



**THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW**

Petition No. 2303 of 2025

QUORUM

Hon'ble Shri Arvind Kumar, Chairman
Hon'ble Shri Sanjay Kumar Singh, Member
Hon'ble Shri Griesh Kumar Vaish, Member (Law)

IN THE MATTER OF

Petition seeking exemption under Clause 4.46(a) of U.P. Electricity Supply Code 2005 from the prohibition mandated in the said provision and seeking direction to the Respondent to allow the Petitioner to supply power from its unit 2 to unit 1.

AND

IN THE MATTER OF

KBGB Agritech Pvt. Ltd.,

(Through its authorised representative) Bulandshahar Road, Hapur, Uttar Pradesh.

.....Petitioner

VERSUS

1. Uttar Pradesh Power Corporation Ltd.,

(Through its Managing Director) Shakti Bhawan, Ashok Marg, Lucknow.

2. Paschimanchal Vidyut Vitaran Nigam Ltd.,

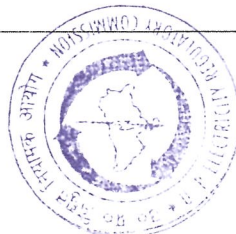
(Through its Managing Director) Urja Bhawan, Victoria Park, Meerut.

3. Executive Engineer, PVVNL, EDD 1, Hapur

.....Respondents

THE FOLLOWING WERE PRESENT

1. Shri Pankaj Saxena, CE (RAU), UPPCL
2. Shri Shadab Ahmed, SE (RAU), UPPCL
3. Shri Sachin Dwivedi, EE, PVVNL, Hapur
4. Shri Savyasachi Saumitra, Advocate, UPPCL



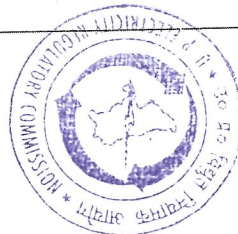


5. Shri A.K. Jaidi, Advocate, UPPCL
6. Shri Kirti Singh Chauhan, Advocate, UPPCL
7. Shri Ajay Vikram Singh, Advocate, Petitioner
8. Shri Basishtha Muni Mishra, Advocate, EE, Hapur
9. Shri Vivek Saxena, Petitioner's representative

ORDER

(DATE OF HEARING: 09.07.2026)

1. This Petition has been filed seeking exemption under Clause 4.46(a) of the Electricity Supply Code, 2005 to allow the Petitioner to surrender its existing 300 KVA electricity connection of KBGB Agritech Pvt. Ltd. Unit-1 and to allow supply of electricity to Unit-1 from the independent feeder of its Unit-2.
2. The Petitioner had filed a supplementary affidavit dated 23.01.2026 wherein a photograph and a map, each showing an aerial view of the Petitioner's two units along with the proposed wire-route, had been submitted. It had also been submitted that both the units were located on the opposite side of the Meerut-Bulandshahar Road. The Petitioner had further submitted a letter dated 09.12.2025 issued by Executive Engineer, PWD, Hapur, granting permission for laying the underground electricity cable from Petitioner's Unit 2 to Unit 1.
3. A Submission dated 07.05.2026 was filed by Respondent No. 1 UPPCL wherein it was contended that the Petition is procedurally defective and liable to be dismissed as the Petition has been filed only by invoking Clause 4.46(a) of the Supply Code, 2005, without seeking exercise of the power of the Commission under Clause 9.5 of the Supply Code.
4. Respondent no. 1 had further submitted that as per the Petitioner's submission Unit 1 and Unit 2 were located on opposite sides of the Meerut-Bulandshahar Road and therefore the lands were not adjoining but divided by public road therefore the Petitioner's proposal, if accepted, would allow an independent feeder, sanctioned for one premises to be used to energize another premises separated by a public road and





such interpretation would defeat the language of Clause 2.2(ff), Clause 2.2(ss), and Clause 4.46(a) of the Supply Code.

5. UPPCL also submitted that the Petitioner had attempted to justify the present Petition by placing reliance on alleged breakdown hours, which did not reflect the correct factual position as the Petitioner's data was materially inflated and could not form the basis for grant of extraordinary relief. The comparison is as below:

Month	KGBG Unit-1 as per Petitioner	KGBG Unit-1 as per UPPCL	KGBG Unit-2 as per Petitioner	KGBG Unit-2 as per UPPCL
January 2025	37:10 hrs	14:47 hrs	37:20 hrs	17:30 hrs
February 2025	44:50 hrs	17:28 hrs	24:13 hrs	12:25 hrs
March 2025	54:00 hrs	25:05 hrs	33:00 hrs	17:15 hrs
April 2025	73:56 hrs	20:10 hrs	60:15 hrs	23:50 hrs
May 2025	91:25 hrs	34:15 hrs	96:25 hrs	44:05 hrs
June 2025	78:00 hrs	32:03 hrs	107:35 hrs	36:40 hrs
July 2025	108:25 hrs	46:23 hrs	108:25 hrs	61:10 hrs

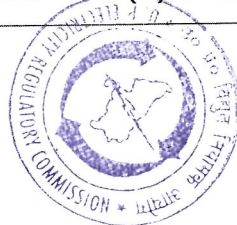
6. UPPCL also submitted that the proposed arrangement raises several issues including technical feasibility, metering, protection system, right of way, safety of underground cable, inspection access, accountability in case of electrical accident, responsibility for maintenance.
7. A Submission dated 08.05.2026 has also been made by Respondent No. 3, EE, PVVNL, Hapur wherein he has tendered unconditional apology for the delay in the filing of the reply and has submitted that in future, the timelines provided by the Commission for filing the reply will be adhered to.
8. Respondent No. 3 further submitted that while the answering respondent has no in principle objection to the proposal, however, allowing the Petitioner to supply energy received by its one unit to its other unit, which is admittedly located at a distance of 150 meters, increases the risk of tampering and pilferage of energy.



9. EE, PVVNL, Hapur also submitted that laying of a private cable under a public road violates safety norms and in case of maintenance of either the road or cable, chances of public inconvenience and accident could not be ruled out completely. The Respondent also submitted that while there was no immediate and forceable loss to the licensee, its absence should not be the sole determinative factor.
10. During the previous hearing, the counsel for the Petitioner had sought four weeks' time to file the Rejoinders to the submissions made by UPPCL and EE, PVVNL.
11. The Petitioner thereafter filed its Rejoinders dated 03.07.2026, reiterating the averments made in the Petition and controverting the objections raised by the Respondents.
12. During the present hearing on 09.07.2026, the matter was duly heard by the Commission wherein counsel for both the Respondents confirmed that the Petitioner's prayer, if allowed, would not have any impact on the revenue of the Discom.

COMMISSION'S ANALYSIS

13. The Commission considered the facts regarding the matter and also the submissions made by the parties. The question that arises for determination is whether the Petitioner, which is a single company owning and operating two cold-storage units in close proximity under common ownership and carrying on the same process, may be exempted under Clause 4.46(a) of the U.P. Electricity Supply Code, 2005 so as to draw the electricity requirement of Unit-1 from the independent 11 KV feeder sanctioned for its Unit-2. The Respondents have opposed the Petition on both procedural and substantive grounds.
14. The first objection of UPPCL is that the Petition is procedurally defective, as the Petitioner has invoked only Clause 4.46(a) and has not invoked Clause 9.5 (Power to Remove Difficulties), and that in the absence of any difficulty or dispute of interpretation having been pleaded, the Petition is liable to be rejected on this ground alone. The Commission observes that Clause 4.46(a) is in itself a complete provision





which not only contains the prohibition but also gives this Commission the express power to grant exemption. The power to exempt is therefore contained in Clause 4.46(a) itself, and its exercise is not contingent upon invocation of Clause 9.5. The jurisdiction of the Commission to grant the exemption is therefore properly invoked and the objection is accordingly rejected.

15. UPPCL further contends that Clause 4.46(a) is prohibitory in nature and that the possibility of exemption does not mean that every request must be allowed as a matter of routine. The Commission agrees, in principle, that Clause 4.46(a) is primarily prohibitory, and that exemption under it is not automatic but is a matter to be decided by the Commission on the facts of each case. However, this by itself does not defeat the Petition; it only sets the standard by which the Petition is to be tested.
16. UPPCL has asserted that the breakdown hours placed by the Petitioner are highly inflated and are not comparable with the departmental record. The Commission observes that even according to the licensee's own figures, both units admittedly suffered frequent and substantial supply interruptions. For a cold-storage facility, where continuity of power is essential to preserve perishable agricultural produce, even the admitted level of interruption supports the Petitioner's request.
17. Both UPPCL and the Executive Engineer, PVVNL, Hapur have raised concerns relating to technical feasibility, metering, protection, safety of the underground cable, right of way, inspection access, accountability in the event of an electrical accident, the risk of tampering or pilferage, the single point of supply provided for in Clause 4.15, and the fear of an undesirable precedent. The Commission considers these to be valid practical concerns; but, in its view, these are matters which can be effectively addressed by suitable measures rather than being grounds for outright refusal of relief. As regards Clause 4.15, the single point-of-supply framework is not disturbed: the licensee's supply to, and metering of, the Petitioner will continue at a single point at Unit-2, and the energy so metered will then be carried, through the Petitioner's own dedicated underground cable, to Unit-1 for the Petitioner's own use. The correctness of metering is maintained, as the entire energy is measured at the Unit-2 i.e. the point of supply.

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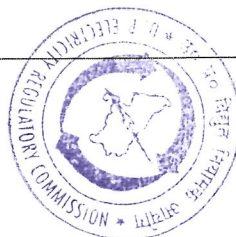


This also largely meets the concern of tampering or pilferage. The safety of the cable, its laying and maintenance, the right of way under the PWD permission, shall be the responsibility of the Petitioner.

18. It is relevant to note that both UPPCL and the Executive Engineer, PVVNL, Hapur have admitted that there is no immediate or actual loss of revenue to the licensee. The Petitioner proposes to surrender the 300 KVA connection of Unit-1 and, at the same time, it is increasing the sanctioned load of Unit-2 by an additional 300 KVA. While the Commission accepts the submission of the Respondents that the absence of revenue loss cannot be the sole deciding factor, it is nevertheless a relevant and important consideration which, taken together with the other factors discussed above, weighs in favour of the grant of exemption.

19. In the light of the foregoing discussion, the Commission directs as under:

- i. The Petitioner, KBGB Agritech Pvt. Ltd., is granted exemption under Clause 4.46(a) of the U.P. Electricity Supply Code, 2005, permitting it to surrender the 300 KVA electricity connection of its Unit-1 and to draw and convey the electricity requirement of Unit-1 from the independent feeder sanctioned for its Unit-2, subject to the conditions hereinafter set out.
- ii. The exemption hereby granted is conditional upon the Petitioner correspondingly enhancing the sanctioned load of Unit-2 by an additional 300 KVA, as undertaken, so that the arrangement remains revenue-neutral; the entirety of the energy shall be metered at the single point of supply at Unit-2.
- iii. The conveyance of energy from Unit-2 to Unit-1 shall be effected solely through the Petitioner's own dedicated underground cable, laid strictly in accordance with the permission of the Executive Engineer, PWD, Hapur and in conformity with the applicable safety standards. The laying, operation, maintenance, safety and integrity of the cable, and of road crossing, shall be the sole responsibility of the Petitioner.



- iv. The Petitioner shall be solely liable for any accident, injury, damage or third-party claim whatsoever arising out of or in connection with the said cable or the arrangement hereby permitted. The Petitioner shall provide an affidavit to this effect to the licensee. The officers of the licensee shall have unobstructed access at all reasonable times for inspection of the metering and premises.
- v. The energy so drawn shall be utilized exclusively for the Petitioner's Unit-1 and Unit-2, and no part thereof shall be supplied, transmitted or sold to any other person or premises.
- vi. The exemption hereby granted is confined to the two units described in the Petition; it shall not be treated as a precedent in any other case.