

BEFORE THE HON'BLE TELANGANA ELECTRICITY REGULATORY COMMISSION (TGERC)

O.P. No. 24 of 2020

I.A. No. 4 of 2026

OBJECTIONS ON BEHALF OF THE SOLAR POWER GENERATOR (SPG)

Subject: Objections to the Interlocutory Application filed by TGDISCOMs seeking reduction of the tariff under PM-KUSUM Component-A from Rs.3.13/kWh to Rs.2.98/kWh pursuant to reduction in the applicable GST rate.

The Objector respectfully submits as follows:

1. Preliminary Submissions

The present Interlocutory Application filed by TGDISCOMs is misconceived, legally untenable and liable to be dismissed.

The tariff of **Rs.3.13/kWh** was approved by this Hon'ble Commission pursuant to the competitive bidding process conducted under the PM-KUSUM Component-A Scheme. The said tariff formed the basis on which developers participated in the bidding process, quoted their tariffs, furnished Performance Bank Guarantees, secured land, arranged finances and executed binding Power Purchase Agreements ("PPAs").

The rights and obligations of the parties have crystallized upon execution of the PPAs. Any subsequent attempt to reduce the approved tariff solely on account of reduction in GST amounts to reopening a concluded competitive bidding process and altering vested contractual rights, which is impermissible in law.

2. Sanctity of Executed Power Purchase Agreements

The executed Power Purchase Agreements constitute binding and enforceable contracts governing the rights and obligations of the parties throughout the contract period.

Neither the Electricity Act, 2003, the Guidelines governing PM-KUSUM Component-A, nor the executed PPAs authorize unilateral revision of the discovered tariff after execution of the contract.

The tariff incorporated in the PPA is the result of a competitive market process and cannot be selectively modified by isolating one element of project cost.

Acceptance of the present application would amount to rewriting the commercial bargain entered into by the parties, which is beyond the jurisdiction of the procurer and contrary to settled principles of contract law.

3. Competitive Bidding Tariff Cannot Be Reopened

The tariff of Rs.3.13/kWh was discovered through a transparent competitive bidding process and not under a cost-plus tariff mechanism.

While submitting bids, developers considered various commercial parameters including:

- Capital cost of modules and equipment;
- Applicable GST and other taxes;
- Interest During Construction;
- Cost of debt and financing;
- Land acquisition and development costs;
- Evacuation infrastructure;
- Insurance;
- Statutory compliances;
- Operation and Maintenance expenses;
- Market risks and developer margins.

Competitive tariffs represent an integrated commercial assessment of all project risks. Individual cost components cannot subsequently be isolated to seek downward revision of tariff while ignoring simultaneous increases in other project costs.

If reductions in one cost component are sought to be passed on to the procurer, principles of equity and regulatory consistency would equally require compensation for subsequent increases in project costs, including increases in module prices, metals, logistics, financing costs and statutory compliances. Such selective treatment is arbitrary and discriminatory.

Judicial Precedents Supporting Sanctity of Competitive Bidding and Executed PPAs

It is a settled principle of law that tariffs discovered through a transparent competitive bidding process under **Section 63 of the Electricity Act, 2003** attain finality upon approval by the Appropriate Commission and execution of the Power Purchase Agreement. Such tariffs cannot be altered except in accordance with the terms of the PPA or where specifically permitted by law.

(i) Energy Watchdog v. Central Electricity Regulatory Commission & Others

(2017) 14 SCC 80

The Hon'ble Supreme Court held that where parties have consciously entered into a commercial contract pursuant to competitive bidding, the rights and obligations of the parties are governed primarily by the terms of the contract. The Court emphasized that regulatory authorities cannot rewrite contractual provisions or alter the commercial bargain except where expressly provided under the contract or statute.

The judgment recognizes that the "Change in Law" provisions are intended only to restore the affected party to the same economic position and cannot be used as a mechanism to reopen or redetermine the discovered tariff.

(ii) All India Power Engineer Federation & Others v. Sasan Power Limited & Others

(2017) 1 SCC 487

The Hon'ble Supreme Court reiterated that a tariff discovered through competitive bidding under Section 63 enjoys statutory sanctity and cannot be modified except strictly in accordance with the bidding documents, the Power Purchase Agreement and the provisions of the Electricity Act, 2003.

The Court further held that regulatory certainty is essential to maintain investor confidence and ensure continued participation in the power sector.

(iii) Gujarat Urja Vikas Nigam Limited v. Solar Semiconductor Power Company (India) Pvt. Ltd.

(2017) 16 SCC 498

The Hon'ble Supreme Court emphasized that contractual obligations under a Power Purchase Agreement must be honoured by both parties. Once parties voluntarily enter into a binding agreement pursuant to a competitive bidding process, the contractual allocation of risks cannot be altered unilaterally.

(iv) Regulatory Principles under Section 63 of the Electricity Act, 2003

Section 63 of the Electricity Act mandates that where tariffs are discovered through a transparent process of competitive bidding in accordance with the guidelines issued by the Central Government, the role of the Commission is confined to adopting such tariff upon satisfaction of the prescribed requirements. Once adopted and incorporated into executed PPAs, the tariff cannot subsequently be revisited merely because one component of project cost undergoes variation.

The present application effectively seeks to convert a competitively discovered tariff into a cost-plus tariff by selectively isolating one cost element, namely GST, while ignoring the overall commercial risks assumed by the developers. Such an exercise is contrary to the statutory scheme under Section 63 and the settled law laid down by the Hon'ble Supreme Court.

(v) Doctrine of Sanctity of Contract

It is a well-settled principle that courts and regulatory authorities should not rewrite contracts voluntarily entered into by commercial parties. A concluded contract must be enforced according to its terms unless vitiated by fraud, coercion, statutory prohibition or any other legally recognized ground.

In the present case, the Power Purchase Agreements were executed after completion of the bidding process, adoption of tariff by this Hon'ble Commission and acceptance by both parties. The tariff of Rs.3.13/kWh has therefore crystallized into a vested contractual right and cannot be unilaterally reduced on the basis of a subsequent reduction in GST.

Acceptance of the Applicant's contention would create an undesirable precedent whereby every fluctuation in taxes or market prices could become a ground for reopening competitively discovered tariffs. Such an approach would undermine contractual certainty, discourage private investment in the renewable energy sector and defeat the very objective of competitive procurement under the Electricity Act, 2003.

4. Significant Increase in EPC Costs

Contrary to the assumption made in the Application, the overall capital cost of solar projects has increased substantially due to unprecedented escalation in prices of critical raw materials and equipment.

Major cost increases include:

- Sharp increase in global silver prices, substantially increasing the manufacturing cost of solar modules;
- Significant escalation in copper prices affecting cables, transformers, switchgear and electrical balance-of-system components;
- Increase in aluminium and steel prices resulting in higher mounting structure costs;
- Increased logistics, insurance and freight costs arising from geopolitical uncertainties;
- Continued supply chain disruptions affecting availability of equipment.
- Industry estimates indicate that EPC costs for utility-scale solar projects have increased by approximately 8% to 15%, translating into an increase of nearly Rs.30 lakh to Rs.50 lakh per MW compared to earlier estimates.
- These substantial increases far outweigh any benefit arising from reduction in GST and negate the assumption that project costs have reduced.

5. Reduction in GST Does Not Automatically Reduce Tariff

The application proceeds on the erroneous premise that reduction of GST from 12% to 5% necessarily results in reduction of the discovered tariff.

Such assumption is factually and economically incorrect because GST constitutes only one component of the overall project cost.

Project viability depends upon multiple variables including:

- Capital expenditure;
- Cost of debt;
- Interest rates;
- Land costs;
- Evacuation infrastructure;
- Inflation;
- Operation and Maintenance expenses;
- Equipment availability;
- Market risks.

A reduction in one tax component cannot justify reopening the entire tariff discovered through competitive bidding.

In fact, considering prevailing market conditions, developers are experiencing significant cost pressures, and the existing tariff itself has become increasingly difficult to sustain.

6. Change in Law Cannot Be Invoked Selectively

The PPAs contain comprehensive Change in Law provisions intended to restore the affected party to the same economic position.

Change in Law provisions are compensatory in nature and are not intended to reopen competitively discovered tariffs.

The Applicant has failed to demonstrate:

- The actual project-wise financial benefit, if any;
- Whether such benefit has been offset by increases in other project costs;
- The impact on financing assumptions and project viability.

In the absence of such project-specific analysis, any blanket reduction in tariff would be arbitrary and contrary to the contractual framework.

7. Promissory Estoppel and Legitimate Expectation

Developers participated in the Scheme based upon representations made by the State Government, TGREDCO, TGDISCOMs and the tariff approved by this Hon'ble Commission.

Acting upon such representations, developers have:

- Furnished Performance Bank Guarantees;
- Secured land;
- Incurred substantial development expenditure;
- Arranged project financing;
- Executed PPAs;
- Committed financial resources towards implementation.

The doctrine of Promissory Estoppel and the principle of Legitimate Expectation prohibit the procurer from altering the fundamental commercial basis after developers have materially altered their position relying upon official representations.

8. Adverse Impact on PM-KUSUM

The proposed tariff reduction would seriously undermine implementation of PM-KUSUM by:

- Eroding investor confidence;
- Increasing financing uncertainty;
- Delaying project execution;

- Discouraging future participation in renewable energy procurement;
- Affecting achievement of renewable energy targets.

Regulatory certainty is fundamental for attracting long-term infrastructure investment and must be preserved.

9. Public Interest

The approved tariff of Rs.3.13/kWh is already highly competitive and adequately balances consumer interest with project viability.

The projects contribute significantly towards:

- Agricultural feeder solarisation;
- Reduction in subsidy burden;
- Localized power generation;
- Reduction in transmission losses;
- Achievement of Renewable Purchase Obligations and clean energy targets.

Any marginal financial benefit sought by TGDISCOMs cannot outweigh the larger public interest in preserving contractual certainty and ensuring successful implementation of the PM-KUSUM Scheme.

PRAYER

In view of the facts and circumstances stated above, it is most respectfully prayed that this Hon'ble Commission may be pleased to:

- Dismiss I.A. No. 4 of 2026 filed by TGDISCOMs;
- Reject the proposal seeking reduction of the approved tariff from Rs.3.13/kWh to Rs.2.98/kWh;
- Declare that the tariff of Rs.3.13/kWh approved by this Hon'ble Commission and incorporated into the executed Power Purchase Agreements shall continue to remain valid and binding;
- Protect the vested contractual and commercial rights of the Solar Power Generators;
- Pass such other or further orders as this Hon'ble Commission may deem fit and proper in the facts and circumstances of the case.

Place: Hyderabad

Date: 30 June 2026

Filed by:

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