THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

Petition No. 2365 of 2026

QUORUM

Hon'ble Shri Arvind Kumar, Chairman

Hon'ble Shri Sanjay Kumar Singh, Member

IN THE MATTER OF

Petition under Section 62 read with section 86(1)(a), (b) & (c) and the other applicable provisions of the Electricity Act, 2003, read with Schedule I of the UPERC (Captive and Non-Conventional Energy Generating Plants) Regulations, 2009, read along with Regulation 19 of the UPERC (Captive and Renewable Energy generating plants) Regulations, 2024 for inter alia seeking determination/clarification of the applicable tariff for the Petitioner's Non-RE Captive Co-Generation Plant commissioned during FY 2013–2014 in terms of the Power Purchase Agreement (PPA) dated 23.07.2012.

AND

IN THE MATTER OF

India Glycols Limited (IGL),

E-1, Sector-15 GIDA, Gorakhpur, U.P. – 273209 ...Petitioner

VERSUS

Uttar Pradesh Power Corporation Limited (UPPCL),

Shakti Bhawan, 14, Ashok Marg, Lucknow- 226001 ...Respondent

FOLLOWING WERE PRESENT

1. Sh. Divyanshu Bhatt, Advocate, IGL
2. Sh. Abhayaditya Singh, Advocate, IGL
3. Sh. Apoorva Mishra, Advocate, UPPCL
4. Sh. Shailesh Chand, Head Engineering, IGL

5. Sh. Manish Dwivedi, CE, PPA, UPPCL
6. Sh. Vikash Gupta, EE (PPA), UPPCL

ORDER

(DATE OF HEARING: 04.06.2026)

1. The Petitioner, India Glycols Limited (*hereinafter referred to as IGL*) has filed this Petition seeking determination/clarification of the applicable tariff for the Petitioner's Non-RE Captive Co-Generation Plant terms of the PPA dated 23.07.2012. The prayers of the Petitioner are as follows.

   a) Admit the instant Petition.

   b) Issue necessary directions under Regulations 19 of the UPERC (Captive and Renewable Energy Generating Plants) Regulations, 2024 to determine/ clarify the applicable tariff for the Petitioner's Non-RE Captive Co-Generation Plant commissioned during FY 2013–2014 in terms of the existing Power Purchase Agreement dated 23.07.2012.

   c) Pass such Orders that this Commission may deem fit in the present facts and circumstances of the case.

Background of the case

2. The Petitioner has mainly submitted following in the Petition

   a) IGL operates a distillery unit at Gorakhpur Industrial Development Area (GIDA), Gorakhpur, wherein an integrated cogeneration power plant has been established in compliance with the environmental norms and approvals granted by the concerned authorities including the Central Pollution Control Board (CPCB) and the Uttar Pradesh Pollution Control Board (UPPCB).

   b) IGL executed a PPA dated 23.07.2012 with UPPCL for supply of 8 MW surplus power from its 12 MW cogeneration plant based on biomass fuel (rice husk) situated at Sahajanwa, Gorakhpur. The PPA was approved by the Commission vide its Order dated 11.09.2013 in Petition No. 818 of 2012 & 898 of 2013. The cogeneration plant is integral part of the IGL's distillery operations, as effluent generated is required to be treated and incinerated through specially designed boilers in accordance with the environmental standards prescribed by the Ministry of Environment, Forest and Climate Change (MoEF&CC) and other statutory authorities.

c) Article 2.1 of the PPA provides that tariff, specified under Schedule-I of the UPERC (Captive and Non-Conventional Energy Generating Plants) Regulations, 2009, shall apply in the event power is generated using non-conventional or renewable fuel, and in case conventional fuel is used, the tariff shall continue to be governed as per the provisions stipulated under the applicable schedule of the said Regulations, 2009.

d) The commissioning certificate for the IGL's cogeneration plant was issued by Executive Engineer, EDD-II, PVVNL, Gorakhpur vide its letter No. 835/E.D.D.–II (G) dated 11.03.2014. The said certificate records that IGL has commissioned a 12 MW, rice husk and Slop based cogeneration project exporting power to Barahuwa substation, Gorakhpur at 132kV level in terms of the PPA and the Order dated 11.09.2013 of the Commission.

e) Subsequently an Amended PPA dated 11.09.2015 was executed between IGL and UPPCL on account of a change in the grid substation for the power evacuation system, whereby the evacuation point was revised to the 220/132 kV Barahauwa Substation, Gorakhpur in place of the earlier 132 kV GIDA Substation, Gorakhpur as provided under the original Power Purchase Agreement dated 23.07.2012. Pursuant thereto, a Connection Agreement dated 04.12.2015 was executed with UPPTCL for connectivity at 220 kV Barahuwa substation, Gorakhpur and requisite 'Connection Offer' was made as per the applicable grid connectivity requirements.

f) In the recent times, IGL has been facing acute shortage and non-availability of rice husk, which is the primary fuel for operating the cogeneration plant. Owing to such non-availability of fuel, the cogeneration plant has been operating under severe constraints and has, on several occasions, been forced to curtail or suspend operations. In the absence of continuous operation of the cogeneration plant, IGL's distillery operations are also adversely affected since the effluent treatment and disposal mechanism is intrinsically linked to the functioning of the cogeneration facility. In view of the aforesaid operational difficulties, on 29.12.2025, IGL addressed a detailed communication to UPPCL explaining the issues being faced and proposing measures for resolution of the same.

g) Considering the nature of the IGL's industrial operations, cogeneration plant is required to be operated on a continuous and regular basis in order to sustain the manufacturing process and ensure uninterrupted supply of liquor to the State, which directly contributes to the State's revenue. In these circumstances, it is necessary that IGL's plant be permitted to transition from rice husk to coal as an alternative fuel source, while continuing operations under the applicable tariff framework provided under Schedule-I of the UPERC (Captive and Non-Conventional Energy Generating Plants) Regulations, 2009 *(hereinafter referred to as CNCE Regulations, 2009).*

h) UPPCL vide its communication dated 02.02.2026 granted *'In-principle'* approval for transition of fuel from rice husk to coal as an alternative fuel source. However, UPPCL also stated that since the tariff for non-renewable energy captive generating plants commissioned during the FY 2013-14 has not been specified under the CRE Regulations, 2024, the applicable tariff would be required to be determined by the Commission.

i) Regulation 19 of the CRE Regulations, 2024 empowers the Commission to allow deviation from the provisions of the Regulations in line with the provisions of the Electricity Act. Since tariff for Non-RE captive cogeneration plants commissioned in FY 2013–2014 is unspecified in current Regulations, a regulatory difficulty has arisen; hence, the Commission is requested to exercise powers to remove difficulty under Regulation 19 to issue appropriate directions.

Record of Proceeding

3. During the hearing on 12.05.2026, Sh. Divyanshu Bhatt, Counsel of IGL, submitted that through the instant case, IGL seeks to invoke the 'Power to Remove Difficulty' of the Commission on account of change of fuel from Biomass (rice husk) to Coal for its non-RE Captive Co-Generation Plant commissioned during FY 2013-2014 in terms of the PPA dated 23.07.2012. On a specific query of the Commission regarding the change of fuel, the Counsel responded that the plant would be shifted to 100% Coal instead of biomass & Slop. The Commission observed that the applicable tariff for the project might be

reduced due to the change in fuel, to which the Counsel acknowledged and affirmed. The Commission allowed UPPCL to file its reply with a copy to the Petitioner for filing rejoinder, if any. On 26.05.2026, UPPCL filed its reply in the matter, no rejoinder has been filed by the Petitioner.

4. On hearing dated 04.06.2026, Sh. Bhatt submitted that UPPCL has filed its reply and there is no requirement of filing rejoinder by the Petitioner as there is an agreement between the parties. The Commission, at the request of the Petitioner, reserved the Order in the matter.

Reply of UPPCL

5. On 26.05.2026, UPPCL filed its reply and it mainly submitted the following:
   a) On 29.12.2025, UPPCL received a communication from the IGL wherein IGL detailed the acute shortage and non-availability of Rice Husk- the primary fuel for its plant. IGL explained that this shortage was severely constraining its operation and could lead to a complete shutdown, which would not only affect power supply but would also halt its distillery operations, thereby impacting environmental compliance and causing a significant loss of revenue to the State exchequer. After due consideration of the matter, UPPCL issued a letter dated 02.02.2026 bearing No. 101/CE/PPA, granting its 'in-principle' approval for the proposed fuel transition from Rice-Husk to Coal.

   b) A regulatory difficulty has arisen as the prevailing CRE Regulations, 2024 do not specify tariff for Non-RE captive co-generation plants commissioned in FY 2013-2014. Hence, the Commission's intervention is required under Regulation 19 to determine the applicable tariff. The Petitioner's prayer has statutory basis for tariff determination. Section 62 and Section 86(1)(a) & (b) of the Electricity Act, 2003 empower the Commission to determine tariff even in the absence of any specific Regulations. This legal position has been confirmed by the Hon'ble APTEL in its full bench judgment dated 26.05.2006 passed in Appeal No. 4, 13, 14, 23, 25, 26, 35, 36, 54 & 55 of 2005 – titled *M/s Siel Limited vs. PSERC and Another*.

   c) Further, while the UPPCL supports IGL's prayer in principle, it is duty bound to safeguard the interest of consumers of the State and prays for thorough prudence check while determining the tariff. The final applicable tariff should be just and reasonable, reflecting efficient cost of generation, ensuring no burden on consumers, and maintaining sanctity of the PPA with prevailing regulatory consistency.

Analysis & Decision

6. India Glycols by way of instant Petition is seeking determination of applicable tariff for its 12 MW cogeneration project on account of change of fuel from Biomass & Slop to Coal under Article 2.1 of the PPA dated 23.07.2012 executed with UPPCL. The relevant extract of Article 2.1 of the PPA dated 23.07.2012 is as below:

"***2. POWER PURCHASE SALE***

2.1 DISCOM shall accept and purchase 8 MW of power made available by the Generating plant's Slop & Rice Husk based generation in accordance with the terms and conditions of this Agreement, at the rate specified for such plant in ***Schedule II*** *of "CNCE Regulation, 09", as amended from time to time and mentioned hereunder subject to the provision that these rates are celling rate and in case the tariff for Slop & Rice Husk based power generation as determined by UPERC is found lower than the below mentioned rates, the lower rates would be applicable:*

Biomass- Tariff (Total Cost: Rs. /kWh)					
Year of Commissioning	*FY 09-10*	*FY 10-11*	*FY 11-12*	*FY 12-13*	*FY 13-14*
FY 08-09	*4.29*	*4.41*	*4.55*	*4.69*	*4.84*
FY 09-10	*4.38*	*4.50*	*4.63*	*4.77*	*4.92*
FY 10-11		*4.58*	*4.71*	*4.85*	*5.00*
FY 11-12			*4.80*	*4.93*	*5.08*
FY 12-13				*5.02*	*5.17*
FY 13-14					*5.26*

Except for Income Tax, all other taxes, duties and other levies imposed by the Central and/or State Government or other local authorities directly relating to generation shall be payable by DISCOM on production of necessary supporting documents by the Generating Plant, while those relating to sale of electricity, shall be borne and payable by DISCOM.

(Explanation: The price as per Schedule II of the "CNCE Regulation, 09"; shall apply only in the event of generation of power by using non conventional or renewable fuel for generating power. ***In case conventional fuel is used, the tariff shall be as per Schedule I of "CNCE Regulation, 09".****)"*

7. The Commission, vide its Order dated 11.09.2013 in Petition No. 818 of 2012, approved the PPA dated 23.07.2012. UPPCL, being the procurer of 8MW surplus power from the IGL's 12 MW project under the PPA dated 23.07.2012, granted *'in-principle'* approval

for the change of fuel from Biomass & Slop to Coal and requested the Commission that applicable tariff so determine to be just, reasonable, ensuring safeguarding the consumer interest while maintaining the sanctity of the PPA and to be consistent with the existing regulatory framework.

8. CNCE Regulations, 2009 remained in force till 31.03.2014, which was repealed and followed by promulgation of UPERC (CRE) Regulations, 2014, UPERC (CRE) Regulations, 2019 and subsequently by UPERC (CRE) Regulations, 2024. Accordingly, the prevailing applicable Regulation in the present case is the UPERC (CRE) Regulations, 2024 notified on 17.10.2024.

9. Regulation 19 of the CRE Regulations, 2024 provides that if any difficulty arises in implementing the provision of the Regulations, the Commission may provide necessary relief by removing the difficulty so arisen. The extract of the said Regulation 19 is reproduced for ready reference 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."*

Therefore, the Commission, while exercising its power to remove difficulty under Regulation 19 of the CRE Regulations, 2024, has decided to determine the tariff for the IGL's generating plant.

10. Schedule-I of the UPERC (Captive and Non-Conventional Energy Generating Plants) Regulations, 2009 dealt with the tariff for the sale of power by Captive Generating Plant which uses Coal as a primary fuel. The Commercial Date of Operation (COD) of the IGL's power plant is 14.02.2014 and therefore, it falls under the Financial Year 2013-14 and for such plants no applicable tariff has been provided under the CRE Regulations, 2024.

11. It is noteworthy to mention that clause 3 of Schedule-I of the CRE Regulations, 2024 provides the tariff for Biomass (Rice husk) based generating plants, which comprises of fixed and variable cost, at PLF of 80%. The relevant extract of aforementioned clause 3 is reproduced as below:

"**3. Biomass (rice husk based) Generation Plants-**

3.1 *The fixed & variable costs and total tariff for the three number of existing Generation plants for control period of these Regulations shall be as shown below:*

Table 16: Fixed Cost (Rs./kWh)

Year of Commissioning	**FY 2024-25**	**FY 2025-26**	**FY 2026-27**	**FY 2027-28**	**FY 2028-29**
FY 2008-09	1.72	1.78	1.85	1.92	1.85
FY 2013-14	**1.74**	**1.80**	**1.86**	**1.93**	**2.00**

Table 17: Variable Cost (Rs./kWh)

Financial Year	**Variable Cost**
FY 2024-25	6.05
FY 2025-26	6.26
FY 2026-27	6.47
FY 2027-28	6.70
FY 2028-29	6.93

Table 18: Total Tariff (Rs./kWh)

Year of Commissioning	**FY 2024-25**	**FY 2025-26**	**FY 2026-27**	**FY 2027-28**	**FY 2028-29**
FY 2008-09	7.77	8.04	8.32	8.62	8.78
FY 2013-14	7.79	8.06	8.33	8.63	8.93

....

3.3 *The tariff of the Biomass (rice husk based) Generating Plants has been* ***determined at 80% PLF****. For ex-bus scheduled energy corresponding to incremental annual PLF over and above 80%, incentive @ 50 paisa per unit shall be payable."*

12. Further, clause 1 of Schedule-I of the CRE Regulations, 2024 provides the tariff for Coal based Captive generating plants whose tariff was determined at PLF of 85%. The relevant extract of aforementioned clause 1 is reproduced as below:

"1. Captive Generating Plants (non-RE)

1.1 The fixed & variable costs for the existing plants of unit size up to 100 MW has been determined as shown below:

Table 1: Fixed Cost (Rs./kWh)

Year of Commissioning	**FY 2024-25**	**FY 2025-26**	**FY 2026-27**	**FY 2027-28**	**FY 2028-29**
Prior to FY 2005-06	0.67	0.70	0.72	0.74	0.77
FY 2010-11	0.82	0.84	0.87	0.89	0.91
FY 2014-15	1.18	1.20	0.88	0.90	0.92

Table 2: Variable Cost (Rs./kWh)

Financial Year	***Variable Cost***
FY 2024-25	*2.26*
FY 2025-26	*2.33*
FY 2026-27	*2.41*
FY 2027-28	*2.50*
FY 2028-29	*2.58*

Table 3: Total Tariff (Rs./kWh)

Year of Commissioning	***FY 2024-25***	***FY 2025-26***	***FY 2026-27***	***FY 2027-28***	***FY 2028-29***
Prior to FY 2005-06	*2.93*	*3.03*	*3.13*	*3.24*	*3.35*
FY 2010-11	*3.08*	*3.17*	*3.28*	*3.39*	*3.49*
FY 2014-15	*3.44*	*3.53*	*3.29*	*3.40*	*3.50*

1.3 *The tariff of the Captive Generating Plants has been* ***determined at 85% PLF.*** *For ex-bus scheduled energy corresponding to incremental annual PLF over and above 85%, incentive @ 50 paisa per unit shall be payable.*

13. In the present case, IGL would use the existing plant and machinery but instead of Biomass (Rice Husk) as fuel, it will use Coal as primary fuel for generation of electricity. As per Article 2.1 of the PPA, the appliable tariff would be the tariff provided for Coal based Captive generating plant under Schedule-I of the CRE Regulations, 2024. It is also an admitted fact that IGL was fully aware of the reduction in its appliable tariff on account of change of fuel and it is a commercial decision of the IGL.

14. **Therefore, the Commission is of the view that the fixed cost recovery for the IGL's generating project will be continued at the prevailing generic tariff under category of Biomass (rice husk) based project while the variable cost will be at the generic tariff under category of coal-based Captive generating plant as determined by the Commission. It is also evident that annual generation for the IGL's project would now be computed @85% PLF for coal based generating plant instead of 80% PLF for biomass based generating plant to compute its fixed cost per unit. Further, the variable cost for Captive generating plant is same irrespective of year of commissioning of the Captive generating plant. Accordingly, the applicable tariff (i.e., fixed Cost, Variable cost & Total tariff) for the IGL's project during the control period of the CRE Regulations, 2024, is worked out as under:**

Table 1: **Fixed Cost** (Rs./kWh)

FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28	FY 2028-29
1.66	1.71	1.77	1.84	1.90

Table 2: **Variable Cost** (Rs./kWh)

Financial Year	Variable Cost
FY 2024-25	2.26
FY 2025-26	2.33
FY 2026-27	2.41
FY 2027-28	2.50
FY 2028-29	2.58

Table 3: **Total Tariff** (Rs./kWh)

FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28	FY 2028-29
3.92	4.04	4.18	4.34	4.48

15. **In view of above, the Commission directs the parties to take cognizance of the 12 MW generating project to be a conventional Captive power plant for the purpose of scheduling & dispatch of electricity and related compliances. The Petitioner would communicate the same to the concerned authorities like UPNEDA, UPPCB, CPCB, UPSLDC etc. Further, electricity generation from this 12 MW generating unit of India Glycols Ltd. would be non-renewable energy generating plant. It is further clarified that provision for incentive shall be applicable in terms of clause 1.3 of Schedule-I of the CRE Regulations, 2024.**

The Petition stands disposed of in terms of above.

Sanjay

(Sanjay Kumar Singh)
Member

(Arvind Kumar)
Chairman

Place: Lucknow
Dated: 13.07.2026