

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram

1. Dr. Pramod Deo, Chairperson
2. Shri R.Krishnamoorthy, Member
3. Shri S.Jayaraman, Member
4. Shri V.S.Verma, Member

Petition No. 121/2008

In the matter of

Unlawful and arbitrary denial by Tamil Nadu Electricity Board for granting concurrence for Open Access sought by Tata Power Trading Company Limited.

And in the matter of

1. Tata Power Trading Company Limited, Mumbai	
2. DCW Limited, Mumbai	..Petitioners
Vs	
Tamil Nadu Electricity Board, Chennai	... Respondent

Petition No. 158/2008

In the matter of

Unlawful and arbitrary denial by Tamil Nadu Electricity Board for granting concurrence for Open Access sought by Tata Power Trading Company Limited.

And in the matter of

Wilful violation of Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2008.

And in the matter of

DCW Limited, Mumbai	Petitioner
Vs	
Tamil Nadu Electricity Board, Chennai	Respondent

Following were present:

1. Shri Rahul Diwan, Advocate for Petitioners
2. Shri Abhishik Munot, Advocate for Petitioners
3. Shri P.R.Kovilan, Advocate for the respondent
4. Shri P.S.Ganesh, TNEB
5. Ms. A.Auxilium Jayamary, TNEB

ORDER
(DATE OF HEARING: 2.4.2009)

Petition No. 121/2008 is jointly made by Tata Power Trading Company Ltd. (the first petitioner), an inter-State trading licensee and DCW Limited (the second petitioner) owning a 2x25 MW coal-based captive co-generation power plant at Sahupuram, near Tuticorin in the State of Tamil Nadu.

2. The petitioners, feeling aggrieved by non-grant of open access, sought directions, to the respondent to comply with the Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2008 (hereinafter referred to as the "open access regulations") and for grant of concurrence for open access to the first petitioner at the earliest. A further prayer made by the petitioners was to settle the principles for compensation or damages which the petitioners would be entitled to because of alleged unlawful inaction or refusal by the respondent, with liberty to the petitioners to submit details of damages or compensation that may be claimed by them.

3. Petition No. 158/2008 has been filed under Section 142 of the Electricity Act, 2003 (the Act) for penal proceedings against the respondent for the alleged non-compliance of the open access regulations by the respondent.

4. Heard learned counsel for the parties.

5. Learned counsel for the respondent informed that in compliance with the Commission's direction, a report was filed vide affidavit dated 2.3.2009 and before any further action was taken by the respondent, the second petitioner was required to deposit the requisite charges.

6. Learned counsel for the petitioners informed that the State Government had issued an order under Section 11 of the Act, interdicting sale of electricity by the generating companies in the State of Tamil Nadu, outside the State. He stated that a writ petition filed before the Madras High Court against the order made by the State Government was pending. He accordingly prayed for permission to withdraw the petitions with liberty to approach the Commission in future whenever the need arose and in accordance with law. Learned counsel for the petitioners further urged that he should not shut out totally on account of withdrawal of the petitions. Learned counsel for the respondent agreed that withdrawal of the petitions could not act as estoppel for any action in future, and the petitioner could always challenge the any decision. Learned counsel for the respondent further stated that the petitioners could any time approach the Commission in accordance with law.

7. Request made by learned counsel for withdrawal of the petitions has been allowed. The petitioner is granted liberty to approach the Commission through appropriate application, if so advised. We, however, make it clear that the fresh proceedings, if initiated, shall be from the stage presently reached in Petition No. 121/2008.

8. With the above, the present petitions are disposed of as withdrawn.

sd/- **sd/-** **sd/-** **sd/-**
(V.S.VERMA) **(S.JAYARAMAN)** **(R.KRISHNAMOORTHY)** **(DR.PRAMOD DEO)**
MEMBER **MEMBER** **MEMBER** **CHAIRPERSON**
New Delhi dated the 9th April 2008