

CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Record of Proceedings

Petition No. 44/TL/2012

Subject : Application for grant of Transmission Licence to Adani Power Limited;

And

In-principle approval for assignment of transmission licence in the name of a new legal entity under Section 17 (3) of the Electricity Act, 2003 (the Act) upon grant of such licence

Date of hearing: 8.11.2012

Coram : Dr. Pramod Deo, Chairperson
Shri S. Jayaraman, Member
Shri V.S. Verma, Member
Shri M. Deena Dayalan, Member

Petitioner : Adani Power Ltd. (APL)

Respondents :

1. National Load Despatch Centre, New Delhi
2. Power Grid Corporation of India Limited, New Delhi
3. Northern Regional Load Despatch Centre, New Delhi
4. Western Regional Load Despatch Centre, Mumbai
5. Central Electricity Authority, New Delhi
6. Gujarat Electricity Transmission Corporation Ltd, Gujarat
7. Haryana Vidyut Prasaran Nigam Ltd, Haryana
8. Gujarat Urja Vikas Nigam Ltd (GUVNL), Vadodara
9. Maharashtra State Electricity Distribution Co. Ltd., Mumbai
10. Madhya Pradesh Power Management Company Ltd.,
Jabalpur
11. M.P. Audyokik Kendra Vikas Nigam Ltd, Madhya Pradesh
12. Chhattisgarh State Power Distribution Company Ltd,
Chhattisgarh
13. Goa State Electricity Department, Goa

14. Daman and Diu Electricity Department, Nani Daman
15. Electricity Department, Silvassa
16. Heavy Water Projects, Department of Atomic Energy, Mumbai
17. Jidal Power Limited, Chhattisgarh
18. Torrent Power Limited, Ahmadabad
19. PTC India Ltd, New Delhi
20. Haryana Power Purchase Centre, Haryana
21. Rajasthan Power Procurement Centre, Jaipur
22. Jodhpur Vidyut Vitran Nigam Ltd, Rajasthan
23. Jaipur Vidyut Vitran Nigam Ltd, Rajasthan
24. Ajmer Vidyut Vitran Nigam Ltd, Rajasthan
25. BSES Yamuna Power Ltd, New Delhi
26. BSES Rajdhani Power Ltd, New Delhi
27. Tata Power Delhi Distribution Ltd, Delhi
28. New Delhi Municipal Council, New Delhi
29. Uttarakhand Power Corporation Ltd, Dehradun
30. Uttar Pradesh Power Corporation Ltd, Lucknow
31. North Central Railway, Uttar Pradesh
32. Punjab State Power Corporation Ltd, Patiala
33. Power Development Department, Jammu
34. Himachal Pradesh State Electricity Board, Shimla
35. Electricity Department UT Chandigarh, Chandigarh
36. Northern Regional Power Committee, New Delhi
37. Western Regional Power Committee, Mumbai
38. Kanpur Electricity Supply Co. Ltd, Kanpur
39. Rajasthan Rajya Vidyut Prasaran Nigam Ltd, Jaipur
40. Delhi Transco Ltd, New Delhi

Parties present : Shri Amit Kapur, Advocate for the Petitioner
Shri M.G. Ramachandran, Advocate for Haryana Utilities
Ms. Swapna Seshadri, Advocate for Haryana Utilities
Shri Padamjit Singh, PSPCL
Shri S.K. Soonee, POSOCO
Ms. Jyoti Prasad, POSOCO
Shri Malav Deliwala, APL
Shri J.D. Lauyalia, APL
Shri Nripen Mishra, POSOCO
Shri D.N. Jangid, Ajmer Discom
Shri V.K. Gupta, Ajmer Discom

Shri Manoj Dubey, MPPMCL
Shri Raju Porwal, NRLDC
Shri V. Thiagarajan, PGCIL

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Learned Counsel for the petitioner submitted that none of the respondents have filed any objections to the grant of transmission licence to the petitioner. Even the two States which have filed their replies, their objections relate to terms and conditions of the licence. Learned Counsel submitted that the application has been filed in the month of February 2012 and the Commission may consider to issue notice under Section 15 (5) of the Electricity Act, 2003 (the Act) and take a final view regarding terms and conditions of licence after considering the objections to the public notice.

2. Learned Counsel for Uttar and Dakshin Haryana Vidyut Nigam Ltd (herein after Haryana Utilities) submitted that Haryana Utilities have objected to the grant of licence to the petitioner in their reply filed by affidavit dated 21.9.2012. The learned counsel further submitted that the principal objection of Haryana Utilities is that a dedicated transmission line cannot be converted into a licensed line. In reply to the observation of the Commission that the Transmission Licence Regulations provide for conversion of a dedicated transmission line into a licensed line, learned counsel submitted that Regulation 6 (c) of the Transmission Licence Regulations is an enabling provision and in a given case where the dedicated transmission line is proposed to be converted into the business of the transmission licensee, the Commission may consider to grant transmission licence. Otherwise the generating companies will construct the dedicated transmission lines and approach the Commission for licence through the back door.

3. In reply to another query of the Commission as to what would happen when a dedicated transmission line by virtue of its planning by CEA and CTU becomes de-facto inter-State transmission system (ISTS) line, learned counsel for Haryana Utilities submitted that there is no concept of de-facto ISTS line under the Act. Learned Counsel submitted that Sections 12 and 14 of the Act provide for the grant of transmission licence by the Commission to any person who intends to transmit electricity as a transmission licensee. On the other hand, Section 7 read with section 10 of the Act provides that it shall be the duty of the generating company to develop, maintain and operate the dedicated transmission lines. In the present case, the petitioner has constructed the dedicated transmission line as a generating company and the purpose of constructing the dedicated transmission line is to shift the generation bus-bar delivery to Mohindergarh in Haryana. The petitioner has submitted the bid as a

generating company and has been selected as a successful bidder to deliver power at Mohindergarh through the dedicated transmission line. Irrespective of whether CEA or CTU has recognized the Mundra-Mohindergarh transmission line as a de facto ISTS line, the petitioner has developed the transmission line as a dedicated transmission line and its purpose is to deliver the power generated at unit 7, 8 & 9 of Mundra at Mohindergarh and therefore, the transmission line cannot be treated as a de facto ISTS line. The learned counsel submitted that the petitioner should not be permitted to convert the dedicated transmission line into a transmission line as the petitioner is now seeking the licence for the same purpose i.e. to evacuate the power generated from the units 7, 8 & 9 of the Mundra generating station at Mohindergarh.

4. Learned Counsel for the petitioner submitted that CEA in its letter dated 16.3.2012 has recognized that since Mundra-Mohindergarh HVDC system is designed for 2500 MW and has surplus transmission capacity after considering the long term PPAs with Haryana totaling 1424 MW, the line can be utilized for inter-regional transfer of power between Western Region and Northern Region. Learned counsel further submitted that another statutory authority i.e. Ministry of Power while granting approval under section 68 of the Act in July 2009 has put a condition that to provide non-discriminatory open access to other licensee or other generators on the Mundra-Mohindergarh HVDC line to the extent of available transmission margins. Learned counsel submitted that CEA has recommended in the said letter that Dehgam-Mundra-Mohindergarh-Bhiwani Corridor developed by the petitioner as a dedicated transmission system will act as a parallel inter regional link and will have an important role to play in the national grid if it is converted from a dedicated asset to a licensed inter-State asset. Learned counsel submitted that Regulation 6(c) of Transmission Licence Regulations allows a generating company who intends to use its dedicated transmission line as part of ISTS to apply for transmission licence and since the petitioner fulfills the conditions of the said regulation, it has applied for transmission licence. The petitioner has filed the present petition in accordance with the Regulation 6(c) of the Transmission License Regulations for conversion of the dedicated transmission line into main transmission line. The learned Counsel submitted that as per para 7 of the CEA letter dated 16.3.2012, even after the dedicated assets of Adani are converted into license assets, the PPAs with Haryana would be fully honoured without any cost to Haryana.

5. The Commission referred to para 2 of CEA letter dated 16.3.2012, particularly the sentence “subsequently, based on the application by APL, they were allowed to construct 400 kV Mohindergarh-Bhiwani dedicated line for injecting power into the northern region for which beneficiaries were not identified” and enquired about the authority which allowed permission for construction of a dedicated transmission line which was to be used as a transmission line. The Commission further observed as to

how a dedicated transmission line can be laid from a point other than the bus-bar of the generating station. Learned counsel for the petitioner relying on the affidavit dated 26.4.2012 submitted the following:

(a) The matter was discussed in the 26th Meeting of the Standing Committee on Transmission System Planning of Northern Region held on 13.10.2008 in which the officers of the Haryana Utilities participated and it was decided that for the power over and above the power to be supplied to Haryana, connectivity with CTU network through LILO of one circuit of Bhiwadi-Moga 400 kV D/C line should be provided and for tying up connectivity and open access to CTU network, Adani Power would need to seek open access and PGCIL may process their application for approval as per the said arrangement.

(b) As per the BPTA dated 31.12.2009 between PGCIL and Adani Power Limited, Mohindergarh HVDC Terminal-Bhiwani(new) 400 kV D/C line would be built, owned, operated and maintained by Adani Power Limited.

(c) Ministry of Power letter dated 31.7.2009 provides that approval under section 68 of the Act was accorded for laying of dedicated 2500 MW HVDC Mundra-Mohindergarh transmission line and the scope of work included 400 kV Mohindergarh (HVDC)-Bhiwani(Powergrid) transmission line. The approval was subject to the condition that M/s Adani Power would provide non-discriminatory open access to other licensees/generator to the HVDC line to the extent of available transmission margins.

(d) Ministry of Power vide its order dated 13.12.2010 has accorded approval under section 164 of the Act for laying the Mohindergarh-Bhiwani line.

Learned counsel submitted that Haryana Utilities having participated and being a party to the decision of the Standing Committee for development of the HVDC line as a dedicated transmission line cannot object to convert the dedicated transmission line into a licensed line. Learned counsel referring to the definition of dedicated transmission line submitted that it is not necessary for a dedicated transmission line to start from the generating station. Learned counsel submitted that Haryana is trying to indirectly force the petitioner to sell entire capacity of 1980 MW by objecting to the grant of licence.

6. The Commission observed that the transmission line from Mohindergarh to Bhiwani cannot be considered as a dedicated transmission line as flow of power from other systems at the point of Mohindergarh cannot be prevented.

7. Learned counsel for Haryana Utilities submitted that the +/- 500 kV Mundra-Mohindergarh HVDC transmission line from Units 7, 8, & 9 of Mundra Power Project has

a total capacity of carrying 2500 MW of electricity. In case of one pole being backed down or not otherwise not in operation for any reason, only 1250 MW capacity could be evacuated. Therefore, considering the overload capacity in case of outage of one pole, there is no extra capacity left in the planned dedicated transmission system after delivery of 1424 MW power to Haryana Utilities. Learned counsel submitted that the petitioner in its letter dated 10.4.2008 to Haryana Utilities had pleaded that HPGCL would incur substantial recurring expenditure by using CTU network and therefore, the petitioner's proposal of supplying power through the dedicated transmission line needed due consideration. Learned counsel submitted that the intention of the petitioner from the very beginning as per its letter dated 10.4.2008 was to use the HVDC line for evacuation of power from Units 7, 8 & 9 of Mundra Power Project to Haryana Utilities as a dedicated transmission system which has been reflected in the PPA. The petitioner has asked vide its letters dated 25.7.2008 and 30.7.2008 to use this line for evacuation of power of others, but HPGCL has not given its consent. Had it been the intention of the petitioner to use the transmission line as an ISTS line, the petitioner would not have participated in the competitive bidding to deliver power to Haryana Utilities at the delivery point at Mohindergarh and would not have constructed the dedicated transmission line. For construction of the ISTS line, the petitioner would have been subjected to the rules and regulations including competitive bidding process at the relevant time. Learned counsel further submitted that the petitioner had taken a specific stand before the Commission in another proceeding that Adani is not a licensee under the Act and ought not to be subjected to the requirement of a licensee in regard to laying down of the lines. Learned counsel submitted that if the dedicated transmission line is converted into ISTS line, the entire cost will be serviced by all ISTS users under the PoC charges which is unjust, inequitable and arbitrary. Learned counsel concluded by stating that the application for transmission licence needed to be rejected as it would jeopardize the present priority for delivery of 1424 MW contracted power to Haryana utilities through the dedicated transmission line and burden Haryana Utilities and other States if additional transmission capacity is created to cover up the present deficiency as per n-1 reliability criteria.

8. The representative of Punjab State Power Corporation Limited (PSPCL) submitted that for the purpose of transparency, the respondents should be supplied with the copies of the letter of CEA dated 16.3.2012, BPTA between PGCIL and Adani, and PPA between Haryana Utilities and Adani so that they can appropriately respond to the application of the petitioner for transmission licence. He submitted that since power is delivered at Mohindergarh as per the PPA of Adani with Haryana Utilities, Adani's bid rate must have both generation and transmission components. If the line is converted into a licensed line, it will lead to huge over recovery of transmission charges as Adani would recover the transmission charges from Haryana as well as through PoC. He

submitted that as per the petition, Adani has a PPA with Haryana for 1424 MW and CTU has granted LTA for 342 MW and therefore, the line is utilized to fully evacuate the power of the generating station. He further submitted that system protection has been finalized in the Northern Region. As on date, 17 MUs of power is flowing on the transmission line for dedicated use, long term, medium term and short term open access and it cannot be said that there is no optimum utilization of the transmission assets for which transmission licence is required. He also submitted that so long as Punjab is not liable to pay any extra transmission charges on account of the conversion of the transmission line into a licensed line, PSPCL has no objection to the prayer of the petitioner.

9. The representative of Rajasthan submitted that the Commission must see while changing the status of the line, the design criteria are not changed. He further submitted that there should not be any indirect implication by way of PoC charges due to conversion of the line into ISTS.

10. The representative of CTU submitted that the matter was discussed in the 26th and 27th meeting of the Standing Committee and it was decided that since the Mundra-Mohindergarh HVDC line cannot be directly connected to Bhiwani HVDC sub-station, Adani was advised to construct the 400 kV Mohindergarh-Bhiwani(Powergrid) line. In reply to the query of the Commission whether Mohindergarh-Bhiwani line is capable of carrying the power of others, the representative of CTU submitted that it is an AC line and can be used by others beside Adani.

11. The representative of POSOCO submitted that POSOCO has filed its submission vide affidavits dated 9.9.2011, 28.5.2012, 5.7.2012 and 23.7.2012. He submitted that from the system point of view, parallel AC and DC system should be created to meet the n-1 criteria. Therefore, if the line is converted into ISTS, directions should be issued for compliance of n-1 criteria. He further submitted that operating the transmission line as dedicated transmission line would be sub-optimal utilization of the transmission assets. The representative of the petitioner submitted that Talcher-Kolar HVDC line and Dadri-Rihand HVDC line do not have n-1 criteria and power is flowing on these lines without any difficulty. He submitted that introducing n-1 criteria would enhance the cost of the transmission line enormously.

12. The counsel for Haryana Utilities submitted that the copies of the affidavit of POSOCO have not been served on them.

13. The counsel for BRPL did not appear in the hearing. The representative of MP Power Management Power Company Limited and Ajmer Discoms requested for time to file reply to the petitioner.

14. After hearing the parties, the Commission directed the following:

(a) CTU should file an affidavit by 27.11.2012 with copy to the petitioner clarifying why it was not examined at the time of granting LTOA for 342 MW that an ISTS line cannot be built as a dedicated transmission line.

(b) CEA and CTU should also confirm by 27.11.2012 with advance copy to the petitioner whether any additional expenditure will be required to be incurred for system protection if the dedicated transmission lines are converted into licensed lines.

(c) CEA and CTU should confirm by 27.11.2012 that while planning the transmission lines, whether n-1 criteria are followed in all cases. Further CEA should clarify whether in the absence of n-1 criteria, there will be sub-optimal utilization of the transmission lines.

(d) The petitioner shall supply the copies of the submissions filed by CEA, CTU and POSOCO to the beneficiaries of the Western and Northern Regions and GETCO and HVPNL by 5.12.2012 who shall file their replies if any by 15.12.2012. The petitioner may file its rejoinder if any by 20.12.2012.

15. Subject to the above, the order in the petition was reserved. The matter will be listed for hearing if any specific request of any party is received by 20.12.2012.

By the order of the Commission,

sd/-
(T. Rout)
Joint Chief (Law)