

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

- 1. Shri Bhanu Bhushan, Member**
- 2. Shri R. Krishnamoorthy, Member**

Petition No. 38/2007

In the matter of

Application for grant of permission to Indian Energy Exchange Limited for setting up of Power Exchange

And in the matter of

Indian Energy Exchange Limited

....Petitioner

The following were present:

1. Shri V. Chary, MCX
2. Shri Joseph Massey, MCX/IEX
3. Shri R.K. Mediratta, MCX/IEX
4. Shri Jayant Deo, MCX/IEX
5. Shri Akhilesh Awasthy, MCX/IEX
6. Shri Rakesh Kumar, PTC India Ltd.
7. Shri S. K. Soonee, Powergrid
8. Shri Sunil Aggarwal, Powergrid
9. Shri S. R. Narasiman, Powergrid
10. Shri Bikram Singh, PTC India Ltd.

**ORDER
(DATE OF HEARING: 10.7.2007)**

This application has been made by M/s Indian Energy Exchange Ltd (hereinafter referred to as IEX) in accordance with the guidelines issued by the Central Commission vide order dated 6.2.2007 in Petition No. 155/2006 (suo-motu) for grant of permission for setting up the Power Exchange (hereinafter referred to as PX).

2. The Central Commission, in discharge of its statutory responsibility under Section 66 of the Electricity Act, 2003 (hereinafter referred to as “the Act”) has issued the guidelines vide order dated 6.2.2007 in Petition No. 155/2006 (Suo-motu) for grant of permission for setting up and operation of PX. As per the guidelines, the PX shall have the following broad features:

- (a) de-mutualized form of organization;
- (b) reliable, effective and impartial management;
- (c) ring-fencing between ownership, management and participation;
- (d) investment support from the investors including institutional investors;
- (e) transparency in operation and decision-making;
- (f) computerized trading and clearing system;
- (g) efficient clearing settlement and guarantee system;
- (h) effective trade information dissemination system.

3. A company incorporated under the Companies Act, 1956 or a consortium of companies, who have entered into a formal agreement on issues critical to the setting up of the PX are eligible to make application before the Commission for permission. Any applicant who fulfills the eligibility conditions and is desirous of setting up a power exchange may make an application accompanied by the required documents as mentioned in para 6.2 of the guidelines and post the application and the detailed information in its website for a minimum period of 30 days. The applicant is also required to publish a public notice in all editions of two daily newspapers including one economic daily within seven days of filing the

application inviting comments/objections, if any, within a period of 30 days and to file its comments on such objections/suggestions within a period of 45 days.

4. The applicant, a company registered under the Companies Act,1956 has made the present application in accordance with the provisions of para 6.3 of the guidelines. The applicant has published the public notice about the application in all editions of the Indian Express and Financial Express on 24.5.2007 and also posted the application on its website. No objections to the application have been received.

5. It has been stated that the applicant company has been promoted by Financial Technology (India) Limited (hereinafter referred to as FTIL) and Multi Commodity Exchange of India Limited (hereinafter referred to as MCX). FTIL is a listed company dealing with mission-critical Straight-Through-Processing solutions comprising domain consulting, technology licensing and development outsourcing for the financial services industry and offers a gamut of solutions and services to Exchanges, Exchange Members, Investment Managers, Banks and Custodian. The MCX, promoted by FTIL, is an independent de-mutualised multi commodity exchange having permanent recognition from Government of India for facilitating online trading, clearing and settlement operations for the commodity futures market across the country. A tripartite agreement dated 17.7.2007 among FTIL, MCX and IEX has been placed on record according to which FTIL will provide the licensed software relating to Market Place technology deployment and MCX will provide expertise in the exchange operation management to IEX. The applicant has also placed on record a copy of the letter of intent dated

12.3.2007 from the PTC India Ltd conveying its interest for equity participation in the IEX as one of the key promoters.

6. Para 6.5 of the guidelines provides that before permission is granted the applicant will be required to get itself incorporated as a limited company under the Companies Act, 1956 for the purpose of Power Exchange. The Applicant has been incorporated as a public limited company. The main objects of the applicant company as stated in its Memorandum of Association are as under:

“1. To establish, operate, regulate, maintain and manage facilities in the whole of India and outside India enabling the members of the exchange, their authorised agents and constituents and other participants to transact, clear and settle trades done on the exchange in various types of electricity, power based contracts including all other forms/types of energy and various energy produces, other instruments and derivatives thereof, in ready, forward and futures markets and to provide accessibility to the markets to various members of the exchange and their authorised agents and constituents and other participants within and/or outside India, and to provide, initiate, facilitate and undertake all support services relating thereto as per the Articles of Association, Bye-laws, Rules and Regulations of the Exchange;

2. To provide on-line technology facility which provides a transparent transaction platform for authorised users on large scale across the country including remote areas, in futures contract of electricity, power and energy

instruments, facilitating access from across regions to provide hedging mechanism for the purpose of mitigating risk.”

Thus, the applicant company having been incorporated under the Companies Act, 1956 with power trading as the main object fulfils the eligibility conditions laid down in the guidelines to set up the PX.

7. Now we proceed to examine the broad features of the proposed Power Exchange in the light of the guidelines:

(a) De-mutualised form of organization:- In a demutualised form of organization, the ownership and management is segregated from the trading rights of the members of the exchange. It has been stated that IEX as a demutualised organisation will be a public company incorporated under the Companies Act, 1956, having FTIL as the major stake holder alongwith MCX as provider of technical know-how and equity. Both companies have no interest in trading of power. FTIL and MCX together or FTIL alone will hold 51% of the proposed company and the total share holding of all power sector participants shall not exceed 49% in order to ensure the demutualized character of the IEX. The Commission is of the view that at least fifty-one percent of the equity share capital of the PX should be held by the public other than the shareholders having the trading rights in the exchange in order to maintain the demutualized character of the organization. The Commission also considers it desirable that participation within the trading and non-trading groups should be

diversified in order to discourage monopoly and to facilitate emergence of professionally managed organization in the interest of power sector.

(b) Ring-fencing between ownership, management and participation:

The applicant has stated that the proposed PX will have clear demarcation between the ownership, management and participation by ensuring that the entities having a shareholding in the company would not have any say in the day to day management and operation of the exchange. The Board of Directors of the Exchange will comprise of representatives of the promoters and Independent Directors having vast domain knowledge and persons of repute. The Chairman of the Exchange will be selected from the independent directors who will be retiring by rotation. An independent specialized and competent management team would be constituted with a CEO and HoDs for different departments/functions to run the day-to-day operation of the exchange. The management team will report to the Board about the progress of the Exchange at periodic intervals and take broad directional inputs regarding the functioning of the exchange. All employees of IEX would have to compulsorily enter into an agreement with the applicant company that they would not indulge in any trading and keep all market information very confidential. The applicant proposes to put in place a sound Information Security Management System as has been adopted in case of MCX. We are of the view that the Governing Board of the PX should have representatives of the trading members but their maximum number should not exceed one-fourth of the total strength of the Governing Board.

(c) Reliable, effective and impartial management:- The applicant has stated that the affairs of the IEX will be overseen by the Board of Directors of the company which will decide its policies and determine its compliance. The day to day affairs of the PX will be managed by the management team of IEX headed by a Managing Director and CEO. The management team will be constituted of professionals with highest caliber and relevant technical background and work experience, selected through competitive process adopted by any large company. The company also proposes to put in place effective HR and regulatory structures to ensure that there is no conflict of interests in the PX and any violation would be dealt with suitable disciplinary action and legal procedure. We are broadly satisfied with the approach of the applicant company.

(d) Funding sources:- The applicant has submitted that the total project cost of the PX will be funded by the promoters as equity in the company alongwith other stakeholders from financial and power sectors. The authorized capital and paid-up capital of the company have been proposed to be Rs.25 crore and Rs.10 crore respectively and as required during the implementation and operation of the Power Exchange further capital would be infused. The Commission is of the view that the functioning and operation of the Exchange should not suffer on account of non-availability of resources and the company should take necessary steps to generate the resources as permissible in law.

(e) Membership of the Exchange:- The applicant has stated that the entities who are professionally and commercially active or involved in trading electricity, distribution licensees, generators, consumers and other stakeholders would be admitted as members. The exchange proposes to have two types of membership viz. Trading cum Clearing member (proprietary) and Trading cum Clearing member (client). While the former will make deals for himself and clear and settle deals only, the latter will carry out those jobs for his clients. The PX will satisfy itself regarding the financial and technical competence of the members before their registration. The Trading cum Clearing members (proprietary) will be required to submit the NOCs from the SLDC, RLDC, STU and CTU, as the case may be, in support of their connectivity with the grid. We have gone through the draft rules and are of the view that it prima facie meets the legal framework for admission, qualification for membership and suspension, expulsion and readmission of members.

(f) Transparency in operation and decision making:- It has been proposed that the participants can trade, the day before, standard hourly contracts and block contracts that commit them to injecting into or drawing power from the grid a volume of electricity at a given hour at a market price. The time line for trading has been indicated by the applicant as under:

(i) 1000 hrs : Collection of Available Transmission Capacity (ATC) from NLDC/RLDCs and display the information on website of PX

- (ii) 1000-1200 hrs : Receipt of bids from members
- (iii) 1200-1300 hrs : PX to determine Market Clearing Prices and matched bids and offers
- (iv) 1300 hrs : PX to issue required transmission capacity along with matched trades to NLDC/RLDCs
- (v) 1300-1330 hrs : Corrections of inadvertent errors in the bids, if any
- (vi) 1500 hrs : NLDC/RLDCs to allocate ATC to the PX
- (vii) 1500-1530 hrs : PX to arrive at best possible solutions by matching ATC and bids
- (viii) 1530-1600 hrs : PX to check availability of adequate margins
- (ix) 1700 hrs : PX to inform NLDC/RLDCs and respective members about the transactions for final scheduling

We accept in principle the applicant's proposal for receipt of bids for day ahead trading between 1000 hrs to 1200 hrs. The trade schedules shall be released by the PX to NLDC/RLDCs by 1500 hrs, however. These shall be accommodated to the extent possible and incorporated in the net schedules issued by RLDCs at 1700 hours, and no revision in these transactions shall be accepted by the RLDCs. Interface design and procedure for coordination are matters of details for which the applicant would have to interact with the NLDC/RLDCs and arrive at a mutually acceptable and reasonable arrangement. These shall be filed by the petitioner with the Commission before the start of actual trading operations.

(g) Clearing and Settlement Operation: - The applicant has proposed to have a clearing house to monitor and perform all activities relating to funds settlements and scheduling. The applicant should specify the banks which shall be authorized for electronic transfer of funds between clearing members and exchange and also the process, procedures and operations which will be followed by every clearing member for participation in the clearing and settlement activities.

(h) Settlement Guarantee Funds: - The applicant has proposed that the members of the PX will be required to pay a security deposit (tentatively fixed at Rs.1 crore) at the time of admission which will be used as his initial margin for giving exposure to the member and if the member wishes to create more exposure, he will be required to pay additional deposits. The Power Exchange will maintain a Settlement Guarantee Fund comprising the security deposits made by the member towards the initial deposits and additional deposits if any. Whenever a member fails to meet his settlement obligations to the Power Exchange arising out of his clearing and settlement operation in respect of the transactions, the funds in the member's settlement account will be utilized to cover the member's obligation towards the power exchange. We feel that the proposed funds will guarantee against the insufficiency of funds and default on the part of members. The applicant is directed to maintain proper account of the funds and bring out periodic reports for the information of members of the PX.

(i) Transmission capacity, transmission charges and losses:- The applicant has discussed two scenarios for transmission charges - one as per the existing regulation and the other as per the discussion paper floated by the Commission for revision of transmission charges. The transmission charges, operating charges and the transmission losses shall be applied by the PX to its schedules as per the Commission's regulations and orders issued from time to time. The PX shall be responsible for making payments to the NLDC/RLDC for the transmission charges and operating charges whereas the transmission losses shall be applied in kind on the drawal schedules.

(j) Transmission Congestion Management: - The applicant has stated that in case of transmission congestion, a method based on merit order of the sale and purchase bids will be adopted. The curtailment will be carried out by selecting the trades with highest purchase bids and lowest sale bids. Those purchase bids downstream of congested path with higher value and sale bids upstream of congested path with lower value shall be given priority. The bids will be selected in that order till the transmission capacity requirement matches with transmission capacity available. For this purpose, the PX may have to rank the buyers and sellers according to their bid price (without disclosing the prices quoted) while sending the lists of trades to NLDC/RLDCs at 1500 hours. The applicant should evolve a workable methodology for handling transmission congestions in coordination with NLDC/RLDCs and submit the same for approval of the Commission. The question of reservation of transmission corridor for the

Power Exchange is an involved issue, and shall be taken up by the Commission in due course.

(k) Surveillance : The applicant has proposed to have a Market Surveillance department which will ensure continuous supervision of market participants' behaviour regarding exchange trading and compliance with exchange rules. The applicant should ensure that the market surveillance group is well equipped and empowered to deal with the possible price manipulation by vested interests. Necessary provisions should be made in the Bye-laws and rules of the PX.

(l) Dispute Resolution:- The applicant has proposed that in case of disputes arising between the members of the PX or the client and the members, the dispute resolution will be done through arbitration committee of the Exchange as per the rules of the PX. In the event of a dispute involving the PX and NLDC/RLDCs, the dispute will be referred before the Commission. The Commission is of the view that the arrangement is acceptable and necessary provisions to that effect should be made in the rules of the exchange.

(m) Bye-laws, rules and regulation of the Power Exchange:- The applicant has enclosed draft Bye-laws and rules of the proposed Power Exchange. The Bye-laws deal with contracts, trading on the exchange, trading system, clearing house, margins, clearing and settlement, settlement guarantee funds, code of conduct of members, arbitration and

conciliation. Similarly, the rules only deal with the management and membership of the PX. The compositions of the various committees have not been clearly laid down in the rules. The Commission is of the view that the Bye-laws and rules of the exchange should be developed in accordance with sub-paras (g) and (h) of the paragraph 6.2 of the guidelines and submitted for scrutiny by the Commission.

8. In view of the above discussion, we are satisfied that the applicant broadly meets the requirements of the guidelines for setting up of Power Exchange. We are also satisfied that the applicant is competent and qualified to set up a Power Exchange. Accordingly, we accord approval to the applicant to set up power exchange in accordance with our guidelines and keeping in view our observations in this order. The PX shall start as a platform for scheduled, day-ahead trading of electricity. There shall be no fictional trading in the PX. All settled trades shall be compulsorily advised to the concerned RLDC for being scheduled, subject to transmission capacity availability. The proposal for continuous trading platform after the closure of day-ahead window shall be kept in abeyance for the present. Also, there shall be no separate real-time energy accounting for UI against the PX schedules, and only composite UI accounting for each participant shall be done by the concerned RLDC/SLDC.

9. The applicant in its affidavit dated 17.7.2007 has prayed for operational flexibility for successful development and operation of the power market as the exchanges evolve with and dynamically adjust to the need of the market. The

rules and regulations of the exchange should reflect such dynamic market driven changes for which operational freedom should be allowed to the applicant. It is our consistent approach that the Commission would like the Power Exchange to emerge as a market guided institution with minimal regulation. The applicant is directed to take necessary steps to finalize the PX design, Bye-laws and rules of the PX in accordance with our observations made in paras 7 and 8 of this order and submit the same for approval before starting the operation of the Power Exchange.

**Sd/-
(R. KRISHNAMOORTHY)
MEMBER**

**Sd/-
(BHANU BHUSHAN)
MEMBER**

New Delhi, dated the 31st August, 2007