

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 318/MP/2023

Subject : Petition for approval of "Change in Law" event and for offset the financial/ commercial impact on account of imposition of ecosystem charge for commercial usage of natural water as a result of Ecosystem Services Rules, 2022 dated 18.7.2022 issued under Sikkim Forests, Water Courses and Road Reserve (Preservation and Protection) Act 1988 and in terms of Articles 9.8 and 11 of the PPA entered by the Petitioner in relation to Teesta-III Hydroelectric Project (1200 MW) with PTC India Limited on 28.7.2006 read with Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021.

Petitioner : Sikkim Urja Limited (SUL)

Respondent : PTC India Limited (PTCIL) and Ors.

Date of Hearing : **10.9.2026**

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

Parties Present : Shri Tabrez Malawat, Advocate, SUL
Ms. Ankita Bafna, Advocate, SUL
Shri Syed Hamza, Advocate, SUL
Ms. Rupali Jain, Advocate, SUL
Ms. Poorva Saigal, Advocate, PSPCL
Shri Rishabh Saxena, Advocate, PSPCL
Shri Shubham Sharma, Advocate, Haryana Utilities
Ms. Shradhha Deshmukh, Advocate, Rajasthan Discoms
Shri Sanchit Singh, Advocate, Rajasthan Discoms
Shri Sarthak Gupta, Advocate, Rajasthan Discoms
Shri Ravi Kishore, Advocate, PTC
Ms. Deepti Dash, Advocate, PTC
Shri Abhishek Kumar, Advocate, UPPCL
Shri Aniket Kanhaua, Advocate, UPPCL
Shri Nived Verapaneni, Advocate, UPPCL
Shri Shubham Mudgil, Advocate, UPPCL
Shri Aditya Pratap Singh, Advocate, UPPCL

Record of Proceedings

The learned counsel for the Petitioner submitted that the Petition has been filed seeking recovery of costs towards commercial usage of water under the Ecosystem Rules, 2022, issued by the Government of Sikkim ('GoS'), treating the same as a



Change in Law ('CIL') event under the PPA dated 28.7.2006, and for the grant of compensation for the resulting financial impact. Learned counsel further referred to the Ecosystem Rules, 2022, issued by the GoS and reiterated the submissions made in the pleadings. He also submitted that, pursuant to the said Rules, the Petitioner had issued the first CIL notice on 13.3.2023 to the Respondent, PTC, who thereafter issued the said notice to all the beneficiaries. The learned counsel also submitted that, pursuant to the said Rules, the Petitioner had already paid the amount in accordance therewith in 2023 itself.

2. The learned counsel for the Respondent, PSPCL, submitted that a proceeding challenging the vires of the Ecosystem Service Rules 2022 has been pending before the Hon'ble Sikkim High Court since 2022, and it may have some bearing on the present Petition. She further added that the law imposing similar levies passed by two States has already been set aside as unconstitutional. The learned counsel further submitted that the claims sought to be raised by the Petitioner are also barred by limitation, since the supplementary claims have been raised after an inordinate delay of more than 3 years from the alleged payment made by SUL to the GoS. The learned counsel further submitted that PSPCL has not procured or scheduled any electricity from SUL's generating station at any point of time, as there cannot be any procurement of power without the approval of the PSERC. Although the Commission, *vide* order dated 30.6.2026 in Petition No. 188/MP/2019, has held that the PSA was binding and, consequently, PSPCL is liable to pay the damages till the occurrence of the GLOF event, PSPCL has preferred an appeal before the APTEL, and the application for stay of the order is next listed for hearing on 28.9.2026. She added that no liability whatsoever can be fastened upon PSPCL towards the alleged CIL claim in the absence of any scheduling or procurement of power from SUL's generating station during the relevant period. The learned counsel fairly submitted that, considering that no power is being scheduled or availed during the relevant period, there cannot be any question of payment of CIL or Tariff Adjustment to PTC pursuant to the Ecosystem Charges, 2022.

3. The learned counsel for the Respondent, UPPCL, submitted that the proceedings challenging the vires of the Ecosystem Service Rules, 2022 have been pending before the Hon'ble Sikkim High Court and the matter is next listed for hearing in the month of October itself. The learned counsel further submitted that, in view of the fact that the laws imposing similar levies enacted by two States have already been struck down as unconstitutional, any decision at this stage regarding payment of the amount may prejudice the Respondents' ability to recover the same in the event the levy is ultimately held to be *ultra vires*. Accordingly, the learned counsel for the Petitioner prayed that the matter may be listed after October.

4. While supporting the submissions made by the learned counsel for the Respondent, UPPCL, the learned counsel for the Respondent, Haryana Utilities, also highlighted the difficulties that may arise in recovering the amount paid in the event the levy is ultimately held to be *ultra vires*. Accordingly, the learned counsel also requested that the matter be listed after October.

5. In response, the learned counsel for the Petitioner submitted that the payment had been made four years ago and that the Commission may decide the matter subject to the outcome of the proceedings challenging the vires of the Ecosystem Services

Rules, 2022, pending before the Hon'ble Sikkim High Court. The learned counsel vehemently submitted that an appropriate mechanism may be devised for the recovery of the amount subject to the outcome of the proceedings pending before the Hon'ble High Court.

6. In response to a specific query from the Commission, the learned counsel for the Respondent, PTC, urged for two weeks' time to file a short affidavit setting out the role and obligations of PTC in relation to the CIL and energy bill matters.

7. After hearing the learned counsel for the parties, the Commission permitted the Respondent, PTC, to file its affidavit, as above, within two weeks with a copy to the Petitioner, who may file its rejoinder, if any, within two weeks thereafter.

8. The Petition will be listed for further hearing on **19.11.2026**.

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