THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

<u>Petition No. 2353 of 2026</u>

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 from payment of transmission, wheeling and banking charges and exemption from Time of Day restriction for utilisation of banked power for the power generated from the proposed Captive Generation Project intended to supply power to Petitioner's Integrated Photovoltaic (PV) Cell fabrication and Module manufacturing facility which is to be established in the state of Uttar Pradesh under Atmanirbhar policy 2020 and Uttar Pradesh Industrial Investment and Employment Promotion Policy, 2022 by invoking its general regulatory and inherent powers under section 86 (1)(e) of the Electricity Act, 2003, Regulation 20 (power to relax) of the Uttar Pradesh Electricity Regulatory Commission (Captive and Renewable Generating Plants) Regulations, 2024 and Regulation 57 (Inherent Powers of the Commission) of the Uttar Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2019 and other consequential relief(s).

AND

IN THE MATTER OF

M/s SAEL SOLAR P6 PRIVATE LIMITED,

(Through its authorized signatory) Floor No. 846/359, 847/359, 848/350, Patan, Kishangarh, Rajasthan - 305816. ....Petitioner

VERSUS

1. **Uttar Pradesh Power Corporation Ltd.,**

(Through Chairman), Shakti Bhawan Extension, 14- Ashok Marg, Lucknow - 226001.

2. **Uttar Pradesh Power Transmission Corporation Ltd.,**
(Through its Managing Director), Shakti Bhawan Extension, 14- Ashok Marg, Lucknow - 226001.

.........Respondents

THE FOLLOWING WERE PRESENT

1. Shri Vijay Pratap, EE, UPPCL
2. Shri Deepak Gupta, EE, UPPTCL
3. Shri C. P. Maurya, AE, UPPCL
4. Shri Sarnath Yadav, AE, UPPTCL
5. Shri Divyanshu Bhatt, Advocate, UPPCL & UPPTCL
6. Shri Prakher Shukla, Advocate, UPPCL & UPPTCL
7. Shri Samarth Kashyap, Advocate, SAEL

ORDER

(DATE OF HEARING: 30.07.2026)

1. The present Petition has been filed by M/S SAEL Solar P6 Private Limited seeking reliefs in context of the power generated from the proposed Captive Generation Project to be established to provide power to Petitioner's Integrated Photovoltaic (PV) Cell Fabrication and Module manufacturing facility which is to be established in Uttar Pradesh under Atmanirbhar Bharat Policy 2020 and Uttar Pradesh Industrial Investment and Employment Promotion Policy, 2022, by invoking its general, regulatory and inherent powers under Section 86(1)(e) of the Electricity Act, 2003, Regulation 20 (Power to Relax) of the UPERC (Captive and Renewable Generating Plants) Regulations, 2024 and Regulation 57 (Inherent Powers) of the UPERC (Conduct of Business) Regulations, 2019.

2. The Petitioner has submitted that it had been granted Letter of Comfort (LoC) dated 10.07.2025 by State of Uttar Pradesh to establish an Integrated Photovoltaic (PV) 05 GW Cell Fabrication and downstream 05 GW Module manufacturing facility in U.P.

3. The Petitioner also submitted that while the State of Uttar Pradesh under the LoC dated 10.07.2025 had provided various incentives to the Petitioner, it had further allowed the Petitioner to establish a Renewable Energy Generating Project, which shall cater to the captive requirement of electricity for the Cell manufacturing facility.

4. It has further been stated that it would be investing approximately INR 8000 crores towards establishing the facility, which is an internationally cost-competitive and highly price-sensitive industry, wherein electricity constitutes a significant and non-avoidable share of operational expenditure therefore, rationalization and predictability of energy cost is fundamental to sustaining competitiveness against established global manufacturers.

5. The Petitioner further averred that the international suppliers get various subsidies / incentives from their own government, which results in lower cost of their end product therefore, the initiative of the Central and State Governments, to encourage Solar PV Cell fabrication industries in India, requires support from this Hon'ble Commission in form of reliefs sought in the present Petition.

6. The Petitioner further submitted that in terms of the LoC, it has been allowed to establish a CGP for upto 125% of the total power demand of such Cell manufacturing facility however, it is estimated that the actual power consumption shall require the Petitioner to install higher Solar PV capacity along with ESS.

7. The Petitioner has made the following prayers in the Petition:

   (a) Issue appropriate order(s)/direction(s) for allowing the Petitioner to bank energy generated from the Solar PV CGP for the entire period of operation of the CGP along with ESS;

   (b) Issue appropriate order(s)/direction(s) for allowing the Petitioner to draw the banked energy during any time of the day without any restrictions such as peak / non-peak or solar / non-solar hours;

(c) Issue appropriate order(s)/direction(s) for exempting the Petitioner from payment of banking charges for the entire period of operation of the CGP along with ESS;

(d) Issue appropriate order(s)/direction(s) for exempting the Petitioner from payment of wheeling charges for the entire period of operation of the CGP along with ESS;

(e) Issue appropriate order(s)/direction(s) exempting the Petitioner from payment of transmission Charges for the power generated and supplied from the CGP to the manufacturing facility for the entire period of operation of the CGP along with ESS;

(f) Issue appropriate order(s)/direction(s) allowing the Petitioner to establish a CGP along with ESS without any restriction on capacity i.e., allowing installation of capacity in excess of 125% of contract demand as provided under the Letter of Comfort dated 10.07.2025;

8. Respondent No. 1 UPPCL filed an affidavit dated 05.06.2026 whereby it has submitted that the reliefs claimed in the Petition seek substantial departure from the express provisions of the CRE Regulations, 2024, the UPERC (Terms and Conditions for Open Access) Regulations, 2019 and that the Petitioner cannot seek, as a matter of right, individual exemptions from the operation of generally applicable Regulations merely on the basis of its commercial or business requirements.

9. UPPCL has also submitted that the grounds urged in the Petition primarily relate to commercial viability, competitiveness, reduction of operational costs and investment expectations and such considerations, though relevant from a business perspective, cannot by themselves constitute a valid basis for grant of exemptions from statutory charges or relaxation from uniformly applicable regulatory provisions.

10. It has further been submitted by UPPCL that the customized incentive package granted by the State Government, after due consideration of the Petitioner's proposal, represents the extent of incentives considered appropriate under the applicable policy

framework. Having been denied the banking-related relaxations by the State Government, the Petitioner now cannot seek the very same benefit indirectly through invocation of the regulatory jurisdiction of this Commission.

11. It has been further submitted by UPPCL that Uttar Pradesh Solar Energy Policy, 2022 itself provides only for 50% exemption in transmission and wheeling charges for eligible solar power projects and not 100% exemption as sought by the Petitioner.

12. UPPCL has asserted that the 'Letter of Comfort' specifically permits establishment of a Renewable Energy Plant only up to 125% of the contracted demand of the manufacturing facility, thus the competent authority, after considering the Petitioner's proposal, consciously approved a defined capacity threshold and does not contemplate an unrestricted or unlimited generating capacity.

13. Respondent No. 2 UPPTCL filed its written submission on 08.07.2026 wherein it has submitted that the limited issue arising for consideration in the present proceedings is whether the specific exemptions and relaxations sought by the Petitioner can be granted in consistence with the statutory functions of the State Transmission Utility, the applicable regulatory framework governing the transmission system and the principles of non-discriminatory treatment applicable to all transmission system users.

14. UPPTCL has also submitted that the Petitioner has sought complete exemption from payment of transmission charges for the electricity proposed to be generated by its Captive Generating Plant and supplied to its manufacturing facility, which are levied not merely for the physical transfer of units of electricity but also constitute recovery of the costs necessarily incurred by UPPTCL in maintaining a secure, reliable and adequately planned transmission network capable of evacuating and transmitting electricity under varying system conditions.

15. UPPTCL has mentioned that grant of project-specific exemption from payment of transmission charges would not result in any corresponding reduction in the approved ARR of UPPTCL, but the inevitable consequence would be one of the following:

(a) creation of an unrecovered regulatory revenue gap;

(b) deferment of legitimate revenue recovery by UPPTCL, thereby adversely affecting its financial viability and ability to undertake future transmission development; or

(c) redistribution of the unrecovered transmission charges amongst the remaining users of the STU System through subsequent tariff determination proceedings.

16. UPPTCL has further averred that the Petitioner has sought permission to establish a CGP together with an Energy Storage System without any restriction on generating capacity and has specifically sought relaxation from the ceiling of 125% of the contract demand reflected in the Letter of Comfort issued by the State Government, without any corresponding technical evaluation or system impact assessment and thus deserves to be rejected.

17. It has been further submitted that permitting withdrawal of energy injected during off-peak periods at any time of the Petitioner's choice would effectively convert the STU System into a virtual energy storage facility wherein the Petitioner would derive the commercial benefit of time-shifting renewable energy whereas the responsibility for maintaining transmission system would continue to rest upon the STU.

18. UPPTCL has asserted that power to relax is an exceptional discretionary power intended to address genuine hardship arising in exceptional circumstances where strict application of a procedural or operational provision may produce unintended consequences and such power cannot be exercised in a manner that defeats the substantive provisions of the Regulations or creates a parallel regulatory framework applicable to an individual entity.

19. The rejoinders to the submissions made by both the Respondents, were filed by the Petitioner on 20.07.2026, thereby reiterating the submissions made in the Petition and refuting the objections raised by the Respondents.

20. During the present hearing on 30.07.2026, the matter was duly heard by the Commission wherein the learned counsel for the Petitioner as well as the Respondents put up their arguments. The learned counsel appearing for both the Respondents sought one week time for filing reply to rejoinders filed by the Petitioner, which the Commission allowed.

21. As permitted above, the learned Counsel appearing for UPPCL and UPPTCL filed written surrejoinder dated 11.08.2026, in response to the rejoinders dated 20.07.2026 filed by the Petitioner, wherein it has been reiterated that the Petitioner's reliance on the Commission's power to relax is wholly misconceived as the power to relax is an exceptional discretionary power and cannot be invoked to dispense with or override substantive provisions of the applicable Regulations, or to create a project-specific regulatory regime.

22. The Commission observes that every industry established serves the national interest, and the decision to incentivize or subsidize any particular project, industry, or sector rests solely with the Government. The Commission further observes that its Regulations impose no ceiling on the capacity of a captive generating plant; however, the quantum of energy injected into the grid at any given time shall not exceed the open access quantum and over injection, if any, shall be governed by UPERC (Terms and Conditions for Open Access) Regulations, 2019 and amendments thereof.

23. In light of the foregoing, the Commission agrees with the submissions made by both the Respondents and finds no grounds for granting relief to the Petitioner on prayers 7(a) to 7(e) mentioned hereinabove seeking reliefs such as allowing the Petitioner to bank energy generated from the Solar PV CGP and to utilize this banked energy at any time of the day without any restrictions such as peak/off-peak or solar/non-solar hours along with 100% exemption from banking charges, transmission charges and wheeling Charges for the entire period of operation of the CGP. In this regard the Commission would like to observe that Rules/Regulations provide dispensation, which can be differentiated on the basis of some intelligible class but creating a differentiation for a

particular industry will be playing havoc with the regulatory prescription. Further, the prayer of the Petitioner to grant reliefs under "Power to Relax" is nothing but an attempt to persuade the Commission to commit miscarriage of justice as "Power to Relax" is provided for assuaging a genuine hardship of a party but it can't be exercised to incentivize a proper noun i.e. a particular industry on the cost of entire consumer base. With regard to prayer 7(f) seeking installation of capacity in excess of 125% of contract demand, the Petitioner may approach the State Government directly, as the capacity ceiling of 125% has been provided under the Letter of Comfort dated 10.07.2025 presumably on the basis of capital subsidy limit applicable under the state policy.

24. The Petition is dismissed with the above observations.

Griesh

(Griesh Kumar Vaish)
Member(Law)

Sanjay

(Sanjay Kumar Singh)
Member

(Arvind Kumar)
Chairman

Place: Lucknow

Dated: 02.09.2026

U. P. ELECTRICITY REGULATORY COMMISSION * उ० प्र० विद्युत नियामक आयोग