

**KERALA STATE ELECTRICITY REGULATORY COMMISSION**  
**THIRUVANANTHAPURAM**

Present: Sri. T M Manoharan, Chairman  
Sri. K.Vikraman Nair, Member  
Sri. S. Venugopal, Member

**In the matter of Petition filed in respect of approval for setting up and operation of  
intra state power exchange in the state of Kerala**

Petitioner : M/s REI Power Bazar (Pvt.) Ltd

Petitioner represented by : Sri. Anirban Mondal, Assistant Manager ( Legal),  
REI power Bazar Ltd.

KSEBL represented by : Sri. V K Joseph, CE (C&T), K S E B Ltd.  
Sri. Bipin Sankar, Deputy CE (TRAC), K S E B Ltd.  
Sri.K.G.P Nampoothiri, EE, TRAC, KSEB Ltd  
Sri. Latha S V, AEE, TRAC, KSEB Ltd  
Sri. Anoop Mathew, SA, TRAC, K S E B Ltd.

**Order 126/D(F&T)/2016/KSERC dated 14.02.2017**

1. M/s REI Power Bazar Ltd. (herein after referred to as the petitioner or M/s REI) filed a petition on 21.1.2016 for approval for setting up and operation of an intra state power exchange in the state of Kerala.
2. The petitioner, in his petition submitted that:
  - (1) The Petitioner is a company registered under the Companies Act, 2013 to carry on the business of Power Exchange.
  - (2) The Petitioner has access to vast pool of professionals having sound knowledge and long experience in the areas of Electricity Act,2003 ('the Act'), Indian Electricity Grid code (IEGC), Open Access Issues, Availability Based Tariff (ABT), UI Mechanism, Scheduling, Dispatch and Energy Accounting Procedure as well as development of electricity market in India.
3. The Commission noted that, M/s REI Power Bazar Ltd has not provided sufficient information to process the application. The Commission, vide letter dated 29-02-

2016, directed the petitioner to submit the additional details, on or before 30.3.2016.

4. M/s REI filed an Interim Application on 30.3.2016 requesting 15 days time from 30.3.2016 to file requisite details as directed by the Commission.
5. Commission allowed the time extension as requested for, by the petitioner. Later, M/s REI filed additional affidavit on 2.5.2016 which is summarized below;
  - (1) The Act does not envisage existence of Regulation as a condition precedent for setting up of a power market. REI supported the claim with the order of the Hon. Supreme Court of India in the case of Surinder Singh vs Central Government and others in Civil Appeal No 2062 of 1972 dated 26.9.1986.
  - (2) As and when rules and guidelines are introduced by the Commission, they are obliged to governed by such rules, regulations or guidelines introduced.
  - (3) The Commission is having powers to deal with any matter under Regulation 69 of the Kerala State Electricity Regulatory Commission (Conduct of Business ) Regulations, 2003.
  - (4) The operation of the proposed intra state power market is dependent on the circumstances and existing requirements in the state of Kerala and is substantially different from the inter-state power market at national level.
  - (5) The petitioner also prayed to appropriately modify conditions prescribed in Regulation 16 to 27 of the CERC ( Power Market ) Regulations, 2010for setting up intra state power market .
6. The Commission conducted hearing on 22.9.2016. Mr Anirban Mondal, Assistant Manager (Legal), REI power Bazar Ltd, submitted that M/s REI is on the verge of finalizing the rules and bye laws and hence requested more time to furnish the details required by the Commission. He further submitted that the management is developing a platform for facilitating the sellers and buyers of power in the State. He requested permission for filing an amendment petition. The Commission allowed time upto 31.10.2016 to file the amendment petition. The Commission vide the daily order dated 26-09-2016 has ordered that, the admissibility of the petition will be decided based on the amended petition.
7. M/s REI, filed amendment petition on 21.12.2016. The main contentions in the amended petition are;

#### Need for development of platform in the State of Kerala

- (1) M/s REI submitted that the state of Kerala is having number of Captive Power Plants, Independent Power Producers and robust transmission and distribution network.
- (2) Good number of generators and consumers in the state are actively participating in the existing power exchanges.
- (3) Generation capacity in the state can be facilitated through proposed REI platform.

- (4) There are 43 interstate trading licensees in India who would also be eligible to become a member of the REI and who can identify the consumers in the state and enable trade.
- (5) As per the tariff order issued by the Commission FY 2014, by the Commission the approved sales of HT consumers is 1777 MU.
- (6) At the beginning M/s REI expects 1% market share and is expected to increase by 1% every year.
- (7) Creation of REI platform is a building block for the concept of carriage and content separation

#### Other benefits

- (a) Reduced power purchase cost since the consumers at REI need not pay PoC injection and drawal charges and Load Dispatch charges.
- (b) Additional revenue to state transmission utility by utilizing the spare capacity.
- (c) Better utilization of surplus capacity.
- (d) Stakeholders empowerment.
- (e) Optimum utilization of electricity with minimum loss of energy.
- (f) Freedom and choice having multiple products available in the proposed intra state platform.

#### **Analysis and Decision**

8. The Commission has examined the petition filed by M/s REI Power Bazar Ltd with the provisions of the Electricity Act-2003, regulations issued by this Commission, the regulations issued by the Central Electricity Regulatory Commission on power exchanges and related matters, other guidelines, rules and regulation in force.
9. The Commission notes that, the petition is filed under Section 66 of the Electricity Act-2003. The relevant provision in the Electricity Act-2003 is extracted below.

***“66. Development of market.***

***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 the National Electricity Policy referred to in section 3 in this regard.”***

10. As per the above provision, the Commission shall endeavour to promote the development of power market in such manner as may be **specified**. As per clause (62) of section 2 of the Electricity Act-2003, the word specified is defined as;

***“specified” means specified by regulations made by the Appropriate Commission or the Authority, as the case may be under this Act’.***

11. The Commission has, in exercise of the powers conferred in the Electricity Act-2003, vide the notification No. 1/1/KERC-2005/VII dated 2<sup>nd</sup> November 2005 notified the KSERC (Terms and Conditions for Open Access) Regulation, 2005. Subsequently, the Commission has, vide the notification No. 1824 /CT /KSERC /2012 dated 10-09-2013 notified the KSERC (Connectivity and Intra-state Open Access) Regulations, 2013. The generators, captive consumers and embedded consumers of the licensees are buying and selling electricity by availing open access in the State. At present, M/s Philips Carbon black Ltd, has been selling surplus power from their co-generation plant established as captive power plant, through the power exchanges by availing open access facility. Further, the embedded consumers of the State are also purchasing power through power exchanges on day ahead basis, as and when the rates at power exchanges are advantageous to them as compared to the prevailing tariff, by availing open access facility. Presently, about 1.20 to 1.50 Million Units of electricity is being purchased daily by embedded consumers of the State from the power exchanges, namely, Indian Energy Exchange (IEX) and Power Exchange India Limited (PXIL), by availing open access.
  
12. As of now, KSEB Ltd is the main distribution licensee in the State which is also holding lion's share of generation assets in the state. There are about ten small licensees/ sanction holders in the State, but they are purchasing power from KSEB Ltd at the tariff approved by the Commission for distributing within their area of jurisdiction. The total consumption of these small licensees together is only about 2.5% of the total electricity consumption of the State. Further, as per the policy direction issued by the State Government, the first right of power purchase from renewable power projects including small hydro, wind and solar established as Independent Power Producers in the State is being vested with KSEB Ltd or its successor in interest. The first right of purchase of surplus electricity available from the renewable projects established as Captive power plant is also vested with KSEB Ltd or its successor entities. As of now there is no merchant power plant in the State. At present more than 70% of the electricity requirement of the State is being met by importing power from the generating plants located in other. The embedded consumers of the State are also availing power under open access from IPPs or traders in other states. There are no impediments in procuring power from the exchanges established at national level and traders under open access route. The following table shows the statistics of the power supplied in Kerala during last three years.

Sl No		Particulars	2014-15	2015-16	2016-17 (up to December)
1		Peak demand in MW (maximum)	3602	3860	4004
2		Off peak demand in MW (maximum)	2005	2334	2374
3		Normal (Average Demand) in MW	2477	2614	2036
4		Energy Supplied in MU	21698	22901	17651
	(i)	Hydel	7099	6606	3477
	(ii)	Thermal	201	145	43
	(iii)	IPP	1213	438	182
	(iv)	Others	1	1	2.6
	(v)	Internal Total	8514	7190	3705
	(vi)	Purchase from CGS	10494	11049	7537
	(vii)	Purchase from outside the state other than CGS	1953	4000	6001
	(viii)	Purchase from exchanges	737	662	408
	(ix)	Purchase from outside the state(total)	13184	15711	13946

13. Considering the importance of developing a power market under section-66 of the Electricity Act-2003 at the National level, Hon'ble Central Electricity Regulatory Commission (CERC) vide the order dated 6<sup>th</sup> February 2007 in suo-motu petition No. 155/2006 has issued the guidelines for the grant of permission for setting up and operation of 'power exchanges' in the country. Subsequently, CERC vide notification No. L-1/13/2010/CERC dated 20<sup>th</sup> January 2010 has notified the 'Power Market Regulation, 2010, which deals in detail with the setting up of power exchanges in the Country at national level. The important provisions in the said regulation are summarized below.

- The regulation 3(ii) of the Power Market regulation clearly defines the 'Power Exchange Market'.
- Regulation 4(iii) deals with types contracts transacted on exchange.
- Regulation -6 and 7 of the Power Market regulation, 2010, deals with approval / suspension of the contracts by the Commission including exchanges.
- Regulation-10 deals with objectives of power exchange.
- Regulation-11 on market design of the exchanges.
- Regulation- 14 and 15 deals with registration of power exchanges
- Regulation 16 deals with procedures for filing application for grant of registration and operation of power exchange.

- Regulation-17 deals with the documents to be submitted along with the application for registration of power exchange.
- Regulation-18 deals with prudential norms for establishment of power exchange.
- Regulation-19 specifies the shareholding pattern of Power Exchange
- Regulation-22 deals with ownership and governance structure of power exchange.
- Regulation-23 specifies the registration charges.
- Regulation-24 specifies the Byelaws and Rules to be followed for the functioning of power exchange.
- Regulation-25 deals with Management of power exchange
- Regulation-26 deals with Membership in power exchange'
- Regulation-32 deals with Delivery procedures.

14. Subsequent to the notification of the above guidelines and regulations notified by the Hon'ble CERC, two power exchanges, IEX and PXIL, have come into operation at national level. The Indian Energy Exchange (IEX) became operational in June - 2008 and the Power Exchange India Limited (PXIL) became operational in October-2008. The total volume electricity transacted through the power exchanges since the year 2009-10 is tabulated below.

Year	Energy transaction through Power Exchanges							Gross Generation (BUs)	Exchange transactions as % of Gross generation
	Electricity Transacted through IEX(BUs)		Electricity Transacted through PXIL (BUs)		Electricity Transacted through IEX and PXIL (BUs)		Total (BUs)		
	DAM	TAM	DAM	TAM	DAM	TAM			
2009-10	6.17	0.095	0.92	0.003	7.09	0.098	7.19	768.4	0.94
2010-11	11.8	0.91	1.74	1.07	13.54	1.98	15.52	811.1	1.91
2011-12	13.79	0.62	1.03	0.11	14.82	0.73	15.55	876.9	1.77
2012-13	22.35	0.48	0.68	0.04	23.03	0.52	23.55	912.1	2.58
2013-14	28.92	0.34	1.11	0.3	30.03	0.64	30.67	967.2	3.17
2014-15	28.12	0.22	0.34	0.72	28.46	0.94	29.4	1048.7	2.80
2015-16	33.96	0.33	0.14	0.58	34.1	0.91	35.01	1107.8	3.16

15. The Commission has also noted that, the two power exchanges established at national level, i.e., the IEX and PXIL under the supervision of CERC, can handle intra-state trade also in addition to the inter-state trade. As stated earlier, the embedded open access consumers of the State have been availing power through the exchanges established by CERC at national level, through open access route.

16. In view of the above facts, the Commission did not find any urgent requirement for establishing intra - state power exchanges in the state and therefore no regulation has been separately specified in this regard, exclusively for the state. However, the Commission is prepared to examine the application submitted by the petitioner, with reference to the regulations issued by CERC. Therefore, the Commission vide the letter dated 30-03-2016 had directed the petitioner to submit certain documents and other information as mandated in the Power Market Regulation, 2010, notified by the Hon'ble CERC, to proceed with the petition. However the petitioner failed to submit the details including the financial status of the petitioner as required for setting up an intra-state power exchange, the qualifications of the persons whom it intends to appoint, and such other relevant materials which prima-facia proves the capability of the petitioner to establish a power exchange/ market of any other form.
17. The commission noted that the paid up capital is reported as Rs 1,00,000/- and the net worth as Rs 44425/-. The net worth required as per CERC (Power Market) Regulation, 2010 is Rs 25 Crore. It is true that the suggested mechanism is different from the power exchanges in the national level and also the volume transacted will be much lower than that in national level platforms. The company has not submitted any documents to prove the financial stability of the company. Further, the Share holding pattern of the proposed power bazar is presently 50 : 50 by two promoters with a total number of shares of 10,000. The regulation 19 of the CERC (Power Market) Regulations, 2010 is extracted below:

*19. Shareholding Pattern of Power Exchange*

*(1) The shareholding pattern for equity holders in the Power Exchange shall be as follows:*

*(i) Any shareholder other than a Member of the Power Exchange can have a maximum (whether directly or indirectly) of 25% shareholding in the Power Exchange.*

*(ii) A Member of the Power Exchange can have a maximum (whether directly or indirectly) of 5 % shareholding in the Power Exchange.*

*(iii) In total, a Power Exchange can have a maximum of 49% of its total shareholding owned by entities (whether directly or indirectly) which are Members of the Power Exchange.*

*Explanation I - "indirectly" means through an associate where an Associate is - (i) one who owns or controls shares carrying not less than twenty - six percent of the voting rights of the shareholder intending to hold equity in the power exchange; or*

*(ii) in respect of whom the shareholder intending to hold equity in the Power Exchange owns or controls shares carrying not less than Twenty - six percent of the voting rights; or*

*(iii) one who is under the same management as the shareholder intending to hold equity in the power exchange.*

*Explanation II: An associate shall be deemed to be under the same management:*

*(i) if the managing director or manager of the shareholder intending to hold equity in the power exchange is the managing director or manager of the associate; or*

*(ii) if a majority of the directors of the shareholder intending to hold equity in the power exchange constitute or any time within six months immediately preceding, constituted a majority of the directors of the associate; or*

*(iii) if not less than one third of the total voting power with respect to any matter relating to the shareholder intending to hold equity in the power exchange and the associate is exercised or controlled by the same individual or body corporate; or*

*(iv) if any of the directors of the shareholder intending to hold equity in the power exchange while holding the majority of shares of such shareholder also holds the majority of shares in the associate.*

*(2) The share holding pattern shall be reported to the Commission from time to time."*

The conditions stipulated in regulation 19 of CERC regulation any share holder other than a member of power exchange can have a maximum of 25% of share holding which is to ensure the exchanges operate without bias. Central Electricity Regulatory Commission has explained the importance of net worth and share holding pattern in its common order dated 2.7.2014 in 322/ RC/ 2013 and RC/003/2014 filed by PXIL. Therefore, Commission is of the opinion that the applicant does not conform to the requirements as stipulated in the regulations and orders issued by CERC.

The Commission also, observed that no documents have been submitted to prove the financial viability of the promoters.

18. On going through the business model and also the rules and operational guidelines, the Commission observed that the proposal is to buy and sell power between consumers and generators inside the state for a period from 1 day to 1 year. This can be considered as only a platform to facilitate negotiation between buyers and sellers. Such transactions can happen only if there is generation capacity without PPA so that bulk consumers can negotiate with generators to purchase power directly from them. Further, whenever distribution licensee buy power, it has to follow provisions of the Electricity Act 2003 under Section 62 or 63. The distribution licensee can also avail power from the inter-state power exchanges set up under Section 66 of the Electricity Act 2003, which works on a



transparent mechanism and the consumers in the state can also avail power through the same.

19. The Commission observed that even with the amended petition, the petitioner is not in a position to file a proposal with a proper mechanism with sufficient documents and within the frame work of the Electricity Act 2003. The petition does not contain the detailed project report, the rationale for establishing power market, the potential for the same in the State and the proposed rules and mechanism. The amendment petition does also not contain any material to enable the Commission to take a reasoned decision based on the present Regulations/Act. Hence the Commission is unable to grant the petition and hence the petition is dismissed herewith.

#### **Orders of the Commission**

20. Since the petitioner failed to submit the necessary and sufficient details for establishing an intra-state power market in the State of Kerala, as per the existing framework / Regulations, the Commission hereby dismisses the petition dated 21.1.2016 filed by M/s REI Power Bazar (Pvt) Ltd.

Ordered accordingly.

Sd/-  
**K.Vikraman Nair**  
Member

Sd/-  
**S Venugopal**  
Member

Sd/-  
**T M Manoharan**  
Chairman

Approved for issue  
Sd/-  
**Secretary**