

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram**

- 1. Shri Ashok Basu, Chairperson**
- 2. Shri A.H. Jung, Member**
- 3. Shri Bhanu Bhushan, Member**

**Petition No. 155/2006  
(Suo motu)**

**In the matter of**

**Guidelines for the grant of permission for setting up and operation of Power Exchange**

**Introduction**

Under Section 66 of the Electricity Act, 2003, (hereinafter referred to as “the Act”), the Commission has been assigned the statutory responsibility to promote the development of a market (including trading) in power. In discharge of the statutory responsibility, the Commission published a Staff Paper to deliberate on the issues and problem areas connected with the development of power market in India. The Commission has since issued a Statement of Reasons on 18.1.2007, which, *inter alia*, proposes to set up the Power Exchange.

2. The Commission, in paragraphs 20 and 21 of the said Statement of Reasons has outlined the Commission’s approach towards the establishment and management of the Power Exchange. The relevant provisions are extracted hereunder:-

“20. The general approach of the Commission is to allow operational freedom to the PX within an overall framework. The regulation would be minimal and restricted to requirements essential for preventing derailment/accidents and collusion. Private entrepreneurship would be allowed to play its role. The Commission shall keep away from governance of PX, which would be required to add value and provide quality service to the customers.

21. As a logical consequence of the above (voluntary participation, no mandate for one PX, no restriction regarding ownership, and minimal regulation), the Commission would not like to impose any management structure, rules or procedures for PX. We would let the promoters develop these, and submit them for Commission’s approval. It is important that the rules and procedures cater to the requirements of PX customers. As such, it is for the PX promoters to have a serious dialogue with their prospective clients, and determine what their pragmatic expectations are.”

3. In keeping with the Commission’s approach towards development of power trading market with minimal regulations, the Commission for the present does not propose to prescribe any particular organizational structure of the Power Exchange or need for licensing for establishment and operation thereof. The Commission seeks to encourage Power Exchange to emerge as a market-based institution for providing price-discovery and price-risk management to the generators, distribution licensees, traders, consumers and other stakeholders. The promoters shall be required to develop their own model of the Power Exchange and seek permission from the Commission before start of operation. However, the promoters need to keep in mind the following broad guidelines while developing the Power Exchange, namely:

- (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.

4. While the promoters will have the freedom to develop, manage and operate the Power Exchange according to approved rules, bye-laws and procedures, the Commission will be concerned with the following aspects:

- (a) Scrutiny of the Rules and bye-laws of the Power Exchange;
- (b) Assignment of transmission capacity to the Power Exchange;
- (c) Apportionment of transmission charges and losses;
- (d) Procedure for handling transmission congestion;
- (e) Monitoring of the functioning of the Power Exchange to the extent of preventing speculation, collusion and unfair gaming;
- (f) Adjudication of disputes between the Power Exchange and the Members.

5. The detailed guidelines for establishment and operation of the Power Exchange are outlined in Para 6 of this order.

## **6. Guidelines For Grant Of Permission To The Power Exchange**

### **6.1 Who can make application:**

- (a) Any company incorporated under the Companies Act, 1956;
- (b) Any consortium of companies, who have entered into a formal agreement on issues critical to the setting up the Power Exchange;
- (c) The persons managing the affairs of the applicant should have adequate knowledge and understanding of the Electricity Act, 2003, Indian Electricity Grid Code (IEGC), Open Access Issues, Availability Based Tariff (ABT), UI Mechanism, Scheduling Despatch and Energy Accounting Procedure.

### **6.2 Documents to be submitted along with the application:**

- (a) Memorandum and Articles of Association of the company making the application.
- (b) In case of a consortium, it should submit formal agreement among its Members, which should dwell upon the issues critical to the setting up of the Power Exchange.
- (c) Details of the existing business of the applicant company.
- (d) Net worth as defined in Companies Act, 1956 of the applicant as on 1<sup>st</sup> April of the financial year in which the application is made in case of the Companies formed prior thereto or on the date of making application in other cases.

- (e) Copies of the Annual Report and/or audited accounts of the applicant for the last three years, to the extent these are applicable.
- (f) A Project Report containing the following details:
  - (i) Constitution of the proposed Power Exchange;
  - (ii) Funding sources of the proposed Power Exchange;
  - (iii) Management and Administrative structure of the proposed Power Exchange;
  - (iv) Infrastructural facilities available/proposed to be acquired by the Power Exchange;
  - (v) Clearing and Settlement mechanism;
  - (vi) R & D facilities and training programmes likely to be made available by the proposed Power Exchange.
- (g) The rules relating in general to the constitution of the proposed Power Exchange and in particular, to:
  - (i) The governing body of the Power Exchange, its constitution and powers;
  - (ii) Management of the Power Exchange and the manner in which its business is to be transacted;
  - (iii) The powers and duties of the office-bearers of the Power Exchange;
  - (iv) The admission into the Power Exchange as Members, the qualifications for membership and the exclusion, suspension, expulsion and re-admission of members therefrom or thereto;

- (v) Procedure for registration of members, and nomination and appointment of authorized representatives of the Members.
- (h) A copy of the bye-laws of the Power Exchange, which will broadly cover the following areas:
- (i) Trading system including operational parameters for trading;
  - (ii) Rights and liabilities of the trading members;
  - (iii) Market surveillance and investigation;
  - (iv) Clearing and settlement procedure;
  - (v) Risk management;
  - (vi) Provision for payment security mechanism;
  - (vii) Maintenance of records and accounts;
  - (viii) Preparation of annual accounts and audit thereof;
  - (ix) Arbitration, dispute resolution and conciliation;
  - (x) Mechanism for determination of transaction charges;
  - (xi) Mechanism for redressal of grievances;
- (i) Suggested mechanism in respect of the following:
- (i) Procedure from opening of the platform up to its scheduling by RLDCs/SLDCs;
  - (ii) Procedure for handling a default, i.e. failure to schedule the transaction finalized;
  - (iii) Methodology for handling transmission congestion;

- (iv) Inter-face design with system operator/Regional Load Dispatch Centres;
- (v) Infrastructure including R&D facilities proposed to be created for the purpose of Power Exchange;
- (vi) Proposed time line for trading.

### **6.3 Procedure for application**

- (a) Application for grant of permission to establish and operate the Power Exchange may be filed in the form of a petition to the Commission along with the application fee of Rs. 1.00 lakh (Rupees One lakh only) payable through bank draft/pay order drawn in favour of Assistant Secretary, Central Electricity Regulatory Commission, New Delhi.
- (b) The application and detailed information required shall be posted and kept on the web site of the applicant at least for a minimum period of 30 days from the date of publication of notice in newspapers.
- (c) The salient details of the applicant, proposed trading platform and website address where the full application is accessible shall be published in all editions of at least two national daily newspapers including one economic daily newspaper within 7 days of filing application inviting public comments/objections, if any, upto a period of 30 days.

- (d) The applicant may file his comments on the objections or suggestions received in response to the public notice within 45 days of its publication in the newspaper.

#### **6.4 Procedure for granting permission**

The Commission, after making such inquiries as may be necessary in this behalf and after obtaining such further information as it may require, may grant permission if it is satisfied that:

- (a) The rules and the bye-laws of the proposed Power Exchange are in conformity with such conditions as may be specified by the Commission with a view to ensure fair dealing and to protect the interest of the stakeholders;
- (b) The rules and the bye-laws of the proposed Power Exchange do not, in any manner, violate the provisions of the Electricity Act, 2003 and the Rules and Regulations made thereunder and the provisions of Forward Contracts (Regulation) Act, 1952;
- (c) The proposed Power Exchange is willing to comply with any other conditions, which the Commission may impose for the purpose of carrying out the objects of the Electricity Act, 2003.
- (d) It would be in the interest of development of the electricity sector and also in the public interest to grant permission to the proposed Power Exchange.



## **6.5 Incorporation of the Power Exchange as Limited Company**

The Commission will grant permission to any applicant, which is selected to set up the Power Exchange in accordance with the procedure outlined above. Before permission is granted, the applicant will be required to get itself incorporated as a Limited Company under the Companies Act, 1956 exclusively for the purpose of Power Exchange.

## **6.6 Withdrawal of Permission**

The Commission may withdraw permission granted to the Power Exchange after giving an opportunity of being heard, if it is satisfied that the functioning of the Power Exchange is in violation of the terms and conditions of permission, the bye-laws of the Power Exchange, the provisions of the Electricity Act, 2003.

7. Applicants intending to establish the Power Exchange may make an application in accordance with these guidelines to the Commission for permission to set up the Power Exchange

Sd/-

**(A.H. JUNG)  
MEMBER**

Sd/-

**(BHANU BHUSHAN)  
MEMBER**

Sd/-

**(ASHOK BASU)  
CHAIRPERSON**

**Dated, New Delhi the 6<sup>th</sup> February, 2007**