

MCX Comments on the Draft Petroleum and Natural Gas Regulatory Board (Levy of Fee and Other Charges) Second Amendment Regulations, 2020

1. Regulation 3 (1) - Under the Petroleum and Natural Gas Regulatory Board (Levy of Fee and Other Charges) Regulations, 2007 as amended by Draft PNGRB (Levy of Fee and Other Charges) Second Amendment Regulations, 2020

MCX Comment: It is proposed that the application fees for authorization as a Gas Exchange or Clearing Corporation and fees at the time of renewal of such authorizations may not be charged at all. Otherwise, a very nominal amount as processing fees may be charged. The references from Central Electricity Regulatory Commission (CERC) and Securities and Exchange Board of India (SEBI) Regulations may be considered and the amount of application and renewal fees may be decided accordingly.

The Application fee for seeking authorization and renewal of authorization as specified under the said Regulation is extremely high. Reference may be drawn from the application fees being charged by the other Regulators. Central Electricity Regulatory Commission (CERC), the regulator for power exchanges, is not levying any application fee for seeking authorization for power exchange or clearing corporation. The charges are not charged even for seeking renewal for such authorizations. Similarly Securities and Exchange Board of India (SEBI) under its regulations has provided for a very nominal amount of Rs. 500 and Rs. 200 for application for recognition of stock exchange / clearing corporation and renewal respectively (as specified in Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018 and Securities Contracts (Regulation) Rules 1957).

2. Regulation 4 (2) - Under the Petroleum and Natural Gas Regulatory Board (Levy of Fee and Other Charges) Regulations, 2007 as amended by Draft PNGRB (Levy of Fee and Other Charges) Second Amendment Regulations, 2020

MCX Comment: It is proposed that no minimum annual and other charges may be charged to the Gas Exchange and Clearing Corporation. Further the Regulations may also specify an upper limit for these annual charges such that over and above a certain level of turnover, the annual charges remain fixed.

The development of gas exchanges is at a very nascent stage in the country. As such the Regulations need to be designed in order to promote and encourage the setting up of Gas Exchanges in India and facilitate their functioning, especially in their initial gestation period

of at least 3-5 years. The initial turnover and participation at these gas exchanges shall not be very high and shall need adequate time for a gradual increase in the turnovers. Parallels may be drawn from annual charges being charged by other Regulators. Both CERC and SEBI have not specified any minimum charge. Further there also is an upper limit which means that beyond a specified level of turnover, the annual charges remain fixed. A comparative table of annual charges under various regulations has been provided at Table 2 under Annexure A, for ready reference.

Annexure A

Table 1: Comparison of Application Fees for Authorization and Renewal being charged under Various Regulations

Sr. No.	Description	As per New Draft Guidelines PNGRB (Levy of Fee and Other Charges) Second Amendment Regulations, 2020	As Per Draft CERC (Power Market) Regulations 2020	As per Securities Contracts (Regulation) Rules 1957
1	Application fee for seeking authorisation under regulation 9 of the Petroleum and Natural Gas Regulatory Board (Gas Exchange) Regulations, 2020: a) for a Gas Exchange with Clearing Corporation; or b.) for a standalone Gas Exchange; or c.) for a standalone Clearing Corporation	Rs. 50,00,000/- Rs. 50,00,000/- Rs. 20,00,000/-	Regulations do not provide any charges	Rs. 500
2	Application fee for seeking renewal of authorisation under regulation 14 of the Petroleum and Natural Gas Regulatory Board (Gas Exchange) Regulations, 2020: a) for a Gas Exchange with Clearing Corporation; or b) for a standalone Gas Exchange; or c) for a standalone Clearing Corporation	Rs. 15,00,000/- Rs. 15,00,000/- Rs. 6,00,000/-	Regulations do not provide any charges	Rs. 200

Table 2: Comparison of Annual Charges being charged under Various Regulations

Sr. No.	Particulars	Amount (Rs.)
Draft PNGRB Regulations (Gas Exchange) Regulations, 2020 and Draft PNGRB (Levy of Fee and Other Charges) Second Amendment Regulations, 2020		
1.	Annual and other charges under regulation 15 of the Petroleum and Natural Gas Regulatory Board (Gas Exchange) Regulations, 2020	
	a. for a Gas Exchange with Clearing Corporation; or b. for a standalone Gas Exchange;	Rs. 50, 00,000/- or 0.02% of the trade value in the exchange (excluding taxes) during the relevant financial year, whichever is higher.
	c. for standalone Clearing Corporation	Rs. 20,00,000/- or 0.01% of the clearing value in the clearing corporation (excluding taxes) during the relevant financial year, whichever is higher
<p>Explanation:</p> <p>a. The trade value in the exchange shall be worked out by considering only one part of the transaction (either buy or sell) and not the sum of value of buy and sell transaction.</p> <p>b. The clearing value in the case of clearing corporation shall be the amount cleared i.e. the amount received or the amount disbursed and not the sum of amount received and amount disbursed.</p>		

CERC

i.) As Per Draft CERC (Power Market) Regulations 2020

Annual Registration charges for power exchanges

Turn over (in Million Units)	Annual Registration Charges (Rs.)
Above 10,000	30,00,000/-
Above 5,000 and upto 10,000	15,00,000/-
Upto 5,000	5,00,000/-

ii.) As Per CERC, Payment of Fees Regulation 2012

Annual Registration charges for power exchanges

Turn over (in Million Units)	Annual Registration Charges (Rs.)
Above 10,000	52,00,000/-
Above 5,000 and upto 10,000	20,00,000/-
Upto 5,000	6,00,000/-

“Annual Turnover” shall be calculated considering the total number of units cleared in all types of transactions on a Power Exchange in a financial year and shall be expressed in million units (MUs).

Explanation: If a transaction of 10 MUs is cleared, the turnover considered will be 10 MUs only and not a cumulative addition of 10 MUs as buy quantity and 10 MUs as sell quantity of that transaction;

SEBI

**As Per SEBI (Regulatory fee on Stock Exchanges) Regulations 2006,
Last Amendment 22nd March 2019**

Annual Turnover (Rupees in crores) by stock exchanges	Amount of fee (Rs.)
Less than or equal to 10,000	1,00,000/-
More than 10,000 but less than or equal to 1,00,000	10,00,000/-
More than 1,00,000 but less than or equal to 5,00,000	50,00,000/-
More than 5,00,000 but less than or equal to 10,00,000	1,00,00,000/-
More than 10,00,000	[Rs1,00,00,000 plus 0.00006% of the annual turnover in excess of Rs. 10,00,000 crores, subject to a maximum of Rs.20,00,00,000.]

The expression “annual turnover” shall mean the aggregate value of the transactions [excluding turnover on agricultural commodity derivatives] which took place on the recognised stock exchange during the relevant financial year. The recognized stock exchanges shall pay a flat regulatory fee of one lac rupees on aggregate value of the transactions on agricultural commodity derivatives.