

CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI

Petition No. 8/MP/2011

Coram

1. Dr. Pramod Deo, Chairperson
2. Shri S.Jayaraman, Member
3. Shri V.S.Verma, Member
4. Shri M.Deena Dayalan, Member

DATE OF HEARING: 22.12.2011

DATE OF ORDER: 23.1.2012

**In the matter of**

Approval of the "Exit Scheme" submitted by Indian Energy Exchange Limited under the Regulation 36 of the Central Electricity Regulatory Commission (Power Market) Regulations, 2010.

**And**

**In the matter of**

Indian Energy Exchange Limited

..... **Petitioner**

**Following were present:**

Shri Manu Seshadri, Advocate, IEX  
Shri V. Akhilesh Awasthy, IEX

**ORDER**

Regulation 36 of the Central Electricity Regulatory Commission (Power Market) Regulations, 2010 (hereinafter referred to as "Power Market Regulations") mandates the Power Exchanges to have their Exit Scheme duly approved by the Commission for closure of the running



contracts or succession plan for all transacted contracts in the event of closure of the power exchange. Regulation 36 of Power Market Regulations provides as under:

*" 36. 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 transacted contracts in case of closure of Power Exchange, cancellation or withdrawal of registration under these regulations. 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 scheme for approval within a period of one year. Consequently the bye laws shall be modified."*

2. The petitioner exchange came into operation prior to the date of coming into force of the Power Market Regulations. In compliance of the proviso to Regulation 36 of Power Market Regulations, the petitioner submitted its Exit Scheme on 15.3.2011 for approval of the Commission. The petitioner has provided an overview of the various types of contracts running on the Exchange in Day Ahead Market, Term Ahead Market, their Risk Management System, Settlement Guarantee Fund and the succession plan of all transacted contracts in case of closure of Exchange. The summary of the Exit Scheme is as under:-

(a) The exit scheme sets out the manner in which the running contracts on the exchange shall be closed in the event,



cancellation, or withdrawal of registration by the CERC.

(b) In the event of withdrawal or cancellation of registration, the Exchange will cease to accept any fresh trading or new bidding on the Exchange.

(c) In the event of withdrawal or cancellation of registration for the reasons contained in Regulation 36 or any other applicable provisions of Power Market Regulations, the Exchange will restrict itself to the orderly discharge of existing contracts which have been entered into prior to the withdrawal or cancellation of registration. The closing down of running contracts on the Exchange consequent to withdrawal or cancellation of registration, shall be in accordance with the Rules, Bye Laws and Business Rules of the Exchange and in accordance with such directions as may be issued by the CERC from time to time under the Electricity Act, 2003 (hereinafter referred to as 'Act') read with Power Market Regulations; and subject to the provisions of the Companies Act, 1956. Any liability, which may arise on the part of Exchange in the closing down of running contracts on the Exchange, shall subject to the provisions of the Act and the Regulations made thereunder and the Byelaws, Rules and Business



Rules of the exchange , be met out of the Settlement Guarantee Fund and shall be utilized to the extent necessary to meet any loss or liability accruing to the Exchange on account of such closing down of running contracts on the Exchange.

(d) In the event of taking over of the business by any agency as may be appointed by the CERC or merger/ amalgamation of the Exchange with another Exchange, all contracts traded on the Exchange and to which Exchange is a party and subsisting or having effect on the Exchange, shall remain in force and effect against or in favour of the resulting company/ agency appointed by the CERC, as the case may be, and may be enforced by or against the resulting company/ agency appointed by CERC as fully or effectually as if, instead of the Exchange the resulting company/ agency had been a party thereto. The Exchange shall enter into and/ or issue and/ or execute deeds, letters or confirmations or enter into tripartite arrangements, confirmations or novations, to which the resulting company/ agency appointed by CERC will, if necessary, also be party in order to give formal effect to the provisions thereto, if so required or becomes necessary. With the taking over of the business of the Exchange, any suit, appeal or other judicial proceeding of whatsoever



nature by or against the Exchange shall not abate or be discontinued or in any way be prejudicially affected, but such suit, appeal or other legal proceedings may be continued, prosecuted and enforced, as the case may be, in the same manner and to the same extent as it would or might have been continued, prosecuted and enforced by or against the Exchange prior to the taking over of the business of the Exchange or as may be directed by the CERC.

(e) In the event of merger/ amalgamation/ reorganization of the business of the Exchange, the same shall be in accordance with the provisions of Sections 391 to 394 of the Companies Act, 1956 and other provisions of law as may be applicable in the circumstances.

(f) In the event of an act of terrorism, act of God, force majeure or any act beyond the reasonable contemplation of the Exchange including a failure on account of the clearing banks to meet its obligations to the Exchange, failure of automatic trading system or any other event resulting in the Exchange being rendered incapable of permitting transactions to be effected through the automatic trading system, the Exchange will act on a



best effort basis in accordance with the provisions of the clauses 15.4 and 15.5 of the Bye laws read with the Rules and Business Rules of the exchange to take such actions as it may considers expedient or as directed by the CERC. The expenses incurred towards defraying any emergency contemplated above shall be defrayed from the Settlement Guarantee Fund.

3. The petition was heard on 21.4.2011. The learned counsel of the petitioner explained the various provisions of the scheme, particularly the provisions relating to Settlement Guarantee Fund (SGF), Succession Plan for all the transacted contracts in case of closure of the power exchange, Agency to be appointed by CERC in case of closure, adherence to winding up provisions in terms of Companies Act, 1956. With regard to the Exit Scheme for long dated contracts, the learned counsel submitted that at present, the contracts which have been permitted by the Commission are not very long dated contracts. The delivery is within 11 days from the date of transaction. In existing day-ahead market and term-ahead market transactions, the exchange ensures that there is sufficient margin for each and every transaction on the exchange. Once the Commission grants permission for long dated contracts, the Exit Scheme for such contracts will be placed before the Commission for approval. With regard to inclusion of provisions for



investors' grievance in Exit Scheme, the learned counsel for the petitioner requested for time to seek instructions from the petitioner and submit the reply. Accordingly, the petitioner was allowed to file its reply on or before 15.5.2011.

4. In compliance with the above directions, the petitioner has submitted an affidavit 25.5.2011. The petitioner has submitted following clarifications:

(a) **Provision for Investor Grievance:** As there are no investors in the conventional sense of the term, who buy or sell electricity on the Exchange, no provisions have been made for an investor grievance cell by the Exchange.

(b) **Provision for Participant's Grievances:** There is a two stage dispute resolution mechanism. In the event of differences arise between the members *inter se* or between a Member and a registered non-member client, the differences could be resolved by conciliation in terms of the procedure provided by the Exchange. In case the dispute is not resolve, the same will be referred for arbitration.



(c) **Sale of Business:** In case the company decides to sell the business of the Power Exchange, the provisions for winding up will not be attracted however, it will remain within purview of Commission to regulate such transfer of Business of Exchange. Where winding up proceedings are commenced under the provisions of the Companies Act, 1956, the Official Liquidator appointed under the Companies Act, 1956 will take charge of the affairs of the company, in the event a petition for winding up is allowed by the Company Court. However, the affairs of the Exchange will still be regulated by the Commission. In the event the Official Liquidator takes charge of the affairs of the company, his functions would be subject to and in accordance with the provisions of the Companies Act, 1956. This will also apply in the case of a voluntary winding up.

(d) **Settlement Guarantee Fund:** Settlement Guarantee Fund can be utilized by the Exchange in accordance with the provisions of Chapter 10 of the Bye laws of the Exchange.





5. Approval is accorded to the Exit Scheme of the petitioner submitted on 19.1.2011 under Regulation 36 of the Power Market Regulations. The petitioner is directed to incorporate the approved exist scheme in the Bye Laws of the Exchange.

6. The petitioner is directed to submit the exit scheme for long dated contracts once they are introduced by the exchange.

7. The petitioner is further directed to file the amended Bye Laws of the Exchange within 15 days of issue of the order.

8. The petition is disposed of in terms of above.

Sd/-  
**(M Deena Dayalan)**  
Member

Sd/-  
**(V S Verma)**  
Member

sd/-  
**(S Jayaraman)**  
Member

sd/-  
**(Dr Pramod Deo)**  
Chairperson

