



नई दिल्ली
NEW DELHI

याचिका संख्या./ Petition No. 157/MP/2022

कोरम/ Coram:

श्री आई. एस. झा, सदस्य/ Shri I. S. Jha, Member
श्री अरुण गोयल, सदस्य/ Shri Arun Goyal, Member
श्री पी. के. सिंह, सदस्य / Shri P. K. Singh, Member

आदेश दिनांक/ Date of Order: 29th of September, 2022

IN THE MATTER OF:

Petition under Regulation 40 of the Central Electricity Regulatory Commission (Power Market) Regulations, 2021 and Clause 8 of the Guidelines for Registration and Filing Application for Establishing and Operating Over the Counter (OTC) Platform, for grant of registration to establish and operate the OTC Platform.

And

In the matter of

New Age Markets in Electricity Private Limited (NAME)
Regd. Office. D.No. 248/36
Thousand Light, Anna Salai
Chennai-600006, Tamil Nadu

...Petitioner

Parties Present:

Mr. Abhishek Tripathi, Petitioner
Mr. Shivika Agrawal, Petitioner
Mr. Sushil K Soonee, Petitioner
Mr. Kapil Dev, Petitioner
Mr. Pravir Vohra, Petitioner
Mr. Vishesh H Mehta, Petitioner
Mr. Amarinder K Maggu, Petitioner

ORDER

The Petitioner, New Age Markets in Electricity Private Limited (hereinafter “NAME”) has filed the present Petition for grant of registration to establish and operate OTC Platform under Regulation 40 of Central Electricity Regulatory Commission (Power Market) Regulations, 2021 (hereinafter “PMR 2021”) and Clause 8 of the “Guidelines for Registration and Filing Application for Establishing and Operating Over the Counter (OTC) Platform” (hereinafter “the OTC Guidelines”). The Petitioner has made the following prayers:

“(a) To grant registration to establish and operate the proposed OTC Platform; and

(b) Pass such other orders as this Hon’ble Commission may deem fit and appropriate.”

Background of the case

2. The Commission, on 15.8.2021 notified the “PMR 2021” with enabling provisions for OTC Platform under Part-6 of the Regulations, and thereafter notified the “Guidelines for Registration and Filing Application for Establishing and Operating Over the Counter (OTC) Platform” on 19.5.2022.

3. On 23.5.2022, the Petitioner filed the present petition seeking grant of registration for establishing and operating OTC platform. The Petitioner has submitted its application as per the prescribed format i.e. ‘Form-I’ of the Guidelines. The Petitioner has submitted the relevant details as required under the OTC Guidelines which are discussed in the succeeding paragraphs.

4. The Petitioner is a Private Limited Company incorporated in February 2022 under the Companies Act, 2013. The Petitioner has infused an amount of INR



2,00,00,000 as paid share capital and will infuse further capital depending on the future requirement. Prapanaya Technologies and Services Private Limited (hereinafter “PTSPL”) hold 19,99,999 shares in the Petitioner company, while one (1) share is held by Shri Vishesh Mehta who is nominee of PTSPL. The net worth of the applicant as on 16.05.2022 was INR 1,97,54,663 in support of which net worth certificate has been submitted by the Petitioner.

5. The Petitioner has submitted that it initially intends to offer the following services through the proposed OTC platform:

(i) Data repository and Information Services

- To act as a data repository of OTC delivery-based contract trade data and the same shall be stored for further circulation amongst market participants, regulators, and policy makers.
- To provide decision support systems such as pattern analysis of trade, behavioral analysis of counterparties, demand and price pattern analysis etc. The proposed OTC Platform can help the participants in generation of customized reports on need basis.
- To make the proposed OTC Platform a one stop solution for the Ministry of Power, Government of India and the regulator for gaining access to historical trade data and related information on buyer and seller.

(ii) Listing of requirements and buyer seller interaction

- To act as a platform to remove information asymmetry between the buyers and the sellers, assist the buyers and the sellers in institutionalizing their requirements, provide a secure and quick platform for exchange of information and documentation.
- To report market participants, their transactional data to the OTC Platform, which in turn will help in data building, reduce the cycle time involved.

(iii) Computational services and analytics support

- To provide data analytics support which may include trade analysis, identification of any collusive behaviour, demand pattern analysis and price pattern analysis, etc.
- To provide customized analytics services to various members. All macro findings affecting the power market may be shared with regulators and policy makers every month.

6. The Petitioner has also provided details regarding its place and year of incorporation, key organizational structure, key processes, organizational and managerial capability, indicative project plan, approach and methodology for establishing the OTC platform and an affidavit as per the Form-IV of the Guidelines.

7. The Petitioner has provided copies of the Memorandum of Association (hereinafter “MoA”) and Articles of Association (hereinafter “AoA”) along with its application. In the MoA, the Objects of the Petitioner company are as under:

- *“To establish, set up, operate and maintain an over the counter platform under the Electricity Act, 2003 and rules and regulations issued thereunder, and to provide (i) an electronic platform with the information of potential buyers and sellers of electricity; (ii) maintain a repository of data related to buyers and sellers; and (iii) historical data and services as advanced data analysis tools to market participants, including grid connected entities such as generating companies, distribution licensees, open access consumers; trading licensees; and any other entity as may be notified by the appropriate regulatory commission or authority under the Electricity Act, 2003, including any amendment thereof.*
- *To carry on in India and elsewhere in the world the business to establish, operate, maintain, manage, provide a platform for the buyers, sellers, traders, other market participants engaged in trading of various types of energy, including but not limited to Carbon Credits, Clean Development Mechanisms (CDM), Carbon Emission Reduction (CER) and all other forms of Renewable Energy Certificates (RE Certs), power-based contracts including all other forms/types of energy and various energy based products and other instruments and derivatives thereof, in markets for ready delivery contracts, and non-transferable specific delivery contracts, forward and futures market and to provide accessibility to the market information and data with respect to buying, selling, exchange, barter, swap adjust, subscribing, acquiring, holding, investing or otherwise dealing in energy trading and to provide, initiate, facilitate and undertake all support services relating thereto.*
- *To undertake IT enabled services like call center management, legal transcription, data collection and processing, back office processing, data warehousing and database*

management, data discovery, interpretation, analysis and communication and to undertake business of data analytics such as predictive analytics, prescriptive analytics, enterprise decision management, descriptive analytics, cognitive analytics, big data analytics, retail analytics, supply chain analytics, store assortment and stock-keeping unit optimization, marketing optimization and marketing mix modeling, web analytics, call analytics, speech analytics, sales force sizing and optimization, price and promotion modeling, predictive science, credit risk analysis and fraud analytics.

- *To acquire, receive, buy, sell, transact, deal, broker, administer, implement, lease, sub-lease, franchise, build, prepare, manufacture, do value additions indulge into technology services in the field of electricity including wind power, solar power, Thermal, Hydro, Coal and Lignite based generation among others.*
- *To provide on-line technology facility which provides a transparent transaction platform for authorized users on large scale across the country including remote areas and elsewhere, in contracts of electricity, power and energy instruments.*
- *To do all such other lawful things as considered necessary for the furtherance of the above objects.”*

Hearing dated 5.7.2022

8. The matter was heard on 5.7.2022. During the course of hearing, the learned counsel for the Petitioner submitted that as per Clause 8(2) of the Guidelines, it had published its application along with details of the proposed platform on its website inviting stakeholders' comments. After hearing the learned counsel, the Petitioner was directed to give wider publicity to its proposed OTC Platform by uploading the present application again on its website inviting stakeholders' comments including POSOCO. Staff of the Commission was also directed to upload the application on the Commission's website for wider reach.

Stakeholder's Comments & Response of the Petitioner

9. In compliance of the Commission's directions, both the Petitioner and staff of the Commission uploaded the Petition on their respective websites for seeking stakeholders' comments. The Petitioner also approached POSOCO for their suggestions and observations. Consequently, the Petitioner received comments from

the stakeholders, namely: POSOCO, NTPC Limited, MSEDCL, GRIDCO, OTPCL, Vedanta, PTC India, IEX, CPPA, NSEFI, Click Power, and TATA Power.

10. The Petitioner has submitted that most of the stakeholders have appreciated the wisdom and foresight of the Commission towards the need for an OTC Platform and welcomed the move of the Petitioner being the first applicant for setting up the OTC platform and have appreciated the approach, methodology, and the team of the Petitioner for this initiative. There have been no objections to the application. The Petitioner has further submitted that certain suggestions are about interpretation of the regulations, including PMR 2021 and the OTC Guidelines. Moreover, a large number of these comments/ suggestions have already been addressed by the Commission in the Statement of Reasons on the OTC Guidelines as well as of the Power Market Regulations.

11. The Petitioner, through its affidavit dated 03.08.2022, has filed its response to the comments of these stakeholders (including POSOCO). However, while replying, it has grouped together the comments of the Stakeholders for the sake of brevity. Major comments of the Stakeholders and responses of the Petitioner thereon are summarized in the subsequent paragraphs.

(a) Some of the Stakeholders have made observations on the authenticity and reliability of data to be made available on the proposed OTC platform. In response, the Petitioner has submitted that without being registered as an OTC platform, it cannot demonstrate or act upon the same.

(b) Stakeholders have raised concerns on fulfillment of technological criteria by the proposed OTC platform. In response, the Petitioner submitted that its technology infrastructure will be robust, and will have a high degree of reliability,

availability, scalability and security. Further, it is also in discussion with an independent OTC platform operator in Europe for a strategic partnership.

(c) Stakeholders have commented that NAME is a wholly owned subsidiary of Prapanaya Technologies and Services Private Limited (PTSPL) which is a wholly owned subsidiary of Panaaya Technologies Private Limited (hereinafter "PTPL"). Also, there can be a connection between PTPL, Refex Capital Advisors and Refex Group. Therefore, their shareholding pattern should be submitted by the Petitioner to cross check any conflict of interest as per the negative list provided in the Clause 6.1(iv) of the OTC Guidelines. In response, the Petitioner has submitted that in accordance with the prescribed Form-I, it has provided the details of its shareholders holding with 5% and above shares. Also, the Petitioner has given an undertaking that the Petitioner, PTSPL and PTPL or any of their shareholders are not covered under the negative list.

(d) Stakeholders have pointed out that some of the Key Management Personnel (hereinafter "KMP") are not having relevant experience. In response, the Petitioner has submitted that it has named various KMP who have significant experience and the requisite credentials as required in the OTC Guidelines. The OTC Guidelines do not require that each KMP must meet the specific criteria. The Petitioner, as and when needed, intends to further recruit, and introduce persons with relevant experiences.

(e) One of the stakeholders has raised concerns on the Object clause of the MOA. In response, the Petitioner has submitted that its Object clause has been misinterpreted. The Object clauses are drafted in a wide and generic manner, the actual operation of the OTC Platform shall however be governed by OTC Guidelines.

(f) POSOCO has commented to have a proper regulatory framework for sharing of data by various agencies with the OTC platform; and mandatory reporting to the Regulator for the purpose of market monitoring. POSOCO has suggested that OTC platform should be mandated to provide market related information to the NLDC and should comply with the Government of India

guidelines on cyber security. In response, the Petitioner has submitted that the suggestions made by POSOCO are more of a regulatory nature and it is committed to take up these issues upon being granted the registration.

Hearing dated 17.8.2022

12. The matter was heard 17.08.2022 through video conferencing. During the course of hearing, the learned counsel for the Petitioner submitted that background work to launch the OTC Platform has already been started and after grant of approval, the Petitioner would commence the consultative process and launch the OTC Platform as soon as possible. The learned counsel further added that the Petitioner is ready and willing to implement POSOCO's comments in consultation with and under the guidance of the Commission. The Petitioner submitted that a regulatory sandbox/pilot may be created to evolve a framework for data sharing from and to various stakeholders.

13. During the course of the hearing, learned counsel for one of the stakeholders, namely, Clickpower India Limited (hereinafter "CIL") referred to the comments made and reiterated the submissions made therein. After hearing the learned counsel for the parties, the Petitioner was directed to file the following information on affidavit:

- a) Point-wise reply to the comments of the stakeholders including POSOCO.
- b) Details regarding change of Registered office.
- c) Copies of Memorandum of Association and Article of Association of Prapanaya Technologies and Services Private Limited (PTSPL) and Panaaya Technologies Private Limited (PTPL).

14. The Petitioner, through the affidavit dated 29.8.2022, has placed on record the certified true copy of Board Resolutions passed by the respective Boards of the Petitioner company, PTPL & PTSPL, a copy of the shareholding pattern of PTPL &

PTSPL and the source of funds received by PTPL & PTSPL. The Petitioner has also filed details on change in its registered office and a copy of the MoA and AoA of PTPL & PTSPL.

15. The Petitioner has submitted that during the course of hearing dated 5.7.2022, it had categorically highlighted the developments made subsequent to the filing of the Petition, one of which was the initiation of moving the registered office of the Petitioner to NCT of Delhi. In consonance to the same, the Petitioner and PTPL have passed their Board Resolutions for change of their registered office from the State of Tamil Nadu to NCT of Delhi as on 4.7.2022 and Shareholders Resolutions as on 8.7.2022. Also, PTSPL has passed its Board and Shareholders Resolutions for change of its registered office from the State of Tamil Nadu to NCT of Delhi as on 30.6.2022. The Petitioner has submitted that in the next step, it shall file a Petition for change of registered office of the Petitioner, PTPL and PTSPL, before the concerned Registrar of Companies and Chief Secretary of the State, and once the approval has been granted by the concerned authority, the Petitioner shall place on record the relevant documents in relation to such change, before the Commission. In support, the Petitioner has placed on record the true copies of Board and shareholder resolutions of the Petitioner, PTPL and PTSPL; and copies of respective e-form MGT-14 and corresponding copy of challans generated with MCA.

16. The Petitioner has filed point-wise reply to the Stakeholders' comments. Some of the major additional comments and responses of the Petitioner thereto have been discussed as under:

(a) As per the Stakeholders, the details on participation fees are not specified by the Petitioner, which is required to be specified at the time of registration of OTC platform. In response, the Petitioner has submitted that the fee structure will be commensurate with the nature of participants, services availed and frequency of services, etc., and the same will be suitably reflected in the Business Rules.

(b) With regard to comments of Stakeholders that the participants of the OTC platform shall have access to crucial information regarding the Indian Energy Market and therefore, the surveillance and cyber security need to be ensured so as to prevent unfair usage of the data available in the OTC platform, the Petitioner has submitted that it is aware of the regulatory requirements in the OTC Guidelines and shall comply with all applicable laws necessary in relation to cyber security and surveillance measures.

(c) With regard to comments of Stakeholders that OTC Platform has the potential to operate as a platform wherein trade can be facilitated offline based on the information provided on the OTC Platform and therefore, OTC Platform may undertake activities akin to trading, which are prohibited, the Petitioner has submitted that this comment is in line with the observations already shared on the draft OTC Guidelines which were appropriately, then dealt with by the Commission in the SOR to the OTC Guidelines. Therefore, the comment is not relevant at this stage. With regards to objection of Stakeholders that if NAME is expected to operate an OTC Platform, the domain of the OTC Platform ending with the term “. market” appears to be misleading as the term market implies that transactions take place on such a market, the Petitioner has

submitted that ‘. market’ is top-level domain like .com, .in, .org, etc. The choice of domain is driven by the ease and availability. Hence, no conclusions can be drawn about the business of the Petitioner merely by the top-level domain in which the domain is registered.

Analysis and Decision

17. We have considered the submissions of the Petitioners and the stakeholders. We first analyze the Petitioner’s compliance with the provisions of the PMR 2021 and the OTC Guidelines for grant of registration as an OTC Platform. The relevant regulations/provisions and the compliance thereof by the Petitioner have been discussed in the subsequent paragraphs.

18. Regulation 40 of the PMR, 2021 provides that OTC Platform shall operate after obtaining registration under the said regulations. Regulation 43 of the PMR, 2021 defines the Eligibility Criteria for registration of OTC Platform. Regulations 40 and 43 are reproduced as under:

“
40. OTC Platform shall operate after obtaining registration under these regulations.
.....
43. Eligibility Criteria for registration of OTC Platform
(1) The eligibility criteria for registration of OTC Platform shall be as follows:
(a) Any company incorporated under the Companies Act, 2013;

(b) The minimum Net worth of the applicant shall be Rs. 1 crore as on any date falling within 30 days immediately preceding the date of filing the application for grant of registration.

(2) A Power Exchange or Trading Licensee or any of their Associates or grid connected entities shall not be permitted to set up, operate, or have any shareholding in an OTC Platform.

.....”

19. The Petitioner has filed the present Petition seeking registration of its OTC platform in terms of Regulation 40 of the PMR, 2021. From the documents submitted by the Petitioner, it is noticed that the Petitioner company (NAME) has been incorporated under the Companies Act, 2013 with the net worth of Rs.1,97,54,663. Therefore, it fulfills the requirement specified in Regulation 43(1) for registration of OTC Platform. The shareholding pattern of the Petitioner company is in accordance with the Regulation 43(2) since any of the Power Exchanges or trading licensees or their Associates or grid connected entities are not holding any shares in the Petitioner's company.

20. Clause 6.1 (iii) of the Guidelines provides that *the applicant company shall have key managerial personnel with experience of at least five years in operating or developing technology services or products, preferably for power sector*. One of the stakeholders has commented upon the non-technology related experience of one of the Key Managerial Personnel (KMP). The Petitioner has submitted that the Guidelines do not require all the KMP to meet the criteria and the list of management personnel, independent directors and advisory committee submitted are beyond the requirement of stipulated Guidelines. We have noted the submissions of the stakeholder and the Petitioner and find that the Managing Director of the Petitioner being a KMP meets the requirement of experience stipulated in Clause 6.1 of the Guidelines. However, all KMPs cannot be expected to meet the said criteria, as KMP from compliance, secretarial and finance functions will have to be appointed on the basis of their experience in the relevant field and it would be improper to construe the Clause 6.1(iii) of the Guidelines in a such way that all such KMP should necessarily have experience in operating or developing technology services or products. In our

view, the Petitioner meets the requirement laid down in Clause 6.1 (iii) of the Guidelines.

21. Regulation 44(1) of the PMR, 2021 provides that an application for grant of registration to establish and operate OTC Platform shall be filed online on the website of the Commission, in accordance with the Guidelines. Clause 8 of the Guidelines provides procedure for filing Application for the registration of OTC Platform as under:

“

8. Procedure for Filing Application

8.1 Application for grant of registration to establish and operate OTC Platform shall be filed online (Form-I) through e-filing portal of the Commission along with the application fee as may be specified in the Payment of Fee Regulations.

8.2 The applicant shall publish the application along with details of the proposed OTC platform on its website as per Form-II inviting public objections and suggestions up to a period of 30 days from the date of publication of such notice on the website.

8.3 The applicant shall submit before the Commission, its reply on the objections and suggestions received.

.....”

22. The Petitioner has filed its application online in the (Form-I) through e-filing portal of the Commission along with the application fee as specified in the Payment of Fee Regulations. The Petitioner has published the application along with details of the proposed OTC platform on its website as per Form-II for inviting public objections and suggestions. The Petitioner has submitted its response on the Stakeholders' objections and suggestions received. Therefore, the Petitioner has complied with the requirements prescribed under Regulation 44(1) of the PMR 2021 and Clause 8 of the Guidelines.

23. The Clause 6.2 of the Guidelines provides technological criteria for the OTC Platform as under:

“

6.2 Technological criteria

(i) The applicant shall own and maintain robust technology infrastructure with a high degree of reliability, availability, scalability, and security in respect of its systems, data and network, appropriate to support its operations and manage the associated risks.

(ii) The applicant’s technological infrastructure shall be capable of exchange of information on a real-time basis or near real-time basis.

(iii) Applicant shall formulate and implement a cyber security and cyber resilience framework to manage risk to systems, networks and databases from cyber-attacks and threats with the approval of the Board and submit it to the Commission for information. Security audit of the IT systems shall be carried out as per norms of the Ministry of Electronics & Information Technology, Government of India.”

.....”

24. The Petitioner has mentioned that the obligations under Clause 6.2 of the Guidelines are continuing one and are not a one-time affair and that after having registration, it will be able to demonstrate/ implement/ respond to the technological criteria. The Petitioner has submitted that it is willing to demonstrate its technological capability as and when required. For protecting the interest of sector at large, we direct the Petitioner to formulate and implement a cyber-security and cyber resilience framework to manage risk to systems, network and databases from cyber-attacks and threats with the approval of the Board and submit to the Commission for information within two months from the date of issuance of this Order.

25. Clause 17.2 of the Guidelines provides as under:

“

17.2 The OTC Platform Operator shall:

(i) provide any data or information as required by Commission in the format and within the timeframe as may be required by the Commission;

.....

(iii) inform the Commission of any event(s) resulting in disruption of activities or market abuse, if observed, without undue delay.

.....”

26. As per the above provisions, OTC platform is required to provide any data or information as and when required by the Commission. The platform is further required to inform the Commission on any unusual event as prescribed in the Guidelines. It is noticed that the need for a regulatory sandbox/pilot; data reporting to the Commission has also been highlighted by the stakeholders including POSOCO. Accordingly, we direct the Petitioner to prepare a report detailing the framework for digitalizing the process of information sharing with the Market Monitoring Cell of the Commission by the market participants along with a pilot demonstration within six months, but not later than 31.3.2023. The Petitioner is directed to draft a detailed framework for collection of information and its dissemination, which shall include, but not limited to the following: (i) mechanism of collection of data; (ii) details of sources for data collection; (iii) various data heads/fields to be displayed on the OTC electronic platform; (iv) periodicity of data collection and dissemination on OTC electronic platform; (v) details of repository of data; vi) details of analytics to be conducted by the OTC Platform operator, and (vii) various reports to be published by the OTC Platform Operator. In addition, the data shall be made available to the Commission through API or suitable IT interface.

27. In the MoA, the Petitioner has mentioned the Objects to be pursued on its incorporation (as provided in the Paragraph 7 of this Order). Also, it has provided details of services to be offered on page-4 of its Application (as highlighted in the Paragraph 5 of this Order). We note that the Stakeholders have expressed their reservations on the Objects and objectives of the Petitioner's company. We have carefully considered the submissions of the Petitioner and Stakeholders on this matter, and we find that these Objects and objectives are not entirely in conformity with the

PMR 2021. Therefore, we direct the Petitioner to amend these objects and objectives as per the objectives and obligations of the OTC Platform in terms of Regulation 41 and Regulation 46 of the PMR 2021 reproduced below and submit the amended documents to the Commission within two months from the date of issue of this Order:

“

41. The objectives of the OTC Platform shall be:

(1) To provide an electronic platform with the information of potential buyers and sellers of electricity;

(2) To maintain a repository of data related to buyers and sellers and provide such historical data to Market Participants;

(3) To provide such services as advanced data analysis tools to Market Participants.

.....

.....

46. Obligations of the OTC Platform

1) The OTC Platform shall not engage in the negotiation, execution, clearance or settlement of the contracts.

2) The OTC Platform shall maintain neutrality without influencing the decision making of the Market Participants in any manner.”.....”

28. Clause 6.1(iv) of the Guidelines provides as under:

“6.1 General Criteria

.....

(iv) The following entities shall not be eligible to make application for establishing and operating an OTC Platform (Negative List):

(a) a power exchange or any of its associates;

(b) trading licensee or any of its associates; and

(c) grid connected entities such as generating companies, transmission licensees, distribution licensees, open access consumers or any person acting on their behalf, or any of their associates.”

.....”

29. As per the above provisions, power exchange or any of its associates, trading licensee or any of its associates and grid connected entities are not eligible to make an application for establishing and operating an OTC Platform. We note that the Petitioner company (NAME) is a wholly owned subsidiary of Prapanaya Technologies and Services Private Limited (PTSPL) which is a wholly owned subsidiary of Panaaya

Technologies Private Limited (PTPL). Presently, PTSPL is not listed in the negative list and its objects in the MoA are as per the PMR 2021 and the Guidelines. However, in the interest of market, we have also analysed the objects in the MoA of 'PTPL', the ultimate holding company of 'NAME'. The objects of PTPL are as under:

1. To carry on in India and elsewhere in the world the business to establish, operate, maintain, manage, provide a platform for the buyers, sellers, traders, other market participants engaged in trading of various types of energy, including but not limited to Carbon Credits, Clean Development Mechanisms (CDM), Carbon Emission Reduction (CER) and all other forms of Renewable Energy Certificates (RE Certs), power-based contracts including all other forms/types of energy and various energy based products.

2. To enable, facilitate, initiate, foster or engage in the business of Energy Trading and other allied services, including various energy based products as stated hereinabove within India amongst power users, producers and all other traders including import and export of Electrical Power, Supply and Trading of Electrical Power across all local and State Boundaries and various Union Territories within the geographical borders of the Country and also across National borders, wherein trading of such Electrical Power is permitted by law of both the Buyers and Sellers country of Origin and the infrastructure for carrying out such Electrical Power trading is existing and permitted.

3. To acquire, receive, buy, sell, transact, deal, broker, administer, implement, lease, sub-lease, franchise, build, prepare, manufacture, do value additions indulge into technology services for trading in the field of electricity including wind power, solar power, Thermal, Hydro, Coal and Lignite based generation among others.”

30. We find the objects of PTPL are in conflict from the spirit of the PMR 2021 and the OTC Guidelines in as much as 'trading' in electricity is included in the Object Clause of PTPL. If at any time PTPL obtains a trading licence from the Appropriate Commission, PTPL being the ultimate holding company of NAME may influence its decision-making process and compromise its character as a neutral platform. Accordingly, we direct the Petitioner to file an affidavit that as and when PTPL or any of its subsidiary company obtains a licence for trading in electricity from the

Appropriate Commission, it shall surrender the registration of NAME as an OTC platform proposed to be granted through this order.

31. Apart from the above, one of the stakeholders has submitted that there exists a potential strategic interest of one electricity trader, namely Refex Group, in the Petitioner company. However, this allegation has neither been substantiated with any documentary evidence, nor corroborated by the documents available with the Commission in respect of trading licensees. Therefore, the said unsubstantiated allegation is not relevant for deciding the eligibility of the Petitioner for grant of registration for OTC platform.

32. Regulation 44(2) of the PMR 2021 provides as under:

“

44. Procedure for filing Application and Grant of Registration

(1)

(2) The Commission may, after consideration of the proposal, and making such inquiries as may be necessary, either grant registration or reject the application of the applicant.

(3) The registration of an OTC Platform, shall continue to be in force for a period of five (5) years from the date of grant of registration unless such registration is revoked or cancelled earlier.

(4) The Commission may, on an application filed by the OTC Platform, and after making such inquiries as may be necessary, renew registration for a further period of 5 years.

(5) Any company granted registration to operate an OTC Platform by the Commission in accordance with these regulations shall pay an annual registration charge in accordance with the timeline and the manner specified in the Payment of Fees Regulations.”

.....”

As per the above provision, the Commission may, after consideration of the proposal, and making such inquiries as may be necessary, either grant registration or reject the application of the Applicant. Regulation 44(3) stipulates that registration granted shall be continue to be in force for a period of five (5) years. Regulation 44(3) stipulates the extendibility of the registration of the OTC platform.

33. Clause 9 of the Guidelines also provides for grant of Registration, its validity and extendibility as under:

“9. Grant of Registration

9.1 The Commission may, after consideration of the proposal, and making such inquiries as may be considered necessary, either grant registration (as per Form-III) subject to such conditions as deemed fit for establishing and operating an OTC platform or reject the application of the applicant: Provided that the Commission, before rejecting the application, shall give reasonable opportunity to the applicant of being heard.

9.2 In terms of clause (3) of Regulation 44 of PMR 2021, the registration of an OTC Platform shall continue to be in force for a period of five (5) years from the date of grant of registration unless such registration is revoked or cancelled earlier.

9.3 The registration granted to an entity to operate an OTC Platform is not transferrable.

9.4 The Commission may, on an application filed by the OTC Platform Operator, and after making such inquiries as may be necessary, renew registration for a further period of 5 years at a time.”

.....”

34. On examination of the instant case in light of the above quoted provisions, we find that the Petitioner fulfills the eligibility criteria for registration of OTC Platform. Therefore, in terms of Regulation 44(2) of the PMR 2021, the Commission, after considering the Application of the Petitioner, comments of the Stakeholders including POSOCO and the Petitioner’s responses thereon, hereby grants registration to the Petitioner Company to establish and operate an OTC platform subject to compliance with the various directions issued through this Order. In accordance with the Regulation 44(3) of PMR 2021, the registration of the OTC platform shall continue to be in force for a period of five (5) years from the date of commencement of operation unless such registration is revoked or cancelled by the Commission earlier. It is further directed that the Petitioner company shall make timely payment of the registration fee in accordance with the Central Electricity Regulatory Commission (Payment of Fees)

Regulations, 2012 as amended from time to time. Failure to make timely payment of registration fees shall render the registration granted to the Applicant liable for cancellation.

35. Further, we direct the Petitioner to file the following on affidavit, so as to comply with the directions of the Commission made in this Order, within a period of two months from the date of issuance of this Order:

- a) Cyber-security and cyber resilience framework as approved by the Board (refer Para-24 of this Order)
- b) Amended MoA of NAME with objects and objectives confirming with PMR 2021 (refer Para-27 of this Order)
- c) Undertaking that NAME shall surrender its registration as and when PTPL or any of its subsidiary obtains a trading licence (refer Para-30 of this Order)
- d) Business Rules of NAME in line with PMR 2021 and the OTC Guidelines.
- e) Any other documents which the Petitioner may deem necessary to submit in compliance with the directions given in the Order and in accordance with PMR 2021.

36. The Commission is of the view that once the proposed OTC Platform is operational, the status of NAME will be changed from 'Applicant' to the 'OTC Platform'. As an OTC Platform, the NAME is required to comply with the provisions of the PMR 2021 and the OTC Guidelines and all other applicable regulations of the Commission in letter and spirit with no involvement in power trading in any respect. The registration granted to operate an OTC Platform shall be non-transferable. The OTC Platform shall strictly abide by the objectives and obligations defined under the Regulations and OTC Guidelines and any deviation or non-compliance of the same shall lead to revocation

or suspension of registration, without prejudice to any other action as the Commission deems fit in accordance with the provisions of the Electricity Act 2003, PMR 2021 and OTC Guidelines and any other applicable regulations of the Commission.

37. Needless to mention, if any discrepancy is noticed or if it appears that the Petitioner does not conform to the Regulations and/or to this Order in any respect, necessary directions may be issued for such compliance. We also direct the Petitioner and POSOCO to submit their reports within three months from the date of commencement of OTC Platform, after seeking feedback from the Stakeholders on the experience and performance of the said platform.

38. Petition No. 157/MP/2022 is disposed of in terms of the above.

हस्ता./-
पी. के. सिंह
(सदस्य)

हस्ता./-
अरुण गोयल
(सदस्य)

हस्ता./-
आई. एस. झा
(सदस्य)