

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 4/MP/2012 with I.A.No. 3/2012

Sub: Petition under Sections 79 (1) (c), 79(1) (f) and 142 of the Electricity Act, 2003 read with Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008.

Date of hearing : 9.2.2012

Coram : Dr Pramod Deo, Chairperson
Shri S. Jayaraman, Member
Shri V.S.Verma, Member
Shri M.Deena Dayalan, Member

Petitioner : Aarti Steels Limited, Cuttack

Respondents : Orissa State Load Despatch Centre , Bhubaneswar
GRIDCO Limited, Bhubaneswar
Indian Energy Exchange, New Delhi
National Load Despatch Centre, New Delhi

Parties present : Shri Sanjay Sen, Advocate for the petitioner
Shri Rajiv Yadav, Advocate for the petitioner
Shri S.R.Sarangi

Record of Proceedings

This petition has been filed by the petitioner, Aarti Steels Limited (ASL) with following prayers:

- (a) Pass an order, directing Respondents Nos. 1 and 3 to immediately provide open access for schedule of power through Indian Energy Exchange;
- (b) Pass an order, directing Respondent No. 1 to pay a sum of Rupees three crore five lakh eighty thousand eight hundred forty six only being financial loss suffered on account of denial of open access; and

- (c) Pass such order(s), as Hon`ble Commission may deem fit and proper in the facts and circumstances of the case.

2. The learned counsel for the petitioner submitted that the MOU between the Government of Orissa and the petitioner dated 7.2.2009 provided that the petitioner would provide 12% power from its generating station at the variable cost to Orissa. The petitioner has complete freedom to sale 88% of the exportable generation output to buyers of its choice at all times. The petitioner entered into a PPA dated 24.10.2009 with GRIDCO Ltd in respect of the State's entitlement of 12% of power generated by the petitioner's power plant.

3. The learned counsel further submitted that Orissa State Electricity Regulatory Commission (OERC) in its order dated 13.9.2011 has fixed annual tariff of ₹ 3.02 per kwh for 88% of the power supplied by the petitioner to GRIDCO. Since, GRIDCO did not pay the tariff as approved by OERC, the petitioner entered into an agreement with M/s Instant Infra and Power Ltd, an inter-State trading licensee and member of Indian Energy Exchange (IEX) for sale of its power. The petitioner applied for concurrence of the Orissa SLDC for inter-State open access which was refused vide letter dated 31.3.2011.

4. The petitioner entered into an agreement with Instinct Infra and Power Ltd. (IIPL) on 20.8.2011 for sale of power during the period 1.2.2012 to 31.5.2012 and applied for Medium Term Open Access. SLDC, Orissa in its letter dated 30.8.2011 has given its concurrence for Medium Term Open Access for the said period. The petitioner also applied in its letter dated 7.10.2011 for open access for the period from 10.10.2011 to 31.10.2011 and after a delay of 11 days, SLDC, Orissa had given concurrence for supply of power from 20.10.2011 to 31.10.2011.

5. The learned counsel submitted that vide letter dated 22.10.2011, the petitioner applied for grant of NOC/concurrence for sale of power to IEX from 1.11.2011 to 30.11.2011 and IIPL had also applied for open access from 1.1.2012 to 31.1.2012. In response of the applications, SLDC, Orissa in its letter dated 25.10.2011 sought information from OPTCL regarding the existence of suitable commercial mechanism with the CGP for recovery of under-injection if any during the transaction period.

6. In response to the letter of the petitioner dated 6.12.2011, the SLDC, Orissa in its letter dated 8.12.2011 has not considered the applications for NOC of the petitioner on the ground that GRIDCO had intended to procure power from the petitioner due to acute shortage of power in the State. Further, the SLDC, Orissa in its letter dated 31.12.2011 has intimated the petitioner that if there is any dis-

agreement between the IPPL and GRIDCO for procurement of power, the concurrence from the Government of Orissa may be obtained for the sale of power from all the State.

7. The learned counsel submitted that the SLDC, Orissa vide letter dated 2.2.2012 again denied the open access to the petitioner on the ground that after sale of power to GRIDCO, there may not be the requirement quantum of power on 25 MW available with the petitioner for sale through IEX.

8. The learned counsel submitted that SLDC, Orissa has been violating the provisions of Electricity Act, 2003 and Open Access Regulations of the Commission by denying non-discriminatory open access. The learned counsel submitted that the Respondent Nos. 1, 2 and 3 may directed to provide open access to the petitioner for schedule of power to IEX and pass an order directing Respondent No. 1 to pay compensation to the petitioner equivalent of the financial loss suffered on account of open access. Learned counsel submitted that an IA has been filed for issue of exparte add- interim directions to SLDC, Orissa to grant open access to the petitioner.

9. After hearing the learned counsel for the petitioner, the Commission directed to admit the petition.

10. The Commission directed the petitioner to serve copy of the petition to the respondents immediately, if not already served. The respondents were directed to file their replies 24.2.2012 with an advance copy to the petitioner and the petitioner to file its response, if any, on or before 27.2.2012.

11. The petition shall be listed for hearing on 28.2.2012.

By order of the Commission

**Sd/-
(T. Rout)
Joint Chief (Law)**