

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No. 635/RC/2020
&
Petition No. 59/MP/2021**

Coram:

**Shri P.K. Pujari, Chairperson
Shri I.S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member**

Date of Order: 27th July, 2021

Petition No. 635/RC/2020

In the matter of:

Application in compliance of Regulation 7 of the Central Electricity Regulatory Commission (Power Market) Regulations, 2010 and Ministry of Power Order dated 10.7.2020 for approval of introduction of additional Term Ahead Contracts and Green Term Ahead Contracts beyond T+11 days at Indian Energy Exchange Limited.

And

In the matter of

Indian Energy Exchange Limited,
Fourth Floor, TDI Centre,
Plot No. 7, Jasola,
New Delhi – 110 025

.....Petitioner

Petition No. 59/MP/2021

In the matter of:

Petition under Section 66 of the Electricity Act, 2003 read with Regulations 6 and 7 of the Central Electricity Regulatory Commission (Power Market) Regulations, 2010 for approval of introduction of Month(s) Ahead Contracts at Power Exchange India Limited.

And

In the matter of

Power Exchange India Limited,
9th Floor, 901, Sumer Plaza,
Marol Maroshi Road, Marol Andheri (East),
Mumbai – 400 059.

.....Petitioner

Parties present:

Shri Sakya Singha Chaudhuri, Sr. Advocate, PXIL
Ms. Nithya Balaji, Advocate, PXIL
Shri Prabhajit Kumar Sarkar, PXIL
Shri Shekhar Rao, PXIL
Shri Kapil Dev, PXIL
Shri Anil V Kale, PXIL
Shri Sunil Hingwani, PXIL
Shri Jogendra Behera, IEX
Shri Gaurav Maheshwari, IEX

ORDER

The Petitioner, Indian Energy Exchange Limited ('IEX') has filed Petition No. 635/RC/2020 under Regulation 7 of the Central Electricity Regulatory Commission (Power Market) Regulations, 2010 and pursuant to letter of Ministry of Power dated 10.7.2020 for approval of introduction of additional Term Ahead Contracts and Green Term Ahead Contracts beyond T+11 days at IEX. In the said petition, IEX has prayed for as under:

“(a) Accord approval for introduction of proposed additional contracts and modifications in existing Term Ahead Contracts and Green Term Ahead Contracts at IEX platform; and

(b) Accord approval to amendments in the Business Rules of IEX.

2. The case was called out for virtual hearing on 23.7.2021. During the course of hearing, the representative of IEX submitted that the Petition has been filed for approval of introduction of additional Term Ahead Contracts and Green Term Ahead Contracts beyond T+11 days. He further added that its Petition is based on the letter

of Ministry of Power letter dated 10.7.2020, wherein the Ministry of Power, after considering the report of the Committee on '*Efficient Regulation of Electricity Derivatives*', has observed that this Commission and Security and Exchange Board of India ('SEBI') may take necessary action in their respective areas of jurisdiction which will be subject to outcome of decision of Hon`ble Supreme Court in Civil Appeal Nos. 5292-5295/2011 (CERC v. MCX & Ors.), SLP(C) No. 17300-17303/2011 (SEBI v. CERC and Ors.) and CA No. 5290-5291/2011 (PXIL v. SEBI and Ors.). The representative of IEX requested that in view of the above, the Commission may initiate the process for approval of additional Term Ahead Contracts and Green Term Ahead Contracts beyond T+11 days and permit/allow IEX to start the stakeholders' consultation process in this regard.

3. During the course of hearing, the learned counsel for the Power Exchange India Limited ('PXIL') mentioned the Petition No. 59/MP/2021 and submitted that PXIL has also filed similar Petition under Section 66 of the Electricity Act, 2003 read with Regulations 6 and 7 of the Central Electricity Regulatory Commission (Power Market) Regulations, 2010 for approval of introduction of Month(s) Ahead Contracts at PXIL. The learned counsel submitted that both the matters may be taken up together. The learned counsel submitted that in Petition No. 59/MP/2021, the following prayers have been made:

"a. To allow the petitioner to introduce Monthly Contracts which can be traded on Three (3) Month, Two (2) Month and One (1) Month Ahead basis;

b. To allow the petitioner to introduce power exchange-specific seasonal duration contracts which can be traded on Three (3) Month, Two (2) Month and One (1) Month Ahead basis;

c. To allow the petitioner to introduce Monthly Contracts in Renewable Energy in the GTAM segment for transaction in Renewable Energy for benefit of obligated entities

to meet their Renewable Purchase Obligation, based on the approval accorded by this Commission for introduction of GTAM contracts on the petitioner's platform, vide an order in Petition No. 228/MP/2020;

d. To allow petitioner to extend the approval accorded to month(s) ahead contract to hydro segment under GTAM and consequently, allow petitioner to customize the Contract specifications to introduce Hydro Monthly Contract.

e. To allow the Petitioner to introduce different matching mechanisms in existing Contract and new Contracts in Term Ahead Market to meet market participants requirement, by issuance of a Circular from time to time;

f. To adjust the filing fees for processing this Petition against the fees paid earlier by the Petitioner in Petition No. 55/MP/2013;

g. Pass such other order(s) that this Commission may deem fit to remove difficulties and allow implementation of the above.”

4. The learned counsel for PXIL submitted that since an agreement has already been reached between this Commission and SEBI on the issue of jurisdiction to control and to regulate the futures/ forward and derivative contracts in electricity, the Commission may proceed with the approval of introduction of month(s) ahead contracts.

5. After hearing the submissions of the learned counsel for PXIL and the representative of IEX, the Commission observed that since the issue of jurisdiction to control and to regulate the futures/ forward and derivative contracts in electricity is still pending consideration before the Hon'ble Supreme Court and any approval of this Commission would be subject to outcome of the decision of Hon`ble Supreme Court in Civil Appeal Nos. 5292-5295/2011 (CERC v. MCX & Ors.), SLP(C) No. 17300-17303/2011 (SEBI v. CERC and Ors.) and CA No. 5290-5291/2011 (PXIL v. SEBI and Ors.), consideration of approval of additional Term Ahead Contracts and Green Term Ahead Contracts beyond T+11 days or Month(s) Ahead Contract, at this stage, would be pre-mature. Accordingly, the Commission disposed of both the

Petitions with liberty to the Petitioners to approach this Commission with fresh Petitions on the subject matter after the decision of Hon`ble Supreme Court in above referred Civil Appeals. The filing fees deposited by the Petitioners in respect of their Petitions shall be adjusted against the Petitions to be filed by the Petitioners in terms of the liberty granted as above.

6. Accordingly, Petition No. 635/RC/2020 and Petition No. 59/MP/2021 are disposed of in terms of the above.

Sd/-
(P.K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I.S.Jha)
Member

sd/-
(P. K. Pujari)
Chairperson