

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 50/MP/2016

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri A.K. Singhal, Member

Shri A.S. Bakshi, Member

Dr. M.K. Iyer, Member

Date of order: 28th of February, 2017

In the matter of

Petition under Section 66 of the Electricity Act, 2003 read with the provisions of the Central Electricity Regulatory Commission (Power Market) Regulations, 2010 and in the matter of RE Connect Energy Solutions Private Limited.

And

In the matter of

RE Connect Energy Solutions Private Limited
2, Victor Mansion, Kodihalli,
Old Airport Road, Bangalore-560 008

....Petitioner

Vs

Indian Energy Exchange Ltd.
Fourth Floor, TDI Centre, Plot No. 7,
Jasola District Centre, New Delhi 110 025 and others

....Respondents

The following were present:

Shri M.G. Ramachandran, Advocate, RE Connect
Ms. Swapna Seshadri, Advocate, RE Connect
Shri Sandeep Rajpurohit, Advocate, RE Connect
Ms. Anushree Bandhan, Advocate, RE Connect
Ms. Poorva Saigal, Advocate, RE Connect
Shri Vishal Pandya, RE Connect
Shri Vibhav Nuwal, RE Connect
Shri Mithun Dubey, RE Connect
Shri Gaurav Maheshwari, IEX Ltd.

ORDER

The petitioner, RE Connect Energy Solutions Private Limited has filed the present petition under Section 66 of the Electricity Act, 2003 *inter- alia* to frame Regulations/consultative papers for working of OTC market places like clickpower.in.

The petitioner has made the following prayers:

“(a) Issue any directions qua reporting requirements as per Regulation 59 of the Power Market Regulations to the petitioner as an interim measure so that further development and market promotion of the platform can be continued by the petitioner;

(b) Provide interim approval for the petitioner to carry on with the operation of clickpower.in on the basis of reporting requirement and fee structure as suggested by the petitioner. The petitioner undertakes to abide by the procedures and fees decided by the Commission in its final order;

(c) Evolve a regulatory process to promote and encourage initiatives such as clickpower.in;

(d) Develop Regulations/Processes/Consultative Papers for the working of OTC marketplaces like clickpower.in.”

2. The petitioner has submitted that it is engaged in providing advisory services under Renewable Energy Certificates, Renewable Purchase Obligations market and technical support services under wind/solar power/electricity demand forecasting. The petitioner has submitted that in February, 2015, an initiative was launched by the name of www.clickpower.in, which is akin to classified listing service provided in newspapers. On ‘clickpower’ platform, the buyers and sellers can express interest of purchasing and selling of electricity by exchanging term sheets for different parameters of interest to them. The petitioner has submitted the key functionalities of www.clickpower.in as under:

(a) Discovery of the counter-party;

- (b) Announcement of the term-sheet(s) representing the broad terms of the contract;
- (c) Mass-announcement of term-sheet(s) to counter-parties;
- (d) Negotiate the term-sheet online simultaneously with multiple parties;
- (e) Request for meeting upon acceptance of the term-sheet, etc.

3. The petitioner has submitted that there is no prohibition either in the Electricity Act, 2003, or in the National Electricity Policy or the Power Market Regulations to an initiative such as [www. clickpower.in](http://www.clickpower.in). The petitioner has submitted that this service is different from Power Exchanges and trading business. Unlike the Power Exchanges, the petitioner does not undertake any buy or sell bids and no price discovery would take place instead the platform would only help buyers and sellers come together for negotiations about the positions of different parties interested in buying or selling and help in conducting meetings between the interested parties, where the parties themselves decide whether to trade or not.

4. The petitioner has submitted that in all the models proposed in the petition for fees structure, the petitioner does not intend to charge anything to the consumers to ensure maximum participation from the consumers which may result into lesser resistance from the consumers to explore all the possible OTC transactions which may be suitable for them without any additional cost.

5. The petition was heard on 26.4.2016 and notices were issued to all inter-State trading licensees and Power Exchanges to elicit their views on the proposal of the petitioner. The petitioner, vide Record of Proceedings for the hearing dated 26.4.2016, was directed to upload the petition on its website for the information of the Power Exchanges and inter-State trading licensees.

6. The petitioner, vide its affidavit dated 3.6.2016, has placed on record the copy of the representations received from IEX, PXIL, SMPL, MPL and TPTCL.

7. Indian Energy Exchange has submitted that the concept of the online OTC marketplace as mooted by the petitioner may be appreciated in terms of the initiative for development of power market. However, since electricity is a regulated subject unlike other items/goods sold online, it is essential to examine existing laws, policy and regulations to ascertain operation of this type of online marketplace.

8. Power Exchange of India Limited has submitted that under the proposed mechanism, the petitioner is providing services which are partially akin to services provided by the Power Exchange and the trader. However, the petitioner is neither coming under the clear definition of Power Exchange nor that of an electricity trader. The petitioner, through its platform, is identifying the buyer and seller but then leaving it on the parties to negotiate the power purchase/sale contract. Since, the petitioner does not act as a party to the contract or take any financial position in the transaction, the proposed mechanism does not cover the risk, including financial risks, involved in such contracts. Any adverse eventuality in such a situation will hamper the overall power market.

9. TPTCL has submitted that since the DISCOMs would not be a position to participate through the proposed portal, the liquidity may not be achieved by the proposed platform leading to non-transparent transactions. TPTCL and SMPL have submitted that the fees proposed by the petitioner are very reasonable and has in fact been proposed at very low rates to ensure development of the market and not to overburden the participants. The Commission is vested with the jurisdiction to ensure that there is no abuse of dominant position. However, to restrict the fees or to place caps at this stage is not appropriate. TPTCL and SMPL have submitted that proposed portal does not provide provisions for contracts based on the suitability, appropriateness and full material disclosure of the contract pricing, its risks and implications to the parties entering into the contract. TPTCL has contended that if the proposed platform is to be operational, the same should support an automated audit trail of bids, offers and matching of orders or the execution of transactions as one of the technical prerequisites. SMPL has suggested that the format of the term sheet should be provided and standardized by the Commission.

10. We have perused the petition and heard the learned counsel of the petitioner. After going through the contents of the petition, it appears that the Petitioner is seeking development of a regulatory framework for OTC Power Market via marketplaces like clickpower.in in terms of Section 66 of the Electricity Act, 2003 and provisions of the Power Market Regulations, 2010.

11. Section 66 of the Electricity Act, 2003 provides as under:

“66. Development of Market: The Appropriate Commission shall endeavour to promote the development of a market (including trading) in power in such manner as may be specified and shall be guided by the National Electricity Policy referred to in Section 3 in this regard.”

Clause 5.7.1 of the National Electricity Policy notified by the Central Government under Section 3 of the Act provides as under:

“5.7.1 To promote market development, a part of the new generating capacities, say 15% may be sold outside long-term PPAs. As the power market develops, it would be feasible to finance projects with competitive generation costs outside the long-term power purchase agreement framework. In the coming years, a significant portion of the installed capacity of new generating stations could participate in competitive power markets. This will increase the depth of the power markets and provide alternatives for both generators and licensees/consumers and in long run would lead to reduction in tariff. For achieving this, the policy underscores the following:

a.....

d. Development of power market would need to be undertaken by the Appropriate Commission in consultation with all concerned.”

For development of market, the Commission has notified the Central Electricity Regulatory Commission (Power Market) Regulations, 2010. Certain provisions of Power Market Regulations which deal with Over the Counter Market, which is as under:

“3. (i) Over the Counter Market – Over the Counter Market is the inter-State market where buyers and sellers directly transact or transact through an Electricity Trader, and where the price and terms of the contract are determined through negotiations as agreed between the parties or through competitive bidding process or through a Electricity Trader. The risk in contracts executed in such markets is managed between the parties themselves or by the Electricity Trader, as the case may be.”

12. As per the provisions of the Act, the Commission has been mandated to develop market in power including trading in accordance with National Tariff Policy. Further, National Tariff Policy requires the Commission to facilitate participation of a significant portion of the installed capacity of new generating station in competitive power market in order to provide alternative to generators and licensees/ consumers which would lead to reduction in cost of tariff in the long run. The Commission has put in place an effective

regulatory framework to facilitate long term, medium term and short term open access. The Commission has also encouraged trading in power by issuing trading licences for inter-State trading. Further, Power Exchanges have been set up to provide platform for exchange of power on day ahead, intra-day, contingency and week ahead basis. The Commission has also envisaged provisions for an over the counter market (OTC Market) in the Power Market Regulations where the buyers and sellers can interact directly or through traders and decide price and terms of contracts either through negotiation or through competitive bidding. At present, trading licensees are in place who can promote market for exchange of power. However, there is no platform for facilitating direct interaction between the buyers and sellers in the OTC market. It is pertinent to mention that under the initiative of Ministry of Power, Discovery of Efficient Electricity Price (DEEP), an e-Bidding and e-Reverse auction portal has been launched for procurement of short term power by distribution companies. However, there is no regulatory framework for promotion of OTC market through direct interaction between buyers and sellers. In our view, there is a necessity to provide for a regulatory framework to promote the OTC market through direct participation of buyers and sellers to explore the untapped sources of power to meet the consumer needs.

13. In this context, the proposal of the petitioner to create a platform to facilitate buyers and sellers to come together to negotiate and discover the price of power needs serious consideration. The regulatory framework in this regard can be put in place by making appropriate provisions in the Power Market Regulations. During the hearing held on 31.1.2017, the Commission directed the Staff to prepare a Staff Paper on 'Over the Counter Market' after taking into consideration the submissions of the petitioner and

other parties in the present petition, the inputs provided by the learned counsel for the petitioner and inputs received from any other interested parties. The Commission further directed the staff to seek views of the stakeholders and public on the Staff Paper and submit a consolidated proposal for consideration of the Commission.

14. Since the Commission has decided to initiate action to develop a regulatory framework for OTC market which will address the prayers of the petitioner, the present petition has served its purpose and is accordingly disposed of.

15. The petitioner has submitted that it may be permitted to operationalize the platform devised by it on experimental basis for a period of three months which will provide feedback to the Commission regarding the viability and efficiency of the platform. The Commission is of the view that it will not be appropriate to permit the petitioner to operationalize the platform devised by it at this stage.

sd/-
(Dr. M.K. Iyer)
Member

sd/-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson