

**GOVERNMENT OF INDIA
POWER
LOK SABHA**

STARRED QUESTION NO:132
ANSWERED ON:05.03.2010
SALE OF POWER OUTSIDE STATE BOUNDARIES
Naik Dr. Sanjeev Ganesh,Sule Supriya

Will the Minister of POWER be pleased to state:

- (a) whether under the prevailing law, States can restrict sale/supply of power outside their boundaries;
- (b) if so, the details thereof;
- (c) whether certain States have issued orders restricting the supply of power outside their boundaries during the last three years and the current year;
- (d) if so, the details thereof and the reasons therefor; and
- (e) the reaction of the Union Government thereto?

Answer

THE MINISTER OF POWER (SHRI SUSHILKUMAR SHINDE)

(a) to (e): A Statement is laid on the Table of the House.

STATEMENT

STATEMENT REFERRED TO IN REPLY TO PARTS (a) TO (e) OF STARRED QUESTION NO.132 TO BE ANSWERED IN THE LOK SABHA ON 05-03-2010 REGARDING SALE OF POWER OUTSIDE STATE BOUNDARIES.

(a) & (b): The Electricity Act, 2003 mandates non-discriminatory open-access for use of the transmission lines or distribution system or associated facilities to any licensee or consumer or person engaged in generation in accordance with the regulation specified by the Appropriate Commission.

However, Section 11 of the Electricity Act 2003 lays down:

(i) The Appropriate Government may specify that a generating company shall, in extraordinary circumstances operate and maintain any generating station in accordance with the directions of that Government. Explanation. - For the purposes of this section, the expression 'extraordinary circumstances' means circumstances arising out of threat to security of the State, public order or a natural calamity or such other circumstances arising in the public interest.

(ii) The Appropriate Commission may offset the adverse financial impact of the directions referred to in sub-section (1) on any generating company in such manner as it considers appropriate.

(c) & (d): Yes, Madam. Citing shortage of power as the reason, State Governments of Karnataka, Andhra Pradesh, Tamil Nadu, and Orissa had issued orders under Section 11 of the Electricity Act, 2003, and State Government of Maharashtra issued order under Section 108 of the Act and State Government of Rajasthan issued a directive restricting the generating companies and captive generators to sell power outside the State through inter-State open-access.

(e): Ministry of Power did not agree with the directions issued by the State Governments restricting sale of power outside their respective States and sought the advice of Ministry of Law & Justice on the restrictions issued by the State Governments under Section 11 of the Electricity Act, 2003 regarding sale of surplus power.

Ministry of Law has clarified that:

'in view of the Open Access regime espoused by the Act it would be more appropriate to interpret Section 11 as limiting the jurisdiction of the appropriate Govt. to issue orders only relating to operation and maintenance of the generating stations and not to passing any orders in respect of supply of electricity.

This would also substantiate the clarification that the jurisdiction U/s 11 should be limited to the issuance of orders relating to operation and maintenance of generating stations and not in respect of supply of electricity.'

Accordingly, the Minister of Power has written recently to all the Chief Ministers/Lt. Governors to ensure that no steps are permitted in their States, which come in the way of operationalising Open Access in the transmission and distribution networks. Ministry of Power had also addressed the Chief Secretaries in October, 2008 and July, 2009 stressing the need for operationalisation of Open Access.