

Comments on Draft Central Electricity Regulatory Commission (Power Market) Regulations, 2020

Sr. No.	Draft CERC Power Market Regulations 2020	APP Comments
1.	<p>Part 1, Clause 7: Contracts transacted in the OTC Market</p> <p>(1) Price discovery: The price and other terms of contract in the OTC Market shall be determined either through mutual agreement between the buyer and the seller or through competitive bidding process or as determined by the Appropriate Commission.”</p>	<p>We request the Hon’ble Commission to include the words “directly or through a Trading Licensee” in the description of OTC Market Transactions, as per the suggestion below:</p> <p><i>“(1) Price discovery: The price and other terms of contract in the OTC Market shall be determined between the buyer and the seller <u>directly or through a Trading Licensee</u> either through mutual agreement or through competitive bidding process or as determined by the Appropriate Commission.”</i></p> <p>Rationale:</p> <p>This appears to be an omission in the clause, which is otherwise good and clarifies the position regarding OTC contracts. OTC Market transactions are between buyers and sellers directly or through Trading Licensees as described in the Definition 2(ao) of OTC Market and Explanatory Memorandum paragraph 3.71. Transactions through trading licensees constitute a significant portion of the OTC Transactions, and play an important role for power market development.</p> <p>In the Draft PMR2020, the definition 2(ao) of OTC Market states as: “Over the Counter (OTC) Market” is a market where OTC Contracts are transacted</p>

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		<p>between the sellers and the buyers directly or through a Trading Licensee;”, hence the same may also be included in Clause 7(1) also.</p> <p>The Explanatory Memorandum 3.7.1 also states that: “As far as the OTC Market is concerned, in addition to trading licensees as market intermediaries, the Draft Regulations propose the introduction of OTC Platform as an electronic platform for facilitating information exchange amongst buyers and sellers of electricity in the OTC Market.</p> <p>This suggested change is consistent with the schema of Power Market Regulations, 2010 Clause 3(i) as well.</p>
2.	Part 1, Clause 7: Contracts transacted in the OTC Market	<p>Buyers and sellers participating on OTC platform must require mandatory registration on the platform and the information pertaining to such registered participants should be available to other participants in order to promote transparency.</p> <p>Further, information such as name, location, price and quantum of energy purchase through OTC platform may be captured and updated on monthly basis on DEEP / similar portal.</p>

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3.	<p>Part 4 – Clause 12: Grant and renewal of registration of Power Exchanges</p>	<p>Presently at Power Exchanges, the rates are quoted at Regional Periphery. Thus, STU connected generators have to bear injection charges & losses while a consumer in the same state grid has to bear withdrawal charges & losses. We request the Hon’ble Commission to allow power exchanges to also take bids at all state grid periphery.</p> <p>Alternatively, the proposed clause 12 may be amended so that SERCs may be allowed to grant registration to state level exchanges - who are empowered to carry out price discovery only at the State periphery.</p> <p>Benefits of State Exchange:</p> <ul style="list-style-type: none"> • State Embedded Entity will be benefitted, as a good mix of sellers and buyers within a state would effectively avoid the cost to be borne towards the PoC charges & Losses. A more competitive rate would be expected to evolve as power would flow within the nearest Node. • Small OA Consumers & Small Generators can participate in State Exchange when compared with Centrally operated Power Exchange. • Any entity can Bid simultaneously to both the Exchanges, thus competition would increase subject to NoC from SLDC/RLDC. • Presently Power Exchange promotes the market essentially based on Inter-State power flow. Due to this, any ISTS network augmentation if required is readily addressed. In case of a State exchange, similar network augmentation at state level would also be promoted and

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		strengthened. As a result, availability of Intra-state system will increase and this will reduce the deemed loading on ISTS network.
4.	<p>Part 4 – Clause 17: Governance structure of Power Exchange</p> <p>(2) The number of Independent Directors shall not be less than the number of Shareholder Directors on the Board of the Power Exchange</p>	<p>The number of Independent Directors and mechanisms related to appointment of Independent Directors should be as per Companies Act, as the power exchanges are governed under the Companies Act which has many mechanisms to build a robust corporate governance structure.</p> <p>As per Power Market Regulations 2010, the number of Independent Directors should be one third the total number of Directors or at least 2, whichever is higher. This provision is same as per the Companies Act and the Hon’ble Commission may consider this provision to ensure standardization.</p> <p>Further, the Draft Regulation continues with the stipulation of getting prior approval from the Commission for appointment of Independent Directors. The Hon’ble Commission is requested to relax such rules and provide independence to the Board to appoint Independent Directors in the interest of ease of doing business.</p>
5.	<p>Part 4 – Clause 17: Governance structure of Power Exchange</p> <p>(11) No member of Power Exchange or their client shall be on the Board of Directors of any Power Exchange.</p>	<p>We welcome this provision as it precludes any possibility of conflict of interest in the functioning of the exchange. However, it may be noted that the members or clients of the exchange can also provide deep insights of the market as well as help in innovative product development.</p>

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		<p>Therefore, it is suggested that a separate committee may be constituted under the leadership of an independent director of the Board, preferably the Audit Committee chairperson as he can be an appropriate bridge between this committee and the Board. This committee may constitute members or clients or shareholders of the power exchange who can provide their deep insights for Product development as well as for expanding the breadth and depth of Exchange by way of introduction of newer products and deepening the existing products.</p> <p>The committee constitution should clearly mandate that the deliberations of the committee and the minutes should be put up in the next meeting of the Board of Directors of the power exchange.</p>
6.	<p>Part 4, Clause 20 – Management of Power Exchange</p> <p>As per the Draft Regulation, the senior management of the Power Exchange shall have at least one full-time professional from the discipline of Information Technology, with the qualification of Degree in Computer Science/Computer Application/Information Technology with at least 10 years of experience in the field</p>	<p>While this is a welcome step, Hon'ble Commission may avoid prescribing the level of degree that a person should possess.</p> <p>In today's world, if a person has enough experience in the IT field, he should be eligible to take up professional duties in the power exchange irrespective of his exact degree or field of study.</p>

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7.	<p>Part 4, Clause 21 – Membership in Power Exchange</p> <p>Provided that a Trader Member or any of its Associates shall not be a Facilitator Member.</p> <p>Facilitator Member: Any person who is neither a Trader Member nor a Proprietary Member.....</p>	<p>Trader Member and Facilitator member have become exclusive, which essentially means that the Trader cannot provide additional services like IT related services to its clients.</p> <p>Trader members who have had extensive experience in this field can be of great value to its clients by adding additional services like IT and data analytics. The Draft Regulation has compartmentalized the roles and services of the exchange members and have appeared to make them exclusive to each other.</p> <p>In the Power Market Regulations 2010, members who were neither trader or grid connected entity, were allowed to provide advisory services related to power prices and follow on bidding strategy to their clients. Such services pertaining to data analysis tools seems to have been removed from the scope of traders and instead inserted in the scope of OTC platforms.</p> <p>It is felt that there should be no restriction placed on services being offered by the existing trading license or any grid operating entity. Traders who have contributed to the overall development of market should not be denied an opportunity to provide such services and therefore it is requested that the Hon'ble Commission may restore these services to encourage a vibrant advisory role.</p>

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8.	<p>Part 4, Clause 22 – Reporting about Members of the Power Exchange</p> <p>22. Reporting about Member of the Power Exchange (4) A Power Exchange shall stipulate criteria for membership to the Power Exchange including Net worth, minimum base capital, security deposit requirement and liquid asset requirement. </p>	<p>As we have more than one Power Exchange in operation, it is felt that the Hon'ble Commission should fix the criteria for membership, which would bring uniformity amongst Power Exchange.</p> <p>Therefore, the following change is proposed:</p> <p>(viii) A Power Exchange The Commission shall stipulate criteria for membership to the Power Exchange including Net worth, minimum base capital, security deposit requirement and liquid asset requirement.</p>
9.	<p>Part 4, Clause 23 - Power Exchange transaction fee</p> <p>No Power Exchange shall charge transaction fee exceeding such fee as approved by the Commission.</p> <p>Provided that the Power Exchanges which have been granted registration by the Commission prior to the date of notification of these regulations shall be required to obtain approval of the transaction fee to be charged by the Power Exchange within a period of three months of the date of notification of these regulations</p>	<p>The Hon'ble Commission should take into account the huge volumes being transacted at the power exchanges (which is only going to increase further going ahead) and therefore rationalize the transaction fees. Further, the transaction fees should be the same across all power exchanges, whether existing or new. This would ensure even playing field for all.</p>

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10.	<p>Part 4, Clause 24 – Service Charge</p> <p>A Facilitator Member shall not charge service charge of more than two (2.0) paise/kWh, including service charges for any subordinate service providers, for providing services for the transactions on Power Exchange:</p>	<p>In a free market, competition should decide on the fee structure and with many players expected to provide multiple services based on IT platform, Hon’ble Commission may leave it to market forces. As such they are only providing advisory services and there is no great pricing power for such advisory roles, Hon’ble Commission may consider deleting such capping.</p>
11.	<p>Part 4, Clause 27 – Clearing and Settlement</p> <p>“The Power Exchange shall enter into an agreement in writing for Clearing and Settlement of any transaction of electricity undertaken on the Power Exchange with an entity established in accordance with the provisions of the Payment and Settlement Systems Act, 2007:</p>	<p>Clarity regarding roles and functions of clearing and settlement entity is required.</p>
12.	<p>Part 4, Clause 27 – Clearing and Settlement</p> <p>27. Clearing and Settlement</p> <p>(iii) The Power Exchange shall distribute at least 70% of the return earned on the initial security deposit invested in the financial year to the members of Power Exchange in proportion to initial security deposit of the member and duration for which such deposit was held with the Power</p>	<p>In our view as the members on exchange contribute to Settlement Guarantee Fund (SGF), so any return earned on SGF deposit should be distributed amongst the members on the Power exchange in proportion to initial security deposit.</p> <p>Therefore, we recommend that 100% return (instead of 70%) realized from SGF should be distributed among the members of the exchanges as the same is funded by the members.</p>

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	Exchange, within 45 days of the last date of the financial year.	
13.	<p>Part 5, Market Coupling:</p> <p>Market coupling means whereby the collected bids from all the Power Exchanges will be matched to discover the uniform market clearing price for DAM and RTM</p> <p>Key objectives of Market Coupling</p> <ul style="list-style-type: none"> - Discovery of Uniform Price - Social Welfare/Economic Surplus Maximization - Optimal use of Transmission Infrastructure <p>Market Coupling Operator will be an entity to be designated by the Commission for undertaking the market coupling. Market Coupling Operator to issue a detailed procedure for implementation of Market Coupling</p>	<p>Market coupling is a welcome move as this will optimize market price discovery and lead to efficient use of the transmission system and will improve competition. This is also a step towards Market Based Economic Dispatch (MBED), which will also enable exchanges to now concentrate more on service delivery.</p> <p>While this appears to be a positive move, it is also a significant shift in the functioning of the power markets and therefore there is a need for more deliberations on the nitty gritty aspects and any possible demerits of the proposal. For example, with the Market Coupling Operator, the price discovery engine is being placed under a neutral body who will discover the price from various bids. This is a vital responsibility and it is highly imperative to throw further light on which entity is to be selected as the Market Coupling Operator, along with clear regulations on the capability requirements and functioning of the Market Coupling Operator. These aspects may be discussed thoroughly through stakeholder consultations before introducing the changes.</p>
14.	<p>Part 6, Clause 42 - OTC platform: Objective</p> <p>(1) To provide an electronic platform with the information of potential buyers and sellers of electricity;</p>	<p>If OTC platform is intended to act as a data repository only, the same is ok as it gives greater data transparency and analytics for the market participants. However, present mechanisms such as DEEP offers transparent price discovery mechanism and the same may be continued.</p>

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	<p>(2) To maintain a repository of data related to buyers and sellers and provide such historical data to Market Participants;</p> <p>(3) To provide such services as advanced data analysis tools to Market Participants.</p> <p>Eligibility: Company with Rs. 50 lakh net-worth</p>	
15.	<p>Part 6, Clause 44(2) – Eligibility criteria for registration of OTC platform</p> <p>“A Power Exchange or Trading Licensee or any of their Associates or grid connected entities shall not be permitted to set up, operate, or have any shareholding in an OTC Platform.”</p>	<p>It is our suggestion that with safeguards of demutualization in place, a Power Exchange or Trading Licensee or any of their Associates or grid connected entities may be permitted to set up, operate, or have any shareholding in an OTC Platform.</p> <p>Rationale:</p> <p>In the past, most of the products in the power market were initially introduced by Trading Licensees and later, similar products were introduced in Power Exchanges. Market participants shall benefit from innovative products/services introduced in OTC Platform by Trading Licensees.</p>
16.	<p>General Comment</p>	<p>Considering the improvements in IT infrastructure and adoption of automation / integration among power exchanges and NLDC / RLDC's and experience of RTM market, it is suggested that we should move towards standardization of scheduling and operating mechanisms across all products. For instance,</p>

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		<p>generators who have their scheduling done through SLDCs have to follow different procedures and fill up separate applications even after receiving standing NOC from the SLDC. There should not be any requirement for separate application process by power exchanges if the quantum is within the standing NOC granted for the day/term. In other words, standing NOC issued by the SLDC should be quantum based and not contract based.</p>
17.	<p>General Comment</p>	<p>As all types of short term power transactions are governed by the Power Market Regulations, we feel that other mechanism which are currently acting as alternate market for supply of power i.e. Ancillary Services Market, SCED etc. should be transacted only through market based products as facilitated by these Regulations. This would ensure true discovery of prices of electricity without any intervention by the grid operator. Additionally, we suggest that reactive energy contracts may also be introduced.</p>