IN THE APPELLATE TRIBUNAL FOR ELECTRICITY

(Appellate Jurisdiction)

APPEAL No. 27 OF 2026 & IA No. 41 OF 2026

Dated: **03rd July, 2026**

Present: **Hon`ble Ms. Seema Gupta, Officiating Chairperson**
Hon`ble Mr. Virender Bhat, Judicial Member

IN THE MATTER OF:

HINDUJA NATIONAL POWER CORPORATION LIMITED (HNPCL)
Through its authorized Signatory – Vice President Commercial
Post Bag No.1, Kukatpally,
Shanthnagar I.E. Hyderabad 500 108,
Telengana … Appellant(s)

VERSUS

1. **ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION**
Through its Secretary,
Vidyut Niyantrana Bhavan,
220/132/33/11KV AP Carbides Sub Station,
Dinnedevarapadu road,
Kurnool – 518002
Andhra Pradesh.

2. **SOUTHERN POWER DISTRIBUTION COMPANY OF ANDHRA PRADESH LIMITED (APSPDCL)**
Srinivasapuram, Thiruchanoor Road,
Tirupati – 517503,
Andhra Pradesh.

3. **EASTERN POWER DISTRIBUTION COMPANY OF ANDHRA PRADESH LIMITED (APEPDCL)**
P & T Colony, Seethammadhara,
Vishakhapatnam – 530013,
Andhra Pradesh.

4. ANDHRA PRADESH CENTRAL POWER DISTRIBUTION CORPORATION LIMITED (APCPDCL)
Corporate Office,
Beside Polytechnic College,
ITI Road, Vijayawada – 520008,
Andhra Pradesh …. Respondent(s)

Counsel on record for the Appellant(s)	:	Mr. M.G. Ramachandran, Sr. Adv. Mr. Atul Sharma Mr. Abhishek Sharma Mr. Aditya K. Singh Ms. Anukriti Jain Mr. Pranshul Kulshreshtha Mr. Shubham Arya Mr. Mridul Gupta Ms. Poorva Saigal Ms. Pallavi Saigal Mr. Akshaya Lal Mr. Vineet Gupta Ms. Adyasha Patra for App. 1
Counsel on record for the Respondent(s)	:	Mr. Gaichangpou Gangmei Mr. Arjun D Singh Mr. Maitreya Mahaley Mr. Yimyanger Longkumer from Res. 2 to Res. 4 Mr. Rudrajit Ghosh Ms. Ritika Singhal Mr. Avi Leuna Mr. Ritik Raj

JUDGEMENT

PER HON'BLE MRS. SEEMA GUPTA, OFFICIATING CHAIRPERSON

1. The present Appeal No. 27 of 2026 has been filed by Hinduja National Power Corporation Limited **("Appellant")** under Section 111 of the Electricity Act, 2003, assailing the order dated 30.12.2025 **("Impugned Order")** passed by Andhra Pradesh Electricity Regulatory Commission – the Respondent No.1

hereinafter referred as **("APERC / State Commission")** in O.P. No.12 of 2024, whereby the State Commission determined the Multi-Year Tariff ("MYT") and Annual Revenue Requirement ("ARR") for the Fifth Control Period (FY 2024-25 to FY 2028-29) in respect of HNPCL's 1040 MW (2 × 520 MW) coal-based thermal power station located at Visakhapatnam, Andhra Pradesh.

Description of Parties

2. The Appellant is a Company incorporated under the provisions of the Companies Act, 1956 having its registered office in Hyderabad, Telangana. The Appellant has established a 1040 MW (2x520 MW) coal based thermal power station ("**the Project")** at Vishakhapatnam, in the State of Andhra Pradesh.

3. The Respondent No.1, i.e. Andhra Pradesh Electricity Regulatory Commission (hereinafter referred to as **"APERC/State Commission"**).

4. The Respondent No.2, i.e., Southern Power Distribution Company of Andhra Pradesh Limited (APSPDCL), Respondent No.3, - Eastern Power Distribution Company of Andhra Pradesh Limited (APEPDCL) and Respondent No.4 - Andhra Pradesh Central Power Distribution Corporation Limited (APCPDCL) are state-owned power distribution companies.

Factual matrix of the Case:

5. The contractual relationship between the parties to the present case has a long history spanning over the decades. On 17.07.1992, a Memorandum of Understanding ("MoU") was signed between the Appellant and the erstwhile

Andhra Pradesh State Electricity Board ("APSEB") for setting up the 1040 MW coal-based thermal power station at Visakhapatnam by Appellant. The present case also has a history of protracted litigation at multiple levels, a brief snapshot is given hereunder:

Date	Proceeding/ Events
31.01.2018	AP DISCOMs had filed O.P. No. 19 of 2016 seeking approval of restated PPA and Appellant had filed No. 21 of 2015 seeking determination of capital cost and multi-year tariff for the Project. During the pendency of O.P 21 of 2015, State Commission fixed interim tariff from time to time. State Commission vide its order dated 31.01.2018, permitted the DISCOMs to withdraw O.P. No. 19 of 2016 and closed O.P. 21 of 2015 with liberty to Appellant to pursue remedies in law.
07.01.2020	Appellant filed an Appeal 41 of 2018 before this tribunal, against the order dated 31.01.2018, which was allowed by the Tribunal vide judgment dated 07.01.2020
02.02.2022	Discoms filed a Civil Appeal No.1844 of 2020 before Hon'ble Supreme Court, wherein Supreme Court directed APERC to adjudicate O.P. No. 21 of 2015 and O.P. No. 19 of 2016 on merits.
01.08.2022	APERC passed Common Order in O.P. No. 21 of 2015 and O.P. No. 19 of 2016, which is under challenge by Appellant in Appeal No. 743 of 2023 before this Tribunal, and is pending for the adjudication.
02.04.2024	In pursuance to liberty granted by this Tribunal, Appellant had filed an O.P No 1 of 2024, seeking determination of base rate of variable charges as on 01.04.2023, and extension of time for completion of railway corridor works. APERC passed order in O.P. No. 1 of 2024 on 02.04.2024, revising base variable cost and disallowing road

	transportation charges of Rs. 0.58/kWh effective 01.08.2023.
12.04.2024	Hon'ble High Court of Andhra Pradesh (W.P. No. 8782 of 2024) vide an interim order stayed APERC's direction to deduct Rs. 0.58/kWh from Appellant's energy charges. Writ petition pending.
15.04.2024	CERC (Terms and Conditions of Tariff) Regulations, 2024 notified and brought into force.

6. Appellant had filed O.P. No. 12 of 2024 before APERC seeking determination of Multi Year Tariff for the fifth Control period from FY 2024-25 to FY 2028-29 for its 1040 MW project, without prejudice to the outcome of Appeal No. 743 of 2023 wherein issue of disallowance of capital cost, tariff parameters, IDC, IEDC etc. have been challenged, . In the O.P 12 of 2024, Appellant has also sought additional capital expenditure incurred and proposed.

7. APERC passed the order in O.P. No 12 of 2024 on 30.12.2025 and disallowed some claims, aggrieved thereby Appellant has filed the present Appeal and following five issues have been raised:

(i) Penal deductions from variable charges on account of shortfall in availability;

(ii) Entitlement towards part load compensation;

(iii) Determination and recovery of water charges;

(iv) Treatment and admissibility of capital spares and related claims;

(v) Claims pertaining to ash disposal expenses and additional capitalization.

ANALYSIS AND DISCUSSION

8. During the hearing, it is suggested and consented by the counsels for the Appellant and Respondents and as recorded in this Tribunal's daily order dated 27.04.2026, that adjudication in the present appeal be confined to the following two issues:

(A) Deductions from Variable Charges for shortfall in monthly availability;
(B) Part Load Compensation.

9. Appellant sought liberty to file fresh appeal, if so desired, with respect to balance issues. Accordingly, we heard Mr. Ramachandran, learned senior counsel & Mr. Shubham Arya, learned counsel on behalf of Appellant and - Mr. Gaichangpou Gangmei on behalf of Respondent No.1; and Mr. Yelamanchi Shiva Santosh Kumar and other counsels appearing for Respondent No. 2 to 4, on the above two issues and perused written submissions filed by parties, Impugned Order and other documents. Present judgment is confined to the aforesaid two issues only. Appellant has been granted liberty to raise balance issue, if required, by way of fresh Appeal.

ISSUE A: DEDUCTIONS FROM VARIABLE CHARGES FOR SHORTFALL IN MONTHLY AVAILABILITY

10. The issue pertains to reduction of variable charge at graded rates of 5 paise /10 paise/15 paise per unit, in the event of monthly availability falling below the normative level, relevant extract of the Impugned Order is reproduced hereunder:

"22. Consistent with the directives issued for APGENCO, APPDCL and SELL thermal stations, the Commission hereby directs the DISCOMs to apply the following deductions from the Variable Cost:

- *Five paise per unit, if the actual monthly availability falls up to 5% below the normative/target level;*
- *Ten paise per unit, if the shortfall is between 5% and 15%; and*
- *Fifteen paise per unit, if the shortfall exceeds 15%.*

HNPCL may seek release of any amounts withheld by the DISCOMs on this account by filing an appropriate petition before the Commission, justifying the reasons for the shortfall and establishing that the underperformance was attributable to uncontrollable factors."

It is submitted on behalf of Appellant that the Contractual and regulatory scheme itself demonstrates that fixed charges are linked to actual availability, whereas energy charges are linked to actual scheduled energy. As per common order dated 01.08.2022, the State Commission has adopted the CERC Tariff Regulation, 2024 norms for the units of 500 MW and above capacity and as such CERC Regulation, APERC Regulation or the PPA do not provide for the reduction on energy charges for lower availability declaration, therefore, the impugned deductions are without Statutory or Contractual Authority. Appellant has specifically relied on State's Commission's order dated 27.09.2025 passed in relation to the reductions in variable charges in which State Commission recognized that the regulatory framework does not allow separate penalties for underperformance and that disallowance of fixed charges itself operates as the in-built deterrent for the generator. It is further submitted that just because similar illegal deductions were applied to APGENCO units, does not validate their application in the Appellant's case, as the principle of "negative equality" cannot be used to perpetuate an unlawful tariff treatment. In terms of the Impugned Order, deduction of Rs. 12.26 Crore has already been erroneously withheld from its bills for the months of December 2025 through February 2026 and prays for setting aside of Impugned Order and reimbursement of the withheld amount along with applicable interest. While it is contended on behalf of State Commission that CERC Tariff Regulations, 2024 were adopted for guidance, where necessary and Computation of Variable charges is in accordance to Clause 13.1 of APERC Regulation 1 of 2008- landed cost of fuel, Gross Calorific Value (GCV) of fuel, and normative parameters for specific oil consumption, auxiliary consumption, and Station Heat Rate and the aid formula is uniformly applied across similar thermal generators- APGENCO, APPDCL. It is further contended on behalf of State Commission that subject to filing a Petition demonstrating that such underperformance in achieving monthly availability is attributable to uncontrollable factors, liberty is already granted to the Appellant to seek release of withheld amounts, if any, thus ensuring natural justice, preventing arbitrariness.

11. Regarding adoption of CERC Regulations for the Appellant's project, we note from the APERC order dated 01.08.2022, that APERC Regulation 1 of 2008, specifies operational norms for certain parameters like auxiliary consumption, Station heat rate (SHR), which are used for computation of Working Capital, for units upto 500 MW capacities only, accordingly, APERC adopted CERC norms with regard to operational parameters like auxiliary consumption and Station heat rate (SHR) for the Appellant's project. With regard to specific fuel consumption and target availability, which are also operational parameters and used in working capital computation, State Commission referring to Tariff Policy 2016 specifically noted that norms should be efficient and therefore commission finds it appropriate to adopt stricter norms specified by CERC for these parameters and adopted 0.5 ml/ kwh for specific oil consumption and the target normative availability of 85 %. The working capital amount was worked out accordingly for the Appellant's project.

12. It is of relevance to note the provisions of CERC Regulations, APERC Regulations and PPA signed between the parties, with regard to recovery of fixed cost and variable charges. The relevant provisions are reproduced hereinbelow:

i. <u>CERC Regulation 2024;</u>

As per CERC Regulation, the tariff for the supply of electricity from thermal generating station would comprise of two parts, capacity charge (for recovery of annual fixed cost) and Energy Charges (recovery of primary and secondary fuel). The Components of fixed cost are defined in Regulation 15, which consists Return on Equity (ROE), Interest on Loan, Depreciation, Interest of working capital and O&M expenses. The Energy charge is defined in Regulation 16, which comprises of Landed cost of primary fuel, Cost of Secondary fuel, cost of limestone as applicable.

The methodology of computation of Capacity charge and Energy Charges is defined in Chapter 11 of the Regulation. In the formula for computing capacity charge, the plant availability factor achieved during the Month (both peak and off peak) vis a vis Normative Annual Plant availability has been factored; meaning thereby, that the recovery of Fixed cost is linked with the Plant availability factor during the month. The Computation of Energy Charge is stipulated in Regulation 64 for thermal Generating station and is defined as under: -

Energy Charge= (Energy Charge Rate in Rs /kwh)x (scheduled energy(ex bus) for the month in kwh).

ii. **<u>PPA dated 16.07.2024 signed between Appellant and Respondent 2 – 4;</u>**

In terms of Schedule F of the PPA, the full fixed charges are payable based on target availability and in case of actual availability being lower than the target availability, the fixed charges shall be payable on a proportionate basis corresponding to actual availability. The components of Monthly tariff payment are defined in clause 1.2 of Schedule-F, reproduced hereinbelow:-

"1.2 Monthly Tariff Payment

1.2.1. Components of Monthly Tariff Payment

The Monthly Tariff Bill for any Month in a Year shall consist of the following:

(i) Monthly Fixed Charge Payment in accordance with Article 1.2.2 below;

(ii) Monthly Energy Charge for scheduled energy in accordance with Article 1.2.3 below;

(iii) Incentive Payment determined in accordance with Article 1.2.4 below;"

Monthly Fixed Charges payment is stipulated in clause 1.2.2, and same is reproduced as under: -

"1.2.2. Monthly Fixed Charge Payment

The Monthly Fixed Charge Payment for any month in a Year shall be calculated as below:

AFC x {(NDM/NDY) x AA/NA} (in Rupees);

Where,

AFC=Annual fixed cost specified for the Tariff Year as approved by the Commission, in Rupees as determined by the Commission

NA=Target Availability in percentage

NDM=Number of days in the month

NDY=Number of days in the year

AA=Availability achieved during the month including Deemed Availability,

Monthly Energy Charge is defined in Clause 1.2.3 of Schedule F, as extracted hereunder:-

"1.2.3. Monthly Energy Charges

The Monthly Energy Charge Payment for any month in a Year shall be calculated as below:

Energy charge rate in Rs./kWh x scheduled energy (ex-bus) for the month in kWh.

Energy charge rate (ECR) in Rupees per kWh on ex-power plant basis shall be the sum of energy charge rate as determined by the Commission as per the Tariff Regulations which may be computed to three decimal places in accordance with the following formulae and Fuel Cost Adjustment:

ECR= [{(SHR-SFC x CVSF) x LPPF / CVPF+LPSF x SFC) x 100/ (100-AUX)] +FCA

Where,

AUX=Normative auxiliary energy consumption as per Prescribed Parameters CVPFGross Calorific Value of coal as fired, in kCal per kg to be calculated as given below:

Initially, Gross Calorific Value of coal shall be taken as per actual of the preceding three months. Any variation shall be adjusted on month to month basis on the basis of Gross Calorific Value of coal received and burnt and landed cost incurred by the Company for procurement of coal.

CVSF=Calorific value of secondary fuel, in kCal per ml.

SHR=Station Heat Rate, in kCal per kWh.

LPP= Weighted average landed price of primary fuel i.e. coal, in Rupees per kg during the month.

LPSF=Weighted average landed cost of Secondary fuel oil in Rs/ml

SFC=Normative Specific fuel oil consumption as per Prescribed Parameters

The landed cost of fuel for the month shall include price of fuel corresponding to the grade and quality of fuel inclusive of royalty, taxes and duties as applicable, Washery charges as applicable, transportation cost by rail/ road or any other means, and, for the purpose of computation of energy charge, and shall be arrived at after considering normative transit and handling losses for coal of 0.8% of the quantity of coal dispatched by the coal supply company during the month.

iii. <u>APERC Regulations 2008;</u>

As per Regulation 11.1.1, the Target Availability for full recovery of Annual fixed charges in case of coal/gas base plants is set as 80 % . In these Regulations, the Components for annual fixed charges are Return on Capital Employed, Depreciation, taxes on Income and O&M expenses as defined in Regulation 12 and their recovery is related to Target Availability. Energy Charge Computation is defined in Regulation 13 and formula for the same is extracted as under:

Energy Charge (Rs) *= rate of Energy Charge in Rs /kwh)x Ex-bus energy sent out corresponding to scheduled energy for the month in kwh*.

13. It is clear from the above that 85 % normative availability for Appellant's plant is in accordance with CERC norms as adopted by State Commission in its order dated 01.08.2022, because APERC Regulations stipulates normative availability of 80 %. It is also clear from the above, that the governing framework, whether under the CERC Regulations, the APERC Regulations, or the Power Purchase Agreement executed between the parties expressly stipulates the methodology for recovery of monthly charges. The scheme is clear and unambiguous: monthly fixed charges are linked to the Plant Availability Factor (PAF) for the month vis-à-vis the normative annual plant

availability, whereas energy charges are linked solely to the fuel cost/energy charge pertaining to the quantum of energy actually supplied during the month.

14. CERC Regulations as well PPA provide that in the event, generator fails to achieve the targeted availability, there shall be a penalty in the monthly fixed capacity charges. Simultaneously, the payment of monthly energy charges is limited strictly to recovery of fuel charges for the energy supplied, irrespective of the plant availability in that month. Thus, the regulatory and contractual scheme draws a clear distinction: fixed charges are availability-linked, subject to penalty for shortfall, whereas energy charges are supply-linked, confined to reimbursement of actual fuel cost.

15. It is submitted on behalf of State Commission that the Denial/reduction of Capacity Charges for availability shortfalls accounts for the generator's lost fixed-cost recovery but it does not compensate DISCOMs or consumers for the additional burden of forced higher-cost procurement from the market, to replace the shortfall in energy from the Appellant. The deductions from Variable Charges provide partial compensation for these avoidable costs and serve as a direct disincentive against chronic monthly under performance. Accordingly, the main issue is whether APERC, while determining tariff, can regulate instances of drastic and unpredictable monthly availability shortfall by generators even in the circumstances where such generators largely meet their annual availability requirements. It is submitted on behalf of Respondents that while the PPA and Regulations focus on annual normative availability, they do not preclude monthly adjustments. According to the Respondents, APERC, being a statutory body, is empowered and obligated to fill contractual and regulatory gaps to ensure reliable supply. The Respondents placed reliance

on the Supreme Court Judgements; **“PTC India Ltd. v. CERC, (2010) 4 SCC 603**”, **“Power Grid Corporation of India Limited vs. Madhya Pradesh Power Transmission Company Limited & Ors., (2025) 8 SCC 705”** to support their contentions with regard to imposition of graded deductions on variable charges. State Commission submit that under Sections 62 and 86 of the Electricity Act, 2003, APERC has broad statutory powers to determine tariffs, including specifying incentive/penalty structures for performance metrics such as availability, even when Regulations are silent on the specific matter.

16. Some force may be found in the submissions advanced on behalf of the Respondents, to the effect that mere reduction in fixed cost recovery for failure to achieve the targeted availability in a month may not adequately compensate or offset the financial burden occasioned by procurement of costly short-term power, and therefore a penalty by way of reduction in the variable charge/energy charge could appear justifiable. However, such considerations of equity or expediency cannot prevail in a regulated framework. In a statutory regulatory regime, the Commission is bound to act strictly in accordance with the governing provisions of the Act.

17. The scheme of recovery of fixed cost and energy charge in a given month is prescribed by the Regulation itself. Once the Regulation stipulates the manner in which fixed cost is to be recovered, and the manner in which energy charge is to be computed and levied, the Commission has no jurisdiction to interfere with or modify that scheme by way of adjudication or in a tariff order. Any departure from the prescribed mechanism can only be effected by way of

a formal amendment to the Regulation in accordance with law, and not otherwise.

18. Accordingly, although the grievance of the Respondents may have some practical appeal, the State Commission cannot substitute its own view for the statutory prescription. The recovery of fixed cost and energy charge must be effected strictly in the manner laid down in the applicable Regulation, and any penalty or disallowance must be confined to the mode expressly provided therein. Moreover, in the present case PPA also stipulates the same methodology as stipulated in the Regulations for recovery of monthly energy charge delinked with the availability achieved in that month. Therefore we don't find any merit in the contention of State Commission that Appellant has been granted liberty to approach the Commission with a petition if the shortfall is for reasons beyond their Control.

19. It is further evident from the foregoing discussion that the CERC Regulations framed under Section 181 of the Electricity Act, 2003, were adopted for the Appellant's plant and as such both CERC as well as APERC Regulations clearly stipulate the methodology for recovery of energy charges for a given month. Once such methodology is prescribed, the Commission is bound to apply it in its entirety. We therefore, find no merit in the submission of the Respondents that there exists a gap in the regulatory scheme which the State Commission, as a statutory body, is empowered or obligated to fill in order to ensure reliable supply. The doctrine of casus omissus has no application in the present context, for the Regulations are complete in themselves and leave no vacuum for the Commission to legislate by way of adjudication.

20. We may also observe that the application of similar reduction in energy charges for other intra-State generators by the State Commission is of no relevance in the present proceedings. Those orders are not under challenge before us, and this Tribunal is not bound to apply the same principle in the case of the Appellant merely because it has been applied elsewhere. Each appeal must be adjudicated on the basis of the statutory framework and the specific impugned order under consideration. The doctrine of parity cannot be invoked to perpetuate an illegality or to justify a deviation from the Regulations.

21. In consequence, we hold that the reasoning adopted by the State Commission in the impugned order, as well as it seeks to justify reduction of energy charges by reference to similar treatment accorded to other intra-State generators, is unsustainable in law.

22. The reliance placed by the Respondents on the ratio of **PTC India Ltd. v. CERC, (2010) 4 SCC 603 and Power Grid Corporation of India Limited v. Madhya Pradesh Power Transmission Company Limited & Ors., (2025) 8 SCC 705** is wholly misplaced. Those decisions dealt with the binding nature of regulations and the scope of regulatory powers in different contexts. They do not advance the Respondents' contention that the Commission may, in the guise of filling contractual or regulatory gaps, alter the express methodology prescribed for recovery of charges. In the present case, the Regulations themselves provide the governing framework, and the Commission is duty-bound to adhere to them.

23. We hold that the findings recorded in the Impugned Order on this issue cannot be sustained in law. The Commission's attempt to deviate from the prescribed methodology of recovery of energy charges, under the pretext of filling an alleged regulatory gap, is ultra vires the Regulations and contrary to settled principles of delegated legislation. It is settled position that once the methodology is expressly prescribed in Regulations, the same is required to be applied in its entirety.

24. In view of above deliberations, the findings in the Impugned Order on the issue cannot be sustained in law and need to be set aside and the Appellant is entitled for refund of the amount withheld/deducted from the energy charge along with applicable carrying cost as per Regulations.

ISSUE B: PART LOAD COMPENSATION

25. It is submitted on behalf of the Appellant that the provisions of CERC Regulations (4th Amendment to the Grid Code), the applicability whereof to the Appellant has been determined by the State Commission vide its Order dated 01.08.2022, specifically provides for Part load compensation (PLC). The Appellant further submits that its claim towards PLC claim is in accordance with the Detailed Procedure as approved by CERC vide order dated 05.05.2017. However, the Impugned Order contains no discussion, analysis, or finding on the PLC claim.

26. It is admitted on behalf of the Respondent Discom that Revised Consolidated PPA, entered into between the Appellant and DISCOMs explicitly provides for part load compensation. The Respondents have further submitted that PLC pertaining to the previous Control Period has been claimed

as a part of True-Up process on actuals basis and therefore, no separate determination was required in the framework of multi-year tariff and ARR vide Impugned order. It has also been contended that no claim towards PLC had been raised by the Appellant.

27. We note from the Schedule-F of the PPA dated 16.07.2024 that Monthly Part Load Compensation is required to be computed in accordance with the Grid Code as notified by CERC, relevant clause is extracted hereunder:

> *"1.2.5. Monthly Part load Compensation Charges: Monthly Part Load Compensation Charges shall be computed in accordance with CERC (Indian Electricity Grid Code) (Fourth Amendment) Regulations, 2016, notified on 6th April 2016, as amended from time to time."*

28. In the Impugned Order, State Commission has recorded the submissions of Appellant that it was claiming Part Load Compensation from the Discoms in terms of Clause 1.2.5 of Schedule-F of the PPA read with Regulation 6.3B of IEGC (fourth amendment), 2016.

29. In view of these submissions/acknowledgment by Respondents, there seems to be no dispute with regard to the entitlement of the Appellant for Part Load Compensation. Accordingly, the Appellant is entitled to part load compensation in terms of the provision of the PPA executed between the Appellant and Discom and to claim the same as per Regulation 6.3B of the IEGC (fourth Amendment) 2016 as amended from time to time.

30. We further note from the Petition filed by Appellant before State Commission that the Appellant has claimed part load compensation amounting

to Rs 119,12,56,167 (excluding carrying cost) from the AP Discoms and has attached letter written to AP Discoms, and Appellant has also asserted that the said claim was never disputed by the Respondents. However, it is not clear from the submissions on record whether such an amount has already been paid or continues to remain outstanding. Since, the issue itself is not under the dispute, the controversy, if any, appears to be confined only to quantification and reconciliation of the amount payable/paid, we deem it appropriate and in the interest of justice to remand the matter to the State Commission for determination and finalization of the amount payable towards Part Load Compensation in accordance with the applicable Regulations.

CONCLUSION

In view of above deliberations, two issues are decided as under:

A) **Deductions from Variable Charges for shortfall in monthly availability**; the Impugned order is set aside on this issue and recovery of energy charges to be enforced strictly in accordance with the applicable CERC Regulations and the stipulations contain in the PPA. The Respondents are directed to refund the amount deducted/withheld from the energy bills along with applicable carrying cost in terms of Regulation within the period of four weeks from the date of this judgement.

B) **Part Load Compensation;** Issue is remanded to the State Commission for determination and finalization of part load compensation to the Appellant in terms of Regulation 6.3B of the IEGC (fourth Amendment), 2016, as amended from time to time, read with the provision of PPA executed between the Appellant and Discom

The Captioned Appeals along with pending IAs, if any, stand disposed of in above terms.

PRONOUNCED IN THE OPEN COURT ON THIS 03rd DAY OF JULY, 2026.

(Virender Bhat) **Judicial Member**	**(Seema Gupta)** **Officiating Chairperson**

REPORTABLE / ~~NON-REPORTABLE~~

Pr/dk/ag/ak