



**TELANGANA STATE ELECTRICITY REGULATORY COMMISSION HYDERABAD.
5th Floor, Singareni Bhavan Lakdikapul Hyderabad 500004**

O. P. (SR) No. 5 of 2016
&
I.A.No.6 of 2016

Dated 06.12.2018

Present

Sri. Ismail Ali Khan, Chairman

Between

M/s. REI Power Bazar (Pvt.) Ltd
Unit No.1, 3rd Floor, Mahalaxmi Ind.,
Gandhi Nagar, Lower Parel, Mumbai – 400 013

... Petitioner /
Applicant in I.A.No.29 of 2017.

AND

Indian Energy Exchange Limited,
4th Floor, TDI Centre, Plot No.7,
Jasola District Centre, New Delhi – 110 025.

Vs

1. Transmission Corporation of Telangana Limited (TSTRANSCO)
Vidyut Soudha, Khairatabad, Hyderabad – 500 082.
2. Northern Power Distribution Company of Telangana Limited,
H. No. 2-5-31-2, Corporate Office, Vidyut Bhavan,
Nakkalagutta, Hanamkonda, Warangal-506001.
3. Southern Power Distribution Company of Telangana Limited,
Corporate Office: 6-1-50, Mint Compound,
Hyderabad – 500063.
4. Telangana State Power Generation Corporation Limited (TSGENCO)
Vidyut Soudha, Khairatabad, Hyderabad – 500 082. ...Respondents
(added as respondents by the Commission)

This petition came up for hearing on 04.07.2016, 25.07.2016, 09.08.2016,
14.06.2017, 13.11.2017, 30.04.2018 and 17.11.2018. Sri. Anirban Mondal,

representative of the petitioner, Sri Naga Aditya for implead petitioner and Smt. Priya Iyengar, Advocate representing Sri. Y.Rama Rao, for the respondent appeared on 04.07.2016. Sri. P. Vikram, Advocate for the petitioner, representatives of the respondents, Sri. Gaurav Maheswari representing the petitioner present on 25.07.2016. Sri. P. Vikram, Counsel for the petitioner, Sri. E. Naga Aditya, for the implead petitioner, Sri. Y. Rama Rao, for the respondent along with Smt. Priya Iyengar Advocate appeared on 09.08.2016. Sri P.Vikram, Counsel for the petitioner, Sri Y. Rama Rao, Advocate for the respondents along with Sri B. Vijaya Bhaskar, Advocate and Sri. Gaurav Maheswari and Sri. Aditya Eranki appeared for petitioner on 14.06.2017. Sri. M. Abhinay, Advocate for Sri. P. Vikram, Advocate for petitioner, Sri. E.N.Aditya, appeared for the implead petitioner, Sri. Y. Rama Rao, Standing counsel for the respondents along with Sri. Sai Vihari and Ms. Pravallika, Advocates appeared on 13.11.2017. Sri. M. Abinay, Advocate representing Sri P.Vikram, Advocate, Sri E.N.Aditya for the implead petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondents along with Ms. Pravallika, Advocate appeared on 30.04.2018 and Sri. M. Abinay, Advocate for Sri P.Vikram, Advocate for the petitioner Sri. E. N. Aditya for the implead petitioner, Sri. Y. Rama Rao, Standing Counsel for the respondents along with Ms. M. Pravallika, Advocate appeared on 17.11.2018. The petition having stood over for consideration to this day, the Commission passed the following:

INTERIM ORDER

Originally, the petition is filed by M/s. REI Power Bazar (Pvt.) Ltd. u/s 86 (1)(k) r/w Section 66 of the Electricity Act, 2003 seeking permission to set up and operate an intra-state power exchange in the state of Telangana with the following material averments:

- (i) The petitioner is a company registered under the Companies Act, 2013 to carry on with the business of power exchange registered on 14.07.2015.
- (ii) The petitioner is seeking permission / approval of the Commission for setting up and operate an intra-state power market.
- (iii) The petitioner has an access to vast pool of professionals having sound knowledge and long experience in the area of EA, 2003, Indian Electricity Grid Code, Open Access issues, Availability Based Tariff, UI mechanism, Scheduling, Despatch and Energy Accounting procedure as well as development of electricity market in India.

- (iv) S.66 of the EA, 2003 provides for the appropriate Commission shall endeavour to promote the development power market and shall be guided by National Electricity Policy referred to in S.3 of the EA, 2003.
- (v) The petitioner proposes to set up intra-state power exchange to provide a transparent and neutral common platform for intra-state trading of electricity for physical delivery
- (vi) To provide a specialised, advanced, automated electronic platform with modern facilities for trading in electricity with non-discriminatory access.
- (vii) To organise trading and scheduling of electricity aligned with group codes and OA regulations and develop interface with the system operators.
- (viii) To implement fair and transparent rules for trading and efficient price discovery
- (ix) To provide non-discriminatory access and information relevant to the price formation and trades to all participants.
- (x) To provide suitable surveillance system to monitor actions on the power exchange to ensure compliance with rules and regulations
- (xi) To provide an effective role of stake holders in determining product structure and rules for trading and settlement
- (xii) To carry out market research, development and create awareness and provide training to market participants.

2. While the application filed by M/s. REI Power Bazaar Private Ltd is pending, an application by M/s. Indian Energy Exchange Limited with its office at New Delhi filed an application for impleadment u/s. 86 (1)(k) and S.66 of the EA, 2003. M/s. REI Power Bazaar Private Ltd filed reply to the application of impleadment by terming the application as devoid of merits by stating that the Commission may disallow the application to meet the ends of justice and prevent the abuse of the process of the Commission. The application is not filed in furtherance of consumer interest or public interest but with commercial interest as a potential competitor. The applicant has been operating a power exchange at national level as an unlicensed entity in a non-transparent manner. The CERC by orders dated 10.06.2016 on a petition no. 7/SM/2015 directed the applicant to implement remedial measures for ensuring transparency. The applicant is not an interested or proper party and the petition is liable to be dismissed.

3. The applicant M/s. Indian Energy Exchange Ltd filed rejoinder to the reply of M/s. REI Power Bazaar Private Ltd stating that development of power market need not necessarily be done by setting up of a power exchange or OTC market to achieve the purpose of S.66 of the EA, 2003. The allegation that the trade operations in the power exchange are carried out in non-transparent algorithm based mechanism and applicant is operating power exchange at national level in a non – transparent manner and is not fit and proper person to get impleaded is denied. The applicant is duly approved by CERC and has been operating under the regulatory supervision of CERC. It is stated that the similar applications of M/s. REI Power Bazaar Private Ltd have been dismissed by the state commissions of Rajasthan, Madhya Pradesh and Kerala and therefore the application for impleadment may be allowed.

4. On the application of M/s. REI Power Bazaar Private Ltd, on behalf of TSTRANSCO, TSDISCOMS and TSGENCO filed reply with the following allegations:

(a) The CGM (Comml) filed objection on behalf of the respondents stating that as per S.66 of the EA, 2003 the appropriate Commission shall endeavour to promote the development of market / trading in power as specified and guided by the National Electricity Policy

(b) CERC has formulated a regulation (power market) 2010 and further amended on 03.04.2014. The CERC has specified the terms and conditions for establishing a power market

(c) The state Commission is yet to formulate a regulation u/s 66 and S.181 of the EA, 2003 determining the terms and conditions for setting up of an intra-state power exchange which shall be done after obtaining the opinion of all the stake holders after conducting a public hearing.

(d) For establishing an intra-state power exchange, the Commission has to introduce the grid code within the state, intra-state UI settlement mechanism and according all interface metering points to be identified and install ABT meters.

(e) Presently, SRLDC is imposing UI charges for deviations considering the state as a unit. If intra-state power exchange is established, it would be difficult to arrive at the state schedules on day ahead basis and any deviations

on account of intra-state generators / consumers would adversely affect the state draws and as such heavy UI charges will be incurred by the state which have to be ultimately be passed on to all categories of consumers.

(f) Since most of the existing intra-state generators are solar generators and their actual generation treated as scheduled generation which shall be apportioned to the scheduled consumers and any deviation by such consumers shall be banked to the generators as per the interim balancing and settlement regulations 2/2006, 1/2013 & 2/2014.

(g) Due to non-uniform generation of solar power and withdrawal of banked energy by the scheduled consumers is also affecting the state schedules /drawals by incurring UI charges.

(h) The existing generators are mostly solar generators which are connected to 33KV network and no AMR and SCADA system has been approved for them for getting the online power system studies.

(i) DISCOM level LDCs have to be strengthened for online monitoring.

(j) As per the directions of state government for 24x7 supply of power to agriculture, construction of major thermal power plants for about 16000MW has been taken up by lending amounts from various sources. Long term PPAs of 25 years is under consideration for procurement of power.

(k) The DISCOM HT sales depleted due to HT consumers opting for intra-state open access. Introduction of intra-state power exchange at this stage would further affect the HT sales of Discoms and so also long term power procurements proposed by the state government by also impacting the financial health of Discoms.

(l) In view of the aforementioned reasons, there is no further requirement of intra-state power exchange in the state of Telangana.

5. As far as the impleadment petition filed by M/s. Indian Energy Exchange Ltd I. A. No. 6 of 2016 is concerned, it would have been better if the applicant filed a separate independent application to consider on merits. Merely filing an impleadment application without claiming an independent right only to prevent fragmentation of existing intra-state power market appears to be premature and is liable to be dismissed.

6. Arguments heard on both sides.

7. The following points arise for determination:
- (i) Whether the petitioner (M/s. REI Power Bazaar Pvt. Ltd) is entitled to permission to set up and operate an intra-state power exchange?
 - (ii) Whether the objection of the respondents is tenable?

Issue (i):

8. The petitioner company intended to carry on with the business of power exchange and got registered on 14.07.2015 in the state of Telangana and seeking permission / approval of the Commission for setting up and operate an intra-state power market. The petitioner claims that it has an access to vast pool of professionals having sound knowledge and long experience in the area of EA, 2003, Indian Electricity Grid Code, Open Access issues, Availability Based Tariff, UI mechanism, Scheduling, Despatch and Energy Accounting procedure as well as development of electricity market in India. In support of such plea, the petitioner has not filed any supporting documents.

(ii) Though S.66 of the EA, 2003 provides for the appropriate Commission should endeavour to promote the development of power market and shall be guided by National Electricity Policy referred to in S.3 of the EA, 2003, the petitioner has to follow and comply with the relevant regulations and rules.

(iii) Before the petitioner sets up intra-state power exchange to provide a transparent and neutral common platform for intra-state trading of electricity for physical delivery, it has to comply with statutory requirements as required under the general terms and conditions specified in Regulation no. 6 of 2005 (Intra-State Electricity Trading) and Appendix – 3 relating to General Conditions of Trading Licence.

(iv) The petitioner is statutorily obligated to fulfil the conditions, general terms and conditions specified in Regulation no. 6 of 2005 (Intra-State Electricity Trading) and Appendix – 3 relating to General Conditions of Trading Licence for operating as intra-state power exchange for the state of Telangana.

9. Regulation 7 of the above regulations stipulates to comply with the Capital Adequacy and Credit worthiness guidelines. Prudent financial norms prescribed by the Power Market Regulations of CERC states that – The Net worth requirement for exchanges is Rs. 25 Crs. In addition, turnover based Settlement Guarantee Fund

has been introduced. The net worth requirement for exchange shall reduce to Rs. 5 Cr once the clearing function is hived off to a separate clearing corporation. The prudential norms for clearing corporation are similar to the prudential norms of the present self-clearing exchange. The petitioner whose proposal is to set up Intra-state power exchange shall follow these prudent norms of capital adequacy and creditworthiness of Power Market Regulations of CERC. The proposal does not give any details of the net worth of the company, annual turnover envisaged and payment mechanism in place to take care of the risk associated. Thus, the net worth and capital adequacy ratio of the company managing power exchange should be able to handle the proposed volume of business. The company, therefore, shall be able to contribute adequate equity that must be held as a certain percentage of risk-weighted asset. The intra-state proposed is first of its kind in the country and the Commission has to put in place a monitoring mechanism in place for the effective regulatory oversight of the proposed exchange.

10. Regulation 10 of the Power Market Regulations provides, inter alia, the objectives of the power exchange as under:

A Power Exchange shall function with the following objectives:

- (i) Ensure fair, neutral, efficient and robust price discovery;
- (ii) Provide extensive and quick price dissemination;
- (iii) Design standardised contracts and work towards increasing liquidity in such contracts

The petitioner's proposal has not indicated any such details on the above-mentioned issues to take a firm view. The petitioner has to submit details of the proposed market design, types of contracts and price discovery methodology envisaged to be adopted by the power exchanges.

11. The counsel for the DISCOMs raised the issue of absence of TSERC Regulations for intra-state power exchanges. It may be noted that TSERC has adopted the APERC Intra-State Trading Regulation No. 6 of 2005. We may have to come up with new regulations to take care of the fast developing markets dealing with multiple products in the electricity trade. Another objection raised is regarding the deviation settlement mechanism to deal with the intra-state generators/consumers in the day ahead market.

12. The Commission in principle agrees to the proposal of the petitioner to set up and operate an intra-state power exchange in the State of Telangana. Final approval of the Commission will be subject to:

(i) the compliance of general terms and conditions as stipulated in Regulation No. 6 of 2005 of APERC;

(ii) Compliance of Regulation 10 of Power Market Regulations of CER, 2010;

(iii) Compliance of capital adequacy and creditworthiness norms;

(iv) Payment of required fee to the Commission

The petitioner is directed to submit all the required details on or before 31 March, 2019 to satisfy the Commission that it meets the objectives of the Power Exchanges as per the Regulation 10 of the Power Market Regulations, 2010. A firm view on granting permission to the petitioner will be taken by the Commission after the scrutiny of the information submitted.

This issue is answered accordingly.

Issue (ii):

13. Section 66 of the EA, 2003 provides as follows:

“The appropriate Commission shall endeavour to promote the development of a market (including trading) in power in such manner as may be specified and shall be guided by National Electricity Policy referred to in Section 3 in this regard.”

14. The Central Government pursuant to and in compliance with Section 3 of EA, 2003 notified the National Electricity Policy (NEP) and clause 5.7.1 (f) provides for “enabling regulations for inter and intra state trading and also regulations on power exchange. Pursuant to this directive APERC notified the Intra-State Electricity Trading Regulation No. 6 of 2005 on December 14, 2005. The respondents, who raised objections to the present application cannot raise objection against the implementation of Electricity Policy. The reasons given by the respondents opposing the present application cannot be considered as sufficient to refuse the relief. Thus, the issue is answered against the respondents and in favour of the petitioner.

15. In the result, the Commission makes the following order:

a) The petitioner is found entitled to set up and operate intra state power exchange in the State of Telangana subject to compliance with the general terms and conditions specified in Regulation No. 6 of 2005 and Appendix-3 thereof and the

provisions of the Electricity Act, 2003. The petitioner is directed to submit all the required details on or before 31 March, 2019 to satisfy the Commission that it meets the objectives of the Power Exchanges as per the Regulation 10 of the Power Market Regulations, 2010. The petitioner should also submit the details on prudent financial norms for the consideration of the Commission. A firm view on granting permission to the petitioner will be taken by the Commission after the scrutiny of the information submitted.

b) The objections raised by the respondents to the present application are found to be not tenable.

I.A. No. 6 of 2016 is dismissed for the reasons aforesaid. No costs.

This order is corrected and signed on this the 6th day of December 2018.

Sd/-

**(ISMAIL ALI KHAN)
CHAIRMAN**

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