

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 177/MP/2025 along with IA No. 135/2026

Subject : Petition under Section 79 of the Electricity Act, 2003 read with Regulations 65, 67 & 68 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 2023 and in terms of CERC's Order dated 13.08.2021 passed in Petition No.6/SM/2021 as well as Order dated 29.11.2024 passed in Petition No.4/SM/2024 seeking Supplementary Tariff in respect of implementation of Flue- Gas Desulphurization System in the coal based Anuppur Thermal Power Project of MB Power (Madhya Pradesh) Limited in District Anuppur of Madhya Pradesh in compliance of the Revised Emission Standards prescribed by MoEFCC's Notification dated 07.12.2015.

Petitioner : MB Power (Madhya Pradesh) Limited (MBPMPL)

Respondent : Uttar Pradesh Power Corporation Limited (UPPCL) and Ors.

Date of Hearing : **9.10.2026**

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

Parties Present : Shri Amit Kapur, Advocate, MBPMPL
Shri Avdesh Mandloi, Advocate, MBPMPL
Shri Anant Singh Ubeja, Advocate, MBPMPL
Ms. Shyenika Upadhyay, Advocate, MBPMPL
Shri Rana, Advocate, MBPMPL
Shri Sitesh Mukherjee, Sr. Advocate, UPPCL
Ms. Puja Priyadarshini, Advocate, UPPCL
Shri Kunal Kashyap, Advocate, UPPCL
Shri Karan Arora, Advocate, UPPCL
Shri Deeptanshu Chandak, Advocate, UPPCL
Ms. Prerna, Advocate, UPPCL
Shri Ravi Kishore, Advocate, PTCIL
Ms. Deepti Dash, Advocate, PTCIL

Record of Proceedings

During the hearing, the learned senior counsel for the Respondent, UPPCL, made elaborate submissions on both the maintainability and the merits of IA No. 135/2026, which has been filed under Sections 128 and 129 of the Electricity Act, 2003 ('the Act') for initiation of investigation and appointment of investigating authority to examine the technical, financial and compliance-related aspects of FGD works at the Petitioner's Anuppur TPS. The learned senior counsel, *inter alia*, submitted as follows:



(a) The allegations contained in the complaint received are precise. They clearly specify the contractual arrangement between MB Power and its vendors for the FGD installations, and contrast those terms against the actual installations carried out at the project site. In its response, MB Power, has not specifically addressed these allegations and has merely stated that the revision/amendment/modification of the specification during detailed engineering by the ECP contractor is a prevailing industry practice.

(b) Of the two stages of proceedings contemplated under Sections 128 to 130 of the Act, namely, the initiation of an investigation (Stage 1) and the issuance of appropriate directions (Stage 2) - the exercise of power at Stage 1 is an inquisitorial power meant to determine whether an investigation should be conducted. At this stage, a *prima facie* satisfaction that there exist reasonable grounds warranting such an investigation is sufficient to confer jurisdiction on the Commission to initiate the investigation. Neither the party requesting an investigation is required to conclusively prove, nor is the Commission required to conclusively determine, the contravention of the specific provisions of the Act, Rules, or Regulations or any alleged illegality committed.

(c) The distinction between the nature of the two stages of investigative proceedings and the degree of satisfaction required for exercise of the power under the two stages has been recognised in several judgments. In this regard, reliance was placed on the judgments in (i) Competition Commission of India v. Steel Authority of India, [2010 (10) SCC 744], and (ii) DLF Ltd. v SEBI, [2012 SCC Online Del 5765].

(d) The allegations contained in the complaint clearly manifest that there is a likelihood of contravention/contravention of the Act, particularly Section 61 thereof, as well as the contravention of the directions issued by the Commission vide order dated 13.8.2021 in Petition No. 6/SM/2021 and order dated 21.3.2022 in Petition No. 450/MP/2019.

(e) The IA is maintainable in the present proceedings as the issue raised therein has a direct bearing on the supplementary tariff claimed by MB Power towards FGD installations in this case.

(f) Regarding the contention that similar issues have already been examined and rejected by MPERC in tariff proceedings before it, it may be noted that the contentions raised before MPERC were very generic in nature, and there was no request for initiation of investigation under Sections 128 to 130 before MPERC. In any event, MPERC has not returned any conclusion that specific discrepancies pointed out were actually unfounded.

(g) The powers under Sections 128 to 130 of the Act have been invoked in a plethora of circumstances against the licensees - ranging from incorrect realisation of revenues to low quality equipment being installed by a licensee. Since the Sections mandate treating generating companies alike, there is no reason not to launch such investigations against a generating company like MB Power in the

given facts & circumstances. UPPCL be granted liberty to place on record a compendium of such orders.

(h) MB Power's reliance on the Hon'ble Supreme Court's judgment in Torrent Power Ltd. v. UPERC and Ors., [2025 SCC Online SC 1410] is misplaced as the said judgment does not apply to the facts of the present case. UPPCL be permitted to file a brief note on this aspect.

2. Due to a paucity of time, arguments in reply on behalf of the learned counsel for MB Power could not commence.

3. Considering the submissions made by the learned senior counsel for the Respondent, UPPCL, the Commission permitted the Respondent, UPPCL, to file its note, as above, on an affidavit, within six days, with a copy to the Petitioner, who may file its response, if any, within six days thereafter.

4. The matter remained part-heard and will be listed for hearing on **27.10.2026 at 2:30 P.M.**

By order of the Commission

Sd/-

(T.D. Pant)

Joint Chief (Law)