

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 5/SM/2022

Coram:

Shri P. K. Pujari, Chairperson

Shri I. S. Jha, Member

Shri Arun Goyal, Member

Shri P. K. Singh, Member

Date of Order: 6th May, 2022

IN THE MATTER OF:

Directions by the Commission to the Power Exchanges registered under the Power Market Regulations, 2021.

ORDER

The Commission vide order dated 1st April 2022 in Petition No. 4/SM/2022 (Suo-Motu) had in exercise of powers under Regulation 51 (1) of the Power Market Regulations 2021 (PMR 2021) directed the Power Exchanges until further orders, to re-design, with immediate effect, the bidding software in such a way that members can submit their bids in the price range of Rs.0/kWh to Rs.12/kWh for Day Ahead Market (DAM) and Real Time Market (RTM). One of the key grounds for the intervention by the Commission was the fact that 99% of the supply bids (for the period for which data had been analysed) were in the range of Rs.12/kWh and only 1% of the supply bids were higher than Rs.12/kWh. The objective was to protect the large number of buyers (consumers) from being compelled to bid a high price of Rs.20/kWh because of the bid behavior of a very few buyers.

2. The Commission has been regularly monitoring the volume and prices of electricity transacted in various contracts at the Power Exchanges. The following facts have emerged from the recent behavior in volume and prices at the Power Exchanges, based on the daily trade information published by the exchanges:

- (i) The buy bid in DAM registered an increase of about 28% in the month of April 2022 as compared to March 2022, while that in RTM increased by 144% during the same period.

(ii) However, the cleared volume in DAM registered a decrease of about 30% in the month of April 2022 as compared to March 2022, while that in RTM decreased by 16% during the same period.

(iii) The volume traded in Term Ahead Market (TAM), Intra-day and Day Ahead Contingency (DAC) in the month of April 2022 witnessed an increase of about 120% over the volume traded in the month of March 2022.

(iv) Of the total volume traded in TAM, Intra-day and DAC contracts around 37.31% was traded at price in excess of Rs.12/kWh in April 2022, i.e., above the ceiling price of Rs.12/kWh in the DAM and RTM market segments.

(v) Apart from the generators, the distribution companies (Discoms) are also selling in DAM/RTM and in TAM/Intra-day/DAC.

3. As a result of setting the ceiling price at Rs.12/kWh for DAM and RTM, the Market Clearing Price (MCP) in DAM and RTM has been frequently hitting the ceiling price at Rs.12/kWh with the volume of buy bids much more than the volume of sell bids. As a result, the cleared volume is getting pro-rated amongst the buyers quoting the ceiling price in proportion to their bid volumes. Thus, even if buyers are willing to pay the ceiling price, they are not getting the full bid volume. Due to apprehensions of such pro-rating, it has been observed that buyers have increased their bid volumes at the ceiling price substantially, but are still not able to meet their demand of electricity in the collective transaction segment of Power Exchanges, viz., DAM and RTM. Therefore, to fulfill their supply obligations, the buyers are shifting to other market segments of Power Exchanges, such as TAM.

4. It has also been observed that the difference in ceiling price between DAM/RTM and TAM has led to shift in supply volume from DAM/RTM to TAM. Representations have been received from some States highlighting that this is affecting their prospects of getting power from DAM/RTM segments of the Power Exchanges and they have to go to TAM segment for meeting their demand. Some Discoms have also represented that the differential pricing between DAM/RTM and TAM/Intra-day/DAC market segments is influencing the behavior of the sellers and have expressed concerns about the likely profiteering by sellers on account of the price differential in the two market segments in the Power Exchanges.

5. In this context, it is pertinent to note that the TAM/Intra-day/DAC market is bilateral in nature and the buyers and the sellers are matched on one to one basis, unlike in case of

collective transactions. In other words, the buyers and the sellers voluntarily agree to a price which does not affect any third party. The buyers enter into such transactions with their eyes and ears open and with full knowledge of the consequences. Under these circumstances, the role of the buying Discoms and the SERCs regulating the Discoms assumes significance. If there are concerns about high prices at which Discoms are entering into bilateral transactions, it is the responsibility of the concerned SERCs to direct the buying Discoms not to enter into such transactions beyond the threshold price and volume limit that the SERCs consider appropriate.

6. The counter-argument could be that the buyer's behavior at present is scarcity driven. But the question is whether by imposing a ceiling price in different segments of the Power Exchange market adequacy of supply in this trading platform can be guaranteed. The sellers might then explore some other avenues of sale which might not be subjected to direct regulation.

7. There is also a need to recognize that the buyers also include open access consumers and bulk consumers, who may be willing to buy power at a higher price which still makes economic and financial sense to them. Under the regime of ceiling price in different segments of the Power Exchange, such consumers are also effectively denied access to their full requirement of power.

8. West Bengal State Electricity Distribution Company Limited (WBSEDCL) in its letter dated 22.04.2022 has alleged that the sellers are circumventing the Commission's Order dated 01.04.2022 by entering into negotiations and then conducting their transaction under TAM contracts. This is being done with a view to bypass regulatory measures put in place by this Commission. While the Commission is having this aspect investigated, we also note that some of the Discoms and other licensees in States were also engaged in selling power in TAM/Intra-day/DAC post the ceiling price of Rs.12/kWh for DAM and RTM. The Commission also expects that if Discoms or any other licensees are party to such transactions, the concerned SERC also takes appropriate action against such Discoms or licensees.

9. The Ministry of Power vide letter dated 29.04.2022 has issued directions to the Commission to issue orders for capping the market price at Rs.12/kWh or less for all segments of Power Exchanges (regulated by CERC), including Term Ahead Market (TAM).

10. The Commission is engaged in detailed analysis of the behavior of the market participants in different segments of the Power Exchange. However, taking cognizance of the increasing trend of prices driven by shortage of supply and sudden increase in demand, and in view of the alleged profiteering by the sellers which also includes Discoms, the Commission finds it expedient to intervene in the market in public interest on following grounds:

- a) need for a uniform price ceiling in all segments of the Power Exchanges so that there is no shift in supply volume from one segment of the Power Exchanges to another segment, induced by differential ceiling price between different market segments of the Power Exchanges; and
- b) there is no profiteering by the sellers in the backdrop of increased demand and reduced supply.

11. The Commission analysed the data available on MERIT website (www.meritindia.in) maintained by the Ministry of Power and noticed the following trend during the period from 05.04.2022 to 30.04.2022:

- a) Given the present constraints of gas supply, additional generation in the present situation of shortage is likely to come mostly from the coal based, including imported coal based generating stations. Accordingly, the marginal cost of generation from the coal based generating stations has been considered for price trend analysis.
- b) Of the coal based generating stations, the marginal generators are based on imported coal. As per the All India MERIT Summary, the energy charges of the marginal generators ranged from Rs.7.30/kWh to Rs.8.82/kWh for the period under analysis.

12. The above analysis reveals the energy charge of the marginal generator to be in the range of ~Rs.9/kWh. In addition, if the expectation of recovery of part of the fixed cost and transmission charge are factored in, the ceiling price of Rs.12/kWh seems reasonable.

13. Regulation 51 of the Power Market Regulations 2021 (PMR 2021) provides as under:

“51. Other circumstances requiring intervention

(1)The Commission may, on being satisfied that a situation of abnormal increase or decrease in prices or volume of electricity in the Power Exchange exist or is likely to

occur in the market, by an order, give such directions as may be considered necessary.”

14. In exercise of the aforesaid powers under Regulation 51(1) of the PMR 2021 and in view of the analysis of price trends in the preceding paras and in order to balance the interests of investors in terms of reasonable return and protecting consumer interests, the Commission hereby directs the Power Exchanges, from the date of this Order till 30th June 2022, to re-design, with immediate effect, their software in such a way that members can quote price in the range of Rs.0/kWh to Rs.12/kWh in DAM (including GDAM), RTM, Intra-day, Day Ahead Contingency and Term-Ahead (including GTAM) Contracts. The contracts which have already been transacted till the date of issuance of this Order shall be delivered and settled as per the earlier terms and conditions. Application of the price ceiling for a limited period is based on the belief of the Commission that intervention in the market should not be prolonged unless absolutely necessary in public interest as in the existing circumstances prevailing in the country.

15. The Exchanges are further directed to submit the compliance of this direction within two days from the date of this Order. With coming into effect of this Order, the Order dated 01.04.2022 in Petition No. 4/SM/2022 shall stand superseded.

16. The Petition No. 5/SM/2022 is disposed of in terms of the above.

Sd/-
(P.K. Singh)
Member

Sd/-
(Arun Goyal)
Member

Sd/-
(I.S. Jha)
Member

Sd/-
(P.K. Pujari)
Chairperson