

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram

**Dr. Pramod Deo, Chairperson
Shri S. Jayaraman, Member
Shri V.S. Verma, Member
Shri M. Deena Dayalan, Member**

Petition No. 123/2011 (Suo motu)

Date of Order: 1.8.2012

IN THE MATTER OF

Compliance with the provisions of Central Electricity Regulatory Commission (Power Market) Regulations, 2010.

**AND
IN THE MATTER OF**

Indian Energy Exchange Ltd.
Power Exchange India Limited

Respondents

ORDER

The Commission in its order dated 21.12.2011 directed the Power Exchanges as under:

" we direct the Indian Energy Exchange to put in place a proper mechanism on the manner of collection, settlement and monitoring of members service charge charged by the professional member to their clients. These should be reported by the professional members through standard formats at regular intervals to the exchange. The new mechanism should be incorporated in the Rules and Bye laws and submitted for approval of the Commission. We further direct the other power exchanges to incorporate similar provisions in their Rules and Byelaws if such provisions do not already exist.

...we direct operating Power Exchanges to conduct inspection of the accounts of all their professional members through independent agencies to establish compliance of Regulation 27 of Power Market Regulations in the manner as explained in Para 14 above. The inspection should cover the period from the date of notification of the Power Market Regulations till the issue of this order. We further direct that all prospective transactions made through the Professional Members on the Power Exchange shall be in strict compliance with the manner of computation and charging of member service charge as explained in para 14 of this order. The Power Exchanges shall ensure that all past transactions from the date of notification of the Power Market Regulations are settled in the manner explained in para 14 immediately but not later than three months from the date of issue of this order. Compliance Report shall be filed by the Power Exchanges under affidavit."

2. In compliance with the above directions, Indian Energy Exchange (IEX) in its affidavit dated 26.3.2012 has submitted the details of the mechanism for collection, settlement and monitoring of member service charge charged by professional members to their clients and the requisite formats to be submitted by professional members at regular intervals. The said changes have been incorporated in the Rules, Bye-laws and Business Rules of the IEX.

3. As per report submitted by IEX, the exchange has 11 professional members. The Chartered Accountant firms, M/s Sankar Aiyar & Co. and M/s S.K.Jeena & Associates carried out the inspection of transaction data and any liability of the professional members to refund the excess membership charges to their clients. As per the information furnished in Exhibit IV of the affidavit dated 28.3.2012, 6 professional members namely, M/s Manikaran Power Ltd., M/s Cauvery Power Trading Chennai Ltd., M/s Parshavnath Power Projects Pvt.

Ltd., M/s Saini Power Transactor, M/s Alankit Imaginations Ltd. and M/s Global Commodities India Pvt. Ltd. have refunded the excess member service charges to their clients and obtained no dues certificates from their clients. Four professional members namely, M/s Tencho Power Projects Ltd., M/s Customized Energy Solutions India Pvt. Ltd. and M/s Enercon (India) Power Development Pvt. Ltd., M/s RE Connect Energy Trading have not charged more than 0.75% of the transaction value as member service charge and therefore, no refund is required to be made by them. As regards M/s Arunachal Pradesh Power Corporation Pvt. Limited (APPCL), the auditor has certified that APPCL has not charged more than the ceiling of 0.75% Member Service Charge from its clients except Government of Arunachal Pradesh. However, the auditor has not commented on the transactions between APPCL and Government of Arunachal Pradesh on the ground that the matter is being looked into by the Commission directly. Though the Commission was looking into the transactions between APPCL and Government of Arunachal Pradesh in Petition No. 203/2009, it did not prevent the Chartered Accountant to go into the transactions between Government of Arunachal Pradesh and APPCL M/s V. Sankar Aiyar & Co. in its report has submitted that "as the matter is pending before the CERC, we thought fit not to proceed with our working in this case." It is clarified that the Commission while directing the audit of the professional members has not made any exemption in case of APPCL and therefore, the reasons advanced by the Chartered Accountant is not acceptable. We direct

IEX to get the accounts of APPCL in respect of its transaction with Government of Arunachal Pradesh audited and submit a report for consideration of the Commission by 15.10.2012.

4. PXIL in its report has submitted auditor's certificates in respect of professional members such as M/s RV Land Developers, M/s Vibrant Market Themes Pvt. Ltd., M/s Gensol Consultants Pvt. Ltd., M/s STAN Professionals Pvt. Ltd. and M/s Parshavnath Power Projects Pvt. Ltd. in which the respective Chartered Accountants have certified that the members have not charged member service charge over 0.75% of the transaction value. It is noted that PXIL has not submitted the inspection reports by an Independent auditor but the inspection reports of the Chartered Accountants engaged by the professional members. PXIL has not strictly complied with our order dated 21.12.2011 by not getting the inspection done by Independent Auditor. PXIL is therefore, directed to get the audit done by an independent auditor. PXIL is further directed to formulate a detailed reporting format to capture such information like client name, date, time block of trade, transaction value, professional member's service charge which is submitted by the Professional Member to the Power Exchange at regular intervals. This should be made as a part of the revised Bye Laws.

5. Both IEX and PXIL have submitted the draft amendments to their Business Rules and Bye-laws for incorporating necessary safeguards for ensuring compliance with Regulation 27 of the Power Market Regulations. The proposed amendments have been found to be in order. However, the following corrections are required to be carried out by PXIL in its Bye-laws and accordingly, PXIL is directed to submit the revised documents on affidavit, by 15.10.2012:

(a) In clause 5.15.2, the words "Applicable Law" to be replaced by the words "CERC (Power Market) Regulations, 2010".

(b) In the newly inserted clause 5.15.4, the words "in order dated 21.12.2011 in Petition No. 123/2011 (Suo motu)" to be added.

(c) Professional Member reporting format as directed in Para 4.

sd/-

(M. DEENA DAYALAN)
MEMBER

sd/-

(V.S.VERMA)
MEMBER

sd/-

(S.JAYARAMAN)
MEMBER

sd/-

(DR.PRAMOD DEO)
CHAIRPERSON