FICCI's Representation on

"Draft Central Electricity Regulatory Commission (Power Market) Regulations, 2020"

Submitted to:

Central Electricity Regulatory Commission

Submitted to CERC on 20th August 2020

`

Recommendations on 'Draft Central Electricity Regulatory Commission (Power Market) Regulations, 2020'

A) Central Electricity Regulatory Commission published a Consultation Paper on 'Draft Central Electricity Regulatory Commission (Power Market) Regulations, 2020' vide notification no. L-1/257/2020/CERC, dated 18th July 2020.

B) A meeting to discuss the proposed regulations was held on 05th August 2020 under the aegis of FICCI Power Committee. The significant points that emerged from the discussion are summarized for the consideration of CERC:

SI.No.	Suggestions in Power Market Regulations (2020)	Comments (supporting the proposed amendment)
1.	Introduction of contracts of more than 11 days on the Power Exchanges	The proposed step is a welcome move. With longer tenure contracts of more than 11 days duration on the Power Exchanges, a lot of structured and transparentcontracts will now be able to be executed.
2.	Technology driven price dissemination for the buyers and sellers of electricity in the OTC Market	This is a welcome move and a positive step towards better dissemination of information. OTC market itself is for traders and they constitute a substantial chunk in the overall trade. The proposed restriction that the trader or exchanges should not have any shareholding in OTC platforms is good proposal to avoid conflict of interest. This may be removed after sufficient independent OTC platforms are set up.
3.	Enabling provisions of Market Coupling to allow efficient utilization of transmission resources and leading to maximization of economic surplus in a multi-exchange model	It is a path breaking reform. This will also help the exchanges to concentrate on improving service qualities and offering better services than the current situation where both buyer and seller has to come to a single exchange as price engine was the most coveted tool and the choice was limited. This is also a step towards Market Based Economic Dispatch (MBED), once implemented will shift the complete trade towards exchange and the growth will be exponential. Commission has put that foresight into motion and has introduced MC which will also enable exchanges to now concentrate more on service delivery.

`

		But at the same time, Commission should also clearly identify and consult public stakeholders before introducing such provisions on who are they intending to appoint as Market coupling operator and how that market coupling operations functioning will be regulated? The capability requirement of such operator should also be provided to public in advance. This pathbreaking reform, Commission from 2010 till 2020 has avoided introducing for various reasons. Now with the introduction, commission needs to bring in further clarity in their SOR as to what has triggered to introduce and how this will facilitate better price discovery and how this will shape the future market. This will help stakeholders to understand Commission's intension behind this market reform and also help gain acceptance. As it can have significant consequences for market, prior stakeholder consultation is a must before introducing such provisions **Several aspects to be discussed before introducing the provision viz.** • Why do we need Market Coupling? What are the benefits expected? Why there is a need of adding another organization/layer in the market mechanism? • Who will be Market Coupling Operator? Will it be a Private body or a PSU to be decided on a nomination basis? • What are the cost implications? How these costs are going to be recovered? What would be the role of Power Exchanges after Market Coupling is implemented? • Would such a move affect the existing market model adversely and would be a retrogressive step? • If at all market coupling is introduced, what is the best way to utilise already existing capabilities and infrastructure in the exchanges so that transaction costs are optimised
4.	The Net worth requirement has been increased to Rs. 50 crore in line with the increase in volume transacted on Power Exchanges over the last 10 years	- Net worth criteria maybe graded depending on volumes traded. Also, if the Hon'ble Commission implements its proposal of requiring a separate Clearing Corporation, then the minimum networthrequirements may bereduced appropriately.

5.	Ownership and Governance Structure of Power Exchange	It is suggested to keep as per the Companies act and since they are still governed under the act and it too has lots of mechanism to build a robust corporate governance structure. PMR 2010 had the provision of 1/3rd of directors be independent or 2 whichever is higher. Commission may restore the same provision as Companies act 2003 also states a similar provision and will ensure standardization. PMR 2010 had the provision of getting prior approval of Independent directors. Now after 10 years, this provision still continues. Request commission to relax such rules and provide the independence to the respective Board to appoint Independent Directors. (Ease of doing business)
6.	Representation of members on the Board of Power Exchange	We welcome as there can be certain influence by the members at the Board, but the members or clients of the exchange also provide deep insights of the market as well as help in different product development and therefore Commission in PMR 2010 had taken cognizance of their contribution and inducted into the board but had kept certain cap to the number of directors to be included. So in order to bring in the balance, a separate committee under the leadership of MD without any Board participation can be formed with trading members who are shareholders to provide deep insights of their experience for Product development as well as for expanding the breadth and depth of Exchange by way on introduction of newer products and deepening the existing products. In case of a new exchange, trading members, who are original shareholders may be allowed to initially have shareholding up to 25% in the power exchange with a board seat and provide them a longer timeline to bring down their shareholding to 5% thereby allowing the member sufficient time to develop the new power exchange.

7.	Power Exchange Congestion Management and Merger or closure of Power exchange	The market has evolved over the years and since there is clear trend of expansion of volume in Power exchanges, and Commission is introducing Market Coupling and as stated it will bring in uniform price as well as remove skewedness in transmission corridor availability, it's a good move to remove such clauses.
8.	Transaction fee charged by Power Exchanges will be regulated by the Commission	CERC has to balance between its objectives of Power market development, protecting the interests of the consumers but at the same time improve the business opportunities in the Power exchange domain and provide regulatory certainty to the shareholders of power exchange. The Cap proposed is welcome move though in a free market, the market forces will determine the fees structure, CERC may provide sufficient margin for the business to thrive and at the same time maintain the interests of the consumers. In a free market, competition should decide on the fee structure and with many players expected to provide multiple services based on IT platform, Commission may leave it to market forces. As such they are only providing advisory services and there is no great pricing power for such advisory roles, Commission may consider deleting such capping.
9.	Scheduling and delivery: (i) The scheduling and delivery of transactions for Intraday Contracts and Contingency Contracts shall be in coordination with the system operator and in accordance with relevant provisions of the Grid Code and the Open Access Regulations and the Procedure issued thereunder	• Considering the improvements in IT infrastructure, adoption of automation/ integration among power exchanges and NLDC/ RLDC`s and experience of RTM market, we suggest that the Intra-day Contracts / Contingency Contracts should also be facilitated for automatic scheduling (like DAM/ RTM). • Accordingly, there shall not be any requirement for separate application process by power exchanges if the quantum is within the standing NOC granted for the day/term. In other words, Standing NOC shall be quantum based and not contract based.

10.	Clause 5 (3) (iv) - No Circular Trading shall be allowed and the rights and liabilities of the parties to the Term Ahead Contract shall not be transferred or rolled over by any other means whatsoever.	To meet the supply obligations, flexibility to be allowed, in case of forced shut downs,for supply of electricity from another unit with untied capacity.
11.	Part 4 Clause 19: Flexibility given to Power Exchange No amendment to the bye-laws, rules and business rules shall be carried out without prior approval of the Commission: Provided that the Commission may, through a separate order, dispense with the requirement of prior approval for amendment of certain provisions of the bye-laws, rules and business rules; Provided further that such amendments shall be required to beapproved by the Board of Directors of the Power Exchange Clause 25: Provided further that the Power Exchanges may introduce new bid types or modify existing bid types conforming to the types and features of the contracts specified under Regulations 4, 5 and 6 of these regulations, after consultation with stakeholders and National Load Despatch Centre, under intimation to the Commission	The Hon'ble Commission may consider introducing some review so that the flexibility introduced should not adversely affect other constituents of the power sector.

12.	**Clause 27 - Clearing and Settlement** The Power Exchange shall enter into an agreement in writing for Clearing and Settlement of any transaction of electricity undertaken on the Power Exchange with an entity established in accordance with the provisions of the Payment and Settlement Systems Act, 2007	Power Exchanges individually are required to appoint an entity which will undertake Clearing and Settlement Operations. In the case of Market Coupling Operator, it is to be examined whether another entity will be assigned such task and in such an event, whether the entities appointed by Power Exchanges will have a dormant role except in situations of market splitting when the individual Exchanges will be clearing the volumes separately.
13.	Clause 27 -Clearing and Settlement (iii) The Power Exchange shall distribute at least 70% of the return earned on the initial security deposit invested in the financial year to the members of Power Exchange in proportion to initial security deposit of the member and duration for which such deposit was held with the Power Exchange, within 45 days of the last date of the financial year.	As the members on exchange contribute to SGF so any return earned on SGF deposit should be distributed amongst the members of the Power exchange in proportion to their initial security deposit. The 100% return realized from SGF should be distributed among the members of the exchanges as the same is funded by the members.
14.	**Part-7 Market Oversight**	To ensure neutrality, enable the deployment of specific skill sets necessary for monitoring markets and competition, including aspects of market dominance and abuse, and generate analytical reports, it may be examined if such task should be entrusted to an independent entity which will function at arm's length from CERC but provide the required inputs as will be necessary. CERC would then be in a position to review the adequacy of rules and regulations as well as codes and industry agreements for ensuring competitive outcomes. Broadly, such market oversight should be independent of sector bias as well as market participants. International practices generally propose setting up of an Independent Market Monitor reporting to Energy Regulatory Commission with dotted line relationships to Ministry of Energy and Market Operator.