

CUTS Institute for Regulation and Competition's (CIRC) Comments and Suggestions on Draft CERC (Power Market) Regulations, 2020

The draft CERC (Power Market) Regulations, (PMR) 2020 aims at streamlining the operations and functions of electricity market through the power exchanges. With deepening of electricity market and success of new experiments like MBED (Market Based Economic Dispatch) and innovative products like RTM (Real Time Market), it is an apt time for the regulators to come up with regulations that will provide directions to the future operation of electricity market in India, specially through the power exchanges. This will also help the market participants to prepare for the electricity futures market and provide the much-needed directions to the upcoming future exchanges.

CIRC welcomes the proposed regulations for PMR 2020. It would like to put on record the below comments and suggestions to the draft PMR 2020 for consideration of the regulator.

Sl. No	PMR 2020 Provisions	Provision Contents	CIRC's comments/Suggestions
1	Clause 5 (1) (a)	Price discovery by power exchanges or by market coupling operator as and when decided by regulator. Market Clearing Price for unconstrained market and in congestion, market splitting shall be adopted.	Price discovery through power exchanges with certain algorithm is the existing Process with double bid closed end auction for both seller and buyer. There are no major issues observed through this process until now. Market coupling as an idea is good and applicable where transactions take place in multiple platforms for uniform price discovery. In India, where there are 2 exchanges existing now, market coupling may not be required as it will increase the transaction cost and time unnecessarily. Regulator should clarify that when and how they would like to introduce market-coupling operator in the market (conditions

			<p>for doing so). In the absence of clear direction, it is only speculative for the power exchanges (existing and upcoming).</p> <p>CIRC welcomes this step but request for further clarification in this regard.</p>
2	Clause 7(1)	<p>Price discovery: The price and other terms of contract in the OTC Market shall be determined either through mutual agreement between the buyer and the seller or through competitive bidding process or as determined by the Appropriate Commission.</p>	<p>There is omission of "<u>Or through the Power Trader</u>" in bilateral OTC agreement in this clause.</p> <p>CIRC is of the view that there is no need to omit "power Trader" from this clause as traders have a larger role in price discovery in the power market. Also, the role of trader members is well defined in other clauses of the PMR 2020 and regulator recognize the role of the trader in development of the power market. The price discovered through traders is also an indicative nature of price discovery in the market.</p> <p>Hence, CIRC requests that price discovery through trader may please be acknowledged and included in this clause; as defined earlier in the PMR 2010.</p>
3	Clause 9(2)	<p>This is related to the eligibility criteria for establishing the power exchange. The applicant is demutualized. Explanation: For the purposes of this sub-regulation, the term "demutualised" means that the ownership and management of the applicant is segregated from the trading Rights, in terms of these regulations.</p>	<p>This is a welcome step from the regulator as it allows any existing power trader to establish power exchanges but with a demutualized structure.</p> <p>It will ensure there is no conflict of interest between power exchange and the trader.</p> <p>With clear separation, , traders will be in a better position to set up power exchanges as it will give them the required leverage to play in the</p>

			market and introduce new innovative products.
4	Clause 9(4)	Requirement of minimum net worth of INR 50 crores by the applicant to form power exchange.	<p>CIRC is of the view that although a higher slab for minimum net worth is required to attract only serious players to power exchanges, it prohibits many other players with requisite know how to enter into the market only on the financial ground.</p> <p>With clearance and settlement function envisaged to be different from the power exchange, this amount can be lowered for new entrants to step in.</p> <p>This way, there will be proper competition in the power market which would be good for the consumers at large.</p>
5	Clause 17(2)	Number of independent directors should be equal to number of shareholders directors.	<p>CIRC welcomes this provision.</p> <p>This is a good idea to have more transparency in the power exchanges with independent directors matching with shareholders director.</p> <p>Also, as PMR 2020 envisages many committees with in power exchange to monitor various functions with an independent director at the helm, it is good to distribute responsibilities amongst the independent directors without over burdening one person.</p>
6	17(11)	It states that “No member of Power Exchange or their client shall be on the Board of Directors of any Power Exchange”	<p>Effectively it bars promotor companies to have shareholder directors in any power exchanges.</p> <p>Although this is required to avoid any conflict of interest, this provision will have a negative impact on investment in power exchanges, as promoters will not</p>

			<p>show any interest to invest. It will be a deterrent for overall market development.</p> <p>As many of the promoter companies are member of the exchanges dealing with power transactions, they may be allowed to be on the board of power exchanges as they bring in investment and knowledge and are well aware of the risks on the market.</p> <p>CIRC is of the view that there should be alternative mechanism proposed by CERC to allow for directorship to the promoter companies but with certain conditions, which would not create any conflict of interest in the overall operation of power exchange.</p>
7	23	<p>Power exchange transaction fee: No Power Exchange shall charge transaction fee exceeding such fee as approved by the commission. Prior approval is required from regulator</p>	<p>This is a good step by the regulator to protect the consumer for unnecessary passing on additional cost burden arising due to the transaction fees.</p> <p>As this is a volume market, this should not be major concern to the power exchanges.</p>
8	25(1) (2)	<p>New contracts by Power exchanges Any Power Exchange seeking permission to introduce a new contract under clause (1) of this Regulation, shall submit to the Commission complete and detailed contract</p>	<p>For any new contracts or products offering, power exchange has to take required approval from CERC. This is required for maintaining transparency in the market.</p> <p>CIRC welcomes this step.</p>
9	27(1)	<p>Clearing and settlement function to be hived off from power exchanges. An independent entity to be formed within 1 year of PMR 2020 notification.</p>	<p>This is a welcome step by the regulator to clearly define the functions of clearing and settlement entity.</p> <p>More clarity is required whether it will be a completely independent</p>

		Power exchange has to create a Settlement Guarantee Fund management committee headed by an independent director with adequate representation of members of power exchanges.	entity approved by the regulator or a separate entity from the power exchange with distinct roles and functions for ease of operations. More clarity is requested from CERC on this clause.
10	31	Information dissemination by power exchanges through its websites	This is a welcome step by the regulator for the interest of consumers. There will be no ambiguity and consumers will get all the required information at one place from the power exchange website related to any transaction. This will help remove any information asymmetry from the market.
11	Part 5, clause 37-40	Market Coupling It envisages a new independent operator known as market coupling operator (MCO) for determination of uniform market price, optimum grid utilization and maximization of economic surplus.	A good move but may not be suitable to current market as there is only 2 operating exchanges in the market now. It is a well-established concept in EU with cross border transactions happening through multiple platforms. CERC should come up with more clarity on the same as to when and how it is going to introduce the MCO. It should come up with a definite period and pre conditions for introducing the same to provide clarity to the stakeholders. A tentative timeline should be provided by the CERC to make the participants prepare for the change in the market.
12	Part 6, Clause 41-46	OTC Platform OTC Platform has to provide an electronic platform with information of potential buyers and sellers, to maintain a repository of data related to buyers and sellers and provide	CIRC is of the view that the aggregator (OTC platform) should be an independent entity. But, in view of the traders expertise, knowledge over the market and information database, they should

		<p>such data to market participants and to provide advanced data analysis tools.</p> <p>Registration required from CERC for OTC Platform. Minimum net-worth required is Rs 50 Lakhs. Registration will be valid for 5 years.</p>	<p>be allowed to participate or operate the OTC platform in some way or the other.</p> <p>CERC may think of different form of ownership like that of demutualized way of operating this platform.</p> <p>The overall idea is to utilize the expertise and experience of traders in this platform. It should be open to all participants to have their own platforms for such information exchange.</p>
13	Part 7, Clause 49-54	<p>Market Oversight</p> <ul style="list-style-type: none"> • To detect and prevent market manipulation, insider trading, cartelization and abuse of dominant position by any Market Participant; • To ensure that Market Participants have confidence in the integrity and fairness of power markets • To ensure that the prices are discovered in a transparent and competitive manner. 	<p>This is related to intervention by the regulator in the functioning of power exchanges to monitor compliances and make for penalty provisions on non-compliance and breach of rules and regulations.</p> <p>CIRC believes that market oversight should be stringent but flexible. While it is required to prevent gaming in the market, market manipulation, cartelization or insider trading, it should not be a deterrent for market development by unnecessarily putting many compliances, stringent operational rules and complex requirements from the market players.</p> <p>A regular interaction with all stakeholders in a time bound manner may be envisaged so that regulatory oversight can also be monitored for excessiveness periodically with view from all stakeholders including consumers.</p>
14	Clause 57	<p>Power to relax</p> <p>The Commission may in appropriate cases and for</p>	<p>This clause has the flexibility and put the onus on regulator to relax any of the provisions.</p>

		reasons to be recorded in writing relax any of the provisions of these regulations.	CIRC is of the opinion that this should be clearly elaborated. The processes need to be well defined for all the stakeholders to have a clear idea on what cases or circumstances these relaxations can be applied.
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