

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 244/MP/2016 with I.A. No. 86/2017

Subject : Petition for measurement of GCV of coal from the samples taken from the Railway Wagon Top.

Petitioner : NTPC Limited.

Respondents : GRIDCO Limited & Others.

Petition No. 139/MP/2017

Subject : Petition under Section 79 of the Electricity Act, 2003 read with Regulation 54 and 55 of the CERC (Terms and Conditions of Tariff) Regulations 2014 seeking appropriate relief due to extreme practical difficulty faced by the petitioner in implementing Regulation 30(6) of the said Regulation and directions issued by the Commission in its order dated 25.1.2016 and for consequential directions.

Petitioner : Maithon Power Limited.

Respondents : Tata Power Delhi Distribution Limited & Others.

Petition No. 220/MP/2016

Subject : Petition under Section 79 (1) (f) of the Electricity Act, 2003 seeking adjudication of dispute between West Bengal State Electricity Distribution Company Limited and NTPC Limited and Damodar Valley Corporation relating to over invoicing and recovery of Rs. 1192.67 Crores.

Petitioner : West Bengal State Electricity Distribution Co. Ltd. (WBSEDCL).

Respondents : NTPC Ltd. and Others

Petition No. 311/MP/2015

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

Petitioner : Tata Power Delhi Distribution Company Limited.

Respondent : NTPC Ltd.



Petition No. 64/MP/2016 with I.A. Nos. 84 and 85 of 2017

- 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.
- Petitioner : 1. BSES Rajdhani Power Limited (BRPL)
2. BSES Yamuna Power Limited (BYPL)
- Respondent : NTPC Ltd.
- Date of hearing : **7.12.2017**
- Coram : Shri Gireesh B. Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member
- Parties present : Shri Vikas Singh, Senior Advocate, BRPL & BYPL
Shri Sanjay Sen, Senior Advocate, TPDDL
Shri Buddy Ranganadhan, Advocate, BRPL & BYPL
Shri Anupam Varma, Advocate, BRPL & BYPL
Shri Rahul Kinra, Advocate, BRPL & BYPL
Shri Ashutosh Kumar Srivastava, Advocate, BRPL, BYPL & TPDDL
Shri Varan Singh, Advocate, TPDDL
Shri Sanjay Srivastava, BRPL
Shri Kanishk, BRPL
Shri Sameer Singh, BYPL
Shri Abhishek Srivastava, BYPL
Shri Pratyush Pandey, TPDDL
Shri Uttam Kumar, TPDDL
Shri Sumit Sachdev, TPDDL
Shri Anurag Bansal, TPDDL
Shri M.G. Ramachandran, Advocate, NTPC
Ms. Poorva Saigal, Advocate, NTPC
Shri Sitesh Mukherjee, Advocate, NTPC
Shri Deep Rao, Advocate, NTPC
Shri Nishant Gupta, NTPC
Shri Manoj Kumar Sharma, NTPC
Shri Sukhinder Singh, NTPC
Shri Ajay Dua, NTPC
Shri Umesh Ambeti, NTPC
Shri Shankar Saran, NTPC
Shri Rajkumar Mehta, Advocate, GRIDCO
Ms. Himanshi Andley, Advocate, GRIDCO



Shri A.K. Samantaray, GRIDCO
Shri C.K. Daksh, GRIDCO
Shri Venkatesh, Advocate, MPL
Shri Pratyush Singh, Advocate, MPL
Shri Sandeep Rajpurohit, Advocate, MPL
Shri Anurag Naik, MPL
Ms. Swapna Seshadri, Advocate, GUVNL &PSPCL
Shri S. Vallinayagam, Advocate, TANGEDCO
Shri R. Kathravan, TANGEDCO
Shri R. Jayaprakash, TANGEDCO
Shri R.B. Sharma, Advocate, BSP(H)CL
Shri Divyanshu Bhatt, Advocate, SKS Power
Shri Manish Garg, UPPCL
Shri Surajit Chakraborty, WBSEDCL
Ms. Sunidhi Sharan, Statkraft
Shri Amit Gokha, HDFC

Record of Proceedings

At the outset, the learned senior counsel appearing for BRPL and BYPL submitted that it has filed Interlocutory Applications, IA Nos. 84 & 85/2017 in Petition No. 64/MP/2016 and IA No. 86 of 2017 in Petition No. 244/MP/2016 seeking the listing of these petitions and to call for the data/assumptions relied upon by CEA in its report dated 17.10.2017 since the said report is at variance with the findings of CEA in its earlier report issued in 2014. The learned senior counsel further submitted that the matter needs to be heard on the question of “maintainability” since the issues raised by NTPC in its “removal of difficulty” petition had already been considered and rejected by the Commission in the review proceedings. He accordingly, submitted that CEA may be requested to furnish the details of the data/documents relied upon by it in its report to the applicants in the above said IAs in order to examine the same and make detailed submissions in the matter.

2. The learned senior counsel appearing for TPDDL adopted the above submissions of BRPL and BYPL. He further submitted that despite the orders of the Commission dated 25.1.2016 (in Petition No. 283/GT/2015) and 19.2.2016 (in Petition No. 33/MP/2014) excess energy charge has been recovered by NTPC on account of grade slippage on the GCV of coal. Accordingly, the learned counsel prayed that the Commission may issue appropriate directions in this regard.

3. The representative of the respondent, UPPCL referred to the Performance Audit Report on Fuel Management of Coal Based Power Stations of NTPC by CAG and submitted that the findings of CAG may also be considered while deciding the prayer of NTPC in the petition. He further submitted that the documents relied upon by CEA in its report dated 17.10.2017 may be furnished to the respondent in order to file its response in the matter.



4. The learned counsels appearing for GRIDCO, GUVNL and PSPCL adopted the above submissions and prayed that the matter may be heard after detailed examination of the CEA report dated 17.10.2017.

5. The learned counsel for NTPC (in Petition No. 244/MP/2016) objected to the above submissions made by the parties and clarified that CEA being a technical advisor to the Central Commission, the Commission has the power to consider the report of the CEA. He also submitted that the prayers made in this petition are not covered by the orders passed by the Commission in the review proceedings and is maintainable as the same is made in terms of the provisions of the Conduct of Business Regulations for this Commission. He however, prayed that NTPC may be given liberty to file its response to the submissions made by the parties above. The learned counsel added that the Commission may direct the respondent discoms to place on record the data/information with regard to the methodology adopted with regard to measurement of GCV of coal in respect of stations owned and operated by the Discoms. In reply to the query of the Commission whether there is any difficulty for the States to share such data, the learned counsels for the discoms submitted that the relevant data could be submitted as directed by the Commission.

6. The learned counsel appearing for Maithon Power Limited (MPL) also objected to the submissions made by the respondents above and adopted the submissions of NTPC. He also submitted that there is no difference in the findings of CEA from its report in 2014 since the CEA has recognized the issues regarding grade slippage, stacking loss, etc. in its report in 2017. Accordingly, the learned counsel submitted that the Commission may consider the report of the CEA and decide the matter based on the submissions of the parties.

7. The learned counsel appearing for NTPC in Petition No. 64/MP/2016 objected to the prayer of the applicant in IA Nos. 84 & 85 of 2017 for clubbing of this petition along with Petition No. 244/MP/2016 and submitted that the report of CEA dated 17.10.2017 has not been relied upon by NTPC in this petition and the petition involves adjudication of the dispute. He however, clarified that the issue with regard to GCV when decided by the Commission in Petition No. 244/MP/2016 would be applicable to all other relevant petitions.

8. As regards Petition No. 311/MP/2015, the learned senior counsel for TPDDL submitted that in terms of the directions of the Commission, Aravalli Power Corporation Private Limited (APCPL) has been impleaded as a party and copy of the petition has been served on it. He pointed out that APCPL has not filed its reply to the petition. The learned counsel for NTPC however clarified that APCPL is a separate legal entity and copy of the petition is required to be served upon it. The Commission directed the petitioner to serve copy on APCPL, if not already served. The Commission also directed APCPL to furnish the details of GCV on 'as received' basis in terms of the regulations notified by the Commission.

9. The Commission after hearing the parties observed that since the CEA Report dated 17.10.2017 has been received from the Ministry of Power (MOP), GOI, the same needs to be examined by the Commission to seek further information / clarification from MOP/ CEA. After collecting information from MOP and examination of the same by the Commission, the Commission will decide as to whether the information can be shared



with the beneficiaries. The Commission also directed the respondent discoms to file on affidavit the CAG report relied upon by them in the matter.

10. Accordingly, the Commission directed that the Petitions along with the IAs be kept pending till the issue is examined by the Commission based on the information received from MOP/ CEA. The date of hearing of the matter shall be intimated in due course.

By order of the Commission

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

