

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

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

**Petition No.267/2009
With I.A.No. 67/2009**

In the matter of

Petition under Section 79 of the Electricity Act, 2003.

And in the matter of

Shri Renuka Sugars Ltd, Belgaum

..Petitioner

Vs

Chief Engineer (Electricity), State Load Despatch Centre, Karnataka...

Respondent

The following were present:

1. Shri Prabhuling K. Navadgi, Advocate for the Petitioner
2. Miss Swapna Seshadhari, Advocate for the respondent

**ORDER
(DATE OF HEARING: 24.11.2009)**

Through this application, the applicant Shri Renuka Sugars Ltd, Belgaum has made the following prayers:

- (i) Set aside the communication dated 3.11.2009 vide No.CEE/EE/AEE-3/SLDC/774 issued by the respondent; and
- (ii) Direct the respondent to strictly adhere to the provisions of open access regulations viz, Central Electricity Regulatory Commission (Open Access in inter-State transmission) Regulations, 2008.

2. The applicant has also filed I.A.No. 67/2009 praying for an interim order, staying the effect of impugned communication dated 3.11.2009.

3. The petitioner has submitted that it has been availing open access for the last two years and whenever it filed applications for grant of short-term open access, these have been processed by the respondent and granted in accordance with Central Electricity Regulatory Commission (Open Access in inter-State transmission) Regulations, 2008.

4. The petitioner has submitted that three applications were filed by Reliance Energy Trading Ltd. seeking short term open access for supply of power from the petitioner's Athani and Munoli units for the period from 1.11.2009 to 30.11.2009. Thereupon, the respondent is stated to have requested the petitioner to give undertaking to the following effect:

(i) If the power is supplied in excess to the approved schedule, payment shall be made at KERC tariff fixed for co-generation plants as per PPA rates (which is now expired).

(ii) If the power injected is 5% less than the approved schedule and if this continues for more than THREE time block in a month, failing which the permission granted may be withdrawn.

5. The above said undertaking was given by the petitioner under protest. Thereafter open access was granted in respect of two applications and open access was not granted in respect of third application. Learned counsel for the petitioner submitted that the above stated undertaking is contrary to Regulation 20 (4) Open Access Regulation of the Commission and therefore the same is illegal. Learned counsel submitted that the respondent may cancel the open access permission in terms of the undertaking and sought an interim stay on the same.

6. Learned counsel for the respondent accepted notice and prayed for a short adjournment for seeking instruction. We allow the same.

7. List the case on 26.11.2009.

8. In the meantime, no coercive measures shall be taken against the petitioner in terms of the undertaking.

Sd/-
(V.S.VERMA)
MEMBER

Sd/-
(S.JAYARAMAN)
MEMBER

Sd/-
(DR.PRAMOD DEO)
CHAIRPERSON

New Delhi dated the 24th November 2009