



THE TAMIL NADU ELECTRICITY REGULATORY COMMISSION

(Constituted under Section 82(1) of the Electricity Act 2003)

(Central Act 36 of 2003)

PRESENT

Thiru. S. Kabilan - **Chairman**

Thiru. B. Jeyaraman - **Member**

and

Thiru. R. Rajupandi - **Member**

D.R.P. . No.25 of 2008

MMS Steel & Power Private Limited,
Rep. By its Director Dr. A.M.S. Raju,
Registered Office: 6-3-1109/A/1. 3rd Floor,
Navabharat Chambers,
Somajiguda, Raj Bhawan Road,
Hyderabad 500 082

.. **Petitioner**

Vs

1. The Chairman
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai 600 002
2. The Member (Generation),
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai 600 002
3. The Chief Engineer / PPP,
Tamil Nadu Electricity Board,

No.144, Anna Salai,
Chennai 600 002

4. The Chief Engineer / Operations,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai 600 002

.. Respondents

The above D.R.P. No.25 of 2008 came up for final hearing on 12th January 2008. The Commission upon perusing the above petition and other connected records of the case and upon hearing both sides passes the following order, namely;

ORDER DATED 25th FEBRUARY 2009

1. Prayer of the petitioner

The prayer of the petitioner is to direct the Respondents to issue the concurrence for transmission of power from the State of Tamil Nadu through the Transmission System of Tamil Nadu Electricity Board, in operation under the direction and supervision of Tamil Nadu SLDC, as per the application that may be submitted by the Petitioner or the Trader under agreement with the petitioner for sale of power to any other power utility or any other customer out side the State of Tamil Nadu and consequently direct the Respondents to accord a revised wheeling approval for wheeling of 17.099 MW power for their captive consumers.

2. Facts of the Case

(a) The petitioner who is a gas based group captive power plant holder signed an agreement with Reliance Energy Trading Limited (RETL) for sale of 8 MW power from 24-8-2008 for a period of five years. As a Trading Company, RETL has tie-up for sale / banking of the above power with power utilities in the States of Maharashtra and Madhya Pradesh from 24-8-2008 to 31-7-2009.

(b) The petitioner stated that to have open access, RETL submitted applications in the prescribed format to Tamil Nadu

SLDC for their concurrence to transfer 8 MW power from MSPL plant in Tamil Nadu to their receiving end.

(c) The petitioner submits that the Tamil Nadu SLDC returned the applications and denied concurrence without assigning any reasons.

(d) The petitioner submits that the action of the Respondents in denying the open access for bilateral transaction of 8 MW is wholly illegal and liable to be interfered with by this Commission. Hence, the petitioner filed the above DRP 25 of 2008.

3. Contentions of the petitioner

(a) The denial on the part of the respondents is therefore opposed to the provisions contained in Sections 9 and 10 of the Act.

(b) There should not be any discrimination in regard to the Open Access. Section 40 (C) (I) of the Act casts a duty on the Respondents to provide non-discriminatory open access for use by any Licensee or generating company on payment of transmission charges.

4. Contentions of the respondent board

(a) As the petitioner has sought interstate open access, disputes thereon have to be dealt with by the Central Commission under Sec.79(i), sub sections (c) and (f) of the Electricity Act 2003. This Hon'ble Commission has no jurisdiction and the petition is therefore liable to be dismissed as not maintainable.

(b) The SLDC has rejected the application on the ground that in principle approval is yet to be obtained from TNEB by the petitioner.

(c) The respondents submit that even though the petitioner has an installed capacity of 25.099 MW, the actual power generated from both the plants is about 18 MW, thereby the petitioner has fallen short by about 7 MW and therefore, the petitioner is unable to meet its commitment to supply the required power to all its captive users, thereby shifting

the burden on to the shoulders of the respondents to make good to the captive users of the petitioner, the deficit power.

5. Issue

The point in issue is whether the prayer of the petitioner can be allowed?

6. Findings

It is to be noted that in paragraph 5 of the petition, the petitioner has stated that RETL submitted applications in the prescribed format to Tamil Nadu SLDC for their concurrence to transfer of 8 MW from their MSPL plant in Tamil Nadu to their receiving end. It is to be further noted that the petitioner company has not made any application to the respondent for open access. As such there is no dispute between the petitioner company being a generating company and the respondent board being a licensee so as to fall within the purview of Section 86 (1) (f) of the Act.

7. Conclusion

The prayer of the petitioner is vague. There is no dispute between the petitioner company and the respondent board so as to warrant adjudication under Section 86 (1) (f) of the Electricity Act 2003. The petitioner is not the applicant for open access.

D.R.P. No.25 of 2008 is therefore dismissed without costs.

Pronounced in the open court by this Commission on the 25 day of February 2009.

(R. RAJUPANDI)
Member

(B. JEYARAMAN)
Member

(S. KABILAN)
Chairman