APP
Annual Report 2016-17

Index

1. **Working of the Association** 3

2. **Key activities/critical issues undertaken by the Association in 2016-17** 4

- **New coal linkage allocation framework** 5
- **Resolution of Regulatory issues pertaining to cost recovery under 'Change in Law'** 6
- **Mismatch between CERC coal price indexation and actual CIL coal prices** 6
- **Methodology for flexible utilization of coal** 7
- **Measures for operationalization of stranded gas based plants** 8
- **Third party sampling and analysis of coal** 9
- **Amendments to Mega Power Policy** 10
- **Implementation of new emission norms for TPPs** 10
- **Issue of Technical Minimum** 11
- **Impact of GST on power sector** 12
- **CERC Committee on relinquishment of LTA charges** 12
- **Presentation to Committee headed by Shri Mata Prasad on transmission planning and open access regulations** 13
- **Writ Petition against CERC Tariff Regulations 2014-19 in Delhi High Court** 13
- **Other issues** 14

1. Working of the Association

The Association ended the previous year 2015-16 with 29 members. Five members withdrew their subscription for 2016-17 (Athena Power Ventures, GVK Energy, RKM Powergen, Jindal India Thermal Power and PPN Power Generating Company). However there was also an addition of 2 new members to the Association during 2016-17 – Haldia Energy and Andhra Pradesh Gas Power Corporation. With this, the total strength of APP was 26 at the end of 2016-17.

During the AGM of the Association held on 10th May 2016, the Chairman for the previous year, Shri Vneet Jaain stepped down and was succeeded by Shri Ashis Basu (President, Corporate, GMR Energy) who had given his consent for the post of Chairman. For the post of Vice Chairman, out of the two nominations received, Shri Sanjay Sagar (JSW) had graciously withdrawn his candidature in the interest of continuing the APP tradition of unanimously electing the Vice Chairman and therefore Shri Lalit Jalan (Reliance Power) was elected as new Vice Chairman of APP till the next AGM.

Following consultations between the Chairman, Vice Chairman and DG, it was decided that the following members (representatives at the level of CEO/Whole time Director) would be a part of APP's Managing Committee for 2016-17

- Shri Ashis Basu, Chairman APP)
- Shri Lalit Jalan, Vice Chairman APP)
- Shri Anil Sardana, Tata Power
- Shri K. Rajagopal, Lanco Power
- Shri Rajiv Mishra, CLP
- Shri Sanjay Sagar, JSW
- Shri Ashok Khurana, DG APP

The Budget sub-committee was constituted with the following members:

- Shri Lalit Jalan, Vice Chairman APP)
- Shri K. Rajagopal, Lanco Power
- Shri Sanjay Sagar, JSW

2. Key activities/critical issues undertaken by the Association in 2016-17

A cursory look at various news reports and press releases over the past few months could give one the impression that 2016-17 was a good year for the power sector with many heralding the change from the ages old power deficit situation to an almost 'power surplus' position as a sign of things to come. Indeed, the energy deficit decreased from 1.9% in January 2016 to 0.6% in January 2017 while the peak demand deficit decreased from 1.7% to 0.5% during the same two months.

However, a closer look at the figures belied a different story. Despite a decrease in the demand deficit, generation grew by only 3.4% during this period compared to 6.5% in the year ago period (Jan '15 to Jan '16), indicating that the decrease in the demand deficit could have more to do with subdued demand rather than increase in generation. This was corroborated by thermal PLFs falling from 64.5% (Apr'15-Jan'16) to 62% (Apr'16-Jan'16).

In all fairness, the Government had taken some positive steps to ease the pressure on the sector. Coal supply concerns had been assuaged greatly by increasing Coal India's production on a war footing. Transmission capacity had been improved significantly with plans to increase it further over the next few years. Some short term financial engineering measures have also been undertaken such as the 5/25 debt restructuring scheme, to ease the cash flow pressure on the stressed assets. Measures like the Strategic Debt Restructuring scheme and the Scheme for Sustainable Structuring of Stressed Asset (S4A) have also sought to provide lenders greater control to deal with stressed projects.

However the above steps have not been enough to provide relief from the extreme stress being faced by the IPPs leading to stretched balance sheets, huge debt overhang and continuing under-recovery of cost with no end in sight to the time consuming and circuitous arguments in courts and regulatory forums. The average clearing price in the exchanges has often been below the cost of generation and while the low tariffs have been quoted as an example of success of availability of affordable power, it is actually symptomatic of the level of distress being faced by the generators.

The year started on an interactive note with the Secretary Power coming to meet the APP members during an hour long session prior to the start of the Annual General Meeting. He took the occasion to brief the members about the various initiatives being carried out by the Ministry. He elaborated on the actions being taken to improve the sub-transmission and distribution infrastructure through the UDAY & Deen Dayal Upadhyaya Gram Jyoti Yojana scheme and other initiatives and assured that transmission constraints were being expeditiously addressed. Regarding coal supply related matters; he was hopeful of early finalization of the new coal linkage allocation policy and outlined the broad contours of the plans to allow flexibility in utilization of domestic linkage coal while assuring that the private plants would soon be covered under the scheme. Regarding third party sampling of coal, it was informed that MOP agreed that CIMFR should also be responsible for sampling at unloading end and they were trying to convince MoC regarding this.

However, upon taking stock at the end of the year, it is noticed that with an almost single minded focus on increasing the renewable capacity (without sufficient clarity on how this capacity would be integrated with the grid), the legacy issues of the incumbents have been seemingly put on the backburner with many of them still remaining unaddressed.

Key issues taken up by APP during the course of the year are detailed below.

- **New coal linkage allocation framework**

  This has been a long out-standing issue - the earlier linkage allocation policy ended on March 2015 and finalization of the new policy has been evasive due to continual differences in opinion within the Government. In our many representations to the Government on this issue last year, we had categorically outlined that any new linkage allocation/auction framework should be prospective in its application and not impair earlier commitments made by the Government. We had also outlined that this was an opportune moment to remove restrictions on coal usage keeping in view the surplus coal availability scenario.

  DG subsequently discussed the matter with the Power Secretary in April who informed that a note had been prepared and had been circulated internally for comments. He stated that the framework under consideration envisaged that coal linkages would be assigned to the States who would in turn invite bids based upon the cost of power and the lowest successful bidder would be allocated the linkage.For projects with PPA but no coal source, it was likely that they would need to take part in forward auction for coal with premium not allowed for pass through. Eventually the proposed framework was placed before the Cabinet in August but was referred back to a Group of Ministers due to differing views regarding the adequacy of coal to meet prospective linkage demand after taking into account earlier commitments. Keeping in view the subdued electricity demand scenario and the low probability of fresh long term power procurement bids being called in the future, APP also suggested to the Government to introduce a forward coal auction scheme for a longer tenure of 4 to 5 years which would improve medium term visibility for projects without linkages.

  The draft National Electricity Plan prepared by CEA provided a good guidance with regard to the likely coal requirement by 2021-22 and it largely substantiated APP's view that estimating coal requirement on the basis of past capacity commitments leads to an inflated figure as actual requirement is a function of power demand. A meeting was called by Principal Secretary to the PM on 17th Jan to discuss on issues pertaining to linkages and during the meeting, APP highlighted that FSAs should be executed for all existing LoA holders and commissioned plants (with PPA but without linkage). For projects without PPA, it was suggested that FSAs may be executed with such plants as and when they get commissioned and sign PPAs.

  Both PS to PM and the Cabinet Secretary stressed upon the need for a transparent auction process for award of linkages, but agreed that projects with PPA would need special consideration. It was broadly agreed that a separate linkage auction window would be made available for such projects. APP subsequently held a follow up meeting with the Coal Secretary and recommended that the base price for such separate auction window should be the notified price of coal for power sector and that the mines from which coal may be offered should be selected keeping transportation economics in mind. It was subsequently learned that instead of designing a linkage award process for plants with PPA, MoC approached this as a process of supply of coal through e-auction. As this would not provide adequate fuel supply security and comfort, APP again met

the Cabinet Secretary to convince the Government to award coal supply through linkages and not e-auction for these projects. (to be updated in case of cabinet approval)

- **Resolution of Regulatory issues pertaining to cost recovery under 'Change in Law'**

Apart from an increase in the base price of coal itself, many other factors have recently contributed towards a steep increase in the cost of coal based power - hike in railway freight rates by 8-14% for coal moved between 100 to 700 kms, imposition of various surcharges by the Railways such as coal terminal surcharge, increase in royalty on coal from 14% to 18%, doubling of Clean Environment Cess on coal, increase in service tax on coal etc. It is estimated that these factors resulted in an increase of about 30p/kwh in the price of coal based power. Efforts to recover these costs ended up being mired in disputes and long drawn out regulatory proceedings. APP had made several representations to MOP highlighting that such non-contestable increases in domestic taxes and duties should be allowed as automatic pass through.

Taking cognizance of the difficulties being faced by developers, the revised Tariff Policy issued by MoP in 2016 clearly specified that any change in domestic duties, levies, cess and taxes imposed by Central Government, State Governments/Union Territories or by any Government Instrumentality, leading to change in the cost of power may be treated as "Change in Law" and be allowed as pass through, however subject to approval of the Appropriate Commission. Unfortunately, despite this very clear provision, Regulators resorted to classifying many levies imposed by Central Government instrumentalities such as Railways, as commercial decisions and non-statutory in nature, thereby denying applicability for pass through under 'Change in Law'.

This issue was discussed during a meeting with the Principal Secretary to the PM on 17th Jan in the presence of the Cabinet Secretary and Secretary Power. The Cabinet Secretary suggested that the Ministry of Power may issue an advisory to the Regulators to give effect to the provisions of the revised Tariff Policy. However such action is yet to be initiated by APP despite recent reminders.

The specific cost increases arising out of additional surcharges levied by Railways was also discussed with MoP and CERC. While MoP agreed that such post-bidding increases/levy by Railways should be allowed as pass through in tariff, CERC was of the opinion that such levies are not admissible as the PPA only talks of "freight" increase and as such surcharges are not notified under Freight Rate circulars, they cannot be passed on. Informal discussions with MoP revealed that they have discussed the matter with Railway officials and Railways is not agreeable to withdrawal of these levies in view of revenue considerations. Thereafter APP wrote to the Railways, requesting to consider these surcharges under the heading of "Freight" so that the charges could be covered under the PPA and the under-recovery stemmed. MoP too has made a written representation to the Railways to consider this option.

- **Mismatch between CERC coal price indexation and actual CIL coal prices**

On 25th May 2016, CERC issued its order on the petition filed by Indiabulls and MB Power seeking revision of the methodology for computing the escalation rate for domestic coal so that the index mirrors the actual increase/decrease in the price of domestic coal as notified by CIL. In the order, CERC stated that Ministry of Commerce and Industry has set up a Committee to revise the WPI and create a separate index for the coal used in power sector, and dismissed the petition as it was CERC's view that the new WPI series being developed by MoCI would resolve the issues.

Some APP members met MoCI and CERC officials to suggest that the escalation rate may be linked to actual coal prices instead of WPI index. As MoCI had not yet initiated work on the proposed new WPI series, CERC officials agreed to consider alternative mechanism and asked for a proposed methodology. A meeting was held at APP office on 23rd Aug to arrive at a common consensus on the way forward. It was decided to recommend that the present Non Coking Coal WPI index may be replaced with weighted average of ROM price for grades G10-G13. It was also highlighted that the new escalation rates to be published in Sep'16 should take the new index into account and also capture the recent coal price increase of Jun'16 with minimum lag.

Subsequently, after a lot of discussion with CERC and DIPP officials, DIPP agreed to trifurcate the WPI index for non-coking coal into three categories corresponding to grades G1-G6, G7-G12 and G13-G17. The new indices were expected to be issued by mid of January, 2017 based on which CERC would calculate and notify the new half-yearly escalation factor in March, 2017. However the notification of the new indices were again delayed and APP is continuing to pursue efforts at the top level to get the new indices notified at the earliest.

- **Methodology for flexible utilization of coal**

Following the Cabinet approval accorded to the proposal for flexibility in utilization of domestic coal for reducing the cost of power generation, a Committee was formed under the Chairman CEA for formulating the methodology of implementation.
Industry associations and state representatives were invited for an informal meeting at CEA on 19th May as the Committee wanted to hear their suggestions. During discussions, the MoP representative indicated that the methodology would initially be rolled out only for Central and State generating plants. The proposed methodology for the Central and State generators was finalized by the CEA Committee and MoP and uploaded on CEA website on 8th June.

About six months later, MoP initiated action on extending the mechanism to the private sector. A meeting was called by CEA Chairperson on 16th Jan to discuss the views of various stakeholders on the methodology for flexible utilization of coal by IPPs. Both MoP and CEA were unwilling to consider many of the made by APP and were seen to be taking recourse to the often repeated argument that suitable provisions have already been incorporated in the draft methodology. One suggestion made by APP was that the quoted tariff may be segregated into separate energy and commitment charges to provide some off-take security to the IPPs. However this was opposed by the State representatives as they were not willing to pay capacity charges. As a recourse, APP suggested that the provisions of the short term bidding documents may be incorporated where the Buyer would pay penalty for scheduling below 80% in a month.

The State representatives mentioned that any increase in price of coal, transmission charges or railway freight post-bidding would be entirely borne by the IPPs. However it was pointed out that since it was the responsibility of the State gencos to pay the cost of coal to CIL, any increase in coal prices post bidding should be borne by them. A follow up meeting was taken by Secretary Power on 17th Jan during which DG pointed out that such one sided and skewed risk apportionment could result in the scheme failing to achieve the intended objectives. The methodology was finalized by late February, and a couple of APP's recommendations were incorporated - provision for penalty if monthly offtake lower than 80% of contracted amount on monthly basis, any increase in cost of coal, duties and taxes on coal to be Buyer's responsibility, late payment surcharge in case bills not settled within 30 days.

- **Measures for operationalization of stranded gas based plants**

During the course of the year, APP made several representations to the Government with regard to possible improvements in the PSDF support scheme for gas based power plants. While some issues were eventually ironed out, such as taxation issues related to swapping of gas, many issues remained unaddressed such as delays in disbursement of funds and reduction in target price to improve the offtake of power.

Discussions were held between gas based generators on 1st June to discuss the way forward on operationalization of stranded gas assets and the possibility of requesting the Government to allow the concessions under the scheme to those generators who import gas themselves and supply power under PPA. As agreed during the meeting, APP subsequently requested MoP, along with a separate representation to PMO, to extend the e-bid RLNG scheme while modifying it through some measures to improve the operationalization of stranded assets. Some of the required modifications which were discussed were - increasing the target PLF to at least 60%, adding more gas aggregators to the scheme apart from GAIL, doing away with the provision of negative bidding, clean power purchase obligation to increase offtake, ensuring benefits under the scheme are actually implemented, etc. APP also requested for all the concessions under the scheme to be available to those generators who import gas themselves and supply power under PPA.

Despite efforts of APP and the individual generators, there was not much movement on the Government policy front with regard to reviving the gas based assets. Another meeting between the gas producers was held in December where some members pointed out that as per their informal discussions, MoP does not seem very keen on continuing the scheme in the present form and was looking for simpler options to support the gas based plants. An idea emerged that one of the options MoP could be willing to consider was to give subsidy directly to the gas supplier. It was agreed to also simultaneously continue efforts to persuade MoP to extend the e-bid RLNG scheme, with a key change - reduction in target price in view of subdued prices in the short term market.

Subsequently, a simplified alternative scheme for revitalizing the stranded gas based projects was formulated and sent across to MoP. The scheme envisaged a fixed quantum of gas to be allocated through a designated gas supplier and all eligible plants would be entitled to get gas allocation from this quantum, pro-rata to their installed

capacity. The price for supply of power would be fixed at a minimum suggested level of Rs 3.5/kwh and the gas would be supplied at a pre-determined price, while the subsidy would be provided directly to the gas supplier.

During the APP members meeting held on 10th Jan 2017, it was agreed that there was a need to conduct a detailed study to bring out the long term viability of gas based projects. Discussions were held with KPMG and Brookings Institute regarding such a study and both evinced interest. However considering the short policy decision making window available before the Government embarked into election mode, and the fact that Brookings Institute would require a go-ahead from Niti Aayog before commencing the study, it was decided to appoint KPMG for conducting the study which would assess the share of gas generation in the overall energy mix of the country till FY31 while taking into account gas availability, renewable capacity additions and utilization of gas for dynamic grid balancing along with any support requirement from the Government. The report from KPMG is expected in about 14 weeks and in the meantime APP plans to convince Niti Aayog to appoint an independent study through Brookings Institute to reinforce the findings of KPMG study and impart more credibility.

- **Third party sampling and analysis of coal**

Further to the progress achieved last year in laying down the framework for third party sampling and analysis of coal supplies to be performed by CIMFR, the Committee held multiple meetings over the course of the year, to deliberate on issues related to signing of the MoU between generators, CIMFR and coal companies and operationalization of the scheme.

A sub-committee comprising of representatives from NTPC, CIL, CIMFR, MPPGCL and APP was formed to finalize the tri-partite agreement to be signed between CIMFR, CIL and power utilities. It was decided that a master MoU would be signed initially between CIL, CIMFR and NTPC (on behalf of Central and State Gencos) and APP (on behalf of IPPs). Separate legal agreements on similar lines would be signed between CIL, CIMFR and the individual generators.

The Committee also deliberated on the issue of third party sampling at the unloading end. APP highlighted that in view of the new CERC Tariff Regulations which has shifted measurement of GCV to 'as received' basis and the CERC order dated 25th Jan 2016 which has specified that coal 'as received' refers to measurement of GCV at the point of unloading, it was highly desirable that a reputable institute like CIMFR undertakes sampling at the unloading end as without this, the Procurers are likely to raise incessant disputes regarding grade slippage with the intention of delaying payments for power sold. Example of TPDDL filing a petition in CERC against NTPC on this same matter was highlighted. Ministry of Coal was initially against the idea of CIMFR being engaged for third party sampling and analysis at the unloading end. However based on the Committee's recommendation which was subsequently communicated by Ministry of Power to the Coal Ministry , Coal India was informed that CIMFR would also perform third party sampling and analysis at the unloading end.

Regarding the agreements to be signed, initial differences between generators and CIMFR in the draft agreement on issues such as payment of advance, dispute resolution etc., were sorted out and the trilateral MoU for loading end and bilateral MoU for unloading end were signed in June. However after the signing of the MoU, CIMFR was very slow in signing agreements with the individual IPPs and operationalize 3rd party sampling and constant efforts were required from APP to persuade CIMFR to expedite the pending agreements. In the 7th meeting of the Committee on Third Party Sampling held on 27th Oct, concerns over problems faced during sampling process were also raised, especially lack of infrastructure, boarding and lodging arrangements near the loading points. However despite assurance by CIL to look into these issues, more and more reports were being received regarding deliberate obstruction and non-cooperation by CIL. APP has been requesting NTPC to convene the next meeting of the Committee at the earliest so that these issues can be discussed in detail with the CIL, CIMFR and IPP representatives.

- **Amendments to Mega Power Policy**

APP had highlighted on numerous occasions the difficulty being faced by projects with host State power sale obligations to tie up 100% of their installed capacity in order to avail of benefits under the Mega Power Policy. With the revised Tariff Policy clearly specifying that up to 35% of the installed capacity can be tied up with the host State at regulated tariff and 15% of the installed capacity should be left untied, we requested MoP to make necessary amendment to the Mega Power Policy so that for a project which supplies 35% of its capacity to the host State, the balance capacity to be tied up under competitive bidding basis should be limited to 50%. APP also requested for extension in the permissible timelines for signing of PPA by another 36 months in view of the lack of adequate bidding opportunities.

MoP referred this issue to the Expert Committee headed by Shri Pratyush Sinha for further study. DG discussed this matter with the Secretary Power during his meeting with him on 21st April where it was revealed that based on the Committee's recommendations and internal deliberations, MoP would only consider an extension on timelines for signing of PPA. DG requested him to look into the possibility of releasing BG/FD submitted in proportion to the percentage of capacity tied up under long term PPA in order to provide some relief to the stressed projects by easing their liquidity profile. Based on this request MoP subsequently sought details from APP regarding the quantum of BG already submitted by developers along with details of capacity tied up under long term PPA. Eventually cabinet approval was given for _____

- **Implementation of new emission norms for TPPs**

In a detailed note submitted to CEA and MoP in March 2016, APP had outlined the implications of compliance with the new norms with regard to technological, operational, financial and regulatory concerns. The APP note had highlighted that there were many issues with ensuring compliance to the new norms - technological, commercial, operational and implementation related. Our note proposed phase wise implementation of the new norms and sought exemption/relaxation in cases where compliance was not technically possible (such as water consumption norms for coastal plants etc) and for aged plants which would not be able to recover the investments without unviable tariff hikes.

As the regulators would have an important role to play in ensuring pass through of additional expenditure and increased operating expenses, APP sought to sensitize the Regulators on the impact of the new norms and the way forward. We were allowed to present our views during the 54th meeting of the Forum of Regulators on 8th April. The Regulators were in agreement that the timelines were impossible to comply with and they also agreed that some of the norms were technically unworkable. We requested the Regulators to devise a framework which would reduce any time delays for regulatory approvals. While they were unable to give any commitment, they informed us that they would deliberate further among themselves to try and devise an appropriate framework for quick approvals for the modifications/expenditure required.

APP also participated in two roundtable conferences held by CSE in July and September, where it was again stressed that without sufficient regulatory clarity on approval and modes of financing, it would be very difficult for any generator to proceed with installation of required equipment to comply with the new norms. CSE agreed to work with the regulators and CEA to come out with benchmark capital cost estimates to facilitate quick regulatory approvals for investment. However, despite the above efforts, there has been complete silence from the Ministries, CEA and the Regulators on this subject and even the impractical timelines have not yet been modified.

- **Issue of Technical Minimum**

Jaiprakash Power Ventures had recently started facing scheduling below the plant's technical minimum level in Madhya Pradesh and upon approaching the APTEL, they were unable to get a favourable order as the Tribunal held that there was no legal mandate in the State of Madhya Pradesh to maintain the technical minimum of the station. The Tribunal further held that the PPA contained no provisions mandating the procurer to schedule any minimum quantum of power from the plant and also took the stand that the 4th Amendment in the Grid Code notified by CERC pertaining to technical minimum of ISGS plants was not applicable to IPPs in the state of Madhya Pradesh due to absence of any similar provision in the State grid code. The issue was discussed during the APP members meeting held in October wherein members were in agreement that there was a need for uniform scheduling principles to be followed across all States.

Considering the significance of the issue and the fact that many thermal plants could face a similar situation in the future due to the increasing share of renewable sources of energy, the Managing Committee decided that APP may implead itself in the review petition filed by JPVL at APTEL. The matter was also discussed with CEA Chairperson and Member, and they too were in agreement that all SERCs should pass necessary Regulations to ensure that technical minimum norms are adhered to uniformly. A letter outlining the concerns and requesting CEA to take up with the States to ensure the State Grid Codes are amended appropriately to reflect the principles of Technical Minimum was sent to CEA and MoP.

During a hearing by APTEL on the review petition filed by JPVL and the impleadment application by APP, the Bench appreciated the generic concern of the industry but was of the view that since the review pertains to limited jurisdiction, it would be better if APP approached APTEL through its own petition on the subject matter. Subsequently

the Managing Committee again discussed on the way forward and a call of deciding further course of action depending upon the outcome of the review petition filed by JPVL at APTEL.

- **Impact of GST on power sector**

  Ever since discussions started on the proposed GST Bill last year, APP had made various representations to the Government highlighting that exclusion of electricity from the GST regime would increase the cost of power for the end consumers and affect the economy adversely.

  APP was invited by CBEC to attend a discussion on 19th Aug with CBEC Chairman and Members and Ministry of Finance officials regarding suggestions to be taken into account for power sector during GST implementation. The APP delegation highlighted the major concern that the removal of various exemptions and concessions extended to the power sector and imposition of GST rate on input materials and services would lead to an increase in the cost of power. A detailed note submitted to CBEC outlined that the expected impact on power prices would be higher than 40p/kwh in the case of a domestic coal based plant if power was left out of GST and a rate of 18% imposed on input materials and services. APP requested for electricity to be kept within the GST framework while being 'zero rated' in order to allow the refund of input side tax costs and avoiding any increase in electricity tariff.

- **CERC Committee on relinquishment of LTA charges**

  APP's views on this issue were firmed up after discussing the issue internally within a sub-committee and then finalizing it in the APP meeting held on 9th Feb. APP had taken a stance that no relinquishment charges should be applicable for any request for change of region or where no system strengthening has been completed or where there are pending LTA applications to the same region. In case of delays in generation project due to factors beyond control, we had suggested that the generator may be allowed to postpone LTA rights in commensuration with commissioning of generation project subject to payment of transmission charges net of revenues obtained through MTOA/STOA.

  The final report of the Committee was sent to the Commission and shared with APP on 11th July. The final recommendations of the Committee were in line with most of APP's suggestions., except for one suggestion pertaining to cases where LTA granted on a strengthened system is more than the capacity of the strengthened system. While CTU, POSOCO, CEA and even CERC representatives had expressed reservations on the recommendations of the draft report (which remain unchanged in the final report), their views were mentioned as dissent opinions in the report and the Committee recommendations were not modified. While uploading the final report of the Committee on their website, CERC mentioned that the recommendations of the Committee would be duly considered while disposing of the individual petitions regarding relinquishment of LTA.

- **Presentation to Committee headed by Shri Mata Prasad on transmission planning and open access regulations**

  Vide order dated 8th December 2015, CERC formed a Committee to "Review Transmission Planning, Long Term Access, Medium Term Open Access and related issues" comprising of Shri Mata Prasad, Shri Rakesh Nath and Shri A.S. Bakshi. The Committee invited APP representatives to present their views on the issues being presently faced in regard to transmission planning, Connectivity, Long Term Access and Medium Term Open Access.

  Shri Anil Asthana represented APP and took the through a presentation which outlined the pitfalls of transmission planning based solely on LTA. The concept of GNA as highlighted in the CERC staff paper was also discussed and it was pointed out that matching of drawal GNA with injection GNA may lead to a deficient transmission system. Regarding the issue of pricing, there were conflicting opinions among members. One suggestion was that pooled pricing should be based on both utilization and installed capacity while others favoured pricing based on utilization only. There were also diverging viewpoints regarding the priority of transactions. Some members favoured equal priority for all transactions while some preferred higher priority for LTA and then MTOA and STOA in decreasing order.

  The Committee released its report in September 2016. APP's viewpoint that withdrawal GNA should not be force matched with injection GNA was accepted by the Committee. With regard to pricing, the Committee recommended allocation of charges based on usage of the ISTS, based on the prevalent regulations on sharing of inter-state transmission charges and losses.

- **Writ Petition against CERC Tariff Regulations 2014-19 in Delhi High Court**

  In the previous year, APP took the stand that there are difficulties with measuring the GCV at the point of unloading and that measurement of GCV should be done after the secondary crusher as samples taken of the crushed coal is a better representative of the sample as a whole. The High Court subsequently granted liberty to the petitioners to approach the CERC on the issue of interpretation of the term 'as received' and directed CERC to decide the matter within a period of 4 weeks. APP subsequently filed written submissions to CERC wherein it provided details of number of generating companies which had secondary crushers installed on the project site as desired by CERC.

  Subsequently, in its order dated 25th Jan 2016, the Commission had specified that measurement of GCV of coal on 'as received' basis from the loaded wagons at the generating stations is the most appropriate method for computation of energy charges.
  During a hearing on 21st October, the Court made enquiries whether the generating companies have started recording GCV data on 'as received' basis. NTPC later informed the Court that they are facing technical difficulties in measuring GCV on 'as received' basis and are in the process of filing a petition before the CERC seeking relief. The next hearing was held on 9th Feb 2017 along with NTPC and Lanco's connected writ petitions. Given the fact that NTPC's petition before the CERC seeking relaxation of norms was still pending, the matter has been listed for next hearing on 3rd May 2017.

- **Other issues**
  - **Pending payments to Generators -** The issue of large quantum of pending receivables (beyond due date) by the IPPs from the procurers was highlighted to MOP and the concerned officials agreed to provide their support towards requesting and following up with the States to clear the pending dues. In this regard, a circular was issued by CEA on 25th Nov asking IPPs to send monthly outstanding position of 60-day dues to CEA regularly through APP. While a common format was circulated among all members for providing the requisite information, only a few members have been providing the data on a regular basis.
  - **Stressed Assets -** Notice was received from MoP on 30th June stating that the Minister would like to hold a meeting with stressed power project developers and as requested by MoP, APP collated detailed information from the project developers regarding factors causing stress such as coal supply issues, incomplete recovery of coal cost due to mismatch between actual prices and CERC escalation index, difficulty in obtaining Final Mega Power status, gas unavailability and charges due to relinquishment of LTA, etc. Subsequently JS MoP invited DG for preliminary discussions and additional details were sought from APP regarding projects facing transmission constraints along with suggestions on revitalizing hydro power generation and measures to improve financing, which was also submitted. However the proposed meeting with the Minister on these issues did not materialize despite repeated reminders.
  - **Recommendations of Committee for revision of Transmission SBDs -** Some of the key suggestions highlighted by APP were - Proposed Implementation & Service Agreement to be valid for a period of 35 years to make it co-terminus with the licence period; private sector to be represented in the Empowered Committee; retaining existing BOOM model as BOOT may make financing more difficult; existing bidding method to be retained instead of adopting reverse bidding; any change in account of regulatory measures or tax applied on the income or profits of the TSP should be covered under change in law; relaxation in equity lock-in timelines and need for sufficient provisions to ensure timely sanction of Section 164 clearance and other permissions.
  - **Draft amendments in provisions relating to Captive Generating Plants in Electricity Rules 2005 -** The amendment proposed by MoP stated that the electricity consumed by a captive user over and above 51% would be determined on an annual basis in proportion to their share of ownership of the power plant. APP highlighted that limiting the electricity consumed by a captive user over and above 51%, on the basis of proportion of share in ownership of the plant is a very stringent criteria and disallows any flexibility among the captive user(s). APP further suggested that in case one or more captive users fail to comply with the minimum percentage of captive use, then instead of penalizing all the captive users, the power consumption by the defaulters only should be considered as ‘non captive’ and the electricity consumption by the rest of the user(s) who have met the requirement of minimum 51% of generation in proportion to their share of ownership, may be considered as captive consumption.