

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.604/MP/2020

- Subject : Application for Amendment under Section 18 of the Electricity Act, 2003 of Transmission Licence No. 30/Transmission/2014 /CERC dated 4.9.2014 of NRSS XXXI (A) Transmission Limited granted under Section 14 of the Electricity Act, 2003 and the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009.
- Date of Hearing : 17.9.2021
- Coram : Shri P. K. Pujari, Chairperson
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : Powergrid Kala Amb Transmission Limited (PKTL)
(Formerly known as NRSS XXXI (A) Transmission Limited)
- Respondents : Uttar Pradesh Power Corporation Limited and 25 Ors.
- Parties Present : Ms. Suparna Srivastava, Advocate, CTU
Shri Tushar Mathur, Advocate, CTU
Ms. Soumya Singh, Advocate, CTU
Shri Burra Vamsi Rama Mohan, PKTL
Shri V. C. Sekhar, PKTL
Shri Prashant Kumar, PKTL
Shri Arjun Malhotra, PKTL
Shri Yatin Sharma, CTU
Shri Swapnil Verma, CTU
Shri Siddharth Sharma, CTU
Shri Ranjeet Singh Rajput, CTU

Record of Proceedings

Case was called out for virtual hearing.

2. The representative of the Petitioner submitted that the present Petition has been filed seeking amendment to the transmission licence so as to include '1x125 MVAR, 420 kV Bus Reactor at Kala Amb sub-station' within the scope of the transmission licence granted to the Petitioner by the Commission. The representative of the Petitioner further submitted that in compliance with the directions of the Commission vide Record of Proceedings ('RoP') for the hearing dated 26.3.2021, the Petitioner has filed affidavit furnishing response on certain observations of the Commission made therein. Referring to the response, the representative of the Petitioner mainly submitted the following:

- (a) In case a new asset has to be included in the scope of transmission licensee, Section 18 of the Electricity Act, 2003 ('the Act') and Regulation 19 of the Central Electricity Regulatory Commission (Procedure, Terms and

Conditions for grant of Transmission Licence and other related matters) Regulations, 2009 ('Transmission Licence Regulations') provide for amendment to the transmission licence.

(b) Tariff for an asset is determined based on the applicable Sections viz. Section 62 or Section 63 of the Act and as such, has no bearing on the transmission licence being granted through amendment or fresh licence.

(d) In case a licensee has one asset under Section 63 and other asset under Section 62 of the Act, the tariff stream for both the assets shall be governed as per the respective methodology. While, the tariff for the asset under Section 63 of the Act shall be adopted for 35 years and shall be governed by the Transmission Service Agreement, tariff for the asset under Section 62 of the Act shall be governed by the terms and conditions of tariff as per Tariff Regulations notified by the Commission from time to time.

3. The learned counsel for the Respondent, CTU submitted that pursuant to the direction of the Commission vide RoP for the hearing dated 26.3.2021, CTU has filed its response on the aspect of feasibility of separate licence for two different sets of elements/ assets, enabling legal framework and the consequent technical/ commercial implications. The learned counsel mainly submitted the following:

(a) There is no requirement under the Act and/or the Transmission Licence Regulations for a transmission licence to comprise of assets implemented through only one of the routes viz. RTM (regulated tariff mechanism under Section 62 of the Act) or TBCB (tariff based competitive bidding under Section 63 of the Act). Thus, it follows that a transmission licence, when granted or amended, may comprise of assets that have been implemented through TBCB route or RTM route or through both.

(b) On a previous occasion, a transmission licence granted by the Commission has been amended to include an asset implemented through RTM route. In this regard, reliance was placed on the order of the Commission dated 7.10.2019 in Petition No. 118/TL/2019.

(c) In the Statement of Reasons to the Central Electricity Regulatory Commission (Sharing of Revenue Derived from Utilisation of Transmission Assets for Other Businesses) Regulations, 2020, it has been stated that a transmission licence is granted to an eligible transmission company irrespective of the manner of determination of tariff under Section 62 (RTM route) and Section 63 (TBCB route) of the Act and that there is no distinction of transmission assets based on the manner of tariff determination.

(d) The Commission may take a considered view in the subject matter as more of such situations are likely to come up in the near future.

4. In response to the specific query regarding benefits/ advantages which the Petitioner foresees in amendment of existing licence and not issuance of separate licence for the RTM based asset/ element, the representative of the Petitioner submitted that only the provisions relating to amendment of licence enabled the Petitioner to include a new asset/ element to its existing licence. Accordingly, the Petitioner has sought amendment to the existing licence instead of issuance of separate licence. However, the Petitioner as such has no objection if the

Commission proceeds to issue a separate licence for RTM based assets/ elements instead of amending the existing licence issued to the Petitioner.

5. After hearing the learned counsel for the CTU and the representative of the Petitioner, the Commission reserved the matter for order.

By order of the Commission

**Sd/-
(T.D. Pant)
Joint Chief (Law)**