THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

Petition No. 2106/2024 and Petition No. 2226/2025

QUORUM

Hon'ble Shri Arvind Kumar, Chairman

Hon'ble Shri Sanjay Kumar Singh, Member

Hon'ble Shri Griesh Kumar Vaish, Member (Law)

IN THE MATTER OF

Petition filed under Section 86(1)(b) of the Electricity Act, 2003, and Article 14 of the PPA dated 12.11.2006 read with SPPA dated 31.12.2009 executed between the parties and in compliance of the Commission's Order dated 13.06.2023 in Petition No. 1884 of 2022 for reimbursement of expenditure incurred towards transportation of fly ash during FY 2022-23 and FY 2023-24 according to the Notification No. S.O. 5481(E) dated 31.12.2021 issued by the Ministry of Environment, Forest & Climate Change, GoI and the methodology prescribed by the Commission.

AND

Purchase Agreement dated 12.11.2006 read with Supplementary Power Purchase Agreement dated 31.12.2009 executed between the parties and in compliance of this Hon'ble Commission's Order dated 13.06.2023 in Petition No. 1884 of 2022 for reimbursement of expenditure incurred towards transportation of fly ash during FY 2024-25 and according to the Notification No. S.O. 5481(E) dated 31.12.2021 issued by the Ministry of Environment, Forest & Climate Change, Government of India and the methodology prescribed by this Hon'ble Commission.

AND

IN THE MATTER OF

MEIL Anpara Energy Limited

H.No. C/02/P7, Sector C Pocket 2, Sushant Golf City, Lucknow-226030

.... Petitioner

VERSUS

1. **U.P. Power Corporation Ltd. (UPPCL)**

   Shakti Bhawan, 14-Ashok Marg, Lucknow-226001

2. **Paschimanchal Vidyut Vitran Nigam limited (PVVNL),**

   Urja Bhawan, Victoria Park, Meerut, U.P. – 250001

3. **Purvanchal Vidyut Vitran Nigam Limited (PuVVNL),**

   DLW Bikharipur, Varanasi, Uttar Pradesh – 221004

4. **Madhyanchal Vidyut Vitran Nigam Limited (MVVNL),**

   4A, Gokhale Marg, Block-I, Gokhle V har, Butler Colony, Lucknow – 226001

5. **Dakshinanchal Vidyut Vitran Nigam Limited (DVVNL)**

   Urja Bhawan, Agra Mathura Bypass Road, Agra, Uttar Pradesh - 282007

.... Respondents

THE FOLLOWING WERE PRESENT

1. Ms. Puja Priyadarshini, Advocate, UPPCL
2. Shri Deeptanshu Chandak, Advocate, UPPCL
3. Shri Kashi Nath Yadav, EE-PPA, UPPCL
4. Shri Anil Kumar, EE-PPA, UPPCL
5. Shri Manish Dwivedi, CE-PPA, UPPCL
6. Shri Dharm Ratna, AE-PPA, UPPCL
7. Ms. Sanya Miglani, Advocate, MEIL

ORDER

(DATE OF HEARING: 04.08.2026)

1. During the hearing, Ms. Puja Priyadarshini, the learned Counsel for UPPCL, submitted that, during the technical validation sessions that held on 10th and 11th June, 2026, the responses offered by the Petitioner were unsatisfactory and were belied by the documents on record. She requested the Commission to permit her to advance arguments in Petition No. 2106 of 2024 and submitted that she is sharing a copy of her

written notes with the Petitioner, who could file its response at the subsequent hearing. Ms. Sanya Miglani, the learned Counsel appearing for the Petitioner, expressed no objection to this arrangement. The Commission permitted the learned Counsel for UPPCL to advance arguments in Petition No. 2106 of 2024.

2. Ms. Puja Priyadarshini, refuted the principal contention of the Petitioner that a very strict scrutiny of such expenses is not being done by other commissions and that there is no existing precedent in this regard. The learned Counsel also submitted that detailed scrutiny is, in fact, being undertaken by Central Electricity Regulatory Commission (CERC) in similar matters. In support of her argument, she relied upon the Record of Proceedings dated 20.07.2026 passed by the CERC in Petition No. 80/MP/2024, titled *KSKMPL vs. MVVNL and 8 others,* pertaining to the adjudication of claims towards the cost of fly ash transportation.

3. Ms. Puja Priyadarshini further raised following objections and arguments with respect to the claims of the Petitioner in Petition No. 2106 of 2024:

A. With regard to M/s Sudhir Crushing Works and M/s Ashtech India Pvt. Ltd.

a) The learned Counsel argued that the Petitioner had not followed the stepwise methodology prescribed under Ministry of Power (MoP) Guidelines of 2021 and 2022 as evident from the following: (i) During FY 2021–22, the Petitioner complied only with Steps 1 and 2 of the MoP Guidelines, 2021. The Petitioner published a newspaper advertisement on 20.12.2021 for the sale of ash in compliance to Step 1 of the said Guidelines, however, even before the expiry of the bid submission date, i.e., 06.01.2022, the Petitioner, on 04.01.2022, issued a notice to NHAI and NCL for mandatory utilization of ash, which corresponds to Step 4 of the Guidelines. The Petitioner issued another newspaper advertisement on 07.02.2022 for the supply of ash free of cost, purportedly in compliance with Step 2 of the MoP Guidelines, 2021.

(ii) Under MoP Guidelines of 2022, the Petitioner skipped Steps 1 - 3 and directly served a notice to NHAI on 09.04.2024, for mandatory utilization of ash, which is Step 4 of MOP Guidelines 2022 and even if the sequence of events commencing from 2021 is taken into consideration, the Petitioner did not undertake Step 3.

b) The learned Counsel further argued that the bidding process for selection of transportation agencies has not been conducted in a transparent manner since the lowest (L1) bidder was not selected. As per the bid documents of M/s Sudhir and M/s Ashtech, as submitted by the Petitioner through its additional affidavit dated 19.05.2026, M/s Sudhir had quoted an excavation rate as Rs. 55/MT, whereas M/s Ashtech had quoted Rs. 53/MT. However, for both these entities, work orders have been issued containing excavation rate of Rs. 56/MT.

c) It was also submitted that the Petitioner failed to impose any penalty upon M/s Sudhir Crushing Works and M/s Ashtech India Pvt. Ltd. for their failure to lift the stipulated quantity of ash, despite the fact that such penalties had been envisaged under the respective work orders. M/s Sudhir Crushing was mandated to lift 85,000 MT of ash within five months but lifted only 10,7,83 MT of ash in one and a half months. Similarly, M/s Ashtech India lifted only 1,682 MT of ash instead of the 1,00,000 MT as envisaged under the work order.

d) The learned Counsel further submitted that the MoP Guidelines, 2022 provide that the provisions of supplying ash free of cost and transportation are applicable only when the thermal power plant provides a notice to the agency. However, in case of Ashtech India, the construction agency, NHAI, by its letter dated 26.12.2022, requested the Petitioner to deliver free of cost ash to its contractor M/s Dineshchnandra R Agrawal Infracon Pvt. Ltd. It was further pointed out that, on 03.01.2023, M/s Dineshchandra R. Agrawal Infracon Pvt. Ltd. requested the Petitioner to supply 1 crore MT of ash. According to the learned Counsel, the Petitioner could have supplied the entire requested quantum, since it also had ash of 1.5 Cr. MT accumulated up to 31.03.2022, albeit with no transportations cost reimbursement. However, the Petitioner chose to sign the MoU for only 10 Lac MT of ash. This demonstrates that unless transportation costs were being realised by the Petitioner from the procures, they chose not to supply the ash.

B. M/s OM Construction and M/s Cheerwasa Freight

a) It was submitted by the learned Counsel that M/s OM Construction and M/s Cheerwasa Freight were not selected through competitive bidding process. The

Petitioner merely carried out Step 1 and Step 2 by issuing newspaper advertisement on 21.04.2023 for the sale of ash and another newspaper advertisement on 28.05.2023 inviting expression of interest for free of cost supply of ash. Further, on 15.06.2023, the Petitioner issued a newspaper advertisement for owners/representatives of low-lying areas within 50 kms for ash pond. Although, the Petitioner has claimed this to be in compliance with Step 3, the fact is that Step 3 pertains to disposal of ash to all user agencies and not only for low lying areas. Moreover, the selected agencies for low lying areas namely, Om Construction and Cheerwasa Freight are transportation agencies and not owners/representatives of low-lying areas.

b) The learned Counsel further submitted that the Petitioner, in response to the advertisement dated 15.06.2023, received responses from six transportation agencies on 22.06.2023, including M/s OM Construction and M/s Cheerwasa Freight. However, as per the Schedule of Bid contained in the "*Bid Documents for Selection and Empanelment of Contractors for Transportation of Ash 2023-24*", the bidding process for selection of transportation agencies was initiated by the Petitioner only in August 2023. Therefore, it may be concluded that M/s OM Construction and M/s Cheerwasa Freight, who approached the Petitioner in June 2023, were not selected pursuant to any competitive bidding process.

c) It was also submitted that the Petitioner voluntarily changed the GST rate applicable to the work order dated 27.10.2023 issued to M/s Om Construction from 5% to 18% by bifurcating the works in excavation & loading and transportation & unloading of ash. It was pointed out that no request for such modification had been made by M/s OM Construction.

C. Advertisement Expenses

The Petitioner has claimed reimbursement of advertisement cost amounting to Rs. 48.33 lakh. The learned Counsel submitted that the Commission, in its Order dated 13.06.2023 passed in Petition No. 1884 of 2022, had not allowed reimbursement of advertisement expenses.

4. After hearing the submissions advanced by the learned Counsel for UPPCL, the Commission decides to list both matters for further hearing on 01.09.2026.

(Griesh Kumar Vaish)	(Sanjay Kumar Singh)	(Arvind Kumar)
Member (Law)	Member	Chairman

Place: Lucknow

Dated: 13.08.2026