

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 79/MP/2023

Subject : Petition under Section 79(1)(b) and (f) and Section 63 of the Electricity Act, 2003 for adjudication and recovery of the amount payable by Tata Power Company Limited on account of the Sellers Event of Default in terms of Article 14.1(iv) as read with 14.3.4 of the Power Purchase Agreement dated 22.04.2007.

Petitioner : Punjab State Power Corporation Limited (PSPCL).

Respondent : Tata Power Company Limited (TPCL) and Ors.

Date of Hearing : **13.1.2026**

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

Parties Present : Shri M. G. Ramachandran, Sr. Advocate, PSPCL
Ms. Poorva Saigal, Advocate, PSPCL
Ms. Pallavi Saigal, Advocate, PSPCL
Shri Rishabh Saxena, Advocate, PSPCL
Ms. Shree Dwivedi, Advocate, PSPCL
Shri Sanjay Sen, Sr. Advocate, TPCL
Shri S. Venkatesh, Advocate, TPCL
Shri Shryeshth Sharma, Advocate, TPCL
Shri Aashwyn Singh, Advocate, TPCL
Ms. Shubhi Sharma, Advocate, TPCL
Ms. Shambhavi Jha, Advocate, TPCL
Ms. Vandana Ragwani, Advocate, TPCL

Record of Proceedings

At the outset, the learned senior counsel for the Petitioner submitted that the Respondent, TPCL, vide its affidavit dated 18.8.2025, has stated that the present case pertains to the alleged breach of contractual obligations, and since it is in the nature of a non-tariff dispute, it requires to be referred to arbitration. However, the issue involved herein pertains to TPCL's failure to maintain the Average Availability of 65% as per Article 14.1(iv) of the Power Purchase Agreement and the resulting reduction in the capacity charges under Article 14.3.4. Thus, as per the Petitioner, the dispute clearly relates to the tariff reduction and is a tariff-related issue and hence, does not require to be referred to arbitration.

2. In response, the learned senior counsel for the Respondent, TPCL, referred to the order dated 19.11.2025 passed by the Commission in Petition No. 85/MP/2022 & batch matters, and made detailed submissions. He submitted that in the said order,



the Commission has *inter alia* held that so long as the primary dispute pertains to an alleged breach of contractual obligations, which does not have any impact or bearing on tariff, such dispute would qualify as non-tariff dispute and the prayers seeking direction of the amount due and payable and/or refund of amount paid/withheld even towards penalty, capacity charges, etc., which are merely consequential/ancillary to the primary dispute, would not make it a tariff dispute. He further referred to the prayers and allegations made in the Petition and submitted that the prayers in this case are simply money claims raised by alleging a breach of Article 14.1(iv) of the PPA on the part of TPCL, which is nothing but an alleged breach of contractual obligation and thus constitutes a non-tariff dispute. Accordingly, the learned senior counsel submitted that, since the dispute in the present matter clearly arises out of an alleged breach of contractual obligations, the same is required to be referred to arbitration.

3. Due to a paucity of time, the arguments of the learned senior counsel for the Petitioner in rejoinder could not commence, and the matter remained part-heard.

4. The matter will be listed for hearing on **5.3.2026**.

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