केन्द्रीय विद्युत विनियामक आयोग
CENTRAL ELECTRICITY REGULATORY COMMISSION

नई दिल्ली
NEW DELHI

याचिका संख्या./ Petition No. 110/MP/2024

कोरम/ Coram:

श्री जिश्नु बरुआ, अध्यक्ष / Shri Jishnu Barua, Chairperson
श्री रमेश बाबू व., सदस्य / Shri Ramesh Babu V., Member
श्री हरीश दुदानी, सदस्य / Shri Harish Dudani, Member
श्री रविन्द्र सिंह ढिल्लो, सदस्य / Shri Ravinder Singh Dhillon, Member

आदेश दिनांक/ Date of Order: 26th October, 2026

IN THE MATTER OF:

Regulation 111 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, and Regulation 43 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 and Order dated 18th February 2020 passed by the Central Electricity Regulatory Commission in Suo Moto Petition No. 12/SM/2019.

AND IN THE MATTER OF:

Captive Power Producers Association (CPPA)
Secretariat Office
Technocraft Industries (India) Ltd
Technocrat House A-25 MIDC, Marol Andheri (East)
Mumbai 400093, India **…Petitioner**

Versus

Ministry of New and Renewable Energy (MNRE)
Atal Akshaya Urja Bhawan,
CGO Complex, Lodhi Road,

New Delhi- 110003, India **…Respondent**

Parties Present: Shri Buddy A. Ranganathan, Advocate, CPPA
Shri K.R. Sasiprabhu, Advocate, CPPA
Shri Gaurav Thakur, Advocate, CPPA
Shri Vishnu Sharma, Advocate, CPPA
Shri Manan Shishodia, Advocate, CPPA
Ms. Shefali Tripathi, Advocate, CPPA
Ms. Kavya Agarwal, Advocate, CPPA
Ms. Swapna Seshadri, Advocate, CPPA
Ms. Namrata Rastogi, Advocate, CPPA
Ms. Namrata Saraogi, Advocate, CPPA
Ms. Vidhatri Deoli, Advocate, CPPA
Shri Vijay Valsan, Advocate, CPPA

आदेश/ ORDER

The Petitioner, Captive Power Producers Association (CPPA), is an association of industries in Maharashtra and Gujarat. The members of the Petitioner Association have installed captive generation plants in their industries in these states and meet their energy requirements through captive-produced power. These captive power plants of the Petitioner are recognised as 'co-generation' plants under the Electricity Act, 2003.

2. The Respondent, Ministry of New and Renewable Energy (MNRE), is a Ministry of the Government of India. The salutary objective of MNRE is to develop and deploy new and renewable energy to supplement the Country's energy requirements.

3. The present petition is filed by the Petitioner, CPPA, seeking revision in the methodology evolved by the Commission vide its order dated 18.02.2020 in Suo Motu Petition No. 12/SM/2019 for estimation of electricity generated from biomass in a co-generation power plant.

4. Petitioner has made the following prayers:

(a) *Admit the Petition;*

(b) *consider the suggested methodology annexed as Exhibit "I" or evolve any other suitable methodology to be made applicable to captive Co-generation power plants using biomass co-firing, by following the process and procedure as applicable in law;*

(c) *issue appropriate clarification to its order dated 18.02.2020, regarding suitable methodology to be made applicable to captive co-generation power plant using biomass co-firing;*

(d) *to revise the methodology for estimation of electricity generated from biomass in biomass co-fired thermal power plants including co-generation plants by revisiting the order dated 18.02.2020 in Suo Moto Petition No. 12/SM/2019 passed by this Hon'ble Commission;*

(e) *grant any other relief which this Hon'ble Commission may deem fit in the facts and circumstances of the case.*

Background of the Petition

5. The dates and events are as follows:

S. No.	Date	Particulars
1	17.11.2017	Ministry of Power (MoP) notified the policy for 'Biomass Utilisation for Power Generation through Co-Firing in Pulverised Coal-fired Boilers' (Biomass Policy).
2	24.11.2017	The Central Electricity Authority (CEA) issued an Advisory clarifying that power generated from co-firing biomass in thermal power plants is renewable energy and eligible to meet the non-solar Renewable Purchase Obligation (RPO).
3	07.03.2019	The CERC (Terms and Conditions of Tariff) Regulations, 2019 came into force. These Regulations introduced a regulatory framework to allow the use of biomass in coal-based thermal power plants.
4	26.09.2019	MNRE issued a notification stating that power generated from co-firing biomass in thermal power plants is renewable energy and eligible to meet the non-solar RPO. Further, the Commission was requested to formulate and notify a

		procedure/ methodology for quantifying the energy produced from biomass in Biomass Coal-Fired Thermal Power Plants.
5	26.11.2019	In its Suo-Motu Petition in Petition No.12/SM/2019, the Commission proposed a methodology for estimating electricity generated from biomass in biomass co-fired thermal power plants and invited comments and suggestions from stakeholders.
6	16.12.2019	The Petitioner submitted comments/ suggestions on the proposed methodology, including a methodology for co-generation thermal power plants.
7	17.12.2019	The Commission held a public hearing on the proposed draft methodology.
8	18.02.2020	The Commission, vide its Order dated 18.02.2020, specified the methodology for estimating the energy generated from biomass in biomass co-fired coal-based thermal power plants, including captive power plants and co-generation plants. The said methodology remains in force to date.

Submission by the Petitioner, Captive Power Producers Association (CPPA)

6. The Petitioner submitted the following:

(a) The methodology specified by the Commission vide its Order dated 18.02.2020 in Petition No. 12/SM/2019 for estimating the energy generated from biomass in biomass co-fired coal-based thermal power plants, including captive power plants and co-generation plants needed to be revisited as the data available for the past three years revealed that the methodology is not suitable for co-generation power plants and impact the co-generation plants adversely qua their RPO compliance vis-à-vis a conventional plant for the same quantum of biomass consumption.

(b) Further, in order to provide actual credit of biomass in coal-based co-generation power plants, a separate methodology needed to be evolved for co-generation plants, as the generation of steam/ other energy, when calculated as per the methodology contained in the order dated 18.02.2020, resulted in loss of biomass credit to co-generation plants as compared to conventional thermal plants.

(c) Accordingly, the methodologies proposed for consideration are : (i) to work out the use of fuel in power generation out of total input fuel; (ii) to use enthalpy of steam to arrive at fuel used only for power in case co-generation plant produce both steam and power; (iii) to calculate the proportionate biomass consumption w.r.t fuel used to generate power and not the total fuel used in co-generation plant; (iv) alternatively, normative station heat rate, as specified by the Commission, to be used to determine the power generation from Biomass based on quantum of Biomass fuel used.

(d) The Petitioner also furnished an illustration in support thereof, based on actual one-month data of one of the members of the Petitioner Association. The suggested methodologies for co-generation power plants were annexed as *Exhibit-I* to the Petition.

(e) Further, it is submitted that the regulatory requirement for evolving a separate methodology is fair, as the Commission had already recognised the difference between conventional coal-based power plants and co-generation plants qua the methodology for estimation of electricity generated from biomass in biomass co-fired thermal power plants, including co-generation plants.

(f) Therefore, the present Petition seeks to invoke the power of the Commission in revisiting the methodology by revision thereof, as held by the Supreme Court in UPPCL Vs. NTPC, (2009) 6 SCC 235.

Hearing dated 19.09.2024

7. During the course of the hearing, the counsel for the Petitioner submitted that the present Petition was filed for seeking a revision in the methodology evolved by the Commission vide its Order dated 18.2.2020 in Suo Motu Petition No. 12/SM/2019 for estimation of electricity generated from biomass in a cogeneration power plant. Further, in response to the Commission's specific query on locus standi, the Petitioner's counsel submitted that the Petitioner is a registered association of industries in the States of Maharashtra and Gujarat, and has also filed a list of the members of the Petitioner Association. The Petitioner's counsel also added that the Commission had previously considered several Petitions filed by Associations. After hearing the Petitioner's counsel, the Commission admitted the Petition and directed the Respondent to file its reply and the Petitioner to file its rejoinder, if any.

Hearing dated 10.12.2024

8. During the course of hearing, the Respondent, MNRE, was granted one more opportunity to file its reply, if any and the Petitioner to file its rejoinder.

9. The present Petition was further listed for hearing on 19.02.2025; however, the hearing was adjourned vide adjournment notice dated 18.02.2025, as the pleadings were not completed.

Hearing dated 18.03.2026

10. Due to paucity of time, the matter could not be taken up for the hearing and was accordingly adjourned.

Hearing dated 16.06.2026

11. During the course of the hearing, the counsel for the Petitioner submitted that the methodology for the estimation of electricity generated from biomass in the co-generation power plant, in the order dated 18.02.2020, was based on actual consumption (input fuel) of coal and biomass and the actual power output, which resulted in lesser benefits of RPO for co-generation plants compared to conventional plants for the same quantum of biomass consumption. The counsel further submitted that sufficient operational data and experience are now available since the passing of the said order, justifying the need to revise/ revisit the methodology evolved therein, and the Petitioner also suggested a methodology at 'Exhibit-I' to the Petition, which essentially is in addition to the methodology proposed by the Commission. Learned counsel also emphasised the Commission's power to relax and grant the reliefs prayed for, and in this regard relied on the judgment of the APTEL dated 19.1.2009 in Appeal No. 11/2008 (MPPTCL v. TPL and Ors).

Written Submissions of the Petitioner, CPPA, on 29.06.2026 in compliance with the Record of Proceedings (ROP) of the hearing dated 16.06.2026

12. In compliance with the ROP of the hearing dated 16.06.2026, the Petitioner submitted its written submission and reiterated the contentions made in the petition.

13. Further, the Petitioner relied upon a catena of judicial decisions in support of its submissions. In this regard, reliance was placed on the judgments of the Supreme Court in UPPCL v. NTPC Ltd., (2009) 6 SCC 235, to submit that the Commission has the power to modify/ revisit the methodology and on the judgment of the APTEL in Ratnagiri Gas and Power Private Ltd. v. CERC, 2011 SCC Appeal No. 130 of 2009, where it was held that the Commission has the power to relax and modify when a Regulation in its application leads to injustice and undue hardship. The Commission also relied on the judgment of the APTEL in NTPC Ltd. v. AP Transmission Co. Ltd., wherein it was submitted that where reasonable grounds exist to revisit an order, the Commission ought to do so.

Analysis and Decision

14. The Commission has heard the counsel for the Petitioner and considered the submissions, and has carefully perused the records. The Commission also notes that no one appeared on behalf of the Respondent during the hearing, nor did they make any written submissions in the matter.

15. Brief facts of the case: The Commission, vide its Order dated 18.02.2020 in Petition No. 12/SM/2019, specified the methodology for estimating the energy generated from biomass in biomass co-fired coal-based thermal power plants, including captive power plants and co-generation plants, which continues to be in force. As per the Petitioner (CPPA), the Commission, in the said Order, recognised that in conventional coal-based power plants, the entire heat generated from coal and biomass is used to generate power. However, in co-generation plants, only part of the heat is used to generate power. Under these circumstances, the Petitioner submitted that the methodology needs to be revisited in light of the data available for the past three years, which demonstrated that it is not suitable for co-generation plants, as it created inequality of treatment and unequal benefits for RPO compliance. Therefore, the Petitioner suggested a methodology and sought revision of the said methodology for estimating electricity generated from biomass in biomass co-fired thermal power plants, particularly in respect of co-generation plants.

16. The Commission notes that the only issue that arises for consideration is ***whether the methodology specified by the Commission vide its Order dated 18.02.2020 in Suo Motu Petition No. 12/SM/2019 for estimation of electricity generated from biomass in***

biomass co-fired thermal power plants, particularly in respect of co-generation plants, requires revision.

17. The Commission notes that the distinction between estimation of electricity generated from biomass in biomass co-fired coal-based thermal power plants, including captive and co-generation power plants co-firing biomass, was not overlooked by the Commission while specifying the methodology in Suo Motu Petition No. 12/SM/2019 vide order dated 18.02.2020. The Commission observes that the issue was specifically raised by the Captive Power Producers Association (present petitioner) during the proceedings in Suo Motu Petition No. 12/SM/2019, wherein it was submitted that, in the case of co-generation power plants, the methodology should factor in the use of steam for purposes other than generation of electricity. The Petitioner had also proposed the same methodology (as submitted in the present Petition) for co-generation power plants during the said proceedings. After considering the submission, the Commission, in paragraph 12 of the Order dated 18.02.2020, held that, even in the case of co-generation power plants, the proportion of heat input from biomass to the total heat input used for power generation forms the basis for determining the electricity generated from biomass. Accordingly, the methodology was also made applicable to co-generation power plants.

18. The Extract of para 12 of Order dated 18.02.2020 in Petition No. 12/SM/20219 is as under:

"12. While in case of captive power plant, the entire heat generated from coal and biomass is used to generate power, in case of co-generation plant, only part of the heat is used to generate power. But, the underlying principle remains applicable i.e. the proportion of heat input from biomass to total heat input for power generation. Accordingly, the methodology specified in this order shall also be applicable for co-generation power plant".

19. The present Petition does not raise a distinction that was not before the Commission at the time of specifying the said methodology. The Commission consciously applied the methodology to co-generation power plants based on the principle identified in the Order dated 18.02.2020.

20. Further, as per the contention of the Petitioner that the methodology specified by the Commission vide Order dated 18.02.2020 should be revisited on the basis of data available for the past three years, the Commission notes that the Petitioner has not placed on record any data covering the said three-year period. The Petitioner has furnished an illustration supporting its suggested methodology for estimating the energy generated from biomass in co-generation plants, based on one month's actual data from one of its members' co-generation plants. However, such illustration does not, by itself, establish that the methodology specified vide Order dated 18.02.2020 is inappropriate for co-generation plants or warrants revision.

21. The Petitioner has also relied upon a catena of judicial decisions and contended that the Commission possesses regulatory power to revisit its earlier determination. The Commission recognises that it may revisit a methodology where the material placed on record warrants such reconsideration. In the present case, as noted above, the Commission already considered the specific distinction concerning co-generation plants while framing the methodology in the Order dated 18.02.2020. Accordingly, the Commission finds no sufficient basis to deviate from the methodology specified in the said Order.

22. The prayers of the Petitioner in the instant Petition are, therefore, rejected.

23. Petition No. 110/MP/2024 is disposed of in terms of the above.

Sd/-	Sd/-	Sd/-	Sd/-
रविन्द्र सिंह ढिल्लों	**हरीश दुदानी**	**रमेश बाबू वी.**	**जिश्नु बरुआ**
सदस्य	**सदस्य**	**सदस्य**	**अध्यक्ष**