

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

- 1. Dr. Pramod Deo, Chairperson**
- 2. Shri Bhanu Bhushan, Member**
- 3. 4. Shri S.Jayaraman, Member**

Petition No. 147/2008

In the matter of

Violation of Section 39 and 40 of the Electricity Act 2003 and regulation 8 of the Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2008

And in the matter of

Reliance Energy Trading Limited, New Delhi **Petitioner**

Vs

1. Karnataka Power Transmission Corporation Ltd, Bangalore
2. Karnataka State Load Despatch Centre, Bangalore
3. Shree Renuka Sugars Ltd, Belgaum **Respondents**

The following were present:

Shri Amit Kapoor, Advocate, Reliance Energy Trading Ltd
Shri Mansoor Ali, Advocate, Reliance Energy Trading Ltd
Shri Sanjay Sen, Advocate, Shree Renuka Sugars Ltd
Shri. Deepak Biswas, Advocate, Shree Renuka Sugars Ltd

**ORDER
(Date of Hearing: 28.11.2008)**

The petitioner has filed this petition alleging that the first and second respondents have not responded to its application dated 4.10.2008 seeking concurrence for open access for the period from 1.12.2008 to 31.12.2008 and its application dated 6.11.2008 seeking concurrence for open access for the period from 1.1.2009 to 31.3.2009

2. Brief facts of the case in so far as they relate to the interim relief being considered in this order are as under:

(a) The petitioner entered into the following agreements for purchase of electricity with the third respondent which has two co-generation plants in the State of Karnataka:

(i) 20 MW power at Athani for the period from 1.10.2008 to 31.12.2008

(ii) 12 MW power at Munoli for the period from 1.10.2008 to 31.12.2008.

(b) The petitioner entered into an agreement for the sale of the above power to Reliance Infrastructure Ltd. However, on the advice of Reliance Infrastructure the petitioner entered into another agreement with Madhya Pradesh Power Trading Company Ltd (hereinafter "MPPTCL") for banking of the said power during the night hours and return the said power between April 2009 to June 2009 from MPPTCL to Reliance Infrastructure Ltd.

(c) In pursuance of the above agreements, the petitioner made applications, on 4.10.2008 for open access for transfer of the above power to Reliance Infrastructure Ltd, Mumbai during the day time and to MPPTCL during the night time.

(d) Subsequently, the petitioner entered into another agreement for purchase of power from the third respondent for the period 1.1.2009 to

31.3.2009 and accordingly, on 6.11.2008 made application for concurrence of open access for the period 1.1.2009 to 31.1.2009.

(e) Second respondent has, however, failed to convey its decision on the applications for the period 1.12.2008 to 31.12.2008 and 1.1.2009 to 31.1.2009.

3. The petitioner has filed an affidavit in proof of service of the application on the respondents which indicates that the copy of the application was sent to the respondents on 22.11.2008.

4. The petitioner has also prayed for ex parte ad interim order directing the first and second respondents to grant concurrence to facilitate evacuation and sale of power for the period from 1.12.2008 to 31.12.2008 and from 1.1.2009 to 31.3.2009.

5. The matter was mentioned before the Commission at the hearing on 27.12.2008. In view of the urgency of the matter, it was decided to hear the case on 28.12.2008. The petitioner was also directed to inform the respondents.

6. When the matter was taken up today, learned counsel for the petitioner confirmed that intimation regarding this hearing was sent to the respondents through FAX. He also produced a copy of the FAX message sent. . He submitted that contrary to the provisions of the clauses (3) and (4) of Regulation 8 of the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008 the first and second respondents had not conveyed their decision on the pending applications.

According to him, open access had been provided by the respondents for the months of October and November. Open access granted presently is to expire on 30.11.2008.

7. Learned counsel for the third respondent made a statement that it did not have any Power Purchase Agreement with any of the utilities in the State of Karnataka the first respondent. He also undertook to file an affidavit to this effect.

8. In view of the urgency, and the fact that generation of power at a co-generation plant is involved, the matter deserves consideration for the interim order.

9. Based on the pleadings and oral submissions made before us, we direct that status quo regarding open access to petitioner as on date be continued till the next date of hearing

10. The respondents are directed to file their reply by 10.12.2008. Rejoinder, if any, be filed by 15.12.2008 List this petition on 16.12.2008 for further directions

11. In the meantime, the petitioner shall deposit the balance filing fee of Rs. 1,60,000/=.

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Sd/= (S.JAYARAMAN)
MEMBER

Sd/= (BHANU BHUSHAN)
MEMBER

Sd/= (DR. PRAMOD DEO)
CHAIRPERSON

New Delhi dated the 28th November 2008