

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

IA No. 89/2025

in

Petition No: 256/MP/2023

Coram:

Shri Jishnu Barua, Chairperson

Shri Ramesh Babu V., Member

Shri Harish Dudani, Member

Shri Ravinder Singh Dhillon, Member

Date of Order: 31st January, 2026

In the matter of:

Application under Regulation 38 read with Regulation 26(3)(b) of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 2023 seeking amendment of Petition No. 256/MP/2023.

And in the matter of:

Lakadia-Vadodara Transmission Project Limited,
DLF Cyber Park, Tower-B,
9th Floor, Udyog Vihar, Phase-III, Sector 20,
Gurugram – 122008

...Petitioner

Vs.

- 1. Adani Wind Energy Kutchh One Limited,**
(Formerly, known as Adani Green Energy MP Limited)
Through its Authorised Representative
Adani House, 4th Floor, South Wing,
Shantigram, S.G. Highway,
Ahmedabad - 382421
- 2. Adani Green Energy Limited,**
Through its Authorised Representative
Adani House, 4th Floor, South Wing,
Shantigram, S.G. Highway,
Ahmedabad – 382421
- 3. Netra Wind Private Limited,**
Through its Authorised Representative
B-504, Delphi Building,
Orchard Avenue, Sfactor-5,
Hiranandani Gardens, Powai,
Mumbai- 400076

- 4. Central Transmission Utility of India Limited,**
Through its Authorised Representative
Saudamini, Plot No.2, Sector 29,
Near IFFCO Chowk,
Gurgaon-122001
 - 5. National Load Despatch Centre,**
Through its Chief Engineer
B9, Qutub Institutional Area,
Katwaria Sarai / 1st Floor
New Delhi – 110016
 - 6. Madhya Pradesh Power Management Company Limited,**
Through its Managing Director
Block No. 11, Ground Floor,
Shakti Bhawan Vidyut Nagar, Rampur, Jabalpur,
Madhya Pradesh - 482008.
 - 7. Chhattisgarh State Power Distribution Company Limited,**
Through its Managing Director
P.O. Sunder Nagar, 3rd Floor Seva Bhavan
Dangania, Raipur,
Chhattisgarh - 492013.
 - 8. Maharashtra State Electricity Distribution Company Limited,**
Through its Managing Director
Prakashgad, 4th Floor, Plot No. G-9,
A.K. Marg, Bandra (East),
Mumbai - 4000051.
 - 9. Gujarat Urja Vikas Nigam Limited,**
Through its Chairman Commercial Department,
2nd Floor, Sardar Patel Vidyut Bhawan,
Race Course, Vadodara,
Gujarat - 390007.
 - 10. Electricity Department, Government of Goa,**
Through its Chief Electrical Engineer
3rd Floor, Vidyut Bhawan, Panaji,
Goa - 403001.
 - 11. DNH and DD Power Corporation Limited,**
(Formerly known as DNH Power Distribution Corporation Ltd.)
Through its Managing Director
Vidhyut Bhavan, 66 KV Road, Near Secretariat, Amli, Silvassa,
U.T. of Dadra & Nagar Haveli – 396230
- ...Respondents**

Parties Present:

Shri Basava Prabhu Patil, Sr. Advocate, LVTPL
Shri Arijeet Shukla, Advocate, LVTPL

Shri Arjun Agarwal, Advocate, LVTPL
Ms. Iqra Khan, Advocate, LVTPL
Ms. Anisha Chopra, LVTPL
Ms. Harmeet Kaur, LVTPL
Shri Anand Ganesan, Advocate, DNH
Ms. Ritu Apurva, Advocate, DNH
Shri Alok Shankar, Advocate, MPPMCL
Ms. Sneha Singh, Advocate, MSEDCL
Ms. Shaily Gupta, Advocate, MSEDCL
Ms. Ranjitha Ramachandran, Advocate, GUVNL
Shri Aneesh Bajaj, Advocate, GUVNL
Shri Gajendra Sinh, NLDC

ORDER

The present IA has been filed by the Petitioner, Lakadia-Vadodara Transmission Project Limited ('LVTPL') seeking amendment of Petition No. 256/MP/2023 to include various Change in Law and Force Majeure events under the Transmission Service Agreement dated 23.4.2019 ('TSA') and the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 ('CIL Rules'), which have impacted the Project of the Petitioner. Petition No. 256/MP/2023 was filed for seeking verification of the calculation of the impact due to Change in Law events on the cost of implementation of the Petitioner's transmission project, and consequent adjustment in the monthly transmission charges.

Background

2. Petition No. 256/MP/2023 was filed by the Petitioner, which was heard at length extensively by the Commission, and the order was reserved on 19.2.2025. The Petitioner and the Respondents had also filed their respective written submissions in the matter pursuant to the liberty granted by the Commission.

3. Now, the Petitioner has approached the Commission through the present IA seeking the amendment to the Petition No. 256/MP/2023. The Petitioner has made the following submissions in the IA:

(i) The Petitioner had previously approached the Commission on 7.7.2021

vide Petition No. 158/MP/2021 *inter alia* for the in-principle declaratory reliefs in view of the Force Majeure and Change in Law events impacting its Project, and a declaratory relief with respect to the Petitioner's scope of work. During the pendency of Petition No. 158/MP/2021, the Change in Law Rules, 2021, were notified by the Ministry of Power (MoP). Thereafter, a clarification was issued by the MoP stating that CIL Rules are applicable to Change in Law events that have occurred on or after the notification of the CIL Rules in the official gazette, i.e., 22.10.2021. The Clarification Order categorically states that all changes in Law events that have occurred prior to the notification of the CIL Rules shall be dealt with in accordance with the prevalent dispensation/ rule position at the time of occurrence of the event.

(ii) The Commission adjudicated upon the issue concerning the Petitioner's claim regarding a change in the scope of work, and vide order dated 1.8.2022, the Petitioner was directed to approach the Commission for all other issues concerning Force Majeure and Change in Law events after the completion of the Project. Accordingly, in terms of the liberty granted by the Commission vide Order dated 1.8.2022 in Petition No. 158/MP/2021, the Petitioner filed the Petition No. 256/MP/2023 after the commissioning of its Project under CIL Rules for verification of the impact of the Change in Law events that occurred after 22.10.2021.

(iii) A plain reading of the CIL Rules indicated, *prima facie*, that the merits of such post-CIL Rules, Change in Law claims lay beyond the scope of the Commission's jurisdiction under the CIL Rules. It was, therefore, the Petitioner's consistent position that the merits of a CIL event are not open to examination in a Petition filed under Rules 3(7) and 3(8) of the CIL Rules. The limited test for the grant of relief under these provisions was to establish that the event contractually fell within the ambit of Article 12 of the TSA.

(iv) The final order was reserved in Petition No. 256/MP/2023 on 19.2.2025. However, the Commission vide its Order dated 20.04.2025 in Petition No. 131/MP/2024, *Mumbai Urja Marg Limited v. Maharashtra State Electricity Distribution Company Limited & Ors.* (MUML Order) held that Rule 3(8) of the CIL Rules does not restrict the Commission's power to adjudicate the validity or merits of a Change in Law event. The Order thus represents a significant departure from the understanding prevailing at the time of filing of the present Petition with respect to the remit of the CIL Rules and squarely addresses the jurisdictional question forming the basis of the Petitioner's earlier position.

(v) The Order in the MUML case was delivered subsequently on 20.4.2025, mandating adjudication of Change in Law claims before recovery. Subsequent to the issuance of the order in the MUML matter, CTUIL, on 1.5.2025 directed the Petitioner to revise its bills raised from 31.3.2025 onwards. Accordingly, such recovery has now stopped w.e.f. March 2025. Given that Change in Law claims are now required to be adjudicated by the Commission, therefore, to

avoid multiplicity of proceedings and ensure wholistic overview of the uncontrollable events that had impacted the Project, the Petitioner has sought to include its other/ Force Majeure claims in the present Petition as well.

(vi) The APTEL has very recently adopted a similar approach, as sought by the Applicant therein, in *Bhopal Dhule Transmission Company Limited v. CERC & Ors.*, Appeal No. 272 of 2018, vide Order dated 8.7.2025. In the said Order, the APTEL permitted consideration on merits of the subsequent developments in a matter that had been reserved for judgment nearly three months earlier (i.e., on 22.4.2025). The approach taken by the APTEL shows that, where material legal developments occur after reserving of orders, it is both permissible and desirable to bring the new developments/ facts on record and re-hear the matter to ensure complete and effective adjudication.

(vii) In fact, the Commission has also adopted a similar approach in the IA No. 18 of 2025 filed in Petition No. 227/MP/2022 (*ReNew Wind Energy (AP2) Private Limited & Anr. v. CTUIL & Ors.*), wherein the Commission permitted the Petitioners therein to place on record subsequent judgments of the APTEL having a material bearing on the outcome of the matter after the final Order was reserved on 21.1.2025, and to make further submissions thereon on 7.8.2025. In that case, the subsequent decisions of the APTEL in *Sarda Energy and Minerals Ltd. v. CERC & Ors.* (Appeal No. 400 of 2017, Judgment dated 28.01.2025) and *Brahmani Thermal Power Pvt. Ltd. v. PGCIL & Ors.* (Appeal No. 235 of 2017, Judgment dated 20.3.2025) were allowed to be brought on record even after the conclusion of arguments and the final Order being reserved, given their direct relevance to the issues being adjudicated in Petition No. 227/MP/2022.

(viii) Thus, the Petitioner seeks to amend the captioned Petition previously filed to include other claims, details and documents on account of subsequent regulatory developments, including the Order in the MUML matter passed in April 2025, subsequent to the final Order in the captioned matter being reserved in February 2025. The instant IA is in the nature of an application filed under Regulations 38 read with 26(3)(b) of the Conduct of Business Regulations, which vests the Commission with the power to permit parties to modify or alter their pleadings, averments in a petition or the prayers in a petition or both, at any stage of the proceedings.

Proceedings before the Commission

Hearing dated 23.9.2025

4. The IA was listed for the hearing on 23.9.2025. During the course of the hearing, the Petitioner submitted that the amendment to Petition No. 256/MP/2023 is

necessitated not only due to events post filing of the Petition but also in light of the Commission's order dated 20.4.2025 in Petition No. 131/MP/2024 wherein it was clarified that Rule 3(8) of the CIL Rules does not curtail the Commission's jurisdiction to adjudicate validity or merits of a Change in Law claim, thereby altering the legal position which existed at the time of the original filing. However, the Respondent, GUVNL, raised an objection on the maintainability of the IA and sought liberty to file its reply to the IA in the matter. GUVNL filed its reply on 16.10.2025, followed by the Petitioner's rejoinder dated 31.10.2025.

Reply of the Respondent, GUVNL

5. GUVNL, vide its reply dated 16.10.2025, has made the following submissions:
- (i) Petition No. 256/MP/2023 was filed by the Petitioner in regard to the claims of Change in Law in regard to the additional compensation paid in pursuance to Government of Gujarat Resolution 2021 dated 31.12.2021 in regard to Compensation for ROW of land for transmission towers and for the line and for Compensation for trees.
 - (ii) The Petitioner has not provided the amendments separately with the application nor highlighted them so that it can be seen what exactly has been amended. The Petitioner has merely filed the Amended Petition with completely new para numbers, which is not the proper procedure. The Petitioner has to provide the specific amendments and ensure that the balance paras are exactly as per the original Petition.
 - (iii) The Petitioner was well aware of the issues raised, and even during the hearing, detailed arguments were made, and thereafter orders were reserved vide Record of Proceedings dated 19.2.2025. Pursuant to the same, written submissions were also filed on 8.3.2025.
 - (iv) The Petitioner has now sought to bring more claims towards Change in Law and Force Majeure in the said IA, which was initially not sought in the Original Petition. Thus, the Petitioner has proceeded to introduce new heads of claim and causes of action that were not part of the Original Petition and that too after the Petition is already reserved. While the Petitioner seeks to give the impression that there are many events, there is only one reference, which is the decision dated 20.4.2025 in Petition No. 131/MP/2024.
 - (v) Even otherwise, the decision in Petition No. 131/MP/2024 is based on

an earlier decision of the APTEL dated 05.04.2022 in OP No. 1 of 2022 and Ors. in the matter of NRSS XXIX Transmission Limited v. Central Electricity Regulatory Commission and Ors which was in existence at the time of filing of the Petition itself, let alone prior to the commencement of the final hearing. Therefore, the Petitioner was well aware of the aspects for the consideration of Change in Law Rules, 2021. The fact that the Commission has followed the decision of the APTEL is therefore not a subsequent development in the manner claimed by the Petitioner.

(vi) The said decision in Petition No. 131/MP/2024 has no impact on the aspects sought to be raised by the Petitioner at this stage. The Commission in Petition No. 131/MP/2024 had only held that the Change in Law Rules cannot be considered when there is no agreement on the Change in Law. This is not a reason for the Petitioner to introduce any new claims of Change in Law events or force majeure events. If the Change in Law claim has to be adjudicated, there is no reason to include other Change in Law or force majeure events.

(vii) Further, the application for amendment is barred under the Second Proviso to Regulation 38 of the Conduct of Business Regulations. Even otherwise, it is barred under First Proviso to Regulation 38 and Proviso to Rule 17 of Order VI of the Code of Civil Procedure.

(viii) There is no hiatus between the reservation of judgment and the pronouncement of judgment in the present matter and, as such, the proceedings cannot be reopened nor can new issues or evidence be brought on record. The Petitioner relies upon the observations of the Hon'ble High Court of Delhi in *Asia Pacific Breweries v. Superior Industries* [2009 SCC OnLine Del 503/158(2009) DLT670], the judgment of the Hon'ble High Court of Assam in *Gramin Vikash Bank v. Frakash Borah and Another* [2022 SCC online Gau 2257], and the judgment of the Hon'ble Supreme Court in *Andhra Pradesh Southern Power Distribution Power Co. Ltd. v. Hinduja National Power Corpn. Ltd.* [(2022) 5 SCC 484].

(ix) The present Petition was filed in August 2023, and it is clear that the issues, facts, and documents sought to be produced by way of the amendment relate to the period much prior to the filing of the Petition. There is no dispute that the issues and aspects sought to be raised were known and available with the Petitioner, prior to the filing of the Petition and in any case, before the final hearing in the Commission. The proposed amendment constitutionally or fundamentally changes the nature and character of the case. The Petition was filed for Change in Law in regard to Government of Gujarat Resolutions, 2021, and now the Petitioner is seeking to introduce not only new Change in Law events but also force majeure events;

(x) If the Petitioner's Petition suffered from some lacuna due to which it is likely to suffer an adverse order due to the recent decision of the Commission,

the same cannot be a reason to seek amendment of the Petition at the belated stage. The objection was taken on the delays in commissioning and the fact that the Change in Law claims of the Petitioner arise after the SCOD. It was the Petitioner's stand that Change in Law claims are independent of the force majeure claims and sought to rely on the Order dated 5.3.2024 in Appeal No. 52 of 2024. GUVNL had made submissions on the claim of Change in Law and had also opposed the contention of the Petitioner that there cannot be any consideration of Change in Law, and the Petition is only for the verification. The Petitioner was, therefore, well aware of the objections of GUVNL and other Respondents, but admittedly chose not to seek any amendment at that stage and the Petitioner has to suffer the consequences thereof.

(xi) In fact, Petition No. 131/MP/2024 and the present Petition were also heard together in part, where this specific issue of scope of Change in Law Rules 2021 was argued vide Record of Proceeding for the hearing on 29.4.2024 and 8.5.2024 and thereafter listed on 5.9.2024 and 30.9.2024, though thereafter the arguments were addressed separately. Merely because Petition No. 131/MP/2023 was decided first, does not mean that the Petitioner can now seek to change its stand or improve its case. This is not a subsequent development necessitating any addressal of even oral arguments, let alone any amendment.

(xii) The Additional issues and documents sought to be furnished by the Petitioner relate to the period prior to the filing of the Petition before the Commission, let alone commencement of hearing and were undisputedly within the knowledge and possession of the Petitioner. The issues being related to the Petitioner's project, there cannot be any basis to claim that the Petitioner could not have raised such issues. The Petitioner chose not to raise other Change in Law events and force majeure events. In fact, despite a direction by the Commission to hear the Petition for Change in Law and force majeure together, the Petitioner filed an appeal and specifically sought a direction from the APTEL to hear the present Petition without linking it to force majeure.

(xiii) In fact, despite the fact that the Project was stated to be commissioned on 28.1.2023, it appears that the Petitioner has still not filed any Petition in regard to force majeure. The Petitioner has not even made a statement that the Petitioner could not raise the issue despite due diligence. The Petitioner has sought to claim several crucial developments and subsequent developments, but the amendment sought is not of such developments. The development referred to is not a factual development but a pronouncement of a judgment on the merits of another case.

(xiv) The Petitioner had sought to introduce reasons for delay *vide* Affidavit dated 6.5.2024 for the first time, but chose not to seek any amendment of the Petition and chose not to seek any extension, nor filed any Petition for such

extension. While GUVNL would have had the right to object to any amendment even at that stage, in any case, the Petitioner did not seek any amendment. The Petitioner referred to filing the Petition in future, but apparently did not do so.

Rejoinder of the Petitioner

6. The Petitioner, in its rejoinder dated 31.10.2025, has made the following submissions:

(i) The Petitioner filed the Application to amend the Original Petition to include its Force Majeure events and pre-CIL Rules Change in Law claims under the present proceedings – specifically to avoid multiplicity of proceedings and piecemeal adjudication of the Petitioner's claims. Thus, the amendment Application filed by the Petitioner should be allowed since the present Application is, in fact, in compliance with the MUML Order issued by the Commission.

(ii) Relying on the judgment of the Hon'ble Supreme Court in *Kedar Nath Agrawal vs. Dhanraji Devi*, [(2004) 8 SCC 76], the Commission is entitled to look at the events happening after institution of a proceeding, especially when the relief claimed by the Petitioner in its original form requires to be moulded, by reason of subsequent change of circumstances (MUML Order in present case).

(iii) The Commission has wide powers to allow amendment of the Petition, when the same is necessary for adjudication of the matter and determining the real question in controversy to avoid multiplicity of proceedings [Surender Kumar Sharma vs. Makhan Singh, (2009) 10 SCC 626].

(iv) The Code of Civil Procedure, 1908 ("CPC") does not bind the Commission and its principles are persuasive, on first principles reflected in Order VI Rule 17 of the CPC, the power to allow amendments is discretionary and is exercised liberally to advance the cause of justice, i.e., to secure a just complete adjudication without causing irremediable prejudice to the other side.

(v) The Petitioner places reliance on the law settled by the Hon'ble Supreme Court in *LIC vs. Sanjeev Builders Private Limited & Anr.*, [2022 SCC OnLine SC 1128], which *inter alia* held that "all amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word "shall", in the latter part of Order VI Rule 17 of the CPC".

(vi) The amendment application does not introduce any time-barred causes

of action since the Project was commissioned in January 2023. Further, the Application neither withdraws any admission conferring a right on the opposite party or takes away any valid defense nor alters the fundamental nature of the Petition nor causes irreparable prejudice to the Respondents, as wrongly asserted by GUVNL. The Petitioner, through the captioned Application, is merely aligning its pleadings in compliance with the approach adopted by the Commission vide the MUML Order – no new or distinct controversy is being introduced.

(vii) GUVNL's present objection to the maintainability of the amendment Application is wholly contradictory to GUVNL's own earlier stand. In its Written Submissions dated 8.3.2025, GUVNL had specifically contended that the Petitioner should have amended the Original Petition to bring on record its Force Majeure claims. In fact, GUVNL had itself engaged with and disputed Petitioner's preliminary contentions regarding Force Majeure claims. GUVNL cannot blow hot and cold, or approbate and reprobate, in the same breath. By first alleging that the Petition lacked Force Majeure particulars and then opposing their inclusion, GUVNL is taking inconsistent and self-serving positions that undermine judicial economy and will result in wastage of the valuable time of the Commission.

(viii) In fact, Respondent No. 11, M.P. Power Management Company Limited ("MPPMCL"), in its reply dated 08.09.2024, has itself unequivocally submitted that the Petitioner ought not to be permitted to file its Force Majeure claims through a separate petition, as doing so would result in piecemeal adjudication of interlinked issues

(ix) Reference may also be had to the landmark Judgment of the Hon'ble Supreme Court in *Anil Rai vs. State of Bihar* [(2001) 7 SCC 318 ("Anil Rai Judgment")], wherein the Hon'ble Supreme Court stressed on the fact that the pronouncement of judgments in civil cases should not be permitted go beyond two months from the date of conclusion of oral hearing. Further, the Hon'ble Supreme Court held that, if the pronouncement of judgment is delayed beyond six months, either party shall have the right to file an application seeking a fresh hearing. In any event, following the principles laid down in the Anil Rai Judgment, the present Application ought to be allowed. Once a re-hearing is permitted, in any case, an application for amendment would be un-disputably maintainable and ought to be considered liberally.

(x) Once a re-hearing is directed as per the principle propounded in the Anil Rai Judgment, the matter reverts to a pre-reservation stage; and accordingly, the Commission is not functus officio. Consequently, an application for amendment is maintainable and ought to be considered in terms of Regulations 38 and 65 of the COB Regulations. Invoking Regulation 65 of the COB Regulations (inherent powers) read with Section 94 of the

Electricity Act, 2003, the Commission may apply the principles laid down in the Anil Rai Judgment to allow the present Application. Regulation 38(2) of the COB Regulations, in any case, does not curtail the Commission's inherent power to permit an amendment to bring subsequent developments on record.

(xi) There is no delay on the part of the Petitioner, and the IA is not barred by limitation. The present Application merely seeks to align the Petition with the prevailing legal position as per the Order in the MUML matter. Further, no prejudice will be caused to the Respondents if the present Application is allowed, as no new factual evidence qua the claims raised in the Original Petition is introduced and the amendment only ensures that 'adjudication' is conclusive with respect to the Petitioner's Force Majeure and Change in Law claims under the TSA.

(xii) It is not the Petitioner's case that the Force Majeure and pre-CIL Rules, Change in Law claims were not known to the Petitioner earlier, but it is the case that such claims could not be raised in Petition No. 256/MP/2023 (the Original Petition) before the pronouncement of the MUML Order as the Petitioner was following the prevalent position of law at that time which required the Petitioner to seek verification of its Change in Law claims arising post 22.10.2021 from the Commission. In any case, the Project was commissioned in January 2023, and even if the Petitioner were to hypothetically file a standalone Force Majeure petition today, the same would not be time-barred. Therefore, the question of limitation does not arise.

(xiii) Regulation 38 of the COB Regulations itself contemplates the Commission's power to allow amendment at any stage where necessary to determine the real issues in controversy. The provisos are procedural safeguards and are to be read purposively, especially where a material subsequent development affects the position taken in the Petition and the ambit of relief available to the Petitioner. The second proviso to Regulation 38 of COB Regulations must be read harmoniously with the principle laid down in the Anil Rai Judgment. The Commission may consider the lapse of more than six months since the reservation of the final order, coupled with the regulatory change brought about by the MUML Order, and exercise its inherent powers under Regulation 65 of the COB Regulations, to allow re-hearing and amendment.

(xiv) GUVNL's attempt to distinguish the Bhopal Dhule Order dated 08.07.2025 of the APTEL and ReNew Wind Energy (AP2) Pvt. Ltd. & Anr. vs. CTUIL & Ors. (Petition No. 227/MP/2022) on the ground that those cases did not involve a formal "amendment" of pleadings is misconceived and hyper technical. In substance, the approach in both cases highlights that the Commission has the power to consider material legal developments that arise after the reservation of orders when it is necessary for the Commission to allow the same to be brought on record to ensure a just and complete

adjudication. However, given the peculiar circumstances of the present case post-MUML Order, the Commission is fully empowered to allow the amendment sought herein to allow consolidation of claims.

(xv) GUVNL's reliance on the Asia Pacific Breweries case and Assam Gramin Vikash Bank case is misconceived. Both decisions arise under the CPC in the context of civil suits – Asia Pacific deals with belated “sneaking in” of documents at the evidence stage, which is not the case here (no new documents are being introduced qua claims in the Original Petition on which the order was reserved), and Assam Gramin's “no hiatus” observation cannot override the Commission's inherent powers under the Electricity Act, 2003 and the COB Regulations, which empowers it to mould procedure to do complete justice.

(xvi) The Petitioner's earlier position was based on the legal interpretation of the CIL Rules prevailing prior to the MUML Order. Once the Commission itself has clarified the scope of its jurisdiction under the CIL Rules, the Petitioner is duty-bound to seek alignment of its pleadings and reliefs with the now-settled law. Such action does not constitute an afterthought or tactical amendment and is a legitimate procedural step to ensure consistency with the current legal framework and to avoid multiplicity of proceedings. In any case, adjudication of consolidated claims was the practice being followed by the Commission prior to the issuance of the CIL Rules. Further, admittedly, the Petitioner neither seeks to nor intends to re-argue or re-open its post-CIL Rules Change in Law claims [para. 178, Pg. 4107 of the Consolidated Pleadings]. Undisputably, the Petitioner has not improved or changed any of its arguments, submissions or supporting documents pertaining to the post-CIL Rules claim that was already a part of the Original Petition. Hence, the question of improving its case qua claims already agitated in the Original Petition does not even arise.

Hearing dated 10.11.2025

7. During the course of the hearing, both sides made detailed arguments in the matter, and the IA was reserved for order. Further, the parties were permitted to file their respective written submissions in the matter. Pursuant thereto, the Petitioner and the Respondent, GUVNL, have filed their respective written submissions in the matter, each dated 19.11.2025, which are not repeated herein for the sake of brevity.

Analysis and decision

8. We have considered the submissions made by the parties. The present IA has

been filed by the Petitioner seeking the amendment of Petition No. 256/MP/2023. The captioned Petition was filed in August 2023 under Rule 3(7) and Rule 3(8) of the CIL Rules read with Article 12 of the TSA dated 23.4.2019 and Sections 61 and 63 of the Act seeking verification of the calculation of the impact due to Change in Law events on the cost of implementation of its Transmission Project and consequent adjustment in the monthly transmission charges. In the said Petition, the Petitioner had submitted that after the cut-off date and post the coming into effect of the CIL Rules, i.e., 22.10.2021, it suffered additional expenditure towards its Project during the construction phase on account of (i) Additional expenditure for securing RoW, and (ii) Change in rate of compensation for loss of trees, fruits, and crops. The matter was heard extensively on several occasions, and after the conclusion of the final hearing, it was reserved for order on 19.2.2025. Thereafter, the Petitioner has moved the present IA seeking amendment of the Petition, seeking to include its Force Majeure claims and pre-CIL Rules Change in Law claims along with the corresponding reliefs.

9. In view of this, the only issue that arises for our consideration is whether the present IA seeking amendment of Petition No. 256/MP/2023 deserves to be allowed or not. The IA has been filed under Regulation 38, read with Regulation 26(3)(b) of the Conduct of Business Regulations, 2023. The relevant clauses of these Regulations are reproduced below:

“26. Interlocutory Applications

(3) An interlocutory application shall be filed to seek any of the following reliefs:

....

(b) Amendment of the averments in a petition or the prayers in a petition or both;

....

38. Amendment of Pleadings

The Commission may, at any stage of the proceedings in a petition, allow

either party to alter or amend its pleadings in such manner and on such terms as may be considered appropriate, and all such amendments shall be made as may be necessary for the purpose of determining the real issues in controversy between the parties:

Provided that no application for amendment shall be allowed after commencement of the final hearing of the petition, unless the Commission is of the opinion that, in spite of due diligence, the party could not have raised the matter before the commencement of the final hearing:

Provided further that no application for amendment shall be entertained after the conclusion of the final hearing and order is reserved in the petition”.

10. Regulation 26(3)(b) is an enabling provision which provides that the Party intending amendment of the averments in Petition or prayers in Petition or both shall file an IA. Whereas Regulation 38 is a substantive provision governing the powers of this Commission to allow the amendment of the Pleadings. The main provision of the said Regulation provides that the Commission may allow either party to alter or amend its pleadings, necessary for the purpose of determining the real issues in controversy, in such a manner and on such terms as may be considered appropriate *at any stage of proceedings* in a Petition. However, this main provision is qualified by two *provisos* restricting the discretion that may be exercised under the main provision. The first *proviso* stipulates that no application for amendment shall be allowed after the commencement of the final hearing of the Petition, unless the Commission is of the opinion that, in spite of due diligence, the party could not have raised the matter before the commencement of the final hearing. The second *proviso* goes a step further and stipulates that no application for amendment shall be entertained after the conclusion of the final hearing and reserving of the Order in the Petition. In other words, even the plea of “due diligence”, as available under the first *proviso*, cannot come to the aid of a Party seeking amendment of the Pleadings after the conclusion of the final hearing and reserving of the Order.

11. Under the Code of Civil Procedure, 1908, the amendment of Pleadings is governed by Order VI Rule 17, which states as follows:

“17. Amendment of pleadings.

The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial”.

As per the above, pleadings can be amended at any stage of the proceedings if, in the view of the Court, the amendments are necessary for the purpose of determining the real questions in controversy between the parties. The *proviso* to the said rule stipulates that no application for amendment shall be allowed after the trial has commenced unless the Court concludes that, in spite of due diligence, the party could not have raised the matter before the commencement of the trial. The provisions of Regulation 38, except for its second *proviso*, are in *pari materia* with the above Rule. This Rule does not contain any express stipulation similar to the second *proviso* to Regulation 38. Can it then be averred that the above Rule permits the filing of an amendment application even after the conclusion of the hearing and reservation of the judgment?

12. In this regard, our attention has been drawn to the settled position in law that there is no hiatus between the reservation of judgment and the pronouncement of judgment in a matter, and as such, the proceedings cannot be reopened nor can new issues or evidence be brought on record. In this regard, we may gainfully refer to the judgment of the Hon’ble Supreme Court in *Andhra Pradesh Southern Power Distribution Power Co. Ltd. v. Hinduja National Power Corpn. Ltd*, [(2022) 5 SCC

484] +, wherein it has been observed as under:

“95. It can be seen that this Court in Arjun Singh case [Arjun Singh v. Mohindra Kumar, AIR 1964 SC 993 : (1964) 5 SCR 946] has held that CPC contemplates two stages of the trial in the suit : (1) where the hearing is adjourned; and (2) where the hearing is completed. It has been held that where the hearing is completed, the parties have no further rights or privileges in the matter and it is only for the convenience of the court that Order 20 Rule 1 permits judgment to be delivered after an interval after the hearing is completed. It has been held that there is no hiatus between the two stages of reservation of judgment and pronouncing the judgment so as to make it necessary for the court to afford to the party the remedy of getting orders passed on the lines of Order 9 Rule 7.”

As per the above, where the hearing is completed, the parties have no further rights or privileges in the matter, and it is only for the convenience of the Court that Order 20 Rule 1 permits judgment to be delivered after an interval after the hearing is completed. There is no hiatus between the two stages of the reservation of judgment and pronouncing the judgment, so as to make it necessary for the court to afford to the party the remedy of getting orders passed on the lines of Order 9 Rule 7.

13. Be that as it may, it appears that several High Courts have opined that the expression “*at any stage of proceedings*” would also include the stage up to the pronouncement of judgment and even after filing the appeal [*Ref. Om Rice Mill v. Banaras State Bank Ltd.*, [1999 SCC OnLine All 966], *Laxman Marotirai Paunikar v. Kesharao Rambhau Paunikar*, [2000 SC OnLine Bom 169], and *BDR Developers Pvt. Ltd. v. Narsingh Shah alias Narsingh Sah*, [2021:DHC:2283]. Additionally, the Petitioner has sought to rely and invoke the inherent power of the Commission/ Court, principles laid down in the *Anil Rai Judgment*, and the settled principles governing the amendment of Pleadings. Hence, we deem it appropriate to test the maintainability of this application against the above propositions.

14. Assuming that, unlike Regulation 38 of Conduct of Business Regulations, Order VI Rule 17 of CPC permits the Petitioner to move an application seeking

amendment of the Pleadings even after the conclusion of the final hearing and the reservation of the Order in the Petition. This, however, does not dispense with the requirement of satisfying the test of due diligence and demonstrating that the Petitioner could not have sought such an amendment before the commencement of trial in spite of due diligence. In the present case, the Petitioner has sought to amend the Petition to incorporate all its Force Majeure and Change in Law claims and the corresponding reliefs under Articles 11 and 12 of the TSA, read with the Change in Law Rules. It is not even the case of the Petitioner that the above claims could not have been incorporated before the conclusion of the final hearing and reservation of the order in the matter. The only ground advanced by the Petitioner justifying the amendment at this belated stage is the change in regulatory position by the Commission's MUML Order, which came to be passed after the caption Petition was reserved for order.

15. As per the Petitioner, the MUML Order represents a significant departure from the understanding prevailing at the time of filing of the present Petition with respect to the remit of Change in Law Rules and addresses the jurisdictional question forming the basis of the Petitioner's earlier position. It is submitted that in the MUML Order, the Commission for the first time clarified that it possesses full adjudicatory jurisdiction while considering the claims under Rule 3(8) of the Change in Law Rules and since such a regulatory view on the interpretation of Rule 3(8) did not exist before April 2025, the Petitioner could not have predicted such a shift or acted upon at the time when the arguments in the present Petition were concluded. However, we find the Petitioner's reliance on the MUML Order is entirely misplaced. Nowhere in the said Order has the Commission held that it can adjudicate or examine the merits/validity of the Change in Law claims under Rule 3(8) of the Change in Law Rules. In fact, this very same argument as advanced by the Respondents therein has

been rejected in the said Order. The Order observes that the Change in Law Rules do not cover a scenario where the parties are not in agreement with each other as to whether the event constitutes a Change in Law event or not under the TSA, and this conclusion was based on the findings of the APTEL in judgment dated 5.4.2022 passed in OP No.1 of 2022 and Ors., wherein the APTEL had already examined the scope/ scheme of the Change in Law Rules. The Order also notes that in the said case, the Petitioner's Change in Law claims were already disputed by the LTTCs and since the Petitioner had also invoked Article 12 of the TSA, the Commission was, as per Article 12 read with Article 16.3 of the TSA, empowered to look into the merits of such claim and adjudicate upon the disputes that had arisen between the parties. Thus, to argue that the above Order altered the regulatory regime prevailing at the time of filing of the Petition is misconceived. As noted, the APTEL, after examining the scheme of Change in Law Rules, had already expressed, way back in April 2022, that the said Rules do not appear to cover a scenario where the parties are at dispute as to whether an event so claimed constitutes a Change in Law event and in such cases, the Commission is required to exercise its dispute resolution jurisdiction. Failure on the part of the Petitioner to take necessary recourse in light of the APTEL's above decision at the relevant point in time clearly reflects the lack of 'due diligence' on its part. Resultantly, the MUML Order cannot be relied upon by the Petitioner to justify the filing of the amendment application after the conclusion of the hearing and reservation of the order in this Petition.

16. Assuming, arguendo, that the MUML Order represents a significant departure from the understanding prevailing at the time of filing of the present Petition with respect to the remit of Change in Law Rules as averred by the Petitioner, there is no explanation as to how the said Order can be the basis of incorporating its all Force Majeure claims and corresponding reliefs under Article 11 of the TSA at this stage as

sought to be incorporated by way of this IA. The MUML Order only addressed the Change in Law claims raised by the Petitioner therein and not any Force Majeure claims. Hence, the Petitioner cannot in any manner rely upon the said Order to incorporate its claims of Force Majeure and the corresponding reliefs at this stage of proceedings.

17. The Petitioner has also argued that this IA seeking amendment of the Petition squarely satisfies the settled principles governing the amendment of Pleadings as crystallised by the Hon'ble Supreme Court in *LIC v. Sanjeev Builders Private Limited & Anr.*, [2022 SCC OnLine SC 1128], since the amendment sought is necessary for proper and effective adjudication of real controversy between the parties and to avoid multiplicity of proceedings. The application also does not introduce any time-barred causes of action, as the Project was commissioned only in January 2023. Also, the application neither withdraws any admission conferring a right on the opposite party nor takes away any valid defence nor alters the fundamental nature of the Petition nor causes irreparable prejudice to the Respondents.

18. There cannot be any quarrel with the settled law that all amendments are to be allowed which are necessary for determining the real question in controversy, provided it does not cause injustice or prejudice to the other side. Pertinently, some of the relevant factors that need to be taken into consideration while dealing with the application for amendment have been succinctly summarised by the Hon'ble Supreme Court in *Revajeetu Builders and Developers v. Narayanaswamy & Sons*, [(2009) 10 SCC 84], which include (i) Whether the amendment sought is imperative for the proper adjudication of the case; (ii) Whether the application for amendment is *bona fide* or *mala fide*; (iii) The amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money; (iv) Refusing

amendment would in fact lead to injustice or lead to multiple litigation; (v) Whether the proposed amendment constitutionally or fundamentally changes the nature or character of the case; and (vi) As a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application.

19. However, examining an application for amendments against the above principles is significant where the application has been filed before the commencement of a trial or the final hearing. However, when such an application is filed after the commencement of a trial or the final hearing, the 'due diligence' test assumes greater significance than the above principles as it takes away the court's jurisdiction to allow such applications unless this condition precedent is satisfied, viz., the court must come to a conclusion that in spite of due diligence the party could not have raised the matter before the commencement of trial. In the foregoing paragraphs, we have already concluded that the amendments sought to be incorporated by this IA do not stand the test of due diligence, as the Petitioner could very well have raised them before the commencement of trial or the final hearing in the matter and that its attempt to attribute the need for these amendments to the MUML Order is completely misplaced. In view of this, we are not even required to examine the amendments sought by the Petitioner against the above-mentioned factors. Nonetheless, even a cursory reading of the amendments sought to be incorporated by the Petitioner indicates that they fail to meet several of the above-mentioned factors. Incorporation of its Force Majeure claims along with the corresponding reliefs under Article 11 of the TSA in the present Petition cannot be in any way held to be necessary or imperative for proper adjudication of the present case. Further, incorporation of such claims would substantially alter the basic nature or character of the Petition filed for seeking the reliefs for the Change in Law events.

Thus, even otherwise, the present application for amendment of the Pleadings does not pass the muster of the relevant factors/ principles that need to be considered while dealing with such applications.

20. Likewise, we also do not find any merit in the Petitioner's plea to allow this IA by exercising the inherent powers under Regulation 65 of the CB Regulations. It is well-settled law that the inherent powers may be exercised *ex debito justitiae* in those cases where there is no express provision and cannot be exercised in contravention of, or in conflict with, or ignoring the express and specific provisions of law. Hence, in the present case, we are unable to accede to the plea of allowing this IA by exercise of the Commission's inherent powers, especially when the IA, as noted above, fails to meet the several thresholds for allowing the amendments to the Pleadings. Further, the Petitioner has also sought to point out that the Commission and the APTEL have, in several cases, allowed the consideration of subsequent developments on merits in reserved matters. However, the said cases are clearly distinguishable as they are not cases in which the parties sought to amend their appeals/petitions after the conclusion of the final hearing and reservation of judgment/order.

21. The Petitioner has also contended that in *Anil Rai v. State of Bihar*, [(2001) 7 SCC 318], the Hon'ble Supreme Court has stressed on the fact that the pronouncement of judgments in civil cases should not be permitted go beyond 2 months from the date of conclusion of oral hearing and if the pronouncement of judgment is delayed beyond 6 months, either party shall have the right to file an application seeking a fresh hearing. Accordingly, the Petitioner has submitted that, as per the *Anil Rai* principle, the Petitioner is entitled to seek a fresh hearing of the matter for bringing on record critical developments in the regulatory regime post-reservation of the judgment that go to the root of the matter and are crucial to

determine the real controversy and do complete justice between the parties. It is also submitted that if re-hearing is permitted, the matter reverts to the pre-reservation stage and the amendments become undeniably maintainable. However, we do not find any merit in the aforesaid submissions of the Petitioner. Firstly, the Petitioner has not made any application for a fresh hearing of the matter in terms of the Anil Rai Judgment and hence, cannot simply presume the matter to be at the pre-reservation stage to justify its prayer for amendment. Secondly, in the foregoing paragraphs, we have already concluded that the amendments sought to be incorporated by the Petitioner fail on several counts and cannot be allowed even at the pre-reservation stage.

22. In view of the above findings and observations, the IA No. 89/2025 seeking amendment of Petition No. 256/MP/2023 stands rejected.

Sd/-
(Ravinder Singh Dhillon)
Member

Sd/-
(Harish Dudani)
Member

Sd/-
(Ramesh Babu V.)
Member

Sd/-
(Jishnu Barua)
Chairperson