

BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION AT PANCHKULA

Case No. HERC/Petition No. 74 of 2025

Date of Hearing : 29.04.2026
Date of Order : 30.04.2026

In the Matter of

Petition filed under section 86 (1) (f) of the Electricity Act, 2003 read with Article 3.8 of the Power Purchase Agreement dated 22.06.2012 executed between the Petitioner and Respondent HPPC, inter-alia, seeking compensation on account of Change in Law event, namely, impact of additional expenses incurred due to levy of SLDC Charge, along with Carrying Cost.

Petitioner

M/s. Star Wire (India) Vidyut Pvt. Ltd.

Respondent

Haryana Power Purchase Centre, Panchkula (HPPC)

Present on behalf of the Petitioner

1. Mr. Raunak Jain, Advocate

Present on behalf of the Respondent

1. Mr. Raghujeet Madan, Advocate
2. Ms. Aerika Singh, Advocate
3. Mr. Lovepreet Singh, Advocate
4. Mr. Gaurav Gupta, Xen, HPPC

Quorum

Shri Nand Lal Sharma
Shri Mukesh Garg
Shri Shiv Kumar

Chairman
Member
Member

ORDER

Brief background of the case

1. The present petition has been jointly filed by M/s Star Wire (India) Vidyut Private Ltd. under Section 86(1)(f) of the Electricity Act, 2003, read with Article 3.8 of the Power Purchase Agreement ("PPA") dated 22.06.2012, seeking compensation of an amount of Rs.17,55,093/- towards additional expenses incurred by it on account of Change in Law event, namely, levy of SLDC Charges, along with Carrying Costs, for the period of July, 2017-April, 2025 and onwards.
2. The Petitioner has submitted as under: -
 - 2.1. That the Petitioner herein, Star Wire (India) Vidyut Private Ltd. ("SWIVPL") is a 9.9 MW biomass-based power project in the State of Haryana. The power plant of the Petitioner was commissioned on 03.05.2013 i.e. during the Year 2013-14.

- 2.2. That the Respondent has entered into a Power Purchase Agreement (“PPA”) dated 22.06.2012 with the Petitioner for purchase of power for a period of 20 (twenty) years as per tariff determined by the Hon’ble HERC.
- 2.3. That the present petition is preferred under Section 86(1)(f) of the Act read with Article 3.8 of the PPA dated 22.06.2012 executed between the Petitioner and Respondent HPPC.
- 2.4. That the present petition is filed within the specified period of limitation. That the Respondent HPPC denied the claim of the Petitioner for reimbursement of SLDC charges vide its letter dated 13.12.2023 and 02.05.2025. The present petition is filed well within the 3 years period specified by the Hon’ble Supreme Court in **AP Power Coordination Committee and Ors. Vs. M/s Lanco Kondapalli Power Ltd and Ors: (2016) 3 SCC 468** for disputes under Section 86(1)(f) of the Act.
- 2.5. On 22.06.2012, a PPA was executed between the Respondent HPPC and the Petitioner for purchase of power for a period of 20 (twenty) years as per tariff determined by Hon’ble HERC. As per Article 3.8 of the PPA, it has been agreed between the parties as under: -
“3.8 LEVIES, TAXES, DUTIES, CESS, FEE ETC –
Any taxes, duties, cess, royalties and fees etc. which does not exist on the day of signing of PPA, on power generation, if levied at a later stage by Government of India, Government of Haryana or any statutory authority, shall be borne by HPPC.”
- 2.6. That the Petitioner’s power plant achieved commercial operation on 03.05.2013, i.e. in FY 2013-14.
- 2.7. On 03.07.2017, for the first time, Haryana Vidyut Prasaran Nigam Limited (“HVPNL”), issued an invoice amounting to Rs. 26,634/- for the months of April, 2017 – June, 2017 to the Petitioner, for SLDC charges. The same was duly paid by the Petitioner. Copy of the invoice dated 03.07.2017 issued by HVPNL and paid by the Petitioner towards SLDC charges is marked and annexed as Annexure P-3.
- 2.8. On 16.11.2023, vide its letter, the Petitioner requested the Respondent HPPC to reimburse the SLDC charges of Rs.7,44,215/- paid by the Petitioner on actual basis to HVPNL for the period of April, 2017-October, 2023, in accordance with Article 3.8 of the PPA. Copy of the letter dated 16.11.2023 sent by the Petitioner is marked and annexed as Annexure P-4.
- 2.9. Vide its letter dated 13.12.2023, the Respondent HPPC responded to the above request of the Petitioner to reimburse the SLDC charges and stated that as per the extant regulations, the Petitioner is liable to make the payment of the SLDC charges.

- 2.10. Further, vide its letters dated 18.12.2023, 08.01.2024, 24.05.2024, 07.06.2024, 17.07.2024 09.10.2024, 19.02.2025 and 17.04.2025, Petitioner requested HPPC from time to time, to reimburse the SLDC charges paid by the Petitioner to HVPNL, in accordance with Article 3.8 of the PPA.
- 2.11. Vide its letter dated 02.05.2025, Respondent HPPC responded to the above requests of the Petitioner to reimburse the SLDC charges and stated that as per the extant regulations, the Petitioner is liable to make the payment of the SLDC charges.
- 2.12. Vide RTI application dated 29.05.2025, the Petitioner sought information from HPPC regarding the amount of SLDC charges reimbursed by HPPC to all State-owned and privately-owned power generators during the period from FY 2017-18 to FY 2024-2025. In response, HPPC vide its reply dated 03.07.2025, supplied information to the Petitioner, wherein it admittedly reimbursed approx. Rs. 48 crores SLDC charges to several generating companies for the period FY 2017-18 to FY 2024-25. This clearly shows that HPPC is discriminating against the Petitioner and reimbursing the SLDC charges to only a few generators.
- 2.13. For the reason that with the increase in the liability on account of the imposition of SLDC charges by HVPNL, the working capital requirement, and consequently, the interest on working capital have also increased as compared to requirement and rate prevalent at the time of signing of the PPA. Hence, the Petitioner is entitled to be compensated on account of such Change in Law event due to levy of SLDC charges.
- 2.14. For the reason that as per Article 1 (29) of the PPA, "Law" has been defined as under:-
"Law" means any valid act, law, legislation, statute, rule, regulation, notification, directive, order, policy, by-law, administrative guideline, ruling, treaty or any interpretation thereof enacted, issued, promulgated by Indian Governmental Instrumentality."

Further, Article 3.8 of the PPA provides that the levies and charges etc. levied at a later stage by any authority, which did not exist at the signing of the PPA, shall be borne by HPPC. In the present case, the SLDC charges are being levied from June, 2017 onwards i.e. much after the cut-off date at the time of signing of the PPA on 22.06.2012. Hence, the Petitioner is entitled to be compensated on account of this Change in Law event i.e. additional expenses incurred due to levy of SLDC Charges, along with carrying costs. as per the actual loan cost incurred by the Petitioner. The same is payable upto the date of the amount being actually paid by HPPC. Details of loans availed by the Petitioner for the period of July, 2017 – April, 2025 and loan cost are marked annexed.

- 2.15. That the Respondent HPPC, while denying the claim of the Petitioner for compensation on account of levy of SLDC Charges has stated that as per the extant regulations, the Petitioner is liable to make the payment of the SLDC charges. Without disputing the correctness of the applicability of the SLDC charges, even if the same are to be initially levied on the generators, yet, as per terms of the PPA, the beneficiary i.e. HPPC is liable to reimburse the same to the Petitioner. In this context, it may be noted that HPPC, vide its reply dated 03.07.2025 to the Petitioner's RTI application, supplied information to the Petitioner, wherein it admittedly reimbursed approx. 48 crores as SLDC charges to several generating companies for the period FY 2017-18 to FY 2024-25. This clearly shows that HPPC is discriminating against the Petitioner and reimbursing the SLDC charges to only a few generators, hence, Petitioner is also entitled to reimbursement of SLDC charges actually paid, with carrying cost/ interest.
- 2.16. That the Petitioner is entitled to the claim of interest on the actual SLDC charges paid, in terms of the judgement passed by the Hon'ble Appellate Tribunal in the case of ***Essar Power Gujarat Limited Vs. Gujarat Electricity Regulatory Commission & Anr.*** (Judgment dated 16.04.2025 in Appeal No. 842 of 2023), since Carrying Cost/ interest is a measure of restitution. Although the said judgement was rendered in the context of a Section 63 proceeding, it has been held that Carrying Cost/ interest is the only manner through which a generator can be restored to the same economic position. It is also to be noted that the Carrying Cost is payable from the date when the additional expenditure is incurred by the affected party.
- 2.17. That the Hon'ble APTEL in its Judgement dated 02.11.2020 Appeal Nos. 10 of 2020 & Batch, in the case of ***Power Company of Karnataka Limited & Ors. Vs. Udupi Power Corporation Ltd. & Ors.*** has analysed the difference in the language used in Article 58 in contradistinction to Article 113 of the Limitation Act, and held that, the right to sue may accrue to a suitor in a given case at different points of time. Further, in the case of "running accounts" for sale and purchase of electricity under the PPA by a generating company to a distribution licensee, there is a continuing nature of the relationship, it being a commercial arrangement for twenty-five years coupled with a clear case of running account which are to be considered as continuing cause of action. The appeals preferred by the distribution companies against the aforesaid judgement have been rejected by the Hon'ble Supreme Court vide its Order dated 08.02.2022 in Civil Appeal No.32/2021 & batch.
- 2.18. That the following prayers have been made: -

- (a) Hold and declare that the imposition of SLDC Charges by HVPNL resulting into increased expenditure incurred by the Petitioner constitutes Change in Law Event in terms of Article 3.8 of the PPA;
- (b) Consequently, direct the Respondent HPPC to compensate the Petitioner an amount of Rs.17,55,093/- towards additional expenses incurred by it on account of occurrence of Change in Law Events from FY 2017-18 up to FY 2024-25 along with carrying cost/interest;
- (c) Pass an ad-interim order directing the Respondent to release payment of 75% of SLDC Charges already incurred by the Petitioner i.e., Rs.13,16,319/-against the claim raised by the Petitioner;
- (d) Award the costs of the present petition, including the court fee paid by the Petitioner, against the Respondent HPPC;
- (e) Pass such further order(s) as this Hon'ble Commission may deem fit in the interest of justice, equity and good conscience.

3. On the relief sought by the petitioner, the respondent (HPPC) filed its reply dated 05.12.2025, submitting as under:-

THE PRESENT PETITION IS LIABLE TO BE DISMISSED BEING TIME-BARRED:

3.1. That, admittedly, the Haryana Vidyut Prasaran Nigam Limited ("HVPNL") issued the invoice claiming SLDC Charges, for the first time, for the months of April, 2017 to June, 2017, amounting to Rs. 26,634/- on 03.07.2017. However, the present petition has been filed only in August, 2025 i.e. after a lapse of 8 years from the date the SLDC Charges were claimed for the very first time from the Petitioner. As such, the present petition is liable to be dismissed outrightly being hopelessly time-barred.

3.2. That the sole reason given by the Petitioner for filing the petition with a delay of 8 years, as stated in para no. 4 of the petition is that- "... HPPC denied the claim of the Petitioner for reimbursement of SLDC charges vide its letter dated 13.12.2023 and 02.05.2023. The present petition is filed well within 3 years period specified by the Hon'ble Supreme Court of in **AP Power Coordination Committee and Ors. Vs. M/s Lanco Kondapalli Power Ltd. and Ors. (2016) 3 SCC 468** for disputes under Section 86(1)(f) of the Act."

Whereas, the cause of action to dispute the validity/ admissibility of SLDC Charges arose in the favour of the Petitioner on 03.07.2017 i.e. the date of which the SLDC Charges were sought for the very first time and not on 13.12.2023 as contended by the Petitioner. Attention in this regard is brought towards the decision in the case of **AP Power Coordination Committee and Ors. Vs. M/s Lanco Kondapalli Power**

Ltd. and Ors. [(2016) 3 SCC 468], which has been relied upon by the Petitioner as well, the relevant part of which is reproduced below:-

“29. **In the absence of any provision in the Electricity Act creating a new right upon a claimant to claim even monies barred by law of limitation, or taking away a right of the other side to take a lawful defence of limitation, we are persuaded to hold that in the light of nature of judicial power conferred on the Commission, claims coming for adjudication before it cannot be entertained or allowed if it is found legally not recoverable in a regular suit or any other regular proceeding such as arbitration, on account of law of limitation.** We have taken this view not only because it appears to be more just but also because unlike Labour laws and Industrial Disputes Act, the Electricity Act has no peculiar philosophy or inherent underlying reasons requiring adherence to a contrary view.

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Hence, we hold that a claim coming before the Commission cannot be entertained or allowed if it is barred by limitation prescribed for an ordinary suit before the civil court. But in appropriate case, a specified period may be excluded on account of principle underlying salutary provisions like Section 5 or 14 of the Limitation Act. We must hasten to add here that such limitation upon the Commission on account of this decision would be only in respect of its judicial power under clause (f) of sub-section (1) of Section 86 of the Electricity Act, 2003 and not in respect of its other powers or functions which may be administrative or regulatory”

(Emphasis Supplied)

The relevant Article of the Limitation Act, 1963 are reproduced below:

“THE SCHEDULE
(PERIODS OF LIMITATION)

[See sections 2(j) and 3]

FIRST DIVISION—SUITS

Description of suit	Period of limitation	Time from which period begins to run
23. For money payable to the plaintiff for money paid for the defendant.	Three Years	When the money is paid.
58. To obtain any other declaration.	Three Years	When the right to sue first accrues.
113. Any suit for which no period of limitation is provided elsewhere in this Schedule.	Three Years	When the right to sue first accrues.

Attention in this regard is also brought towards the recent decision of the Hon’ble Apex Court in the case of **Nikhila Divyang Mehta & Anr. Versus Hitesh P. Sanghvi & Ors.**

[S.L.P. (C) No. 13459 of 2024, Decided on 15.04.2025; Law Finder Doc Id # 2719469], wherein it has been held as under:

“24. There is no dispute to the fact that the limitation for filing of the suit falls under Article 58 of the Schedule to the Act wherein the limitation prescribed is three years. It may be pertinent to note that the limitation of three years is from the date when the cause of action first arose. So, according to the plaintiff's case, the cause of action first arose on 04.02.2014 and, therefore, the limitation would end on 04.02.2017. However, even if the limitation is calculated from the date of knowledge of the Will and/or the Codicil, it would run from the first week of November, 2014 and would end in the first week of November, 2017. The suit admittedly was instituted on 21.11.2017; much beyond the first week of November, 2017 and as such is apparently barred by limitation, for which neither any defence is required to be looked into nor any evidence in support is needed to be adduced.

25. Section 3 of the Act contemplates that every suit instituted after the period prescribed under the Act shall be dismissed even if limitation has not been set up as a defence. The aforesaid provision is of a mandatory nature and cannot be ignored by the courts even if not pleaded or argued by the defence. It is obligatory upon the court to dismiss the suit if it is, on the face of it, barred by limitation. The aforesaid provision has been enacted for public good and to give quietus to a remedy after lapse of a particular period, as a matter of public policy, though without extinguishing the right in certain cases. Therefore, once a limitation prescribed for instituting a cause of action expires and even if limitation is not set up as a defence, it obliges the court to dismiss the suit as barred by limitation.

26. In the present case, the plaintiff not only categorically states that he acquired knowledge of the Will and the Codicil in the first week of November, 2014 but also that the cause of action for the suit first arose on 04.02.2014 and lastly on 21.10.2014. The suit was filed on 21.11.2017. As such on the own averments of the plaintiff, the suit was instituted beyond limitation attracting Order VII Rule 11 (d) CPC.

27. The submission that limitation is a mixed question of law and fact and that it cannot be decided without allowing the party to lead evidence is of no substance. In the present case, we have earlier noted that the suit was admittedly instituted on 21.11.2017 whereas according to the plaint averments the cause of action first arose on 04.02.2014. Even assuming that the cause of action last arose in the first week of November, 2014, the suit ought to have been filed by 07.11.2017. The suit was

filed on 21.11.2017. It was ex-facie barred by limitation for which, no evidence was required to be adduced by the parties. The above issue is purely an issue of fact and in the admitted facts as per the plaint, allegations stand concluded for which no evidence is needed.”

(Emphasis Supplied)

A perusal of the aforesaid decision shows that the *“the right to sue first accrues”* has been construed by the Hon’ble Apex Court as the date of knowledge. In the present case, the date of knowledge that the SLDC Charges were being imposed is to be reckoned from 03.07.2017. The present petition having being filed after a delay of 8 years from the date of knowledge, is hopelessly time-barred.

- 3.3. That the Petitioner’s reliance on the Memo dated 13.12.2023 is misconceived. The said Memo is merely a letter issued by the Respondent, which only reiterates HVPNL’s right to levy and recover SLDC charges. The said letter does not give rise to any fresh cause of action in the favour of the Petitioner. The Petitioner’s attempt to revive a stale claim while referring to the letter of HPPC is wholly untenable and liable to dismissed. Reliance in this regard is also placed on the judgment of the Hon’ble Delhi High Court in the case of ***Nihal Singh v. Union of India*** [WP(C) No. 02 of 2012. D/d. 17.1.2012] wherein the Hon’ble High Court while referring to the decision of the Hon’ble Apex Court held as follows:

“.... The Supreme Court in M.K. Sarkar (Supra) had held that even when a belated representation in regard to a 'stale' or 'dead' issue/dispute is considered and decided, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the 'dead' issue or time-barred dispute. The issue of limitation or delay and latches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a court's direction. Neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and latches. In Amrit Lal Berry v. CCE, (1975) 4 SCC 714, the Supreme Court had held that merely by filing repeated or delayed representations, a petitioner cannot get over the obstacles which delay in approaching the Court creates because equitable rights of others have arisen. Even in the case of the petitioner a number of promotions have taken place since 1994. In the circumstances, filing the petition in 2012 will impact those who have been promoted and given seniority since 1994. Since the petitioner is seeking seniority since 1994, then all those employees who would be impacted by the petitioner being made senior to them should have also been made party to the present petition which has not

been done. The petition, therefore, is also liable to be dismissed on the ground that the equitable rights of a number of other Government servants has come into existence on account of the laches and acquiescence on the part of the petitioner. The Supreme Court in S.S. Moghe v. Union of India, (1981) 3 SCC 271 had held that a party seeking the intervention of the Court for enforcement of his rights should exercise due diligence and approach the Court within a reasonable time after the cause of action had arisen and if there has been undue delay or laches on the part of such petitioner, the Court has the undoubted discretion to deny him relief.”

(Emphasis Supplied)

3.4. That, even otherwise, a bare perusal of the Answering Respondent’s Memo dated 13.12.2023 indicates that it was issued merely in response to the Petitioner’s letter dated 16.11.2023. As on 16.11.2023, the Petitioner’s claim was already barred by limitation. Accordingly, the Petitioner’s reliance on the Memo dated 13.12.2023 is wholly misplaced.

3.5. That the Petitioner has not filed any application seeking condonation of delay, and only baseless and vague grounds have been raised which fail to show any sufficient cause for approaching the Answering Respondent and thereafter this Hon’ble Commission with delay. Attention in this regard is placed on **Basawaraj and Anr. Vs. Special Land Acquisition Officer** [(2013) 14 SCC 81] wherein the Hon’ble Apex Court observed as under:

*“9. Sufficient cause is the cause for which Defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. **The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior***

purpose. (See: *Manindra Land and Building Corporation Ltd. v. Bhootnath Banerjee and Ors.*, AIR 1964 SC 1336; *Lala Matadin v. A. Narayanan*, AIR 1970 SC 1953; *Parimal v. Veena @ Bharti*, AIR 2011 SC 1150; and *Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai*, AIR 2012 SC 1629.)

...

13. *The Statute of Limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale.* According to Halsbury's *Laws of England*, Vol. 24, p. 181:

"605. *Policy of Limitation Acts.* The courts have expressed at least three differing reasons supporting the existence of statutes of limitations namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a Defendant might have lost the evidence to disprove a stale claim, and (3) **that persons with good causes of actions should pursue them with reasonable diligence.**"

An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence' or laches. (See: *Popat and Kotecha Property v. State Bank of India Staff Assn.*, (2005) 7 SCC 510; *Rajendar Singh and Ors. v. Santa Singh and Ors.*, AIR 1973 SC 2537; and *Pundlik Jalam Patil v. Executive Engineer, Jalgaon Medium Project*, (2008) 17 SCC 448).

14 In **P. Ramachandra Rao v. State of Karnataka**, AIR 2002 SC 1856, this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in *A.R. Antulay v. R.S. Nayak*, AIR 1992 SC 1701.

15. **The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bonafide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case**

there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.”

(Emphasis Supplied)

- 3.6. That the present Petition is not maintainable, even otherwise, in light of the legal maxim “*vigilantibus non dormiantibus jura subveniunt*” i.e. the law helps those who are vigilant and not those who sleep over their rights. In case the Petitioner is allowed to approach the Hon’ble Commission after a lapse of about 8 years from the date on which the cause of action has arisen, in such a situation, there would be no end to litigation and the entire purpose of the law would be defeated, as people would belatedly keep filing such petitions even after expiry of a number of years. Therefore, the present petition is liable to be dismissed on the sole ground of delay and laches.

THE PETITION HAS BEEN FILED BY BYPASSING AND IN DEROGATION OF THE TERMS OF THE PPA:

- 3.7. That without prejudice to the foregoing, the only question which falls for consideration in the present matter is whether the Petitioner is entitled to claim the reimbursement SLDC charges along with carrying costs. The Petitioner has, misconstrued both the contractual framework and the governing law, inasmuch as the SLDC charges are a statutory obligation that cannot be shifted upon the Respondent. Attention in this regard, is brought towards the following clauses of the PPA subsisting between the parties:

“ARTICLE 1

DEFINITIONS AND INTERPRETATION

... ..

1) “**ACT**” shall mean the *Electricity Act, 2003* and any rules, amendments, regulations, notifications, guidelines or policies issued there under from time to time.

... ..

17) “**Electricity Laws**” shall mean *Haryana Electricity Reforms Act 1997* and *Electricity Act 2003* and the relevant rules, notifications and amendments issued there under.

...

43) “**Wheeling**” means the operation where by the distribution system and associated facilities of transmission licensee as the may be are used by another person for the

conveyance of Electricity on payment of charges to be determined under section 62 of the Electricity Act, 2003.

... ..

ARTICLE 6

GENERATION FACILITIES – OPERATION & MAINTENANCE:

... ..

6.2 *The Company shall be responsible at its own expense for ensuring that the Power Station is operated and maintained in accordance with all legal requirements including the terms of all consents/clearances/permits and Prudent Utility Practices and within the acceptable technical limits so as not to have an adverse effect on the Grid system or result in violation of any rules/ laws/*

6.3 ***Company shall meet/ comply with all statutory laws as applicable.***

... ..

6.9 ***For matters relating to grid operations and load despatch, the directions of State Load Despatch Centre of State Utilities and/or any other officer which may be authorized by the HPPC shall be strictly complied with by the Company. Any dispute on this account shall be referred to Chief Engineer in-charge of System Operations of respective utility whose decision shall be final. If either party feels the decision is unjustified, the party may make appeal to the Commission.***

ARTICLE 12

SETTLEMENT OF DISPUTES AND ARBITRATION

... ..

12.2 ***In the event of such differences or disputes, between the parties, either party may by written notice of 30 days to the other party, request the other party for resolution of dispute through HERC as per The Electricity Act, 2003.***

12.3 ***All differences or disputes between the parties arising out of or in connection with these presents, including any question or matter of dispute which falls within the scope and purview of the statutory authorities under the provision of the Electricity Act, 2003 as amended from time to time, that the parties are unable to resolve by mutual agreement, shall be referred to HERC for adjudication.***

A perusal of the above shows that the Petitioner is under an express obligation to comply with the statutory laws, in terms Article 6.3 of the PPA. Further, Section 32(3) of the Electricity Act, 2003 clearly provides that-

“(3) The State Load Despatch Centre may levy and collect such fee and charges from the generating companies and licensees engaged in intra-State transmission of electricity as may be specified by the State Commission.”

Attention in this regard is also brought towards the Haryana Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Generation, Transmission, Wheeling and Distribution & Retail Supply under Multi Year Tariff Framework) Regulations, 2024 (“MYT Regulations”) which provides as under:

“54. The annual charges of SLDC determined as per Regulations 6 and 16, shall be recovered as a single composite charge from the beneficiaries as under:

<i>(1) Intra-State transmission licensee</i>	<i>8% of Annual SLDC Charges</i>
<i>(2) Generating stations and sellers</i>	<i>46% of Annual SLDC Charges</i>
<i>(3) Distribution licensee and buyers</i>	<i>46% of Annual SLDC Charges</i>

Such provision was also present in MYT Regulations, 2012 and MYT Regulations, 2019 and its subsequent amendments. As such, the MYT Regulations unequivocally reinforcing and reaffirming that the obligation and liability to bear and discharge the SLDC charges rests squarely upon the generating company or entity availing the services of the SLDC. **These successive regulatory frameworks leave no room for ambiguity that such charges are recoverable only from the beneficiaries of SLDC services, including the Petitioner herein.** Accordingly, a **plain and harmonious reading of the terms of PPA, the Electricity Act, 2003 as well as the MYT Regulations clearly establishes that SLDC charges are a statutory and regulatory levy imposed upon the generating company for availing the services of the SLDC, and not an incidental or reimbursable expense under the contractual framework.**

- 3.8. That, even otherwise, any dispute pertaining to SLDC Charges was required, under Clause 6.9 of the PPA, to be referred to the Chief Engineer in-charge of System Operations of the concerned utility, whose decision would be final and binding. However, the Petitioner has straight-away proceeded to file the present petition, without making any reference in terms of Clause 6.9 of the PPA. Further, no notice in terms of Article 12.2 have been served upon HPPC by the Petitioner herein. As such, the present petition is liable to be dismissed on the sole ground that the petition has

been filed while bypassing and without adhering to the mandatory dispute-resolution mechanism prescribed under the PPA.

ERRONEOUS RELIANCE BY THE PETITIONER ON CLAUSE 3.8 OF THE PPA:

- 3.9. That the petitioner has primarily placed reliance upon Article 3.8 of the PPA, which provides as under:

“3.8 LEVIES, TAXES, DUTIES, CESS, FEES ETC. - Any taxes, duties, cess, royalties and fees etc., which do not exist on the date of signing of the PPA, if levied at a later stage by the Government of India, Government of Haryana or any statutory authority, shall be borne by HPPC.”

The terms ‘Fees’ and ‘Charges’ ought not be treated as interchangeable or synonymous. The use of distinct expressions such as levies, taxes, duties, cess, and fees clearly reflect the intention of the parties to exclude the term ‘charges’ and to assign each expression its own independent meaning. The Petitioner has deliberately misinterpreted the said clause. The expression “fees” appearing in Article 3.8 cannot be equated with “charges” as the two terms have distinct connotations in the present contract. SLDC charges are not “fees” as contemplated under Article 3.8, rather they are statutory or regulatory charges levied in connection with the operation and use of the State Load Despatch Centre as per the Electricity Act, 2003.

Furthermore, SLDC charges were neither newly imposed nor introduced subsequent to the execution of the PPA. These charges were contemplated under the Electricity Act, 2003 and were applicable to all generating companies availing SLDC services. As a prudent commercial entity, the Petitioner ought to have factored such charges at the time of entering into the PPA. The fact that the rate or quantum of such charges was determined in 2017 does not imply that they were non-existent earlier. Further, ignorance of law/ statutory obligations cannot be a defence. Being an experienced generator, the Petitioner was presumed to be aware of the regulatory framework governing SLDC operations and corresponding payment obligations. Therefore, the Petitioner’s attempt to portray SLDC charges as a “change in law” is wholly misconceived.

- 3.10. That it is also pertinent to mention here that such charges reflects the cost of operating the SLDC including the cost of owning & maintaining it and the charges are levied to the beneficiaries of the services of SLDC. It needs to be noted that SLDC, as such, is not a business but an apex body to ensure integrated operation of the power system in the State. Hence, for the functions associated with supervision and control under Section 32(3) of the Act, the SLDC is entitled for collecting charges from the beneficiaries as may be determined by the Commission. The SLDC charges have been

rightly levied on the generators/ beneficiaries, including the Petitioner herein, as per HVPNL's ARR tariff orders issued by Hon'ble Commission from time to time.

RELIANCE PLACED UPON INFORMATION RECEIVED THROUGH RTI IS MISCONCEIVED AND MISLEADING:

- 3.11. That the Petitioner seeks to justify its claim by relying heavily on an RTI response dated 03.07.2025. It has been alleged by the Petitioner that the Answering Respondent has reimbursed SLDC charges to certain generators and has thereby acted discriminatorily. However, the reliance of the Petitioner on the RTI is wholly misplaced. The RTI extract has been selectively quoted and does not disclose the contractual terms applicable to those generators. Reimbursements were made only in cases where the PPAs expressly provided for reimbursement of SLDC or similar statutory charges, if levied subsequently. The Petitioner's PPA contains no such clause, and therefore no contractual parity exists. The reliance on the RTI response, lacking context and completeness, is misleading and untenable.
- 3.12. That the following aspects are brought to the notice of this Hon'ble Commission:
- a. It is a matter of record that the Answering Respondent has reimbursed SLDC charges to Jhajjar Power Plant; however, such reimbursement was made strictly in accordance with the clear and explicit contractual obligation contained in its PPA. As per the terms of that agreement, the Answering Respondent was expressly required to reimburse "RLDC/SLDC Charges". The relevant clause of the PPA is reproduced below for ready reference:
"9.2 RLDC/ SLDC Charges
All scheduling and RLDC/ SLDC charges applicable shall be borne jointly by the Procurers."
Such similar clause is not present in the PPA signed by the Petitioner herein.
 - b. With respect to the reimbursements made to HPGCL and HVPNL, it is submitted that the Petitioner cannot claim parity with these entities, as they are government-owned sister concerns of the Answering Respondent. In any event, even if no reimbursement were made by the Answering Respondent, both HPGCL and HVPNL would be entitled to recover such amounts at the time of finalisation of their Annual Revenue Requirement by the Hon'ble Commission.
 - c. There other generators, namely M/s Sri Jyoti Limited, M/s Gemco Energy Limited, and M/s Oasis Commercial Limited etc., who are similarly placed as the Petitioner i.e. whose PPAs are similarly worded, inasmuch as they also do not contain any provision for reimbursement of SLDC charges. Consistent with the terms of their

PPAs, no reimbursement of SLDC charges has been made to these entities by the Answering Respondent.

HPPC has thus followed a uniform, non-discriminatory, and contractually consistent approach. The Petitioner's allegation of discrimination is therefore baseless, contrary to the contractual framework, and is liable to be rejected.

PETITION LIABLE TO BE DISMISSED ON ACCOUNT OF NON-JOINDER OF NECESSARY PARTY- HVPNL:

- 3.13. That it is further submitted that the present petition is also liable to be dismissed for non-joinder of necessary parties. The SLDC charges in question were imposed by SLDC, i.e., HVPNL, and not by the Answering Respondent. The Answering Respondent has no control over the imposition or non-imposition of SLDC charges. Any decision on the Petitioner's claim for reimbursement would directly impact HVPNL's right and liability to recover such charges from other generators. In these circumstances, HVPNL is a necessary party and ought to have been impleaded. The absence of HVPNL, particularly in view of the nature of relief sought, renders the present petition not maintainable.
- 3.14. That the Petitioner has no legal, contractual, or equitable right to claim reimbursement of SLDC charges under the Electricity Act, 2003, the MYT Regulations, the PPA, or any other binding document. The Petitioner's claim is based on a wrong assumption that HPPC is required to reimburse SLDC charges, even though there is no such obligation in law or in the PPA. Even otherwise, the present petition is hopeless time-barred and liable to be dismissed on the ground of limitation.
4. The petitioner has filed its rejoinder dated 03.04.2026 to the reply filed by HPPC. The petitioner has submitted as under:-
 - 1) *Petition is allegedly barred by Limitation -*
- 4.1. That such objection has been mechanically raised simply in order to avoid adjudication on the merits of the petition, which otherwise raise an important issue for consideration of the Hon'ble Commission and shall also have an impact on all the biomass power plants in the State of Haryana. In the case of "running account" for sale and purchase of electricity under a PPA by a generating company to a distribution licensee, there is a continuing nature of the relationship, it being a commercial arrangement for twenty years coupled with a clear case of running account which are to be considered as continuing cause of action. The Hon'ble APTEL in its Judgement dated 02.11.2020 Appeal Nos. 10 of 2020 & Batch, in the case of **Power Company of Karnataka Limited & Ors. Vs. Udupi Power Corporation Ltd. & Ors.** has already accepted the

continuing cause of action due to “running accounts” under the PPA and has analysed the difference in the language used in Article 58 in contradistinction to Article 113 of the Limitation Act, and held that, the right to sue may accrue to a suitor in a given case at different points of time. Importantly, the appeals preferred by the distribution companies against the aforesaid judgement have been rejected by the Hon’ble Supreme Court vide its Order dated 08.02.2022 in Civil Appeal No.32/2021 & batch. Hence, the aforesaid decision is the settled law and binding across the board, including HPPC herein.

In the case of biomass power plants in the State of Haryana, there is no provision for filing true-up or performance review petitions. Hence, it is not a case where the accounts of the biomass generators and HPPC are mutually settled and stand closed in the ensuing year. In such a situation the account for supply of power is required to be considered as a “running account”, admittedly as per the definition of “running account” by Black’s Law Dictionary.

- 4.2. That Respondent HPPC denied the claim of the Petitioner for reimbursement of SLDC charges for the first time vide its letter dated 13.12.2023 and then again on 21.05.2025 (which was inadvertently incorrectly stated as 02.05.2025 in the Petition). Until 13.12.2023, the dispute/ cause of action against HPPC had not even crystallised as there was no such denial of reimbursement of SLDC charges by HPPC. Hence, contrary to the submissions of HPPC, the present petition is filed well within the 3 years period of limitation specified by the Hon’ble Supreme Court in ***AP Power Coordination Committee and Ors. Vs. M/s Lanco Kondapalli Power Ltd and Ors: (2016) 3 SCC 468*** for disputes under Section 86(1)(f) of the Act.
- 4.3. That the cases cited and relied upon by HPPC in its reply are all instances where repeated or delayed representations were made, on the basis of which the parties sought to approach the Courts, which the Court have held that such repeated or delayed representations do not create a fresh cause of action or extend the limitation period. The said cases materially differ on factual aspects and are therefore inapplicable. However, in the present case, HPPC denied the claim of the Petitioner for the first time vide its letter dated 13.12.2023 and then again on 21.05.2025. Even if 13.12.2023 is considered as the date when the cause of action first arose in favour of the Petitioner, it is evident that the present petition is filed well within the period of 3 years from 13.12.2023. Hence, the objection of HPPC regarding the petition being barred on account of limitation is liable to be rejected by the Hon’ble Commission.
- 4.4. That the submissions of HPPC that the issue of limitation/ alleged delay may be decided first at the preliminary stage prior to any consideration on the merits of the

case, is squarely against the specific findings of the Hon'ble Supreme Court in its judgment dated 18.10.2012 in Civil Appeal No. 7524 of 2012 [PTC India Ltd. Vs. GERC] which has held as under:

*"We have considered the argument of the learned senior counsel but have not felt impressed. Since, one of the objectives of disputes raised by the parties, there is no warrant for entertaining preliminary/interlocutory objections raised by either party and decide the same by long-drawn hearing and by recording lengthy orders. **The State Commission and the Tribunal should, while deciding the main matter consider all objections including the one relating to their jurisdiction to entertain the matter. Any attempt by the parties to delay adjunction of the dispute deserves to be deprecated and the State Commission and the Tribunal are not expected to water their time in dealing with objections of different hues.**"*

Further, the Ld. CERC in P. No. 66/MP/2017 - NTPC Limited Vs. Grid Corporation of Orissa Limited & Ors. – Order dated 31.12.2018, paras 13 & 14; has applied and followed the above decision where respondent had raised preliminary objections regarding jurisdiction and maintainability of the petition, and proceeded to decide the issues on maintainability, jurisdiction as well as on merit. Hence, the submission of HPPC that the issue of limitation, if any, ought to be decided first, is liable to be rejected and the case is required to be decided fully, with the merits together after admission of the petition and at final hearing stage.

II) *Reliance of HPPC on Articles 6.3, 6.9, 6.12 and Article 12.2 of the PPA -*

4.5. That HPPC is misinterpreting Articles 6.3 and 6.9 of the PPA as well as the scope of the present petition. The Petitioner has not at all disputed the correctness of the applicability of the SLDC charges as per Regulation 54 of the HERC MYT Regulations, 2024 (which too have been notified after signing of the PPA). As a matter of fact, and record, the Petitioner was levied the SLDC charges by HVPNL and it also made the payment of the said SLDC charges for the period of July, 2017 – April, 2025. However, having made the payment of SLDC charges to HVPNL initially, it is the case of the Petitioner that it is entitled to be reimbursed by HPPC, which is the sole beneficiary of the 100% power supplied by the Petitioner, as per Article 3.8 of the PPA.

4.6. That in so far as the contention of the Respondent HPPC regarding Petitioner allegedly not having approached the Chief Engineer in-charge of System Operations of the concerned utility, as provided under Article 6.12 of the PPA, it is evident from the provision itself that it is applicable for "*matters relating to grid operations and load despatch*". Whereas, in the present case there is no such dispute on the correctness

of the SLDC charges by HPVNL or any direction by the SLDC regarding grid operations and load despatch. The present dispute is regarding non-reimbursement of SLDC charges by HPPC to the Petitioner, contrary to Article 3.8 of the PPA, hence not covered under Article 6.12 of the PPA, as wrongly contended by HPPC. The Petitioner has correctly approached this Hon'ble Commission for adjudication of the above grievance under Section 86(1)(f) of the Act and Article 12.3 of the PPA and the requirement to send a written notice of 30 days is not mandatory under Article 12.2 of the PPA. Hence, HPPC's reliance on Article 6.12 and Article 12.2 of the PPA to deny the reimbursement of the SLDC charges, which did not exist at the signing of the PPA, is untenable and liable to be rejected by this Hon'ble Commission. Moreover, it is submitted that the sale of power to HPPC from the Petitioner's plant is at the interconnection point which is the switchyard of the generator. Hence, SLDC despatch norms do not apply to the biomass power plants including the Petitioner herein.

III) *Interpretation and scope of Article 3.8 of the PPA -*

- 4.7. That HPPC's interpretation of Article 3.8 of the PPA and its scope, are incorrect and completely contrary to the legislative as well as contractual intent. HPPC claims that 'Fees' and 'Charges' ought not be treated as interchangeable or synonymous. As a matter of fact, and record, no such contention has been made by the Petitioner that 'Fees' and 'Charges' are one and the same. The submission of the Petitioner is, as evident from para 7 (B) of its Grounds, that Article 1 (29) of the PPA defines "Law", which includes "any valid act, law, legislation, statute, rule, regulation, notification, directive, order, policy, by-law, administrative guideline, ruling, treaty or any interpretation thereof enacted, issued, promulgated by Indian Governmental Instrumentality." Further, Article 3.8 of the PPA provides that "Any taxes, duties, cess, royalties and fees **etc which does not exist on the day of signing of PPA, on power generation, if levied at a later stage by Government of India, Government of Haryana or any statutory authority, shall be borne by HPPC.**"

Hence, the stress is on the word "etc" used under Article 3.8 of the PPA, which would undoubtedly cover the SLDC charges in the present case since the same are being levied only from June, 2017 onwards i.e. much after the cut-off date at the time of signing of the PPA on 22.06.2012. It is important to note that the instances provided under Article 3.8 such as levies, taxes, duties, cess, fee are not exhaustive and followed by the word "etc". Hence, the Petitioner is entitled to be compensated on account of this Change in Law event i.e. additional expenses incurred due to levy of SLDC Charges, alongwith carrying costs. as per the actual loan cost incurred by the

Petitioner. The same is payable upto the date of the amount being actually paid by HPPC.

- 4.8. That the present case is a classic case for invocation of the principle of *Ejusdem Generis*. The term “*ejusdem generis*” has been defined in Black’s Law Dictionary, 9th Edn. as follows:-

“A canon of construction holding that when a general word or phrase follows a list of specifics, the general word or phrase will be interpreted to include only items of the same class as those listed.”

The meaning of the expression *ejusdem generis* was considered by the Hon’ble Apex Court on a number of occasions and has been reiterated in ***Maharashtra University of Health Sciences and Ors. Vs. Satchikitsa Prasarak Mandal & Ors. (2010) 3 SCC 786***. The principle is defined thus:

“The Latin expression “ejusdem generis” which means “of the same kind or nature” is a principle of construction, meaning thereby when general words in a statutory text are flanked by restricted words, the meaning of the general words are taken to be restricted by implication with the meaning of the restricted words. This is a principle which arises “from the linguistic implication by which words having literally a wide meaning (when taken in isolation) are treated as reduced in scope by the verbal context”. It may be regarded as an instance of ellipsis, or reliance on implication. This principle is presumed to apply unless there is some contrary indication [see Glanville Williams, The Origins and Logical Implications of the Ejusdem Generis Rule, 7 Conv (NS) 119].”

In another Constitution Bench decision of ***Amar Chandra Chakraborty Vs. Collector of Excise (1972) (2) SCC 444***, the Hon’ble Supreme Court observed as under:-

“... The ejusdem generis rule strives to reconcile the incompatibility between specific and general words. This doctrine applies when (i) the statute contains an enumeration of specific words; (ii) the subjects of the enumeration constitute a class or category; (iii) that class or category is not exhausted by the enumeration; (iv) the general term follows the enumeration; and (v) there is no indication of a different legislative intent.”

In ***Nagrik Upbhokta M. Manch Vs Union of India & Ors. AIR 2002 SC 2405***, the Hon’ble Supreme Court while considering the meaning of the term “charges” has held as under:-

“.....The term 'charges' must be read ejusdem generis taking colour from the succeeding terms rates, duties and taxes.”

In the present case, use of the words “etc” in the heading of Article 3.8 and the main provision, as well as clear use of the words “levies, taxes, duties, cess, fee” would undoubtedly give rise for invocation of the principle of *ejusdem generis* and the SLDC “charges” would be clearly covered as per above decision of the Hon’ble Apex Court. Hence, the contention of HPPC that SLDC charges would not be covered under Article 3.8 of the PPA is outrightly liable to be rejected.

IV) *Discrimination by HPPC against generators in the reimbursement of SLDC charges -*

4.9. That HPPC has effectively admitted the different treatment meted out in the reimbursement of SLDC charges by it amongst various generating companies, only on the basis of their ownership i.e. privately owned or State-owned. This is a shocking admission since *firstly*, Article 3.8 of the PPA executed with the Petitioner would clearly cover the reimbursement of SLDC charges, as submitted in the preceding paras. *Secondly*, the Electricity Act and/ or the regulations made by this Hon’ble Commission, do not provide any such differential treatment or preference to be given to a generating company only on the basis of ownership for the reimbursement of SLDC charges. HPPC, vide its reply dated 03.07.2025, in response to RTI application, has provided details of approx. Rs. 48 crores SLDC charges admittedly reimbursed to several State-owned generating stations, including HPGCL and HPVNL.

Now, the Respondent HPPC has effectively admitted that HPPC is reimbursing the SLDC charges to HPGCL and HPVNL and that “...**Petitioner cannot claim parity with these entities, as they are government-owned sister concerns of the Answering Respondent.**” Quite clearly, this shows that HPPC is unfairly, contrary to law, discriminating against the Petitioner and reimbursing the SLDC charges to only a few generators because they are State-owned. It is humbly submitted that when admittedly there are no contractual provisions to reimburse the 46% SLDC charges to HPGCL and HPVNL, yet HPPC is reimbursing them, then by the same logic and on HPPC’s own stated case, the Petitioner too is entitled for reimbursement of the 46% SLDC charges actually paid, with carrying cost/ interest. This is because the same MYT Regulations exist even for HPGCL and HPVNL in the matter of SLDC charges.

4.10. That the sale of power to HPPC from the Petitioner’s plant is at the interconnection point which is the switchyard of the generator. Moreover, scheduling is not applicable in the case of biomass power plants which are ‘Must Run’ plants. Hence, SLDC despatch norms do not apply to the biomass power plants including the Petitioner herein. Hence the contractual term of Jhajjar Power Plant as pleaded by HPPC reply

regarding scheduling and RLDC/ SLDC charges is irrelevant for the purpose of the present dispute.

V) *Alleged non-joinder of necessary party i.e. HVPNL -*

4.11. That there is no *lis* with HVPNL in the present case as the Petitioner is not at all disputing the correctness of the SLDC charges levied and recovered by HVPNL from the Petitioner. Hence, the contention of HPPC that HVPNL is a necessary party in the present petition, is liable to be rejected by this Hon'ble Commission.

Proceedings of the Case

5. The case was taken up for hearing on 10.12.2025, 08.04.2026 and finally on 29.04.2026. During the course of the proceedings, the Petitioner as well as the Respondent primarily reiterated the averments and submissions set out in their Petition/reply/rejoinder/written submissions, which for the sake of brevity are not reproduced herein but shall be read as part of the record.

Commission's Analysis and Order

6. The Commission heard the arguments of the parties at length as well as perused the written submissions placed on record by the them. The primary issue is whether levy of SLDC charges constitutes a "Change in Law" under Article 3.8 of the PPA, and whether the Petitioner is entitled to reimbursement of such charges along with carrying cost.
7. At the outset, the Commission deems it appropriate to deal with the objection regarding limitation raised by the Respondent. It is an admitted position that SLDC charges were first levied upon the Petitioner in July, 2017 and have been paid continuously thereafter. The Petitioner has approached the Commission in 2025 after denial of its claim by HPPC.
8. The Commission has taken note of the argument advanced by the respondent (HPPC) that the petition is time barred being filed after the lapse of three years from the date cause of action arose, as the cause of action arose when the first invoice was raised by SLDC on 03.07.2017 and not from HPPC's letter dated 13.12.2023, denying the reimbursement of SLDC charges. The Limitation Act, 1963 prescribe a 3-year limitation period running from the date the right to sue first accrues. Further, section 18 of the Limitation Act clearly provides that a fresh period of limitation can arise only where there is a written acknowledgment of liability signed by the party against whom the claim is made, and that too before the expiry of the limitation period. In the present

case, no such acknowledgment was ever made by the Respondent within the prescribed limitation period. In its support, the respondent has cited the following judgements:-

- a) In Union of India and Ors. Vs. M.K. Sarkar [2010 (2) SCC 59], the Hon'ble Apex Court held as under:

“When a belated representation in regard to a 'stale' or 'dead' issue/dispute is considered and decided, in compliance with a direction by the Court/Tribunal to do so, the date of such decision can not be considered as furnishing a fresh cause of action for reviving the 'dead' issue or time- barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a court's direction. Neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches. A Court or Tribunal, before directing 'consideration' of a claim or representation should examine whether the claim or representation is with reference to a 'live' issue or whether it is with reference to a 'dead' or 'stale' issue. If it is with reference to a 'dead' or 'state' issue or dispute, the court/Tribunal should put an end to the matter and should not direct consideration or reconsideration. If the court or Tribunal deciding to direct 'consideration' without itself examining of the merits, it should make it clear that such consideration will be without prejudice to any contention relating to limitation or delay and laches. Even if the court does not expressly say so, that would be the legal position and effect.”

- b) Hon'ble Delhi High Court in the case of Nihal Singh v. Union of India [WP(C) No. 02 of 2012. D/d. 17.1.2012] held that filing of representation does not extend the limitation period or revive a dead or stale claims.

- c) The case of the Petitioner cannot be treated as a running account in view of the decision of the Hon'ble Punjab and Haryana High Court in The Janta Panjola, CASS, Panjola v. M/s Daulat Ram, Kishori Lal, Balbera[2009 (2) RCR (Civil) 728], relevant part of which is reproduced below:

23. In Hindustan Forest Company v. Lal Chand and others (supra), their Lordships of the Supreme Court quoted with approval the observations of Rankin, C.J. in The Financing Syndicate Ltd. v. Chandra Kamal Bez Barua (supra) and held as under :-

“The requirement of reciprocal demands involves transactions on each side creating independent obligations on the other and not merely transactions which create obligations on one side, those on the other side merely complete or partial discharges of such obligations.”

... ..

28. The nature of transactions, in the instant case, do not clearly indicate that the accounts were mutual, open and current, as there is no reciprocity of demands between the parties. It was simpliciter a case where the goods were being supplied to the appellants by the respondents.

... ..

30. It is, thus, held that the suit of the respondents was barred by limitation.

31. The question of law that arises in the present appeal is as to 'whether Article 1 of Part-I or Article 14 of Part-II of the Schedule attached to the Limitation Act, 1963 would apply for computing the period of limitation in a business transaction in which the goods are purchased and delivered' and for the reasons which have been given out in the above discussion, the same is answered to conclude that because it was merely a case where the goods were being supplied and delivered and the accounts between the parties being not open, mutual and current, Article 14 of Part-II of the Schedule to the 1963 Act would govern the same.

32. In the result, the appeal is accepted; the impugned judgments and decrees are set aside and the suit of the respondents is dismissed."

Per-contra, the petitioner has vehemently argued that the account for supply of power in the present case is required to be considered as a "running account. In the case of "running account" for sale and purchase of electricity under a PPA by a generating company to a distribution licensee, there is a continuing nature of the relationship. The petitioner, in its support, has cited the following judgement of Hon'ble APTEL dated 02.11.2020, in the case of Power Company of Karnataka Limited & Ors. Vs. Udupi Power Corporation Ltd. & Ors. (Appeal Nos. 10 of 2020 & Batch)

The Commission has examined the rival contentions and observes that the relationship between the parties under the PPA is of a continuing nature involving supply of electricity over a long-term period with recurring billing and payments. In such arrangements, claims relating to recurring charges form part of a running account. Accordingly, each instance of payment of SLDC charges gives rise to a recurring/continuing cause of action. Hence, while claims pertaining to periods beyond limitation may not be admissible, the petition cannot be rejected in limine as wholly time-barred. The objection of HPPC is, therefore, partly sustainable only to the extent of limitation on past claims, but not for dismissal of the petition in entirety.

9. On merits, the Commission notes that Article 3.8 of the PPA provides that any taxes, duties, cess, royalties and fees etc., not existing at the time of signing of the PPA and levied subsequently by any statutory authority, shall be borne by HPPC. The Petitioner has contended that SLDC charges, being levied from 2017 onwards, fall within the ambit of "fees etc." and hence qualify as a Change in Law event. The Commission, however, is unable to accept the said contention in entirety.

10. Further, a plain reading of the Electricity Act, 2003, particularly Section 32(3), makes it evident that the State Load Despatch Centre is statutorily empowered to levy and collect charges from generating companies and licensees for availing its services. Since this Act was in force w.e.f. 26.05.2003 well before the execution of the PPA on 22.06.2012, the legal framework mandating such charges was already a part of the "existing law" at the time of the agreement. As a prudent commercial entity, the Petitioner is presumed to have been aware of these statutory obligations and should have factored them into its financial projections at the time of entering into the contract. Operational charges like SLDC charges, are in the nature of cost recovery for system operation services. These charges are intrinsically linked to grid operation and are payable by entities availing such services. The relevant extract of Section 32 of the Electricity Act, 2003, is reproduced below:-

32. Functions of State Load Despatch Centres - (1) The State Load Despatch Centre shall be the apex body to ensure integrated operation of the power system in a State.

(2) *The State Load Despatch Centre shall -*

(a) *be responsible for optimum scheduling and despatch of electricity within a State, in accordance with the contracts entered into with the licensees or the generating companies operating in that State;*

(b) **monitor grid operations;**

(c) **keep accounts of the quantity of electricity transmitted through the State grid;**

(d) *exercise supervision and control over the intra-state transmission system; and*

(e) *be responsible for carrying out real time operations for grid control and despatch of electricity within the State through secure and economic operation of the State grid in accordance with the Grid Standards and the State Grid Code.*

(3) **The State Load Despatch Centre may levy and collect such fee and charges from the generating companies and licensees engaged in intra-State transmission of electricity as may be specified by the State Commission.**

(Emphasis supplied)

11. Further, the MYT Regulations consistently provide for recovery of SLDC charges from generators as beneficiaries of such services. The obligation for generating companies to bear SLDC charges has been consistently reinforced through successive regulatory frameworks. The HERC Multi-Year Tariff (MYT) Regulations of 2012, 2019, and 2024 contain similar provisions (such as Regulation 54 of HERC MYT Regulations, 2012, notified on 05.12.2012) that mandate the recovery of SLDC annual charges from

beneficiaries, including a 46% share from generating stations. These regulations demonstrate that the liability to pay these charges is a standard regulatory requirement for availing SLDC services and not an unforeseen "Change in Law" event

12. Thus, the liability to bear SLDC charges is embedded in the statutory and regulatory framework governing power system operations. The fact that the quantum or billing of SLDC charges commenced at a later date does not imply that the levy itself did not exist in law. The statutory provision enabling such charges existed prior to execution of the PPA. Therefore, such charges cannot be construed as a new levy or a Change in Law event within the meaning of Article 3.8 of the PPA. The applicable MYT Regulations expressly provide that 46% of the annual SLDC charges shall be recovered from generating stations and sellers, thereby clearly allocating the liability upon such entities as beneficiaries of SLDC services. If, after such statutory allocation, the said charges are permitted to be routinely reimbursed by the DISCOMs under contractual arrangements, it would render the regulatory framework on apportionment of SLDC charges otiose and defeat the very intent of the Regulations. The Commission cannot interpret contractual provisions in a manner that dilutes or nullifies an express statutory/regulatory mandate. Accordingly, reimbursement of SLDC charges by the procurer, in absence of an explicit contractual stipulation to that effect, would be inconsistent with the scheme of the Electricity Act, 2003 and the MYT Regulations.
13. The Commission finds that the Petitioner's reliance on the first invoice issued by HVPNL on 3 July 2017 as the "commencement" of a new levy is legally flawed. The fact that the specific rate or quantum of the SLDC charges was determined and sought for the first time in 2017 does not imply that the levy itself was non-existent prior to that date. A Change in Law requires the introduction of a new tax, duty, or fee that did not previously exist; however, the statutory mandate for SLDC charges under Section 32(3) has remained a constant feature of the law since 2003
14. The Commission does not tend to agree with the arguments of the respondent (HPPC) that SLDC charges are being reimbursed to HPGCL being their government-owned sister concerns. However, the Commission observes that reimbursement of charges is dependent upon specific contractual provisions in respective PPAs. In absence of any explicit clause in the present PPA providing for reimbursement of SLDC charges, parity cannot be claimed. Contractual obligations must be determined strictly in accordance with the terms agreed between the parties
15. The Commission further notes that the Petitioner is not disputing the levy or applicability of SLDC charges but is only seeking reimbursement from HPPC. In

absence of any contractual or statutory provision mandating such reimbursement, the claim cannot be sustained.

16. The Commission emphasizes that SLDC charges are regulatory costs associated with the operation and supervision of the power system, aimed at ensuring integrated grid operations. These are internal operational expenses related to the generator's responsibility to comply with grid discipline and load dispatch directions under Articles 6.3 and 6.9 of the PPA, rather than external fiscal impositions like taxes or duties that Article 3.8 was designed to mitigate.
17. In view of the above analysis, the Commission holds that SLDC charges do not qualify as a Change in Law event under Article 3.8 of the PPA and the liability to pay such charges rests with the generating company as per statutory and regulatory provisions.
18. In light of the foregoing, the Commission is of the considered view that the Petitioner is not entitled to reimbursement of SLDC charges from the Respondent HPPC under the provisions of the PPA.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 30.04.2026.

Date: 30.04.2026
Place: Panchkula

Sd/-
(Shiv Kumar)
Member

Sd/-
(Mukesh Garg)
Member

Sd/-
(Nand Lal Sharma)
Chairman