



**POWER EXCHANGE INDIA LIMITED
CIRCULAR**

Circular No: PXI/SPD/2009/005

Date of Issue: August 10, 2009

Subject: Petition no. 117/2009 by Tata Power Trading Company Limited

To,

All Members

Attention of members is drawn to Petition no.117/2009 with I.A 24/2009 moved by Tata Power Trading Company, Mumbai (hereinafter referred to as the "Petitioner") before the Central Electricity Regulatory Commission (CERC), New-Delhi on 22nd June 2009. In the said petition it has impleaded Indian Energy Exchange and Power Exchange India Limited as Respondent no.1 and 2 respectively (hereinafter referred to as "Respondents").

The main issue raised by the Petitioner in the said petition, is that under the present rules and bye-laws of the Respondents (*which have been approved by the CERC*), there are essentially two kinds of members carrying out trading in contracts at the power exchanges of the Respondents. The two kind of members are as follows:

- i. Grid connected entities (hereinafter referred to as "Proprietary Members").
- ii. Those who are not connected to the grid and are allowed to carry out trading on their own account and/or on behalf of their constituents/clients (hereinafter referred to as "Professional Members").

The Petitioner avers that the Professional Members category includes trading licensees and also those who do not possess a trading license issued by the appropriate Commission. The Petitioner refers to these members as "Brokers" i.e. Professional Members who do not possess trading license. According to the Petitioner the Brokers are enjoying rights and discharging obligations similar to those undertaken by the trading licensee and therefore it would not be permissible under law that Brokers are allowed to carry on trading in contracts in the power exchange of the Respondents without obtaining trading license from the appropriate commission.

In view of this the Petitioner has made the following prayers to the CERC:

1. Amend or alter the business rules, bye-laws, rules and contracts of the Respondents to the extent necessary, to circumscribe the nature and extent of activities carried out by Brokers, including existing Brokers, and to exclude therefrom the right to trade in contracts resulting in delivery of underlying units of electricity;
2. disallow Brokers from entering into any transactions for trading of contracts on Respondents power exchange that involve undertaking any obligations or risks of delivery / offtake of underlying units of electricity related to the transactions;
3. appoint Commissioner to call for and examine all contracts entered into by Brokers with their respective clients for trading of contracts in Respondents' power exchanges including the terms relating to payment of brokerage, commission or other charges charged by them under various transactions;
4. direct the Respondent No. 1 and Respondent No. 2 to amend the rule, bye law and business rules to disallow broker who are entities not recognized under the Act from being a member of the Respondent No. 1 and Respondent No. 2 respectively;
5. pass such further and / or other order(s) as the Hon'ble Commission may deem fit in the facts and circumstances of the case.

Please note that the Petitioner had also moved an Interim Application.no.24/2009 in the said petition seeking a stay on the activities of Brokers till the disposal of the main petition. The Petition along-with the Interim Application was admitted by the CERC on the 30th July 2009. However no stay on the Interim Application had been granted. The CERC, through its Record of Proceedings (*Copy attached herewith*) has given time to the Respondents to submit their replies to the petition and the Interim Application and has therefore listed the matter for hearing on the 15th September 2009.

In compliance with the directions of the CERC the issue raised in the petition is hereby brought to the notice of all Members.

For **Power Exchange India Limited**

Sd/-

Satyajit Ganguly
Head - Operations

CENTRAL ELECTRICITY REGULATORY COMMISSION

Record of Proceedings

PETITION NO.117/2009 with I.A. No. 24/2009

Sub: Petition under Section 66 read with regulation 24 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999.

.Date of hearing : 30.7.2009

Coram : Dr. Pramod Deo, Chairperson
Shri R.Krishnamoorthy, Member
Shri S.Jayaraman, Member
Shri V.S.Verma, Member

Petitioner : Tata Power Trading Company Limited, Mumbai

Respondents : 1. Indian Energy Exchange Ltd., New Delhi
2. Power Exchange India Limited, Mumbai

Parties present : Shri Sitesh Mukherjee, Advocate for the petitioner
Shri Sakya Singha Chaudhuri, Advocate for the petitioner
Shri Vishal Anand, Advocate for the petitioner
Shri G.S.Bhatia, TPTCL
Shri M.G.Ramchandran, Advocate for the respondents
Shri R.K.Mediratta, IEXL
Shri P.K.Sarkar, PXIL

Through this petition, the petitioner, Tata Power Trading Company Ltd. has, *inter alia* questioned the trading operation by a section of the members of the power exchanges operated by the respondents and has sought directions to restraining them. Interlocutory application has been made for ex parte ad interim order.

2. Heard the learned counsel for the parties on admission. After hearing the learned counsel for the parties, the Commission directed to admit the petition. Learned counsel for the respondents sought three weeks time to file their replies. Request was allowed.

3. Accordingly, the respondents have been directed to file their reply to the petition and the interlocutory application by 21.8.2009, with a copy to the petitioner, who may file its rejoinder, if any, by 8.9.2009.

4. The respondents have been directed to bring the issues raised in the petition to the notice of their members for their information and such action as may be considered appropriate by them, within one week. An affidavit to this effect shall be filed by the respondents by 17.8.2009.

5. The petition along with IA shall be re-notified on 15.9.2009.

Sd/-
(K.S.Dhingra)
Chief (Law)