

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 134/MP/2013

Subject : Petition under Section 79 of the Electricity Act, 2003

Date of hearing : 8.8.2013

Coram : Shri V.S.Verma, Member
Shri M. Deena Dayalan, Member

Petitioner : Venkateshwara Power Projects Ltd, Belgaum

Respondents : Karnataka Power Transmission Corporation Ltd., Bangalore
Hubli Electricity Supply Company Ltd (HESCOM), Dharwad
SLDC, Karnataka, Bangalore

Parties present : Ms. Satheesh Mohanan, Advocate for petitioner

Record of Proceedings

Learned counsel for the petitioner submitted as under:

- (a) The petitioner had entered into a Power Purchase Agreement (PPA) with Karnataka Power Transmission Corporation on 26.10.2004;
- (b) HESCOM did not open the Letter of Credit (LC), as agreed under the PPA. Since the events of default under the PPA could not be remedied by HESCOM, the petitioner terminated the PPA with HESCOM on 31.7.2009.
- (c) After due termination of the PPA, the petitioner on 12.8.2009 entered into PPA with Tara Power Trading Company Ltd. (TPTCL) for sale of the power generated from its project.
- (d) On 6.11.2009, TPTCL made an application to the SLDC, Karnataka for grant of STOA. In response, on 7.11.2009, SLDC, Karnataka informed TPTCL that the petitioner has a valid PPA with HESCOM and as per the Government Order dated 1.9.2009, all private generators having valid PPAs with State utilities are bound to supply to respective power utilities. Subsequently, on 25.6.2012, the petitioner made application for grant of open access. In response,

SLDC, Karnataka vide its letter dated 28.7.2012 rejected the application on the similar said grounds.

(e) Since HESCOM has not challenged the termination of PPA, SLDC, Karnataka has no right to deny open access. The factum of termination notice or termination of contracts cannot be criteria for grant or rejection of the Open Access.

2. After hearing, learned counsel for the petitioner, the Commission observed that the petitioner should take up the matter with the Government and make it clear with the Government that since there is no valid PPA, the power would not be supplied. The Commission further observed that since the petitioner is continuing to supply the power, which means the petitioner is indirectly accepting the existence of PPA.

3. The Commission directed the petitioner to file the following information, on affidavit, latest by 30.8.2013:

(a) Latest position as to whether the petitioner has valid PPA with the distribution company; and

(b) Current status of open access granted to the petitioner.

4. The petition shall be listed for hearing on 10.9.2013 on maintainability .

By order of the Commission,
Sd/-

(T. Rout)
Joint Chief (Law)