

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 268/MP/2017**

**Coram:  
Shri A.K. Singhal, Member  
Shri A.S.Bakshi, Member  
Dr. M.K. Iyer, Member**

**Date of Order : 8<sup>th</sup> of March, 2018**

**In the matter of**

Petition under Section 17 read with Section 79 (1) (c) of the Electricity Act, 2003 for seeking approval of substitution of lenders, namely Credit Agricole Corporate and Investment Bank, Mizuho Corporate Bank with Standard Chartered Bank.

**And  
In the matter of**

Western Transmission (Gujarat) Limited  
502, Plot no.91/94  
Prabhat Colony, Santacruz (East),  
Mumbai – 400 055

....**Petitioner**

**Vs**

1. Power Grid Corporation of India  
“Saudamini”  
Plot No.2, Sector 29,  
Gurgaon 122001
2. MP Power Trading Company Ltd. (MP Tradeco)  
Shakti Bhawan, Rampur,  
Jabalpur 482008
3. Gujarat Urja Vikas Nigam Ltd. (GUVNLT)  
Race Course Road,  
Vadodara 390007
4. Maharashtra State Electricity Distribution  
Company Ltd (MSEDCL),  
Prakashgad, Bandra (East)

Mumbai 400051

5. Chhattisgarh State Power Distribution Company Ltd (CSPDCL)  
Vidyut Seva Bhavan, P.O. Sunder Nagar,  
Danganiya, Raipur 492013
6. Government of Goa, Electricity Department,  
Third Floor, Vidyut Bhavan  
Panaji, Goa 403001
7. Electricity Department,  
Administration of Daman & Diu  
Secretariat, Fort Area  
Moti Daman,  
Daman 396220
8. Administration of Dadra and Nagar Haveli  
Electricity Department,  
Govt. of UT of Dadra and Nagar Haveli  
Silvassa-396230
9. MP Audyogik Kendra Vikas Nigam Ltd (MPAKVNL)  
Free Press House,  
1<sup>st</sup> Floor, 3/54 Press Complex  
A.B.Road, Indore 452008
10. Credit Agricole Corporate and Investment Bank  
168, Robinson Road,  
23-00, Capital Tower, Singapore 068 912
11. Mizuho Bank Limited  
Global Project Finance Division  
Asia Development, 12 Manna View, 8-01,  
Asia Square 2, Singapore 018961
12. Standard Chartered Bank  
One Basinghall Avenue,  
London EC2V 5DD, United Kingdom
13. IDBI Trusteeship Services Ltd.  
Asian Buldg., Ground Floor, 17,  
R.Kamani Marg, Ballard Estate,  
Mumbai-400 001

.....Respondents

**Following were present:**

Shri Matru Gupta Mishra, Advocate, WTGL  
Shri Hemant Singh, Advocate, WTGL  
Shri Nishant Kumar, Advocate, WTGL  
Ms. Ankita Bafna, Advocate, WTGL

**ORDER**

Western Transmission (Gujarat) Pvt. Ltd., has been granted transmission licence under Section 14 of the Electricity Act, 2003 (hereinafter referred to as "the Act"), to transmit electricity as a transmission licensee and for that purpose to construct, maintain and operate the transmission assets pertaining to Western System Strengthening Scheme-II, package-C. Western Transmission (Gujarat) Pvt. Ltd. had approached the Commission in Petition No. 208/2009 for approval under Section 17 (3) and (4) of the Act to create security in favour of the SBICAP Trustee Co. Ltd. by execution of indenture of mortgage. The Commission in its order dated 11.2.2010 had accorded the approval for creating security in favour of SBI CAP Trustee Company Limited. Subsequently, Western Region Transmission (Gujarat) Pvt. Ltd. approached the Commission in Petition No. 173/MP/2011 for approval of creation of security in favour of IDBI Trusteeship Company Limited acting on behalf of the Credit Agricole Corporate and Investment Bank and Mizuho Corporate Bank. The Commission in its order dated 5.1.2012 had accorded the approval for creating security in favour of IDBI Trusteeship Company Limited.

2. With a strategy to divest its transmission business, Rlnfra proposed to sell its transmission assets under WRSSS C Project to Adani Transmission Limited (ATL) and incorporate Western Transmission (Gujarat) Limited (WTGL) for the purpose of holding the assets of WRSSS C through execution of Business Transfer Agreement between

RInfra and the SPVs. After transfer of the assets of WRSSSS C to WTGL, RInfra was required to transfer its 100% equity shareholding in WTGL to ATL. Accordingly, RInfra approached the Commission in Petition No. 31/MP/2017 for approval under Section 17 (3) of the Act for transfer of assets of WRSSSS C to WTGL alongwith assignment of the transmission licence in favour of this SPV and thereafter, for transfer of its entire equity shareholding in this SPV to ATL. The Commission in its order dated 7.8.2017 approved the same.

3. The present Petition has been filed by Western Transmission (Gujarat) Limited for approval under Section 17 (3) and 17 (4) of the Electricity Act, 2003 for creation of security in favour of Standard Chartered Bank for the benefit of the Security Trustee by way of Amendment and Restatement Deed dated 2.11.2017.

4. The Petitioner has made the following prayers:

“(a) Approve the substitution of lenders, namely Credit Agricole Corporate and Investment Bank (CA-CIB) and Mizuho Corporate Bank (MB), with Standard Chartered Bank (SCB), in terms stated in the present petition; and

(b) Pass such further order/orders as this Commission may deem fit and proper in the interest of justice.

5. The Petitioner has submitted that during the finalization of the transactions between RInfra and ATL, the Creditors/lenders, namely Credit Agricole Corporate and Investment Bank and Mizuho Corporate Bank expressed their desire to be relieved of their obligations as creditors/lenders. ATL agreed to the above request/condition put-forth by the said lenders. The Petitioner has submitted that for the purpose of financing

the project, the Petitioner approached Standard Chartered Bank who agreed to provide the financial assistance to the Petitioner for an aggregate principal amount of USD 25.35 millions for the purpose of utilization to pay-off the existing creditors, namely CA-CIB and MB. For this purpose, the Petitioner, Standard Chartered Bank and IDBI executed the Amendment and Restatement Deed dated 2.11.2017. Pursuant to Amendment and Restatement Deed, IDBI Trusteeship Services Limited was appointed as Security Trustee to create and hold the security interest for the benefit of the Standard Chartered Bank which is the Facility Agent.

6. The Petitioner has submitted that the Commission in its order dated 7.8.2017 in Petition No. 31/MP/2017 has recorded the above arrangement as under:

“(d) In response to the submission of CA-CIB and MB that upon the sale of equity shareholdings or RInfra in WTGL to ATL, their credit facility to WTGL would be replaced by another lender, RInfra has submitted that ATL has availed suitable arrangements from Standard Chartered Bank (SCB) in such a way that upon transfer of shares of WTGL from RInfra to ATL, the facility from CA-CIB and MB would be replaced by a facility from SCB. RInfra has placed on record a letter dated 17.5.2017 from SCB committing to lend upto USD 27.7 million to ATL on the date of acquisition of WTGL by ATL.”

7. The Petitioner has submitted that the Commission in its order dated 7.8.2017 further recorded as under:

“24..During the hearing of the Petition, learned counsel for CA-CIB and MB confirmed that they are satisfied with the arrangement and have no objection to the proposed transfer of equity shares by RInfra in WTGL to ATL, subject to compliance with the commitment by SCB. RInfra in its affidavit dated 23.6.2017 has submitted that share transfer of WTPL and WTGL from RInfra to ATL and transfer of outstanding loan from CA-CIB and MB to SCB shall take place simultaneously. We expect the parties to comply with the above arrangement and commitment so that transfer of loan and substitution of lenders take place smoothly and ATL after share transfer in WTPL and

WTGL discharges its obligations towards servicing of loan in respect of WRSSS Project B and Project C.”

8. The Petitioner has submitted that in view of the provisions of sub-section (3) and sub-section (4) of Section 17 of the Act, prior approval of the Commission is required for creating security over the transmission assets. Accordingly, the present petition has been filed wherein the Petitioner has sought the Commission’s prior approval for creation of security in favour of Standard Chartered Bank for securing the aggregate term loan amounting to USD 25.35 million together with all interest, penal interest, etc. on pari-passu basis inter-se.

9. Notices were issued to the respondents to file their replies. No reply has been filed by the respondents.

10. We have considered the submission of the Petitioner. The Petitioner, vide Record of Proceedings for the hearing dated 30.1.2018, was directed to submit the following information:

- (a) Details of actual project cost incurred, actual debut-equity ratio and reconciliation of the outstanding loan which has been substituted by the new lender i.e Standard Chartered Bank;
- (b) Copy of the TSA indicating the relevant clause which deals with equity lock-in-commitment, if any; and
- (c) Signed copy of Credit Agreement dated 29.6.2011, Supplemental Agreement dated 26.5.2015, Supplemental Agreement dated 12.6.2017, Novation Deed

dated 27.10.2017 as these agreements were predecessor to “Amendment and Restated Deed’ dated 2.11.2017.

11. The Petitioner vide its affidavit dated 17.1.2018 has submitted the information called for.

12. With regard to (a) above, the Petitioner has submitted that the total project cost incurred is approximately Rs. 669.51 crore with actual equity-debt ratio of 65:35 in accordance with (Note14) as per annual accounts as on 31.3.2016. The Petitioner has submitted the reconciliation of outstanding loan substituted by new lender i.e Standard Chartered Bank as under:

Loan outstanding from Credit Agricole Corporate and Investment Bank	A	USD	1,26,75,000
Loan outstanding from Mizuho Corporate Bank Ltd.	B	USD	1,26,75,000
Total loan outstanding	C=A+B	USD	2,53,50,000
Loan taken from Standard Chartered Bank	D=C	USD	2,53,50,000

13. The balance sheet submitted by the Petitioner does not contain the details of equity capital instead ““Head Office Account” has been shown. The Petitioner neither submitted the latest annual accounts for the year 2016-17 nor submitted the auditor certificate certifying the actual project cost and actual debt-equity ratio. However, the Petitioner has used the term “approximately project cost”.

14. With regard to (b), the Petitioner has submitted Power Transmission Agreement dated 9.1.2009. The Petitioner has submitted that in the said agreement there is no clause which deals with or provides for equity lock-in-period.

15. With regard to (c), the Petitioner has submitted the copy of non-signed Credit Agreement dated 29.6.2011, Supplemental Agreement dated 26.5.2015, Supplemental Agreement dated 12.6.2017 & Novation Deed dated 27.10.2017. The Petitioner has further submitted that he is not able to submit the actual signed agreements as the same were executed in Singapore and copy thereof cannot be taken out of Singapore in view of the stamp duty implications.

16. In view of the above, in the absence of latest annual accounts of 2016-17, Auditor Certificate certifying the actual project cost and actual debt-equity ratio, signed copy of the executed Agreements, project cost and debt-equity ratio, it is not possible to take a view on the prayer of the Petitioner. However, the Petitioner is granted liberty to approach the Commission by filing appropriate application complete with all relevant documents/information.

17. 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**