

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.41/MP/2023**

Subject : Petition under Section 79 of the Electricity Act, 2003 to challenge the Respondents' wrongful action of insisting upon additional requirements, which are contrary to contractual terms and provisions of the Power Purchase Agreement, for processing invoices and the communications of the Respondents calling upon solar/ wind power generators to obtain separate connections from Distribution Companies and avail power as per prevailing tariff category during the periods when their plant does not generate electricity.

Petitioner : Solar Power Developers Association (SPDA)

Respondents : Solar Energy Corporation of India Limited and Ors.

Date of Hearing : **28.4.2025**

Coram : Shri Jishnu Barua, Chairperson  
Shri Ramesh Babu V., Member  
Shri Harish Dudani, Member  
Shri Ravinder Singh Dhillon, Member

Parties Present : Shri Ankur Sood, Advocate, SPDA  
Ms. Romila Mandal, Advocate, SPDA  
Shri Dhaman Trivedi, Advocate, SPDA  
Shri Rajiv Srivastava, Advocate, UP SLDC  
Shri Abhishek Verma, UP SLDC  
Ms. Priya Dhankar, Advocate, NTPC  
Shri Abhishek Nangia, Advocate, NTPC  
Shri Aniket, Advocate, NTPC

**Record of Proceedings**

Learned counsel for the Petitioner submitted that the present Petition raises an industry-wide issue regarding the treatment of auxiliary power consumption by solar power developers, as required to be settled by the Commission in a uniform manner for all solar power producers under the Jawaharlal Nehru National Solar Mission. Learned counsel submitted that the consistent practice across the industry has been to treat the auxiliary consumption of electricity by solar power producers through the mechanism of netting of energy. However, the Respondents, UP Discoms, have been writing to the Petitioner to register as 'consumers' of distribution companies for their auxiliary consumption. Such letters/communication are not only against the standard industry practice but also contrary to the provisions of the PPAs and the UPERC (Captive and Renewable Energy Generating Plants) Regulations, 2019 ("the UPERC Regulations 2019"). Learned counsel further submitted that UPERC Regulations, as relied upon in the impugned communications/letters, only apply to the plants/projects

having PPA with the State of Uttar Pradesh for supply of power generated to the State Discoms, wherein the tariff for the sale of power has been determined by the UPERC. However, in the present case, neither the Petitioner's members have entered into a PPA with UP Discoms nor has the tariff been determined by the UPERC. Learned counsel pointed out that despite being given number of opportunities, the Respondents, UP Discoms, have neither entered an appearance nor filed any reply in the matter.

2. Learned counsel for Respondent No.5, UP SLDC, submitted that the concerned entity has to pay for the energy imported for auxiliary consumption, and it cannot be argued that under the extant policy, no liability is attracted. Learned counsel submitted that the Respondent is only concerned with an accounting of the energy and may be permitted to file its reply in the matter.

3. Learned counsel for the Respondent, NTPC, submitted that the Respondent has already filed its reply. Learned counsel submitted that as per the Respondent, the UPERC Regulations, 2019 apply to the solar power producers of the Petitioner herein and consequently, they are liable to get the appropriate load sanctioned by the respective Discoms against which the billing is to be done based on the applicable tariff fixed by UPERC for such Discoms. Learned counsel submitted that on the draft UPERC Regulations, 2019, one of the solar power producers had commented that the power requirement for auxiliary consumption of the solar power plant ought to be met by netting of energy exported by the plant during the month. However, UPERC expressly disallowed the netting off energy in the final Regulations. Learned counsel added that, contrary to the averment of the Petitioner, the UPERC Regulations, 2019, do not constitute a Change in Law event under the PPAs.

4. In response, the learned counsel for the Petitioner reiterated that the UPERC Regulations, 2019, do not apply to the Petitioner's members.

5. Having regard to the submissions made by the learned counsel for the parties, the Commission opined that the views of the Respondents, UPPCL and UP Discoms, are indeed essential and necessary for addressing the issue involved. The Commission also expressed its displeasure over the conduct of the Respondents, UP DISCOMS, in failing to appear as well as file a reply in the matter. The Commission, however, deemed it appropriate to permit the Respondents, UPPCL & UP Discoms, a last opportunity to file their respective replies in the matter within three weeks with a copy to the Petitioner, who may file its rejoinder, if any, within two weeks thereafter. The Respondent, UP SLDC, was also permitted to file its reply within the above timeline and was further instructed to take up the matter of filing the reply with UPPCL and UP Discoms.

6. The Petition will be listed for hearing on **19.6.2025**.

**By order of the Commission**  
**Sd/-**  
**(T.D. Pant)**  
**Joint Chief (Law)**