



**THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW**

Petition No. 2116 of 2024

QUORUM

Hon'ble Shri Arvind Kumar, Chairman

Hon'ble Shri Sanjay Kumar Singh, Member

IN THE MATTER OF:

Petition for truing-up in compliance of the directive of this Commission vide the Order dated 29.05.2020 in Petition No. 1440 of 2019 for claiming additional recurring/non-recurring expenditure incurred by Dhariwal Infrastructure Limited on account of occurrence of various 'Change in Law' events during the period FY 2023-24.

AND

IN THE MATTER OF

Dhariwal Infrastructure Ltd. (DIL)

CESC House, Chowringhee Square, Kolkata – 700001, West Bengal

..... Petitioner

VERSUS

Noida Power Company Ltd. (NPCL)

Electric Sub-station, Knowledge Park-IV, Gr. Noida, Gautam Buddha Nagar, Uttar Pradesh,
Pin- 201301

..... Respondents

THE FOLLOWING WERE PRESENT

1. Ms. Shikha Ohri, Advocate, DIL
2. Divya Chaturvedi, Advocate, NPCL
3. Ms. Srishti Rai, Advocate, NPCL
4. Shri Abhishek Ananad, Representee, NPCL
5. Shri Ankur Dutt, Representative, NPCL

by





ORDER

(DATE OF HEARING: 25.02.2025)

1. The Petitioner, Dhariwal Infrastructure Limited (DIL), has filed the present petition in compliance to the directives of the Commission in the Order dated 29.05.2020 in Petition No. 1440 of 2019 for truing-up the expenses corresponding to the 'Change in Law' events for FY 2023-24.
2. The Petitioner has prayed the following:
 - a) Admit the instant Petition and allow the trued-up claims of the Petitioner/DIL towards compensation on account of occurrence of 'Change in Law' events for FY 2023-24, in accordance with the directions of this Commission in its Order dated 29.05.2020 in Petition No. 1440 of 2019;
 - b) Approve the payment of ₹ 5.05 Crores (as demonstrated in Table 2) made by the Respondent/NPCL towards the 'Change in Law' events already approved by this Commission vide its Order dated 29.05.2020 in Petition No. 1440 of 2019 and its Order dated 02.08.2022 in Petition No. 1655 of 2020, resulting into increase in cost of coal and freight components of FSA Grade Coal for FY 2023-24;
 - c) Grant liberty to the Petitioner/DIL to approach this Commission with revised trued-up claims under 'Change in Law' events for the previous financial years, viz., FY 2019-20, FY 2020-21, FY 2021-22, FY 2022-23 and FY 2023-24, subject to the outcome of Appeal No. 128 of 2020 presently pending before the Hon'ble Tribunal;
 - d) Allow the Petitioner to continue the same principle for treating the compensation on account of occurrence of 'Change in Law' events and approach this Commission for truing-up of the associated cost for the Tariff Period FY 2024-29, as those laid down by this Commission in Para 120, 121 and 122 of the Order dated 29.05.2020 in Petition No. 1440 of 2019;
 - e) Condone any inadvertent omissions/errors/rounding-off differences/shortcomings and permit the Petitioner/DIL to add/alter this filing and make further submissions as may be required in future; and

57



2



- f) Pass such other Order(s), as this Hon'ble Commission may deem fit and proper, keeping in view the facts and circumstances of the case.

Brief facts as stated in Petition:

3. Petitioner has executed PPA dated 26.09.2014 along-with Addendum dated 04.09.2019 with Respondent for supply of 187 MW of Gross Contracted Capacity from Unit 2 of the DIL's 2 x 300 MW coal based generating station located at Tadali, Chandrapur, Maharashtra to NPCL.
4. DIL had approached the Commission vide Petition No. 1440 of 2019 for claiming compensation on account of occurrence of various 'Change in Law' events resulting into additional recurring/non-recurring expenditure by DIL for the supply of power to the NPCL under the PPA, for the period between FY 2016-17 to FY 2018-19.
5. The Commission vide its Order dated 29.05.2020 in the above Petition No. 1440 of 2019 held as under.

"122. Approaching the Commission every year for allowance of compensation for such Change in Law events which have been allowed in this order is a time-consuming process, which may result in payment of carrying cost, we have, therefore, specified a mechanism, in the following paragraphs, considering the fact that compensation for change in law events allowed in this order shall be paid in subsequent years:

(a) For Change in Law events related to the operation period, the year-wise compensation henceforth shall be payable only if such increase in revenue or cost to the Petitioner is in excess of an amount equivalent to 1% of LC in aggregate for a contract year as per provision of the PPA.

(b) If the Petitioner is eligible to receive compensation for Change in Law with respect to procurement of FSA Grade Coal as per the provisions of the PPA, the compensation amount shall be determined based on the coal consumption corresponding to the scheduled generation to Respondent or the consumption of FSA Grade Coal as per norms of UPERC Tariff Regulations, whichever is lower.

(c) The Petitioner can claim compensation towards Change in Law in monthly supplementary energy bills in respective Financial Year during the MYT Control Period 2019-24. For the purpose of calculation of monthly compensation towards Change in

by





Law, the Cut-off Date shall be considered as approved in this Order and shall be computed from the date of commencement of supply of electricity to the Respondent or from the date of Change in Law, whichever is later.

(d) At the end of each year, during Control Period 2019-24, the Petitioner shall reconcile the actual payment made towards change in law with the books of accounts duly audited and certified by statutory auditor and adjustment shall be made based on the energy scheduled by Respondent during the year. The reconciliation statement duly certified by the Auditor shall be kept in possession by the Petitioner so that the same could be produced on demand from the Respondent.

(e) **The expense towards Change in Law events including washed coal during respective Financial Year shall be subject to True-up by this Commission. In this regard, a Petition for True-up on this account shall be filed by the Petitioner in the beginning of next financial year with all details, bills, auditor's certificates, tendering details, NABL certificates etc. Any adjustment required there off shall be carried out by the Petitioner as directed by the Commission based on its findings."**

6. DIL had filed Petition No. 1654 of 2020, Petition No. 1798 of 2021, Petition No. 1879 of 2022 and Petition No. 2004 of 2023 for truing-up of the compensation towards 'Change in Law' events for FY 2019-20, FY 2020-21, FY 2021-22 and FY 2022-23 respectively, and the said Petitions have been allowed and approved by the Commission vide its Orders dated 28.06.2022, 12.05.2023, 13.06.2023 and 12.04.2024 respectively.
7. The Commission vide its Order dated 02.08.2022 in Petition No. 1655 of 2020, had approved the '**Change in Law' events pertaining to increase/revision in the rates of "CG Paryavaran" (C.G. Environment Cess) and "Vikas Upkar" (C.G. Development Cess) levied** by the State Government of Chhattisgarh, from ₹ 7.50/Ton to ₹ 11.25/Ton of coal extracted with effect from 00:00 hrs. of 04.09.2019, which was after the Cut-off Date under the NPCL PPA, i.e., 26.10.2015. The Commission had vide its Orders dated 12.05.2023, 13.06.2023 and 12.04.2024 in Petition No. 1798 of 2021, Petition No. 1879 of 2022 and Petition No. 2004 of 2023 respectively, approved the claims on account of such 'Change in Law' events, including C.G. Environment Cess and C.G. Development Cess, for the period FY 2020-21, FY 2021-22 and FY 2022-23 respectively.





8. The Commission had, vide its Order dated 29.05.2020 in Petition No. 1440 of 2019, also approved the use of Washed Coal as per the notification dated 02.01.2014 issued by the MoEFCC as a 'Change in Law' event. However, MoEFCC had, on 21.05.2020, withdrawn its mandate for supply and use of Washed Coal having ash content of 34% or more for power stations located beyond 500 kms & above from the Coal mines. In view of the same, the Petitioner/DIL, during the period of FY 2023-24, had not procured any Washed Coal and therefore, had not claimed any cost of such Washed Coal from the NPCL.
9. In view of the above, DIL in compliance with the directions of the Commission, vide its Order dated 29.05.2020, in Petition No. 1440 of 2019 read with the Order dated 02.08.2022 in Petition No. 1655 of 2020, has filed the present Petition for truing-up of the compensation towards 'Change in Law' events, including, increase/revision in the rates of **C.G. Environment Cess** and **C.G. Development Cess**, affecting the coal and freight charges, during FY 2023-24 for supply of power to the Respondent/NPCL under the NPCL PPA. The details of the compensation sought by the petitioner towards 'Change in Law' events for FY 2023-24 are as follows:

- I. Increase in the Landed Price of Coal of G-10, G-11 and G-12 grades, received from Coal India Limited (CIL) delivered directly by rail (FSA Grade Coal) consisting of:
- a) Cost of FSA Grade Coal on account of 'Change in Law' events; and
- b) Cost of transportation of FSA Grade Coal on account of 'Change in Law' events.

TABLE 1: 'CHANGE IN LAW' EVENTS LEADING TO INCREASE IN COMPONENTS OF COAL & FREIGHT CHARGES

Particulars	As on 26.10.2015 (Rs/Ton)	Revised Value (Rs/Ton)/ (%)	Applicable Period
Components of Coal Charges			
DMF	No such levy	40.53	01.04.2023 to 31.03.2024
NMET	No such levy	2.70	01.04.2023 to 31.03.2024
Clean Energy Cess	200	No such levy	01.04.2023 to 31.03.2024
Stowing Excise Duty	10	Abolished	01.04.2023 to 31.03.2024
Excise Duty	57.33	Abolished	01.04.2023 to 31.03.2024
Central Sales tax	24.26	Abolished	01.04.2023 to 31.03.2024
GST on Coal	No such levy	5%	01.04.2023 to 31.03.2024

5.





Particulars	As on 26.10.2015 (Rs/Ton)	Revised Value (Rs/Ton)/ (%)	Applicable Period
State Compensation Cess	No such levy	400	01.04.2023 to 31.03.2024
CG Environmental Cess	7.50	11.25	01.04.2023 to 31.03.2024
CG Development Cess	7.50	11.25	01.04.2023 to 31.03.2024
Components of Freight Charges			
Busy Season Charges	115.83	Abolished	01.04.2023 to 31.03.2024
Development Surcharge	57.27	Abolished	01.04.2023 to 31.03.2024
Service Tax	4.20%	Abolished	01.04.2023 to 31.03.2024
GST on Freight	No such levy	5.00%	01.04.2023 to 31.03.2024

10. As per DIL, total compensation on account of increase in the landed price of FSA Grade Coal due to 'Change in Law' events for FY 2023-24, for the supply of Gross Contracted Capacity of 187 MW from Unit 2 of the Project to the NPCL, works out to ₹ 5.05 Crores. The same is summarized in the following table:

Table 2: Summary of claimed amount under Change in Law events for FY 2023-24 as approved in the Order dated 29.05.2020 in Petition no. 1440 of 2019 & the Order dated 02.08.2022 in Petition No. 1655 of 2020

Summary of claim amount under Change in Law events for FY 2023-24					
Month	UoM	Coal Value	Freight Charges	Cost of Washed Coal	Total Arrears
April 2023	Rs. Crs.	1.19	-0.84	0.00	0.35
May 2023	Rs. Crs.	1.54	-1.08	0.00	0.45
June 2023	Rs. Crs.	1.34	-0.94	0.00	0.40
July 2023	Rs. Crs.	1.65	-1.16	0.00	0.49
August 2023	Rs. Crs.	1.93	-1.36	0.00	0.57
September 2023	Rs. Crs.	1.57	-1.10	0.00	0.46
October 2023	Rs. Crs.	1.01	-0.71	0.00	0.30
November 2023	Rs. Crs.	1.10	-0.78	0.00	0.32
December 2023	Rs. Crs.	1.28	-0.90	0.00	0.38
January 2024	Rs. Crs.	1.28	-0.90	0.00	0.38
February 2024	Rs. Crs.	1.34	-0.95	0.00	0.40
March 2024	Rs. Crs.	1.92	-1.35	0.00	0.57
FY 2023-2024	Rs. Crs.	17.13	-12.08	0.00	5.05

5





11. In terms of the Order dated 29.05.2020, the above claims arising out of the occurrence of 'Change in Law' events for FY 2023-24 are payable only if such increase in revenue or cost to the DIL is in excess of 1% of the LC amount in aggregate for a contract year as per Article 13.2 read with Article 11.4 of the NPCL PPA. Accordingly, it has been submitted that the above amount of ₹ 5.05 Crores as claimed under 'Change in Law' events for FY 2023-24, including increase/revision in the rates of C.G. Environment Cess and C.G. Development Cess, is much higher than the amount stipulated under Article 11.4 of the NPCL PPA for the same year as demonstrated in the following table:

TABLE 3: COMPLIANCE BY DIL AS PER ARTICLE 13.2 OF NPCL PPA

FY	Monthly Average Billing based on Normative Availability	LC Value	As per Clause 13.2 of the PPA- 1% of LC Value	Impact Claimed by DIL under Change in Law	Compliance by DIL as per PPA (Yes/No)
2023-24	45.07	49.58	0.50	5.05	Yes

12. Following supplementary invoices have been raised by DIL upon the Respondent/NPCL, claiming the cost towards the 'Change in Law' claims for the period FY 2023-24, i.e., between April 2023 to March, 2024, based on the aforesaid Orders dated 29.05.2020 and 02.08.2022:

Table 4: Supplementary Invoices raised by DIL upon the Respondent/NPCL

Sr. No.	Invoice No	Date	Period	Amount (₹ Crores)
1.	NPCL/SI/2023-24/07	20.07.2023	April 2023 - June 2023	1.20
2.	NPCL/SI/23-24/09	18.10.2023	July 2023 - September 2023	1.52
3.	NPCL/SI/2023-24/12	10.01.2024	October 2023 - December 2023	1.00
4.	NPCL/SI/2023-24/14	19.03.2024	January 2024 - February 2024	0.77
5.	NPCL/SI/24-25/03	19.04.2024	March 2024	0.57
Total claims towards Change in Law for the period FY 2023-24				5.05

57





13. In view of the above supplementary invoices, **NPCL has already paid an amount of ₹ 4.95 Crores (after claiming applicable rebate), in compliance with the directions of the Commission in its Order date 29.05.2020.** The Revenue Gap/(Surplus) due to the approved 'Change in Law' events, including increase/revision in the rates of C.G. Environment Cess and C.G. Development Cess, based on the aforesaid Orders dated 29.05.2020 and 02.08.2022 has been shown in the following Table.

Table 5: Revenue Gap/(Surplus) due to 'Change in Law' events under NPCL PPA - FY 2023-24

Revenue Gap/(Surplus) towards 'Change in Law' events under NPCL PPA - FY 2023-24	
Particulars	FY 2023-2024
Total Claim under Taxes & Duties (A) under Petition No. 1440 of 2019	5.05
Total Claim due to use of Washed Coal (B) under Petition No. 1440 of 2019	0.00
Total amount billed by DIL (C = A + B)	5.05
Adjusted rebate claimed by the Respondent@2% of the billed amount (D)	4.95
Amount paid by the Respondent against Supplementary Invoices after claiming rebate (E)	0.10
Balance Amount payable by NPCL due to 'Change in Law' events (F= C-D-E)	0.00

Record of Proceedings:

14. During the hearing on 22.10.2024, the Commission admitted the Petition and allowed three weeks' time for Respondent to file its reply and two weeks' time thereafter to the petitioner for filing rejoinder. Subsequently, Respondent filed its reply on 21.11.2024 and Petitioner filed its rejoinder on 05.12.2024.
15. During the hearing on 10.12.2024, Ms. Shikha Ohri, counsel for Petitioner, submitted that total compensation on account of 'Change in Law' for FY 2023-24 was Rs. 5.05 Crore and Respondent had already made payment of Rs. 4.95 Crore after accounting applicable rebate. Further, Ms. Ohri drew attention of the Commission to the prayer no. (d) of the Petition to allow the Petitioner for claiming the compensation on account of 'Change in Law' for the next control period i.e. FY 2024-29 as per earlier directions of the Commission vide Order dated 29.05.2020 in Petition No. 1440 of 2019. The

54





Commission asked the parties to file their response in three weeks regarding the issue of true-up claims on account of 'Change in Law' at the end of the tariff period 2024-29. The Petitioner and the Respondent filed their written submissions on 21.01.2025 and 24.02.2025 respectively.

16. During the final hearing on 25.02.2025, the Counsels pleaded their submission before the Commission, while DIL was aggregable to true-up at the end of tariff period, NPCL expressed its difficulty owing to reasons that this would lead to carrying cost on regulatory gap as the NPCL claims on account of Change in Law were allowed in ARR/Tariff/True-Up after DIL's true up of the relevant year.

Reply of Respondent (NPCL):

17. The Respondent NPCL submitted that the Petitioner may be directed to provide a point-wise justification regarding its compliance with the directions of this Commission in Para 122 of the Order dated 29.05.2020. With regard to prayer (d) regarding True-Up at the end of Tariff period, NPCL submitted that annual True-up as per current practice may considered by the Commission.

Rejoinder by Petitioner (DIL):

18. DIL submitted justification of cost towards "Change in Law" events which stands abolished as on date and benefits passed to respondent due to abolishment/ subsuming of 'Change in Law' events in FY 2023-24. Regarding continuation of the same principle set by the Commission in the Order dated 29.05.2020 in Petition No. 1440 of 2019 for subsequent tariff period FY 2024-29, DIL submitted that continuation of existing principles for tariff period FY 2024-29 would ensure uninterrupted power supply to the respondent and provide necessary financial relief to the end consumers from the burden of accumulated interests.

Commission's Analysis and decision:

19. The Petitioner is seeking true up of claims for the period FY 2023-24 on account of following 'Change in Law' events approved by this Commission vide its Order dated 29.05.2020 in Petition No. 1440 of 2019 and Order dated 02.08.2022 in Petition No. 1655 of 2020:

by





Table 6: 'Change in Law' events approved by the Commission

S. No.	Change in Law Event	Decision
A.	Increase in the Landed Price of FSA Grade Coal due Change in Law Events	
1.	Royalty on Coal	Allowed
2.	Contribution towards District Mineral Foundation and National Mineral Exploration Trust	Allowed
3.	Increase in Surface Transportation Charges and Sizing / Crushing Charges	Not Allowed
4.	Increase in Niryat Kar	Not Allowed (Liberty Granted)
5.	Increase in Clean Energy Cess (later renamed as Clean Environment Cess and subsequently, as State Compensation Cess)	Allowed
6.	Levy of Evacuation Facility Charges	Not Allowed
7.	CG Environmental Cess	Allowed
8.	CG Development Cess	Allowed
9.	Changes in Busy Season Charges and Development Surcharge	Allowed
10.	Introduction of Coal Terminal Surcharge	Allowed
11.	Increase in Service Tax on Railway Freight and Introduction of Goods & Service Tax on Transportation of Goods by Rail	Allowed
12.	Increase in Excise Duty and Central Sales Tax on Coal	Allowed
13.	Introduction of Goods & Service Tax on Coal	Allowed
14.	Change in Stowing excise duty	Allowed
B.	Additional Cost incurred for using Washed Coal	Allowed
C.	Carrying cost	Allowed

20. Based on the Commission's approved change in law events, the revised values of rates applicable for period of 01.04.2023 to 31.03.2024 are as below:

Table 7: Revised Value of rates approved "Change in Law" events

Particulars	As on 26.10.2015 (Rs/Ton)	Revised Value (Rs/Ton)/ (%)	Applicable Period
Components of Coal Charges			
DMF	No such levy	40.53	01.04.2023 to 31.03.2024
NMET	No such levy	2.70	01.04.2023 to 31.03.2024

by.



2



Particulars	As on 26.10.2015 (Rs/Ton)	Revised Value (Rs/Ton)/ (%)	Applicable Period
Clean Energy Cess	200	No such levy	01.04.2023 to 31.03.2024
Stowing Excise Duty	10	Abolished	01.04.2023 to 31.03.2024
Excise Duty	57.33	Abolished	01.04.2023 to 31.03.2024
Central Sales tax	24.26	Abolished	01.04.2023 to 31.03.2024
GST on Coal	No such levy	5%	01.04.2023 to 31.03.2024
State Compensation Cess	No such levy	400	01.04.2023 to 31.03.2024
CG Environmental Cess	7.50	11.25	01.04.2023 to 31.03.2024
CG Development Cess	7.50	11.25	01.04.2023 to 31.03.2024
Components of Freight Charges			
Busy Season Charges	115.83	Abolished	01.04.2023 to 31.03.2024
Development Surcharge	57.27	Abolished	01.04.2023 to 31.03.2024
Service Tax	4.20%	Abolished	01.04.2023 to 31.03.2024
GST on Freight	No such levy	5.00%	01.04.2023 to 31.03.2024

21. The reconciliation statement for FY 2023-24 duly certified by the Statutory Auditors has also been placed on record by the Petitioner.
22. DIL has supplied ex-bus 1314.03 MUs during FY 2023-24, out of which 955.71 MUs has been supplied out of FSA grade coal which is 72.73% of the total energy supplied. The details of energy supplied out of FSA grade coal is shown below:

Table 8: Details of energy supplied out of FSA grade coal

Month	Ex-Bus energy from FSA Grade Coal (Mus)	GCV of FSA coal consumed kCal/kg)	FSA Coal Consumed (MT)
April 2023	61.30	3048	51,293
May 2023	81.27	3114	66,573
June 2023	76.33	3360	57,946
July 2023	89.68	3210	71,269
August 2023	105.97	3241	83,394
September 2023	85.22	3205	67,821
October 2023	51.85	3037	43,546
November 2023	58.47	3135	47,570
December 2023	68.97	3187	55,193
January 2024	78.60	3611	55,520
February 2024	82.92	3645	58,023

57





Month	Ex-Bus energy from FSA Grade Coal (Mus)	GCV of FSA coal consumed kCal/kg)	FSA Coal Consumed (MT)
March 2024	115.12	3532	83,131
FY 2023-2024	955.71	3288	7,41,280

23. The total claimed and approved amount of increase in cost of coal and transportation of FSA Grade coal is as below:

Table 9: Claimed amount of 'Change in Law' events (Rs. In Crore)

Summary of claim amount under 'Change in Law' events for FY 2023-24					
Month	UoM	Coal Value	Freight Charges	Cost of Washed Coal	Total Arrears
April 2023	Rs. Crs.	1.19	-0.84	0.00	0.35
May 2023	Rs. Crs.	1.54	-1.08	0.00	0.45
June 2023	Rs. Crs.	1.34	-0.94	0.00	0.40
July 2023	Rs. Crs.	1.65	-1.16	0.00	0.49
August 2023	Rs. Crs.	1.93	-1.36	0.00	0.57
September 2023	Rs. Crs.	1.57	-1.10	0.00	0.46
October 2023	Rs. Crs.	1.01	-0.71	0.00	0.30
November 2023	Rs. Crs.	1.10	-0.78	0.00	0.32
December 2023	Rs. Crs.	1.28	-0.90	0.00	0.38
January 2024	Rs. Crs.	1.28	-0.90	0.00	0.38
February 2024	Rs. Crs.	1.34	-0.95	0.00	0.40
March 2024	Rs. Crs.	1.92	-1.35	0.00	0.57
FY 2023-2024	Rs. Crs.	17.13	-12.08	0.00	5.05

24. The summary of total claim amount under all 'Change in Law' events for FY 2023-24 is as shown in the following table:

Table 10: Total claim under 'Change in Law' events (Rs. In Crore)

Revised total claim under 'Change in Law' events during FY 2023-24	
'Change in Law' events	FY 2023-24
State Compensation Cess	14.95
DMF on 30% on Royalty	3.03
NMET on 2% on Royalty	0.20

64





Stowing Excise Duty	-0.75
CG Environment cess	0.28
CG Development cess	0.28
Excise Duty	-4.28
Central Sales Tax	-1.81
IGST for Coal Charges	5.24
Busy Season Charges	-8.66
Development Surcharge	-4.28
Service Tax/IGST on Freight Charges	0.86
Total claimed under 'Change in law' Events - FY 2023-24	5.05

25. Further, as per the direction of this Commission vide Order dated 29.05.2020, the claims, arising out of above occurrence of 'Change in Law' events for FY 2023-24, shall be payable only if such increase in revenue or cost to the Petitioner is more than 1% of Letter of Credit ("LC") amount in aggregate for a contract year as per Article 13.2 of the PPA. The above amount of Rs. 5.05 Crores as claimed under 'Change in Law' events for FY 2023-24 is much higher than the amount stipulated under Article 11.4 of the PPA for the same year as demonstrated in following table (Rs in Crores):

FY	Monthly Average Billing based on Normative Availability	LC Value	1% of LC Value	Claimed amount under 'Change in Law'
2023-24	45.07	49.58	0.50	5.05

26. The Petitioner, has, vide its invoices dated 20.07.2023, 18.10.2023, 10.01.2024, 19.03.2024 and 19.04.2024 claimed the above amount of ₹5.05 Crores towards the 'Change in Law' events for FY 2023-24. The Respondent/NPCL has already paid an amount of ₹ 4.95 Crores (after claiming applicable rebate), in compliance with the directions of the Commission in its Order date 29.05.2020. The Revenue Gap/(Surplus) due to the approved 'Change in Law' events, including increase/revision in the rates of C.G. Environment Cess and C.G. Development Cess, based on the aforesaid Orders dated 29.05.2020 and 02.08.2022 has been shown in the following table.

beg.





Revenue Gap/(Surplus) towards 'Change in Law' events under NPCL PPA - FY 2023-24	
Particulars	FY 2023-2024
Total Claim under Taxes & Duties (A) under Petition No. 1440 of 2019	5.05
Total Claim due to use of Washed Coal (B) under Petition No. 1440 of 2019	0.00
Total amount billed by DIL (C = A + B)	5.05
Amount paid by the Respondent against Supplementary Invoices after claiming rebate (D)	4.95
Adjusted rebate claimed by the Respondent@2% of the billed amount (E)	0.10
Balance Amount payable by NPCL due to 'Change in Law' events (F= C-D-E)	0.00

Commission's View:

27. Therefore, the total amount of claim on account of 'Change in Law' events approved in the Order dated 29.05.2020, 02.08.2022 and 12.04.2024 taken together for FY 2023-24 works out to Rs 5.05 Cr and is approved.
28. As regards to Prayer (d) of the petitioner to continue the same principle treating the compensation on account of 'Change in Law' i.e. annual true up, DIL is agreeable to recover the claim of 'Change in Law' event annually for FY 2024-29 but NPCL has expressed its difficulty due to delayed recovery of 'Change in Law' claims after approval of its ARR /True up petitions.
29. The Commission observing that the true-up of 'Change in Law' claims at the end of tariff period for FY 2024-29 would lead to carrying cost on regulatory gap since claims of NPCL are allowed in their ARR/True-up after tariff bills are trued up for the relevant years. Therefore, with regards to Prayer (d) of the petitioner, the Commission allows the petitioner to continue the same principle for treating the compensation on account of occurrence of 'Change in Law' events and approach this Commission for true-up of the associated cost for the Tariff Period FY 2024-29, as

by



21



has been laid down by the Commission in Para 120, 121 and 122 of the Order dated 29.05.2020 in Petition No. 1440 of 2019.

The Petition disposed of in terms of the above.

(Sanjay Kumar Singh)
Member



(Arvind Kumar)
Chairman

Place: Lucknow

Dated: 15.04.2025

