

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 143/MP/2022

Subject : Petition for approval of the Transaction Fee of the Indian Energy Exchange in compliance with the provisions of Central Electricity Regulatory Commission (Power Market) Regulations, 2021.

Petitioner : Indian Energy Exchange Limited (IEX)

Petition No. 178/MP/2022

Subject : Petition under Section 66 of The Electricity Act, 2003 read with the Regulation 23 of the Central Electricity Regulatory Commission (Power Market) Regulations, 2021 for approval of transaction fee to be charged from transacting parties for trading on Power Exchange India Limited.

Petitioner : Power Exchange India Limited (PXIL)

Petition No. 88/MP/2022

Subject : Petition under Regulation 23 of Central Electricity Regulatory Commission (Power Market) Regulations, 2021, for approval of the Transaction Fees.

Petitioner : Hindustan Power Exchange Limited (HPX)

Date of Hearing : 13.12.2022

Coram : Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Parties Present : Shri C. S. Vaidyanathan, Senior Advocate, IEX
Shri M.G. Ramachandran, Senior Advocate, IEX
Shri Shubham Arya, Advocate, IEX
Ms. Poorva Saigal, Advocate, IEX
Ms. Reeha Singh, Advocate, IEX
Shri. Ravi Nair, Advocate, IEX
Ms. Shikha Sood, Advocate, IEX
Shri Ravi Kishore, Advocate, HPX
Shri Keshav Singh, Advocate, HPX
Shri Sakya Singha Chaudhuri, Advocate, PXIL
Ms. Nithya Balaji, Advocate, PXIL
Shri Akhilesh Awasthy, HPX
Shri Anil V. Kale, PXIL
Shri. Jogendra Behera, IEX
Shri Gaurav Maheshwari, IEX



Record of Proceedings

During the course of hearing, learned senior counsel for the Petitioner, IEX in Petition No. 143/MP/2022, submitted that the present Petition has filed for seeking approval of transaction fee of up to 2 paisa/kWh to be charged to either party to the transactions across contracts covered under Clauses (1) to (3) of Regulation 5 of the Central Electricity Regulatory Commission (Power Market) Regulations, 2021 (Power Market Regulations, 2021). Learned senior counsel further submitted as under:

(a) Power Market Regulations, 2021 dealing with Power Exchanges is with reference to Section 66 of the Electricity Act, 2003 (Act) which endeavors to promote the development of power market and as such not intended to be extensively regulated.

(b) The objective of the opening part of Regulation 23 is to put an upper limit of 2 paise/kWh from each party to a transaction and leave the flexibility to the Power Exchanges to decide on the terms and conditions of the transaction fee to be charged for each type of transaction, so long the transaction fees do not exceed 2 paise/kWh from each party to the transaction.

(c) The intent of the second proviso of Regulation 23 wherein a Power Exchanges are required to obtain approval of the Commission for the transaction fee to be charged by it based on types of contracts or quantum of transaction or duration of transaction or such other factor(s), is to encourage the Power Exchanges to transparently propose transaction fee within the ceiling of 2 paise/kWh based on various factors as specified to generate healthy competition between the Power Exchanges.

(d) The proviso can not be used to determine transaction fee for each Power Exchange based on its revenue and expenditure as it would affect the competition between the Power Exchanges and will be in contravention to the main provision of Regulation 23 wherein ceiling of 2 paise has been specified and the provisions of Section 66 of the Act which binds the Commission to promote competition in the market. The second proviso empowers the Commission to approve the transaction charge depending upon the type of transaction as proposed by the Power Exchange within the ceiling of 2 paise/kWh. If the proviso is to be read in the manner to reduce the ceiling limit provided under the opening part, the opening part is rendered redundant.

(e) In a similar situation involving a trading licensee where the transaction fee is capped at 7 paise/kWh for short term transactions and there is no cap for long term transactions. The flexibility has been allowed to the trading licensee to decide on the trading margin.

2. Learned counsel for HPX in Petition No. 88/MP/2022, adopted the submissions made by learned senior counsel for IEX. Learned counsel further submitted that HPX is a new exchange, which is about to start its operations and accordingly, transaction fee of 2 paise/unit proposed by the HPX in the Petition may be approved. The representative HPX referred to the current market design issues,

which is leading to concentration of trading volumes in one Power Exchange, leaving other exchanges uncompetitive.

3. Learned counsel for the Petitioner, PXIL in Petition No. 178/MP/2022 adopted the submissions made by learned senior counsel for IEX and HPX. He further submitted that the Commission has powers to call for various returns and information from the Power Exchanges. However, the present proceeding is limited to the approval of transaction fee proposed by the Power Exchange. Learned counsel referred to Section 62 of the Act which provides for determination of tariff and the provisos to Section 62 which provided for appropriate Commission to fix only a ceiling tariff when there are two or more distribution licensees, which are regulated entities, in an area of supply. Learned counsel added that the determination of transaction fee is purely a commercial and business decision of the exchange. The representative of the Petitioner referred to the market structure issues, particularly in the collective transactions segment, due to which the benefit of competitive efficiency is not going to the market participants.

4. Considering the request of the learned senior counsels, learned counsels and representatives of the Petitioners, the Commission permitted the Petitioners to file additional submissions within two weeks.

5. Subject to the above, the Commission reserved order in the matters.

By order of the Commission

**Sd/-
(T.D. Pant)
Joint Chief (Law)**