

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.342/MP/2022

Subject : Petition under Sections 79(1)(c), (e) and (k) read with 17(3) and 18 of the Electricity Act, 2003 seeking amendment and transfer of the Petitioner's inter-state transmission licence.

Date of Hearing : 29.11.2022

Coram : Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Petitioner : Essar Power Transmission Co. Ltd. (EPTCL)

Respondents : Central Transmission Utility of India Limited and 10 Ors.

Parties Present : Ms. Swapna Seshadri, Advocate, EPTCL
Shri Amal Nair, Advocate, EPTCL
Ms. Sugandh Khanna, Advocate, EPTCL
Ms. Kritika Khanna, Advocate, EPTCL
Shri Ramji Srinivasan, Advocate, AMNS
Ms. Anannya Ghosh, Advocate, AMNS
Shri Dushyant Manocha, Advocate, AMNS

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Petition has been under Section 79, Section 17(3) and Section 18 of the Electricity Act, 2003 ('the Act') read with 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') seeking amendment and transfer of the Petitioner's inter-State transmission licence granted by the Commission vide order dated 10.4.2008 in Petition No. 157 of 2007. Learned counsel mainly submitted the following:

(a) The Petitioner had applied for grant of transmission licence for implementing the transmission system associated with Mahan Thermal Power Plant being constructed by Essar Power MP Limited in Madhya Pradesh, a sister company of the Petitioner under Essar Group. Moreover, the ultimate beneficiary of the power was Essar Steel India Limited which was also a sister concern of the Petitioner.

(b) Subsequent events have, however, resulted in the transfer of Mahan Thermal Power Plant to Adani Power Limited and Essar Steel India Limited to Arcelor Mittal India Private Limited (AMNS) both through the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016. As a result, Stage-I Assets at Hazira and Stage-II Assets under the transmission licence of the Petitioner no longer have any commonality between them since they would no longer be utilized by the same group i.e. Essar Group.

(c) Accordingly, the Petitioner has sought to amend its transmission licence in accordance with Paragraphs 55 and 74 of the Petition.

(d) The Petitioner has sought transfer of its 400 kV D/c (Twin Conductor) transmission line from NTPC Gandhar switchyard to Hazira (104.6 km) along with the associated bays and GIS Hazira (Stage I Assets) from the Petitioner company to its wholly owned subsidiary, Respondent No. 9, Gandhar Hazira Transmission Limited (GHTL). Subsequently, GHTL, as an entity, itself shall be transferred from the Petitioner to Respondent No.11, Essar Power Limited (EPOL) who in turn will transfer its shareholding in GHTL to Respondent No.6, AMNS.

(e) The Petitioner has sought transfer of its Loop In Loop Out of 400 kV S/C Vindhyachal – Korba (Twin Moose Conductor) transmission line of Powergrid at Mahan Power Plant along with associated line bays at Mahan ('LILO') to the Petitioner's wholly owned subsidiary, the Respondent No.10 – Essar Transco Limited (ETL). ETL would be a wholly owned subsidiary of the Petitioner to whom the Petitioner proposes to transfer the LILO and after such transfer, ETL would be transferred to EPOL.

(f) The remaining transmission asset i.e. 400 kV D/C (Quand Moose Conductor) transmission line from Mahan Thermal Power Plant to Sipat Pooling Sub-Station presently at Bharari Bilaspur ('Stage-II Assets') will be retained by the Petitioner company and subsequently, the Petitioner's parent company, EPOL will transfer 100% shareholding in the Petitioner company to Respondent No.3, Adani Transmission Limited.

(g) In the present case, time is of the essence and therefore, the Commission may issue the notice in the matter and the Dasti service may also be permitted.

2. Learned senior counsel appearing on behalf of Respondent No.6, AMNS requested to issue notice in the matter. Learned senior counsel further submitted that appropriate direction may also be issued for issuance of public notice as provided in Regulation 19 of the Transmission Licence Regulations read with the Section 18 of the Act.

3. In response, learned counsel for the Petitioner submitted that issuance of the public notice may not be necessary in the present case and submitted that on earlier occasions, the Commission has modified the transmission licence of the Petitioner without prior public notice under Transmission Licence Regulations.

4. In response to the specific query of the Commission for seeking transfer and amendment of licence for the LILO at this stage when it has already been directed to open the LILO vide order dated 1.6.2022 in Petition No. 92/MP/2021, learned counsel for the Petitioner submitted that while the LILO has already been opened w.e.f. 17.6.2022, the LILO, as physical asset, is still present and existing and the Petitioner envisages its usefulness under the GNA regime.

5. After hearing the learned senior counsel for the Petitioner and Respondent AMNS, the Commission ordered as under:

(a) The Petitioner to implead the beneficiaries of Western Region as party to the Petition and to file a revised memo of parties within a week.

(b) Admit. Issue notice to the Respondents.

(c) The Petitioner to serve copy of the Petition on the Respondents and Respondents to file their reply to the Petition, if any, within two weeks after serving copy of the same to the Petitioner who may file its rejoinder within two weeks thereafter.

(d) The Petitioner to file the following information on affidavit within two weeks:

(i) Whether splitting of the transmission assets (covered under the licence granted to EPTCL) is permissible under the Act, if so, the provisions thereof?

(ii) Whether transfer of assets to a non-licensee is permissible under the Act?

(iii) Whether the non-licensee, to which some of the transmission assets are to be transferred fulfills the conditions for grant of transmission licence and whether said non-licensee shall seek the transmission licence in accordance with the provisions of the Transmission Licence Regulations?

(e) CTUIL to file its recommendations on the proposed splitting of the transmission assets and transfer of the licence.

(f) Parties to comply with the above directions within specified timeline and no extension of time shall be granted.

6. The Petition shall be listed for hearing on 19.1.2023.

By order of the Commission

Sd/-

(T.D. Pant)

Joint Chief (Law)