

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 34/MP/2018

Subject : Petition under Section 79 of the Electricity Act, 2003 and Article 12 read with Article 16.3.1 of the Power Purchase Agreements executed by the Petitioner and NTPC Limited dated 29.4.2016 seeking relief on account of a 'Change in Law' viz. the introduction of Goods and Services Tax laws at the Central and State levels, resulting in additional recurring and non-recurring expenditure in the form of an additional tax burden to be borne by the Petitioner after the Effective Date of the Power Purchase Agreements.

Petitioner : Azure Power Jupiter Private Limited (APJPL)

Respondents : NTPC Limited & Ors.

Petition No. 47/MP/2018

Subject : Petition under Section 79 of the Electricity Act, 2003 and Article 12 read with Article 16.3.1 of the Power Purchase Agreement executed by the Petitioner and Solar Energy Corporation of India Limited dated 26.09.2016 seeking relief on account of a 'Change in Law' viz. the introduction of Goods and Services Tax laws at the Central and State levels, resulting in additional recurring and non-recurring expenditure in the form of an additional tax burden to be borne by the Petitioner after the Effective Date of the Power Purchase Agreement.

Petitioner : Azure Power Thirty Six Private Limited (APT6PL)

Respondents : Solar Energy Corporation of India Limited & Ors.

Petition No. 52/MP/2018 along with IA No. 41/2020

Subject : Petition under Section 79 of the Electricity Act, 2003 and Article 12 read with Article 16.3.1 of the Power Purchase Agreement executed by the Petitioner and Solar Energy Corporation of India Limited dated 21.10.2016 seeking relief on account of a 'Change in Law' viz. the introduction of Goods and Services Tax laws at the Central and State levels, resulting in additional recurring and non-recurring expenditure in the form of an additional tax burden to be borne by the Petitioner after the Effective Date of the Power Purchase Agreement (Interlocutory Application for seeking clarification of the order dated 19.09.2018)

Petitioners : Azure Power Venus Private Limited (APVPL)
Respondents : Solar Energy Corporation of India Limited & Ors.

Petition No. 13/MP/2018

Subject : Petition under Section 79 of the Electricity Act, 2003 and Article 12 read with Article 16.3.1 of the Power Purchase Agreements executed by the Petitioner and NTPC Limited dated 10.08.2016 seeking relief on account RoP in Petition No. 34/MP/2018 & Ors. of 'Change in Law' viz. the introduction of Goods and Services Tax laws at the Central and State levels, resulting in additional recurring and non-recurring expenditure in the form of an additional tax burden to be borne by the Petitioner after the Effective Date of the Power Purchase Agreements

Petitioner : Azure Power Thirty Seven Private Limited (AP37PL)

Respondents : NTPC Limited & Anr.

Petition No. 211/MP/2018

Subject : Petition under Section 79 of the Electricity Act, 2003 and Article 12 read with Article 16.3.1 of the Power Purchase Agreements executed by the Petitioner and NTPC Vidyut Vyapar Nigam Limited dated 10.01.2011 seeking relief on account of a 'Change in Law' viz. the introduction of Goods and Services Tax laws at the Central level and change in the rate of Service Tax, resulting in additional recurring expenditure in the form of an additional tax burden to be borne by the Petitioner after the Effective Date of the Power Purchase Agreements.

Petitioner : Azure Power (Rajasthan) Private Limited (Azure Rajasthan)

Respondents : NTPC Vidyut Vyapar Nigam Limited & Ors.

Petition No. 232/MP/2017

Subject : Petition under section 79 of the Electricity Act, 2003 for revision of tariff on account of increase in capital cost relating to the provisions of Power Purchase Agreements (PPAs) dated 8.8.2016.

Petitioners : ACME Mahbubnagar Solar Energy Private Limited (AMSEPL)

Respondents : NTPC Limited & Anr.

Petition No. 233/MP/2017

Subject : Petition under section 79 of the Electricity Act, 2003 for revision of tariff on account of increase in capital cost relating to the provisions of Power Purchase Agreements (PPAs) dated 09.08.2016

Petitioner : ACME Yamunanagar Solar Power Private Limited (AYSPPL)

Respondents : NTPC Limited & Anr.

Date of Hearing : **23.6.2026**

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

Parties Present : Shri Aniket Prasoon, Advocate, Azure & ACME
Shri Aman Sheikh, Advocate, Azure & ACME
Ms. Sunanda Chowdhury, Advocate, Azure & ACME
Shri Sanjay Agrawal, Advocate, Rajasthan Discoms
Shri Gautam Kumar Laha, Advocate, Rajasthan Discoms
Ms. Manpreet Manchanda, Advocate, Rajasthan Discoms
Shri Suman Sengupta, Advocate, Rajasthan Discoms
Ms. Anushree Bardhan, Advocate, SECI
Ms. Ritika Singh, Advocate, SECI
Ms. Somya Sahni, Advocate, SECI
Ms. Rashmi Vaish, Advocate, SECI
Ms. Swapna Seshadri, Advocate, PSPCL
Shri Devyani Prasad, Advocate, PSPCL

Record of Proceedings

At the outset, the learned counsel for the Petitioners submitted that they have complied with the directions of the Commission, as issued vide the Record of Proceedings dated 24.4.2026 and filed written submissions in these remand matters. Learned counsel mainly submitted as under:

(i) The Commission, *vide* order dated 9.10.2018, has acknowledged that the promulgation of the GST Laws qualifies as a Change in Law event in terms of Article 12 of the PPAs, and allowed the claim of the Petitioner to set off the adverse impact on account of the promulgation of GST Laws on the Engineering Procurement and Construction ("EPC") costs during the construction phase. However, the Commission disallowed the claims relating to increased O&M costs .

(ii) The order dated 9.10.2018 was challenged by the Petitioners before the APTEL vide Appeal No. 394 of 2018 to the extent of disallowance of the

Petitioner's Change in Law claim towards the O&M period, along with carrying cost. The APTEL, while relying on the Parampujya judgement, remanded the matter to the Commission on 27.5.2025 for adjudication of the compensation payable to the Petitioner towards GST Laws for the period post-COD, i.e., O&M period; and carrying cost on such compensation, reckoned from the date of impact until the date of actual payment. It was also clarified by the APTEL that the order passed by the Commission in the present remand proceeding will be subject to the orders/outcome of the Civil Appeal No. 8880 of 2022 pending before the Hon'ble Supreme Court.

(iii) The Respondent DISCOMs, namely JVVNL, SPDCTL and NPDCTL, have preferred Civil Appeal Nos. 10044 of 2025 and 12585-12586 of 2025, respectively, before the Hon'ble Supreme Court and the Hon'ble Supreme Court vide its Orders dated 13.8.2025 and 19.9.2025 in Civil Appeal Nos. 10044 of 2025 and 12585-12586 of 2025, respectively, stayed the enforcement of the Commission's order dated 9.10.2018, which pertained solely to the EPC/ construction period Change in Law claims. The Hon'ble Supreme Court, while passing the orders, has not restrained the adjudication of the present remand proceedings before the Commission. Only the enforcement of the order dated 9.10.2018 has been stayed, and not the adjudicatory exercise arising from the remand order passed by the APTEL, which is limited to the Commission directing reconciliation for the Change in Law claims for the post-COD/ O&M period.

(iv) The Commission has, in a catena of orders passed in similarly situated matters involving post-COD Change in Law claims on account of GST, directed determination and reconciliation of such claims with respect to the post-COD/ O&M period, while clarifying that enforcement shall remain subject to the final outcome of the Parampujya batch of appeals pending before the Hon'ble Supreme Court. Thus, in the present cases as well, the Respondents may be directed to carry out the determination and reconciliation of the incremental GST impact on post-COD O&M services, along with the associated carrying cost, subject to the outcome of the Parampujya appeals before the Hon'ble Supreme Court.

2. Learned counsel for the Respondent, SECI, submitted that the enforcement of the order passed by the Commission in terms of the Parampujya Judgment has been stayed by the Hon'ble Supreme Court. However, the Commission has passed similar directions for the reconciliation of Change in Law claims, subject to the outcome of the Parampujya batch appeals by the Hon'ble Supreme Court.

3. Learned counsel for the Respondents, Rajasthan Discoms, in Petition No. 211/MP/2018, submitted that the Respondents have already filed their written submissions in the matter.

4. Learned counsel for the Respondent, PSPCL, in Petition No. 211/MP/2018, submitted that the issues of Change in Law claim on the O&M expenses and carrying cost are presently pending before the Hon'ble Supreme Court. In view of this, the

Commission may either allow the reconciliation process as suggested by the Petitioners or, in the alternative, await the outcome of the Hon'ble Supreme Court in the Parampujya batch appeals. She also sought additional time to file the written submissions in the matter.

5. After hearing the learned counsels for both sides, the Commission deemed it appropriate to permit one last opportunity to all the Respondents to file their written submissions, if not already done so, within three days.

6. Subject to the above, the matters were reserved for order.

By order of the Commission

Sd/-

(T. D. Pant)
Joint Chief (Law)