THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW
Petition Nos. 2321 of 2025 and 2322 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 under Section 86(1)(b) read with Section 86(1)(f) of the Electricity Act, 2003, and PPA dated 10.12.2010 seeking directions to UPPCL for payment of interest/carrying cost component on outstanding dues as on 03.06.2022 converted into "Equated" Monthly Instalments in terms of the Rule 5 of the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022.

AND

IN THE MATTER OF

Lalitpur Power Generation Company Limited

TC – 13, Vibhuti Khand, Gomti Nagar, Lucknow – 226 010

AND

IN THE MATTER OF

Bajaj Energy Private Ltd.

TC – 13, Vibhuti Khand, Gomti Nagar, Lucknow – 226 010

.... Petitioner(s)

VERSUS

1. **U.P. Power Corporation Ltd. (UPPCL)**

   Shakti Bhawan, 14-Ashok Marg, Lucknow-226001

.... Respondents

THE FOLLOWING WERE PRESENT

उ०प्र० विद्युत नियामक आयोग U.P. ELECTRICITY REGULATORY COMMISSION

1. Shri Hemant Sahai, Advocate, UPPCL
2. Shri Nitish Gupta, Advocate, UPPCL
3. Shri Nipun Sharma, Advocate, UPPCL
4. Ms. Varanika Tyagi, Advocate, UPPCL
5. Shri Kashi Nath Yadav, EE(PPA), UPPCL
6. Shri Dharmendra Ratna, AE, PPA, UPPCL
7. Shri Manish Dwivedi, CE(PPA), UPPCL
8. Shri Ketan Patil, V. P , LPGCL
9. Shri Amit Mittal , Executive Director, LPGCL
10. Shri Amit Kapoor, Advocate, LPGCL
11. Shri Akshat Jain, Advocate, LPGCL
12. Shri Avdesh Mandloi, Advocate, LPGCL
13. Ms. Shikha Verma, Advocate, LPGCL
14. Shri Sanjeev Kumar Singh, Advocate, LPGCL
15. Shri Shailabh Gupta, Sr. Manager, LPGCL
16. Shri Amit Kumar Pandey, Sr. Manager, LPGCL

ORDER

(DATE OF HEARING: 27.08.2026)

1. During the previous hearing held on 16.07.2026, after considering the Petitioner's request, the Commission granted two weeks to the Petitioner for filing its response to the Respondent's reply dated 14.7.2026 regarding the maintainability aspect. The Petitioner has filed its response on 19.08.2026.

2. During the hearing today, Sri. Amit Kapoor, learned counsel for the Petitioner, submitted that LPGCL's claim is not barred by limitation. He submitted that the Petitioner's claim of interest / carrying cost is not merely premised upon the rescheduling of outstanding dues under Rule 5 of the LPS Rules. LPGCL's grievance is that UPPCL failed to compute the EMIs in terms of Rule 5 by excluding interest component. Consequently, the cause of action did not arise because the outstanding dues were rescheduled, rather, the cause of action continued to arise every month when UPPCL paid an instalment without including the interest component payable on the deferred payment of the admitted outstanding dues. Rule 5 of the LPS Rules contemplates repayment through EMI and not by way of one-time, lump-sum

discharge thereby giving rise to a continued payment obligation spread across several months.

3. Further, Sri. Kapoor submitted that accounts maintained by LPGCL and UPPCL are 'running accounts', as there exists a continuous and recurring cause of action since the power supply to UPPCL is a continuing arrangement. Sh. Kapoor relied upon the Hon'ble Tribunal's Judgement dated 02.11.2020 in *Power Company of Karnataka Ltd. v. Udupi Power Corporation Ltd,* and the Hon'ble Supreme Court's Order dated 08.02.2022 in C.A. No. 32 of 2021 & Batch and the judgment in *Shree Ram Mills Ltd. v. Utility Premises (P) Ltd.*, (2007) 4 SCC 599 to buttress his points.

4. Regarding UPPCL's contention that present claim is a 'monetary claim', governed by the Limitation Act, Sri. Kapoor argued that the period of limitation must be computed as per the accrual of the actual cause of action, which continued to arise upon every successive default in payment of the EMI. He further submitted that UPPCL's reliance on Section 18 and 19 is misplaced, since LPGCL is not invoking either Section 18 or Section 19. Accordingly, the maintainability of the present petition does not depend upon acknowledgment, part payment or negotiations.

5. Learned counsel for the Respondent, Shri. Hemant Sahai, submitted that the judgements relied upon by the Petitioner deals with the payments arising from the ongoing supply of electricity. However, according to him, there is a distinction in the case of payments made under the LPS Rules. Payment under Rule 5 is not towards the ongoing or future supply of electricity under the PPA, rather for past arrears crystalized as on the date of notification of the LPS Rules, which is a delegated legislation. He referred to the Illustration under Rule 5, Rule 3 and Rule 4 of the LPS Rules and submitted that if the distribution licensee agrees to payment of the arrears due as per the installment fixed under the rule, and makes timely payment of such installment then Late Payment Surcharge would not be payable on the outstanding dues from the date of the notification of the LPS Rules. It is only when the licensee committing a default in payment of any installment, then the LPS kicks in from the cutoff date, that too retrospectively.

6. Shri. Sahai further submitted that LPGCL ought to have raised the issue at the stage when UPPCL communicated the outstanding dues and the number of

उ०प्र० विद्युत नियामक आयोग U.P. ELECTRICITY REGULATORY COMMISSION instalments arising from Rule 5 of the LPS Rules. However the present petition has been filed only in October 2025, which is beyond the prescribed limitation period of 3 years. Accordingly, the present Petition, having been instituted beyond the prescribed period from the accrual of the alleged cause of action, is ex facie barred by Section 3 of the Limitation Act, 1963. In support of his submissions, he relied upon judgments of the Hon'ble Supreme Court Judgement in *Andhra Pradesh Power Coordination Committee v. Lanco Kondapalli Power Ltd.* & Ors, (2016) 3 SCC 468; *State of Punjab & Ors v. Gurdev Singh* (1991) 4 SCC 1; *Food Corporation of India v. Assam State Cooperative Marketing & Consumers Federation Ltd. & Ors* (2004) 12 SCC 360; *Sant Lal Mahton v. Kamal Prasad & Ors* (1959) SCC OnLine SC 68 and *Khair Mohammad Khan & Anr. V. Mst. Jannat & Ors* (1940) SCC OnLine LAH 113.

7. After hearing the parties, the Commission allows four weeks to parties to file their respective written submissions and reserved the matter for orders.

(Griesh Kumar Vaish)	**(Sanjay Kumar Singh)**	**(Arvind Kumar)**
Member (Law)	**Member**	**Chairman**

Place: Lucknow

Dated: 03.09.2026