

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

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

**DATE OF HEARING: 5.7.2012**

**Petition No.126/MP/2012**  
**with IA.No.17/2012**

Sub: Petition for grant of open access for inter-State transmission of electricity.

Petitioner : Vishwanath Sugar and Steel Industries Limited,  
Bagewadi

Respondents: State Load Despatch Centre, Karnataka, Bangalore  
Department of Energy, State of Karnataka, Bangalore  
Power Company of Karnataka Limited, Bangalore  
Karnataka Power Transmission Corporation Ltd., Bangalore  
Bangalore Electricity Supply Company Ltd., Bangalore  
Hubli Electricity Supply Company Limited, Hubli  
Mangalore Electricity Supply Company Ltd., Mangalore  
Chamundeshwari Electricity Supply Corp. Ltd., Mysore  
Gulbarga Electricity Supply Company Ltd., Gulbarga  
Tata Power Trading Company Ltd., Mumbai  
Indian Energy Exchange Ltd. Mumbai  
Southern Regional Load Despatch Centre, Bangalore

**Petition No.132/MP/2012**

Sub: Petition for grant of open access for inter-State transmission of electricity.

Petitioner : BMM Ispat Limited, Bellary

Respondents: State Load Despatch Centre, Karnataka, Bangalore  
Department of Energy, State of Karnataka, Bangalore  
Power Company of Karnataka Limited, Bangalore  
Karnataka Power Transmission Corporation Ltd., Bangalore  
Bangalore Electricity Supply Company Ltd., Bangalore  
Hubli Electricity Supply Company Limited, Hubli  
Mangalore Electricity Supply Company Ltd., Mangalore  
Chamundeshwari Electricity Supply Corp. Ltd., Mysore

Gulbarga Electricity Supply Company Ltd., Gulbarga  
Southern Regional Load Despatch Centre, Bangalore

Parties present: Shri Anantha Narayana M.G, Advocate for the petitioners  
Shri Venkta Subraman TR, Advocate, SLDC, Karnataka

### **Record of Proceedings**

Learned Counsel for SLDC, Karnataka submitted that a batch of petitions regarding Section 11 matter are listed for hearing on 18.7.2012 before the Supreme Court. The Learned Counsel submitted that two peripheral issues, namely, the effect of the date of gazette notification and compensation, have been raised in the petition. The Learned Counsel sought two weeks time to file a detailed reply on these issues.

2. On the question of compensation, Learned Counsel submitted that the petitioner has to approach the State Regulatory Commission under Section 11 (2) of the Act, since, the notification has been issued by the State Government under Section 11 of the Act.

3. Learned Counsel further submitted that the petitioner was aware of the notification even before it was gazetted, since the notice of the notification was given to the petitioner for supply of its entire power to the State Grid. Learned Counsel further submitted that three judgments viz. Harla vs. the State of Rajasthan (1951 AIR 467, 1952 SCR 110), ITC ITC Bhadrachalam Paperboards vs. Mandal Revenue Officer (JT 1996 (8) 67) and B.K. Srinivasan vs. State of Karnataka (1987 (1) SCC 658) relied upon by the petitioner are not relevant as they apply to different sets of circumstances.

4. In reply of the query of the Commission as to whether the Central Commission or the State Commission is appropriate Commission under Section 11 (2) of the Act when the inter-State open access is denied on the basis of notification of the State Government, the Learned Counsel submitted that after issue of Section 11 notification, by the Karnataka Government, a number of petitions were filed before KERC on the issue of enhancing or reducing the price of electricity supplied to the State Grid. The Commission clarified that the cases referred to by the Learned Counsel pertain to tariff matters. The Commission further desired to know which would be the appropriate Commission to deal with the question of compensation when inter-State open access was denied. The learned counsel clarified that in the main Section 11 matter before the Karnataka High Court, the issue was raised and the High Court clarified that the parties have liberty to approach KERC for compensation.

5. In reply to another query of the Commission as to whether the Karnataka High Court judgment clearly states that the appropriate Commission under Section 11 (2) is the State Commission, the learned counsel submitted that this point was not squarely submitted to the High Court for consideration.

6. The Learned Counsel also offered to place on record the judgment of the Hon'ble Supreme Court in Jindal Power Ltd where the issue of compensation in similar circumstances as the present petitions has been decided.

7. The Commission directed the learned counsel to file reply which should inter alia include answers to such questions as whether gazette notification under Section 11 of the Act is necessary and if not required, then why the State Government went for the notification after one and half months; and which is the appropriate Commission for the purpose of compensation when inter-State open access is denied on the account of issue of order under Section 11 of the Act.

8. The petitioner was directed to file its rejoinder within one week from the date of receipt of the reply from the respondent.

9. The petition shall be listed for hearing on 14.8.2012.

**By Order of the Commission**

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