

No.23/23/05-R&R(Vol.II)
Government of India
Ministry of Power
(R&R Cell)

Dated: 6th August, 2007

To,
The CMD, PTC India Ltd.
2nd Floor, NBCC Tower
15, Bhikaji Cama Place
New Delhi – 110 006

Subject: Regarding provisions of the Electricity Act, 2003.

Sir,

I am directed to refer to your letter dated 7th May, 2007 on the above subject and to convey that;

- (i) Section 9(2) of the Electricity Act, 2003 gives the right to open access to a person who has constructed a captive generating plant and maintains and operates such a plant (as defined under Electricity Act, 2003 and the Rules made hereunder), for the purposes of carrying electricity from the captive generating plant to the destination of his use, subject to availability of adequate transmission facility. This provision is distinct from the open access which is to be introduced in phases by the State Electricity Regulatory Commissions (SERCs) under Section 42 for the consumers other than captive users on payment of cross subsidy surcharge, if any. Therefore, the right to open access for captive generating plants flows from Section 9(2) and not from Section 42 (2) and hence is not dependent upon introduction of open access by SERCs under Section 42 of the Act.
- (ii) However, supply of surplus power from a captive generating plant to non captive consumers will be covered by the provisions of Section 42 of the Act.

Yours faithfully


(Alok Kumar)
Director
Ph: 2371 4000