

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 101/2011

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

Date of Hearing: 21.5.2011

Date of Order: 1.8.2011

In the matter of:

Petition for grant of additional time to the petitioner to comply with Regulation 18 (1) of the Power Market Regulation 2010, such additional time being 3 years from the notification of the said regulations.

And

In the matter of:

Power Exchange of India Ltd., Mumbai

.....**Petitioner**

The following was present:

1. Shri Hemant Sahai, Advocate
2. Shri S. Venkatesh, Advocate
3. Shri Gyan Mohan PXIL
4. Shri Pawan Agarwal PXIL

INTERIM ORDER

This petition has been filed by the Power Exchange India Ltd. (PXIL) with the request to grant additional time to achieve the net-worth of ₹ 25 crores prescribed in the Regulation 18 (1) of Central Electricity Regulatory Commission (Power Market)



Regulations, 2010 (hereinafter “Power Market Regulations”).PXIL has sought extension of time upto 3 years from the date of notification of Power Market Regulations.

2. PXIL had previously filed Petition No. 134 of 2010 seeking extension of time to raise additional equity share capital to achieve the prescribed net-worth. The Commission vide its order dated 25.5.2010 had allowed PXIL a period of one year from the date of notification of Power Market Regulations i.e. till 20.1.2011 to achieve the prescribed net-worth criteria.

3. The learned counsel for the petitioner submitted that though the petitioner had initiated various measures to achieve the prescribed net-worth criteria, the required net-worth could not be achieved due to reasons beyond the control of the petitioner. The learned counsel submitted that the Board of PXIL in its meetings held on 26.5.2010 and 24.9.2010 had decided to offer equity shares on preferential basis to existing and other strategic investors to the tune of ₹ 26 crores and also to offer equity shares at a premium. He further submitted that the petitioner was at the advanced stage of negotiation with various equity participants to raise additional capital. The learned counsel for the petitioner submitted the following reasons for PXIL’s inability to achieve the net-worth criteria within the given timeline:

- (a) Regulatory uncertainty;
- (b) Delay in launch of new products; and
- (c) Loss caused to petitioner due to congestion in transmission corridor.

4. The learned counsel for the petitioner further submitted that the deficit in the net-worth has not affected the performance of the power exchange as the exchange collects 100% margin for all trades before execution of trade. Moreover, the petitioner has incurred significant legal expenses to defend its position in Appellate Tribunal for Electricity and High Court of Judicature, Bombay. Apart from the above, various steps have been taken to promote Renewable Energy Certificates during the last one year in the larger interest of the power market development.

5. The Commission observed that the issue at hand was more than merely relaxing the net-worth criteria which has already been allowed once but more significantly about comprehensive and sustained steps being taken by the petitioner to improve its profitability so that the net-worth does not continuously get eroded. In response to the query of the Commission whether the petitioner has envisaged any clear road map to achieve the prescribed net-worth, the learned counsel for the petitioner submitted that the petitioner is working on Renewable Energy Certificate mechanism and the new contracts like intra-day and any-day contracts. The petitioner was directed to submit a detailed road map along with Business Plan to achieve the net-worth criteria.

6. The petitioner submitted a brief Business Plan vide affidavit dated 18.5.2011. The petitioner was further directed to submit a detailed Business Plan detailing how they intended to achieve the projected growth trajectory. The petitioner thereafter filed a detailed Business Plan on 10.6.2011. The Business Plan submitted by the petitioner



inter-alia addresses aspects such as expected volume growth, participation of utilities, expected increase in open access consumers, expected increase in members of exchange and client base, leveraging IT, new product development, human resource augmentation, revenue through capacity building and training programs, economy in operation, infusion of funds and raising equity. However, the Business Plan does not contain a Breakeven Analysis depicting the Targeted Revenue and Transaction Volume required to cover its fixed and variable costs in the absence of which it is difficult to comprehensively assess the sustained viability of the Exchange.

7. We direct the petitioner to submit a breakeven analysis detailing the targeted revenue, transaction volume, cost structure as well as the expected time period to achieve the said Breakeven Point, within 15 days of issue of this order.

Sd/-
(M.DEENA DAYALAN)
MEMBER

Sd/-
(V.S.VERMA)
MEMBER

sd/-
(S.JAYARAMAN)
MEMBER

Sd/-
(Dr. PRAMOD DEO)
CHAIRPERSON

