

CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

No. _____

Dated __, 2009

NOTIFICATION (DRAFT)

In exercise of powers conferred under Section 66 read with Section 178(2)(y) of the Electricity Act, 2003 (36 of 2003) and paragraph 5.7.1 (f) of the National Electricity Policy, and all other powers enabling it in this behalf, and after previous publication, the Central Electricity Regulatory Commission hereby makes the following regulations, namely:

Part – 1
Preliminary

1. Short title and commencement

- (i) These regulations may be called the Central Electricity Regulatory Commission (Power Market) Regulations, 2009.
- (ii) These regulations shall come into force from the date of their publication in the Official Gazette.

2. Definitions and Interpretation

- (i) In these regulations, unless the context otherwise requires,-
 - (a) “Act” means the Electricity Act, 2003 (36 of 2003);
 - (b) “Automated audit trail” means the time stamp of transaction creation or modification or deletion as maintained in the trading system for reference at later date;
 - (c) “Board” means board of directors of the power exchange;
 - (d) “Cartelization” means an act by market participants to form an association to control or attempt to control generation, distribution, sale or price or trade in electricity;
 - (e) “Contract” means a contract for or relating to the purchase or sale of electricity;

- (f) “Clearing Corporation” means a clearing house approved under these regulations;
- (g) “Client” means a person who executed an agreement with a member /or licensed trader for dealing and /or clearing through such member or licensed trader;
- (h) “Credit risk” means risk emanating in a contract due to change in financial condition of any of the contracting parties;
- (i) “Current Ratio” means ratio between the current assets and current liabilities, where –
 - (1) current assets include cash or cash equivalent of money, accounts receivables, inventory, marketable securities, and prepaid expenses, and
 - (2) current liabilities include sundry creditors, provisions and other liabilities to be discharged within a period of one year;
- (j) “Day ahead contract” means contracts where trade occurs on day (T) and delivery of power is on the next day (T+1);
- (k) “Derivative market” means a market where the contract derives its value from an underlying asset (e.g. spot market contract or other reference index);
- (l) “Exchange” means any trading platform other than a power exchange and where such contracts are traded which do not result in physical delivery of electricity or where any such contract is performed either wholly or in part by any means whatsoever, and as a result of which the actual delivery of electricity covered by the contract or payment of the full-price therefor is dispensed with, and includes power exchange unless the context otherwise requires;
- (m) “Forward contract” means a Bilateral / OTC contract (non exchange traded) where the price is fixed at the time of contract and where delivery of electricity or financial settlement happens on a future date as stipulated in the contract;
- (n) “Intraday Contract” means contracts where trade and the delivery of power happens on the same day;

- (o) “Legal Counter Party” means a person who undertakes to provide an unconditional guarantee for settlement of all trades on the power exchange or trades cleared by a clearing corporation;
- (p) “Licensed trader” means a person who has been granted a licence by the Commission under Central Electricity Regulatory Commission (Procedure, Terms and Condition of grant of trading license and other related matters) Regulations, 2009 as amended from time to time;
- (q) “Liquidity Ratio” means the ration between the liquid assets and current liabilities, where –
 - (i) Liquid assets include the current assets less inventory, and
 - (ii) Current liabilities include sundry creditors, provisions and other liabilities to be discharged within a period of one year;
- (r) “Load Despatch Centre” (LDC) means the National Load Despatch Centre, Regional Load Despatch Centres, State Load Despatch Centres;
- (s) “Market” means a forum / platform where buyers and sellers directly or through licensed traders, or through electronic exchange (including a power exchange) voluntarily buy or sell electricity;
- (t) “Market splitting” means a process of creating different price zones in a market by a power exchange, such process arising due to congestion in transmission corridor;
- (u) “Member” is a person who has been admitted by as power exchange for trading, clearing or settlement of contracts traded on the power exchange
- (v) “Networth” means aggregate value of the paid up equity capital and free reserves (excluding reserves created out of revaluation) reduced by the aggregate value of accumulated losses, deferred expenditure (including miscellaneous expenses) not written off and loans and advances to the associates
- (w) “Open position” means a buy or sell position when trade has been executed but the delivery has not been completed and where a party is exposed to price, credit, operational risk;
- (x) “Operational risk” means any risk emanating in a contract due to systems, processes, technology error or breakdown;

- (y) "Over The Counter (OTC)" shall have the meaning ascribed to it as under Clause (i) of Regulation 3;
 - (z) "Position" means the financial and physical condition arising as a result of a buy or a sell action of a participant;
 - (aa) "Price risk" means any risk emanating in a contract due to change in price of the contract / asset during tenure of the contract;
 - (bb) "Power Exchange" means the exchange registered under these regulations;
 - (cc) "Settlement Guarantee Fund (SGF)" means a fund maintained by the power exchange or clearing corporation and which comprises of a pool of member's base capital or security deposit;

 - (dd) "Spot Market" means a market where physical delivery of electricity occurs either on the same day as the date of the trade (T) or on the next day (T+ 1);
 - (ee) "Term Ahead market" means a market where physical delivery of electricity occurs on a date more than one day (T + 2 or more) ahead from the date of trade (T) and the contracts in such market can be traded weekly / monthly / yearly in advance and have a defined delivery period on expiry of contract.
- (ii) Save as aforesaid and unless repugnant to the context or if the subject-matter otherwise requires, words and expressions used in these regulations and not defined, but defined in the Act or regulations made thereunder by the Commission shall have the meaning assigned to them in the Act or other regulations made by the Commission.

Part – 2

Scope of Regulation and Extent of Application

3. These regulations shall apply to Bilateral / OTC markets and Exchange Traded markets dealing in electricity, and where –
 - (i) Bilateral / Over the Counter Market – is a market where buyers and sellers directly transact or transact through a licensed trader, and where the price and terms of the contract are determined based on negotiations as agreed between the parties or through competitive process or through a licensed trader. The risk in contracts executed in such markets is managed between the parties themselves or by the licensed trader, as the case may be.
 - (ii) Exchange Traded market – Exchange Traded market is a market where the buyers and sellers trade on contracts with standardised specification on the exchange platform and the exchange / clearing corporation acts as a legal counterparty to all trades.
4. The following types of contracts shall be permitted in accordance with these regulations:-
 - (i) Delivery based contracts in Bilateral / OTC market -
 - (a) Bilateral Contracts -The interstate transactions in which buyers and sellers enter into a contract and decide price and other terms of the contract either through negotiation or a competitive process.
 - (b) OTC Contracts
 - I. Back to back deals --The interstate transaction in which a licensed trader buys a specific quantity of power for a particular duration from one party and immediately sells it to another party. Such transaction does not expose the trader to any price risk. It exposes the trader to credit risk and operational risk.
 - II. Deals with Open position is a transaction in which a licensed trader takes a position in a power contract based on price view and adopts a strategy accordingly

Illustration :

Trader A buys power for a long term period at a contracted price and sells power to consumers B, C, D in tranches over a period of time at different prices .

- III. Contract to aggregate suppliers and sell to a single / few buyers.
- IV. Contract to aggregate buyers and sell from a single / few sellers.

In contracts (III) and (IV) scheduling is to be communicated to the nodal agency (LDC) through an application, separately for each transaction from source to sink.

- (ii) Financially settled derivatives contracts traded in Bilateral / OTC market – It is a contract which derives its value from an underlying asset (e.g.: spot market contract or other reference index). The contract price is fixed at the time of transaction. The final financial settlement price is based on the spot price of the underlying asset at the expiry of contract. These contracts can be OTC traded forward contract, option, swap, swaption and other structured contracts etc.

Explanation – Option contract is the right, but not the obligation, to buy (for a call option) or sell (for a put option) a specific amount of electricity, at a specified price (the strike price) during a specified period of time.

Provided that, Derivatives Contracts in Bilateral / OTC, OTC traded forward contract, option, swap, swaption and such other structured contracts within the scope of clause (ii) above shall only be entered into after the Commission permits such contracts to be traded, by order, from a date notified in such order.

- (iii) Delivery based contracts traded on Exchange

- (a) Intraday contract, Contingency contract
- (b) Day Ahead contract
- (c) Term Ahead contract

- (iv) Financially settled electricity derivative contracts traded on exchange -

It is a contract which derives its value from an underlying asset (e.g.: spot market contract or other reference index) and is financially settled on the

underlying asset's spot price on expiry of the contract. These contracts can be futures contract, options etc

Provided that, financially settled electricity derivative contracts shall only be entered into after the Commission permits such contracts to be traded on an Exchange, by order, from a date notified in such order.

(v-a) Any new contracts linked with electricity generated from renewable sources, e.g. Renewable energy certificates (REC), etc. traded on power exchange

(v) Real time balancing contracts

The Commission may by order, permit trade in Real time balancing contracts.

(vi) Capacity Contracts

These are contracts where a consideration is paid by the contract buyer to a generator to buy the right to ask for power to be supplied by the generator during the tenure of the contract. These can be traded both on bilateral/OTC markets and /or on power exchanges .

(vii) Ancillary Services Contracts

The Commission may by order, permit trade in Ancillary Services Contracts.

4A. Subject to the requirement of obtaining prior approval of the Commission, a Power exchange may introduce any new type of contracts based on markets needs and feedback.

5. These regulations shall apply to all market stakeholders including -

(i) Grid connected entity(ies) such as but not limited to Generating companies, Distribution Licensees, consumers who have been granted open access.

(ii) Licensed Traders;

(iii) Power Exchanges and Clearing Corporations approved by the Commission,

(iv) Members of power exchanges;

(v) Other exchanges and

(vi) Any other person selling electricity.

Part - 3

Approval of the Contracts by the Commission

6. The Commission may, on an application made in this behalf , permit any exchange to trade or cause to be traded or facilitate trading, of any of the contracts specified in Part 2 of these Regulations.

Provided that the above shall not apply to such contracts which are traded on the power exchange on the date of notification of these Regulations with the approval of the Commission.

Provided further that licensed traders are not required to obtain any approval under these regulations but shall submit information as specified in Central Electricity Regulatory Commission (Procedure, Terms and Condition of grant of trading license and other related matters) Regulations, 2009 and comply with the trade reporting requirement as specified in Regulation 63 hereof.

7. The Commission may, prior to granting such authorisation to exchanges as specified in Regulation 6, examine the following and such other parameters of such contracts as considered appropriate:-

- (i) Type of contract (day ahead, term ahead etc);
- (ii) Price Discovery methodology and matching rules used;
- (iii) Trading period – When trade shall commence and for what tenure trading shall continue before delivery commences;
- (iv) Risk Management mechanism
 - (a) Margining mechanism
 - (b) Daily settlement mechanism
 - (c) Final Price Settlement mechanism
- (v) Delivery mechanism

Delivery period – Delivery for a week or month or particular season

8. If the Commission is of the opinion that it is necessary or expedient so to do, it may

after granting the concerned person the opportunity of being heard, by order, provide for, suspension of trading on any contract for the period specified in the order or withdraw any contract

Part – 4

Principles of Market

9. The Power exchange shall follow the following practices:-

- (i) Ensure fair, neutral, efficient and robust price discovery
- (ii) Provide extensive and quick price dissemination
- (iii) Design standardised contracts and work towards increasing liquidity in such contracts

Explanation: Liquidity is a measure of ease of entering or exiting into a trade (generally large trade) without changing the markets price.

10. Power exchange shall also provide price signal for efficiently allocating resources in power sector.

11. OTC Markets – The following principles of transaction shall be observed:

- (i) OTC market shall provide customized solution to sector participants and bring innovation in the market place.
- (ii) Contracts to be sold to client shall be based on the suitability, appropriateness and full material disclosure.
- (iii) Endeavour shall be made to provide complete material information about the contract pricing, its risks and implications to the parties entering into the contract.

12. The Market Design should complement reliability of power system and under no circumstances should market mechanisms compromise grid security.

Part – 5
Power Exchange

13. No person shall operate a power exchange without obtaining registration under these regulations.

Provided that the power exchanges functioning with the approval of Commission on the date of coming into force of these regulations shall be deemed to be registered under these regulations.

14. The eligibility criteria for making application for registration of power exchange shall be as follows:

- (i) Any company incorporated as a public company within the meaning of the Companies Act, 1956;
- (ii) Any consortium of companies, who have entered into a formal agreement to set up a power exchange;

Provided that the main objects of such companies shall be to exclusively set up and operate Power Exchange.

15. Procedure for Application

- (i) Application for grant of permission to establish and operate a Power Exchange shall be filed in the form of a petition to the Commission in accordance with the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 as amended from time to time.
 - (ii) The application as filed and the information as sought by the Commission 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.
 - (iii) 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 of the application inviting public comments/objections, if any, upto a period of 30 days.
 - (iv) The applicant shall file its reply to the objections or suggestions received in response to the public notice within 45 days of its publication in the newspaper.
- 16.** Persons desirous of forming a Power exchange shall submit the following documents along with the application, to the Commission:

- (i) Memorandum and Articles of Association of the company making the application;
- (ii) In case of a consortium, a formal agreement amongst its Members, shall be submitted;
- (iii) Details of the existing business of the applicant company;
- (iv) Copies of the Annual Report and/or audited accounts of the applicant for the last three years, to the extent applicable;
- (v) A Project Report containing the following details:
 - (a) Constitution of the proposed Power Exchange;
 - (b) Funding sources of the proposed Power Exchange;
 - (c) Management and Administrative structure of the proposed Power Exchange;
 - (d) Infrastructural facilities available/proposed to be acquired by the Power Exchange;
- (vi) The rules of the proposed power exchange relating in general to the constitution of the proposed Power Exchange and in particular, that relating 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;
- (vii) The bye laws of the proposed power exchange covering the aspects specified in Regulation 27 hereof.

17. Prudential Norms for establishment of power exchange

- (i) A power exchange shall always have a minimum network of Rs. 25 Crore

Provided that the power exchange shall always maintain the above network and in case the same decreases due to payment made by the power exchange to sellers / buyers in default including by the usage of the SGF and if that impacts its network, the Power exchange shall immediately increase its network to comply with the above network criteria.

Provided that once a Power exchange separates its clearing functions to a clearing corporation, it shall be required to have a minimum networth of Rs. 5 Crore.

Provided further that the Commission may, by order, review the networth criteria from time to time.

(ii) The networth to be considered shall be minimum in three years immediately preceding the year in which the application is made or such lesser period during which the applicant may have been incorporated, registered or formed and on the date of special balance sheet accompanying the application for grant of registration

(ii-a) The Networth of a Power exchange shall be as per the last audited balance sheet.

(iii) A power exchange shall have a minimum current ratio of 1:1 and a liquidity ratio of 1:1 .

Provided that the Commission may, by order, review the above criteria from time to time.

(iv) Settlement Guarantee Fund (SGF)

(a) The initial security deposit paid by all members shall be aggregated to create a settlement guarantee fund of the Power exchange. The Commission may by order direct that SGF shall not be used as initial margin of contracts to cover market risks but only other operational risks including defaults claims.

Explanation: "Initial Margin" is the margin collected by Power exchange before entering into contracts to cover market risk at a predefined price volatility confidence level;

(b) The usage of the SGF shall be clearly communicated to the members through the bye laws of the Power exchange.

(c) Details of investment of SGF shall be submitted to the Commission on an annual basis while submitting the Power exchange's annual report.

(d) The SGF investment returns shall be retained by the Power exchange till the fund is maintained by the Power exchange.

(e) The SGF shall be parked by the power exchange or clearing corporation, and which shall comply with the following:

1. Settlement Guarantee Fund (SGF) will be linked to the turnover of the power exchange / clearing corporation. The size of SGF shall not be less than as provided below:

Annual Turnover *	SGF Size (In Rs Cr)
Less than 100 Million Units	1
Between 100 – 500 Million Units	5
Above 500 Million Units	10

*Turnover of Trades including all contracts

2. SGF fund size will have to be enhanced further as directed by the Commission when volumes on power exchange increase significantly above 500 Million Unit or when new types of contracts are introduced by the power exchanges.
 3. Prudential Norms, SGF for power exchanges and clearing corporations as required for financial derivative contracts on power exchanges may be notified by the Commission by order and once these are notified the same shall be complied with in terms thereof.
- 18.** The shareholding pattern for equity holders in the Power exchange shall be as follows:
- (i) Any shareholder other than a member of the Power exchange can have a maximum (whether directly or indirectly) of 25% shareholding in the Power exchange.
 - (ii) A member of the Power exchange can have a maximum (whether directly or indirectly) of 5 % shareholding in the Power exchange.
 - (iii) In total, a Power exchange can have a maximum of 49% of its total shareholding owned by entities (whether directly or indirectly) which are members of the Power exchange.
- 19.** The Power exchanges operating on the date of notification of these regulations, shall within a period not exceeding two years, maintain the shareholding structure/pattern as specified in Regulation 18.
- 20.** Registration of the Power exchange:
- (i) The Commission may, after making such inquiries as may be necessary in this regard and after obtaining such further information as it may require, grant

registration subject to such conditions as deemed fit, for the setting up of the Power exchange.

- (ii) A registration of the power exchange shall continue to be in force for a period of twenty five (25) years unless such registration is revoked.

21. Ownership and Governance structure of power exchange

- (i) There shall be a clear demarcation between ownership, management / operations and participation in trading.
- (ii) Board of Directors – At least one third of the members of the Board or a minimum of two directors, whichever is higher, shall be independent directors selected from a panel constituted by the Power exchange and approved by the Commission out of which one person will have professional qualification and experience in finance. The panel shall be constituted of academics, professionals, industry representatives, public figures none of whom should have any interest in any trading member and any fiduciary relationship with any shareholder.
- (iii) The total strength of the Board shall be in accordance with the provisions of the Companies Act 1956.
- (iv) Not more than one fourth of the Board of directors shall represent trading members.
- (v) The Board shall appoint a CEO cum Managing Director who shall be solely responsible for running the day to day operations of the Power exchange. The Managing Director shall be a professional with adequate qualification and at least 10 years of experience in the relevant field.
- (vi) The Managing Director, the Chief Executive or the Director in charge of day-to-day operations, any employee, any consultant or any advisor of the power exchange shall not be directly or indirectly associated with any trading member or client or participant of the power exchange or with a holding or subsidiary company thereof.
- (vii) The Managing Director shall ensure that the individual bids of members of the power exchange is not shared with the board of directors.
- (viii) The Power exchanges operating on the date of notification of these regulations, shall within a period not exceeding one year, maintain the governance structure as specified in this Regulation .

22. Registration Fee

- (i) A Power exchange shall pay an annual registration charge of Rs. 30 Lakhs and in the manner as directed by the Commission.

Provided that the Power exchanges that have been operating on the date of notification of these Regulations pursuant to approval accorded by the Commission, shall pay the difference in the registration charges already paid with that of the charges specified herein.

Provided further that the Commission may, by order, review the quantum of the annual registration charge from time to time.

23. The power exchange shall function according to the byelaws and procedures approved by the Commission, which amongst other requirements cover the following:

- (a) Price Discovery and matching mechanism;
- (b) Rights and liabilities of the trading members;
- (c) Market surveillance and investigation;
- (d) Clearing and settlement procedure;
- (e) Risk management;
- (f) Default and Penalty mechanism;
- (g) Mechanism for determination of transaction charges;
- (h) Brokerage and Commission Charges of members;
- (i) Maintenance of records and accounts;
- (j) Preparation of annual accounts and audit thereof;
- (k) Arbitration, dispute resolution and conciliation;
- (l) Mechanism for redressal of grievances;
- (m) Opening and closing of trading hours, trading and settlement calendar.
- (n) Procedure from opening of the platform up to its scheduling by LDC
- (o) Procedure for handling a default, i.e., failure to schedule the transaction finalized;
- (p) Methodology for handling transmission congestion;

- (q) Inter-face design with system operator/Regional Load Dispatch Centres.
- (r) The details of the Exit Scheme

Provided that byelaws may be amended subject to approval of the Commission.

24. Management of Power exchange

- (i) The senior management of the Power exchange shall comprise of at least two full-time proficient professionals having, qualifications and experience and expertise in the following areas –

Discipline	Qualification and Experience
Power system operations	Degree in Engineering with at least 10 years experience in the field
Finance, commerce and accounts	CA/ICWA/MBA(in Finance) with at least 10 years experience in the field

- (ii) The Power exchange shall constitute a Risk Management Committee (RMC) headed by an independent director of the board which shall stipulate risk containment measures and monitor adherence of the same.
- (iii) The Power exchange shall constitute a Market Surveillance committee headed by an independent director of the board and having members from the executive team of the Power exchange. No member of this committee shall be a trading member.
- (iv) The Power exchange shall constitute a SGF management committee with adequate representation from the members of the Power exchange. This committee shall be responsible for overseeing the management of SGF.

25. Membership in Power exchange

- (i) The prudential Norm for the members of Power exchange shall be linked to volume of trades and will as per the following table:

Category of the Member on Power exchange	Volume of Electricity proposed to be Traded annually (all types of contracts included)	Net Worth (Rs. crore)

Category I	No Limit	50.00
Category II	Not More than 500 Million Units	25.00
Category III	Not More than 100 Million Units	5.00
Category IV	Not More than 50 Million Units	1.00

Provided that the members that have been operating on the date of notification of these Regulations shall comply with the above prudential norms within one year from the date of notification of these Regulations.

Provided further that the Commission may, by order, review the networth criteria from time to time.

- (ii) Members shall always maintain the above networth and in case the same decreases due to payment made by the member being in default including by the usage of the SGF and if that impacts his net worth, such member shall immediately increase his net worth to comply with the above net worth criteria.
- (iii) Volumes of last six months shall be used to ascertain the category of the members and his prudential requirement. The networth to be considered for prudential requirement shall be as per the last audited balance sheet.
- (iv) The Power exchange shall maintain supporting documents provided by the member for obtaining membership including the documents evidencing compliance with networth criteria and furnish it to the Commission on being required to do so. These documents shall be maintained upto a period of five years after the member has surrendered membership or ceases to be a member of the Power exchange.
- (v) The Power Exchange shall submit to the Commission detailed list of members along with their clients every month as per the format appended to these Regulations.

Provided that the Commission may, by order, review the format from time to time.

- (vi) Qualifications for membership, exclusion, suspension, expulsion shall be stipulated in bye laws of Power exchange.

- (vii) In case of any discrepancies found in the trades of members or contravention of these Regulations, the Commission may, after giving the member an opportunity of being heard in the matter, direct, the Power exchange to revoke the membership of such member.
 - (viii) The Commission may direct Power exchanges to introduce qualification test for dealers handling electronic trading terminals and trading in electricity.
 - (ix) A Power exchange may, at its discretion, stipulate any other criteria for membership to the Power exchange including minimum base capital / security deposit requirement, liquid asset requirement.
 - (x) The Commission may by order, notify the additional membership criteria for derivatives trading.
- 26.** Member Service Charge for providing services to their clients in day ahead and term ahead markets shall not be more than 0.75% of transaction value. This ceiling would be an overall ceiling including the service charges of any subordinate service providers.

Provided that the Commission may, by order, review the members service charge criteria from time to time.

Provided further that the Commission may, by order, notify the member service charges separately for financial derivatives.

27. Risk management by Power exchange

- (i) The Power exchange shall adopt international best practices while formulating prudent and dynamic risk management processes based on the changing risk profiles of the market.
- (ii) The Risk management Committee (RMC) shall review the risk management framework and process of the Power exchange on a six monthly basis in January and July each year. The RMC report shall be submitted to the board of directors. The decision of the board of directors on the subject along with the RMC report shall be submitted to the Commission within one month of the risk management review process and not later than end of February and August respectively.

- (iii) The Members' risk shall be monitored constantly and margins shall be collected at appropriate time for efficacy of risk management.
- (iv) Members shall be subject to margins on a gross basis across clients by the Power exchange. There shall be no offsetting of positions of different clients of a member in the same market. Netting of position of same client in different markets is allowed.

Illustration : In case of a member, if his client A has a buy position of 50 Mwh and his client B has a sell position of 50 MWh in the same contract, the net position of the member in the security is to be taken as 100 MWh. The buy position of client A and sell position of client B in the contract will not be netted. It shall be summed up to arrive at the member's open position for the purpose of margin calculation.

- (v) Members should have a prudent risk management and timely margin collection system from their clients. The quantum of margins collected by members from client shall be at the discretion of the members and as per bye laws of Power exchange.
- 28.** Power exchanges shall, within one year from the date of notification of these regulations, hive off the clearing and settlement function to a separate clearing corporation.
- 29.** Defaults Mechanism on Power exchange and clearing corporation shall be a three Tiered system:
- (i) In the event of default by a member, the Power exchange while utilising the security deposit of such member for the purpose of settlement of dues shall give precedence to the payment of transmission charges, scheduling and system operation charges.
 - (ii) After the settlement of dues specified in Regulation 30 (i), the following funds shall be utilised in the following order of priority:
 - (a) Security deposit of the member to be fully used
 - (b) The remaining default amount shall be made good by 50 % from Networth of the Power exchange and 50% from the SGF of the Power exchange

- (c) Any remaining amount to be paid 100 % from SGF of the Power exchange

Provided that the responsibility of the Power exchange / Clearing corporation of being a legal counterparty to the trade shall not be diluted in any manner due to non payment by any member.

Provided further that once the clearing corporation is hived off, the default mechanism shall be handled by the clearing corporation and the Power exchange shall not be held liable on this account.

Illustration: Let us say Security of a member is 10, SGF of Power exchange is 500, Networth of Power exchange is 50 and transmission charges, scheduling and system operation charges is 6.

In case of a loss of 200, Security of the member (ie 10) is utilised first to settle dues towards transmission charges, scheduling and system operation charges(ie 6). Thereafter the remaining security of the member (ie 4) shall be utilised first to make good the loss of 200. The remaining loss of 194 shall be made good by 97 from Networth of Power exchange and 97 from the SGF (50% - 50 % each) .Since Power exchange's networth is fully used up to the extent of 50,and 47 is still to be met ,another 47 shall be used from the SGF.Hence the total of 97+47 is used from SGF.

30. Trading System of Power exchange shall comply with the following:

- (i) Power exchange shall use electronic trading system and telecommunication network;
- (ii) The orders entered by a member shall be first checked against availability of funds/ collateral in the risk management system before being accepted in the order book of the Power exchange. This process shall be continued even after separation of clearing function to the clearing corporation.
- (iii) Automated audit trail of bids, offers, and the matching of orders or the execution of transactions on the facility shall be maintained;
- (iv) Power exchange shall carry out periodic IT system audit and submit it to the Commission annually;
- (v) Power exchange shall build a Disaster recovery site and alternate trading facility in case of emergency

31. Physical settlement system

- (i) Subject to the provisions of these regulations, the National Load Despatch Centre shall, after obtaining prior approval of the Commission, issue the detailed procedure to operationalise the Scheduling of Collective Transactions through the Power Exchange(s) and on any residual matter not covered under these regulations.
- (ii) The detailed procedure shall cover, though not limited to, the following aspects:
 - (a) Submission and processing of the application for scheduling of Collective Transactions
 - (b) Sharing of available transmission margins between multiple Power Exchanges
 - (c) Scheduling of Collective Transactions
 - (d) Treatment of losses
 - (e) Real time Congestion Management
 - (f) Transmission Charges, Operating Charges, Application Fees and other Commercial Conditions
 - (g) Payments and defaults in payments
 - (h) Disbursal
 - (i) Any other issue pertaining to operationalisation of Scheduling of Collective Transactions through the Power Exchange(s).
- (iii) The bye-laws of the Power Exchange should provide that the clearance advice issued by National Load Despatch Centre shall be on good faith basis. The bye-laws should also provide that the clearance/curtailment advice by the National Load Despatch Centre shall not be binding and the Central Transmission Utility, National Load Despatch Centre, Regional Load Despatch Centres and State Load Despatch Centres shall not have any financial liability on account of inability, for any reason whatsoever, to achieve the complete matching between the advice of the National Load Despatch Centre and the final schedules.
- (iv) The Power Exchanges shall carry out Congestion Management using Market Splitting mechanism in Day Ahead market. The Power Exchange can develop its own Market Splitting Methodology.

- (v) Scheduling of all Collective Transactions discovered through the Power Exchange(s) shall be carried out on day-ahead basis in accordance with the Grid Code. Any mismatch between the scheduled and the actual drawal at drawal points and scheduled and the actual injection at injection points, including schedule for Contracts traded on the Power Exchange of the grid connected entity will be settled by them under UI mechanism as per the procedure laid down by the Commission in the case of Regional Entities or any other settlement system as prescribed by concerned State Commission in case of Intra-State Entities. In case the State Commission concerned has not specified the settlement system, the Unscheduled Interchanges rate for intra-State entity shall be 105% (for overdrawals or under generation) and 95% (for under-drawals or over generation) of the Unscheduled Interchanges rate at the periphery of regional entity.
- (vi) Bilateral contracts (direct, or through trader) or Term ahead contracts through Power Exchange. - Contractual Deviation: The difference between the energy corresponding to contracted power and actually scheduled energy by the seller / buyer at point of injection is "contractual deviation".
In case of such deviations by either seller or buyer there shall be a penalty mechanism to compensate the affected party. The minimum compensation for the contractual deviation shall be @20 % of the contracted price.
- (vii) The Power Exchange(s) shall take the following declaration from its members:
- (a) The MW quantum in a buy bid of or on behalf of an entity (including a distribution utility) shall not exceed the maximum deficit that the entity can have, i.e. maximum consumer load minus minimum generation.
- (b) The MW quantum in a sale bid of or on behalf of an entity (including a distribution utility) shall not exceed the maximum possible surplus of the entity, i.e. maximum generation minus estimated consumer load.
For this purpose, 'generation' shall include entitlements under power purchase agreements entered into for catering to consumer demand in entity's system.

- (viii) Scheduling of transactions in Term ahead market on Power exchange and on Bilateral / OTC market shall be governed by Open Access Regulations, 2008 and as amended from time to time, and Indian Electricity Grid Code(IEGC) and any other relevant regulations.
- (ix) All data Power exchange between NLDC and the Power Exchange(s) shall be done electronically through a dedicated communication channel.
- (x) The Power Exchange(s), including its Buyers and Sellers, shall keep each of the NLDC/RLDCs/SLDCs indemnified at all times and shall undertake to indemnify, defend and save the NLDC/RLDCs/SLDCs harmless from any and all damages, losses, claims and actions, including those relating to injury to or death of any person or damage to property, demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the transactions,.
- (xi) The power exchange shall be responsible for payment of transmission charges ,scheduling and system operation charges to LDC, STU as per the regulations specified by the Commission and State Commissions .
- (xii) The NLDC/RLDCs may take appropriate decisions in the interest of System Operation. Such decisions shall be taken under intimation to the Commission.

32. Power exchange Congestion Revenue management

- (i) Congestion Revenue arises from the difference in market prices of different regions as a consequence of market splitting. The congestion revenue fund shall be maintained in a separate account by the Power exchange and the amount in such fund transferred to NLDC account or any other account as directed by the Commission on the next working day :-
- (ii) Congestion Revenue Fund shall be utilised in accordance with the directions of the Commission. The Commission may consider utilisation of the fund for the following purposes:-
 - (a) Installation of VAR compensators, series compensators and other reactive energy generators
 - (b) Additional transmission capacity creation for relieving congestion

- (c) To undertake technical study of the grid for congestion reduction
 - (d) The Congestion Revenue Fund may be parked with a financial institution for grant of loans at concessional rates to projects specific to congestion reduction in the grid.
- (iii) The Commission may, if deemed fit, constitute a technical expert group from Central Transmission Utility, National Load Despatch Centre, staff of the Commission and Central Electricity Authority to advice on usages of the Congestion Revenue Fund.
- 33.** The Power exchange shall submit its Annual report along with its Audited balance sheet by 30 th September every year to the Commission.
- 34.** A Power exchange which has less than 20 % market share (turnover value of all contracts traded in all the Power Exchanges) for continuously two financial years falling after a period of two years of commencement of its operations shall close operations or merge with an existing Power exchange with in a period of next six months . Provided that this regulation shall not apply if there are only two Power exchanges in operation.
- 35.** Exit Scheme –The Power exchange shall have their Exit scheme approved by the Commission during the registration process detailing the manner in which the running contracts on the Power exchange shall be closed or the succession plan for all trade contracts in case of closure of Power exchange. Thereafter the Exit scheme shall be provided in the byelaws of the Power exchange.
- Provided that the Power exchanges operating on the date of notification of these regulations, shall submit to the Commission the exit schemes and bye laws for approval with in a period of one year.
- 36.** Withdrawal of permission – The Commission may for reasons to be recorded in writing and after giving the Power exchange an opportunity of being heard, withdraw or cancel the registration accorded to the Power exchange in any of the following events :

- (i) If the functioning of the Power Exchange is in persistent violation of the terms and conditions of registration granted;
- (ii) If the Power exchange indulges in any persistent malpractice;
- (iii) In case the net worth of the Power exchange reduces at any time below the specified amount
- (iv) In case the Power exchange fails to comply with any direction of the Commission

38. Notwithstanding such withdrawal or cancellation of the registration, contracts executed prior to such withdrawal or cancellation, shall remain valid and its performance shall be ensured by the Power exchange.

39. Consequent upon withdrawal or cancellation of the registration or permission, the members of such Power exchange shall cease to be trading members and will be liable to be de-registered.

40. The Power exchange shall set aside sufficient funds in order to provide for settlement of any claims, pertaining to pending arbitration cases, arbitration awards, liabilities/claims of contingent nature, if any, and unresolved investors complaints/grievances lying with the Power exchange.

41. Grievance redressal of members and clients

- (i) Power exchanges shall disclose in their website the details of complaints lodged by members against Power exchange and by clients against members.
- (ii) Power exchanges shall also disclose the conflict resolution mechanism followed and the result of grievance resolution.

Part – 6

Clearing Corporation

37. Application for grant of permission to set up and operate clearing corporation shall be filed in the form of a petition to the Commission in accordance with the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 as amended from time to time.

38. Eligibility Criteria

- (i) Clearing corporation shall be a separate independent corporate entity
- (ii) This can be formed by a Power Exchange or by any other company incorporated as a public company within the meaning of the Companies Act, 1956 or by a consortium of companies having a formal agreement for this purpose
- (iii) The Clearing Corporation shall have a minimum net worth of Rs 25 Crore.

Provided that the Commission may, by order, review the networth criteria, from time to time.

39. The Clearing Corporation shall submit its rules and bye laws for approval of the Commission.

40. The Clearing Corporation shall perform full novation, i.e., the Clearing Corporation shall interpose itself between both legs of every trade, becoming the legal counterparty to both or alternatively should provide an unconditional guarantee for settlement of all trades.

41. The Clearing Corporation shall perform the function of periodical clearing and settlement of any transaction or contract of electricity in spot, term ahead and derivatives traded on the exchange.

42. The default mechanism of clearing corporation shall be same as in Regulation 29

43. The Clearing Corporation shall publish on its website details of its membership criteria and its service charges for clearing trades of its members.

44. The Clearing Corporation may also clear Bilateral and OTC trades subject to the prior approval of the Commission.
45. The Clearing Corporation shall create an Electronic clearing and settlement system for movement of funds
46. The Clearing system shall generate different reports like obligating report, trade report, deliveries report, bad deliveries report, funds report, margin reports etc
47. The SGF of power exchange concerned shall be transferred to the Clearing Corporation and maintained by the Clearing Corporation once the exchange hives off this activity to the clearing corporation.
48. The Clearing Corporation shall get a credit rating done of itself by a credit rating agency accredited by Securities Exchange Board of India (SEBI).

Part – 7
Market Oversight

- 49.** The Commission may maintain market oversight and surveillance to check market integrity in such manner as it deems fit including by monitoring the following:
- (i) Manipulative or attempted manipulative trading activity;
 - (ii) Trading that is misleading or deceptive, or is likely to mislead or deceive;
 - (iii) Unwarranted speculation leading to price rise;
 - (iv) Any form of cartelisation;
 - (v) Any form of Market abuse;
 - (vi) Use of dominant position by any market participant;
 - (vii) Breach of law;
 - (viii) Any action that threatens or may threaten generally accepted principles of trading or public interest.
- 50.** Other circumstances requiring intervention
- (i) The Commission may, on being satisfied that any of the below mentioned circumstances exist or is likely to occur in the market, by an order, give such directions as may be necessary:
 - (a) Abnormal increase or decrease in prices of electricity;
 - (b) Sudden or unreasonable fluctuations or unwarranted changes in the prices of electricity and high volatility;
 - (c) Sudden high trading volumes on an exchange;
 - (ii) In particular and without prejudice to the generality of the foregoing power, the Commission may, by order in writing:
 - (a) Impose floor and cap on prices of electricity in the market;
 - (b) Suspend trading activities for a cooling off period (in case of increased volatility);
 - (c) Suspend contract specific trading on exchange;

- (d) Increase the margin for contracts traded on exchange (in a case of high speculation);
- (e) Allow only trade for trade settlements
- (f) Limit Open position of one participant on exchange;
- (g) Limit market wide position on exchange.

51. Extra-ordinary circumstances

The Commission may, direct that a Power Exchange or licensed trader shall, in extraordinary circumstances operate its activities in accordance with such order as the Commission may make as it thinks fit.

Explanation. - For the purposes of this regulation, the expression “extraordinary circumstances” means circumstances arising out of drought, cyclone, floods, or other occurrences of grave public emergency.

52. Investigation of certain matters

- (i) The Commission may, on being satisfied that, any of the factors specified in Regulation 49 exists, at any time, by order in writing, call upon any licensed trader or Power Exchange or member of Power Exchange to furnish in writing information or explanation related to the affairs of their trading activities.
- (ii) Notwithstanding sub-regulation (i) above, the Commission may direct any person (hereafter referred to as “Investigating Authority”) specified in the order to investigate the affairs of any licensed trader or Power Exchange or member of exchange including his books of account, and to report to the Commission on any investigation made by such Investigating Authority:
 - Provided that the Investigating Authority may, wherever necessary, employ any auditor or any other person for the purpose of assisting him in any investigation under this regulation.

Provided further that the Investigating Authority shall supply to the licensed trader or Power Exchange or member of Power Exchange, as the case may be, a copy of his report on such inspection.

- (iii) It shall be the duty of every manager, managing director or other officer of the licensed trader or Power Exchange or member of Power Exchange, as the case may be, to produce before the Investigating Authority directed to make the investigation under sub-regulation (ii), all such books of account, registers and other documents in his custody or power and to furnish him with any statement and information relating to the affairs of the licensed trader or Power Exchange or member of Power Exchange, as the case may be, as the said Investigating Authority may require of him within such time as the said Investigating Authority may direct.
- (iv) On receipt of any report under sub-regulation (ii), the Commission may, after giving such opportunity to the licensed trader or Power Exchange or member of Power Exchange, as the case may be, to make a representation in connection with the report as in the opinion of the Commission, seems reasonable, by order in writing —
 - (a) Require the licensed trader or Power Exchange or member of Power Exchange to take such action in respect of any matter arising out of the report as the Commission may think fit; or
 - (b) Cancel the licence; or
 - (c) Direct Power Exchange to cancel membership of a trading member ; or
 - (d) Direct the Power Exchange to cease to carry on the business of Power exchange.

53. Power to issue interim orders

Where during an investigation or intervention, the Commission is satisfied that an act in contravention of these regulations has been committed and continues to be committed or that such act is about to be committed, the Commission may, by order, temporarily restrain any party from carrying on such act until the conclusion

of such investigation or intervention or until further orders, without giving notice to such party, where it deems it necessary.

54. Information Dissemination by Power Exchanges

- (i) The exchange shall display on its website compilation of links to all relevant price sensitive information including but not limited to:
 - (a) Daily information on the Indian weather condition;
 - (b) Fuel price information;
 - (c) Reservoir levels of dams available in Central Electricity Authority website;
 - (d) Any urgent market information issued by Regional Load despatch centre on their websites;
 - (e) Planned maintenance schedule of generators / transmission lines available with Regional Load Despatch Centre / Regional Power Committee;
 - (f) Demand forecast information and load generation balance report available on Central Electricity Authority's website.
- (ii) Prices, volumes and historic prices shall be made available on the website of the exchange and should be in downloadable format.
- (iii) Traded Prices i.e., maximum, minimum, average of the month and average volume cleared shall be published in two leading newspapers once a month.
- (iv) The exchange shall organise on a regular basis Member / Client awareness programmes across the country

55. Market Surveillance by Exchange

- (i) Every Power exchange shall set up a market surveillance committee which shall be headed by an independent director and having members from the executive team of the Exchange. No member of this committee shall be a trading member.
- (ii) In addition to the market surveillance committee, the Exchange shall set up an exchange surveillance department which shall carry out day to day monitoring of trading and surveillance.
- (iii) The Exchange surveillance department shall submit its report to the market surveillance committee.
- (iv) The market surveillance committee shall submit quarterly surveillance reports to the Commission.
- (v) The market surveillance committee shall analyse bidding strategies and trades of participants and submit report to the Commission in following particular areas but not limited to :-
 - (a) Open position by customers, by contracts, a single traders position across several contracts;
 - (b) Trader's pattern of trading over a specific time period;
 - (c) Daily, weekly, monthly Volatility analysis of prices (day ahead and term ahead prices);
 - (d) Price setter analysis of buyer and seller;
 - (e) Dominant participants and Market concentration
 - (f) Circular Trading monitoring
 - (g) Analysis of sudden high trading volumes or sudden increase in open position of trader;
 - (h) Analysis and reason of persistent default by any member on the exchange;

56. Trade Reporting requirement for Exchanges, license trader and Bilateral buyer – seller :

- (i) All reporting shall be in electronic format.
- (ii) For licensed Traders trade reports shall be in the format prescribed in the CERC (Procedure, Terms and Conditions for grant of trading licence and other related matters) (Second Amendment) Regulations, 2009.
- (iii) In addition to the prescribed reports, mentioned in sub regulation(ii) licensed Traders shall provide open position report and tenure of trades and risk summary report on a quarterly basis for risk monitoring purpose.
- (iv) In addition to the report required to be submitted by the market surveillance committee to the Commission, the Exchange shall provide monthly details of all trades on it platform in the formats appended to these regulations.
Provided that the Commission may, by order, review the formats from time to time
- (v) For Term ahead market, the Exchange shall report Market Wide limit (MWL), Open Interest (OI), Open position limit of a member. MWL and OI shall also be made available on the trading system of the exchange and electronic trading terminal of participants.

Market Wide Position Limit is the total open interest of all clients together in the market for specific contract on an exchange.

Open Interest is the total number of open contracts on an underlying that is, the number of future contracts or options contracts of a client or member that have not been exercised, expired or fulfilled by delivery.

- (vi) The Exchange shall submit to the Commission bids of all participants on a monthly rolling basis after a period of one month.

Provided that the Commission shall not publish such information in the public domain.

- (vii) The Exchange shall provide bids of any particular participant on any specific days as may be asked for by the Commission even before a period of one month.
- (viii) Power traded directly between buyers and sellers for interstate transactions above 100 MW per day in the short term market shall be reported to the Commission within 10 days of execution.

57. Whistle Blowing policy

- (i) Market participants shall be entitled to report to the Commission either by letter or email, of any unscrupulous activity, wrongdoing or violation of law, as may come to their knowledge.
- (ii) The provider of the above information shall be entitled to request that its identity be kept confidential and be not disclosed.
- (iii) The Commission shall take strict action in case of any kind of retaliation to such an informant by any affected party.

58. Insider Trading Policy

- (i) Any person having non-public information relating to generator outage, plant maintenance shall not participate in transactions on the exchange.

Provided that such information shall be made available to the LDC.

- (i-a) The Power Exchanges shall publish such information to all parties immediately. Thereafter trades can be done by the participant.

Explanation:- For the purposes of these Regulations, the expression “insider trading” shall mean any act of purchase or sale or intermediation in power transaction by a person while in possession of an unpublished price sensitive information related to the transaction or advising other person(s) based on such information.

- (ii) The Commission may, on being satisfied that a person has failed to comply with any of the provisions above, at any time, by order in writing, direct any

person specified in the order to investigate the affairs of such person and to report to the Commission on any investigation made by such Investigating Authority. The provisions of Regulation 52 shall apply mutatis mutandis to the investigation specified in this regulation.

Part – 8
Miscellaneous

59. Saving of inherent powers of the Commission:

- (i) Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for meeting the ends of justice or to prevent the abuse of the process of the Commission.
- (ii) Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Act, a procedure, which is at variance with any of the provisions of these Regulations including summary procedures, if the Commission, in view of the special circumstance of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for so dealing with such a matter or class of matters.
- (iii) Nothing in these Regulations shall bar the Commission to deal with any matter or exercise any power under the Act for which no regulations have been made, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.

60. Power to remove difficulties

If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty.