

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

- 1. Shri Bhanu Bhushan, Member**
- 2. Shri R. Krishnamoorthy, Member**

Petition No. 108/2007

In the matter of

Petition under section 79 of the Electricity Act, 2003 read with regulation 35 of the Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2004

And in the matter of

1. Tata Power Trading Company Ltd. Mumbai
 2. Vishwanath Sugars Ltd., Belgaum
- ..Petitioners**

Vs

1. Western Regional Load Dispatch Centre, Mumbai
 2. State Load Dispatch Centre, (Karnataka) Bangalore
 3. Karnataka Power Transmission Corporation Limited, Bangalore
 4. Hubli Electricity Supply Co. Limited, Hubli
- ... Respondents**

Petition No. 114/2007

In the matter of

Petition under section 79 of the Electricity Act, 2003 read with regulation 35 of the Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2004

And in the matter of

1. Ugar Sugar Works Ltd. Sangli
 2. Tata Power Co. Ltd., Mumbai
- ..Petitioners**

Vs

1. Karnataka Power Transmission Corporation Limited, Bangalore
 2. Hubli Electric Supply Company Ltd., Hubli
 3. Western Regional Load Dispatch Centre, Mumbai
 4. State Load Dispatch Centre, (Karnataka) Bangalore
- Respondents**

Petition No.116/2007

In the matter of

A petition under Section 79 of the Electricity Act, 2003 read with Regulation 35 of the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2004.

And in the matter of

1. Shree Doodhaganga Krishna Sahakari Sakkare Karkhane Niyamit,
Chikodi

- | | |
|---|-------------------------|
| 2. Tata Power Co. Ltd., Mumbai | ... Petitioners |
| Vs | |
| 1. The Karnataka Power Transmission Corporation Ltd., Bangalore | |
| 2. Hubli Electric Supply Company Ltd., Hubli | |
| 3. Western Regional Load Dispatch Centre, Mumbai | |
| 4. State Load Dispatch Centre, Bangalore | Respondents |

The following was present:

1. Shri Sanjay Sen Advocate for Petitioners
2. Shri M.G.Ramachandran, Advocate for respondents
3. Shri Anand K. Ganesan, Advocate for respondents
4. Ms. Swapna Seshadri, Advocate for respondents

ORDER
(DATE OF HEARING: 23.10.2007)

In these petitions, the petitioners seek directions to the respondents for grant of open access for conveyance of electricity from the generating stations situated in the State of Karnataka to other States in Western Region. The petitioners' grievances in all these cases are similar.

2. Heard learned counsel for the petitioners and the respondents.
3. The counsel for KPTCL, Shri M.G. Ramachandran, clarified that he was also representing Hubli Electric Supply Company (a subsidiary of KPTCL), and the Karnataka State Load Dispatch Centre (which is owned and operated by KPTCL).
4. The counsel for KPTCL stated that following the last hearing of the petitions on 16.10.2007, open access had been granted by KPTCL in the first two cases (Vishwanath Sugars Ltd and Ugar Sugar Works Ltd) provisionally from 17.10.2007 to 16.11.2007. He further stated that the matter was being discussed / negotiated with the petitioners, and was expected to be resolved within 8-10

days. He therefore pleaded that the matter may be kept pending, and no order be passed before hearing it again.

5. The counsel for the petitioners confirmed that the required open access had been granted in the first two cases, but it was temporary and the matter was yet to be resolved. He stated that the petitioners were amenable to the proposed discussion / negotiation with the State utilities to find an amicable solution. To enable the parties to mutually resolve the matter amicably, we allow the time sought. Let the petitions be heard again on 7.11.2007.

6. As for the third petition (Shree Doodhaganga KSSKN), the counsel for KPTCL stated that the matter was already listed for hearing before the State Commission on 23.10.2007, and pleaded that no order be passed by this Commission before the outcome of the hearing in the State Commission is known. The counsel for the petitioners however wanted an order from this Commission similar to the one in the other two cases.

7. We clarify that para 3 of our order dated 18.10.2007 makes no distinction between the three petitions, and our observations therein are equally applicable to the third case as well. The third petition too shall be heard on 7.11.2007, along with the first two.

8. Before parting, we consider it necessary to reiterate that “captive” generation means the generation which is captive to an industry, being a part of it. It is not captive to the local State utility, as some utilities tend to assume. Further, post-Electricity Act 2003, the utilities do not have any lien or a right of first refusal over any generating capacity simply on account of its being located

within the utility's area, except as provided under a valid agreement. The utilities are also not expected to adopt coercive measures for getting the generating capacity owners to sign unreasonable agreements.

Sd-/
(R. KRISHNAMOORTHY)
MEMBER
New Delhi dated the 29th October 2007

sd-/
(BHANU BHUSHAN)
MEMBER