

**ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
PLOT NO. 4, CHUNOKOLI, SHAILASHREE VIHAR,
BHUBANESWAR-751021**

Case No. 18/2024

M/s. Vedanta Limited Petitioner
Vrs.
GRIDCO Ltd. Respondent

In the matter of: **Application of M/s. Vedanta Ltd. under Section 86 of the Electricity Act, 2003 seeking approval for re-imburement of the additional expenditure incurred by it on account of the notifications issued by the Ministry of Environment, Forest and Climate Change (MoEF & CC), Government of India and the consequent Statutory Advisory dated 22.02.2022 issued by the MoP, GoI towards fly ash disposal.**

For Petitioner: Shri Sitesh Mukharji, Learned Sr. Advocate, Shri Mirdul Chakravarty, Advocate, Shri Lakshyajit Singh Bagdwal, Advocate along with Shri Biswajit Sahoo

For Respondents: Ms. Susmita Mohanty, DGM (Electrical)

ORDER

Date of Hearing: 30.04.2024

Date of Order: 05.06.2024

The Petitioner-M/s. Vedanta Ltd. has filed the present Application under Section 86 of the Electricity Act, 2003 seeking approval for re-imburement of the additional expenditure incurred by it on account of the notifications issued by the Ministry of Environment, Forest and Climate Change (MoEF&CC), Government of India and the consequent Statutory Advisory dated 22.02.2022 issued by the Ministry of Power, GoI towards fly ash disposal. The Petitioner has prayed the Commission to:

- Direct GRIDCO to re-imburse the cost/ expenditure incurred by Vedanta towards Fly Ash disposal in terms of Clause 6.2.2. of the PPA dated 19.12.2012 read with Notifications issued by MOEF&CC, Government of India, and the consequent Advisory dated 22.02.2022 issued by the Ministry of Power, Government of India, in terms as stated in the present petition;
- Direct GRIDCO to continue to re-imburse the cost/ expenditure incurred by Vedanta towards Fly Ash disposal, in terms as stated in the present petition.

2. The submissions of the Petitioner-M/s. Vedanta Ltd. are summarized hereunder:
- a) M/s. Vedanta Ltd. operates a coal fired Thermal Power Plant (TPP) of 4x600 MW capacity at Jharsuguda, Odisha, out of which 1x600 MW operates as an IPP and 3x600 MW operates as CGP. It has executed a consolidated PPA dated 19.12.2012 with the Respondent-GRIDCO for supply of 25% plus 5% of the net energy sent out from the 4x600 MW TPP or total generation of the IPP Unit-2 (600 MW) whichever is higher. For 25% capacity (600 MW IPP-Unit-2), it is entitled to get fixed charges as well as variable charges and 5% energy supply shall be at variable charges only.
 - b) Pursuant to the Environment (Protection) Act, 1986, the Central Government have issued various rules and notifications for taking measures necessary for protection and improvement of the environment. As per the notification of the MoEF & CC, GoI dated 25.01.2016, the cost of transportation of fly ash within a radius of 100 Kms was to be borne entirely by the TPP and beyond the radius of 300 Kms, it was to be shared equally by the user and TTP. Subsequently, the MoEF & CC, GoI vide its notification dated 31.12.2021 has provided as under:

“A. Responsibilities of thermal power plants to dispose fly ash and bottom ash.

(1) Every coal or lignite based thermal power plant (including captive or co-generating stations or both) shall be primarily responsible to ensure 100 per cent utilisation of ash (fly ash, and bottom ash) generated by it in an eco-friendly manner as given in sub-paragraph (2);

(2) The ash generated from coal or lignite based thermal power plants shall be utilised only for the following eco-friendly purposes, namely: -

(i) Fly ash-based products viz. bricks, blocks, tiles, fibre cement sheets, pipes, boards, panels;

(ii) Cement manufacturing, ready mix concrete;

(iii) Construction of road and fly over embankment, Ash and Geo-polymer-based construction material;

(iv) Construction of dam;

(v) Filling up of low lying area;

(vi) Filling of mine voids;

(vii) Manufacturing of sintered or cold bonded ash aggregate;

(viii) Agriculture in a controlled manner based on soil testing;

(ix) Construction of shoreline protection structures in coastal districts;”

- c) Subsequently, the MoEF & CC, GoI, vide another notification dated 30.12.2022, issued certain amendments to the aforesaid notification dated 31.12.2021. However, basing on the MoEF & CC notification dated 31.12.2021, the Ministry of Power

(MoP), GoI issued a statutory advisory on 22.02.2022, providing a detailed procedure to be followed by the TPPs for the disposal of fly ash. The relevant portion of the said advisory is quoted hereunder:

- “5. *In view of above, all coal/ lignite based TPPs are hereby advised to provide Ash to the prospective user agencies for all new commitments for supply of Ash as per following guidelines which have been framed in accordance with MoEF&CC Notification dated 31.12.2021: -*

Procedure to be followed to dispose of ash:

- 5.1 *The Power plants shall provide ash to user agencies as stipulated in the MoEF&CC Notification dated 31.12.2021 through a transparent bidding process only.*
- 5.2 *If after bidding/ auction some quantities of ash still remains un-utilised, then only, as one of the options, it could be considered to be given free of cost on first come first serve basis, if the user agency is willing to bear the transportation cost.*
- 5.3 *If ash remains un-utilized even after the steps taken in paras 5.1 and 5.2 above, TPP shall bear the cost of transportation of ash to be provided free to the eligible projects/ mine owners.*
- 5.4 *Even after steps taken in Paras 5.1 to 5.3 above, if the ash remains un-utilized, TPPs shall serve notice on the construction agencies/ mine owners located within 300 kms from TPPs to use ash mandatorily in their projects/ filling of mine voids.*
- 5.5 *The Ash shall be offered to the prospective user agencies as stipulated in the MoEF&CC Notification dated 31.12.2021 on competing demand basis, i.e. user agency who offers the highest price and meets the transportation cost will be offered the ash on priority. This will reduce the tariff of electricity and burden on the consumers. It will also be in accordance with sound vigilance practices.*
- 5.6 *The power plant may offer Ash subject to their technical restrictions such as precautions required for Dyke stability and safety etc. The power plants having lower Ash utilization shall make all efforts to increase its Ash Utilization.*
- 5.7 *In case, ash is provided free of cost and free transportation; prospective consumers shall be obliged to source the Ash from the nearest TPPs, to reduce the cost of ash transportation. If the nearest TPP refuses to do so, the prospective consumers shall approach Ministry of Power for appropriate directions.*

Procedure to be followed for transportation cost to be borne by TPPs:

- 5.8 *The transportation cost wherever required to be borne by the TPPs, shall be discovered on a competitive bidding process basis only. TPPs shall prepare a panel of transportation agencies every year based on competitive bidding for transportation in slabs of 50 Kms, which may be used for the period. The TPPs shall call for bids well*

in advance, so that the transportation panel is in place as soon as the previous panel expires. There should be no gap between the expiry of existing panel and the finalization of the fresh panel.

5.9 TPPs are advised to invite open bids by keeping a lower bid threshold of minimum 50 tonnes so that even small and medium commercial enterprises can also take part in the bid process.”

- d) The above advisory of the MoP, GoI was stayed by the Hon’ble National Green Tribunal (NGT) vide order dated 25.08.2022. However, Hon’ble Supreme Court stayed the above stay order of the Hon’ble National Green Tribunal. Following this, MoP, GoI vide its letter dated 28.02.2023 directed all the power plants to dispose of the ash in light of the MoP advisory dated 22.02.2022. Thereafter M/s. Vedanta Ltd. took following steps for implementation of the aforesaid advisory dated 22.02.2022 of the MoP, GoI.
- i. Vedanta invited an “Expression of Interest” from potentials buyers/ user agencies for purchase of fly-ash, through publication in National and local Newspapers on 12.06.2023. But no response was received from any potential buyers/ user agencies.
 - ii. As a result, Vedanta, in terms of Clause 5.3 of the Statutory advisory, was mandated to bear the cost of transportation of fly-ash for supply the same free of cost to the eligible projects/ mines/ low lying area. Therefore, Vedanta issued an EoI inviting “potential logistic agencies for loading, bulk transportation, unloading and disposal of Fly ash” through publication in local newspaper on 29.09.2023 and national newspaper on 03.10.2023.
 - iii. In terms of clause 5.4 of the statutory advisory, Vedanta has approached MCL and other the mines & quarry owners for backfilling of their mine, void /abandoned quarries and Director, NHAI, Sambalpur for utilization of Fly Ash in highway construction.
 - iv. Based on the above EoIs, Vedanta received bids from the various parties and considering the same, transport service order was awarded on 18.10.2023 with most competitive bid rate to the vendor M/s. Kalyani Transco Pvt. Ltd. and accordingly, M/s. Kalyani Transco Pvt. Ltd. started shifting fly-ash to designated area.
- e) Vedanta had received CTO from SPCB for backfilling of Stone quarries located at Dalgaon and Aamapali. However, Vedanta was faced with various issues in the form

for resistance from the locals to carry out such disposal. As such, Vedanta had sought support from GRIDCO and the Department of Energy, Govt of Odisha for the resolution of local issues by the Local administration. Accordingly, GRIDCO had requested District Collector, Jharsuguda for support to resolve these issues. In spite of multiple efforts and support from various authorities, Vedanta has not yet been able to carry out ash disposal at said avenues. On account of the above, CTO was granted to Vedanta for carrying out ash disposal at another avenue at Jharbeda Kutra, which is a low lying area, located around 100 Km away from plant.

- f) In the meantime, Ministry of Power, GoI had issued the latest guidelines on 15.03.2024 for TTPs for utilization of fly ash. Since the said guidelines have been notified recently, M/s. Vedant Ltd. is in the process of taking steps to implement the same. However, M/s. Vedant Ltd. has been following the MoEF and MoP guidelines for disposal of ash in an environmentally friendly manner. M/s Kalyani Transco Pvt. Ltd. was awarded Service order for transportation of 2 Lakh MT of ash in the 1st tranche of Scope of Work of 5 lakh MT. All the details as sought for by GRIDCO have already been provided to it. Considering the huge amount of generation of ash of around ~1,30,000 MT per month from Unit-II (600 MW), M/s. Vedant Ltd. has to consistently dispose of the Ash. For the disposal of such huge quantities of Ash, M/s. Vedant Ltd. has been seeking avenues where the bulk quantity of Ash can be disposed, including but not limited to filling of low-lying area, utilizing in Highway construction, filling of abandoned coal mines and stone quarries etc. Additionally, Vedanta is also seeking avenues for disposal of smaller quantities of ash inter-alia in brick and cement manufacturing, subject to availability of such Avenues.
- g) However, based on the award of the service contract, the selected vendor started transporting the fly-ash accumulated in Ash ponds at low lying areas near Jharbeda kutra and in highway construction located more than 100 Km from power plant premises. In this regard, M/s. Vedant Ltd., vide its letter dated 29.01.2024, raised an invoice of Rs.8,31,54,981/- to GRIDCO towards disposal of Ash during 01.11.2023 to 15.11.2023. M/s. Vedant Ltd. has also provided the complete details of Ash disposal such as, competitive bidding process followed for determination of rate of transportation, copy of EOIs floated, copy of transporter invoices, signed copy of details of trips including loading point, gross weight of vehicle, tare weight of vehicle, net weight along with timing details are enclosed along with invoice. The

Auditor Certificate and the end user certificate issued by the User Agency viz. 'MR UNICAST PRIVATE LIMITED' are being provided now along with the submission, certifying the expenditure of Rs.8,31,54,981/- towards Ash disposal.

- h) The timelines for disposal of ash as mentioned in the said notification has not yet lapsed, and M/s. Vedanta Ltd. is continuously disposing ash in order to meet the requirements as mandated in the MoP advisory dated 22.02.2022 which is issued in terms of notification dated 31.12.2021 by MOEF&CC. Since Vedanta is incurring additional expenditure on the basis of the aforesaid advisory issued by the MoP, they had intimated GRIDCO on 28.08.2023 about the impact on account of the change in law event qua the Statutory advisory issued by MoP, Government of India. Further, Vedanta has already furnished the requisite documents in this regard. Therefore, it ought to be re-imbursed with the costs associated with fly ash utilization/ disposal/ transportation.
- i) The Commission, vide its order dated 26.12.2023 in Case No. 20 of 2020, have considered to pass through the above expenditure at the time of truing up exercise for the period FY 2020-24 subject to audit by an independent auditor. However, since, the expenditure associated with ash disposal is too high and affects the operational viability of the power plant, Vedanta is seeking re-imburement of additional expenditure which it has incurred and shall incur on account of the issuance of the notifications by MOEF&CC and consequent procedure issued by MoP. Hence, M/s. Vedanta Ltd. was constrained to file the present petition.
- j) The Clause 6.2.2 of the Consolidated PPA 19.12.2012 stipulates as under:
- “6.2.2 Other Taxes, Levies, Duties, Royalty, Cess etc.*
- Statutory taxes, levies, duties, royalty, cess or any kind of imposition(s) imposed/ charges by any Government (Central/ State) and/ or any other local bodies/ authorities on generation of electricity including auxiliary consumption or any other type of consumption including water, environment protection, sale or on supply of power/ electricity and / or in respect of any of its installations associated with the Station payable by SEL to the authorities concerned shall be borne and additional paid by the Beneficiary(ies) in a proportionate manner.....”*
- k) The aforesaid provision provides for recovery of the charges on account of its imposition by any Government (Central/ State) and/ or local authority through reimbursement. The expenses incurred by Vedanta towards ash transportation expenditure and other ash utilization expenses on account of ash utilization, as mandated by the Central Government through the MoEF&CC Notification dated

31.12.2021 (and its amendment) and the MoP advisory dated 22.02.2022, is statutory in nature and creates obligation on the Petitioner to pay/ subsidize fly ash transportation charges and bear other ash utilization charges.

- l) On account of the aforesaid notifications/ statutory advisory of the MOEF&CC and MoP, Vedanta is mandated to dispose of /utilize the fly-ash which is produced from the generation of electricity for the purpose of supply of power to GRIDCO in terms of the Consolidated PPA dated 19.12.2012. As such the said notifications/ statutory advisory falls within the meaning of Clause 6.2.2 of the PPA, for which Vedanta is liable to be re-imbursed with actual expenditure by GRIDCO. The Commission, vide an order dated 13.02.2024 passed in Case No. 112 of 2023 and Case Nos.99 of 2023, has already allowed such costs to OPGC. Thus, M/s. Vedanta Ltd. (*being a similar placed generator such as OPGC*), ought to be allowed the additional expenditure incurred by it towards fly ash disposal/ transportation, in terms of the directions of the Central Government.
- m) Since the fly ash disposal is a continuous process, Vedanta will continue to incur expenditure on account of the aforesaid events. Thus, Vedanta ought to be reimbursed with the costs associated with fly ash disposal, on actual basis. The total ash stored in ponds is ~3.69 million tonnes which is to be utilized /disposed of by Vedanta. The tentative monthly Ash generation corresponding to the State share of power supply is ~1,30,000 tonnes which is being mandatorily disposed of by Vedanta.
- n) M/s. Vedanta Ltd. is making all possible efforts towards fly ash disposal, in order to comply with the directions issued by the Central Government. After the issuance of the MoP advisory, Vedanta has been taking following steps towards the fly ash utilization:
 - i. Vedanta has supplied fly ash towards fly over embankments;
 - ii. Vedanta has been supplying Fly ash to ash brick plants, cement manufacturing plants, ready mix concrete, asbestos industries, and construction of roads;
 - iii. Vedanta has extensively utilized fly ash for filling low lying areas and stone quarries;
 - iv. Vedanta is further exploring the opportunity for getting approval from Mahanadi Coalfields Limited (MCL) regarding mines void filing;

- v. Vedanta is also exploring the opportunities for additional avenues like supply of ash for construction of roads under National Highway Authority of India (NHAI).
- o) As per Section 86 of the Electricity Act, 2003, particularly Section 86(1)(b), this Commission is statutorily empowered to regulate the price at which the electricity shall be procured by the distribution licensee. Further, as per Section 61(d) of the Electricity Act, 2003, there has to be an actual recovery of cost of generation of electricity. When the said provisions are read with Clause 6.2.2 of the Consolidated PPA dated 19.12.2012 which allows reimbursement of costs to Vedanta, then this Commission can allow the additional expenditure incurred by Vedanta in terms of the notification dated 31.12.2021 of MOEF&CC and subsequent advisory dated 22.02.2022 of the MoP.
- p) It is settled law that in matters related to tariff, the principles of res-judicata do not apply. This has been settled by the Hon'ble Supreme Court in *U.P. Power Corporation Ltd. v. NTPC Ltd.*, reported in (2009) 6 SCC 235. The relevant portion of the said judgment is quoted hereinbelow:

“35. *Revision of a tariff must be distinguished from review of a tariff order. Whereas Regulation 92 of the 1999 Regulations provides for revision of tariff, Regulations 110 to 117 also provide for extensive power to be exercised by the Central Commission in regard to the proceedings before it.*

36. *Having regard to the nature of jurisdiction of the Central Commission in a case of this nature, we are of the opinion that even principles of res judicata will have no application.*

37. *There cannot be any doubt whatsoever that while a tribunal or a court exercises adjudicatory power, although provisions of Section 11 of the Code of Civil Procedure are not applicable but the general principles of res judicata may be applicable as has been held by this Court in a consolidation matter in Sri Bhavanarayanadaswamivari Temple v. Vadapalli Venkata Bhavanarayana Charyulu [(1970) 1 SCC 673] (SCC pp. 676-77, para 8), in a labour matter in Bharat Barrel and Drum Mfg. Co. (P) Ltd. v. Employees Union [(1987) 2 SCC 591 : 1987 SCC (L&S) 113] (SCC pp. 597-99, paras 9-11), in a rent control matter in Vijayabai v. Shriram Tukaram [(1999) 1 SCC 693] (SCC p. 701, para 14), in a writ petition in Forward Construction Co. v. Prabhat Mandal [(1986) 1 SCC 100] (SCC p. 112, para 20), and in an arbitration proceeding in K.V. George v. Water and Power Deptt. [(1989) 4 SCC 595] (SCC p. 602, para 16), whereupon strong reliance has been placed by Mr Gupta, but such a question does not arise herein. Moreover, such a point having never been raised before the Central Commission or the*

Appellate Tribunal, we are of the opinion that even otherwise the said argument should not be permitted to be raised before us for the first time.”

- q) Thus, based on the aforesaid principle, it is clear that there is no bar upon this Commission to adjudicate the present petition under Section 86 of the Electricity Act, 2003. Additionally, Clause 6.2.2 of the Consolidated PPA dated 19.12.2012 specifically mandates the re-imburement of costs by GRIDCO towards any kind of financial imposition by the Central Government, upon Vedanta. Thus, in terms of the above clause, read with Section 86(1)(b) of the Electricity Act, 2003, this Commission can allow re-imburement of the cost incurred by Vedanta towards fly-ash disposal, in the present petition.
- r) The quantity of ash generated is corroborated from the coal consumed /burnt in Unit-II of Vedanta’s IPP. In compliance to OERC Tariff Regulations and the earlier orders of this Commission, Vedanta has been furnishing month wise Form-15 details, which comprises of quantity of coal consumed, Coal GCV after moisture correction, rate of coal, and transportation charge of coal consumed for supply of power to GRIDCO. In addition to form-15, a third-party coal quality certificate is also being furnished to GRIDCO for each month. The coal quality certificate comprises details of Ash content in coal, moisture content, and GCV of coal. Further, Vedanta also furnishes the Auditor Certificate of form-15 to GRIDCO containing coal consumption details and on the basis of such certificates, the detailed computation of ash generation is certified in a transparent manner.
- s) The expenditure of fly ash disposal/ transportation, as claimed, deserves to be allowed at this stage itself, as without such allowance, it will be commercially unviable for Vedanta to continue supply power under the PPA. Further, this Commission has granted similar reliefs to other thermal power generators in the State (such as OPGC). Hence, Vedanta ought to be given a similar treatment qua actual cost pass through due to fly ash disposal/ transportation. As regards the calculation of fly ash disposal/ transportation by GRIDCO to the tune of 26.33 paise/kWh is not to be considered as a benchmark rate for Ash transportation, as the same varies on the basis of the content of ash (%) in coal and corresponding power units (in kwh) supplied. Furthermore, GRIDCO in its calculation considered net power supplied instead of gross generation (in kWh).
- t) M/s. Vedanta Ltd. is only claiming the cost of Ash disposal to the extent of power supplied to GRIDCO on the basis of the auditor’s certificate qua coal consumption

details for Unit-II. The Fly ash evacuation facility in ash handling plant is separate for each unit, however the bottom ash (*which constitutes only 20% of total Ash generated*) gets mixed in the dewatering bin and pumped to the Ash ponds through pumps. Fly ash constitutes more than 80% of total Ash generation which is accumulated in respective terminal silos of each unit. From such terminal Silos, Fly Ash is loaded into trucks and bulkers for transported to the disposal sites. The percentage of ash generation is evident from the third-party coal quality certificate issued on a month basis. The quantity of ash generated during the period FY 2019-20 to FY 2023-24 is determined based on the third-party coal quality certificate being issued by Quality Council of India (QCI). The QCI report tests the percentage of ash content, heat content (calorific value), and moisture content in the coal samples picked up from the coal rake. The details of linkage coal consumed from FY 2019 to FY2023-24 by Vedanta, have been verified on the basis of form-15.

- u) Further, the total Ash generated and accumulated in temporary Ash Ponds as of March, 2024 is determined as 2751681 MT and Ash utilized in low lying area of Jharbeda kutra is 7,30,866 MT till March 2024. For Highway road construction 3,61,958 MT of ash is utilised in December,2023 and January, 2024. Vedanta has no objection to provide all the details (*to the extent necessary*) to GRIDCO for the purpose of seeking re-imburement of actual costs incurred towards the fly ash disposal/transportation.
- v) M/s. Kalyani Transco Pvt ltd has expressed its willingness to transport ash 5 lakh MT per month by way of SOW. M/s. Vedanta Ltd. in the 1st tranche awarded a service order for 2 lakh MT for disposal.
- w) Thus, keeping in mind the substantial monetary impact which continues to accrue upon Vedanta (*thereby bringing it to a financially dire state*), this Commission may kindly allow the above pass through on monthly basis, which can be subjected to adjustments at the time of truing up of costs of Vedanta.
- x) **Computation of monthly Ash generation from unit#2 IPP (600 MW)**
 - i) As per the order dated 27.01.2016 of this Commission passed in Case No.21 of 2015, the coal used for generating power for State entitlement shall be linkage coal / captive mines allocated to the Petitioner for State use. That means, the supply of power to State shall be from linkage coal allocated to Vedanta under Fuel Supply Agreement (FSA) dated 27.08.2013 with Mahanadi Coalfields Limited (MCL). Further, GRIDCO was also allowed to procure power beyond

the power generated from linkage coal up to the State's entitlement by allowing to pass through the cost of additional coal. As such, the State's share of power is being generated by utilizing linkage coal and any additional power (if procured by GRIDCO) is being supplied by using additional coal. Now, M/s. Vedanta Ltd. is not claiming any additional cost towards disposal of Ash generated during the tariff period from FYs 2009-2014 and FYs 2014-2019.

- ii) In terms of the power being generated for ex-bus supply to GRIDCO, the actual net energy quantum supplied to GRIDCO is verified and recorded in PAFM Statement issued by the State Load Despatch Centre (SLDC) and the Auxiliary Energy Consumption (AEC) equivalent to normative AEC as notified under OERC Generation Tariff Regulations notified from time to time shall be considered for gross generation of power from Unit#2. As such quantum of energy generated for supply to GRIDCO is solely through linkage coal, the relevant details of the said coal, such as, opening stock of linkage coal as on 1st date of the month, quantity of coal procured in that month, weighted average rate of coal, weighted average GCV of coal procured and closing stock of linkage coal of last date of the month are mandatorily to be provided by the Petitioner to GRIDCO in Form-15 format as notified under the OERC Generation Tariff Regulations, 2020. The details of Form-15, in terms of the said Tariff Regulations, are duly audited by a third party Chartered Accountant firm based on the coal invoices issued by MCL.
- iii) As per 1st proviso Regulation 3(ff) of the OERC Generation Tariff Regulations, 2020, the measurement of coal has to be carried out through sampling by third party to be appointed by the generating companies in accordance with the guidelines, if any, issued by the Central Government/Commission Accordingly, the measurement of GCV of coal and other residuals in coal is being carried out by a third party, namely 'Quality Council of India' (QCI), as per the Tripartite Arrangement between M/s. Vedanta Ltd., MCL and QCI. The QCI collects samples from the rakes of coal being supplied by MCL, and thereafter submits a report which contains (i) Measurement of GCV of coal; (ii) Ash Content (in %) and Moisture Content (in %).

- iv) Based on the above data, M/s. Vedanta Ltd. is computing the total monthly Ash generation from Unit#2 in a transparent and reliable manner. For reference, the computation of Ash generation of February, 2024 is demonstrated hereunder:

Month	Energy Supplied to GRIDCO as per SLDC PAFM inclusive Normative Auxiliary Energy Consumption of Unit#2	Linkage coal (MT) consumed as per FORM-15	Wt Avg GCV (kCl/kg) as per QCI report	Ash % as per QCI report	Total Ash generation (MT)
Feb-2024	359.9 Mus	269729	3347	41	110813

y) **Future plan for 100% Ash disposal as per MOEF Notification.**

- i) In terms of the Notifications dated 31.12.2021 and its subsequent amendments dated 30.12.2022 and 01.01.2024, the Central Government (MOEF&CC), has mandated Thermal Power Plants (TPPs) to utilise the ash for the following eco-friendly purposes:

- Fly ash-based products viz. bricks, blocks, tiles, fibre cement sheets, pipes, boards, panels;
- Cement manufacturing, ready mix concrete;
- Construction of road and fly over embankment, Ash and Geo-polymer-based construction material;
- Construction of dam;
- Filling up of low-lying area;
- Filling of mine voids;
- Manufacturing of sintered or cold bonded ash aggregate;
- Agriculture in a controlled manner based on soil testing;
- Construction of shoreline protection structures in coastal districts;
- Export of ash to other countries;
- Any other eco-friendly purpose as notified from time to time.

For the purpose of complying with the above, the Ministry of Power, Government of India had earlier issued the Procedure dated 22.02.2022 and thereafter, issued Guidelines dated 15.03.2024.

- ii) The total estimated ash to be generated from Unit#2 IPP during FY 2024-25 is approximately ~1.3 MnT. As per MoP Guidelines dated 15.03.2024, 20% of estimated ash generation is to be reserved for sale through limited auction

process for Micro and Small Enterprises (MSE) who are engaged in manufacturing of ash-based products. On the basis of the same, M/s. Vedanta Ltd. shall keep reserve ~0.25 MnT of dry Fly Ash for sale to MSEs. Further, 60 percent of Balance ~1.05 MnT Ash shall be offered for sale to all user of Ash who are having valid Consent to Operate (CTO) for utilisation of Ash in an environment friendly manner as per MOEF norms. Thereafter, the Balance 20% of ash shall be disposed of in road & highway construction projects, fly over embankments within the 300 Kms. radius of the Plant.

- iii) The details of Ash generated and disposal cost from Units-1, 3 & 4 (CGP Units) from November, 2023 to March, 2024 and Unit#2 (IPP Unit) is as follows;

Thermal Units	Units-1, 3 & 4	Unit-2
Particulars	Per Unit Ash Transportation charges (Paisa/Kwh)	Per Unit Ash Transportation charges (Paisa/Kwh)
Gross Generation (MU)	4834	1541
Coal consumed (MT)	3354240	1165157
Ash (%)	43%	42%
Ash Generated (MT)	1442323	483948
Ash Cost (Rs Cr.)	93.05	29.36
Ash Cost P/kWh	19	19

- iv) The western part of Odisha is hub of major thermal power plants having combined capacity of more than ~15000 MW excluding Steel and Sponge Iron industries having own CGPs. The enormous thermal generation capacity located in western part of Odisha makes it abundant in availability of ash generated by these thermal plants and consequently, disposal of ash within the vicinity of 300 Kms. area is highly competitive among all the generators. Hence, availability and consent for disposal of ash in the allocated avenues are limited. Thus, M/s. Vedanta Ltd., despite making best efforts, has no choice for disposal avenues based on distance from the plant. However, M/s. Vedanta Ltd. is looking for a long-term arrangement of disposal of ash in cement industries and other firms/industries for which it has already applied to appropriate authorities to get permission for disposal of ash in environmentally friendly manner.

3. The submissions of the Respondent-GRIDCO, in brief, are as stated hereinafter:
- a) GRIDCO, vide Appeal No.673 of 2023, has challenged the CERC Order dated 28.10.2022 in Petition No.205/MP/2021 (In the matter of recovery of Ash

Transportation Charges) and the matter is now sub-judice before the Hon'ble APTEL. At present, GRIDCO is making reimbursement of Ash Transportation Costs to NTPC without prejudice and under protest, in respect of power procured from different Central Generating Stations (CGSs) of NTPC proportionate to the scheduled/actual energy supplied. The Commission in the ARR & BSP Order of GRIDCO dated 23.03.2023 has allowed the Ash Transportation Charges of NTPC as pass-through for FY 2023-24 and in the ARR Order of GRIDCO dated 13.02.2024 for FY 2024-25, the Commission has approved Ash Transportation Charges payable to NTPC Stations and OPGC. However, the position of the Petitioner Vedanta is different from NTPC/ CGSs and State Dedicated Generating Stations. In case of M/s. Vedanta Ltd., there are two beneficiaries of power plant (having one IPP unit dedicated to the State and three CGP Units) i.e. the State of Odisha/ GRIDCO and the Petitioner itself.

- b) The submissions of Respondent-GRIDCO in the present case are without prejudice to its stand in Appeal No.673 of 2023 which is sub-judice before Hon'ble APTEL, challenging the CERC Order dated 28.10.2022 in Petition No. 205/MP/2021 in the matter of reimbursement of Ash Transportation Cost of Central Generating Stations.
- c) M/s. Vedanta Ltd., vide its Multi-Year Tariff (MYT) Application for the control period 2019-24, in Case No.20 of 2020, had claimed Ash transportation Charges of Rs.690.61 Cr. for the period from FY 2019-20 to FY 2023-24. The Commission, vide Order dated 26.12.2023 in Case No. 20 of 2020, had observed that *“it would not be proper to take any decision in absence of adequate documentary evidence for proposed expenditure and consider the same for determination of generation tariff. However, after prudent check, the Commission will appropriately consider to pass through the above expenditure at the time of truing up exercise for the period FY 2020-24 subject to audit by an independent auditor.”* Thereafter, M/s. Vedanta Ltd., vide its letters dated 29.01.2024 & 15.02.2024, has claimed Ash Transportation Charges of Rs.8.32 Cr. for the period 1st to 15th Nov'2023 and GRIDCO, vide letter dated 22.03.2024, intimated M/s. Vedanta Ltd. for consideration of this claim after approval by OERC in truing up exercise for the period from FY 2019-20 to FY 2023-24.
- d) The Ministry of Environment, Forest and Climate Change (MOEF&CC), Government of India has issued guidelines for 100% Ash Utilization by Thermal

Generating Plants vide various Notifications dated 14.09.1999, 27.08.2003, 03.11.2009, 25.01.2016, 31.12.2021, 30.12.2022 and 01.01.2024. Though the MOEF&CC, GoI, has issued various notifications since the year 1999 for 100% ash disposal by the thermal power plants, no step has been taken by M/s. Vedanta Ltd. pursuant to those Notifications since the commercial operation of Unit #2 (600MW) in November 2010. M/s. Vedanta Ltd. initiated steps for ash disposal off late in June, 2023 by floating Expression of Interest (EOI) for transportation of fly ash from IPP Unit (#2:600MW) after issuance of Notification dated 30.12.2022 of the MoEF&CC and the Guidelines dated 22.02.2022 of the Ministry of Power, GoI. Had M/s. Vedanta Ltd. taken steps for ash disposal from the very beginning as per the notifications of the MOEF&CC, GoI, there would not have been such a huge burden on the consumers of the State. The consequences of failure of M/s. Vedanta Ltd. to comply with the mandate of the earlier MoEF Notifications cannot be passed on to the beneficiaries like GRIDCO and ultimately to the Consumers of the State as such.

- e) Further, based on the MoEF&CC Notification dated 31.12.2021 and its subsequent amendments, the Ministry of Power, Government of India, on 15.03.2024, has issued Guidelines for Thermal Power Plants (TPPs) for utilization fly ash with the objective to ensure 100% utilization of ash with least burden on the electricity consumers and the said Notification is in super-session of guidelines issued on 22.02.2022. The salient features of the aforesaid latest MoP Notification dated 15.03.2024 are as follows:
- i) Prior to the start of the annual ash disposal process, TPPs shall declare the quantity of ash available for issue in a year.
 - ii) TPPs shall invite bids on annual basis or for longer period but not more than 3 years specifying issuable quantity.
 - iii) TPPs shall conduct 'Limited Auction' (Bid threshold of 50 Tones) for Micro and Small Enterprises (MSEs) having valid 'Consent to Operate (CTO)' issued by CPCB/SPCBs or with a valid MSE Registration and 'Open Auction' (Higher bid threshold) for all users of ash separately.
 - iv) For the first year of Limited Auction, 20% of issuable quantity shall be reserved for (MSEs) and for subsequent years, the reserved quantity shall be 1.10 times the highest quantity issued up to the previous three years to these MSEs

- v) The floor price for limited auction shall be 50% of lowest price of last Open Auction subject to minimum floor price of Rs 1.00/MT.
- vi) Balance Ash after Limited Auction is to be utilized through Open Auction.
- vii) After auction, the un-utilized ash shall be given free of cost through open Expression of Interest (EOI), if the user agency is willing to bear transportation costs.
- viii) Even after the steps taken above, if the ash remains un-utilised, TPPs shall serve notice (with a copy to the SPCB) to the nearest user agencies engaged in construction activities and mine owners located within 300 kms radius of TPPs to use ash mandatorily and deliver ash free of cost bearing the cost of transportation.
- ix) Even after the steps taken above, if the ash remains unutilized, TPPs may give the ash on mutually agreed terms to the user agencies in a transparent manner to comply with the MoEF&CC Notification.
- x) TPPs shall prepare a panel of transportation agencies every year based on competitive bidding for transportation to Road projects/ embankments/mines in slabs of 50 kms and TPPs shall call for bids well in advance so, that the transporter panel is in place as soon as the previous panel expires.
- xi) Appropriate Commission shall scrutinize any expenses regarding ash utilization proposed to be pass through in tariff by the GENCO in accordance with these guidelines by ensuring less burden on electricity consumers, while GENCO fully complies with the MoEF&CC Notification.
- f) From the quantum of power supplied in a month and the data provided by the Petitioner have been compiled hereunder:

Month	Quantum of power supplied by Vedanta (in MU)	Quantum of power supplied by Vedanta (in MW)	Linkage Coal Consumed (In MT)	Ash %	Monthly Ash Generated as per E-mail dated 10.04.2024 of Vedanta (In MT)
Apr-23	201.63	280.05	160580	43%	69666
May-23	218.10	293.15	181129	42%	76404
Jun-23	198.51	275.71	171149	42%	72082
Jul-23	177.86	239.07	159011	42%	66254
Aug-23	114.02	153.26	106595	43%	45968
Sep-23	212.95	295.76	193554	42%	80951
Oct-23	222.93	299.64	186166	43%	80260

Nov-23	234.26	325.36	198696	43%	85706
Dec-23	258.88	347.95	209193	42%	86952
Jan-24	262.04	352.21	208405	41%	85828
Feb-24	336.25	483.11	269729	41%	110813
Mar-24	336.36	452.09	279134	41%	114649
Total/Avg.	2773.82	316.45	2323341		975533

- g) The Petitioner-M/s. Vedanta Ltd. may be directed to follow the procedure laid down in recent Notification dated 15.03.2024 of the Ministry of Power, GoI. Accordingly, the Petitioner shall have to prepare a panel of transportation agencies every year based on competitive bidding for transportation to Road projects/embankments /mines in slabs of 50 Kms. and shall call for bids well in advance, so that the transportation panel is in place as soon as the previous panel expires.
- h) M/s. Vedanta Ltd. was earlier taking the plea of slippage in Grade of GCV of linkage coal leading to insufficient Annual Contracted Quantity of Linkage Coal available under the FSA and contending that as a consequence it was not able to generate full Ex-bus generation of power from its Unit#2 to supply power to GRIDCO. The inability of M/s. Vedanta Ltd. to dispose of the ash generated from the IPP unit has become the root cause of non-supply/short supply of power and a matter of grave concern for GRIDCO. Out of the four 4 x 600 MW Units, Vedanta always keeps one Unit under shut down i.e. most of the time the State dedicated IPP Unit remains out of operation so that other three Units can run at full Capacity and its captive consumption at its SEZ's Smelter can be smoothly met/catered. Further, though no stay order has been obtained by the petitioner against order dated 03.05.2023 of this Commission in Review Petition No.129 of 2021, the petitioner is not scheduling/supplying any power from its converted CGP Units when the State dedicated IPP Unit is short/not supplying power as per the Commission's Order dated 27.01.2016 and safeguards its own interest by meeting its Captive Demand from converted CGP Units. If Vedanta would have supplied RTC Full Ex- bus power from Unit #2 (600 MW), such power could have been used to meet State demand and high-cost power could have been traded in the market (as directed by the Commission in the ARR orders of GRIDCO from time to time), when market price hovers around Rs.10/kWh, to reduce the revenue gap/loss incurred by GRIDCO.

- i) As on date there is no benchmark illustrative calculation in respect of Ash generation by different unit size of thermal power plants. However, from Third Party GCV Sampling report submitted and data furnished by Vedanta, it is observed that ash content in coal consumed and ash generated from Unit#2 (600 MW) are almost close to each other i.e. 40% to 43%. The Commission may consider to incorporate appropriate provisions in the Regulations to be notified for the ensuing block period FY 2024-29 for expenses to be incurred towards Ash Transportation Costs beyond 31.03.2024.
- j) The Ash Transportation Charges incurred for FY 2019-20 to FY 2023-24 by Vedanta may be considered by the Commission at the time of the Truing up exercise, subject to prudent check of all supporting documents to be filed by Vedanta before the Commission, as mentioned in order dated 26.12.2023 passed in Case No. 20 of 2020.
- k) The present application of the Petitioner-M/s. Vedanta Ltd. is for reimbursement of Ash Transportation Charges w.e.f. November, 2023 onwards. As per the claim of M/s. Vedanta Ltd. made vide invoice dated 29.01.2024 the per Unit transportation cost comes around 26.33 Paise /kWh, whereas the per unit Ash Transportation Cost in respect of other Central Generating Stations (CGS) located within the State of Odisha are as mentioned below.

Name of Thermal Stations	Per Unit Ash Transportation Charges (Paise /kWh)	Per Unit Ash Transportation Charges (Paise /kWh)	Per Unit Ash Transportation Charges (Paise /kWh)
	FY 2021-22	FY 2022-23	FY 2023-24 (upto Feb'24)
TSTPS-I		4.38	8.98
TSTPS-II		4.88	8.95
DSTPS-I		6.66	19.51
OPGC Stage I	13.56	14.01	
OPGC Stage II	Open Tender floated for Fly Ash Transportation through dedicated rake from OPGC silo for 14 years by an agency and contract is for Rs.400 per MT incl. GST for distance of 277 Kms.		

- l) M/s. Vedanta Ltd. has submitted data/information pertaining to ash generation and transportation in respect of Unit #2 (IPP Unit) only. As per the existing PPA dated 19.12.2012, Orders dated 27.01.2016 and 03.05.2023 of this Commission (in Case

No. 21 of 2015 and 129 of 2021), the Respondent has entitlement from all four Units of the Petitioner's power plant.

- m) Further, the Commission determines the tariff of entire power plant of the Petitioner and the proportionate Annual Fixed Charge (AFC) is fixed for State dedicated IPP Unit #2. Therefore, GRIDCO proposes for consideration of similar principle to be adopted for reimbursement of Ash Transportation charges. From the total Fly Ash Transportation Cost, the proportionate charges with respect to scheduled/ actual power supplied to GRIDCO shall be reimbursed by the Respondent-GRIDCO subject to pass on of the same in tariff. Hence, the information pertaining to management of ash disposal for the entire power plant, including the CGP Units (#1, #3 and #4) are essential.
- n) As submitted by the Petitioner, each Unit has a separate Fly Ash evacuation system in Ash handling plant. The bottom ash (which constitutes only 20% of the total Ash generated) get mixed in dewatering bin and pumped to the Ash ponds through Geho pumps. Fly ash constitutes more than 80% of total Ash generation which is accumulated in respective terminal silos of each unit and from such terminal silos, Fly Ash loaded into trucks and bulkers for transportation to the disposal sites. Therefore, the claim of reimbursement of Fly Ash Transportation cost is to be limited to 80% of total Ash generation from IPP Unit. Thus, the claim for Nov'2023 made by the Petitioner for reimbursement of Fly Ash Transportation Charges of Rs.8.32 Cr. is not correct.
- o) Based on Ministry of Power notification dated 15.03.2024, the Petitioner shall have to prepare a panel of transportation agencies for period not more than 3 years based on competitive bidding for transportation to Road projects/ embankments/mines in slabs of 50 Kms. and TPPs shall call for bids well in advance so, that the transportation panel is in place as soon as the previous panel expires. Further, Appropriate Commission shall scrutinize any expenses regarding ash utilization proposed to be pass through in tariff by the GENCO in accordance with these guidelines by ensuring less burden on electricity consumers, while GENCO fully complies with MoEF &CC Notification.
- p) In respect of reimbursement of fly ash transportation charges to the Petitioner-M/s. Vedanta Ltd. with effect from November, 2023 is concerned, without prejudice to Appeal of GRIDCO sub-judice before Hon'ble APTEL (Appeal No. 673 of 2022),

the Respondent GRIDCO shall reimburse the said cost subject to submission of required and pertinent information by the Petitioner and such reimbursement may be considered by the Commission to be allowed as pass through in the ARR of GRIDCO. For consideration of transparent methodology for reimbursement of actual monthly ash transportation charges, the following data are required:

- Total monthly cost incurred for Transportation of Ash from the power plant of the Petitioner;
 - Total quantity of coal consumed in IPP Unit-2 and three CGP units in a month;
 - Ash content of coal consumed in IPP Unit-2 and CGP Units in %;
- q) The calculation of amount of fly ash transportation charges payable by the Respondent GRIDCO should be in the following manner:
- The calculation shall be considered on monthly cumulative basis;
 - The proportionate ash transportation charges actually incurred for a month in respect of GRIDCO and Vedanta shall be derived by considering scheduled/actual generation and the % of ash content of coal consumed by IPP and CGP Units;
- r) The following documents/information are required along with the monthly claim for reimbursement of ash transportation charges:
- i. Certified copy of total Ash Transportation Cost incurred by the petitioner for its entire power plant with all supporting documents & consolidated statement of expenses;
 - ii. Certified monthly Form-15 data in respect of coal consumption by petitioner's CGP Units along with the % of ash content of coal;
 - iii. Any other relevant data pertaining to ash transportation charges;
- s) As regards the future plan for 100% ash disposal as per the MoEF&CC, GoI Notifications from time to time, the Petitioner may be directed to strictly follow its plan and take timely action to avoid any kind of non-compliance to the MoEF&CC Notifications and adhere to the recent Ministry of Power, GoI Notification dated 15.03.2024 in letter and spirit.

- t) In view of the aforesaid submissions and data regarding ash transportation charges incurred by the thermal stations within the State, the claim of the Petitioner-M/s.Vedanta Ltd. for reimbursement of Ash Transportation Charges may be prudently verified and accordingly decided by the Commission as per the provisions of OERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020. Without prejudice to the stand of GRIDCO in Appeal No. 673 of 2023, the Respondent-GRIDCO shall reimburse the ash transportation charges to the Petitioner from November, 2023 onwards subject to verification of all supporting documents as per direction of the Commission, so as to reduce the frequency of outage of IPP Unit and avail full Ex- bus capacity from this unit dedicated to the State and the Commission may consider to allow such reimbursement of ash transportation charges as pass through in the ARR of GRIDCO. Further, the Commission may consider to allow GRIDCO to reimburse the Ash Transportation Charges to Vedanta on a monthly basis after prudent verification/scrutiny based on all supporting data/documents certified by Statutory Auditors, to be provided by Vedanta.
4. Heard the parties through hybrid mode of arrangement and their written notes of submissions are considered. We observe that:
- a) The Petitioner M/s. Vedanta Ltd. is having a 4x600 MW TPP, out of which Unit-II (1x600 MW) operates as an IPP and 3x600 MW operate as CGP. As per the PPA dated 19.12.2012 executed with the Respondent-GRIDCO, the Petitioner has to supply 30% (25% fixed cost & variable cost + 5% at variable cost) of the net energy sent out from the 4x600 MW TPP or the total generation of the IPP-Unit-2 (600 MW), whichever is higher, to GRIDCO towards State entitlement of power.
- b) As per the Notifications dated 31.12.2021 and amended Notification dated 30.12.2022 issued by the MoEF&CC, GoI and subsequent Statutory Advisory dated 22.02.2022 issued by the MoP, GoI, providing detail procedure to be followed by the TPPs for fly ash disposal, the Petitioner M/s. Vedanta Ltd. has engaged M/s. Kalyani Transco Pvt. Ltd. through a competitive bidding process for transport of fly ash generated from the TPP to the designated area. Accordingly, M/s. Kalyani Transco Pvt. Ltd. has started transporting the fly ash accumulated in the Fly Ash Silos of the generating units of the TPP of the Petitioner to the designated low-lying areas near Jharbeda Kutra and for highway construction site

(located more than 100 Kms from the power plant) from November, 2023. Accordingly, the Petitioner had raised an invoice of Rs.8.32 crore on GRIDCO for reimbursement towards fly ash disposal charges during the period from 01.11.2023 to 15.11.2023. The Petitioner has filed the present petition as the said amount has not been paid by the Respondent-GRIDCO.

- c) The Petitioner-M/s Vedanta Ltd. has submitted that as per Clause No. 6.2.2 of the PPA dated 19.12.2012, all statutory charges of any kind (taxes, levies, duties, royalty, cess etc.) imposed by any Govt. (Central/State) and/or any other local bodies/authorities on generation of electricity including auxiliary consumption or any other type of consumption including water, environment protection, etc. shall be borne and additionally paid by the beneficiary in a proportionate manner. Accordingly, the aforesaid expenditure towards fly ash transportation/utilization shall be reimbursed from the beneficiary (here, the GRIDCO Ltd.) on actual basis.
- d) Since the notifications issued by MoEF&CC, GoI and the advisory/guidelines issued by the MoP, GoI are statutory in nature and enforce measures to guarantee 100% utilization of fly ash, setting clear deadlines and in view of distinct obligations in PPAs, the TPPs must abide by the same and accordingly the expenses on account of fly ash transportation/utilization shall be recovered from the beneficiaries. This Commission, vide its earlier order dated 13.02.2024, has allowed OPGC to claim such expenses from GRIDCO and the same shall be reimbursed by the beneficiary GRIDCO after prudent check of the relevant supporting documents. Further, in the ARR & BSP order of GRIDCO for FY 2023-24 and 2024-25, the Commission has also allowed the ash transportation charges payable by GRIDCO to the NTPC's stations. Accordingly, such statutory expenses incurred by the Petitioner-M/s. Vedanta Ltd. towards transportation/ utilization of fly ash should be reimbursed by GRIDCO to the extent of fly ash generation of the IPP Unit-2.
- e) According to GRIDCO, the position of the Petitioner's TPP is different from NTPC/ CGSs as well as the State Dedicated Generating Stations in respect of determination of the fly ash transportation cost. In case of the Petitioner's TPP (having one IPP unit dedicated to the State and three CGP Units), there are two beneficiaries i.e. the State of Odisha/ GRIDCO and the Petitioner itself. As per the existing PPA dated 19.12.2012, Orders dated 27.01.2016 and 03.05.2023 of this

Commission (in Case No. 21 of 2015 and 129 of 2021), GRIDCO has entitlement from all four Units of the Petitioner's power plant. Further, the Commission determines the tariff of power plant of the Petitioner and the proportionate Annual Fixed Charge (AFC) is fixed for State dedicated IPP Unit #2. Therefore, the same principle should be adopted for computation of Ash Transportation charges and from the total Fly Ash Transportation Cost, the proportionate charges with respect to scheduled/ actual power supplied to GRIDCO shall be reimbursed by it.

- f) Further, the submission/contention of GRIDCO is that the bottom ash (which constitutes only 20% of the total Ash generated) get mixed in dewatering bin and pumped to the Ash ponds through Geho pumps. Fly ash constitutes more than 80% of total Ash generation which is accumulated in respective terminal silos of each unit and from such terminal silos, Fly Ash is loaded into trucks and bulkers for transportation to the disposal sites. Therefore, the claim of reimbursement of Fly Ash Transportation cost is to be limited to 80% of total Ash generation from IPP Unit.
- g) The Petitioner-M/s. Vedanta Ltd., in its Multi-Year Tariff (MYT) Application (Case No.20 of 2020) for the control period 2019-24, had claimed Ash transportation Charges of Rs.690.61 Cr. for the period from FY 2019-20 to FY 2023-24 without relevant supporting documents in favour of its claim. Therefore, the Commission, vide Order dated 26.12.2023 in Case No. 20 of 2020, had not approved the same with the observation that *“it would not be proper to take any decision in absence of adequate documentary evidence for proposed expenditure and consider the same for determination of generation tariff. However, after prudent check, the Commission will appropriately consider to pass through the above expenditure at the time of truing up exercise for the period FY 2020-24 subject to audit by an independent auditor.”*
- h) In Appeal No.673 of 2023, GRIDCO has challenged the CERC Order dated 28.10.2022 in Petition No.205/MP/2021 in the matter of recovery of Ash Transportation Charges and now the matter is sub-judice before the Hon'ble APTEL. However, at present, GRIDCO is making reimbursement of Ash Transportation Costs to NTPC Generating Stations without prejudice to its stand at Hon'ble APTEL and under protest, proportionate to the scheduled/actual energy supplied. In the present case, without prejudice to its stand in the aforesaid Appeal

No.673 of 2023 before the Hon'ble APTEL, GRIDCO has also agreed for reimbursement of actual monthly ash transportation charges in respect of IPP Unit-2 of M/s. Vedanta Ltd. subject to a transparent methodology for computation of such charges and verification of all supporting documents as mentioned in its submission. Further, the Petitioner M/s. Vedanta Ltd. has also no objection to provide all the details (to the extent necessary) to GRIDCO for the purpose of reimbursement of actual cost incurred by it towards Fly Ash disposal/transportation.

5. In view of the above, we find that in this case the dispute between the Petitioner-M/s. Vedanta Ltd. and the Respondent-GRIDCO Ltd. is only on estimation of quantum of fly ash generation and determination of fly ash transportation charges corresponding to the drawal of State's share of power by GRIDCO. The Fly Ash constitutes about 80% of total Ash generation which accumulates in respective terminal fly ash silos of each unit and gets transported therefrom. The share of GRIDCO in fly ash transportation cost should be paid to M/s. Vedanta on monthly basis because huge expenditure in this regard will affect cash flow of the Petitioner if it is reimbursed after a longer period. GRIDCO would also be benefitted by avoiding payment of carrying cost relating to the claim of M/s. Vedanta. We are of the view that the transportation cost of fly ash per ton from each generating unit would be averaged out since the fly ash of all the generating units taken together is transported to the multiple destinations. Therefore, transportation cost per ton should be found out from the monthly transportation bill of fly ash transported from the power plant i.e. from all the units taken together which shows total cost incurred by M/s. Vedanta in this regard. Then the amount of fly ash generated from the IPP Unit-2 and deposited in its silo is to be measured for a month. If there is no mechanism for such measurement then normative quantum of ash generation of the IPP Unit-2 should be found out based on the quantum of power generated from Unit-2 in a month, normative station heat rate, GCV of Coal and ash content of the coal used. Accordingly, the charges for fly ash transportation for a month shall be calculated and claimed by M/s. Vedanta Ltd. corresponding to State's share of power considering the transportation cost per ton of fly ash and amount of fly ash generated from Unit- II in a month as stated above GRIDCO shall reimburse the same after verification of the relevant documents required for this purpose, subject to yearly conciliation at the end of the year basing on the audited accounts and end user certificate. The Petitioner- M/s. Vedanta Limited is directed to furnish the required relevant documents along with its monthly claim of fly ash

transportation charges. Needless to mention here that the above reimbursement shall be considered by the Commission during truing up of GRIDCO's account for the corresponding year.

6. From the submission of M/s. Vedanta Ltd. it is found that only about 10,92,824 MT of fly ash generated has been utilized /transported (in low laying area near Jharbeda Kutra and for construction of Highway) by March, 2024 against 27,54,681 MT of fly ash generated & accumulated by March, 2024. As per the submission of GRIDCO, M/s. Vedanta Ltd. has initiated steps for fly ash disposal off late in June, 2023 by floating expression of interest for transportation of fly ash and utilization / transportation of fly ash started in November, 2023. Therefore, the Petitioner-M/s. Vedanta Ltd. is directed to strictly follow the Notifications/Guidelines issued by the MoEF&CC and MoP, GoI from time to time (including recent Notification dated 15.03.2024 of the Ministry of Power, GoI regarding 100% ash disposal) and accordingly, plan and take timely action to avoid accumulation of ash and non-compliance of those Notifications.
7. With the above observations and directions of the Commission, the Case is disposed of.

Sd/-
(S.K. Ray Mohapatra)
Member

Sd/-
(G. Mohapatra)
Officiating Chairperson