

CENTRAL ELECTRICITY REGULATORY COMMISSION

Record of Proceedings

Petition No.121/2008

Unlawful and arbitrary denial by Tamil Nadu Electricity Board of concurrence for Open Access sought by Tata Power Trading Company Limited.

Petition No.158/2008

Willful violation of Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2008

Coram : Dr. Pramod Deo, Chairperson
Shri R. Krishnamoorthy, Member
Shri V.S. Verma, Member

Date of hearing : 26.2.2009

Petitioners : 1. Tata Power Trading Company Limited, Mumbai
2. DCW Limited, Mumbai

Respondent : Tamil Nadu Electricity Board, Chennai

Parties present : Shri Amit Kapoor, Advocate, Petitioners
Shri Abhishek Munot, Advocate, Petitioners
Shri Pahul Dhawan, Advocate, Petitioners
Shri P.R. Kovilan, Advocate, TNEB
Shri P.S.Ganesh, TNEB

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This is a joint application made by Tata Power Trading Company Ltd., an inter-State trading licensee (the first petitioner) and DCW Limited (the second petitioner) owning a 2x25 MW coal-based captive co-generation power plant at Sahapuram, near Tuticorin in the State of Tamil Nadu.

2. The petitioners feeling aggrieved by non-grant of open access, sought directions to the respondent to comply with the Central Electricity Regulatory Commission (Open Access in Inter-state Transmission) Regulations, 2008 (hereinafter referred as the “open access regulations”) and for grant of concurrence for open access to the petitioners at the earliest. A further prayer made by the petitioners is to settle the principles for compensation or damages which the petitioners would be entitled to because of unlawful inaction or refusal by the respondent and also to grant an opportunity to the petitioners to submit details of damages or compensation that may be claimed by them.

3. The defence of the respondent is that the petitioners had not provided the requisite infrastructure for energy metering and time block-wise accounting.

4. After hearing the parties, the Commission vide its order dated 27.1.2009 directed as under:

“12. It appears to us that the respondent has been purposely delaying inspection and installation of the special energy meters, even though under clause (1) of Regulation 22 of the open access regulations, it is the responsibility of the respondent, as the STU to install special energy meters for and at the cost of the intra-state entities. We have taken a serious note of the respondent’s conduct. In our opinion the matter cannot brook any further delay. Therefore, the respondent was directed at the hearing to depute an officer for testing, sealing and installation of meters in accordance with the request made by the second petitioner in its letter dated 14.6.2008, (Annexure P-II), within one week. A compliance of the direction shall be reported latest by 6.2.2009.”

5. In response to the above directions, the respondent has filed its compliance vide affidavit dated 16.2.2009 wherein it has stated that its officials visited the meter manufacture’s premises at Solan, Himachal Pradesh and tested the meters on 5.2.2009 and at Electronics Test & Development Centre, Chennai on 6.2.2009 and based on the results, the meters were installed and commissioned on 12.2.2009 at 00.14 hours.

6. The respondent has also pointed out that on examination of the ABT meters procured by the second petitioner, it was observed that the meters were manufactured only during February 2009, the purchase order for which was placed only on 17.1.2009. In the light of this, the respondent has contended that the petitioner has furnished wrong information to the Commission citing its letter dated 14.6.2008 that the meters were already ready at the manufacturer’s premises for testing and sealing.

7. During the hearing, the learned counsel for the respondent submitted that the directions of the Commission in its order dated 27.1.2009 had been complied

with. He also reiterated the allegation relating to submission of wrong information in the petition.

8. Learned counsel for the petitioners vehemently denied the allegation of submission of wrong information. According to him, orders for procurement of ABT compliant meters were placed as early as in May 2008, but the procurement could not materialize because of the inaction of the respondent in detailing its officers for testing of meters. He invited the Commission's attention to various documents on record either as part of the petition or subsequent affidavit filed on 11.2.2009. Learned counsel pointed to the Commission the inspection report signed by the representative of the respondent. According to him the petitioners were really concerned about the inordinate delay in grant of open access sought.

9. Learned counsel for the petitioners also placed before the Commission a copy of the respondent's letter dated 9.2.2009 whereby it has specified some additional conditions for export of power to its grid and had also sought an undertaking from the second petitioner to bear the entire cost of interfacing lines, switchgear, metering and protection arrangement and data communication, etc. for which the estimate was under preparation. The second petitioner has already submitted an undertaking on 11.2.2009 to bear the entire cost of the above facilities. However, the cost estimate has not yet been finalized by the respondent.

10. The Commission directed the respondent to file by 2.3.2009, the details of the requirements to be complied with by the second petitioner and the estimated cost of extension works to be carried out, necessary for making open access operational and also a time-bound commitment that on compliance of the requirements open access will be granted, as per the open access regulations.

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11. Through this petition, the petitioner has prayed for action against the respondent and its officers under section 142 and 149 of the Electricity Act, 2003, alleging willful violation and disobedience of sections 38, 39, 40 thereof and regulation 8 of the open access regulations. The Commission proposes to deal with this issue after resolving the issue being raised in the main petition, that is, Petition No. 121/2008.

12. Both the petitions will be listed for hearing on 19.3.2009.

Sd/=
(KS Dhingra)
Chief (Legal)