

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 144/GT/2026 alongwith 177/IA/2026

Subject : Petition for approval of determination of tariff of 726.6 (2 x 363.3) MW Combined Cycle Gas Based Power Palatana Project of ONGC Tripura Power Company Limited for the control period 1.4.2024 to 31.3.2029 (Interlocutory application for urgent listing and seeking directions).

Petitioner : OTPC

Respondent : APDCL and 6 others

Date of Hearing : **8.10.2026**

Coram : Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member
Shri Ravinder Singh Dhillon, Member

Parties Present : Ms. Poorva Saigal, Advocate, OTPC
Ms. Kavya Madan, Advocate, OTPC
Shri Venkatesh, Advocate, TSECL
Shri Vikas Maini, Advocate, TSECL
Shri Ashutosh Srivastava, Advocate, TSECL
Shri Mohit Mansharmani, Advocate, TSECL
Ms. Ananya Dutta, Advocate, TSECL

Record of Proceedings

The IA No. 177/2026 was called out for hearing in a virtual mode.

2. During the hearing, the learned counsel for the Petitioner made the following submissions:

- (a) The Generating Station has been facing a persistent shortage of domestic gas under the GSPA since its commercial operation, due to which the station has been unable to achieve NAPAF, resulting in under-recovery of Annual Fixed Charges. To mitigate the gas shortage and improve plant availability, the Petitioner entered into a Term Sheet dated 10.2.2026 with ONGC for supply of up to 0.4 MMSCMD of additional New Well Gas at the Government-notified APM price. Pursuant thereto, the additional gas was blended with the existing gas supply and the ECR was computed on a weighted average landed fuel cost in accordance with Regulations 58 and 64(3)(c) and (d) of the 2024 Tariff Regulations.
- (b) The requirement of prior approval/ consultation applies to coal-based generating stations and is not applicable to gas-based generating stations. Thus, the beneficiaries were consulted on the proposal for sourcing additional gas through the OCC, CCM and TCC meetings and individual communications.



- (c) All beneficiaries, except TSECL, have paid the corresponding energy charges. TSECL has withheld Rs. 2,52,17,061/- from the February 2026 invoice by disputing the blended ECR, despite having scheduled and consumed the power. The ECR has been computed strictly in accordance with the 2024 Tariff Regulations, and the PPA mandates payment of energy charges notwithstanding any dispute regarding the invoice.
- (d) Thus, the present IA has been filed seeking interim directions to NERLDC and NERPC to modify the Web Based Scheduling (WBS) system to permit scheduling/ availability declaration in two parts: (i) the first part based on the existing GSPA and the additional gas procured under the Term Sheet dated 10.2.2026; and (ii) the second part covering additional gas to be tied up in future from any source for attaining NAPAF, with separate ECRs for the two parts and the second part to be billed to the beneficiaries at the applicable tariff. The Petitioner has also sought a direction to TSECL to pay the outstanding differential amount of Rs. 2,52,17,061/- as on February 2026, along with the applicable LPS under Regulation 80 of the 2024 Tariff Regulations read with the LPS Rules, 2022.

3. *Per contra*, the learned counsel for the Respondent, TSECL, made the following submissions:

- (a) Petition No. 144/GT/2026 was filed by the Petitioner for determination of tariff for the 2024-29 tariff period. By way of the present IA, the Petitioner has sought a money decree for a quantified amount of Rs. 2,52,17,061/- in respect of a specific invoice arising out of a specific commercial/ contractual dispute, which is not the subject matter of the Petition. If the Petitioner asserts a right to payment of the disputed invoice, the appropriate course would be to file a Petition under Section 79(1)(f) of the Electricity Act, 2003 for adjudication of the dispute, rather than seeking such relief in the present tariff Petition.
- (b) The Petitioner's reliance on Regulation 64(3)(c) and (d) of the 2024 Tariff Regulations is misplaced, as the said provisions only prescribe the methodology for computing the blended ECR and blended calorific value once blending is otherwise authorised, and do not confer any authority upon a generating station to introduce an alternative source of fuel supply beyond the source contracted under the FSA or PPA.
- (c) Without prejudice to the above, the Petitioner has not complied with the requirement of prior consultation with the beneficiaries at least three days in advance, as stipulated under Regulation 64(3)(d) of the 2024 Tariff Regulations.
- (d) The requirement under Regulation 58 of the 2024 Tariff Regulations for procurement through a transparent process involving competitive bidding is a substantive safeguard and has not been complied with by the Petitioner. The Petitioner's contention that it negotiated the price of the additional fuel with ONGC cannot be accepted, as the transaction was bilateral and was entered into with an entity which is the promoter and shareholder of the Petitioner, without following any competitive process.
- (e) TSECL has paid Rs. 33,59,38,541/- against an invoice of Rs. 36,11,55,602/-, i.e. approximately 93% of the invoice amount, comprising the entirety of the Capacity Charges and the Energy Charges computed



at the undisputed GSPA ECR. TSECL has withheld only the differential amount attributable to the disputed blended ECR. Article 11.6.9 does not oblige a procurer to pay a rate which is itself under dispute.

- (f) Although the station requires 3.18 MMSCMD of gas to achieve NAPAF and is presently operating at approximately 60% availability, the shortfall in gas supply is attributable to the Petitioner and its consequences cannot be passed on to TSECL. At the time of executing the GSPA dated 29.9.2008, the Petitioner had tied up only 2.65 MMSCMD of gas from ONGC, despite being aware that the station requires 3.18 MMSCMD to achieve NAPAF.
- (g) No *prima facie* case is made out in favour of the Petitioner. The balance of convenience lies against granting interim relief, as payment once made may be difficult to recover, whereas non-payment of the disputed differential amount can be compensated by LPS if the Petitioner ultimately succeeds. Further, the Petitioner has demonstrated no irreparable injury, as the Petitioner has already received approximately 93% of the invoice amount. In this regard, reliance was placed on the judgment of the Hon'ble Supreme Court in *Dalpat Kumar v. Prahlad Singh*, [(1992) 1 SCC 719].

4. The learned counsel for the Petitioner made brief rejoinder submissions, mainly reiterating and clarifying earlier submissions.

5. The Commission, after hearing the parties, reserved order in the I.A. and permitted the parties to file their respective written submissions on or before **19.10.2026**.

6. Petition No. 144/GT/2026 will be listed for hearing in due course, for which a separate notice will be issued.

By order of the Commission

**Sd/-
(T. D. Pant)
Joint Chief (Law)**

