & Ors. v Tamil Nadu Electricity Regulatory Commission & Anr., Appeal Nos. 139 of 2016 & 375 of 2017

Tariffs determined for a control period must ordinarily apply from the commencement of that control period, and cannot be deferred merely to the date of filing of the tariff petition, as such deferment would unfairly penalise generators for delays not attributable to them. Further, carrying cost is payable where a generator is deprived of timely recovery of lawful dues. Since the revised tariff was directed to apply from 01.04.2010, the sugar mills were entitled to carrying cost on the differential tariff amount from that date.



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