

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram**

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

**Petition No. 10/2008**

**In the matter of**

Open access for inter-State transmission of power generated by Nava Bharat Ventures Ltd through M/s. Reliance Energy Trading Ltd, to the distribution utilities in Andhra Pradesh.

**And in the matter of**

Nava Bharat Ventrues Ltd, Hyderabad.

**.... Petitioner**

Vs

1. Southern Regional Load Despatch Centre, Bangalore
2. Eastern Regional Load Despatch Centre, Kolkata
3. Orissa Power Transmission Corporation Ltd., Bhubaneswar
4. State Load Despatch Centre, Orissa, Bhubaneswar
5. Reliance Energy Trading Ltd., New Delhi
6. Eastern Regional Power Committee, Kolkata

**.... Respondents**

**Petition No. 11/2008**

**In the matter of**

Contravention of the Commission's order dated 31.12.2007 in Petition No. 156/2007 arising out of non-approval of open access by Southern Regional Load Despatch Centre (SRLDC) on the ground of non-receipt of consent from SLDC-Orissa-OPTCL.

**And in the matter of**

Nava Bharat Ventrues Ltd, Hyderabad.

**.... Petitioner**

Vs

1. Southern Regional Load Despatch Centre, Bangalore
2. Eastern Regional Load Despatch Centre, Kolkata
3. State Load Despatch Centre, Bhubaneshwar

**.....Respondents**

**Review Petition No. 37/2008  
in Petition No.156/2007**

**In the matter of**

Review of the order dated 31.12.2007 in Petition No.156-2007 – Non-approval of open access communicated by Southern Regional Load Despatch on ground of non-receipt of consent from SLDC-OPTCL for power generated by Nava Bharat Ventures Ltd through M/s. Reliance Energy Trading Ltd to the distribution utilities in Andhra Pradesh.

**And in the matter of**

State Load Despatch Centre, Orissa, Bhubaneswar

**.... Petitioner**

**Vs**

1. Nava Bharat Ventures Ltd., Hyderabad
2. Eastern Regional Load Despatch Centre, Kolkata
3. Orissa Power Transmission Corporation Ltd., Bhubaneswar
4. Reliance Energy Trading Ltd., New Delhi
5. Eastern Regional Power Committee, Kolkata
6. State Load Despatch Centre, Orissa, Bhubaneswar     **.... Respondents**

**ORDER**

These petitions which were heard on different dates as given in the Annexure attached to this order, are the off-shoot of the same order, that is, the order dated 31.12.2007 in Petition No.156/2007 (hereinafter referred to as “the said order dated 31.12.2007”) but raise the common questions. Therefore, these are being disposed of through this common order. For this purpose, we are referring to the facts in Review Petition No.37/2008.

**REVIEW PETITION NO.37/2008**

2. The application has been made by the State Load Despatch Centre, Orissa (hereinafter referred to as “the SLDC”) for review/clarification/modification/reconsideration/recall of the said order dated 31.12.2007 in Petition No.

156/2007. In the application SLDC has listed certain difficulties because of which, it has expressed its inability to comply with the said order dated 31.12.2007.

3. We heard Shri R.K. Mehta, learned counsel for the SLDC on admission. We are considering the submissions with an open mind, on merits, which may not necessarily be within the scope of an application for review.

### **Background Facts**

4. Petition No.156/2007 was filed by Nava Bharat Ventures Ltd. (hereinafter referred to as "Nava Bharat"), complaining that Reliance Energy Trading Ltd., with whom Nava Bharat had agreed to sell 25 MW of surplus electricity to be generated at its generating station in the State of Orissa, was not allowed open access for transfer of power to the State of Andhra Pradesh, during the period 7.1.2008 to 31.1.2008, because of denial of consent by the SLDC, operated by Orissa Power Transmission Corporation Ltd. (hereinafter referred to as "OPTCL"). Nava Bharat, therefore, sought directions that the licensees purchasing energy from it would be entitled to and be allowed short-term open access for inter-State transmission, subject to considerations of congestion or unavailability of the transmission corridor. The petition was disposed of by the said order dated 31.12.2007, presently sought to be reviewed, holding that there were no justifiable grounds for denial of open access as it was established, based on record, that there were no transmission constraints. It was further directed that the applications for grant of open access received in future would be considered in the light of observations made in the said order dated 31.12.2007.

### **Prayer for Reconsideration of paras 20 and 25**

5. In the proceedings in Petition No.156/2007, it was contended by the SLDC that open access could not be granted because the real time monitoring facilities were not provided by Nava Bharat. For this purpose, the SLDC relied upon certain provisions of the Orissa Grid Code (hereinafter referred to as the "OGC"), which incorporates the provisions of the Indian Electricity Grid Code, (hereinafter referred to as the "IEGC") and order dated 29.10.2007 in Case No.10/2007 before the Orissa Electricity Regulatory Commission (hereinafter referred to as the "OERC"). It was contended that the real time monitoring was required for issue of instructions by the SLDC, if the situation so demanded. This contention of the SLDC was examined. It was noticed that the facilities for real time monitoring were not insisted upon by the SLDC in case of power supplied to the Grid Corporation of Orissa Limited (hereinafter referred to as the "GRIDCO") by other generating stations located in the State of Orissa and the captive generating plants supplying power to the State grid. It was, therefore, observed that selective insistence on data monitoring facilities for sale of power by Nava Bharat could amount to blatant and hostile discrimination. In the facts noted, the Commission found that the SLDC and the OPTCL had acted in a discriminatory manner by denying open access. These observations are made in paras 20 and 25 of the said order dated 31.12.2007. The SLDC has prayed for reconsideration of these observations.

6. In support of the prayer for reconsideration of the observations, it has been stated that the cases of injection of power to the State grid and those of sale of power to the entities outside the State of Orissa through the open access on the intra-State transmission system of the OPTCL stand on different footing and, therefore, the

question of discrimination noted by the Commission in the said order dated 31.12.2007, should not arise. For example, it has been illustrated that in case of under-injection, the SLDC may have to impose load restrictions. However, in the absence of monitoring facility, it would not be possible to monitor the injection of power under such situations. It has been stated further that in case of other generating stations, including the captive generating plants, while injecting power to the State grid, the above situation does not arise. Therefore, the SLDC feels that it has not acted in a discriminatory manner when it had not given consent for open access for transfer of power generated by Nava Bharat. In this context, the relevant portion of the averment made by the SLDC in the application for review is extracted below:

“3.4 The operational problems in the two categories of cases are also different. Due to absence of data monitoring facility it is not possible to monitor the under-injection of the CGPs for curtailment of the Schedule although implemented after 6 block periods. In case of under injection by the CGPs (who have been allowed Open Access) during contingency situations SLDC may be required to impose load restrictions on the bonafide consumers of the State to maintain the Schedule. In case of CGPs injecting power to the State Grid/Gridco the above situation will not arise, as they are already injecting power to the State system. It is thus submitted that SLDC is not acting in a discriminatory manner while allowing injection of power to GRIDCO.”

7. We have considered the submission. It is pointed out that the contingency situation referred to by the SLDC can only be a tripping in the captive generating plant. In both cases, whether the captive generating plant has contracted to supply power to the Orissa utilities or to utilities outside Orissa, the consequent under-injection would immediately result in a change in load-generation balance in the State, and State's net drawal from the regional grid would correspondingly increase. In other words, the State could start over-drawing in both cases, and there would be no difference between the actions which the SLDC has to take. In fact, the SLDC need not take any action in either case, for the simple reason that a shortfall of a few MW in

the large inter-connected grid that we now have, will not even be visible. Even if the grid frequency had been running low, drawal increase by tripping of a captive generating plant of the size owned by Nava Bharat would be too small for the RLDC to ask the SLDC to curtail its drawal. Further, in either case, there would be nothing that the captive generating plant could do, except to try to bring the generation back at the earliest. In case the SLDC expects the captive generating plant to continue with its scheduled level of injection by switching off the associated industry, it would be most unfair, and also equally unfair in either case, that is, when supply is to the State grid or to outside the State through a trading license. We are not looking for captive generating plant power injection in to the grid at the cost of associated industry to which it is 'captive'.

8. The only difference between the two cases is that in case of open access to another State, the captive generating plant would pay a compensation to the Orissa utilities at the prevailing UI rate for any under-injection (to offset what Orissa utilities have to pay to regional UI pool account), whereas in case of a contract for supplying power to Orissa utilities, the latter have to absorb the consequent liabilities. What the above discussion brings out is that hardly anything of consequence would be achieved by real-time monitoring of the captive generating plant injection (for captive generating plants of upto 40-50 MW), whether the captive generating plant is supplying power to another State under open access, or not.

9. The observations of the Commission in para 20 of the said order dated 31.12.2007 need to be seen in the above light. We may further point out that real-time monitoring is really necessary only for larger power plants (from grid operation angle),

and for dedicated plants which are given schedules based on plant availability declarations to the RLDC/SLDC (for commercial reasons and to check that there is no gaming in availability declaration). In case of captive generating plants, only surplus capacity (which would vary from day-to-day and hour-to-hour) is to be injected in the system. There is no availability declaration that would attract gaming provisions, as the utility has no lien over the captive generating plant capacity. For the above reasons, we are unable to agree with the contentions of the SLDC. Paras 20 and 25 of the said order dated 31.12.2007 need to be read accordingly.

**Reconsideration of paras 29, 30 and 31**

10. The SLDC has further prayed for reconsideration of the observations made in paras 29, 30 and 31 of the said order dated 31.12.2007. The Commission in the said order dated 31.12.2007 had taken note of the observations made by the OERC in its order dated 29.10.2007 in Case No. 10/2007, to the effect that the SLDC should ensure that the provisions of the Grid Standards and Grid Codes were strictly followed even if at the cost of additional expenditure to a user. The Commission had observed that the advice of the OERC as contained in para 12 of the order dated 29.10.2007 was overlooked by the SLDC since the OERC had called upon it to function as an independent system operator while discharging its statutory functions. The Commission noticed that the SLDC while not consenting for open access, had acted in a manner not consistent with its status as an independent system operator and made the observation now sought to be reconsidered.

11. In the application for review, the SLDC has submitted that it has been trying its best to ensure that the provisions set out in the Grid Codes are strictly followed in

accordance with the directions of the OERC as contained in para 8 of the order dated 29.10.2007. The SLDC has submitted that the procedure for grant of open access has been developed and submitted to the OERC for its approval. After approval, the procedure will be formally published. Under these circumstances, the SLDC has prayed for reconsideration of the observations made.

12. In para 21 of the said order dated 31.12.2007, clauses 4.10 and 4.12(iii) of the IEGC issued by this Commission had been reproduced. It has come to our notice that these provisions have been adopted verbatim in the OGC and are then being interpreted in a manner not intended under the IEGC. It was never the intention of this Commission that communication linkage right upto the RLDC/SLDC was to be provided individually by every agency connecting to the inter-State transmission network. Such a requirement would lead to unnecessary duplication, complication and may cause coordination problems. What is really required is that all agencies cooperate and coordinate with the RLDC/SLDC and the CTU/STU to facilitate the required speech and data communication. In the first place, the data to be communicated has to be specified by the concerned RLDC / SLDC; not every data available has to be necessarily transmitted to the RLDC/SLDC. Secondly, it has to be done through appropriate communication channels in an optimal manner. It would generally be through the communication system already installed by the CTU/STU on its transmission network. Only some end-links may have to be installed by an agency, on agency-owned transmission lines, if any. The CTU/STU would normally own the communication links running on its transmission lines, but may ask a new agency to pay for the incremental system.



13. The present IEGC clauses are premised on the RLDC and the CTU ensuring that everything is done in optimal and reasonable manner, in line with what is said in the previous paragraph. The CTU and the RLDCs are already taking care of this aspect. However, since the IEGC is being adopted and is further liable to be so adopted while drafting the State Grid Codes, and some State utilities may tend to interpret it as the SLDC has done in the present case, it appears necessary to remove all ambiguity in the matter, by effecting following amendments in clause 4.10 of the IEGC.

- (i) "to RLDC/SLDC" in the second sentence may be replaced by "by RLDC".
- (ii) "RLDC/SLDC, as the case may be" in the third sentence may be replaced by "appropriate data collection point on CTU's system".
- (iii) "and RLDC/SLDC" in the last sentence may be deleted.

14. The Commission's office is directed to initiate the process for amending the IEGC as detailed above.

15. The clauses 4.11 and 4.13(1)(d) of the OGC, which are the exact reproduction of the present clauses 4.10 and 4.12 (iii) of the IEGC, had been quoted in para 22 of the said order dated 31.12.2007. We would suggest to the OERC to consider amending clause 4.11 of the OGC in line with the amendments proposed above to clause 4.10 of the IEGC.

16. We would also like to point out that the IEGC is basically meant for the inter-State transmission system, wherein the agencies connecting into the system are large (hundreds and thousands of MW). The requirements specified in the IEGC are, therefore, oriented for those, duly considering that the RLDCs necessarily need real-

time data from all such agencies because of the latter's size. The same would not be the case in intra-State systems where much smaller agencies would be connected. As pointed out earlier, real-time data and monitoring may not be really required for every one of them. The OERC may, therefore, like to consider relaxing for agencies of upto a certain MW size the provisions under clauses 4.11 and 4.13(1)(d) of OGC. Such relaxation would also reduce data overload at the SLDC (which may otherwise become a problem in future), and enable the SLDC operators to concentrate on their more important functions.

17. In paragraphs 29, 30 and 31 of the said order dated 31.12.2007, we have pointed out certain aspects in which the SLDC appeared not to be complying with the orders of the OERC. The matter, however, is in the domain of the OERC and we would not like to say anything further, except to reiterate our observation that all intra-State entities are expected to comply with the orders and directions of the concerned State Commission.

### **Recall of directions**

18. The SLDC in the application for review has prayed for recall of the directions for grant of open access based on the conclusions arrived at in paras 43, 44, 45, 46 and 47 of the said order dated 31.12.2007, as extracted hereunder:

“43. It was also submitted on behalf of the petitioner that communication equipment as per specifications furnished by Orissa Power Transmission Corporation have been procured and installed and permission has been sought for installing such equipment in the switching station and sub-station owned by Orissa Power Transmission Corporation. That being the position, it should be possible to meet even the requirement of real time monitoring before scheduled date of the transaction i.e. 7.1.2008.

44. Under these circumstances, we do not find any justification for denial of open access on the ground of lack of facilities for real time monitoring.

45. At this stage we are not inclined to consider the prayers at sub-paras (b) and (c) of the opening para of this order. The Commission has already published the draft of the revised regulations on open access titled, "the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008" presently available on the Commission's web site. The Commission has invited comments/suggestions/objections on the proposals made in the draft on the revised open access regulations. These issues raised by the petitioner can be looked into while finalizing the revised regulations on open access, and for this purpose the petitioner is at liberty to submit its views on the draft, including on the issues raised at sub-paras (b) and (c).

46. Thus we conclude that:

(a) There is no transmission constraint or congestion as accepted by Orissa State Load Despatch Centre.

(b) The requirements of procuring and erecting PLCC and other communication equipment has already been complied with by the petitioner, who had also sought the permission for installing these at the switching station and substation of the State utility as of November, 2007 itself.

(c) Neither OCG nor the Orissa State Electricity Regulatory Commission orders put any restriction in granting open access. On the contrary, the Orissa State Electricity Regulatory Commission had come heavily on respondent No 6 for not acting independently as brought out in the orders elsewhere.

47. Accordingly, we direct that open access be allowed as required by Reliance since there are no transmission constraints and surplus transmission capacity is available on the intra-State transmission system as noted from the response of Orissa State Load Despatch Centre on the letter enclosed with Southern Load Despatch Centre's letter dated 26.10.2007. It was also confirmed by the representatives of Southern Regional Load Despatch Centre and Eastern Regional Load Despatch Centre at the hearing on 11.12.2007 that there would be no transmission constraints in the Inter-State transmission system that may normally come in the way of open access applied for. We, therefore, call upon the Regional Load Despatch Centres concerned to schedule the transaction applied for, even if the application/clearance is received after the normal cut-off date in the present case, subject of course to availability of spare transmission capacity".

19. It has been submitted by the SLDC that the directions are based on the submissions noted at para 43 to the effect that the required equipment for providing inter-face with SCADA system of the OPTCL had been installed and, therefore, the monitoring facility was available for scheduling the transactions. It has been pointed out that the equipment has not been commissioned and integrated with OPTCL's SCADA system. The SLDC has submitted that in the light of this, the direction for grant of open access needs review and recall.

20. It is clarified that observations therein were premised on the required communication links being established by 7.1.2008 as was then expected. This was an additional ground which persuaded the Commission to pass directions for grant of open access, the main ground for which was availability of surplus capacity and absence of any congestion on the transmission lines owned by OPTCL, in view of Section 35 of the Electricity Act, 2003. We have been advised that the communication links have still not been made functional. This, however, does not alter the position, for the reason that there were other grounds also which formed the basis for the direction.

21. We, however, find it appropriate to make some comments on the issue. It is rather strange that Nava Bharat has been asked to install and commission the power line carrier communication (PLCC) equipment on a transmission line owned by the State transmission utility, the OPTCL. While Nava Bharat could have been asked to pay for it, the PLCC should have been installed by the OPTCL only. The communication link would enable monitoring of the captive generating plant by the SLDC, and is, therefore, to be seen as a functional requirement of the SLDC, and not of the captive generating plant. The OPTCL being the STU and thereby being

responsible for operating the SLDC, should be taking full responsibility for PLCC's early commissioning and continued operation, rather than putting the onus for everything on Nava Bharat.

22. We have been observing an undercurrent in submissions of the OPTCL, which operates the SLDC, before the Commission to find one reason or the other to delay the grant of open access to Nava Bharat. In one of the hearings in other petitions being disposed of through this order, the OPTCL's representative raised the issue of GPS time synchronizing by Nava Bharat. We are unable to make out how this could be made a pre-condition for grant of open access. Further, while the SLDC should know its operational requirements and specify the same, we have found the SLDC to be quoting the advice of the GRIDCO and the OPTCL on matters which should be solely in its domain. It is obvious that the SLDC has not assumed the role of an 'apex body' in the State, granted to it under the Electricity Act, 2003 (the Act).

23. We believe that the difficulties on various counts can be overcome if a pragmatic approach is adopted by the parties concerned, particularly the State utilities, in terms of the detailed discussion made in this order. We urge accordingly.

24. In view of the above discussion, the application for review stands disposed of at the admission stage.

**PETITION NO. 10/2008**

25. This application has been made by Nava Bharat pointing out that despite the directions in the said order dated 31.12.2007, the open access consent for the

transaction for the period 7.1.2008 to 31.1.2008 was denied by the SLDC and the OPTCL. Accordingly, a fresh direction was sought to the SLDC and others to allow open access for the period 1.2.2008 to 29.2.2008 for which also an application was made. The SLDC in its response has raised issues similar to those raised in the application for review.

26. For the reasons discussed above and the fact that the period for which open access was prayed for has already expired, the application has become infructuous. No separate directions are, therefore, necessary at this stage.

27. It needs to be pointed out that the GRIDCO was not impleaded in this petition. Shri R.B. Sharma, Advocate who appeared on behalf of the GRIDCO had sought to be impleaded as a respondent. Subsequently, Shri Sharma filed an affidavit to seek impleadment on the ground that Nava Bharat in the petition had made certain serious allegations against the GRIDCO.

28. We had heard Shri Sharma at great length even though in the said order dated 31.12.2007, it was observed that GRIDCO was not a necessary party to whole of the proceedings. For the fact that we have not gone into merits of the detailed submissions made in the petition and have not taken any cognizance thereof impleadment of GRIDCO is not considered necessary, particularly when no observation is being made in this order, which can affect adversely the interest of the GRIDCO.

**PETITION NO. 11/2008**

29. Nava Bharat through an affidavit had alleged non-compliance of the said order dated 31.12.2007 by the respondents, since the application for grant of open access for the period 7.1.2008 to 31.1.2008 was turned down in the face of the directions. Taking notice of the allegation made, proceedings were initiated under Section 142 of the Act. Accordingly, a show cause notice was issued.

30. Having perused the cause shown by the respondents and the views expressed herein while disposing of the Review Petition 37/2008, we hereby direct that the proceedings initiated against the respondents under Section 142 of the Act stand dropped.

**Conclusion**

31. All these petitions stand disposed of in terms of this order.

32. We direct that a copy of this order may also be sent to the OERC for its consideration of the observations made at para 16 above.

Sd/-  
(R. KRISHNAMOORTHY)  
MEMBER

New Delhi, dated 5<sup>th</sup> May 2008

Sd/-  
(BHANU BHUSHAN)  
MEMBER

**Annexure**

<b>Petition No.</b>	<b>Date of Hearing</b>	<b>Present</b>
10/2008	28.2.2008	<ol style="list-style-type: none"><li>1. Shri K. Gopal Choudhary, Advocate, NVBL</li><li>2. Shri R.K. Mehta, Advocate, SLDC</li><li>3. Shri S.K. Das, SLDC</li><li>4. Shri P.K. Das, SLDC</li><li>5. Shri V.K. Agrawal, SRLDC</li><li>6. Shri Vishwajeet Singh, PGCIL</li><li>7. Shri Buddy Aranganadaan, Advocate, OPTCL</li><li>8. Shri J.K. Mishra, OPTCL</li><li>9. Shri S.R. Sarangi, GRIDCO</li><li>10. Shri R.B. Sharma, Advocate, GRIDCO</li></ol>
11/2008	11.3.2008	<ol style="list-style-type: none"><li>1. Shri K. Gopal Choudhary, Advocate, NVBL</li><li>2. Shri R.K. Mehta, Advocate, SLDC</li><li>3. Ms Nalini Pal, SLDC</li></ol>
RP No. 37/2008 in Petition No.156/2007	10.4.2008	<ol style="list-style-type: none"><li>1. Shri R.K. Mehta, Advocate, SLDC</li><li>2. Shri Mragank, Advocate, SLDC</li></ol>