

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 311/MP/2015**

Subject : Petition for appropriate directions restraining the respondent from recovering the energy charge rate strictly in term of the Tariff Regulations framed by the Commission.

Petitioner : Tata Power Delhi Distribution Limited

Respondent : NTPC Ltd.

**Petition No. 64/MP/2016**

Subject : Petition under Section 79(1) (f) of the Electricity Act, 2003 read with Regulation 30(7) of CERC (Terms and Conditions of Tariff), Regulations, 2014 seeking adjudication of dispute between Petitioners i.e. BSES Rajdhani Power Limited and BSES Yamuna Power Limited with NTPC Ltd.

Petitioners : 1. BSES Rajdhani Power Limited  
2. BSES Yamuna Power Limited

Respondent : NTPC Ltd.

Date of Hearing : 6.10.2016

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

Parties present : Shri Buddy Ranganadhan, Advocate, BRPL & BYPL  
Shri Nishant Grover, Advocate, BYPL  
Shri Kanishk, BRPL  
Shri Abhishek Srivastava, BYPL  
Shri Sameer Singh, BYPL  
Shri Gopal Jain, Senior Advocate, TPDDL  
Shri Alok Shanker, Advocate, TPDDL  
Shri Anurag Bansal, TPDDL  
Shri Puneet Munjal, TPDDL  
Shri Kartikey Tripathi, TPDDL

Shri Umesh Kumar, TPDDL  
Shri Uttam Kumar, TPDDL  
Shri Shimpy Mishra, TPDDL  
Shri Farrukh Aathr, TPDDL  
Shri Mithun Chakroborty, TPDDL  
Shri Sitesh Mukherjee, Advocate, NTPC  
Shri E.P. Rao, Advocate, NTPC  
Shri Deep Rao, Advocate, NTPC

### **Record of Proceedings**

Learned counsel for the petitioner submitted that the Commission in various orders, namely dated 25.1.2016, 19.2.2016, 30.6.2016 and 30.7.2016 in Petition Nos. 283/GT/2014, 33/MP/2014, Review Petition No. 11/2016 in Petition No. 11/2016 and 279/GT/2014 respectively has clarified that energy charges shall be calculated on the basis of GCV on as received basis by taking samples from the wagons. However, the respondent has been taking samples from the stage of secondary crusher for calculation of GCV on as received basis. As a result, there is excess billing on the petitioners to the tune of Rs. 1815 crore in Financial year 2014-15 and Rs. 921.96 crore in financial year 2015-16. Learned counsel submitted that the present has been filed for refund of the excess amount charged by NTPC and for a direction to NTPC to raise bills strictly in accordance with 2014 Tariff Regulations and the various orders as mentioned above.

2. Learned counsel for the petitioners further submitted that an I.A.No.33/2016 has been filed in Petition No. 64/MP/2016 to restrain NTPC from enforcing and/or demanding payment of the excess billing contrary to the Commission's regulations and order and to direct NTPC not to take any coercive steps for non-payment of dues amount to Rs. 2050 crore for BRPL and Rs. 1039 crore for BYPL during the pendency of the proceedings.

3. Learned senior counsel on behalf of TPDDL submitted that NTPC in its reply has relied upon the letters written to CIL regarding grade slippage and these letters were written prior to the date of the order in Petition No. 33/MP/2014. Learned senior counsel submitted that no action has been taken by NTPC after the issue of the said order to resolve the issue of grade slippage. Learned senior counsel submitted that GCV of coal as received and price thereof have to correspond with each other and if the generating companies are allowed to charge on the basis of GCV of a much lower grade, then the entire purpose of the tariff regulations would be frustrated.

4. The Commission declined to grant any stay on the recovery of the outstanding dues against the petitioners. The Commission observed that as per the Tariff Regulations, the petitioner is entitled for interest on the excess amount recovered and accordingly, if on the basis of the decision in the petition, it is found that NTPC has made excess recovery, the same will be refunded with interest. Accordingly, the IA No. 33/2016 was disposed of.

5. After hearing the learned senior counsel and learned counsel of the petitioners and the respondents, the Commission directed to list the petitions for final hearing on 8.12.2016.

**By order of the Commission**

**Sd/-**

**(T. Rout)  
Chief (Legal)**