



# केन्द्रीय विद्युत विनियामक आयोग

## CENTRAL ELECTRICITY REGULATORY COMMISSION



**Dr. Pramod Deo**  
Chairperson

D.O. No. Chmn/CERC-2009/  
Dated : 11<sup>th</sup> August, 2009

**Subject: Statutory advice of CERC regarding ring-fencing of State Load Despatch Centres (SLDCs).**

Dear *Shri Brahma,*

Non-discriminatory open access has been provided in the Electricity Act, 2003 as one of the most important reform measures for promoting competition in the electricity industry and development of electricity industry. The importance of institutionalizing non-discriminatory open access has been widely recognized. However, at the same time genuine concerns are being expressed on slow and tardy implementation of non-discriminatory open access on intra-state transmission and distribution networks. Addressing these concerns is a pre-requisite even for expanding open access in interstate transmission of electricity because almost all the consumers and a large number of generators are connected to state level transmission and distribution networks.

2. State Load Despatch Centres have a critical role in operationalizing open access in view of the fact that their concurrence is a pre-requisite for permitting open access. There is a broad consensus presently that SLDCs in most of the States are not able to function impartially because SLDCs are not insulated from conflicting commercial interests of the State Government owned distribution utilities and trading companies on the one hand and open access consumers and privately owned generators on the other hand. To avoid this, the Electricity Act provides that State Load Despatch Centres (Section 31) and State Transmission Utilities (Section 39) shall not engage in the business of trading electricity. But in a number of States, the controlling interests of the entities operating SLDCs and those of the entities engaged in distribution/trading business are common and therefore SLDCs are not able to function in a non-discriminatory manner while considering open access requests.

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3. This issue came up before CERC in the petition by Maharashtra State Electricity Power Trading Corporation wherein this company prayed for grant of interstate trading licence. This petition was dismissed by the Commission wide its order dated 17<sup>th</sup> June, 2008 (copy enclosed) on the ground that the holding company of the petitioner had controlling interests in State Transmission Utility which is responsible for operating the SLDC in the state of Maharashtra. The Commission had held that granting interstate licence to the petitioner would violate the spirit of the law which prohibits undertaking of trading by the STU and SLDC. The order of the Commission was challenged by the petitioner before the Appellate Tribunal for Electricity. A copy of the judgement of the APTEL dated 29<sup>th</sup> April, 2009 is enclosed.

4. The Tribunal has upheld the order of the Commission. It has been said by the Tribunal that the Appellant's organizational relationship with the entities controlling the transmission capacity should not give perception to its competitors that the Appellant will receive a preferential treatment. It has been further upheld that in order to ensure establishment of non-discriminatory, non-partisan, unbiased and independent decision making system uninfluenced by any commercial interest, the Act prohibits the STU, SLDC and transmission licensees from engaging in the business of trading in electricity. The Tribunal has further held that it is very much possible that commercial performance of the Appellant company could perhaps be enhanced by giving it preferential treatment over its competitors by STU through MSEB holding company and this perception itself obviously vitiates the mandatory non-discriminatory open access that STU/SLDC is required to provide under the Act.

5. The ruling given by the Commission in its order, which has been upheld by the Appellate Tribunal, has given a sound legal backing to the need of ring-fencing the SLDCs.

6. It is a common knowledge that in a number of States there are government owned intra-state trading entities which share the controlling interests with the entities operating SLDCs. Commission does not have jurisdiction over such government owned intra-state trading entities. But it is necessary that absolute and effective separation of management in real terms between the entities operating SLDCs and the entities engaged in distribution or trading businesses should be completed at the earliest in the interests of development of electricity industry in the country.

7. Keeping in view the advisory obligation of CERC under section 79(2) of the Electricity Act which, inter alia, include promotion of competition, efficiency, economy and also promotion of investment in electricity industry, the Commission hereby advises the Central Government that it may take up with the State Governments the matter of completely separating the management and controlling interests between the entities operating SLDCs and the entities engaged in distribution/ trading activities, on the basis of the legal position that has emerged in the above referred judgement of the APTEL upholding the CERC's order.

Best regards.

Yours sincerely,



(Dr. Pramod Deo)

Encls : as above

Shri Harishankar Brahma  
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