

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 94/TL/2018

Coram:

Shri P.K.Pujari, Chairperson

Shri A.K.Singhal, Member

Shri A.S.Bakshi, Member

Dr. M.K.Iyer, Member

Date of Order: 4th of June, 2018

In the matter of

Application under Section 14 read with Section 15(1) of the Electricity Act, 2003
for grant of Transmission Licence to Fatehgarh-Bhadla Transmission Limited.

And

In the matter of

Fatehgarh-Bhadla Transmission Limited
First Floor, Urjanidhi,
1, Barakhamba Road, Connaught Place,
New Delhi 110001

..... **Petitioner**

Vs

1. Adani Renewable Energy Park Rajasthan Limited
Achalraj Building, Opp Mayor Bungalow,
Law Garden, Ahmedabad-380 006

2. Shri C. Gangopadhyay, CEO
PFC Consulting Limited,
First Floor, Urja Nidhi,
1, Barakhamba Road, Connaught Place,
New Delhi 110001

3. Chief Executive Officer, CTU Planning,
Power Grid Corporation of India Limited,
Saudimini, Plot No. 2, Sector-29,
Gurgaon-122 001

.....**Respondents**

The following were present:

Shri Bhavesh Kundolia, FBTL

Shri N.C.Gupta PFCCL

Shri Sanjay Nayak, PFCCL

ORDER

The Petitioner, Fatehgarh-Bhadla Transmission Limited, has filed the present petition for grant of transmission licence under Section 14 read with Section 15 (1) of the Electricity Act, 2003 (hereinafter referred to as "the Act") to establish "Transmission System for Ultra Mega Solar Park in Fatehgarh, District Jaisalmer, Rajasthan (hereinafter referred to as "Transmission System") on Build, Own, Operate and Maintain (BOOM) basis comprising the following elements:

S.No.	Name of the Transmission Element	Completion Target	Conductor per phase
1.	Establishment of 400 kV Pooling Station at Fatehgrah	30.9.2019	
2.	Fatehgarh Pooling station-Bhadla (PG) 765 kV D/C line (to be operated at 400 kV).		Hexa Zebra ACSR The transmission lines shall have to be designed for a maximum operating conductor temperature of 85 deg C for ACSR.
3.	2 Nos. of 400 kV line bays at Fatehgarh Pooling Station		
4.	1X125 MVAR Bus reactor at 400 kV Fatehgarh Pooling Station along with associated bay		
5.	Space for future 220 kV (12 Nos.) line bays		
6.	Space for future 400 kV (8 Nos.) line bays along with line reactors at Fatehgarh Pooling Station		
7.	Space for future 220/400 kV transformers (05 Nos.) along with associated transformer bays at each level.		
8.	Space for future 400 kV bus		

	reactor (2 Nos.) along with associated bays.		
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2. The Petitioner has made the following prayers:

“(a) Issue the Transmission Licence to the Petitioner for establishing, operating and maintaining the Transmission System as provided for in the Transmission Service Agreement;

(b) Allow the “Transmission System for Ultra Mega Solar Park in Fatehgarh, Distt. Jaisalmer, Rajasthan” to be part of Transmission Service Agreement approved by the Hon’ble Commission under PoC Charges Regulations (Sharing of Inter-state Transmission Charges and Losses) Regulations, 2010.

(c) Condone any inadvertent errors/omissions/ errors/ shortcomings and permit the Petitioner to add/change/modify/alter these filings and make further submissions as may be required at a future date.

(d) Pass such other order/ orders, as may be deemed fit and proper in the facts and circumstances of the case.”

3. The Petitioner has submitted that in accordance with "Guidelines for encouraging competition in development of Transmission Projects and competitive bidding for Transmission Service" and "Tariff based competitive bidding guidelines for Transmission Service" (hereinafter referred to as “the Guidelines”) issued by Government of India, Ministry of Power under Section 63 of the Act, PFC Consulting Limited (hereinafter referred to as PFCCL) was notified by Government of India, Ministry of Power vide Notification No. 15/3/2016 dated 28.10.2016 as the Bid Process Coordinator (hereinafter referred to as "BPC") for the purpose of selection of bidder as Transmission Service Provider (hereinafter referred to as “TSP”) to establish the transmission system for “Transmission System for Ultra Mega Solar Park in Fatehgarh” through tariff based competitive bidding process.

4. PFCCL in its capacity as the BPC initiated the bid process on 11.4.2017 and completed the process on 14.3.2018 in accordance with the Guidelines. M/s Adani Transmission Limited was selected as the successful bidder having quoted the lowest levelized transmission charges of Rs. 380.15 million/annum in order to establish the Transmission System for “Transmission System for Ultra Mega Solar Park in Fatehgarh” and provide transmission service to the identified long-term transmission customers (LTTC) of the project, namely Adani Renewable Energy Park Rajasthan Limited, Respondent No. 1

5. The Petitioner has submitted that five bidders submitted their offers at RfP stage. Based on the recommendation of the Bid Evaluation Committee (BEC), out of five bidders, four bidders were qualified to participate in the electronic reverse auction stage and submitted their final offer. E-Reverse bidding was carried out at MSTC portal on 16.2.2018. In the BEC meeting held on 16.2.2018, it was observed that the levelised transmission charges discovered through the e-reverse bidding is 54.68% which is lower than the levelised tariff worked out as per CERC Tariff Regulations. As per the Bid Evaluation Report dated 16.2.2018, M/s Adani Transmission Limited emerged as the successful bidder with the lowest levelized transmission charges of Rs. 380.15 million per annum.

6. Consequent to its selection as the lowest bidder, Letter of Intent (LoI) was issued to M/s Adani Transmission Limited by the BPC on 21.2.2018 which was accepted by it. Under the terms of Request for Proposal (RfP) and the Letter of Intent, the successful bidder is obligated to accomplish the following tasks:

- (a) Provide contract performance guarantee in favour of Long Term Transmission Customers (LTTCs);

- (b) Execute Share Purchase Agreement;
- (c) Acquire, for the Acquisition Price, 100% share equity share holding of Fatehgarh-Bhadla Transmission Limited from PFCCL along with all its related assets and liabilities;
- (d) To execute RfP project document including Transmission Service Agreement (TSA) with LTTCs;
- (e) Make an application to the Central Commission for adoption of transmission charges, as required under Section 63 of the Electricity Act, 2003;
- (f) To apply to the Central Commission for grant of transmission licence.

7. The Petitioner has submitted that M/s Adani Transmission Limited has acquired one hundred percent equity holding in Fatehgarh-Bhadla Transmission Limited on 14.3.2018. The Petitioner has further submitted that the TSA executed between the TSP and the LTTC who is the beneficiary of the transmission project has become effective on the date of acquisition of the Petitioner by Adani Transmission Limited.

8. Section 14 of the Act provides that the Appropriate Commission may, on an application made under Section 15 of the Act, grant a licence to any person to transmit electricity as a transmission licensee in any area as may be specified in the licence. The word "person" has been defined in Section 2(49) of the Act to include any company or body corporate or association or body of individuals whether incorporated or not or artificial juridical person. The Petitioner has been incorporated under the Companies Act, 1956. The main object of the Petitioner Company is as under:

“To plan, promote and develop an integrated and efficient power transmission system network in all its aspects including planning, investigations, research, design and engineering, preparation of preliminary, feasibility and definite project reports, construction, operation and maintenance of transmission lines, substation, load dispatch stations and communication facilities and appurtenant works, coordination of integration operation of regional and national grid system, execution of turn-key jobs for other utilities/organizations, wheeling of power in accordance with the policies, guidelines and objectives laid down by the Central Government from time to time”.

9. Section 15 (1) of the Act provides that every application under Section 14 shall be made in such manner and in such form as may be specified by the Appropriate Commission and shall be accompanied by such fees as may be prescribed. The Central Commission has specified the Central Electricity Regulatory Commission (Procedure, Terms and Conditions of Transmission License and other related matters) Regulations, 2009 (hereinafter referred to as “Transmission Licence Regulations”). Regulation 3 of the Transmission Licence Regulations provides that the Empowered Committee shall identify the projects included in the transmission plan to be developed under the guidelines for competitive bidding. Regulation 4 of Transmission License Regulations provides that in case of projects identified by the Empowered Committee for development under the guidelines for competitive bidding, selection of the project developer shall be made in accordance with the procedure laid down in the guidelines. The transmission project under consideration has been identified by the Empowered Committee. The Central Electricity Authority vide its letter No. CEA/1/3/2015/PSPA-1/236-237 dated 6.2.2018 had issued prior approval to the project under Section 68 of the Act. The selection of the project developer, Fatehgarh-Bhadla Transmission Limited, has been made in accordance with the guidelines for competitive bidding.

10. Regulation 7 of the Transmission Licence Regulations provides for the procedure for grant of transmission licence as under:

“(1) The application for grant of transmission licence shall be made to the Commission in Form-I appended to these regulations and shall be accompanied by such fees as may be prescribed by the Central Government from time to time.

(2) In case of the person selected for implementation of the project in accordance with the guidelines for competitive bidding, the application shall also contain such additional information, as may be required under these guidelines.

(3) The application shall be supported by affidavit of the person acquainted with the facts stated therein.

(4) Before making an application, the applicant shall serve a copy of the application on each of the long-term customers of the project and shall submit evidence to that effect along with the application and shall also post the complete application along with annexures and enclosures on its website, the particulars of which shall be given in the application.

(5) The application shall be kept on the website till such time the licence is issued or the application is rejected by the Commission.

(6) Immediately on making the application, the applicant shall forward a copy of the application to the Central Transmission Utility.

(7) The applicant shall, within 7 days after making the application, publish a notice of its application in Form-II attached to these regulations, in at least two daily newspapers, one in English language and one in vernacular language, having circulation in each State or Union Territory where an element of the project or a long-term customer is situated, in the same language as of the daily newspaper in which the notice of the application is published.

(8) As far as possible, within 7 days of receipt of the application the Secretariat of the Commission shall convey defects, if any, if noticed on preliminary scrutiny of the application for rectification and the defects conveyed shall be rectified by the applicant in such time as may be indicated in the letter conveying the defects.

(9) In the notice published in the newspapers under clause (7) it shall be indicated that the suggestions and objections, if any, on the application, may be filed before the Secretary, Central Electricity Regulatory Commission, Third Floor, Chanderlok Building, Janpath, New Delhi-110001 (or the address where the office of the Commission is situated) with a copy to the applicant, by any person, including the long-term customers, within 30 days of publication of the notice.

(10) The applicant shall within 15 days from the date of publication of the notice as aforesaid submit to the Commission on affidavit the details of the notice published, indicating the newspapers in which the notice has been published and the date and place of their publication and shall also file before the Commission the relevant copies of the newspapers, in original, in which the notice has been published.

(11) The Central Transmission Utility shall send its recommendations, if any, to the Commission on the proposal made in the application within a period of thirty days from the date of receipt of application by it:

Provided that copy of the recommendations, if any, made by the Central Transmission Utility shall always be forwarded to the applicant; Provided further that these recommendations of the Central Transmission Utility shall not be binding on the Commission.

(12) The applicant may file its comments, duly supported by an affidavit, on the recommendations made by the Central Transmission Utility and the suggestions and objections, if any, received in response to the public notice published by him, within 45 days of serving copy of the application on the Central Transmission Utility or the person who has filed the suggestions and objections on the proposal made in the application, as the case may be.

(13) The Commission after considering the suggestions and objections received in response to the public notice published by the applicant and the recommendations, if any, of the Central Transmission Utility may, propose to grant transmission licence or for reasons to be recorded in writing, reject the application.”

11. The Petitioner has approached the Commission by a separate application for adoption of transmission charges in respect of the transmission system which is presently under consideration of the Commission and order in that petition will be issued separately. The Petitioner has filed the present application for grant of transmission licence in accordance with the Transmission Licence Regulations. The petitioner has submitted proof of service of the copies of the application on the LTTC and Central Transmission Utility and proof of web posting of the complete application. The Petitioner has further undertaken to pay the applicable licence fee upon the grant of Transmission Licence in terms of Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012. The Petitioner has prayed for grant of transmission licence to Fatehgarh-Bhadla Transmission Limited with respect to the transmission system as per details given in para 1 above.

12. The Petitioner has made the application as per Form-1 and paid the fee of Rs. one lakh as prescribed by the Central Government. On perusal of the application, it is noted that the Petitioner has served copy of the application on the Long Term Transmission Customer for the project. The levelised tariff quoted by the Petitioner which have been recommended by the Bid Evaluation Committee for acceptance, is Rs. 380.15 million/annum. The Petitioner has also enclosed copies of the recommendations of the Bid Evaluation Committee and proof of making the evaluation report public by the BPC as per the Guidelines.

13. The Petitioner, vide its affidavit dated 12.4.2018, has placed on record the relevant copies of the newspapers published on 7.4.2018 in Indian Express (Jaipur edition) and the Dainik Navjoyti in the State of Rajasthan.

14. No reply has been filed by the respondents. No objection has been received from the general public in response to the public notice.

15. The Petition was heard on 29.5.2018. The representative of the Petitioner submitted that the Petitioner has complied with all the requirements for grant of transmission licence and requested to grant transmission licence to the Petitioner.

16. The Petitioner has served a copy of the application on the Central Transmission Utility (CTU) as required under Section 15(3) of the Act and Regulation 7(6) of the Transmission Licence Regulations. CTU in its letter dated 20.4.2018 has recommended for grant of transmission licence to the Petitioner. Relevant portion of the said letter dated 20.4.2018 is extracted is as under:

“The scheme was discussed during 38th and 39th Standing Committee Meeting on Power System Planning of Northern Region held on

30.5.2016 and 29th-30th May 2017 respectively. Subsequently, based on the discussion held in 39th SCM, the transmission scheme was further discussed in CEA during meeting held on 27.6.2017.

After detailed deliberations in various meetings, the finalized scope of works is as given below:

- i. Establishment of 400 kV pooling Station at Fatehgarh;
- ii. Provision of 220 kV level at 400 kV pooling Station at Fatehgarh
- iii. Fatehgarh Pooling Station-Bhadla (PG) 765 kV D/c line (to be operated at 400 kV)
- iv. 2 Nos. of 400 kV bays at Fatehgarh Pooling station.
- v. 1X500 MVA, 400/220 kV transformer along with associated transformer bays, Bus Coupler and Transfer Bus bay to be provided at 220 kV level.
- vi. 1X125 MVAR Bus reactor at 400 kV Fatehgarh Pooling Station along with associated bay.
- vii. Space provision for future 220 kV (12 Nos.) line bays.
- viii. Space provision for future 400 kV (8 Nos.) line bays along with line reactors at Fatehgarh Pooling Station.
- ix. Space provision for future 220 kV/400 kV transformer (04 Nos.) along with associated transformer bays at each level
- x. Space provision for future 400 kV bus reactor (2 Nos.) along with associated bays.

Note : Transmission System mentioned at i, iii, iv and vi are for 1000 MW LTA to M/s AREPRL. Transmission System mentioned at i, ii, iii and v shall be the common transmission scheme for grant of connectivity at Fatehgarh (subject to submission of construction bank guarantee by connectivity applicants in line with CERC Regulations). Transmission element mentioned (ii) & (v) to be included in the implementation scope (TBCB) only after submission of construction bank guarantee by connectivity applicant(s).

Note:

- a. Park developer to construct 400 kV D/c line from M/s AREPL solar park to Fatehgarh along with 400 kV line bays at Fatehgarh and along with 1X125 MVAR bus reactor at generation switchyard.
- b. POWERGRID to provide 2 nos. of 400 kV line bays at Bhadla (PG) for termination of 765 kV Fatehgarh PS-Bhadla (PG) D/c line (to be operated at 400 kV) at Bhadla end.
- c. Solar Park developer (M/s AREPL) to provide adequate land for 400 kV & 220 kV pooling stations adjacent to the proposed solar power park for which transmission licensee shall coordinate with M/s AREPL including commercial aspects for transfer of lands.
- d. 220 kV line bays at Fatehgarh Pooling Station for other connectivity lines shall be under the scope of respective developer.

- e. Solar Park Developer (M/s AREPL) to provide 2 nos. of 400 kV line bays at Fatehgarh pooling station for termination of 400 kV D/c line from M/s AREPL solar park to 400 kV Fatehgarh Pooling station.
- f. CEA advised CTU to furnish RFP inputs except for (ii) and (v) to BPC so that the bidding process for the scheme may continue. After receipt of BG from connectivity applicants, say within stipulated time (ii) and (v) would be included in the scope along with requisite RFP inputs.

4. The above scope was agreed in 37th Empowered Committee meeting held on 20.9.2017.

5. The Commission vide order in Petition No. 3/MP/2017 dated 17.10.2017 granted regulatory approval to the scheme subject to the following:

- i. The scope of works of the transmission scheme as decided by the CEA in meeting dated 27.6.2017 shall be placed before the Standing Committee Meeting on Power System Planning in Northern Region, for approval, within one month from the date of this order.
- ii. In case there is any material variation/deviation in the scope of transmission scheme decided by the CEA and those approved in the SCM, then the CTU shall approach the Commission and seek fresh approval for the variation in the scope of work.
- iii. CTU shall sign Long Term Agreement (LTA) with Solar Power Park Developer (SPPD) and take construction Bank Guarantee (BG) from SPPD as per the provisions of Connectivity Regulations as amended from time to time.
- iv. Execution of the transmission system should be made matching with the progress of the generating station and through discussion in the Joint Coordination Committee Meetings.

6. During a meeting in CEA held on 12.12.2017, it was discussed that the provision of 220 kV level and 1X500 MVA, 400/220 kV Transformer at Fatehgarh 400 kV Pooling Station was kept in the scope of the scheme subject to submission of construction bank guarantees by the applicants. Further, it was deliberated that the CERC Connectivity Procedures are being revised as per the Commission's order No. 145/MP/2017 dated 29.09.2017 and connectivity to the applicants would be issued only after the approval of revision of the connectivity procedures. Accordingly, the provision of 220 kV level and 1X500 MVA, 400/200 kV ICT may not be considered for the scope of works considered for present bidding. However space provisions were included in the scope. Also, during the meeting, M/s AREPRL informed that Fategarh Solar Park is to be commissioned by 30.9.2019. Accordingly, the commissioning schedule of the transmission scheme was revised to 30.9.2019.

7. The present scope of the transmission scheme under TBCB is :

- i. Establishment of 400 kV pooling station at Fatehgarh.
- ii. Fatehgarh pooling station-Bhadla (PG) 765 kV D/c line (to be operated at 400 kV).

- iii. 2 Nos. of 400 kV bays at Fatehgarh Pooling station.
- iv. 1X125 MVAR Bus reactor at 400 kV Fatehgarh Pooling Station along with associated bay.
- v. Space provision for future 220 kV (12 Nos.) line bays.
- vi. Space provision for future 400 kV (8 Nos.) line bays along with line reactors at Fatehgarh Pooling Station.
- vii. Space provision for future 220 kV/400 kV transformer (05 Nos.) along with associated transformer bays at each level
- viii. Space provision for future 400 kV bus reactor (2 Nos.) along with associated bays.

8. Bid Evaluation Committee appointed by the BPC has certified M/s Adani Transmission Limited as successful bidder. M/s Adani Transmission Limited acquired M/s Fatehgarh-Bhadla Transmission Limited after execution of the Share Purchase Agreement (SPA) on 14.3.2018.

9. In regard to the Commission conditions for grant of regulatory approval, at Sl. No. 5, following is submitted:

- a) Point no. I & ii: Till date no Standing Committee Meeting has been held by CEA after the order dated 17.10.2017. CEA has been informed to take up the issue in the Standing Committee Meeting in line with the order of the Commission.
- b) Point No. iii: LTA agreement has been signed and Bank Guarantee has been submitted by the applicant.
- c) Point No. iv: The commissioning schedule has already been informed by M/s AREPRL as 30.9.2019.

10. In line with Section 15 (4) of the Electricity Act, 2003, keeping above facts in view, based on the details furnished by M/s Fatehgarh-Bhadla Transmission Limited, POWERGRID as CTU recommends grant of transmission license to M/s Fatehgarh-Bhadla Transmission Limited for "Transmission System for Ultra Mega Solar Park in Fatehgarh, Distt. Jaisalmer, Rajasthan" subject to approval of the scheme in the Standing Committee for Power System Planning of NR."

17. We have considered the submissions of the Petitioner and perused documents on record. As per para 12.1 of the Guidelines as amended from time to time, finally selected bidder shall make an application for grant of transmission licence within ten days of selection. M/s Adani Transmission Limited has been selected on the basis of the tariff based competitive bidding as per the Guidelines issued by Government of India, Ministry of Power. Lol has been issued to M/s Adani Transmission Limited by the BPC on 21.2.2018. BPC vide

letter dated 14.3.2018 extended the last date of completion of various activities up to 24.3.2018. Accordingly, the Petitioner filed the present petition on 16.3.2018. M/s Adani Transmission Limited has acquired 100% stake in the Fatehgarh-Bhadla Transmission Limited which has been transferred to the Petitioner on 14.3.2018 after execution of Share Purchase Agreement. Considering the material on record, we are *prima facie* of the view that the Petitioner satisfies the conditions for grant of inter-State transmission licence under Section 15 of the Act read with Transmission Licence Regulations for construction, operation and maintenance of the transmission system as described in para 1 of this order. We, therefore, direct that a public notice under clause (a) of sub-section (5) of Section 15 of the Act be published to invite suggestions or objections to grant of transmission licence aforesaid. The objections or suggestions, if any, be filed by any person before the Commission by 25.6.2018.

18. In order to ensure that the project is implemented within the time schedule as provided in the TSA, the licensee should not approach the Commission for extension of time for execution of the project or for increase in the transmission charges over and above what is permissible under the provisions of the TSA. Accordingly, the Petitioner is directed to file an affidavit by 22.6.2018 to the effect that the execution of the transmission project shall not be delayed due to time taken in obtaining statutory clearances required under the RfP and or adjudication of any claim of the petitioner arising under the TSA.

19. It is observed that as per Article 5.1.1 of the TSA, the TSP at its own cost and expense, shall be responsible for designing, constructing, erecting,

completing and commissioning each element of the project by Scheduled COD in accordance with the various regulations of the Central Electricity Authority regarding Technical Standards and Grid Standards, Prudent Utility Practices and other applicable laws. Further Article 5.4 of the TSA provides that the TSP shall ensure that the project is designed, built and completed in a good workman like manner using sound engineering and construction practices and using only materials and equipment that are new and of international utility grade quality such that the useful life of the project will be till the expiry date. Further, the design, construction and testing of all equipment, facilities, components and systems of the project shall be in accordance with Indian Standards and Codes issued by Bureau of India Standards. Accordingly, the Petitioner is directed to submit the information by 22.6.2018 with regard to quality control mechanism available or to be put in place by to ensure the compliance of the requirements stipulated in Article 5.1.1 and Article 5.4 of the TSA.

20. The Petition shall be listed for hearing on 5.7.2018.

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

sd/-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(P.K.Pujari)
Chairperson