

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 12/SM/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: 30<sup>th</sup> of December, 2016**

**In the matter of**

Non-compliance of the provisions of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2009 and the Central Electricity Regulatory Commission (Power Market) Regulations, 2010.

**And**

**In the matter of**

**Petition initiated by the Commission on its own motion**

Vs

- 1) Manikaran Power Limited  
3/A, Astha, 460, E.M. Bypass,  
Kolkata-700 107, West Bengal
  
- 2) Indian Energy Exchange Ltd.  
Unit No. 3, 4, 5 & 6, Fourth Floor  
Plot No. 7, TDI Centre  
District Centre, Jasola  
New Delhi-110025

**...Respondents**

**ORDER**

Manikaran Power Limited (hereinafter "Manikaran Power") was registered as a Professional Member with Indian Energy Exchange Limited (IEX) on 30.11.2007. As per the Central Electricity Regulatory Commission (Power Market) Regulations, 2010 as amended from time to time (hereinafter "Power Market Regulations"), Professional

Member falls within the category of “Member who is neither an Electricity Trader nor distribution licensee including deemed distribution licensee nor a grid connected entity”. This category of member cannot provide any credit or financing or working capital facility to its clients and its services are confined to provide (a) IT infrastructure for bidding on electronic exchange platform; (b) advisory services related to power prices and the follow on bidding strategy and (c) facilitation of procedures on behalf of his client for delivery of power. Further, this category of member is entitled to charge member service charge for providing services to the clients in day ahead and term ahead markets subject to a ceiling rate of 0.75% of the transaction value.

2. Manikaran Power was granted a Category IV trading licensee on 29.6.2012 for carrying out inter-State trading in electricity in accordance with the provisions of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2009 (hereinafter “Trading Licence Regulations”). Manikaran Power applied for up-gradation of its licence to higher category and the Commission vide its order dated 8.1.2013 allowed the up-gradation of trading licence from Category IV to Category III and by order dated 8.6.2013 allowed up-gradation of the licence from Category III to Category II. Manikaran Power filed Petition No. 441/RC/2014 for up-gradation of its trading licence from Category II to Category I.

3. In order to consider the case for up-gradation of category of licence, Manikaran Power was directed by the Commission to submit the details of volume of power traded by it on the Power Exchange during 2012-13 and 2013-14. Manikaran Power vide its

affidavit dated 23.1.2015 has submitted the data regarding volume of power traded in the Power Exchange during 2012-13 and 2013-14 as under:

<b>Member Clearing</b>				
	<b>DAM</b>		<b>TAM</b>	
<b>Row Labels</b>	<b>Drawal (MUs)</b>	<b>Injection (MUs)</b>	<b>Drawal (MUs)</b>	<b>Injection (MUs)</b>
FY 2012-2013	249.35	6.79	-	-
FY 2013-2014	897.16	4.17	349.00	-
<b>Total</b>	<b>1146.51</b>	<b>10.96</b>	<b>349.00</b>	<b>-</b>
<b>Group &amp; Self Clearing</b>				
	<b>DAM</b>		<b>TAM</b>	
<b>Row Labels</b>	<b>Drawal (MUs)</b>	<b>Injection (MUs)</b>	<b>Drawal (MUs)</b>	<b>Injection (MUs)</b>
FY 2012-2013	2631.99	164.38	3825.50	-
FY 2013-2014	3558.39	186.95	6350.00	-
<b>Total</b>	<b>6190.39</b>	<b>351.32</b>	<b>10175.50</b>	<b>-</b>

4. On examination of the data, the Commission noticed that Manikaran Power has segregated the transactions between Member (Clearing) and Member (Group/Self Clearing) and reported only the transactions carried out as Member (Clearing) in its monthly reports to the Commission under the provisions of Trading Licence Regulations. Manikaran Power was directed to explain the provisions of the Power Market Regulations under which it has segregated the transactions between Member (Clearing) and Member (Group/Self Clearing) and also to explain why the entire transactions made by Manikaran Power should not be considered for computing the trading volume under the relevant category of licence held by Manikaran Power during 2012-13 and 2013-14. The Power Exchanges were also directed to submit on affidavit whether there were trading licensees who were doing business on the Power Exchange as Trading Member as well as Professional Member and to furnish the details thereof.

5. Manikaran Power vide its letter dated 24.3.2015 has submitted that segregation of transactions between Member (Clearing) and Member (Group/Self Clearing) can be

made under Regulation 26 of the Power Market Regulations. Manikaran Power has further submitted that while on account of being a trading licensee, Manikaran Power has to purchase electricity for resale, in case of 'self clearing', there is no purchase for resale and therefore, there is no necessity for obtaining licence to facilitate transaction on the Power Exchange as a Member (Group/Self Clearing). Manikaran Power has also submitted that it maintains separate accounts for transactions entered into as a trading licensee and as a member of the exchange. Manikaran Power has submitted that since there is no necessity of licence for self clearing for a Professional Member, Manikaran Power has not included the exchange related transactions within the transactions involving the trading licence.

6. IEX vide its affidavit dated 30.3.2014 has submitted that no member has dual membership i.e. trading membership and professional membership in the Power Exchange and accordingly, no trading member who is a licensed trader is doing business as a trader as well as a professional member. IEX has further submitted that in order to give the clients of the trading member more hold on their financial transactions with exchange, IEX vide its circular dated 10.7.2012 extended the optional facility of direct settlement with the exchange for which the client of trading member is required to open a separate settlement account with the exchange.

7. After consideration of the explanation given by Manikaran Power and IEX, the Commission is of the *prima facie* view that Manikaran Power has violated the provisions of Regulation 26 (i) (c), Regulation 26 (iii) and Regulation 27 of the Power Market Regulations for the reasons explained as under:

(a) Regulation 26 (i) (c) provides for three categories of members of the power exchange i.e. (i) member who is an electricity trader; (ii) member who is a distribution licensee including a deemed distribution licensee or grid connected entity; (iii) member who is neither an electricity trader nor a distribution licensee including deemed distribution licensee nor a grid connected entity. Under the Business Rules of IEX, the third category of Member bears the nomenclature of “Professional Member”. Therefore, an electricity trader cannot act as a Professional Member in accordance with Regulation 26 (i) (c) of the Power Market Regulations. After being granted the licence for an inter-State trading, Manikaran Power has continued to act as a Professional Member which is in violation of the provisions of Regulation 26 (1) (a) read with 26 (1) (c) of the Power Market Regulations.

(b) Regulation 26 (iii) provides that a member who is an electricity trader shall trade or clear on its own account or trade and clear on behalf of its clients. The provision “clear and trade on behalf of its clients” does not enable a trading licensee to work as a Professional Member, since, in this case also, the trading licensee is entitled to trade and clear on behalf of its clients. Therefore, this provision does not enable Manikaran Power to function as a Professional Member and show the transactions separately from that of the transactions carried out as a Trading Member.

(c) Regulation 27 and first proviso provides as under:

“Member Service Charge for providing services to their clients in day ahead and term ahead markets in Power Exchange shall not be more than 0.75% of

transaction value. This ceiling would be an overall ceiling including the service charges of any subordinate service providers.

Provided that Member Service charge to their clients in day ahead and term ahead market in Power Exchange for Electricity Traders who are members of Power Exchange shall be the trading margin only as per CERC (Fixation of trading margin) Regulations 2006 and as amended from time to time.”

As per the above provisions, a Trading Member can only charge Trading Margin and not the Member Service Charge. Manikaran Power instead of charging the trading margin on all transactions carried out on the IEX has claimed the member service charges not exceeding 0.75% of the transaction value which is violation of the provisions of the Power Market Regulations.

8. Considering the reasons mentioned in para 7 above, the Commission is of the *prima facie* opinion that Manikaran Power has violated the provisions of Regulation 26 (i) (c), 26 (iii) and 27 of the Power Market Regulations. These contraventions of Power Market Regulations are covered under the Regulation 14 A (2) (a) and (b) of the Trading Licence Regulations apart from being in contravention of terms and conditions of licence.

9. In view of the above, we direct issue of notice under Section 142 of the Act read with Regulation 14 B (1) of the Trading Licence Regulations to Manikaran Power with direction to explain as to why Manikaran Power should not be held liable for contravention of the provisions of the Power Market Regulations and Trading Licence Regulations and to further explain as to why appropriate action under the Electricity Act, 2003 read with Trading Licence Regulations should not be taken against it for

revocation of license on account of contravention of the provisions of the Power Market Regulations and terms and conditions of the licence.

10. Manikaran Power has submitted that IEX was aware that these transactions were not carried out against the trading licence and Manikaran Power maintains separate accounts for transactions entered into as a trading licence and as a Member of the exchange.

11. IEX is directed to explain as to how Manikaran Power was allowed to maintain separate accounts as Member (Clearing) and Member (Group/Self Clearing) and whether the Power Exchange has put in place mechanism to detect such abnormalities and undertake corrective actions with suitable penalties.

12. The response to the show cause notices should be filed by Manikaran Power and IEX by 15.1.2017.

13. The Commission will fix the hearing of the petition after examining the responses received to the show cause notices.

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

**sd/-**  
**(A.S. Bakshi)**  
**Member**

**sd/-**  
**(A.K. Singhal)**  
**Member**

**sd/-**  
**(Gireesh B. Pradhan)**  
**Chairperson**