

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 225/MP/2017**

- Subject : Petition under Section 94 (1) (f) of the Electricity Act, 2003 read with related provisions of Regulation 103 (1) of the Central Electricity Regulatory Commission (Conduct of Business) (Amendment) Regulations, 2013 seeking compensation for loss of Capacity Charge on account of inadequate availability of fuel gas under provisions of Regulation 54 (Power to Relax) of the Central Electricity Regulatory Commission (Terms and Condition of Tariff) Regulations, 2014 in respect of the Assam Gas Based Power Plant (AGBP) (*remand from APTEL*).
- Petitioner : NEEPCO Ltd
- Respondents : Assam Power Distribution Company Ltd & 8 ors.
- Date of Hearing : **3.11.2022**
- Coram : Shri I.S. Jha, Member  
Shri Arun Goyal, Member  
Shri Pravas Kumar Singh, Member
- Parties Present : Ms. Poorva Saigal, Advocate, NEEPCO  
Ms. Reeha Singh, Advocate, NEEPCO  
Shri Ravi Nair, Advocate, NEEPCO  
Ms. Elizabeth Pyrbot, NEEPCO

**Record of Proceedings**

During the hearing, learned counsel for the Petitioner submitted that in terms of the judgment of the APTEL dated 4.8.2022, the Commission may consider the prayer of the Petitioner for relaxation of NAPAF for the period from 1.7.2016 to 31.3.2017, 2017, keeping in view that there has been inadequate supply of gas by Oil India Limited (OIL) to the generating station of the Petitioner. She further submitted that there has been diversion of gas by OIL to Brahmaputra Valley Fertilizer Corporation Limited, on priority basis, in terms of the directions of Ministry of Petroleum & Natural Gas, on 31.10.2016, and the same had resulted in the non-availability of gas to the Petitioner's generating station. The learned counsel also submitted that the contractual provisions between OIL and the Petitioner, under the FPA, gets superseded by the above directions of the Central Government issued for diversion of gas. She added that unlike other gas-based stations, owing to the terrain and the difficulties in transporting gas, and also in the absence of a gas grid, the alternative sources of gas such as spot gas, RLNG etc. is not available to the Petitioner and it was also not possible for the Petitioner to arrange for alternative source of gas. This fact has been recognized by this Commission in the Statement of Reasons to the 2009 Tariff Regulations. Accordingly, the learned counsel submitted that the present case is a fit case for this Commission to relax the provisions of Regulation 36(A)(d) of the 2014 Tariff Regulations, and allow the full recovery of capacity charges at the actual declared availability, for the said period.



2. None appeared on behalf of the Respondents, despite notice. However, the Commission, as a last opportunity, directed issuance of notice to the Respondents.
3. The Petition shall be listed for hearing on **8.12.2022**.

**By order of the Commission**

**Sd/-**  
(B. Sreekumar)  
Joint Chief (Law)

