

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. EAD/BJD/VS/24-33/2017-18]

**UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992
READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING
PENALTIES BY ADJUDICATING OFFICER) RULES, 1995.**

In respect of:

1. M/s. Exelon Infrastructure Ltd (PAN: AAACM2862M)
2. Shri Rahul Kolugiri (PAN: ARKPK1610P)
3. Shri Rahmatulla Shaik (PAN: Not available)
4. Shri Shaik Ammer Basha (PAN: AEZPB3408A)
5. Shri Miyati Gousal Adam (PAN: AMRPM1639G)
6. Shri Nagendra Komera (PAN: AOAPK4529E)
7. Shri Srinivas Yadav Sher (PAN: AUAPS8547G)
8. Shri Ravinder Deshpande (PAN: AGOPD8942N)
9. Shri Srinivas Rao Marupadi (PAN: ACQPM0876L / BCDPM3124P)
10. Shri Rama K Makkena (PAN: BCKPK1101P)

In the matter of

EXELON INFRASTRUCTURE LIMITED

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred as 'SEBI') pursuant to an internal alert and detection of huge rise in the traded volumes and/or prices of the shares of Exelon Infrastructure Limited (EIL), a company listed at Bombay Stock Exchange Limited (BSE), conducted an investigation into the alleged irregularity in the trading in the shares of Company and into the possible violation of the provisions of the Securities and Exchange Board of India Act 1992 (hereinafter referred to as the 'Act') and various Rules and Regulations made there under during the Investigation Period from December 08, 2010 to January 20, 2012 (hereinafter referred to as the 'IP').

2. The investigation, inter alia, revealed that Exelon Infrastructure Limited and its Directors (hereinafter referred to as the 'Noticee(s)') had violated SEBI Regulations. In order to dissent with the initial findings, Noticee(s) did not produce/furnish the information sought by Investigating Authority (IA), thereby hampering the process of investigation and have as per violation under section of 11C (2) read with 11C (3) of SEBI Act 1992.

APPOINTMENT OF ADJUDICATING OFFICER

3. Shri S. V. Krishnamohan was appointed as the Adjudicating Officer (AO) vide Order dated August 17, 2015 under Section 19 of the SEBI Act, 1992 read with Section 15-I (1) of SEBI Act and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as "Adjudication Rules") to inquire and adjudge under Sections 15A (a) of the SEBI Act, 1992, for the alleged violations committed by the Noticee(s). Subsequently, Vide Order dated May 18, 2017 the undersigned was appointed as Adjudicating officer to adjudge the said matter.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. Based on investigations, a common Show Cause Notices dated October 27, 2015 (hereinafter referred to as SCNs) was issued to the Noticee(s) in terms of Rule 4 of the said Rules requiring them to show cause as to why an inquiry should not be held against them for the alleged violation of provisions of law. Copies of the documents relied upon in the SCN were also provided to the Noticee(s) along with the SCN.
5. The following SCNs bearing No. were sent to last known address(s) of notices through postal department.

Noticee No.	Name of Noticee	SCN No.
1	M/s. Exelon Infrastructure Ltd.	EAD-5/ADJ/SVKM/DS/OW/30285/2015
2	Shri Rahul Kolugirl	EAD-5/ADJ/SVKM/DS/OW/30287/2015
3	Shri Rahmatulla Shaik	EAD-5/ADJ/SVKM/DS/OW/30288/2015
4	Shri Shaik Ameer Basha	EAD-5/ADJ/SVKM/DS/OW/30289/2015
5	Shri Miyati Gousal Adam	EAD-5/ADJ/SVKM/DS/OW/30290/2015
6	Shri Nagendra Komera	EAD-5/ADJ/SVKM/DS/OW/30302/2015
7	Shri Srinivas Yadav Sher	EAD-5/ADJ/SVKM/DS/OW/30303/2015

Noticee No.	Name of Noticee	SCN No.
8	Shri Ravinder Deshpande	EAD-5/ADJ/SVKM/DS/OW/30307/2015
9	Shri Srinivas Rao Marupadi	EAD-5/ADJ/SVKM/DS/OW/30309/2015
10	Shri Rama K Makkena	EAD-5/ADJ/SVKM/DS/OW/30312/2015

6. As the SCN's returned undelivered, attempts were made to deliver the SCN's, through Hand delivery in person and Affixture at the registered office address (which were available on MCA website). All SCN's were duly delivered through aforesaid alternative delivery mode, except for Noticee No. 7 and 10. Subsequently, such SCNs have also been put on SEBI website under the section 'Unserved Summons/ Notices'. However, no replies were submitted by Noticee(s) in response to SCNs.
7. In the interest of natural justice and in order to conduct an inquiry as per Rule 4 (3) of the said Rules, an opportunity of personal hearing was granted to the Noticee(s) on February 20, 2017. Vide Individual letters dated February 16, 2017, only the Noticee No. 2, 3, 4, 5, 6 and 8 have replied. The main submission made by Noticee(s) are as hereunder:

Reply of Noticee 2:

- a. Vide letter dated February 16, 2017 in response to Notice of Hearing, Noticee submitted that he resigned from the board of EIL on August 09, 2014. He was appointed as an Independent Director of the company for a period of 2 years 10 month i.e., from November 24, 2011 to August 09, 2014. During this period, EIL has not made any major announcements. He was not having any shares in EIL and all the transaction mentioned in SCN were prior to his joining to EIL. It was also submitted that Noticee was a director in the company for a shorter period of 30 months and that he did not have power to take any decision.

Reply of Noticee 3:

- b. Vide letter dated February 16, 2017 in response to Notice of Hearing, Noticee submitted that he resigned from the board of EIL on January 01, 2014. He was appointed as an Independent Director of the company for a period of 1 year 6 months from January 01, 2013 to August 20, 2014. During this period EIL has not made any major announcements. He was not having any shares in EIL and all the transaction mentioned in SCN were prior to his joining to EIL. It was also submitted

that Noticee was a director in the company for a shorter period of 30 months and that he did not have power to take any decision.

Reply of Noticee 4:

- c. Vide letter dated February 16, 2017 in response to Notice of Hearing, Noticee submitted that he resigned from the board of EIL on September 17, 2014. He was appointed as an Independent Director of the company for a period of 2 year 11 months from October 21, 2011 to September 17, 2014. During this period EIL neither made any major announcements and nor did Noticee violated any rules. Noticee has not purchased or sold any shares of EIL. All the transaction happened were prior to his joining to EIL.

Reply of Noticee 5:

- d. Vide letter dated February 16, 2017 in response to Notice of Hearing, Noticee submitted that he has resigned from the board of EIL on April 21, 2014. He was appointed as an Independent Director of the company for a period of 2 year 6 months from October 21, 2011 to April 21, 2014. During this period, EIL has not made any major announcements. Noticee has not purchased or sold any shares of EIL. All the transaction mentioned in SCN were prior to his joining to EIL. It was also submitted that Noticee was a director in the company for a shorter period of 30 months and that he did not have power to take any decision.

Reply of Noticee 6:

- e. Vide letter dated February 16, 2017 in response to Notice of Hearing, Noticee submitted that he has resigned from the board of EIL on August 20, 2014. He was appointed as an Independent Director of the company for a period of 2 year 6 months from November 24, 2011 to August 20, 2014. During this period EIL has not made any major announcements. Noticee has not purchased or sold any shares of EIL. All the transaction mentioned in SCN were prior to his joining to EIL.

Reply of Noticee 8:

- f. Vide letter dated February 16, 2017 in response to Notice of Hearing, Noticee submitted that he has resigned from the board of EIL on February 07, 2012. He was appointed as an Independent Director of the company for a period of 7 months i.e.,

from July 20, 2011 to February 07, 2012. During this period EIL neither made any major announcements and nor did Noticee violated any norms of system. Noticee has not purchased or sold any shares of EIL. All the transaction happened were prior to his joining to EIL. As a director in to the company for a shorter period of 7months, he was not having any power to take decision. Noticee submitted that he is undergoing medical treatment. And doctor has advised him to take rest for 6 months and he is not in a position to appear before the concerned officer.

8. Pursuant to my appointment as AO, in accordance with principles of natural justice, I felt it appropriate to provide another opportunity of personal hearing before me and accordingly same was granted to all Noticee(s) on June 30, 2017 and July 14, 2017. Corresponding hearing notice was duly delivered at Noticee 4 & 6 through department of post, further Notice was affixed at other Noticee(s) last known address and in cases where notices could not be affixed newspaper advertisement was published (including where notice was affixed) as per the AO Rules, for proper service of notice. I note that only Noticee 4 filed its reply and reiterated its earlier submission.
9. I note that in response to newspaper advertisement, none of the Noticee(s) have appeared before me on the stipulated date i.e. August 16, 2017. Therefore, I am proceeding further in the matter based on submissions already made by Noticee(s), if any, and also material available on record.
10. Before I proceed on merits, I will deal with the initial submissions made by Noticee(s) in response to notice of hearing sent by Erstwhile AO. I note that Noticee 2, 3, 4, 5, 6, and 8 have submitted their response to the allegations made in the SCN. The main submissions made by these noticee(s) are as under:
 - a. They were independent director for short period of time.
 - b. During their tenure, EIL did not make any major announcement.
 - c. They did not purchase or sold any shares of EIL during period of investigations.
 - d. They do not have any power to take any decision.
11. I note from the SCN that the charges alleged against Noticee 2, 3, 4, 5, 6 and 8 were in the capacity of directors of EIL for failure to submit information sought by IA regarding

implementation *status of the corporate announcements made by the company during the investigation period. My observations are as under:*

- a. With respect to summons issued by IA and receipt of same, none of the Noticee(s) in their reply have referred to same.
- b. With respect to submissions that they were independent directors for short period of time, I note from records and submissions made by Noticee 2,4,5 and 6 were independent directors during the period of investigations and also during the period when summons were issued. Whereas Noticee 3 and 8 were not on Board of Directors during the period of investigations but were independent directors during the period when summons were issued.
- c. With respect to submissions that no major announcements were made during their tenure, I note from records that various corporate announcements were announced and disclosed by EIL to BSE.

12. I note from the submissions that none of the Noticee(s) mentioned about the summons issued to them and submission made to IA, if any. For the purpose of this proceeding, the main issue for consideration before me is that whether Noticee(s) received the summons and provided the desired information sought by IA which is being dealt in the following para's.

13. Before proceeding further in the matter, I observe from that SCN was issued to Noticee 2 (Rahul Kolugiri) in the capacity of Compliance Officer and Additional Director of EIL. However, I note from the Annual Report for 2010-11 and 2013-14 that Srinivasa Rao Marupudi (Noticee 9) was mentioned as CEO and Compliance Officer which coincides with the period when summons were issued. Further, at para 21 of Annual Report for 2013-14, Srinivasa Rao Marupudi (Noticee 9) had also given CEO and CFO certification under Clause 49 of Listing Agreement with Stock Exchanges. Thus, based on records, I conclude that Srinivasa Rao Marupudi (Noticee 9) was the compliance officer during the period when summons were issued.

14. Noticee 4 submitted in his reply to hearing notice before me and erstwhile AO that he was appointed as an Independent Director of the company for a period of 2 year 11 months from October 21, 2011 to September 17, 2014. However, based on the disclosure made by EIL to BSE on September 4, 2012 and Annual Report for 2013-14.

I note that Noticee 4 was appointed as Managing Director of EIL from September 4, 2012. Thus, based on records, I conclude that Shaik Ameer Basha (Noticee 4) was the Managing Director when summons was issued.

15. Based on the documents available on record, the designation of Noticee(s) along with the period of Directors is mentioned in table below:

Sr. No	Name of Director	Designation	Period of directors by Noticee
1	Shaik Ameer Basha (Noticee No. 4)	Managing Director (Source Annual Report 2013-14 – Page 12) (Source : BSE website Outcome of Board meeting held On 04.09.2012)	Appointed with effect from September 04, 2012 to September 17, 2014.
2	Srinivas Rao Marupudi (Noticee No. 9)	CEO & Compliance Officer (Source Annual Report 2010-11 – Page 17) (Source : BSE website outcome of AGM on 29.09.2011) Whole Time Director, compliance officer (Source Annual Report 2013-14 – Page 12 and Page 16)	Appointed on September 29, 2011 Appointed with effect from 15.09.2014
3	Srinivas Yadav Sher (Noticee No. 7)	Independent Director, (Source : Annual Report 2010-11) and (Source : BSE website outcome of AGM on 31.09.2010) Director (Source : Annual Report 2013-14)	Appointed with effect from 01.09.2010 Appointed with effect from 15.09.2014
4	Rahul Kolugiri (Noticee No. 2)	Independent Director (Source Annual Report 2013-14 – Page 12) (Source BSE website – Outcome of Board meeting held on 02.12.2011)	November 24, 2011 to August 09, 2014
5	Rahmatulla Shaik (Noticee No. 3)	Independent Director (Source Annual Report 2013-14 – Page 12)	January 01, 2013 to August 20, 2014
6	Miyati Gousal Adam (Noticee No. 5)	Independent Director (Source Annual Report 2013-14 – Page 12)	October 21, 2011 to April 21, 2014
7	Nagendra Komera (Noticee No. 6)	Independent / Additional Director (Source Annual Report 2013-14 – Page 12) (Source BSE website – Outcome of Board meeting held on 02.12.2011)	November 24, 2011 to August 20, 2014
8	Ravinder Deshpande (Noticee No. 8)	Additional Director (Source : Annual Report 2010-11)	July 20, 2011 to February 07, 2012.

9	Rama K Makkena (Noticee No. 10)	Independent Director (Source Annual Report 2013-14 – Page 12)	Appointed with effect from September 15, 2014.
---	------------------------------------	---	---

CONSIDERATION OF ISSUES AND FINDINGS

16. I have carefully perused the charges against the Noticee(s) mentioned in the SCN, the written submissions of the Noticee(s) and the materials and documents available on record. The issues that arise for consideration in the present case are:

- a. Whether the Noticee(s) have received and complied with summons issued by IA, violated the provisions of section 11C (2) read with 11C (3) of SEBI Act, 1992, if any?
- b. If violated, whether the Noticee(s) are liable for monetary penalty under Section 15A (a) of the SEBI Act, 1992?
- c. What quantum of monetary penalty should be imposed on the Noticee(s)?

ISSUE-I: Whether the Noticee(s) have received and complied with summons issued by IA, violated the provisions of section 11C (2) read with 11C (3) of SEBI Act, 1992, if any?

17. Exelon is a listed company on BSE. The share price of Exelon shot up from Rs 42.75 to Rs 112.85 during January 21, 2011 to March 18, 2011. Subsequently, SEBI conducted investigation into the trading activities in the scrip of Exelon during the period December 8, 2010 to January 20, 2012 and observed that major corporate announcements such issue of Global Depository Receipts (GDR) and / or American Depository Receipts (ADR) and entering into power sector were made by the company during the said period. Investigations revealed that various positive corporate announcements made by the company were not supported by the fundamentals of the company and also that such announcements were not implemented by the company subsequently.

18. In order to ascertain the role of entities involved in manipulation and also to ascertain the role of company and its directors, IA issued summons, under Section 11 C (2) read

with 11C (3) of SEBI Act, 1992, seeking relevant information for the purpose of investigations.

19. The provision of section 11C (2) and 11C (3) of SEBI Act, 1992, are as under:

11C. Investigation

(2), Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956 (1 of 1956), it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 12 or every person associated with the securities market to preserve and to produce to the Investigating Authority or any person authorised by it in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.

(3). The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.

20. The above provisions grant powers to IA to seek such information, or produce such documents which are relevant or necessary for the purpose of investigations, from any person associated with securities market in any manner. Accordingly, I note that for the purpose of ascertaining the facts and role of various entities involved in alleged manipulations, IA sought information / documents relating to status of implementation of the various positive corporate announcements and also shareholding along with various disclosures made by Noticee(s) to company and stock exchange.

21. I now proceed to deal with the charges (Noticee wise) alleged in the SCN on the basis of submissions made by Noticee(s), if any and documents available on record.

SUMMONS RELATED TO IMPLEMENTATION STATUS OF VARIOUS CORPORATE ANNOUNCEMENTS (NOTICEE 1-10):

22. I note that SCN alleges that summons were issued to Noticee 1 and its directors (Noticee 2-10) for non-submission of information relating to “*Implementation status of the corporate announcements made by the company during the investigation period*”

along with the documentary proof and copies of minutes of all Board Meeting held during November 2010 to January 2012 and agenda papers for same”.

23. The information status relating to following corporate announcements were sought by IA in its summons:

Sr.No	Date and Time	Announcement
1	February 1, 2011 2:10:20 P.M	Board Meeting to be held on February 10, 2011 to consider the follow on public issue, rights issue, preferential allotment, issue of ADR / GDR
2	February 10, 2011 07:14:35 P.M	BOD has duly approved following <ol style="list-style-type: none"> 1. To issue upto 10 crores equity share of Rs 10 each to promoter and other by way of follow on public issue, right issue, preferential allotment etc 2. To issue GDR and / or ADR convertible into equity shares, FCCB, warrants convertible into DR on preferential basis upto Rs 100 crores 3. To issue shares on QIP basis.
3	February 23, 2011 03:01:17 P.M	Proposal for setting up coal based thermal power plant.
4	March 7, 2011 01:56:02 P.M	EGM accorded following <ol style="list-style-type: none"> 1. To subdivide the equity shares from one equity share of Rs 10 each into two equity share of Rs 5 each. 2. To issue upto Rs 20 crore equity shares for the purpose of preferential allotment, public issue, right issue etc. 3. To issue GDR and / or ADR convertible into equity shares, QIB's, FCCB's, warrants convertible into DRs on preferential basis upto Rs 200 crores.

24. The details of summons issued and its delivery status are mentioned hereunder:

Name of the Noticee	Details of the Summons	Delivery Status
Exelon	IVD-ID8/SS/JR/Exelon/34226/2013 dated December 30, 2013	Delivered to Noticee 1
	IVD-ID8/SS/JR/Exelon/3246/2014 dated January 29, 2014	Delivered to Noticee 1
	IVD-ID8/SS/JR/Exelon/28196/2014 dated September 22, 2014	Delivered to Noticee 1, through its RTA

25. Upon perusal of summons issued by IA, I note that summons have been addressed only on the name of Exelon at the registered address i.e. Exelon Infrastructure Limited,

3-6-154, Victory Vision, 5th Floor, Himayat Nagar, Hyderabad-500029, Andhra Pradesh. However, these summons were not addressed specifically to individual Noticee(s) (Noticee 2 to 10) in the capacity of directors of Exelon. I note that the summons have been duly delivered to Noticee 1.

- 26.** None of the Noticee(s) submitted any reply to the summons. Further, there are no documents available on record to suggest that summons have been served to Noticee 2 to 10. Therefore, I am of the view that Notice 2 to 10 would not have been received the summons and therefore not aware of the contents of the summons for necessary compliance.
- 27.** Noticee 1 being an artificial person conducts its day to day operations through natural key management persons such as Managing Director / CEO, Compliance officer etc. I observe that during the period when summons were issued and duly delivered, Noticee 4 and Noticee 9 were Managing Director and CEO / Compliance officer of Exelon respectively. Therefore, MD, CEO / Compliance officers being principal officer of company and responsible for day to day operating including regulatory compliances and liable to respond to the summons received by the company. In the absence of documentary proof of delivery to individual Noticee(s), I am giving benefit of doubt to other noticee(s) except Notice 4 and 9 due to reasons mentioned above.
- 28.** I note that all summons have been addressed to company at its registered office were duly delivered. However, no information regarding the *“Implementation status of the corporate announcements made by the company during the investigation period along with the documentary proof and copies of minutes of all Board Meeting held during November 2010 to January 2012 and agenda papers for same”* as sought by IA vide its summons were submitted by Noticee 1, 4 and 9..
- 29.** In view of above, the charge against Noticee 1, 4, and 9 for non-compliance of summons issued by IA, stands established. The charges against Noticee 2, 3, 5, 6, 7, 8 and 10 does not stand due to reasons mentioned above.
- 30.** Thus, I conclude that Notice 1, 4 and 9 have violated the provisions of Section 11C (2) read with Section 11 (3) of SEBI Act, 1992.

SUMMONS RELATED TO DEALING IN SCRIPS OF EIL AND VARIOUS DISCLOSURES (NOTICEE 7, 8, 9 and 10)

- 31.** SCN has been issued to Noticee 7, 8, 9, 10 at the office of address of EIL and alternative address as available on records. As SCN returned undelivered, SCN were put on SEBI website under the section 'Unserved Summons/Notices'. In the interest of natural Justice opportunity of personal hearing was granted by erstwhile AO. Only Noticee 8 has replied to notice of hearing, which I have already consider in above paras. However, the notice of personal hearing to other Noticee(s) returned undelivered. Pursuant to my appointment as AO, an opportunity of personal hearing was granted on June 30, 2017whcih returned undelivered.
- 32.** In view of the above, as per Adjudication Rules for delivery, affixture and Newspaper publication were made on July 22, 2017, providing an opportunity of personal hearing on August 16, 2017. I note that Noticee neither appeared before me on August 16, 2017 nor submitted any reply to SCN.
- 33.** Hence, I am of the view that as in interest of natural justice ample opportunity was given to Noticee and I am proceeding to adjudicate the matter on merits, based on documents available on record.
- 34.** I have noted that IA issued Summons dated December 31, 2013 to two address. First being office address of EIL and Second address at alternative address available on records. I note that summons addressed to office address of EIL was duly delivered while summons issued at alternative address returned undelivered. The informations sought by IA from Notice 7, 8 and 9 are as hereunder:
- a.** Details of Noticee's relationship with EIL and its directors / promoters
 - b.** Shareholding in the EIL, shares purchased during the investigation period along with the proof of disclosures made to the stock exchange as well as to the company under SEBI (SAST) Regulations, 1997 and SEBI (SAST) Regulations, 2011 and SEBI (PIT) Regulations, 1992.
 - c.** Details of pre clearance for trading in EIL sought if any and by Noticee and permission granted by EIL in prescribed format
 - d.** Details of trades executed by Noticee in scrip of EIL in prescribed format

- e. Details of off-market/ spot transaction along with name and address of counter party, if any.
- f. Reasons of trading / executing off market transaction in scrip of EIL during the IP and supporting documents for the same.

35. However, no reply has been received from the Noticee. Therefore, a reminder dated January 10, 2014 was again sent to Noticee at both office address of EIL by the Speed Post and alternative address as mentioned above. I note that Reminder addressed at EIL address was duly delivered on while letter sent at alternative address returned undelivered.

With respect to Noticee 7:

36. I note that IA had sought information as per para 20 and during the period when summons were issued, Noticee was independent director from September 01, 2010 and reappointed on September 15, 2014.

Details of summons issued and its delivery status are mentioned hereunder:

Name of the Noticee	Details of the Summons	Delivery Status
Srinivas Sher Yadav (Noticee No. 7)	IVD-ID8/SS/JR/Exelon/34293/2013 dated December 31, 2013	Delivered at Office address.
	Reminder IVD/ID8/SS/JR/OW/1128/2014 dated January 10, 2014	Delivered at Office address

37. From records, I note that summons and reminder issued by IA were sent to two addresses. While summons and reminder issued at office address of EIL was duly delivered, summons and reminder issued at alternative address returned undelivered. In the absence of any record before me to suggest that EIL had further delivered the summons to Noticee, I give benefit of doubt to Noticee that it had not received the summons. Therefore, I cannot hold Noticee 7 guilty of violation of section 11C (2) read with 11C (3) of SEBI Act, 1992, for non-submission of information sought by IA.

38. However, I conclude that Noticee 1 had duly received the summons and reminders issued to Noticee 7. Further, Noticee 4 and 9 being MD and CEO / Compliance Officers of EIL respectively were responsible to take steps to deliver the summons to Noticee 7

(who was also independent director of EIL). However, there are no records to suggest that Noticee 4 and 9 have delivered the summons to Noticee 7, consequently, such inactions were instrumental in hampering the investigations.

With respect to Noticee 8:

39. I note that IA had sought information as per para 20 and during the period when summons were issued, Noticee was Additional director from July 20, 2011 to February 07, 2012. Details of summons issued and its delivery status are mentioned hereunder:

Name of the Noticee	Details of the Summons	Delivery Status
Ravindra Deshpande (Noticee No. 8)	IVD/ID8/SS/JR/Exelon/34290/2013 dated December 31, 2013	Delivered at Office address
	IVD/ID8/SS/JR/Exelon/OW/3052/2014 dated January 28, 2014	Delivered at Office address
	IVD/ID8/SS/JR/Exelon/OW/28217/2014 dated September 22, 2014	Delivered at Office address
	Reminder IVD/ID8/SS/JR/OW/1116/2014 dated January 10, 2014	Delivered at Office address

40. In response to aforementioned summons, vide letter dated January 18, 2014 and email dated January 20, 2014 Noticee replied to the summons dated December 31, 2013 with partial / incomplete information and also failed to submit the proof of disclosures made to the stock exchange as well as to the company.

41. Since the Noticee did not submit the complete information, IA issued another summon dated January 28, 2014 to Noticee. In response to that Noticee submitted his reply reiterating his earlier submission. Despite multiple reminders, Noticee failed to submit the desired information sought by IA. Therefore, another Summon dated September 22, 2014 was sent by the Speed Post at both office address of EIL and alternative address. I note that Reminder addressed at EIL address was duly delivered, while letter sent at alternative address returned undelivered.

42. I note that, despite receiving summons, Noticee failed to submit complete information sought by IA regarding the proof of disclosures made by Noticee to the stock exchange as well as to the company, off market transactions and other dealing in the scrip of EIL.

43. I note from BSE website and confirmation from BSE that no disclosure was made by Noticee. Therefore, I note that Noticee failed to make necessary disclosure, proof of which sought by IA during the investigation. Further, Noticee did not submit complete information regarding off market transaction along with counter-party details and its relationship with them. I note that non-submission of such information hampered the investigation process.

44. Thus, I conclude that Noticee 8 did not fully comply with summons issued by IA and therefore violated the provisions of section 11C (2) read with 11C (3) of SEBI Act, 1992.

With respect to Noticee 9:

45. I note that IA had sought information as per para 20 and during the period when summons were issued, Noticee was CEO and Compliance officer.

46. Investigations revealed that Noticee had traded in the scrip of EIL using two PAN Numbers. Consequently, another summon dated September 22, 2014 was issued to Noticee 9 at both the address mentioned above seeking details of trading done on both the PAN Numbers. Further, on September 24, 2014, the copy of summon was also forwarded to Noticee at the email id marupudisirivas@yahoo.com, ceo@exeloninfra.com, info@exeloninfra.com as available on records. The Summons sent to both addresses returned undelivered, which were subsequently delivered through its broker R.L.P Securities Ltd on December 24, 2014. The Noticee acknowledged the summons on December 27, 2014 which is available on record. Details of summons issued and its delivery status are mentioned hereunder:

Name of the Noticee	Details of the Summons	Delivery Status
Srinivasa Rao Marupudi (Noticee No. 9)	IVD-ID8/SS/JR/Exelon/34278/2013 and IVD-ID8/SS/JR/Exelon/34377/2013 dated December 31, 2013	Delivered on both address Delivered (Alternative address)
	IVD-ID8/SS/JR/Exelon/OW/28194/2014 dated September 22, 2014	Delivered (through the Broker of Noticee, R.L.P Securities Ltd)

	<u>Reminders</u> IVD/ID8/SS/JR/OW/1089/2014 IVD/ID8/SS/JR/OW/1101/2014 dated January 10, 2014	Delivered (Alternative address) Delivered (Both Address)
--	---	---

47. I note that Noticee 9 being Principal Officer of EIL, despite receiving summons, failed to submit any of the information as sought by IA. Further, I also noted that Noticee 9 in the capacity of CEO / Compliance officer had not submitted information sought by IA regarding implementation status of various corporate announcements made by EIL and also not submitted any information sought by IA, regarding its dealing in EIL, from Noticee 9 in individual capacity as well.

48. Given that Noticee 9 was a principal officer of EIL, he was duty bound to demonstrate highest standard of integrity, fairness and transparency in all matters relating to operations of company, including submissions of any information about the company promptly to any regulatory / investigative authority. Any non-cooperation / non-submission of information to IA, could hint at possible concealing of facts / evidences which would otherwise be relevant for investigations and investors in general. Further, Noticee had demonstrated casual approach towards instant proceedings by not responding to any of the correspondences and also not appeared for personal hearing during the proceedings. The above conduct of Noticee 9 is viewed seriously in these proceedings.

49. Thus, I conclude that Noticee 9 did not comply with summons issued by IA and therefore violated the provisions of section 11C (2) read with 11C (3) of SEBI Act, 1992.

With respect to Noticee 10:

50. I note that IA has sought information as per para 20 and Noticee was appointed as independent director on September 15, 2014 as per Annual report 2013-14. Details of summons issued and its delivery status are mentioned hereunder:

Name of the Noticee	Details of the Summons	Delivery Status
Rama Krishna Makkena (Noticee No. 10)	IVD-ID8/SS/JR/Exelon/001/2014 dated March 13, 2014	Delivered (through the Broker of Noticee, R.L.P Securities Ltd)
	IVD-ID8/SS/JR/Exelon/OW/28191/2014 dated September 22, 2014	Delivered (through the Broker of Noticee, R.L.P Securities Ltd)
	Email reminder dated March 19, 2014	Delivered
	Email reminder dated September 24, 2014	Delivered

51. I note that Summonses dated March 13, 2014 and September 22, 2014 were addressed to Noticee 10 at B 104, Usha Enclave, Navodaya Colony, Srinagar Colony, Hyderabad 500073. The summons were sent by the Speed Post which returned undelivered. Subsequently, vide email dated September 24, 2014, copy of the summons were attached and sent to Noticee at the email id (mrk393@yahoo.com) as available on record. In the absence of email delivery receipt by the Noticee on record, I am giving benefit of doubt to the Noticee it had not received the said summons.

52. Apart from above, I note that that above summons were sent to Noticee through it broker, R.L.P Securities Ltd, on December 24, 2014, with a direction to deliver the summons to the Noticee 10. R L P Securities Ltd, vide its letter dated January 2, 2015 confirmed that the said summons was delivered to Noticee 9, on behalf of Noticee 10. I also note that said summons issued to Noticee 10 were duly acknowledged by Noticee 9 on December 27, 2014.

53. The information sought from Noticee related to shareholding in EIL, shares purchased during the investigation period along with the proof of disclosures made to the stock exchange as well as to the company under SEBI (SAST) Regulations, 1997 and SEBI (SAST) Regulations, 2011 and SEBI (PIT) Regulations, 1992. I note that Noticee had dealt in the shares of EIL during relevant period and therefore all information relating to its dealings as sought by IA, would have been relevant for the investigations.

54. Since there was no reply to the summons by Noticee 10 and in the absence of any record before me that Noticee 9 had further forwarded the summons to Noticee 10, I am willing to give benefit of doubt to Noticee 10 that it had not received the summons which was duly delivered to Noticee 9 as mentioned above. Therefore, I cannot hold

Noticee 10 guilty of violation of section 11C (2) read with 11C (3) of SEBI Act, 1992, for non-submission of information sought by IA.

55. However, I conclude that Noticee 9 had duly received the summons and reminders issued to Noticee 10. Further, Noticee 9 being CEO / Compliance Officers of EIL was responsible to take steps to deliver the summons to Noticee 10 (who was also independent director of EIL). However, there are no records to suggest that Noticee 9 have delivered the summons to Noticee 10, consequently, such inactions was instrumental in hampering the investigations.

IMPACT ON INVESTIGATIONS

56. In order to decide whether the information sought by IA from Noticee(s) through issue of summons, was relevant and material for investigations to ascertain the role of Exelon, its directors and other entities, I consider it necessary to ascertain whether various corporate announcements made were actually implemented by Exelon or not. In this regard, I noted from the BSE website that there was not neither any update / clarification on the corporate announcements nor any follow up announcement / decisions for implementation of the said corporate announcements. Further, I also noted from the shareholding pattern of the Company (as per BSE website) that it had not changed during the Investigation Period (during 2010–11 and 2011–12) except for stock split effected on March 24, 2011 suggesting that various fresh issue of shares (GDR /ADR/ FCCB/ Preferential allotment etc) as approved and announced by Exelon had actually not take place.

57. In view of above, I conclude from records before me that Exelon had not implemented any of the announcements made as mentioned in the table above. I consider information sought by IA were relevant for the investigations in order to establish the role of entities involved in the matter and also gather necessary evidence.

58. With regard to information sought by IA regarding details of dealings in shares of Exelon, shareholding and proof of disclosures made to Exelon and stock exchanges, I note that these entities held shares of EIL and have also dealt during the period of investigations. Therefore the information sought by IA would have been relevant for the

investigations, especially as they were also directors of EIL, in order to ascertain role / connection of Noticee(s) with any entity involved in the manipulation, if any.

59. Non-submission of information by Noticee(s), despite delivery of summons, have delayed the investigations and also facilitated certain noticee(s) to hide / suppress the facts and evidences. Further, various positive corporate announcements made by Exelon would have influenced investors to deal in shares of EIL, as they were material and relevant for their investment decisions. I consider that non-submission / incomplete submission of desired and relevant information to IA by the Noticee(s) should be seen as an attempt by them to deliberately suppress information, which is a serious offence. In this regard, I am guided by provisions of Section 11 C of SEBI Act, 1992 which accords non-cooperation / non submission of information / documents sought by IA as a serious offence.

60. I rely on the well settled position of law as well as held by the Hon'ble SAT in the case of Asian Films Production and Distribution Ltd. (earlier known as K.C.Bokadia Films) vs. SEBI (Appeal No.203 of 2010, Date of Decision :19.01.2011) wherein it has been held that: "Non-compliance with the summons is, indeed, a serious matter and cannot be viewed lightly. The respondent Board is the market regulator and has to regulate the securities market and the law provides that every person associated with the market in any manner should cooperate in the matter of carrying out investigations. In the year 2002, the provisions of the Act were amended and penalty for non-compliance with summons was enhanced considerably to make it more deterrent. Market players who do not cooperate with the regulator in the matter of investigations commit a serious wrong which can have serious repercussions in the market".

61. Also, it is very pertinent to mention that, the Hon'ble Securities Appellate Tribunal (SAT) has also recognized the importance of compliance of summons and personal appearance and in the matter of DKG Buildcon Pvt. Ltd. v. SEBI (Appeal No. 106 of 2006, Date of Decision: 07.01.2009), it has held: "...By not responding to the summons, the representative(s) of the appellant did not appear before the investigating officer as a result whereof their statements could not be recorded. This, obviously, hampered the investigations. In the result, the inescapable conclusion is that the appellants were adamant in not furnishing the information sought from them though vital to the

investigations and that they stonewalled the investigations as commented by the adjudicating officer. It is of utmost importance that every person from whom information is sought should fully cooperate with the investigating officer and promptly produce all documents, records, information as may be necessary for the investigations. If persons are allowed to flout the summons issued to them during the course of the investigations, the Board as the watchdog of the securities market will not be able to perform its duties in protecting the interests of the investors and safeguarding the integrity of the securities market.”

62. Considering above, I conclude that information sought by IA through summons were relevant and material for investigation to ascertain the role of Noticee(s). Non-submission / submission of incomplete information by Noticee(s) impacted the investigations in terms of delay and hiding / suppression of facts.

NON RESPONSE IN THE PRESENT PROCEEDINGS.

63. As observed in pre-paras that despite service of SCNs and hearing notices through by SPAD / affixture at the last known address of the Noticee(s) / newspaper publication / email, the Noticees 1 to 10 neither submitted any reply towards the SCNs nor appeared for hearing me under inquiry. It is well settled position of law as well as held by the Hon'ble Securities Appellate Tribunal (SAT) in the matter of Classic Credit Ltd. v/s SEBI [2007] 76 SCL 51 (SAT -MUM) inter-alia held that –“*the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show-cause notice were admitted by them*”.

64. The Hon'ble SAT also made such proposition in case of Sanjay Kumar Tayal & Ors. Vs. SEBI (in appeal No. 68/2013) decided on 11, 2014 viz. “....., *appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notices*”.

65. Therefore, considering the material available on record, the facts and circumstances of the case, charges levelled against the Noticee(s) as per SCNs and written submissions

made by them, I am convinced that the Noticee 1, 4, 9 failed to provide information sought by IA through summons and various reminders regarding implementation status of various announcements made by Company, which I consider was material for the investigations. Further, I am also convinced that Noticee(s) (8 and 9) have failed to submit complete information regarding disclosures made by them to stock exchange and company, complete details of off market transactions along with counter party details. Such acts of Noticee(s) have hampered the process of investigation, which leads to non-compliance of the provision of section 11C (2) read with 11C (3) of SEBI Act 1992.

ISSUE II: Whether the Noticee(s) are liable for monetary penalty under section 15A(a) of the SEBI Act, 1992?

66. In this context, reliance is placed upon the order of the Hon'ble Supreme Court of India in the matter of Chairman, SEBI vs. Shriram Mutual Fund {[2006] 5 SCC 361} wherein it was held that *"In our view, the penalty is attracted as soon as contravention of the statutory obligations as contemplated by the Act is established and, therefore, the intention of the parties committing such violation becomes immaterial. Hence, we are of the view that once the contravention is established, then the penalty has to follow and only the quantum of penalty is discretionary."*
67. As regards the imposition of monetary penalty for non-compliance of summons, I note that the Hon'ble SAT had the occasion to deal with this issue in the matter of DKG Buildcon Pvt. Ltd. (supra), wherein it observed: *"It was then argued on behalf of DKG that section 15A(a) of the Act does not apply as the Act, Rules or Regulations made thereunder do not per se require the production of documents or furnishing of information and that it was only a direction of the Board contained in the summons that the appellant was required to comply with. The argument indeed is that non-compliance with the directions of the Board would not attract section 15A (a) and that the penalty could be levied under the residuary provision contained in section 15HB. The argument is being noticed only to be rejected. Section 11C of the Act was introduced with effect from 29.10.2002 and sub-section (3) thereof provides that the investigating authority may require any person associated with the securities market "to furnish such information, or produce such books, or registers, or other documents, or record before*

him...". The power to require a person to furnish any information or record or documents includes the power to require such person to make a statement and give clarifications with regard to the information and documents produced by him. In the absence of such a power the purpose of the legislature in introducing section 11C would be frustrated and the Board will not be able to investigate properly the market irregularities and offences. In order to advance the object of Parliament the language used in sub-section (3) of section 11C has to be given a wider meaning. We are, therefore, of the considered opinion that section 11C (3) gives the power to the investigating authority to call upon any person to make a statement while furnishing any information, document or record. "Thus, it is clear that if a person fails to comply with the summonses of IA he is liable for penalty under Sec. 15A (a) of SEBI Act. As the violation of provisions of section 11C (2) read with 11C (3) of SEBI Act, 1992 by the Noticee(s) has been established, I hold that Noticee(s) are liable for monetary penalty under section 15A (a) of SEBI Act.

68. The aforesaid provisions read as under:

"15A. Penalty for failure to furnish information, return, etc.-If any person, who is required under this Act or any rules or regulations made thereunder, - (a) to furnish any document, return or report to the Board, fails to furnish the same, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less;"

ISSUE III: What quantum of monetary penalty should be imposed on the Noticee(s)?

69. While determining the quantum of penalty under section 15A(a), it is important to consider the factors stipulated in section 15J of SEBI Act, which reads as under:

"15J - Factors to be taken into account by the adjudicating officer

While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*
- (b) the amount of loss caused to an investor or group of investors as a result of the default;*

(c) the repetitive nature of the default.”

70. I note that the material made available on record has not quantified the amount of disproportionate gain or unfair advantage made by the Noticee(s) and the loss suffered by the investors as a result of the Noticee(s)'s default. Also, there is no material made available on record to assess the amount of loss caused to investors or the amount of disproportionate gain or unfair advantage made by the Noticee(s) as a result of default. However, it is pertinent to mention the Noticee (s) by not submitting complete details to the summons to IA despite having received the summonses compromises the regulatory framework and hampered the investigation.

71. I consider non-submission of information sought by IA, would not only weaken the case against those who are involved but also delay gathering of evidences against such entities and thus hamper the investigation. Further, any delay or hurdle in investigation due to non-cooperation by any entity is detrimental to the interest of investors in securities market and the same deserves to be viewed seriously.

72. I note that Noticee 4 (MD) and 9 (CEO / Compliance officer) who are responsible for regulatory compliances have repeatedly failed to submit any information regarding implementation status of corporate announcement to the summons issued by IA. Further, Noticee 9 in its individual capacity had also not submitted any information to the summons regarding its dealing in the scrip of EIL. I am of the view that non-cooperation / non-submission of information by principal officers of a listed company such as MD, CEO, Compliance officer etc, to regulatory authority, would hamper the regulatory objectives of investor protection and also detrimental to the interest of securities market in general. Therefore, I have considered the repetitive failure by Noticee 4 and 9 to comply with the summons, period of delay in submission, as factors while imposing penalty.

ORDER

73. In view of the above, after considering all the facts and circumstances of the case (such as non-compliance with SEBI investigation and hampering the process of investigation) and exercising the powers conferred upon me under Section 15-I of the Act and Rule 5 of AO Rules, I hereby impose a monetary penalty as per following table under Section

15A (a) of the SEBI Act, 1992. In my view, the penalty imposed is commensurate with the default committed by the Noticee(s) and also act as a deterrent factor for the Noticee(s) and others in protecting the interest of Investors.

Name of Noticee	Charges	Amount of Penalty / Provisions of Law violated
M/s. Exelon Infrastructure Ltd. (Noticee 1)	Implementation status of the corporate announcements made by the company during the investigation period along with the documentary proof and copies of minutes of all Board Meeting	Rs. 10,00,000 /-(Rupees Ten Lakh only) for violation of Regulation 11C (2) read with 11C (3) of SEBI Act, 1992
Shri Srinivas Rao Marupadi, CEO and Compliance Officer (Noticee 9)		Rs. 10,00,000 /-(Rupees Ten Lakh only) for violation of Regulation 11C (2) read with 11C (3) of SEBI Act, 1992
Shaik Ameer Basha, Managing Director (Noticee 4)		Rs. 10,00,000 /-(Rupees Ten Lakh only) for violation of Regulation 11C (2) read with 11C (3) of SEBI Act, 1992
Shri Ravinder Deshpande (Noticee 8)	Incomplete information as sought by IA	Rs. 2,00,000 /-(Rupees Two Lakh only) for violation of Regulation 11C (2) read with 11C (3) of SEBI Act, 1992
Shri Srinivas Rao Marupadi (Noticee 9)	Non submission of any information sought by IA, vis-à-vis, Dealings in the share, details of name and details of counterparty in case of off market transaction etc. along with proof of disclosures	Rs. 10,00,000 /-(Rupees Ten Lakh only) for violation of Regulation 11C (2) read with 11C (3) of SEBI Act, 1992

74. The Noticee/(s) shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favor of **“SEBI - Penalties Remittable to Government of India”**, payable at Mumbai, OR through e-payment facility into Bank Account the details of which are given below:

Account No. for remittance of penalties levied by Adjudication Officer

Bank Name	State Bank of India
Branch	Bandra-Kurla Complex
RTGS Code	SBIN0004380
Beneficiary Name	SEBI – Penalties Remittable To Government of India
Beneficiary A/c No	31465271959 28

75. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Deputy General Manager, Enforcement Department, SEBI. The Format for forwarding details / confirmations of e-payments made to SEBI shall be in the form as provided at Annexure A of Press Release No. 131/2016 dated August 09, 2016 shown at the SEBI Website which is produced as under:

Case Name	
Name of Payee	
Date of payment: Adjudication Order in respect of Alka India Ltd.,	
Amount Paid	
Transaction No	
Bank Details in which payment is made	
Payment is made for (like penalties/disgorgement/recovery/Settlement amount and legal charges along with order details)	

76. In terms of rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and also to SEBI.

Place: Mumbai

Date: August 23, 2017

B J DILIP

ADJUDICATION OFFICER