Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Miscellaneous Application No. 18 of 2026

In the matter of:

Petition filed under Section 86(1)(c) & (k) of the Electricity Act, 2003 read with applicable provisions of the UERC (Terms and Conditions of Intra-State Open Access) Regulations, 2015 and UERC (Conduct of Business) Regulations, 2014, seeking a declaration that all the drawl points of Railways within the state of Uttarakhand i.e., all the Railway Traction Sub-Stations connected directly with the STU may be treated as one "fragmented control area" and as a single entity for the purposes of scheduling, metering, energy accounting, deviation settlement, balancing, applicability of intra-state charges and losses, etc. in terms of the dispensation rendered by the Hon'ble CERC in Order dated 05.11.2015 in Petition No. 197/MP/2015. Further, seeking a declaration that post operationalization of open access Railway should not be treated as an embedded customer of the distribution Petitioner and no wheeling charges should be levied on it since its TSSs are connected directly with the STU and Railways will cease to be a consumer of UPCL.

In the matter of:

Indian Railways

… Petitioner

AND

In the matter of:

1) State Load Despatch Center (SLDC)
2) Power Transmission Corporation of Uttarakhand Limited (PTCUL)
3) Uttarakhand Power Corporation Ltd. (UPCL)

…Respondents

CORAM

Shri M.L. Prasad	**Chairman**
Shri Anurag Sharma	**Member (Law)**
Shri Prabhat Kishor Dimri	**Member (Technical)**

Date of Order: August 17, 2026

This Order relates to the application dated 25.02.2026, filed by Indian Railway (hereinafter referred to as "Petitioner"), under Section 86(1)(c) & (k) of the Electricity Act, 2003 read with applicable provisions of the UERC (Terms and Conditions of Intra-State Open Access) Regulations, 2015 and UERC (Conduct of Business) Regulations, 2014, seeking a declaration that all the drawl points of Railways within the state of Uttarakhand i.e., all the Railway

Traction Sub-Stations connected directly with the STU may be treated as one "fragmented control area" and as a single entity for the purposes of scheduling, metering, energy accounting, deviation settlement, balancing, applicability of intra-state charges and losses, etc. in terms of the dispensation rendered by the Hon'ble CERC in Order dated 05.11.2015 in Petition No. 197/MP/2015. Further, seeking a declaration that post operationalization of open access Railway should not be treated as an embedded customer of the distribution Petitioner and no wheeling charges should be levied on it since its TSSs are connected directly with the STU and Railways will cease to be a consumer of UPCL.

1. Background

1.1. The present petition is filed by Indian Railways, through Northern Railways under the prevailing provisions of the Electricity Act, 2003 and the UERC (Terms and Conditions of Intra-state Open Access) Regulations, 2015 (UERC OA Regulatons) and the UERC (The Conduct of Business) Regulations, 2014 seeking declaration that all the drawl points of Railways within the state of Uttarakhand i.e., all the Railway Traction Sub-Stations ("**TSSs**") connected directly with the STU may be treated as one "fragmented control area" and as a single entity for the purposes of scheduling, metering, energy accounting, deviation settlement, balancing, applicability of intra-state charges and losses, etc. in terms of the dispensation rendered by the Hon'ble CERC in Order dated 05.11.2015 in Petition No. 197/MP/2015("**CERC Order**"). Further, seeking a declaration that post operationalization of open access Railway should not be treated as an embedded customer of the distribution licensee and no wheeling charges should be levied on it since its TSSs are connected directly with the STU and Railways will cease to be a consumer of UPCL. Presently, Petitioner is procuring power from UPCL in the State of Uttarakhand and has, decided to migrate to open access mode by drawing power through LTOA under GNA for procurement of 12 MW power through inter-state open access in Uttarakhand for its 05 TSSs presently drawing traction power in consumer mode from UPCL.

1.2. With a view to migrate to Open Access mode, the Petitioner vide its letter dated 12.07.2025 requested PTCUL for issuance of NoC to facilitate grant of GNA for utilization of inter-state power. In response, PTCUL vide its letter dated 06.08.2025 directed Petitioner to seek endorsement of NoC from UPCL and furnish individual NoC applications for each TSS along with maximum drawl details and relevant documents.

Accordingly, Railways complied with it and through its letter dated 18.09.2025 submitted the requisite documents to PTCUL and further, requested for issuance of NoC for submission of LTOA application under GNA alongwith details of PPA with BRBCL for 12 MW power supply.

1.3. PTCUL on 06.12.2025 granted NoC to the Petitioner for onward submission to Central Transmission Utility of India Limited (CTUIL) for availing LTOA under GNA.

1.4. The Petitioner thereafter approached State Load Despatch Centre (SLDC), Uttarakhand vide letter dated 31.12.2025 seeking confirmation regarding collective scheduling for all TSSs in Uttarakhand and non-applicability of wheeling charges. Further, in a meeting held on the same date at PTCUL headquarters, Petitioner clarified that upon grant of GNA, it shall completely migrate from UPCL supply and shall not remain an embedded consumer under the UERC OA Regulations. Accordingly, PTCUL informed Petitioner on 15.01.2026 that clarification/directions would be needed from the Commission in the matter.

1.5. SLDC, Uttarakhand vide letter dated 05.01.2026 sought confirmation from Petitioner regarding Railways' status as an embedded consumer and requested TSS-wise maximum drawl details. In response, Petitioner vide letter dated 07.01.2026 clarified that its TSSs are connected to the STU system at 220/132 kV & collective scheduling was sought for 12 MW load.

1.6. Further, SLDC, Uttarakhand vide its letter dated 12.01.2026 sought clarification from the Commission regarding collective scheduling, energy accounting and DSM preparation for Railways' TSSs in Uttarakhand. The Petitioner also approached the Commission on 16.01.2026 seeking approval for collective scheduling, energy accounting and single DSM bill preparation for all TSSs. In response, the Commission vide letter dated 13.02.2026 directed Petitioner to file a formal Petition for adjudication of its request regarding collective scheduling, energy accounting and single DSM bill preparation for all TSSs in Uttarakhand.

1.7. Meanwhile, Railways applied to CTUIL on 30.01.2026 for grant of GNA for a quantum of 12 MW, with a proposed start date of 01.03.2026.

1.8. Consequent to the above developments, the Petitioner filed the present application before the Commission on 25.02.2026. Accordingly, the Commission decided to hear the matter on admissibility of the petition and, through its letter dated 02.03.2026, informed the parties of the same, alongwith a direction to file their comments on admissibility.

1.9. SLDC, PTCUL and UPCL, through their letters dated 17.03.2026, submitted their comments. Later, the Commission heard the parties on admissibility and through its Order dated 24.03.2026, allowed time for filing rejoinder to the Petitioner on its request and gave further liberty to the parties to file their comments on rejoinder, if any.

1.10. In compliance to the order of the Commission, the Petitioner filed its rejoinder on dated10.04.2026 and replies to the said rejoinder were filed by SLDC and UPCL on 29.04. 2026 and 14.05. 2026, respectively.

1.11. The submission of Petitioner and Respondents have been summarized in the following paras:

2. Submission of the Petitioner:

2.1 Indian Railways has filed this Petition asking the Commission to declare two things: (1) that all its Traction Sub-Stations in Uttarakhand be treated as one single unit for scheduling, metering, billing, and charges and loses etc. rather than as separate connection points, relying on a 2015 CERC order that had taken this view; and (2) that once it shifts to open access (GNA), it should no longer be counted as UPCL's "embedded consumer" and shouldn't have to pay wheeling charges, since its substations connect directly to PTCUL's transmission network rather than to UPCL's distribution network.

2.2 Prayer of the Petitioner is reproduced hereunder:

"

(i) *Admit the present Petition;*

(ii) *Hold and declare that all the Railways' TSSs within the state are to be treated as a single entity for the purposes of scheduling, metering, energy accounting, deviation settlement, balancing, applicability of intra-state charges and losses, etc.*

(iii) *Hold and declare that post operationalization of open access Railways should not be treated as an embedded customer of the distribution licensee and no wheeling charges should be levied on it since its TSSs are connected directly with the STU.*

(iv) *Direct SLDC/PTCUL to treat all of Railways' TSS within the state as a single entity for the purposes of scheduling, metering, energy accounting, deviation settlement, balancing, applicability of intra-state charges and losses, etc.*

(v) *Restrain UPCL from levying any wheeling charges on Railways upon operationalization of the GNA;*

(vi) *Issue such other/further order(s) as may be required in the interest of justice."*

2.3 In the present application, the Petitioner to support his claims/reliefs has referred to the specific para of the judgment and order dated 05.11.2015 passed by the CERC w.r.t. Petition No. 197/MP/2015, the relevant para of same is reiterated as follows:

"…

6.2 It is most humbly submitted that the above issue is no longer res integra and has already been adjudicated by the Hon'ble CERC by way of its Order dated 05.11.2015 in Petition No. 197/MP/2015 ("CERC Order[2]"). Under the CERC Order, all issues with respect to the grid operations of Indian Railways were raised and decided, such as, the issue of connectivity, open access, scheduling and energy accounting, etc. Notably, Railways does not operate in a specified geographical location and draws electricity at multiple points (i.e., TSSs) within the State. In this light of the matter, the State Transmission Utilities (such as GETCO and MSETCL) averred before the Hon'ble CERC that each connection of Railways (i.e., each TSS) seeking open access has to be separately considered for the purpose of energy accounting and deviation settlement. Having regard to this peculiarity in the functioning of Indian Railways, the Hon'ble CERC sought the views of technical experts like the CEA and POSOCO and came to the considered conclusion that all the TSSs of Indian Railways within a State have to be treated as one fragmental control area i.e., a single entity for all purposes such as scheduling, metering, energy accounting, deviation settlement, balancing, applicability of intra-state charges and losses, etc.

6.4 It is pertinent to clarify that while Issues (1) to (3) of the CERC Order are currently under challenge before the Hon'ble Supreme Court in Civil Appeal No. 4652 of 2024 and batch, however, the findings pertaining to Issue (4) vis-à-vis the treatment of Railway as a single entity for the purposes of scheduling, metering, energy accounting, deviation settlement, balancing, applicability of intra-state charges and losses, etc. is not a subject matter of the said Civil Appeals and/or any other litigation. As such, the findings of the Hon'ble CERC on this aspect have attained finality."

2.4 Further, the Petitioner referred to Regulations 13(1)(2) and 26(1)(2) of the UERC (Terms and Conditions of Intra-State Open Access) Regulations, 2015, and submitted that upon operationalization of the CTUIL GNA, Railways proposes to draw inter-State power in the State of Uttarakhand involving utilization of the intra-State transmission network in conjunction with the inter-State transmission network. Accordingly, as per the provisions of the UERC (Terms and Conditions of Intra-State Open Access) Regulations, 2015, such transactions of Railways shall be governed by the Regulations framed by the CERC.

2.5 The Petitioner submitted that in other States, it schedules combined/simultaneous demand of all its TSSs located within the State. It was further submitted that it signs a single connectivity agreement with the STU, subject to revisions upon increase in power demand in the State. The Petitioner further submitted that the principle of treating all TSSs of Railways within a State as a single entity for scheduling, metering, energy accounting, deviation settlement, balancing, and applicability of intra-State charges and losses has been consistently recognized and implemented by various SERC in consonance with the CERC Order and is being followed by more than 14 States/utilities across the country.

3. Submission by UPCL

3.1 UPCL vide its letter dated 17.03.2026 submitted the comments on the admissibility of the Petition, the relevant paras of the submission is reiterated below:

"…

2.1. Petition is Premature and Speculative - The present petition is liable to be dismissed as premature, as the reliefs sought are contingent upon the future operationalization of open access/GNA and an anticipated regulatory framework that has not yet crystallized. There is no finalized open access arrangement, no actual levy of wheeling charges under the proposed structure, and no adverse order giving rise to a cause of action. The Hon'ble Commission cannot be called upon to render advisory or anticipatory findings on hypothetical scenarios.

2.2. Absence of a Crystallized Cause of Action - The petition does not arise from any specific rejection order, billing dispute, or regulatory determination passed by UPCL or SLDC. In the absence of a live dispute under Section 86 of the Electricity Act, 2003, ("Act") the petition is not maintainable and seeks declaratory relief in vacuum.

2.3. *Issues Sub Judice Before the Hon'ble Supreme Court - The foundation of the present petition is the CERC Order dated 05.11.2015, which has been examined by the Hon'ble APTEL and is presently under challenge before the Hon'ble Supreme Court in Civil Appeal Nos. 4652-4659 of 2024, wherein judgment has been reserved. The legal position regarding the status of Railways and its liabilities is therefore sub judice, and the present petition is liable to be rejected on grounds of judicial discipline and propriety.*

2.4. *Contrary to Statutory and Regulatory Framework - The reliefs sought seek a blanket exemption from wheeling charges in advance of factual determination regarding network usage. Such liability can only be determined upon operational facts, not by prospective declaration.*

2.5. *Reliefs Sought Amount to Blanket Anticipatory Waiver of Statutory Charges - The petition effectively seeks to restrain UPCL from levying charges approved under tariff orders of this Hon'ble Commission. Such pre-emptive restraint against statutory cost recovery mechanisms would disturb tariff equilibrium, prejudice other consumers, and undermine the financial stability of the distribution system. The Hon'ble Commission cannot grant a blanket anticipatory waiver of charges embedded in the regulatory framework."*

4. Submission by SLDC

4.1 SLDC vide its letter dated 17.03.2026 submitted the following comments in the matter, the relevant paras is reiterated below:

"…

1. *Presently, the TSSs of Indian Railways are connected to the STU (PTCUL) at 220/132 kV and not to the distribution system. The TSSs of Indian Railways are connected to the STU (PTCUL) transmission network at 220/132 kV at different locations namely Roorkee (220 kV), Jwalapur (132 kV), Lalkuan (132 kV), Rudrapur City (220 kV) and Kashipur (132 kV).*

2. *UERC (State Grid Code) Regulations, 2016 do not provide any specific provision for Collective Scheduling of an Open Access consumer connected with STU transmission network at different locations without having connectivity with Distribution Licensee.*

3. *Presently, the Distribution Licensee i.e. UPCL is paying Deviation charges on account of deviations from schedule at inter-State level as per the CERC DSM Regulations on behalf of all intra-State entities. Indian Railway in its petition has claimed that post operationalization of GNA, Railways cannot be treated as an 'embedded Open Access consumer' as it will completely cease to be a consumer of the distribution licensee. Therefore, UERC DSM*

Regulations, 2017 and its amendment thereof should be commercially implemented in the State before operationalization of the GNA of the Indian Railways in order to settle the deviations caused by the Indian Railways not being an embedded consumer."

5. Submission by PTCUL

5.1 PTCUL vide its letter dated 17.03.2026 submitted the following comments in the matter, the relevant paras is reiterated below:

"…

1. *Indian Railways vide its Paragraph No 4.7 in this Petition, quoted below, has mentioned that -*

   Quote

   "4.7 Furthermore, on 31.12.2025 a meeting was held at PTCUL headquarters with Railways wherein Railways has clarified that upon the grant of GNA, Railways shall completely migrate away from power procurement from UPCL and cease to be a consumer of UPCL. Therefore, Railways cannot be deemed to be an embedded open access consumer as per the UERC OA Regulations. In furtherance of this meeting PTCUL issued a formal communication on 15.01.2026, wherein they intimated that they have vide letter dated 08.01.2026 requested this Hon'ble Commission to provide necessary clarification/directions in this matter. PTCUL's letter dated 15.01.2026 is annexed herewith and marked as Annexure 6."

   Unquote

   The above-mentioned quoted paragraph indicates that the Indian Railways will cease to be an embedded consumer of UPCL after grant of GNA by CTU.

2. *Presently Indian Railway is an embedded consumer of UPCL. Hon'ble Commission vide Letter No. UERC/7/CL/710/2025-26/759 dated 07.08.2025 in the matter of M/s Kashi Vishwanath Steels Pvt. Ltd., directed that PTCUL is not required to sign a Connection Agreement directly with a consumer seeking new EHV connection or enhancement/reduction of load at EHV level from UPCL (distribution licensee). (Annexure-I)*

3. *Subsequently, PTCUL's vide its Letter No 29/CE(C&R)/PTCUL dated 08.01.2026 respectfully requested Hon'ble Commission to issue necessary directions regarding applicability of Hon'ble UERC directions dated 07.08.2025 on requirement of signing of*

Connection Agreement with Indian Railways (a Bulk Consumer) for its Grid Connectivity to PTCUL's Transmission System. (Annexure-II)

4. *Further, it is humbly submitted that, in case if the Hon'ble Commission permits collective scheduling, there is currently no mechanism to levy and recover transmission charges where Indian Railways draws power beyond its allotted General Network Access of 12 megawatts in any time block. The applicable Multi Year Tariff Regulations also do not expressly cover this situation.*

5. *Hon'ble Commission is respectfully requested to issue appropriate directions in the above-mentioned points/issues. PTCUL shall comply with the directions issued by the Hon'ble Commission."*

6. Besides above, the rejoinder filed by the Petitioner to counter the contentions of UPCL on the admittance of the Petition is given in the following paras:

6.1 On the premature and speculative and absence of crystallised cause of action, Petitioner has submitted that prior to approaching this Commission, it had repeatedly sought clarification from PTCUL/SLDC regarding collective scheduling, energy accounting, DSM settlement, applicability of intra-state charges and losses, and its status as a non-embedded consumer upon operationalization of open access. However, no clarification was provided and the matter was referred to this Commission for directions.

6.2 The Petitioner further submitted that it had approached the Commission vide letter dated 16.01.2026 seeking clarification on the aforesaid issues, pursuant to which the Commission vide letter dated 13.02.2026 directed the Petitioner to file a formal Petition for proper adjudication of the matter. Accordingly, the Petitioner submitted that the present Petition has been filed in compliance with the directions of the Commission and, therefore, cannot be termed as premature or speculative.

6.3 The Petitioner also submitted that operationalization of GNA involves significant financial implications, including monthly transmission charges of approximately Rs. 1 Crore and possible relinquishment liability of around Rs. 18 Crore in case collective scheduling is not permitted. Accordingly, the regulatory certainty is necessary at this stage and the contention raised by Respondent No. 3 are liable to be rejected.

6.4 On Sub Judice before the Hon'ble Supreme Court, Petitioner has submitted that the Hon'ble CERC, after considering the technical comments of CEA and POSOCO regarding scheduling, energy accounting and deviation settlement for Railways having multiple drawal points within a State, evolved a methodology whereby all TSSs of Railways within a State are to be treated as a single entity for the purposes of scheduling, metering, energy accounting, deviation settlement, balancing and applicability of intra-state charges and losses. The Hon'ble CERC also issued directions to STUs and SLDCs to facilitate open access for Railways.

6.5 Petitioner further submitted that, the issue of collective scheduling, metering, energy accounting and deviation settlement was never challenged before the Hon'ble APTEL or the Hon'ble Supreme Court and therefore the dispensation provided under the CERC Order continues to remain valid and binding irrespective of the outcome of the pending appeals regarding the status of Railways as a deemed distribution licensee. Respondent -3 contention regarding lack of awareness of the issues pending before the Hon'ble Supreme Court is untenable, as the APTEL Order is a public document and the burden of proof lies upon the respondent to establish its claim.

6.6 Petitioner additionally submitted that the principle of treating all TSSs within a State as a single entity is already being implemented by several State utilities and SLDCs across various States including Gujarat, Uttar Pradesh, Madhya Pradesh, Rajasthan, Maharashtra, Karnataka, Bihar, Punjab, Haryana and Delhi, as well as in the DVC Control Area. Railways further submitted that collective scheduling is technically necessary considering the diversity factor of traction loads and that the GNA framework is based on an aggregate pooled capacity model rather than node-wise sanctioned loads. Accordingly, Railways submitted that any new TSS forms part of the existing traction network and the aggregate scheduling and accounting mechanism already followed in various States.

6.7 On Exemption from the wheeling charges is contrary to the Statutory and Regulatory Framework, The Petitioner submitted that transmission/ wheeling charges are levied for utilization of the transmission/ distribution network for conveyance of electricity under open access. It was further submitted that all 05 TSSs in Uttarakhand are directly connected to the STU network and therefore UPCL's distribution network shall not be utilized upon operationalisation of GNA. Accordingly, Railways contended that levy of wheeling charges would be arbitrary, legally untenable and contrary to the UERC (Terms and condition of Intra-state Open Access) Regulations,2015.

6.8 Petitioner further submitted that upon operationalization of GNA, it shall cease to be a consumer of UPCL and shall draw power exclusively through the GNA mode. Railways also submitted that levy of wheeling charges in such circumstances would amount to double recovery of charges and would run contrary to the spirit of the Hon'ble Supreme Court's orders dated 06.05.2024 and 08.11.2024 directing that open access for Railways should not be impeded. Accordingly, Railways submitted that the ambiguity regarding wheeling charges creates financial uncertainty and discourages open access.

6.9 On Reliefs sought Amount to Blanket Anticipatory Waiver of Statutory Charges, Petitioner submitted that under the present Petition and correspondences with PTCUL/SLDC, it has already clarified that upon operationalization of GNA, Railways shall cease to be a consumer of UPCL and shall draw power exclusively through the GNA mode. Accordingly, the Petitioner sought enforcement of the existing Regulations to the effect that it should not be treated as an embedded consumer of the distribution licensee and that no wheeling charges should be levied since all TSSs are directly connected to the STU network. In this regard, the Petitioner referred to Regulation 10 of the UERC (Terms and Conditions of Intra-State Open Access) Regulations, 2015.

6.10 Petitioner further clarified that it is neither seeking waiver of any statutory charges nor attempting to avoid any lawful liability, but only seeking implementation of the applicable Regulations under which wheeling charges are leviable only upon consumers utilizing the distribution system. Railways submitted that till operationalization of GNA, it shall continue to remain liable for charges applicable as a consumer of UPCL.

6.11 Petitioner also submitted that the UERC (Terms and Conditions of Intra-State Open Access) Regulations, 2015 clearly distinguish applicability of charges based on the point of connectivity, wherein wheeling charges apply to entities connected to the distribution system and transmission charges apply to entities connected to the intra-state transmission system. Petitioner contended that despite informing PTCUL regarding complete migration to GNA mode, no conclusive clarification has been provided on its status as an embedded consumer and applicability of wheeling charges post operationalization of GNA.

7. SLDC's comments on the rejoinder filed by the Petitioner, the relevant paras of the submission are reiterated below:

"…

1. *The Petitioner in the above said Rejoinder at point No. 24 has construed the CERC decision as "As discernible from above, the Hon'ble CERC has unequivocally held that for the purposes of scheduling, metering, energy accounting, deviation settlement, balancing. applicability of intra-state charges and losses. etc., the group of TSSs in a State have to be considered as a single entity and further, directions have been issued inter alia to all STUs and SLDCs to facilitate the Open Access for Railways.". Wherein, the Petitioner missed that the said Order w.r.t. the Collective Scheduling is specific to the TSSs connected directly with **ISTS**.*

2. *The relevant portion of Hon'ble CERC Order in Petition No. 197/MP/2015 dated 05.11.2015 is being reproduced hereunder:*

   "(c) The drawl points from ISTS located within a State shall be treated as a single entity for the purpose of scheduling. The group of TSSs situated in a State and connected directly with ISTS may be treated as one "fragmented control area" and the responsibility for scheduling, metering, balancing, applicability of ISTS charges and losses etc. shall vest in the concerned RLDC. For the TSSs situated in a State and connected to State network, these functions shall vest in the concerned SLDC."

   (Emphasis Added)

3. *CERC's order is very clear about allowing the collective and is confined to the TSSs situated in a State and connected directly to the ISTS. It does not allow Collective Scheduling to TSSs situated in a State and connected directly to IaSTS. As the matter of Collective scheduling related to the TSSs connected directly to IaSTS does not fall under the jurisdiction of the Central Commission, therefore the Central Commission has allowed the Collective Scheduling to the TSSs falling under its jurisdictions i.e. connected to directly ISTS.*

4. *For the TSSs situated in the State and connected directly to laSTS, SERCs (i.e. this Commission under present case) has the powers under the ACT and Regulations to decide upon the Collective Scheduling.*

5. *Further, attention of the Hon'ble Commission is invited towards the decision of Hon'ble CERC issued vide its Order in Petition No. 197/MP/2015 dated 05.11.2015 wherein CERC*

has not considered all the TSSs connected directly to ISTS in a Region for collective scheduling but considered the TSSs situated in a State (not in a Region) and connected directly to ISTS. The TSSs situated in different States and connected directly to ISTS, in a Region shall not be considered as one 'fragmented control area'.

6. *For sake of understanding, all the TSSs connected directly to ISTS in Northern Region shall not be treated as one "fragmented control area". Which means, in a Region, there shall be as many 'Control Areas' for the TSSs as many States having TSSs connected directly to ISTS. Which further means, there is not one 'fragmented Control area' of Indian Railways TSSs under one RLDC, if TSSs are connected directly to ISTS in more than one State in that Region.*
7. *For example, if TSSs are connected directly to ISTS in three States in a Region, there will be three separate 'control areas' for Indian Railways TSSs under that RLDC. Which means, number of 'control area' in a Region under one RLDC shall depend upon number of States where TSSs are connected to ISTS.*
8. *Likewise, if TSSs are connected directly to IaSTS in State at more than one locations then these TSSs cannot be considered as one "fragmented control area" under the SLDC for the purpose of scheduling, metering, balancing, applicability of IaSTS charges and losses etc.*
9. *Hon'ble CERC has allowed more than one 'control areas of TSSs (i. e. one for each State) under the jurisdiction of RLDCs at regional-level. There should not be any issue in its applicability for the TSSs under the jurisdiction of SLDC i.e. separate control area for each connection point with IaSTS.*
10. *All the activities related to Scheduling, metering, DSM accounting etc. are being carried out smoothly through web-based software automatically at the SLDC.*
11. *If Collective scheduling will be allowed to Indian Railways, it will reduce the recovery of 'System Operation charges' under Short Term Open Access (T-GNA) transactions scheduled for different locations of TSSs in the State.*
12. *If collective Scheduling is allowed by the Hon'ble Commission to Indian Railways, then it will open a new front for the other Open Access consumers having their drawal points at different locations in the State to seek Collective Scheduling.*
13. *No such provision is defined under the State Grid Code for allowing Collective Scheduling.*
14. *In light of above, the Hon'ble Commission is requested to kindly not consider the prayer of the Petitioner w.r.t. Collective scheduling of all TSSs connected directly to the laSTS."*

8. UPCL's comments on the rejoinder submitted by the petitioner:

"…

The Respondent, UPCL, in its sur-rejoinder, reiterated that although the Commission possesses wide regulatory powers under the Electricity Act, 2003 and the UERC (Conduct of Business) Regulations, 2014, the exercise of such powers must be founded upon a legally sustainable cause of action. It was contended that in view of the judgment of the Hon'ble Supreme Court affirming that the Railways is not a Deemed Distribution Licensee and is liable to pay CSS, ASC, transmission and wheeling charges, the present Petition, which seeks anticipatory declaratory relief to avoid prospective financial obligations, is premature and not maintainable. UPCL further submitted that the financial implications arising out of the Petitioner's decision to obtain GNA cannot constitute a legal basis for seeking exemption from statutory charges and that the judgments and orders relied upon by the Petitioner relate to distinguishable factual and legal issues. It was also argued that the Hon'ble Supreme Court has directed the distribution licensees to compute and recover the outstanding statutory charges from the Railways and, therefore, the relief sought in the present Petition is contrary to the operative directions of the said judgment.

UPCL further submitted that the Petitioner's contentions regarding the issues allegedly remaining outside the scope of the proceedings before the Hon'ble Supreme Court no longer survive in view of the dismissal of all appeals and the affirmation of the judgment of the Hon'ble Appellate Tribunal for Electricity. According to UPCL, the CERC Order dated 05.11.2015, which formed the basis of the relief sought by the Petitioner, has ceased to have any operative effect, and consequently, the Petitioner's reliance upon the provisions relating to collective scheduling and the interim orders passed during the pendency of the appeals is misplaced. It was also contended that the burden lies upon the Petitioner to establish a subsisting legal foundation for the declaratory relief sought, which, according to UPCL, no longer exists.

With regard to the claim for exemption from wheeling charges, UPCL submitted that the Petitioner's case proceeds on assumptions regarding future events, namely cessation of its consumer status and complete disconnection from UPCL's distribution system upon operationalisation of GNA, none of which has crystallised. It was submitted that the Hon'ble Supreme Court has recognised the Petitioner's liability towards transmission and wheeling charges and that the Petitioner's own pleadings acknowledge such liability until GNA becomes operational. UPCL further contended that determination of consumer status and any exemption from distribution-level obligations necessarily requires examination of the applicable contractual and regulatory framework and cannot be granted by way of a prospective declaration. Reliance *was also placed upon judicial precedents to submit that grant of open access does not, by itself, extinguish obligations towards the distribution licensee. UPCL additionally argued that the Petitioner's submissions regarding pooled capacity and diversity factor constitute a new plea introduced for the first time in the rejoinder and are beyond the scope of the original pleadings.*

On the Petitioner's reliance upon the practice of collective scheduling followed in certain other States, UPCL submitted that such practices were based upon the CERC Order dated 05.11.2015, which has since been set aside and affirmed by the Hon'ble Supreme Court. It was contended that regulatory practices prevailing in other States cannot override the statutory and regulatory framework applicable in the State of Uttarakhand or bind the Commission while adjudicating the present matter."

9. Commission's Observations, Views & Directions:

9.1 The Commission has carefully considered and analyzed the submissions made by the Petitioner and the Respondents in the matter. The Commission has also taken into account the relevant statutory provisions, applicable Regulations, and the binding pronouncements of superior courts and tribunals, including the Judgment dated 08.05.2026 passed by the Hon'ble Supreme Court of India. The Commission's observations on the issues arising for consideration are set out hereinafter.

9.2 After consideration of the submissions of the parties, the following principal issues arise for determination in this Petition:

Issue I: Whether all Railway TSSs within the State of Uttarakhand can be declared a single entity/fragmented control area for the purposes of collective scheduling, metering, energy accounting, deviation settlement, balancing, and applicability of intra-state charges and losses.

Issue II: Whether post operationalization of GNA, Railways should be treated as a non-embedded consumer of the distribution licensee, and whether wheeling charges are not leviable on Railways by UPCL.

Issue III: Whether the Petition is premature and/or lacks a crystallized cause of action warranting rejection at the threshold.

9.3 **<u>Issue I: Collective Scheduling and Treatment of Railway TSSs as a Single Entity</u>**

9.3.1 The Petitioner's entire case on Issue I rests exclusively upon the Order dated 05.11.2015 passed by the Hon'ble CERC in Petition No. 197/MP/2015, wherein the

CERC had directed that all TSSs of Indian Railways may be treated as one "fragmented control area" and as a single entity for the purposes of scheduling, metering, energy accounting, deviation settlement, balancing, and applicability of charges and losses. The Petitioner sought to import and apply the said CERC dispensation to the intra-State context under the jurisdiction of this Commission.

9.3.2 However, the Hon'ble Supreme Court of India, vide its landmark Judgment dated 08.05.2026 in Civil Appeal Nos. 4652-4659 of 2024 and batch matters, has conclusively dismissed all the appeals filed by Indian Railways and upheld the common Judgment and Order dated 12.02.2024 passed by the Appellate Tribunal for Electricity (APTEL) in Appeal Nos. 276/2015, 320/2018, 114/2020, 73/2021, 213/2021, 170/2019, 343/2019 and 133/2020. Paragraph 73 of the said Supreme Court Judgment reads as under:

"…

73. Consequently, all the Appeals are dismissed and the common judgment and order dated 12.02.2024 passed by the Appellate Tribunal for Electricity at New Delhi ("APTEL") in Appeal Nos. 276/2015, 320/2018, 114/2020, 73/2021, 213/2021, 170/2019, 343/2019 and 133/2020 is upheld. Pending application(s), if any, shall also stand disposed of."

9.3.3 The aforesaid Judgment of the Hon'ble Supreme Court is final, binding, and conclusive. The APTEL, vide its Judgment dated 12.02.2024, set aside the CERC Order dated 05.11.2015 in its entirety, as the Hon'ble Supreme Court has affirmed the APTEL Judgment in toto, therefore CERC Order dated 05.11.2015 no longer survives as a valid or operative order in the eyes of law. Consequently, the sole legal foundation upon which the Petitioner's prayers in Issue I are premised no longer survives and therefore cannot be accepted.

9.3.4 The Petitioner submitted that Issue No. (iv) of the CERC Order, specifically relating to collective scheduling and treatment of TSSs as a single entity, was never challenged before APTEL or the Hon'ble Supreme Court and had therefore attained finality independent of the other issues. The Commission is unable to accept this contention. Once the CERC Order dated 05.11.2015, has been set aside in its entirety by APTEL and such setting aside has been affirmed by the Hon'ble Supreme Court, the entire order ceases to have any operative force or legal effect. It is a settled principle of law that a party cannot selectively resurrect or cherry-pick portions of an order that has been comprehensively annulled by a court of competent jurisdiction. The Petitioner's attempt to do so is legally untenable and must be rejected.

9.3.5 The Commission further notes that apart from the CERC Order, the Petitioner has not placed on record any other statutory provision, regulation, or binding authority under the UERC (Terms and Conditions of Intra-State Open Access) Regulations, 2015, or the UERC (State Grid Code) Regulations, 2016, that specifically permits collective scheduling or treatment of multiple drawl points at different geographical locations as a single control area under the jurisdiction of a State Load Despatch Centre. Rather, Respondent No. 1 (SLDC) has specifically pointed out that no provision exists in the UERC State Grid Code for allowing collective scheduling for an open access consumer having multiple drawl points connected to the intra-State transmission network at different locations. In the absence of any such enabling provision in the State regulatory framework, and in view of the complete annulment of the CERC Order, the prayer of the Petitioner under Issue I cannot be granted.

9.3.6 The Petitioner's reliance upon the practice of collective scheduling reportedly followed in more than 14 States across the country, including Gujarat, Uttar Pradesh, Madhya Pradesh, Rajasthan, Maharashtra, Karnataka, Bihar, Punjab, Haryana, Delhi, and the DVC Control Area, is also misplaced. All such State-level practices and regulatory orders, including the KSERC Order in OP No. 31 of 2019, were premised upon and derived their legal authority exclusively from the CERC Order dated 05.11.2015. Since the said CERC Order has now been set aside and such decision affirmed by the Hon'ble Supreme Court, the foundation underlying such State-level practices no longer survives. Practices followed by other SERCs/SLDCs cannot override the binding Judgment of the Hon'ble Supreme Court or create independent rights in favour of the Petitioner under the law applicable in Uttarakhand. The Commission is bound by the Judgment of the Hon'ble Supreme Court and cannot grant dispensation in the teeth of the same.

9.4 **<u>Issue II: Status of Railways as an Embedded Consumer and Leviability of Wheeling Charges</u>**

9.4.1 The Petitioner's primary contention under Issue II is that upon operationalization of GNA, it shall cease to be an embedded consumer of UPCL and, since all 5 TSSs are directly connected to the STU network at 220/132 kV, no wheeling charges can be levied upon it. The Petitioner seeks a prospective declaration to this effect from this Commission, in anticipation of GNA operationalization.

9.4.2 The Hon'ble Supreme Court, vide Judgment dated 08.05.2026, has categorically confirmed Railways' status as a consumer of electricity under the Electricity Act, 2003. Paragraph 32 of the said Judgment, reproduced hereunder, conclusively negates Railways' claim to the status of a deemed distribution licensee:

"…

32. Further, the purpose of a status of a distribution licensee, whether obtained vide an application or is extended to the entity through a deemed fiction, is to supply electricity against consideration. The term 'consideration' for distribution licensees with generators would mean tariff, and as consumers payable to licensees would mean additional surcharge/Cross-Subsidy Surcharge. In the present case, the Railways is procuring electricity from the Respondent DISCOMs in various states for its own use and for consumption to its constituents."

9.4.3 Paragraph 71 of the said Judgment further holds as under:

"…

71. It is clear, for the reasons elaborated hereinabove, that the Appellant does not pass muster as a deemed distribution licensee under the Act, and it can in no circumstances escape the liability from payment of cross-subsidy surcharge and additional surcharge as a consumer of electricity through open access."

9.4.4 The Petitioner's claim that it shall cease to be an embedded consumer of UPCL upon operationalization of GNA and that wheeling charges shall ipso facto become inapplicable is based upon future and uncrystallized contingencies. As on date, the GNA has not been operationalized, the supply agreement with UPCL has not been formally terminated, the contracted demand has not been surrendered, and physical as well as contractual delinking from UPCL's distribution network has not occurred. The Petitioner itself has acknowledged before this Commission that it shall continue to remain liable for all charges applicable as a consumer of UPCL until operationalization of GNA. Any prospective declaration regarding the non-applicability of wheeling charges upon a future event that has not yet occurred would amount to an anticipatory and advisory opinion on a hypothetical scenario, which is beyond the legitimate scope of the Commission's adjudicatory jurisdiction.

9.4.5 It is equally well-settled that determination of the applicability of wheeling charges to an open access consumer requires a factual examination of the operational circumstances, connectivity arrangements, nature of network usage, and applicable tariff orders.

The Commission observes that Section 2(19) of the Electricity Act, 2003 defines the "distribution system" as:

"distribution system" means the system of wires and associated facilities between the delivery points on the transmission lines or the generating station connection and the point of connection to the installation of the consumers.

Further, Regulation 20(2) of the UERC (Terms and Conditions of Intra-State Open Access) Regulations, 2015 provides that:

"(2) Wheeling shall be as charges determined payable to distribution licensee, by an open access customer for usage of its system as under:

Wheeling Charges = (ARR-PPC-TC) /(PLS X365) (Rs./MW/Day)"

The above provision makes it evident that the levy of wheeling charges is conditional upon the use of the distribution system. Consequently, Proviso of the aforesaid Regulation provides that:

"Provided further that wheeling charges shall not be levied on the open access customers connected to the transmission system at 132 kV and above voltage levels."

From the above it is clear that where an Open Access Consumer is directly connected to the State Transmission Utility (STU) network at 132 kV or above and receives supply through the intra-State transmission system without utilizing the distribution network of the distribution licensee, the prerequisite for levy of wheeling charges is not satisfied.

Accordingly, the Commission holds that if for the mentioned TSS points, Northern Railways is connected at 132 kV and above to the State Transmission Utility (STU) network, who do not utilize the distribution system of the distribution licensee for conveyance of electricity, then it shall not be liable to pay wheeling charges under Regulation 20 of the UERC (Terms and Conditions of Intra-State Open Access) Regulations, 2015. However, it shall be liable to pay the applicable transmission charges and other charges, including Cross Subsidy Surcharge and Additional Surcharge, wherever applicable in accordance with the provisions of the Electricity Act, 2003, the applicable Regulations and also has been upheld in concurrence to the Hon'ble Supreme Court Judgement dated 08.05.2026.

9.5 <u>Issue III: Prematurity and Absence of a Crystallized Cause of Action</u>

9.5.1 The Petitioner's contention that the present Petition cannot be treated as premature since it was filed pursuant to the Commission's direction dated 13.02.2026 is not entirely without force. The Commission acknowledges that the direction dated 13.02.2026 was issued by it in response to the Petitioner's letter seeking clarification, and that the Petition was filed in compliance thereof. Ordinarily, an entity acting in accordance with a regulatory direction ought not to be non-suited on the ground of prematurity.

9.5.2 However, the fact that the Petition was filed at the Commission's direction does not, and cannot, cure the fundamental infirmity that the legal foundation upon which the Petitioner's reliefs are based has been conclusively set aside by a Judgment of the Hon'ble Supreme Court. The direction dated 13.02.2026 was issued before the Hon'ble Supreme Court pronounced its Judgment dated 08.05.2026. Subsequent to the said Judgment, the legal and factual landscape has undergone a decisive transformation. The Commission is obligated to adjudicate the Petition in light of the law as it stands on the date of this Order and must give effect to the binding pronouncements of the Hon'ble Supreme Court. In these circumstances, irrespective of whether the Petition was premature at the time of filing, the Petition is liable to be dismissed on merits, the basis for the reliefs sought having been rendered untenable by the subsequent Judgment of the Hon'ble Supreme Court.

9.5.3 The Commission also notes the Petitioner's argument regarding significant commercial implications, including possible relinquishment liability of approximately Rs. 18 Crore in case collective scheduling is not permitted, and monthly transmission charges of approximately Rs. 1 Crore. While the Commission is cognizant of the financial stakes involved, it is well-settled that commercial expediency cannot serve as a valid ground for seeking declaratory relief from a regulatory commission in the absence of an enforceable legal right. The Hon'ble Supreme Court has affirmed Railways' liability towards applicable statutory and regulatory charges, including Cross-Subsidy Surcharge and Additional Surcharge, wherever applicable. The Commission cannot, and does not, issue declarations intended to insulate the Petitioner from commercial risks arising from its own decision to migrate to GNA mode, when the legal framework governing its status and liabilities has been authoritatively settled against it.

9.6 **Overarching Consideration: Binding Effect of the Hon'ble Supreme Court Judgment dated 08.05.2026**

9.6.1 The Commission is quasi-judicial body established under the Electricity Act, 2003. Further, Article 141 of the Constitution of India declares that the law declared by the Supreme Court shall be binding on all courts within the territory of India. The Hon'ble Supreme Court, in a catena of decisions, has extended this doctrine to tribunals and regulatory commissions exercising quasi-judicial functions. This Commission is accordingly bound by the Judgment dated 08.05.2026 of the Hon'ble Supreme Court in its entirety and cannot issue any order that would be inconsistent with, or seek to circumvent, the said Judgment. The legal basis for the reliefs sought in the present Petition having been rendered untenable by the Hon'ble Supreme Court's Judgment, the Petition is bereft of legal merit and is liable to be dismissed.

9.7 In view of the foregoing analysis, findings, and for the reasons set out hereinabove, this Commission hereby orders and decides as follows:

(i) The present Petition i.e., Miscellaneous Application No. 18 of 2026 filed by Indian Railway (Petitioner) under Section 86(1)(c) & (k) of the Electricity Act, 2003 read with the UERC (Terms and Conditions of Intra-State Open Access) Regulations, 2015 and UERC (Conduct of Business) Regulations, 2014, is hereby dismissed on merits.

(ii) The prayer of the Petitioner seeking a declaration that all Railway TSSs within the State of Uttarakhand shall be treated as a single entity/fragmented control area for purposes of collective scheduling, metering, energy accounting, deviation settlement, balancing, and applicability of intra-State charges and losses is hereby rejected. The sole legal basis for this prayer, namely the CERC Order dated 05.11.2015 in

Petition No. 197/MP/2015, no longer survives in law, having been set aside by APTEL vide Judgment dated 12.02.2024 and the said Judgment affirmed in its entirety by the Hon'ble Supreme Court vide Judgment dated 08.05.2026. There is no independent provision in the UERC (State Grid Code) Regulations, 2016 or the UERC (Terms and Conditions of Intra-State Open Access) Regulations, 2015, enabling collective scheduling of multiple drawl points connected at different geographical locations to the intra-State transmission network.

(iii) The prayer of the Petitioner seeking a declaration that post operationalization of GNA, Railways shall not be treated as an embedded consumer of the distribution licensee (UPCL) and no wheeling charges shall be levied upon it is hereby rejected. The Hon'ble Supreme Court, vide Judgment dated 08.05.2026, has conclusively held that Indian Railways is a consumer under the Electricity Act, 2003 and not a deemed distribution licensee, and that it cannot escape liability for payment of Cross-Subsidy Surcharge, Additional Surcharge, transmission charges, and wheeling charges. The said Judgment is binding upon this Commission. The determination of Railways' status and applicable charges upon operationalization of GNA shall be governed by the Electricity Act, 2003, applicable UERC Regulations, and the binding pronouncements of the Hon'ble Supreme Court, and shall be subject to factual determination at the relevant time based on actual operational circumstances. This Commission declines to issue anticipatory or declaratory relief on hypothetical future contingencies.

(iv) The prayer of the Petitioner seeking directions to SLDC/PTCUL to treat all Railway TSSs within the State as a single entity for purposes of scheduling, metering, energy accounting, deviation settlement, balancing, and applicability of intra-State charges and losses is hereby rejected for the reasons stated in paragraph (ii) above.

(v) The prayer seeking a restraint upon UPCL from levying wheeling charges on Railways upon operationalization of GNA is hereby rejected for the reasons stated in paragraph (iii) above, and particularly in view of the binding direction of the Hon'ble Supreme Court that distribution licensees shall compute and recover CSS and ASC from Railways. Granting any such restraint order would be directly contrary to the operative directions of the Hon'ble Supreme Court Judgment dated 08.05.2026.

Ordered accordingly.

(Prabhat Kishor Dimri) **Member (Technical)**	**(Anurag Sharma)** **Member (Law)**	**(M.L. Prasad)** **Chairman**