
VENAKAT N.K.K,

**GENERAL SECRETARY - TELANGANA STATE SOLAR OPEN ACCESS DEVELOPERS'
ASSOCIATION(TSOADA)**

MEMBER- ENERGY COMMITTEE- FEDERATION OF CHAMBER OF COMMERCE OF TELANGANA (FTCCI)

To:

Dated:26-06-2026

The Commission Secretary/TGERC,

Vidyut Niyantran Bhavan, Sy.No.145-P, G.T.S. Colony,
Kalyan Nagar, Hyderabad 500 045.

Email id: secy@tserc.gov.in

Dear Sir,

Sub: - Comments and suggestions in the matter of petition I.A.No. 4 in O.P. No. 24 of 2020 filed by TGDISCOMs seeking revision of the prefixed levelized tariff of Rs.3.13/ kWh to Rs.2.98/ kWh for the Solar Power Generators(SPGs) under Component-A of PMKUSUM - Reg.

I. INTRODUCTION

1. These objections are filed in response to the Interlocutory Application (I.A. No. 4 in O.P. No. 24 of 2020) filed by TGDISCOMs seeking revision of the pre-fixed levelized tariff from Rs. 3.13/kWh to Rs. 2.98/kWh for Solar Power Generators (SPGs) under Component-A of the PM-KUSUM Scheme, purportedly under the "Change in Law" clause due to a reduction in GST rates from 12% to 5% as recommended by the 56th GST Council meeting held in September 2025.
2. The Objector respectfully submits that the petition filed by TGDISCOMs is misconceived, legally untenable, and contrary to the established principles of tariff determination. The Commission ought to dismiss the petition for the reasons elaborated herein.

II. FACTUAL BACKGROUND

3. The Commission, vide its Order dated 02.01.2021 in O.P. No. 24 of 2020, determined the pre-fixed levelized tariff of Rs. 3.13/kWh for solar projects under Component-A of the PM-KUSUM Scheme.
4. At the time of the said tariff determination in January 2021, the applicable GST rate on solar modules and related components was **5%** (not 12% as now claimed by the Petitioners). The GST rate was increased from 5% to 12% only with effect from **1st October 2021**, pursuant to the recommendations of the 45th GST Council meeting.
5. The Commission's Order dated 22.04.2025 in O.P. No. 32 of 2025 accorded consent for procurement of 4000 MW under Component-A of PM-KUSUM Scheme. This Order was a **ratification and consent order** for the procurement capacity and Model PPA—it did not undertake any fresh tariff determination exercise. The Commission explicitly stated at Paragraph 73:

"Therefore, the Commission deems it fit not to revise the tariff at this stage and as of now the prefixed levelized tariff of Rs.3.13/kWh stands continued."

6. The 56th GST Council meeting in September 2025 recommended reduction of GST on solar modules from 12% to 5%, effectively restoring the rate that prevailed at the time of original tariff determination in January 2021.

III. GROUNDS OF OBJECTION

A. The Original Tariff Was Determined When GST Was 5%—No Basis for Reduction

7. The fundamental premise of the Petitioners' application is flawed. The pre-fixed levelized tariff of Rs. 3.13/kWh was determined by the Commission in January 2021 when the GST rate on solar modules was **5%**, not 12%.
8. The MNRE Benchmark Cost of Rs. 3.60 Crore/MW considered by the Commission in the January 2021 Order was based on prevailing market conditions as of July 2020 (MNRE Office Memorandum dated 21.07.2020), when the GST rate was 5%.
9. The increase in GST from 5% to 12% occurred only in October 2021—**after** the tariff determination. The SPGs who participated in the PM-KUSUM Scheme subsequent to October 2021 absorbed this additional GST burden without seeking any tariff revision from the Commission.
10. Now that the GST has been **restored** to the original 5% rate, the Petitioners cannot claim a "Change in Law" benefit to reduce the tariff. The restoration merely returns the position to what it was when the tariff was originally determined.

B. The 2025 Order Is Ratification, Not Re-determination of Tariff

11. The Petitioners' reliance on the Order dated 22.04.2025 in O.P. No. 32 of 2025 is misconceived. A careful reading of that Order reveals:

- The Commission was considering consent for **procurement of 4000 MW** and approval of the **Model PPA**
- The Commission specifically declined to revise the tariff (Paragraph 73)
- The Commission merely continued the existing pre-fixed levelized tariff of Rs. 3.13/kWh

12. The 2025 Order cannot be treated as a fresh tariff determination that would reset the baseline for "Change in Law" calculations. The baseline for any Change in Law analysis must be the original tariff determination Order dated 02.01.2021.

13. At Paragraph 71 of the 2025 Order, the Commission observed:

"This Commission is conscious of the fact that the levelized tariff has been fixed by this Commission at the rate of Rs. 3.13/kWh on 02.01.2021."

This clearly establishes that the tariff determination date remains January 2021.

C. Change in Law Provisions Do Not Support the Petition

14. The "Change in Law" mechanism in power purchase agreements is designed to compensate generators for increased costs due to changes in law occurring **after** the date of bid submission or PPA execution. It is a **pass-through mechanism** to protect generators from unforeseen regulatory changes.

15. The Change in Law provisions cannot be invoked by the Procurer (TSDiscoms) to **reduce** the tariff when:

- The law is merely reverting to the original position
- The original tariff was determined under the very same legal framework now being restored
- No additional benefit has accrued to the generators

16. If the Petitioners' logic were accepted, it would result in unjust enrichment of the Procurers at the cost of generators.

D. Significant Cost Escalations Since 2021 Offset Any Potential GST Benefit

17. Even assuming arguendo that the GST reduction could be a basis for tariff revision, the Petitioners have failed to account for the **substantial cost escalations (which were highlighted in detail by me during my submissions dated:10-04-2025)** that have occurred since January 2021, including:

(i) Currency Depreciation

- INR/USD in January 2021: approximately Rs. 73.2/USD
- INR/USD in 2025-26: approximately Rs. 86-88/USD
- Depreciation of approximately **18-20%**, significantly impacting the cost of imported components

(ii) Module Price Volatility

- Post-COVID supply chain disruptions
- Global silicon shortage
- Anti-dumping and safeguard duties
- ALMM (Approved List of Models and Manufacturers) compliance requirements

(iii) Interest Rate Increases

- The Commission assumed interest on long-term loan at 10% in 2021
- Actual lending rates have been significantly higher, with many banks quoting 11%+ with CGTMSE charges

(iv) Inflation

- General inflation over the 4–5-year period.
- Escalation in labor costs, transportation, and auxiliary materials

18. The stakeholders during the public hearing in O.P. No. 32 of 2025 had specifically raised these concerns. At Paragraph 64, stakeholders submitted:

"...significant changes which impacted project costs since 02-01-2021, such as INR depreciation (from Rs.73.2/USD in Jan 2021 to Rs. 86.8/USD currently), steep fluctuations in module prices and shipping costs post-COVID, rising interest rates and financing challenges."

19. If any tariff revision exercise is to be undertaken, it must comprehensively account for **all** cost changes, not selectively pick one factor (GST reduction) that benefits the Procurers while ignoring all factors that have increased costs for generators.

E. Principles of Promissory Estoppel and Legitimate Expectation

20. The SPGs who participated in the PM-KUSUM Scheme did so based on the pre-fixed levelized tariff of Rs. 3.13/kWh as a known and certain return on their investment for 25 years.

21. Many SPGs, particularly small farmers and SHGs who are the primary beneficiaries of this Scheme, have:

- Obtained bank financing based on revenue projections at Rs. 3.13/kWh
- Executed loan agreements with EMI obligations
- Made irrevocable investment decisions

22. Any reduction in tariff would:

- Violate the legitimate expectations of the SPGs
- Render their financial models unviable
- Potentially lead to loan defaults
- Defeat the very purpose of the PM-KUSUM Scheme, which aims to benefit farmers

23. The doctrine of promissory estoppel prevents the authorities from going back on representations based on which parties have altered their positions to their detriment.

F. The Commission Has Already Rejected Tariff Revision

24. During the proceedings in O.P. No. 32 of 2025, multiple stakeholders requested tariff revision—some seeking increase, others seeking decrease. The Commission, after considering all submissions, explicitly held at Paragraph 73:

"This Commission is confronted with diametrically opposite views from the stakeholders, one for increasing the prefixed levelized tariff from Rs.3.13/kWh and the other to decrease it..."

"Therefore, the Commission deems it fit not to revise the tariff at this stage and as of now the prefixed levelized tariff of Rs.3.13/kWh stands continued."

25. The principle of **res judicata** or at minimum **issue estoppel** applies. The question of tariff revision has been considered and decided by the Commission as recently as April 2025. The Petitioners cannot re-agitate the same issue merely on a different pretext.

G. Cherry-Picking of Change in Law Events Is Impermissible

26. If the Petitioners wish to invoke Change in Law provisions for the GST reduction, they must also account for:

- The GST **increase** from 5% to 12% in October 2021 (which would have warranted tariff increase for projects commissioned thereafter)
- Basic Customs Duty (BCD) of 40% on solar modules and 25% on solar cells imposed from April 2022
- Various other regulatory changes affecting project costs

27. The Petitioners cannot selectively invoke Change in Law only when it benefits them while ignoring all other changes that would warrant tariff increase.

H. Impact on Scheme Objectives

28. The PM-KUSUM Scheme was specifically designed to:

- Enhance income of farmers
- Promote decentralized solar power generation
- Support agricultural sustainability
- Benefit SHGs and small entrepreneurs

29. At Paragraph 72 of the 2025 Order, the Commission observed:

"This Commission is conscious of the fact that the scheme has been developed in order to encourage small farmers to become entrepreneurs."

30. Reducing the tariff from Rs. 3.13/kWh to Rs. 2.98/kWh (a reduction of Rs. 0.15/kWh or approximately 4.8%) would:

- Reduce annual revenue for a 1 MW plant by approximately Rs. 2.5 Lakh
- Over 25 years, reduce total revenue by approximately Rs. 62.5 Lakh per MW
- Make the already challenging payback period (noted as 14-15 years by stakeholders) even longer
- Discourage farmer participation in the Scheme

IV. LEGAL SUBMISSIONS

A. Section 61 of the Electricity Act, 2003

31. Section 61 of the Electricity Act, 2003 requires the Commission to be guided by principles including:

- Safeguarding consumers' interest and recovery of cost of electricity in a reasonable manner
- **Factors which would encourage competition, efficiency, economical use of resources, good performance and optimum investments**

32. Retroactively reducing tariffs for committed projects would:

- Discourage future investments in the renewable energy sector
- Undermine investor confidence
- Be contrary to the principles of Section 61

B. Regulatory Certainty and Sanctity of Determinations

33. Tariff determinations by regulatory commissions must carry sanctity and finality. Frequent revisions or retroactive changes would:

- Create regulatory uncertainty
- Increase risk perception for investors
- Ultimately increase the cost of capital and tariffs in future projects

34. The Hon'ble Supreme Court has repeatedly emphasized the importance of regulatory certainty in the power sector.

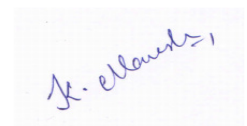
V. PRAYER

35. In light of the foregoing submissions, the Objector respectfully prays that this Hon'ble Commission may be pleased to:

- (a) Dismiss the Interlocutory Application (I.A. No. 4 in O.P. No. 24 of 2020) filed by TGDISCOMs;
- (b) Hold that the pre-fixed levelized tariff of Rs. 3.13/kWh as determined vide Order dated 02.01.2021 shall continue to apply for all SPGs under Component-A of PM-KUSUM Scheme;
- (c) Hold that the reduction in GST from 12% to 5% does not constitute a "Change in Law" warranting tariff reduction, as the original tariff was determined when GST was 5%;
- (d) In the alternative, if the Commission is inclined to consider any tariff revision, direct TGDISCOMs to place before the Commission a comprehensive analysis of **all** cost changes (including currency depreciation, inflation, interest rate changes, customs duties, etc.) since January 2021, and conduct a fresh tariff determination exercise considering all factors;
- (e) Pass such other and further orders as the Commission deems fit and proper in the facts and circumstances of the case.

I firmly believe that the suggestions outlined above offer valuable insights that will support the Hon'ble Commission in arriving at sound and forward-looking conclusions.

Respectfully submitted,



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(B.E (Anna University), M.B.A (SPJAIN), L.L.B (Osmania University))**

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