

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 19/MP/2012**

**Coram:**

**Shri V.S. Verma, Member**

**Shri M. Deena Dayalan, Member**

**Date of Hearing: 14.2.2012**

**Date of Order: 8.10.2013**

**In the matter of**

Illegal curtailment of Medium Term Open Access granted by Power Grid Corporation of India Ltd for inter-State sale of electricity.

**And in the matter of**

Setting aside the letter/order dated 07.01.2012 issued by Southern Load Despatch Centre purportedly intimating an illegal decision to curtail Medium Term Open Access granted to Jindal Power Ltd and certain others.

**And in the matter of**

Jindal Power Limited, Tamnar, District Raipur, Chhattisgarh  
Petitioner

Vs

1. Southern Regional Load Despatch Centre, Bangalore  
2. Power Grid Corporation of India Ltd  
Respondents

**Parties Present**

1. Shri S.B.Updhaya, Advocate for Petitioner  
2. Ms. Shikha Ohri, Advocate for the petitioner  
3. Shri Sanjay Kaul, JPL  
4. Shri S.R.Narasimhan, NLDC  
5. Miss Joyoti Prasad, NRLDC  
6. Shri V. Suresh, SRLDC  
7. Shri R.V.Madan, PGCIL  
8. Shri A.M.Pangi, PGCIL  
9. Shri Rakesh Prasad, PGCIL

## ORDER

The petitioner in the present petition filed under sub-section (5) of Section 29 of the Electricity Act read with Regulation 32 of the Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 (for short, the Open Access Regulations 2009) against the letter/order dated 7.1.2012 (for short, the impugned order) whereby the first respondent curtailed the Medium-term Open Access granted to the petitioner and has made the following prayers, namely:

- a. quash and set aside the order dated 07.01.2012 issued by the Respondent No. 1 for curtailment of STOA/MTOA by SR (being Annexure 3 of the present petition)*
- b. pass such other and further order or orders as this Hon'ble Commission may deem fit and proper under the facts and circumstances of the present case and in the interest of justice."*

2. The petitioner is a generating company having 1,000 MW capacity generating station located in the State of Chhattisgarh. The petitioner executed an agreement with Global Energy Pvt. Limited (for short, Global), an inter-State electricity trader, for sale of 300 MW power on round-the-clock (RTC) basis. In response to a notice for inviting tenders issued on behalf of the distribution licensees in the State of Andhra Pradesh for purchase of power for the period between 1.2.2012 to 31.5.2012 on RTC basis, Global submitted its bid and was declared successful. Accordingly, an agreement was executed on 18.8.2011 between Global and the distribution licensees of Andhra Pradesh for supply of 300

MW of power on RTC basis. The agreement provided that the delivery point for supply of power from the petitioner's generating station in Chhattisgarh through Global at the periphery of the State of Andhra Pradesh.

3. On or about 29.8.2011, the petitioner applied for medium-term open access for supply of 300 MW of power on RTC basis for the period 1.2.2012 to 31.5.2012 for sale to the distribution companies in Andhra Pradesh under the Open Access Regulations 2009 to the second respondent as nodal agency in accordance with the agreement dated 18.8.2011 *ibid*. On 24.11.2011 the second respondent conveyed to the petitioner its approval for grant of medium-term open access for 121.9 MW of power. Pursuant thereto, the petitioner executed agreement dated 30.11.2011 with the second respondent.

4. On 6.1.2012 the Central Electricity Authority (for short, CEA) issued a notification for temporary re-allocation of firm share surrendered by the distribution companies in Dadri TPS-II of NTPC, a Central Generating Stations, to Tamil Nadu Generation and Distribution Corporation Ltd (for short, TANGEDCO) for the period up to 31.5.2012. Pursuant thereto, the first respondent issued the impugned order dated 7.1.2012 for curtailment of short-term/medium-term open access transactions on Western Region-Southern Region and Eastern Region-Southern Region corridors during 00:00 hrs to 06:00 hrs from 1.2.2012 to 29.2.2012 to enable transmission of power temporarily reallocated to TANGEDCO from NTPC's Dadri TPS II surrendered by the distribution companies in Delhi. Thus, the

medium-term open access granted by the second respondent in favour of the petitioner which was to be operationalised from 1.2.2012 stood curtailed during 00:00 hrs to 06:00 hrs.

5. A Writ Petition, being No. 1572 of 2012, titled Central Power Distribution Company of Andhra Pradesh Limited and others Vs. Power Grid Corporation of India Limited and another was filed before Andhra Pradesh High Court challenging the impugned order. The Andhra Pradesh High Court (for short "High Court") by its interim order dated 1.2.2012 suspended operation of the impugned order dated 7.1.2012 issued by the first respondent. The operative part of the High Court's order is extracted below:

*"In the circumstances it is held that there is a prima facie case and also balance of convenience in favour of granting interim suspension of the impugned intimation dated 7.1.2012 of the 2nd respondent. The operation of the impugned intimation by the second respondent to the petitioner accordingly suspended"*

6. In compliance with the order of the High Court, the first respondent scheduled all approved medium-term open access transactions with effect from 2.2.2012. Ministry of Power also cancelled the temporary re-allocation of power earlier issued in favour of TANGEDCO, the cause of the present litigation. In view of these developments, the prayers of the petitioner do not survive as the petitioner has been granted the reliefs claimed in this petition.

7. It is noted that the Central Government has been allocating the unallocated capacities in the Central Generating Stations to the States from time to time. We are of the view that there is a need for clarity regarding the priority in open access to inter-State transmission for wheeling such power. We direct the staff of the Commission to examine the issue and submit their suggestions for consideration of the Commission.

8. The petition stands disposed of accordingly.

sd/-  
**(M. Deena Dayalan)**  
**Member**

sd/-  
**(V.S. Verma)**  
**Member**