

To, Chairman

Date: 29th Sept 2023

Central Electricity Regulatory Commission

3rd and 4th Floor, Janpath

New Delhi - 110001

Subject: Comments on the Staff Paper on **Market Coupling** published in August 2023.

Respected Sir,

After reading the paper and further studying European Exchanges as referred in the paper, I Jayant Narhar Deo, Advisor, Founding MD & CEO of Indian Energy Exchange (2005-2013), also founding Member of MERC (1999-2004) have the following comments/suggestions to make:

Comparison: EU v/s India: The coupling in European Exchanges was done for a different objective as compared to India. As per my understanding, European exchanges are wholesale exchanges wherein the member country use to (bidding area) find their own wholesale price. Coupling helps them integrate different geographies leading to one price for entire EU region. Also, the number of participants across these exchanges is a few hundred – 360 on Nordpool and 300 on EPEX. The surplus or deficit in each country is shared, for which price coupling has been done. This is done to also optimize transmission corridors between European Union member countries. The discussion paper has used the *market coupling* concept of EU exchanges for cross border trade to couple all bids of the existing three exchanges operating in a single market, here in India. The paper also highlights benefits of merging of some exchanges in the same bid area as in the case of Europe, but it does not hold true for India, as in India the Exchanges are already operating nationally. Earlier, the Power Market Regulations (PMR) had rightly provided for merging the exchanges if 20% volume is not achieved in a certain period by the third exchange. Thus, this paper is *'barking up the wrong tree'* with unintended derailment of the development of market.

As I understand, the EU market is undergoing a long-term re-design to avoid future price volatility and bolster investment in new generation capacity. **My submission is that the outcome of this exercise will be worth waiting for, before considering the EU example.**

Lack of liquidity: The discussion paper further talks of the lack of liquidity at two exchanges and hence advocates for market coupling. To develop and improve liquidity in the Indian power market it is essential to implement specific provisions of the Electricity Act 2003. For example: the provision of not determining tariff for an entire category of Open Access in S.86 (1) a proviso, is not yet implemented. This is despite MOP letter No.23/1/2008-R & R (Vol-IV) dated 30th November 2011. A copy of letter is attached for your quick reference. The implementation of the said provision [*Open Access in S.86 (1)*] will maximise economic surplus for 99% of all consumers in India, which will enhance liquidity as well on Exchanges' volumes. Further, in India, the Electricity Act 2003 provides for the development of the "Bulk Market". Today, even a 100 KVA consumer having Green Open Access can participate in a power exchange. One Megawatt and above consumers have already been on the exchange since its inception 15 years ago. Consequently, the number of participants has run to several thousands. The exchanges have to potentially cater to one lakh consumers. Hence there is liquidity in the market.

The proposal of market coupling, for ensuring optimal use of transmission infrastructure is akin to the "*Tail Wagging the Dog*" as only 7% of total generation is handled by Exchanges. The proposal of MBED, which covers 90% of the energy may help optimize use of transmission infrastructure better.

Comparison between the 3 Exchanges: The three exchanges in India do not have a common bidding format. PXIL and HPX currently do not cater to all the requirements of buyers and sellers. This has resulted in participants preferring IEX for DAM & RTM, since power exchanges were introduced in the country. Even within the Day Ahead Market, IEX has made innovations and introduced new bid types.

Comparative Analysis of DAM Bidding for Various Exchanges			
Product	IEX	PXIL	HPX
Linked Block Bids	Yes	No	No
Profile block bids	Yes	No	Yes
Minimum quantity block bids	Yes	No	Yes
<i>Note: IEX allows 100 pairs of price-quantity pairs for every 15 minutes time block, which allows participants to decide purchase or sell based on market clearing price.</i>			

Trust, transparency, and technology are the three factors which decide the preference for any exchange participant. Periodic independent audits can demonstrate which Exchange(s) is/are lacking in which factor.

Since inception IEX has traded total volume of around 600 BU in collective transactions against less than 8 by PXIL which started three months after IEX. Further comparative analysis of annual volumes since inception also shows how participants prefer IEX for DAM and RTM trading over other exchanges.

IEX, PXIL, HPX - DAM & RTM Data (BUs)												
	Electricity Transacted Through IEX				Electricity Transacted Through PXIL				Electricity Transacted Through HPX			
	DAM	G-DAM	RTM	HPDAM	DAM	G-DAM	RTM	HPDAM	DAM	G-DAM	RTM	HPDAM
2008-09	2.62				0.15							
2009-10	6.17				0.92							
2010-11	11.8				1.74							
2011-12	13.79				1.03							
2012-13	22.35				0.68							
2013-14	28.92				1.11							
2014-15	28.12				0.34							
2015-16	33.96				0.14							
2016-17	39.78				0.25							
2017-18	44.84				0.73							
2018-19	50.06				0.09							
2019-20	49.11				0.05							
2020-21	60.38		9.47		0.24		0.002					
2021-22	65.14	0.92	19.91		0.04	0	0					
2022-23	51.18	3.82	24.27		0.19	0	0.01		0	0	0	
2023-24	12.53	0.52	7.25	0	0	0	0	0	0	0	0	0
Total	520.75	5.26	60.9	0	7.7	0	0.012	0	0	0	0	0

In Conclusion, market coupling will not lead to any benefits for the sector. The Regulators must solve larger issues related to energy transition and look at a redesign of the markets before instead of Market Coupling.

Sincerely

[Jayant Narhar Deo]

Advisor, Founding MD & CEO IEX (2005-2013)

Founding Member, MERC (1999-2004)

No. 23/1/2008-R&R (Vol-IV)
Government of India
Ministry of Power

Shram Shakti Bhawan, Rafi Marg,
New Delhi, 30th November, 2011

To

1. Chairperson, Central Electricity Authority, New Delhi.
2. Principal Secretary/Secretary(Energy) of State Governments/UTs.
3. Registrar, Appellate Tribunal for Electricity, New Delhi.
4. Secretary, Central Electricity Regulatory Commission, New Delhi.
5. Secretary, State Electricity Regulatory Commissions/JERCs.
6. Chairmen, State Power Utilities/SEBs.
7. Chairmen, CPSUs under Ministry of Power.
8. Adviser to Dy. Chairman, Planning Commission, New Delhi.
9. CEO, POSOCO, New Delhi.
10. DG, BEE, New Delhi.

Subject: **Opinion from M/o Law & Justice on the Operationalization of Open Access in Power Sector.**

Sir,

The concept of open access in the electricity sector was introduced in the Electricity Act, 2003 with a view to promoting competition and providing the consumers a choice and was clearly perceived as a critical feature of power market development and competition.

2. An issue arose regarding the interpretation of several clauses pertaining to Open Access, such as section 42, 45, 49, 62 & 86 of the Electricity Act, 2003. The question was whether as per the provisions of the Electricity Act, bulk consumers (above 1 MW) shall be deemed to be open access consumers w.e.f. January 2009 in terms of the proviso of section 42(2) or whether the Act provides that Open Access shall be given to consumers who exercise a choice. It is quite clear that once a consumer becomes an Open Access consumer, the State Commission shall no longer fix the energy charges to be paid by him but will continue to fix the wheeling charges and surcharges in accordance with the provisions of the Act. Due to ambiguity in the interpretation of these provisions the matter was referred to the Ministry of Law & Justice by the Ministry of Power.

3. Ministry of Law & Justice in consultation with Ld. Attorney General of India on 13.4.2011 opined *that Section 42(ii) read with the first and fifth proviso is a self-contained code with regard to consumers who required the supply of electricity of 1MW and above and accordingly the State Electricity Regulatory Commissions cannot continue to regulate the tariff for supply of electricity to any consumer of 1 MW and above.*

4. Further, on the issue of Universal Service Obligation (USO) of distribution licensee as per the provisions of Section 43(1) of the Act and on the issue of serving of notice under

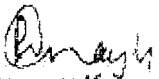
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section 42(3) of the Act the M/o Law & Justice in consultation with the Ld. Attorney General of India vide note dated 4.11.2011 has clarified that **"The provisions of section 42 need to be analyzed in relation to the duties of the distribution licensees and open access. While sub-section (2) requires the State Commission to introduce open access within one year of the appointed date the fifth proviso makes it mandatory for the State Commission to provide open access to all consumers who require supply of electricity where the maximum power to be made available at any time exceeds 1MW. The fifth proviso was introduced by Act 57 of 2003 with effect from 27th January, 2004. The first issue is if open access is made obligatory whether the distribution licensees will continue to have the responsibility of universal service obligations with regard to consumers whose requirements are in excess of 1MW. An analysis of the various provisions (particularly section 49 of the Act) shows that if certain consumers want to have the benefit of the option to buy power from competing sources, then it is logical that DISCOMS do not have an obligation to compulsorily supply power to such consumers. If such consumers want power from the DISCOM then the terms and conditions of the supply would be determined in terms of section 49 of DISCOM also, Such an interpretation is logical and is in conformity with the Statement of Objects and Reasons of the Electricity Act, which encourages open access. Para 3 of the Statement of Objects and Reasons states that the Act recognizes the need to provide newer concepts like power trading and open access"**.

5. Ministry of Law & Justice has further opined that **"There is no conflict between the aforesaid conclusion and the provisions of section 42(3) of the Act which provides that a person requiring supply of electricity has to give notice in respect thereof. If the consumer intends to use the network of the DISCOMS, he has to give notice and upon such notice to DISCOM (It) is duty bound to provide non-discriminatory open access to its network. Section 42(3) cannot be construed to mean that giving of a notice is a pre-condition for the implementation of open access."** It would thus mean that the requirement of notice is only to communicate the open access consumer's intention of using the DISCOM's network as per the relevant regulations and not to seek its permission for the same.

6. In view of the above stated opinion of M/o Law & Justice in consultation with Ld. Attorney General of India, all concerned may note that all 1 MW and above consumers are deemed to be open access consumers and that the regulator has no jurisdiction over fixing the energy charges for them. It is requested that necessary steps for immediately implementing the provisions relating to open access in the Electricity Act, 2003 may be taken in the light of the above opinion.

Yours faithfully,


(Pranay Kumar)
20. Director
Tel: 2371 5250