

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

**Dr. Pramod Deo, Chairperson
Shri V.S.Verma, Member
Shri M.Deena Dayalan, Member
Shri A.S.Bakshi, Member (EO)**

Date of Hearing: 23.05.2013

Date of Order: 07.06.2013

Petition No. 234/2010

In the matter of:

Petition under Section 66 of the Electricity Act, 2003 read with Regulations 4 (3) and 7 of the Central Electricity Regulatory Commission (Power Market) Regulations, 2010 for approval of monthly contracts in electricity.

And

In the matter of

Indian Energy Exchange

....**Petitioner**

Petition No. 55/MP/2013

In the matter of

Petition for seeking permission to introduce longer tenure/term ahead contracts in Power Exchange of India Limited

And

In the matter of

Power Exchange of India Limited

....**Petitioner**

Following were present:

Shri Vikram Singh, IEX
Shri Naveeraj Sharma, PXIL
Shri Anil Kale, PXIL

ORDER

Indian Energy Exchange and Power Exchange of India Limited have filed these petitions seeking approval of the Commission to introduce trading in monthly



delivery based contracts and long tenure/term ahead delivery based contracts in electricity, respectively .

2. Regulation 6 of the Central Electricity Regulatory Commission (Power Market) Regulations, 2010 (Power Market Regulations) notified on 20.1.2010 provides as under:

"The Commission may, on an application made in this behalf, permit any exchange to introduce such contracts as specified in part 2 of these regulations for transacting on the exchange."

3. The petitioners have submitted that there is a genuine need for introducing delivery based monthly contracts for longer period contracts other than the already approved weekly contracts to meet the requirements of the market participants.

4. The provisions in the Power market Regulations and the orders of the Commission dated 24.4.2009 and 11.1.2010 in Petition No. 159/2008 and Review Petition No. 115/2009, respectively regarding jurisdiction of the Commission over longer tenure delivery based contract and derivatives were challenged by Forward Market Commission and Multi Commodity Exchange in Writ Petition Nos. 1197 of 2010 and 1604 of 2009 in High Court of Judicature at Bombay.

5. Hon`ble High Court of Judicature at Bombay vide its judgment dated 7.2.2011 in Writ Petition Nos. 1197 of 2010 and 1604 of 2009 set aside the said orders dated 18.4.2009 and 11.1.2011 and declared the provisions of Power Market Regulations with respect to electricity derivatives, forward and futures contracts as inoperative. The Commission has challenged the said judgment dated 7.2.2011

vide Civil Appeal No. 5295/2011 before Hon`ble Supreme Court. Forward Market Commission and PXIL have also challenged the said judgment before Hon`ble Supreme Court. The matter is presently pending consideration of the Hon`ble Supreme Court.

6. The prayers of the petitioners in the present petitions cannot be entertained at this stage in view of the judgment of the Hon`ble High Court of Judicature at Bombay declaring inoperative the provisions of the Power Market Regulations regarding forward and future contracts. Under the Circumstances, we feel that it would not serve any purpose to keep these petitions pending till the disposal of the appeals before Hon`ble Supreme Court. Accordingly, we dispose of these petitions without any directions with liberty to the petitioner to approach the Commission for the required relief after disposal of the appeals by the Hon`ble Supreme Court, in accordance with law. The petitioner may seek adjustment of the filing fees paid in these petitions at that point of time.

7. The petitions are disposed of with the above.

Sd/-
(A.S.Bakshi)
Member

sd/-
(M. Deena Dayalan)
Member

sd/-
(V.S.Verma)
Member

sd/-
(Dr. Pramod Deo)
Chairperson