

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.172/MP/2016

Subject : Petition under Section 62 (a) and 79 (1) (a) of the Electricity Act, 2003 read with Regulation 8(3)(ii) and 8(7) of the CERC (Terms and Conditions of Tariff) Regulations, 2014 read with Regulation 111 of the CERC (Conduct of Business) Regulations, 1999 for recovery of additional expenditure incurred due to sharing of transportation cost of fly ash consequent to Ministry of Environment and Forest, Government of India Notification dated 25.1.2016 as 'Change in Law' event.

Date of hearing : 3.11.2016

Coram : Shri Gireesh B. Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member

Petitioner : NTPC Limited

Respondents : Uttar Pradesh Power Corporation Limited & Others

Parties present : Shri Sanjay Sen, Senior Advocate, NTPC
Shri Ajay Dua, NTPC
Shri Venkatesh, NTPC
Shri N. Bhattacharya, NTPC
Shri Nishant Gupta, NTPC
Shri Gaurav Gupta, Advocate, PSPCL

Record of Proceedings

Learned senior counsel for the petitioner submitted that the present petition has been filed *inter-alia* seeking recovery of additional expenditure incurred due to sharing of transportation cost of fly ash consequent to Ministry of Environment and Forest, Government of India's notification dated 25.1.2016. Learned counsel submitted that the cost of transporting fly ash from the project to 300 km radius qualifies as change in law event.

2. Learned senior counsel for the petitioner further submitted in order to achieve 100% ash utilization on sustainable basis and to comply with the amended fly ash notification by MOEF/Govt. of India, generating stations have to incur additional expenditure for transportations of fly ash up to 300 Km radius from the thermal power plant for utilization of balance 65% ash in the area of road embankment construction, etc.

3. After hearing the learned senior counsel for the petitioner, the Commission admitted the petition and directed to issue notice to the respondents.

4. The Commission directed the petitioner to serve copy of the petition on the respondents by 15.11.2016. The respondents were directed to file their replies by 15.12.2016 with an advance copy to the petitioner, who may file its rejoinder, if any, on or before 2.1.2017.

5. The Commission further directed the petitioner to file the following information on affidavit by 15.12.2016 with an advance copy to the respondents:

(a) State-wise details of % of ash utilization such as for brick manufacturing, road construction projects, soil conditioner in agriculture activity, etc.;

(b) The quantum of ash transported upto 100 km distance, to whom it supplied at 100 km distance for purpose thereof. Revenue earned from supplying ash in 100 km distance and cost incurred towards such transportation;

(c) Under which head of account, transportation expenditure is booked and whether cost of such transportation was being recovered in tariff; and

(d) Whether the petitioner is maintaining a separate station-wise account for revenue earned from sale of ash as per the notification of MOEF. If yes, the total revenue accumulated and the expenditure incurred form the same account till date. If not, the reason for not maintaining such separate account.

(e) The impact of it on land acquisition for Ash Dyke, its maintenance cost (O&M) including consumption of water, capital expenditure etc.

6. The Commission directed that due date of filing the information, replies and rejoinder should be strictly complied with. No extension shall be granted on that account.

7. The petition shall be listed for hearing on 19.1.2017.

By order of the Commission

**Sd/-
(T. Rout)
Chief (Law)**