THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

Petition No. 2363 of 2026

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)(a), (b) and (e) of the Electricity Act, 2003 read with Regulation 19 of the UPERC (Captive and Renewable Energy Generating Plants) Regulations, 2024 seeking clarificatory intervention and removal of regulatory vacuum pending formal amendment for the provision of tariff for power procured from categories of Renewable Energy-based generation plants not provided for in the aforementioned regulations, i.e., 'Other Renewable Energy Generation Plants'.

AND

IN THE MATTER OF

Uttar Pradesh Power Corporation Ltd. (UPPCL),

(Through Superintending Engineer- PPA),

Shakti Bhawan Extension, 14-Ashok Marg, Lucknow - 226001 ...Petitioner

FOLLOWING WERE PRESENT

1. Sh. Divyanshu Bhatt, Advocate, UPPCL
2. Sh. Prakher Shukla, Advocate, UPPCL
3. Sh. Abhayaditya Singh, Advocate, UPPCL
4. Sh. Nitish Kumar, MD, UPPCL
5. Sh. Sandeep Bhagia, MD, MVVNL
6. Sh. Manish Dwivedi, CE (PPA), UPPCL
7. Sh. Anil Kumar, SE (PPA), UPPCL
8. Sh. Vikash Gupta, EE (PPA), UPPCL
9. Sh. Srijan Singh, AE, UPPCL

ORDER
(DATE OF HEARING: 20.08.2026)

1. The Petitioner, UPPCL has filed this Petition seeking clarificatory intervention and removal of regulatory vacuum pending formal amendment for the provision of tariff for power procured from categories of Renewable Energy-based generation plants not provided for in the aforementioned regulations, i.e., 'Other Renewable Energy Generation Plants'. The prayers of the Petitioner are as follows:

   a) Admit the instant petition.

   b) Pass appropriate directions and orders clarifying that the applicable tariff for power procurement from renewable energy-based plants not provided for in the UPERC (Captive and Renewable Energy Generating Plants) Regulations, 2024, i.e., 'Other Renewable Energy Generation Plants' shall be the average power purchase cost of the previous financial year, pending formal amendment.

   c) Pass any such further order(s) as this Commission may deem fit and necessary in the facts and circumstances of the case.

Background of the case

2. The Petitioner has mainly submitted following in the Petition:

   a) The Commission notified the UPERC (Captive and Renewable Energy Generating Plants) Regulations, 2024 on 17.10.2025 *(herein after referred to as CRE Regulations, 2024)* repealing and replacing the erstwhile UPERC (Captive and Renewable Energy Generating Plants) Regulations, 2019. Regulation 6(I) of the CRE Regulations, 2024 provides that the generic tariff for existing Renewable Energy (RE) generating plants shall be governed by Schedule-I to the Regulations. Further, CRE Regulations 2024 provides provisions for applicable tariffs on power procurement from new RE generating plants and Solar PV plants. However, no tariff has been provided for procurement of power from existing RE plants not covered under Regulation 6(I).

   b) Similar to the present scenario, CRE Regulations, 2019 also did not provide tariff applicable to power procured from other RE plants. Assailing this omission, UPPCL preferred Petition No. 1532 of 2019 before the Commission. The Commission vide

Order dated 22.01.2020, allowed the previous year's Average Power Purchase Cost (APPC) to be treated as the tariff for power procured from other RE plants and notified First Amendment/Addendum to the CRE Regulations, 2019 on 22.01.2020.

c) The previous regulations governing renewable energy-based electricity generation promulgated in the years 2014 made explicit provisions for power procurement from RE sources other than conventional ones. On the basis of these provisions and in the interest of promotion and development of RE generation in Uttar Pradesh, UPPCL entered into power procurement arrangements. However, the omission in the CRE Regulations, 2024 has left the applicable tariff undetermined and the bills raised remain unresolved.

d) Regulation 2 of the CRE Regulations, 2024 states that the regulations shall apply to 'Renewable Energy Generating Plants'. 'Renewable Energy Power Plants' means power plants generating grid quality electricity from Renewable Energy Sources, which in turn has been defined to include non-conventional 'other' RE sources.

e) The present omission has resulted in a regulatory vacuum, whereby the plants operating in the state of Uttar Pradesh on 'other' RE sources, i.e., those not explicitly mentioned in the CRE Regulations 2024 are governed solely by these regulations but do not have a specified applicable tariff. The particulars of the concerned RE-based plants supplying power to UPPCL, affected by the inadvertent omission in the CRE Regulations, 2024 are as follows:

S. No	Name of RE Generator	Invoice Details	Month	Amount (Rs.)	Remarks
1.	Birla Carbon India Pvt. Ltd.	BC07202526	Oct-2025	1,31,11,657	Paid Provisionally
		BC08202526	Nov-2025	16,71,408	
		BC09202526	Dec-2025	1,28,21,522	
2.	Continental Carbon India Pvt. Ltd.	CCIPL/PE/PD/08	Sep-2025	79,07,945	
		CCIPL/PE/PD/09	Oct-2025	28,74,176	
		CCIPL/PE/PD/10	Nov-2025	40,24,521	
		CCIPL/PE/PD/11	Dec-2025	1,54,78,435	
3.	Indian Glycose	143/IGL/07/2025-26	Oct-2025	1,42,34,312	
		143/IGL/08/2025-26	Nov-2025	1,43,92,288	
		143/IGL/09/2025-26	Dec-2025	1,21,71,264	
		143/IGL/11/2025-26	Jan-2026	1,91,54,423	
4.	Balrampur Chini mill Unit- Mankapur	EDD/UPPCL/25-26/7A	Oct-2025	11,01,195	
		EDD/UPPCL/25-26/8A	Nov-2025	3,11,66,497	

S. No	Name of RE Generator	Invoice Details	Month	Amount (Rs.)	Remarks
		EDD/UPPCL/25-26/9A	Dec-2025	6,16,50,739	
		EDD/UPPCL/25-6/10A	Jan-2026	6,06,72,234	
5.	Balrampur Chini mill Unit- Balrampur	Bills not received			

f) Absence of an express tariff provision for 'Other Renewable Energy Generation Plants' in the CRE Regulations, 2024 appears to be inadvertent and unintended. The scheme, structure and definitional framework demonstrate that renewable energy generating plants, including those based on sources recognized or approved by the Central Government, fall within the regulatory ambit and the omission pertains only to prescription of tariff for a sub-category of such plants. The Regulations, in defining "Renewable Energy Sources" to include, inter alia, such other sources as may be recognized or approved by the Central Government, manifest a legislative intent to encompass evolving and emerging renewable technologies within the regulatory domain.

g) Under the preceding regulatory regime, explicit provision existed for renewable technologies not otherwise enumerated, thereby ensuring continuity of procurement and tariff applicability. No deliberative reasoning, statement of objects or regulatory finding indicates any intention to withdraw such treatment, and the omission appears to have arisen out of an oversight during the transition between regulatory regimes rather than a deliberate substantive change.

h) A contrary interpretation would produce anomalous consequences. RE generating plants recognized under the Regulations would remain eligible for grid connectivity, scheduling and regulatory supervision, but have no determinable tariff for supply to distribution licensees. Such outcome would frustrate Sections 86(1)(b) and 86(1)(e) of the Electricity Act, 2003. Subordinate legislation must be construed purposively so as to advance, and not defeat, the statutory object. It is therefore a settled principle of regulatory interpretation that where an omission results in impracticability or inconsistency with the parent statute, the same may be treated as inadvertent and capable of correction.

i) Recognising the omission as inadvertent does not entail rewriting the Regulations but merely clarifying and restoring the regulatory position consistent with the scheme of the Act and the Commission's established practice. The correction sought merely reinstates a mechanism that previously operated without controversy and in furtherance of statutory objectives. Such clarification would ensure regulatory continuity, avoid disruption of existing commercial arrangements and uphold the principle of certainty that underpins tariff jurisprudence.

j) UPPCL has, as an interim administrative measure, been verifying the bills raised by such generating stations on the basis of APPC to ensure continuity of commercial settlement and avoid disruption in payment cycles pending appropriate regulatory clarification by the Commission. APPC reflects the weighted average cost of power procurement incurred by the distribution licensee from approved sources and is determined by the Commission after due regulatory scrutiny. The use of APPC therefore serves as a temporary and prudential mechanism enabling UPPCL to process invoices and maintain accounting discipline until an express regulatory determination is made.

k) The Commission possesses the authority to remove difficulties under Regulation 19 of the CRE Regulations 2024. UPPCL seeks approval for application of previous financial year's APPC as the tariff for 'Other Renewable Energy Generation Plants'. The tariff determination is guided by the principles enshrined under Sections 61, 62 and 86(1)(a), (b) and (e) of the Electricity Act, 2003. Section 61 mandates that the Commission shall be guided, inter alia, by the need to safeguard consumer interest while ensuring recovery of cost of electricity in a reasonable manner, to promote generation of electricity from renewable sources, and to secure efficiency, economy and competition in the power sector. The adoption of the previous Financial Year's APPC as the applicable tariff for procurement from 'Other Renewable Energy Generation Plants' is fully aligned with these statutory objectives and represents a balanced exercise of regulatory discretion.

l) 'Other Renewable Energy Generation Plants' may include emerging or niche technologies whose capital cost benchmarks and operational parameters are not firmly established and lie beyond the scope of pilot project demonstration under Regulation 6(VII) of the CRE Regulations, 2024. In such circumstances, immediate cost-plus determination would necessitate extensive technical scrutiny, prolonged hearings and detailed prudence checks, thereby delaying tariff finalization and payment flows.

m) APPC, being reflective of average system cost, avoids information asymmetry, inflated capital cost projections and regulatory arbitrage. Procurement at APPC does not confer any preferential advantage and prevents undue burden on consumers. Adoption of APPC is also consistent with the broader national policy framework which emphasises cost efficiency, competitive procurement and avoidance of undue consumer burden while promoting renewable energy development.

n) The agreements entered into by UPPCL were under a regime which expressly provided tariff for 'Other Renewable Energy Generation Plants'. The omission in the CRE Regulations 2024 creates a regulatory vacuum which defeats the basis of such agreements.

Records of Proceeding

3. On the hearing 09.06.2026, on specific query of the Commission about specific plants, Sh. Divynashu Bhatt, learned Counsel for UPPCL responded that five such generating plants exist, out of which Birla Carbon India Pvt. Ltd. and Continental Carbon India Pvt. Ltd. generate electricity using industrial waste-gas, while both Balrampur Chini Mills plants use 90% Bagasse and 10% other fuel. The Commission sought clarification about the Company name of 'India Glycose' to 'India Glycols' in view of Petition No. 2365/2026 filed by India Glycols Ltd. Sh. Bhatt submitted that details would be verified and placed on record. Sh. Vikas Gupta on behalf of UPPCL submitted that amendment to the CRE Regulations, 2019 provided the dispensation for application of APPC rate for 'Other Renewable Energy Generating Plants' and accordingly payments were made to the generator under the PPAs.

4. The Commission observed that UPPCL had not commented on the list of power plants eclosed in the Explanatory Memorandum of the draft CRE Regulations, 2024; i.e., while framing the CRE Regulations, 2024. Sh. Bhatt responded that he would verify the details and place the same on record. Considering necessity, the Commission directed UPPCL to furnish copy of PPAs, COD details, power generation technology along with fuel used, actual electricity supplied (MU) during the last 3 financial years with respect to generating plants mentioned in the matter. The Commission also directed UPPCL to

confirm if there is any other plant which may fall into 'other Renewable energy generation plants" besides these five generating plants.

5. On the hearing 21.07.2026, learned Counsel for UPPCL, submitted that an Additional Affidavit had been filed on 17.07.2026 in compliance with the Commission's Order dated 10.06.2026. Learned Counsel submitted that about Annexure-A (i.e., list of plants) to the Draft CRE Regulations, 2024, it was UPPCL's bona fide belief that the existing dispensation applicable to 'Other Renewable Energy Generating Plants' would continue under the CRE Regulations, 2024. The Commission observed that such issues ought to have been highlighted by UPPCL during the formulation of the CRE Regulations, 2024 and it should have sought clarification for 'Other Renewable Energy Generating Plants' at that point of time.

6. The Commission observed that with respect to India Glycols Limited, a separate Order dated 13.07.2026 in Petition No. 2365 of 2026, has already been issued. On specific query of the Commission about any discussions with other RE generating plants regarding the dispensation proposed in the present Petition, Sh. Bhatt responded that verbal communication was done and payments as per CRE Regulations, 2019 provisions, were being made provisionally at the rate of APPC. The Commission opined that any provision to be incorporated in the Regulations could affect the concerned generators and hence it was necessary that UPPCL should obtain 'in-principle' consent about the proposed dispensation from four RE generating plants, barring India Glycols and place their response on record. Sh. Bhatt sought time to file additional submission in this regard.

7. The Commission further observed that PPAs with respect to M/s Balrampur Chini Mills has a ceiling tariff of Rs.4.95/kWh, Sh. Bhatt stated that UPPCL agrees with the said provision of the PPAs. The Commission further enquired the basis for providing ceiling tariff of Rs. 4.95/kWh, Sh. Bhatt sought time to furnish the details. The Commission further sought clarification as to whether the APPC rate determined through True-up or as determined in ARR proceedings was considered for payment, Sh. Bhatt responded that APPC rate of the last True-up Order was considered on provisional basis and upon determination of the True-up APPC rate for a particular financial year, necessary adjustments are made in the payments.

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8. The Commission further sought clarification regarding whether APPC rates for Renewable Energy were considered by UPPCL or was it APPC for all sources. Sh. Bhatt responded that APPC rate based on total power purchase cost was considered. On specific query of the Commission about basis of considering these generating plants (i.e., based on waste gas and Slop) to be Renewable Energy Technologies, Sh. Bhatt submitted that these technologies were recognised by MNRE as renewable energy technologies. The Commission directed UPPCL to place on record the relevant MNRE's notification/document for the same. On UPPCL's request, the Commission reserved the order in the matter.

Additional Submission

9. On 17.07.2026, UPPCL filed its affidavit wherein it mainly submitted following:

a) Annexure-A to the Explanatory Memorandum on the Draft 2024 CRE Regulations referred to Continental Carbon India plant and Hi-Tech Carbon plant were among the five generators referred to in the instant Petition and, therefore, no specific comments were considered necessary. The omission of comments was based on the bona fide belief that the dispensation applicable in previous tariff periods would continue under the CRE Regulations 2024. The requisite details for each of the plants mentioned in the Petition are as follows:

S. No.	Name of RE Generator	Type of Fuel	COD
1.	M/s. Hi-Tech Carbon (A unit of Aditya Birla NUVO Limited)	Carbon Black	06.02.2011
2.	Continental Carbon India Pvt. Ltd.	Waste gas from carbon black production	22.08.2008
3.	India Glycols Limited	Slop and Rice Husk	14.02.2014
4.	Balrampur Chini Mills Unit- Mankapur	Spent wash and bagasse	29.05.2016
5.	Balrampur Chini Mills Unit- Balrampur	Spent wash and bagasse	27.02.2016

b) No plants other than the aforesaid five plants fall within the category of 'Other RE Plants' for the purposes of present adjudication under the 2024 CRE Regulations. The actual electricity supplied by such five 'Other RE Plants' during the preceding three financial years are provided.

c) The names of the RE Generators 'M/s. Hi-Tech Carbon (A unit of Aditya Birla NUVO Limited)' and 'M/s India Glycols Limited' have been inadvertently and erroneously noted as 'Birla Carbon India Pvt. Ltd.' and 'Indian Glycose', respectively, in the table at Page No. 9 of the Petition. This clerical error is wholly inadvertent. The Commission may kindly be pleased to admit the correct names of the RE Generators to the record.

10. On 18.08.2026, UPPCL filed submission wherein it mainly submitted following:

a) UPPCL issued letters dated 21.07.2026 to M/s. Hi-Tech Carbon, Continental Carbon India Pvt. Ltd., Balrampur Chini Mills. The RE generators provided in-principle consent for APPC of the previous financial year as the applicable tariff vide: (i) Letter No. BCI:PS:2026-27:49 dated 31.07.2026 of M/s. Hi-Tech Carbon, (ii) Continental Carbon India Pvt. Ltd. email dated 29.07.2026, (iii) Letter No. MCM/IPP/2026-27/08/ dated 28.07.2026 of Balrampur Chini Mills Unit-Mankapur, and (iv) Letter No. BCM/IPP/2026-27/07/ dated 28.07.2026 of Balrampur Chini Mills Unit-Balrampur.

b) The ceiling tariff of Rs. 4.95/kWh was incorporated in the PPAs of Balrampur Chini Mills considering a fuel mix of 55% slop/spent wash and 45% bagasse, after deduction of approximately 18 paise per unit due to use of the existing transmission line. The said ceiling tariff was acknowledged by the Commission in its Order dated 06.04.2016 in Petition Nos. 1044 of 2015 and 1099 of 2016. In the aforesaid Order, the Commission held that in absence of benchmarks for capital cost and operational norms for energy production from slop, tariff payable to these two units would be APPC within the terms of the PPAs, including the ceiling tariff of Rs. 4.95/kWh under Clause 2.1 of the respective PPAs.

c) Slop/Spent Wash used by Balrampur Chini Mills Units at Mankapur and Balrampur falls within the ambit of Waste to Energy Programme of the Ministry of New and Renewable Energy (MNRE), Government of India. Spent Wash is a biowaste by-product of sugarcane processing, which is thereafter processed by the aforementioned RE generators to produce electricity. The Commission vide its Order dated 06.04.2016 in Petition Nos. 1045 of 2015 and 1098 of 2016 observed that MNRE did not recognise slop-based generation as an RE source. This dispensation has since been changed, with promulgation of Waste to Energy Programme of the MNRE.

d) Waste Gas from Carbon Black production had been recognised as renewable source by the erstwhile Ministry of Non-Conventional Energy Sources (MNES), Government of India, the predecessor to the MNRE. The MNES promulgated the National Pilot Programme on Energy Recovery from Urban, Municipal & Industrial Wastes, wherein it recognised conversion technologies that facilitated energy recovery through the utilisation of gaseous wastes, which included the use of Waste Gas produced from Carbon Black production.

e) Regulation 22 read with Regulation 24 of the CNCE Regulations, 2005 applied to generating stations based on Non-Conventional Energy (NCE), including industrial wastes, and prescribed a tariff of Rs. 2.50 per unit with escalation of 4% per annum without compounding. The said provision formed part of the PPAs executed with the Syngas-based Generators.

f) Schedule II(F) of the CRE Regulations, 2014 provide tariff for RE technologies not specifically covered therein. The second proviso to Regulation 4 further extended such tariff to NCE generating stations commissioned prior to 01.04.2014 whose tariff had been determined under earlier regulations. Subsequently promulgated CRE Regulations, 2019 did not retain this provision, therefore, the Commission directed amendment of the CRE Regulations 2019 to accommodate Other RE Sources.

Analysis & Decision

11. UPPCL by way of the instant Petition is seeking clarification regarding applicable tariff for power procurement from 'Other' RE generating plants as the same is not provided for in the UPERC (Captive and Renewable Energy Generating Plants) Regulations, 2024. These generating plants includes- M/s. Hi-Tech Carbon (A unit of Aditya Birla NUVO Limited), M/s Continental Carbon India Pvt. Ltd., M/s Balrampur Chini Mills Unit-Mankapur & Balrampur. UPPCL has also confirmed that no other generating station falls within the category of 'Other RE Plants' for the purpose of the present Petition.

12. The Commission also notes that as per CRE Regulations, 2019 First Amendment, the applicable tariff for "any other RE-source-based generation" was fixed at Average Power Purchase Cost (APPC) of the last financial year. The relevant extract of the said amendment is reproduced below:

*"**G. Any other RE source-based generation***

*(i) For any renewable energy technologies approved by MNRE, other than Bagasse Based Generation & Cogeneration Plants, Biomass (Rice Husk Based) Generation Plants, Municipal Solid Waste Based Generation Plants, Biogas Based Generation Plants, Biomass Gasifier Based Generation Plants, Small Hydro Generation Plants and Solar Power Generation Plants, tariff shall be the **average power purchase cost (APPC) of the last FY** as determined by the Commission.*

Provided, if such Renewable Energy generator satisfies the Commission that its technology has come subsequent to this notification, which necessitates a tariff other than average power purchase cost (APPC) then the Commission may determine tariff for such generating stations on case to case basis."

13. It is observed that all four generating power stations have provided consent for the applicable tariff at APPC for the previous financial year. Further, Regulation 19 (Power to Remove Difficulties) of the CRE Regulations, 2024 provides that if any difficulty arises in giving effect to the provisions of the Regulations, the Commission may, by general or specific Order, remove the difficulty for the stakeholders. The extract of said Regulation 19 is reproduced as under:

*"**19. Power to Remove Difficulties***

If any difficulty arises in giving effect to the provision of these regulations, the Commission may, by general or specific order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty."

14. In view of above, the Commission is of the view that continuation of a similar dispensation would facilitate settlement of claims of such generating stations. Accordingly, the Commission, while exercising its powers under Regulation 19 of the UPERC (Captive and Renewable Energy Generating Plants) Regulations, 2024, decides that the applicable tariff for procurement of power from existing generating Plants', namely M/s. Hi-Tech Carbon, Continental Carbon India Pvt. Ltd., Balrampur Chini Mills Unit-Mankapur and Balrampur, shall be the Average Power Purchase Cost (APPC) of the previous financial year as determined by the Commission in tariff orders for the Distribution Licensee on provisional basis and upon determination of the true-up APPC rate for a particular year, necessary adjustment would be made. Further, the APPC rate based on total power purchase from all sources needs to be considered for this purpose. It is clarified that this APPC rate is subject to ceiling tariff provisions provided in

respective PPA of M/s Balrampur Chini Mills Unit- Mankapur and M/s Balrampur Chini Mills Unit-Balrampur.

The Petition stands **disposed of** in terms of above.

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

Place: Lucknow
Dated: 3.9.2026