

**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 151/2009  
(Suo-motu)**

**In the matter of**

Denial of open access in violation of open access regulations.

**And in the matter of**

Delhi Transco Ltd (State Load Despatch Centre) Delhi ...**Respondent**

**ORDER**

The Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008 (hereinafter "open access regulations") provides that while processing the applications seeking concurrence or 'no objection' or prior standing clearance, the State Load Despatch Centre shall verify the existence of infrastructure for time-block-wise energy metering and accounting and availability of surplus transmission capacity in the State network. Sub-clauses (b) and (c) of clause (3) of regulation 8 of the above regulations are extracted hereunder for ease of reference:

“(b) While processing the application for concurrence or ‘no objection’ or prior standing clearance, as the case may be, the State Load Despatch Centre shall verify the following, namely-

i) existence of infrastructure necessary for time-block-wise energy metering and accounting in accordance with the provisions of the Grid Code in force, and

(ii) availability of surplus transmission capacity in the State network.

(c) Where existence of necessary infrastructure and availability of surplus transmission capacity in the State network has been established, the State Load Despatch Centre shall convey its concurrence or ‘no objection’ or prior standing clearance, as the case may be, to the applicant by e-mail or fax, in addition to any other usually recognised mode of communication, within three (3) working days of receipt of the application”

2. From the above extracted statutory provision, it is apparent that once the above noted two conditions are satisfied, the State Load Despatch Centre is mandated to convey concurrence or ‘no objection’ or prior standing clearance, as the case may be.

3. Against the above unambiguous statutory position, the following has been brought to the Commission’s notice:

(a) North Delhi Power Ltd (“NDPL”) had vide its application dated 20.6.2009 sought consent for open access for exporting the following quantum of power on 21.6.2009:

S.No	Time Period	Quantum
(i)	02:00 - 06:00 hrs	150 MW
(ii)	06:00 – 10:00 hrs	200 MW
(iii)	10:00 – 15:00 hrs	100 MW
(iv)	15:00 – 18:00 hrs	80 MW
(v)	18:00 – 24:00 hrs	75 MW

(b) Against the above requirement, the respondent had granted consent for export of the following quantities:

S.No	Time Period	Quantum
(i)	02:00 - 05:00 hrs	NIL
(ii)	05:00 – 06:00 hrs	50 MW
(iii)	06:00 – 10:00 hrs	100 MW
(iv)	10:00 – 14:00 hrs	50 MW
(v)	14:00 – 24:00 hrs	NIL

(c) The respondent had endorsed on the application of the NDPL on 20.6.2009 to the effect that curtailment was done so as to meet the Delhi's Demand as per the meeting taken by Secretary (Power) dated 8.5.2009 and as per availability shown by NDPL in day ahead schedule for 20.6.2009

4. It is seen from the above that the respondent had curtailed the quantum for which consent was sought in all the time periods. This amounts to denial of open access for the reasons extraneous to the provisions of sections 35 and 36 of the Electricity Act, 2003 (the Act) and the open access regulations.

5. On consideration of the above facts, *prima facie*, we are of the opinion that the above noted act of the respondent amounts to contravention of and non-compliance with the provisions of the Act and the open access regulations.

6. Accordingly, the respondent is hereby directed to show cause as to why it should not be held guilty of contravention of and non-compliance with the provisions of the open access regulations and penalty under Section 142 of the Act be not imposed on it. The reply may be submitted latest by 30.8.2009.

7. List this petition for further directions on 17.9.2009.

**Sd/=**  
[V. S. VERMA]  
MEMBER

**Sd/=**  
[S. JAYARAMAN]  
MEMBER

**Sd/=**  
[R. KRISHNAMOORTHY]  
MEMBER

**Sd/=**  
[DR. PRAMOD DEO]  
CHAIRPERSON

**New Delhi, dated 10<sup>th</sup> August 2009**