

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.26 /2010 (Suo-motu)

**Coram: Dr. Pramod Deo, Chairperson
Shri S. Jayaraman, Member
Shri V.S. Verma, Member
Shri M. Deena Dayalan, Member**

Date of Order: 30.3.2010

In the matter of

Compliance of the order dated 24.12.2009 in Petition No.117/2009.

And

In the matter of

1. Indian Energy Exchange Ltd., New Delhi
 2. Power Exchange of India Limited, Mumbai
-Respondents

ORDER

The Commission in its order dated 15.2.2010 in Petition No.26/2010 (Suo Motu) had directed the Respondents as under:

“2. As regards our directions in paras 16 and 17 of the order dated 24.12.2009, the respondents are directed to confirm on affidavit that the said directions have been complied with. The respondents are further directed to submit a complete list of members who are acting as facilitators and all transactions carried out for their clients from 25.12.2009 onwards till date and documentary evidence that no credit , financing or working capital facility was provided by such members for transactions of their clients. The compliance report should be filed before the Commission by 23.2.2010.”

2. First Respondent, Indian Energy Exchange, in its affidavit dated 9.3.2010 has submitted a list of 15 members acting as facilitators at Annexure-I which contains the names of 12 non-active members and 3 active members viz. Manikaran Power Limited, MF Global Commodities India Private Ltd and Arunachal Pradesh Power Corporation Pvt Limited. First Respondent has submitted details of all transactions carried out by active members from 25.12.2009 till 15.2.2010 at Annexure-II of its affidavit. It has been submitted that these members have ensured that their clients maintain adequate arrangements with them to discharge the financial obligations arising out of transactions that may be contracted on behalf of the clients and the financial settlements have been done through money of the clients. Copies of the certificates from the Chartered Accountants submitted by these members regarding the transaction with their clients have been enclosed in support of the contention that no credit has been provided by these members to their clients during this period.

3. The Second Respondent, Power Exchange of India Limited in its affidavit dated 22.2.2010 has submitted that out of the four categories of members of the exchange, two categories of members namely, 'Trading Members' and 'Professional Clearing Members' are open to entities other than trading licensees and grid connected entities. Under the category 'Trading Members', only four memberships have been granted namely, Bil Power Ltd, Krypton Intra Private Ltd, Neptunus Power Plant Services Pvt Ltd and PEL Power Ltd and these members have not participated on the exchange for power trading nor have provided credit or finance or working capital facilities to their clients before or after 24.12.2009.

The other category, Professional Clearing Member is open to banks and public financial institutions. Power Finance Corporation (PFC) is a Professional Clearing Member (PCM). After issue of the order dated 24.12.2009, the facilities to PFC to function as a PCM was continued pending clarification on its letter dated 29.12.2009 from the Commission and was suspended with effect from 21.1.2010 after notification of the Central Electricity Regulatory Commission (Power Market) Regulations, 2010 on 21.1.2010. PXIL has submitted the details of finance provided by PFC from 25.12.2009 till 21.1.2010. From the details, it is observed that PFC has made payment of Rs. 49,134,820 as credit in discharge of the obligations of JVVNL to the exchange.

4. In Paras 16 and 17 of our order dated 24.12.2009 in Petition No.117/2009, we had issued the following directions:

“16. x x x x x . Accordingly, the role of members other than the trading licensees and the grid connected entities, being that of a “facilitator” would be only to provide the following services:

- (a) IT infrastructure for bidding on electronic exchange platform;
- (b) Advisory services related to power prices and the follow on bidding strategy (e.g. weather related information, demand supply position etc);
- (c) Facilitation of procedures on behalf of his client for delivery of power (e.g. SLDC standing clearances, coordination with NLDC etc)

17. We direct that the members of power exchange who are not trading licensee shall not provide any credit or financing or working capital facility to their clients.”

5. From the data furnished by the both respondents, it is observed that our directions in order dated 24.12.2009 appear to not have been complied with in

letter and spirit. The members other than trading licensees and grid connected entities who are required to act as facilitators only and provide limited services as mentioned in para 16 of our order as extracted above appear to continue to provide banking transaction services to their clients. In case of First Respondent, clients have deposited money in the Settlement Bank Account of the facilitators who in turn have transferred this money to the bank account of the exchange. This is in contravention of our order which does not permit the facilitators to handle money on behalf of their clients. In case of the Second Respondent, there appears to be a violation of para 17 of our order dated 24.12.2009 as the professional clearing member has been allowed to extend the credit facility to its client from 24.12.2009 till 21.1.2010.

6. In view of the above, we direct both the Respondents to show cause by 5.4.2010 as to whether contravention of our directions contained in para 16 and 17 of the order dated 24.12.2009 in Petition No.117/2009 have been made out against them and consequently, why penalty under Section 142 of the Electricity Act, 2003, without prejudice to any other penalty which may be imposed under the Act, should not be imposed on them for contravention of the directions of the Commission.

-sd/-
[M Deena Dayalan]
Member

-sd/-
[V. S. Verma]
Member

-sd/-
[S. Jayaraman]
Member

-sd/-
[Dr. Pramod Deo]
Chairperson