

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**IA No.25/2010  
In  
Petition No. 26/2010 (Suo-motu)**

**Coram: Dr. Pramod Deo, Chairperson  
Shri V. S. Verma, Member**

**Date of hearing: 8.7.2010**

**Date of Order: 15.7.2010**

**In the matter of**

Application for extension of time under Regulation 116 of the Central Electricity Regulatory Commission (Conduct of business) Regulations, 1999.

**And in the matter of**

Indian Energy Exchange Ltd., New Delhi

... Applicant

**The following were present:**

1. Shri M G Ramachandran, Advocate
2. Sh. R. K. Mediratta, IEX
3. Sh. Bikram Singh, IEX
4. Sh. Akhilesh Awasthy, IEX

**ORDER**

The Commission in its order dated 3.6.2010 in Petition No. 26/2010 (suo-motu) directed as follows:

*" 20. We direct the Respondent No.1 to stop the practice of the clients depositing the money in the Settlement Funds Accounts of the Members-Facilitators with immediate effect as this is in the violation of Power Market Regulations, 2010. As regards the practice followed from 25.12.2010 till date, the First Respondent has submitted that the Members-Facilitators have not exceeded the limit of the deposits made by the clients and under no circumstances these*

*members have extended any credit facility to any of the clients. We direct that the Secretary of the Commission shall arrange to get a special audit carried out into the accounts of Respondent No.1 within a period of one month by a firm of Chartered Accountants. Respondent No.1 is directed to provide the relevant record and cause the Members-Facilitators to allow access to their records for audit. Any instance of non-cooperation by Respondent No.1 or any of its facilitator-members will be construed as contravention of the directions of the Commission by Respondent No.1 and will be dealt with sternly."*

2. The applicant (which is Respondent No. 1 in Petition No. 26/2010) has filed the present Interlocutory Application under Regulation 116 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations for extension of time for implementation of the above directions. The applicant has submitted that it has advised the members with less number of clients to initiate the process of directly depositing the money with the exchange settlement account maintained by the exchange. However, in case of professional members with large number of clients, it is finding it difficult to implement the directions of the Commission immediately without detailed studies and development of the appropriate methodology. However, in order to give effect to the direction of the Commission, the members with large client base have been advised on ad-hoc basis to start a new account in which the operation and the flow of the funds shall be regulated as per the instructions of the exchange.

3. The applicant has further submitted that the prevailing clearing and settlement procedure followed by the exchange is that all exchange members have to open their settlement account with any of the approved clearing banks. In respect of all pay in, Margins, charges and other dues payable to the exchange, the exchange sends direct debit instructions to the banks advising them to debit settlement account of the respective member by such payable amount. The exchange also credits the pay out, and refunds margin to this account only. The member account is also debited for various types of transaction like NLDC charges, SLDC charges and exchange fee on a daily basis. The member is required to ensure availability of adequate funds in the clearing account towards all applications on the schedule date and time. The applicant has submitted that this system is required to be changed in order to implement the directions of the Commission and involves significant studies, trial runs, examination of result of study and trial and deciding based on possible solution after taking into account the investment and additional resources required and it's practicality for day-to-day operation. The structural changes to be brought includes overhaul of the existing Clearing and Settlement procedure at the exchange, settlement bank and client level.

4. During the hearing, the learned counsel for the applicant submitted that the directions given in the order dated 24.12.2009 were further clarified in Commission's order dated 3.6.2010 directing the exchanges to stop the practice of the clients depositing the money in the Settlement

Funds Accounts of the Members. As the directions to deposit the money by the clients directly with exchange have been issued for the first time in the Commission's order dated 3.6.2010, the applicant has approached the Commission for extension of time for implementation of the order.

5. In response to the Commission's enquiry as to whether the directions have finally been complied with, the learned counsel for the applicant submitted that the second part of the direction given by the commission in order dated 3.6.2010, has been fully complied with by ensuring that the facilitator members do not extend any credit facility to any of their clients. However, the present application has been filed for the relaxation w.r.t. first part of the directions i.e. stoppage of the practice of the clients depositing the money in the settlement fund account of the members facilitator. The learned counsel explained that the present software deals with bidding as well as the financial aspects (money handling) through members only which has to be changed to enable the clients to handle the money part and the facilitator member to handle bidding on behalf of the clients. There are practical difficulties to implement the order without modifying the software.

6. The applicant in its additional affidavit dated 12.7.2010 has submitted the details of the steps taken by it to implement the order of the Commission dated 3.6.2010, the short term and long term solutions envisaged by it with tentative timelines for their implementation.

7. We have examined the affidavit of the applicant. The applicant is stated to have taken the following major initiatives/steps relating to process, infrastructure and technology to comply with the directions of the Commission.

(a) The members with lesser number of clients have been directed to furnish details of the bank account of their clients and their KYC. These clients (both buyers and sellers) shall transact directly with the Exchange settlement account for all trades. In respect of facilitator members with a large client base for whom such a process cannot be implemented due to heavy manual interface, the following process has been formulated to comply with the directions of Commission in the short term:-

- (i) Facilitator member has been directed to open a new current account and to give a mandate to his settlement banker for operation of this account under the advice of IEX.
- (ii) Accordingly, the member has opened a new client pool account for pooling in client funds.
- (iii) All client level fund collection information is sent to the exchange. This system requires bank software system and the exchange software system to interface for data transfer. These data transfer formats are in the process of being finalized in discussion with the settlement bank.

(iv) For Buyers, all client funds are moved from the client pool account to the members settlement account. The funds from the members settlement account are then transferred to the exchange settlement account based on pay-in obligation generated by the exchange.

(v) For Sellers, the funds are credited to the member settlement account based on pay-out statement of the exchange. The fund is then moved to client pool account. It is then transferred to respective client accounts based on client level information provided by the exchange.

(vi) Various documents related to these activities have been furnished by the exchange.

(b) The applicant is in the process of introducing modification of trading system software (which is a software from NASDAQ OMX) for pre bid collateral check at portfolio level. The order for the assignment has already been given to the technology partner of the exchange. This modification is expected to be completed by the technology partners by mid August. These have been corroborated with change request work order and e-mail correspondences between the exchange and the technology partner.

(c) The exchange has also initiated discussions with various banks of clients of facilitator members to designate them also as clearing and settlement banks of the exchange. This will enable client to have

their settlement accounts in the same bank with whom they are presently dealing.

8. From the information provided by the applicant as discussed in the preceding paragraph, we have noticed that the applicant has ensured compliance with our directions in respect of three out of four facilitator members, who have started directly transacting with the exchange. However, the documents furnished in relation to the fourth member i.e. the member with a large client base, our observations are as under:

(a) The letter of authority given by the member to the clearing bank does not lead us to conclusively conclude that the member cannot deposit money in this account so that there is no possibility of his giving credit to any of his clients. This is significant in view of the fact that the account is in name of the facilitator member.

(b) The direction given by the applicant exchange to this member reiterates that "in case funds in members current account / settlement account are short, then exchange would utilize members margin to meet total obligation. Amounts so utilized from the margin will have to be replenished by the member along with any additional Margin Call, before next day's trading."

In view of the above two points it cannot be conclusively ascertained that this facilitator member cannot provide any credit facility, working

capital or financing to his clients under any circumstance. There still remains some room for such facilities to be carried on by the facilitator member.

9. In view of the above, we direct the applicant exchange to establish and demonstrate within three working days on the basis of documentary evidence that our order dated 3.6.2010 has been complied with in letter and spirit in relation to the working of the fourth member.

sd/-  
**(V. S. VERMA)**  
**MEMBER**

sd/-  
**(DR. PRAMOD DEO)**  
**CHAIRPERSON**