

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 176/MP/2015**

**Coram:**

**Shri Gireesh B. Pradhan, Chairperson**

**Shri A.K. Singhal, Member**

**Shri A.S.Bakshi, Member**

**Dr. M.K.Iyer, Member**

**Date of Hearing: 03.9.2015**

**Date of Order : 22.9.2015**

**In the matter of**

Petition for assignment of Transmission Licence granted to Petitioner No. 2 and Petitioner No. 3 in favour of Petitioner No. 1 in view of the amalgamation of Petitioner No.2 and 3 with Petitioner No. 1.

**And**

**In the matter of**

Petition for approval under Section 17 (3) and (4) of the Electricity Act, 2003 for substitution of lenders by the Borrower and to take on record appointment of the SBICAP Trustee Company Limited, the Security Trustee/Petitioner No. 3, acting on behalf of and for the benefit of (i) L&T Infrastructure Finance Company Limited and (ii) IndusInd Bank Limited, in connection with the Package B of Western Region System Strengthening Scheme-II (WRSS-II) in Maharashtra and Karnataka.

**And**

**In the matter of**

1. Reliance Infrastructure Limited  
H Block, 1<sup>st</sup> floor,  
Dhirubhai Ambani Knowledge City,  
Navi Mumbai- 400 710
  
2. Western Region Transmission (Maharashtra) Private Limited  
H Block, 1<sup>st</sup> floor,  
Dhirubhai Ambani Knowledge City,  
Navi Mumbai- 400 710

3. Western Region Transmission (Maharashtra) Private Limited  
H Block, 1<sup>st</sup> floor,  
Dhirubhai Ambani Knowledge City,  
Navi Mumbai- 400 710
4. SBICAP Trustee Co. Ltd.  
202, Maker Tower 'É',  
Cuffe Parade, Mumbai-400 005.

....Petitioners

**Vs**

1. Power Grid Corporation of India Ltd.  
Saudamini, Plot 2, Sector 29,  
Near IFFCO Chowk, Gurgaon, 122001, Haryana
2. MP Power Trading Company Limited  
Shakti Bhawan, Rampur,  
Jabalpur- 482008
3. Gujarat Urja Vikas Nigam Limited  
Sardar Patel Vidhyut Bhawan,  
Race Course Road,  
Vadodara- 390007
4. Maharashtra State Electricity Distribution Company Limited  
Prakashgad, Bandra,  
Mumbai- 400051
5. Chhattisgarh State Power Distribution Company Limited  
Vidyut Seva Bhavan, P.O. Sundernagar,  
Danganiya, Raipur- 492013
6. Government of Goa  
Electricity Department,  
3<sup>rd</sup> Floor, Vidyut Bhavan,  
Panaji, Goa- 403001
7. Electricity Department  
Administration of Daman and Diu,  
Secretariat, Fort Area,  
Moti Daman, Daman- 396220
8. Electricity Department  
Administration of Dadra and Nagar Haveli,  
Government of UT of Dadra and Nagar Haveli

9. MP Audyogik Kendra Vikas Nigam Limited  
Free Press House  
1st Floor, 3/54- Press Complex  
AB Road, Indore- 452008
10. Jindal Power Limited  
Plot No. 2, Tower-B Sector-32,  
Gurgaon, Haryana-122001
11. Power Trading Corpn. Of Inida Limited,  
NBCC Tower, 15, Bhikaji Cama Place,  
New Delhi- 110066
12. Heavy Water Project,  
Department of Atomic Energy,  
Heavy Water Board, Vikram Sarabhai Bhawan,  
Anushakti Nagar, Mumbai- 400094
13. Sugen Mega Power Project  
Torrent Power Limited,  
Off. National Highway No. 8,  
Taluka-Kamrej, Dist-Surat-394155
14. Adani Power Limited  
8-A, Sambhav Building,  
Judges bungalow road,  
Bodak Dev, Ahmedabad- 380015

....Respondents

**Following were present:**

Shri Buddy A. Ranganathan, RInfra  
Shri Hasan Murtaza, RInfra  
Shri Malavika Prasad, RInfra

**ORDER**

The petitioners, Reliance Infrastructure Limited (RInfra), Western Region Transmission (Maharashtra) Pvt. Ltd. (WRTMPL) and Western Region Transmission (Gujarat) Pvt. Ltd (WRTGPL) have jointly filed this petition under Section 17(3) of the Electricity Act, 2003 (“the Act”) seeking assignment of transmission licences granted to

Western Region Transmission (Maharashtra) Private Limited and Western Region Transmission (Gujarat) Private Limited in favour of Reliance Infrastructure Ltd. (RInfra).

2. RInfra is, *inter alia*, stated to be engaged in the business of generation, transmission and distribution of electricity. WRTMPL and WRTGPL are stated to be wholly owned subsidiaries of RInfra. The Board of Directors of WRTMPL, WRTGPL and RInfra vide resolutions dated 15.7.2014 approved merger of WRTMPL and WRTGPL with RInfra.

3. WRTMPL and WRTGPL have been granted licences by the Commission for construction, operation and maintenance of inter-State transmission system under the Western Region System Strengthening Schemes by two separate orders, both dated 30.12.2008, in Petition Nos. 27/2008 and 28/2008 respectively consequent upon their selection through the process of competitive bidding.

4. The petitioners have submitted that RInfra, as part of larger restructuring of its business proposed a scheme of amalgamation of WRTMPL and WRTGPL with RInfra. Pursuant to the scheme of amalgamation, WRTMPL and WRTGPL filed Company Petitions No. 108 of 2014 and 109 of 2014 respectively before the Hon'ble High Court of Judicature at Bombay for sanction of the arrangement embodied in the scheme of amalgamation. Hon'ble High Court by its order dated 15.7.2014 approved the scheme to be effective from 1.4.2013, subject to compliance of the certain conditions.

5. The petitioners had filed Petition No. 54/MP/2014 before the Commission seeking prior approval in terms of Section 17 (1) of the Act for amalgamation/merger of

WRTMPL and WRTGPL with RInfra. The Commission vide order dated 7.1.2015 accorded approval in terms of Section 17 (1) of the Act and further directed the petitioners to file appropriate application for assignment of transmission licences granted to WRTMPL and WRTGPL in favour of RInfra after the completion of merger/amalgamation.

6. Subsequently, the petitioners approached the Commission in Petition No. 72/MP/2015 for assignment of transmission licences issued to WRTMPL and WRTGPL in favour of RInfra. The Commission vide order dated 3.6.2015 observed that WRTMPL had entered into a financing agreement with L& T Infrastructure Finance Company Ltd. and IndusInd Bank on 30.10.2014 and availed loan of ₹ 645 crore for refinancing the existing loan taken from IDFC Ltd. The Commission directed the petitioners to take approval of the Commission under Section 17 (3) and (4) of Act for substitution of the lenders and thereafter, approach the Commission for assignment of transmission licence in favour of RInfra.

7. Against the above background, the petitioners have filed the present petition with the following prayers:

“(a) assign the transmission licence granted to Petitioner No. 2 and Petitioner No. 3 in favour of Petitioner No. 1;

(b) approve creation and/or perfection of Security Interest in favour of Security Trustee, acting on behalf of and for the benefit of the lenders.

(c) approve the Security Documents, and execution thereof, for creation and/or perfection of aforesaid Security Interest in favour of Petitioner No. 4, the Security Trustee for the benefit of Lenders;

(d) Pass such other and further orders as this Hon`ble Commission may deem fit and proper under the facts and circumstances of the present case.”

8. The matter was heard on 12.3.2015 after notice to the respondents. No reply has been filed by the respondents and none appeared on behalf of the respondents.

9. During the course of hearing, learned counsel for the petitioners submitted that pursuant to the direction of the Commission dated 7.1.2015 in Petition No. 72/MP/2015, the present petition has been filed for assignment of licences granted to WRTMPL and WRTGPL into RInfra. Learned counsel further submitted that the petitioner has also filed a separate Petition No. 169/MP/2015 under Section 17 (3) and (4) of the Act for substitution of lenders. The Commission directed the petitioner to file an affidavit to the effect that no financial burden would be passed on the beneficiaries on account of the merger. In compliance with the Commission`s direction, the petitioner vide its affidavit dated 3.9.2015 has submitted that no financial burden will be passed on to the beneficiaries on account of the merger of the licensees with RInfra. Relevant portions of the said affidavit dated 3.9.2015 are extracted as under:

*“ 3. That this Hon’ble Commission in its order dated 07.01.2015 in Petition No. 54 of 2014, on a submission from Madhya Pradesh Power Management Company was pleased to direct that no financial burden is passed on to the beneficiaries on account of the merger of WRTML and WRTGL into RInfra. The Petitioner shall be in full compliance of the directions of the Commission and states that no financial burden will be passed on the beneficiaries on account of the merger.*

*4. The Petitioner further states that since the transmission tariff of WRTML and WRTGL has been discovered and approved by this Hon’ble Commission in terms of Tariff Based Competitive Bidding, there will be no tariff revision on account of the merger and assignment of License of WRTML and WRTGL, and/or refinancing of loan”*

10. We have heard learned senior counsel for the petitioner and pursued documents on record.

11. Section 17 (3) of the Act provides as under:

*“(3) No licensee shall at any time assign his licence or transfer his utility, or any part thereof, by sale, lease, exchange or otherwise without the prior approval of the Appropriate Commission.”*

Under the above provisions, the licensee cannot assign his licence or transfer his utility, or any part thereof, by sale, lease, exchange or otherwise without the approval of the Commission. Accordingly, the petitioner has approached the Commission for prior approval.

12. The Hon`ble High Court of Bombay vide its order dated 14.7.2015 in Company Scheme Petition No. 108/2014 and 109/2014 had accorded sanction for the scheme of amalgamation with effect from 1.4.2013 with the condition that in case the lenders did not provide the written consents as required under the Credit Agreement dated 29.6.2011 entered into between the petitioner companies and the ECB lenders, the merger of the petition companies into RInfra would not become effective. The lenders have conveyed their no objection for amalgamation of WRTMPL with RInfra subject to the petitioners obtaining and submitting the assignment of transmission licence granted to WRTMPL in favour of RInfra. Accordingly, the petitioner filed Petition No. 72/MP/2015 for assignment of transmission licences granted to WRTMPL and WRTGPL into RInfra. Meanwhile, WRTMPL entered into a financing agreement with L&T Infrastructure Finance Company Limited and IndusInd Bank Ltd on 30.10.2014 for refinancing existing loan taken from IDFC Ltd. and WRTMPL on 30.10.2014 has taken disbursement of loan of ₹ 645 crore to repay the outstanding loan to IDFC Ltd. However, WRTMPL did not obtain the approval of the Commission to create security in favour of L & T Infrastructure Finance Company Limited and IndusInd Bank Ltd. Accordingly, the

Commission vide order dated 3.6.2015 in Petition No. 72/MP/2015 directed the petitioner before assignment of transmission licenses, to first take approval for substitution of the lenders of WRTMPL. The petitioner has filed a separate petition for approval under Section 17 (3) and (4) of Act for substitution of lenders. The petitioner vide order dated 21.9.2015 has been accorded post facto approval for substitution of L & T Infrastructure Finance Company Limited and IndusInd Bank Ltd. as lenders.

13. The petitioner has sought assignment of licences in favour of RInfra consequent to the merger of WRTMPL and WRTGPL with RInfra. The purpose of assignment has been stated to achieve synergy of operations and integrate business functions as a consequence of consolidation of the power transmission business and efficiency of operations and management of the power transmission business and better regulatory compliance of power transmission business. Under sub-section (3) of Section 17 of the Electricity Act, 2003, a licensee is required to obtain “prior” approval of the Commission for assigning the licence or transfer of its utility. In terms of sub-section (3) of Section 17 of the Act, we approve the assignment of the transmission licences of WRTMPL and WRTGPL in favour of RInfra. Consequent to the assignment of licences, all rights, assets, liabilities and obligations of these licensees in respect of the transmission business shall vest in RInfra. RInfra shall also remain bound by the terms and conditions of licences granted to WRTMPL and WRTGPL. The petitioners are also directed to comply with the directions of the Commission dated 7.1.2015 in Petition No. 54/MP/2015 and submit a compliance report as directed.



14. The petitioners shall submit the original licences to the Secretariat of the Commission for appropriate endorsements thereon.

15. The petition is disposed of in terms of the above.

Sd/-  
**(Dr. M.K.Iyer)**  
**Member**

sd/-  
**(A.S.Bakshi)**  
**Member**

sd/-  
**(A.K.Singhal)**  
**Member**

sd/-  
**(Gireesh B.Pradhan)**  
**Chairperson**