

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 353/RC/2018**

**CORAM:**

**Shri P. K. Pujari, Chairperson**

**Dr. M. K. Iyer, Member**

**Shri I.S. Jha, Member**

**Date of Order: 12<sup>th</sup> of February, 2019**

**In the matter of:**

Approval of the panel for appointment as Independent Directors on the Board of Indian Energy Exchange Ltd.

**And**

**In the matter of**

Indian Energy Exchange Ltd,  
4<sup>th</sup> Floor, TDI Centre,  
Plot No. 7, Jasola  
New Delhi – 110025

.....**Petitioner**

**ORDER**

The Petitioner, Indian Energy Exchange Limited (hereinafter referred to as "IEX") has filed the present petition for seeking approval of the Commission for inclusion of name of Shri Tejpreet Singh Chopra in the panel of Independent Directors for the appointment on the Board of the IEX. The Petitioner has also filed the brief profile, declaration under Section 149(7) read with Section 149(6) of the Companies Act, 2013, details in "Form MBP-1" of the Companies Act, 2013 and affidavit of Shri Tejpreet Singh Chopra in terms of Regulations 22(ii) of the Central Electricity Regulatory Commission (Power Market), 2010 (hereinafter referred to as the 'Power Market Regulations').

2. Regulation 22 (ii) of the Power Market Regulations which deals with the Independent Directors to be appointed in the Power Exchange, provides as under:

"(ii) Independent Directors – At least one third of the members of the Board or a minimum of two directors, whichever is higher, shall be independent directors selected from a panel constituted by the Power Exchange and approved by the Commission out of which one person will have professional qualification and experience in finance. The panel shall be constituted of persons of repute and integrity from academics, professionals, industry representatives, public figures none of whom should have any interest in any Member of Power Exchange and any fiduciary relationship with any shareholder of Power Exchange."

3. The Commission, in its order dated 7.8.2013 in Petition No. 113/2011, while approving the panel of Independent Directors discussed the requirements for appointment as Independent Directors in the said order and they are as follows:

"7. The term Independent Director" has not been defined in the Power Market Regulations or Companies Act, 1956. The Judicial Dictionary defines Independent Director to mean a non-executive Director who apart from receiving Director's remuneration, do not have any material/pecuniary relationship or transaction with the company, its promoters, its directors, its senior management or its holding company, its subordinates or associates which in the judgement of the Board may affect the independence of the judgement of the Director. According to Clause 49 of the Listing agreement, the definition of the term „Independent Director" would mean a non-executive director who: (a) Does not have a pecuniary relationship with the company, its directors, its promoters, senior management or affiliate companies; (b) Is not related to the promoters or senior management; (c) Is not a partner or executive of the auditors/lawyers/consultants of the company for the last three years; (d) Is not a supplier, service provider or customer of the company; (e) Does not have more than 2% of the shares of the company.

8. Further Regulation 22(ii) of the Power Market Regulations provides that none of the persons in the panel should have any interest in any Member of the Power Exchange and have fiduciary relationship with any shareholders of the Power Exchange. Fiduciary relationship has not been defined in the Power Market Regulations. According to Law Dictionary, fiduciary relationship exists when one person places complete confidence in another person in regard to any particular transaction or general affairs or business. In the context of the Power Market Regulations, none of the persons included in the panel of Independent Directors should have any interest in any member of the exchange or be involved in the general affairs or business of any shareholder of the exchange."

4. The Companies Act, 2013 came into existence consolidating and amending the laws related to companies. Subsection (4), (6) and (7) of Section 149 of the Companies Act 2013 provides for appointment of Independent Director as under:

“(4) Every listed public company shall have at least one-third of the total number of directors as independent directors and the Central Government may prescribe the minimum number of independent directors in case of any class or classes of public companies.

(6) An independent director in relation to a company, means a director other than a managing director or a whole-time director or a nominee director,—

(a) Who, in the opinion of the Board, is a person of integrity and possesses relevant expertise and experience;

(b)(i) who is or was not a promoter of the company or its holding, subsidiary or associate company;  
(ii) who is not related to promoters or directors in the company, its holding, subsidiary or associate company;

(c) who has or had no pecuniary relationship with the company, its holding, subsidiary or associate company, or their promoters, or directors, during the two immediately preceding financial years or during the current financial year;

(d) None of whose relatives has or had pecuniary relationship or transaction with the company, its holding, subsidiary or associate company, or their promoters, or directors, amounting to two per cent. or more of its gross turnover or total income or fifty lakh rupees or such higher amount as may be prescribed, whichever is lower, during the two immediately preceding financial years or during the current financial year;

(e) Who, neither himself nor any of his relatives—

(i) Holds or has held the position of a key managerial personnel or is or has been employee of the company or its holding, subsidiary or associate company in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed;

(ii) Is or has been an employee or proprietor or a partner, in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed, of—

(A) a firm of auditors or company secretaries in practice or cost auditors of the company or its holding, subsidiary or associate company; or

(B) any legal or a consulting firm that has or had any transaction with the company, its holding, subsidiary or associate company amounting to ten per cent. or more of the gross turnover of such firm;

(iii) Holds together with his relatives two per cent. or more of the total voting power of the company; or

(iv) Is a Chief Executive or director, by whatever name called, of any non-profit organisation that receives twenty-five per cent. or more of its receipts from the company, any of its promoters, directors or its holding, subsidiary or associate company or that holds two per cent. Or more of the total voting power of the company; or

(f) Who possesses such other qualifications as may be prescribed.

(7) Every independent director shall at the first meeting of the Board in which he participates as a director and thereafter at the first meeting of the Board in every financial year or whenever there is any change in the circumstances which may affect his status as an independent director, give a declaration that he meets the criteria of independence as provided in sub-section (6).”

5. We have considered the submission of the Petitioner. At the time of filing of the present Petition, the Petitioner had three Independent Directors namely, Shri Dinesh Kumar Mehrotra, Prof. K. T. Chacko, and Shri Vallabh Roopchand Bhanshali appointed out of the panel of Independent Directors approved by the Commission. Subsequently, the Petitioner vide its letter dated 15.1.2019 informed the Commission that one of its Independent Directors namely, Shri Vallabh Roopchand Bhanshali has resigned from the Board effective from 8.1.2019. Consequently, the Board of IEX has currently 8 Directors including 5 Non-Executive Directors, 1 Managing Director and Chief Executive Officer, and 2 Independent Directors. As per the Power Market Regulations, one third of the members of Board of IEX have to be Independent Directors, therefore, a total of three ( $8/3=3$ ) Independent Directors are required to be appointed on the Board of IEX. At present, there are two Independent Directors on its Board and therefore, one more Independent Director is required to be appointed.

6. The Petitioner has proposed the name of Shri Tejpreet Singh Chopra for inclusion in the panel of Independent Directors. The brief profile of Shri Tejpreet Singh Chopra is as under:

Shri Tejpreet Singh Chopra is a graduate of Lawrence School, Sanawar. He holds a MBA degree from Cornell University and a B.A. Honours degree in Economics from St. Stephens College, Delhi University. He has also attended an executive program at the Harvard Kennedy School. He is the founder and CEO of Bharat Light & Power which is one of the leading clean energy generation companies in India. He has 18 years of global management and finance experience gained in various business roles held in France, England, Hong Kong, India and USA, of which over 14 years were at General Electric. He is an Independent Director on the board of SRF Limited, Anand Group and Chairman of the board of APM Terminals Pipavav Port. He is on the Board of the World Economic Forum Foundation for YGL's. He is the National Skill Development Corporation Nominee Director on the Board of the Power Sector Skill Council. He is also actively involved with various industry associations & academic institutions and has spoken at several international conferences.

7. The Petitioner has placed on record the affidavit submitted by Shri Tejpreet Singh Chopra dated 19.11.2018. Shri Tejpreet Singh Chopra has stated that he does not have any interest in any Member and fiduciary relationship with any of the shareholders of IEX. He has further stated that he has not suffered from any of the disqualifications prescribed under the Power Market Regulations for continuation as Independent Director of the Power Exchange. He has further stated that he meets the criteria of Independent Director as specified under sub-section (6) of Section 149

of the Companies Act, 2013. Shri Tejpreet Singh Chopra has submitted the notice of interest by director by Director and list of relatives in 'Form MBP-I' in terms of Section 184(1) of the Companies Act, 2013.

8. Further, the Petitioner vide letter dated 5.2.2019 has submitted that the Nomination and Remuneration Committee of the company in its meeting held on 16.11.2018 had considered the profile of Shri Tejpreet Singh Chopra for independent director of the company. The Nomination and Remuneration Committee felt that Shri Tejpreet Singh Chopra with his expertise and experience will bring a lot of values to the Company's Board and accordingly recommended for induction of Shri Tejpreet Singh Chopra as Independent Director on the Board subject to approval by the Commission. The Petitioner has confirmed that Shri Tejpreet Singh Chopra fulfils all criteria as laid down by CERC in the Power Market Regulations for engagement as Independent Director.

9. The proposal for empanelment of Shri Tejpreet Singh Chopra for appointment as Independent Director has been considered in the light of the Power Market Regulations, the requirements laid down by the Commission in its order dated 7.8.2013 in Petition No.113/2011 and provisions of the Companies Act, 2013. After going through the profile of Shri Tejpreet Singh Chopra and after being confirmed by IEX that Shri Tejpreet Singh Chopra, does not have any fiduciary relationship with any of the existing shareholders of IEX or any interest in any Member of IEX, we are of the view that Shri Tejpreet Singh Chopra fulfils the requirement for inclusion in the panel for appointment as Independent Directors in IEX. Accordingly, we accord our approval for inclusion of Shri Tejpreet Singh Chopra in the panel for appointment of Independent Directors in terms of Regulation 22 (iii) of the Power Market

Regulations. This is in addition to the panel already approved by the Commission vide its earlier orders dated 7.8.2013, 27.10.2014, and 20.2.2015 pertaining to Petition Nos. 113/2011, 316/RC/2013 and 568/RC/2014, respectively. The panel of Independent Directors approved by the Commission thus far for the Petitioner shall be valid till 31.3.2021.

10. Petition No. 353/RC/2018 is disposed of in terms of the above.

sd/-  
**(I.S.Jha)**  
**Member**

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

sd/-  
**(P.K.Pujari)**  
**Chairperson**