

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 107/TL/2022

Coram:

Shri P.K.Pujari, Chairperson

Shri I. S. Jha, Member

Shri Arun Goyal, Member

Shri P. K. Singh, Member

Date of order: 29th April, 2022

In the matter of

Application under Section-14, 15, 79(1)(e) of the Electricity Act, 2003 read with Central Electricity Regulatory Commission (Procedure, Terms and Conditions for Grant of Transmission Licence and other related matters) Regulations, 2009 with respect to Grant of Transmission License to Khavda-Bhuj Transmission Limited

And

In the matter of

Khavda-Bhuj Transmission Limited,
C-105, Anand Niketan,
New Delhi-110021.

.....Petitioner

Versus

1. Adani Renewable Energy Holding Four Limited,
Adani Corporate House, Shantigram,
Nr. Vaishno Devi Circle, S G Highway, Khodiyar,
Ahmedabad- 382421
2. PFC Consulting Limited,
First Floor, Urja Nidhi,1, Barakhamba Lane, Connaught Place,
New Delhi-110 001
3. Chief Executive Officer,
CTU Planning,
POWERGRID Corporation of India Limited,
Saudamini, Plot No.2, Sector-29,
Gurgaon-122 001

.....Respondents

Parties present:

Shri Bhavesh Kundalia, KBTL
Shri Afak Pothiwala, KBTL
Shri Naresh Desai, KBTL
Shri Partha Sarathi Das, CTUIL
Shri Bhaskar Laxmanrao Wagh, CTUIL
Shri Swapnil Verma, CTUIL

Shri Siddharth Sharma, CTUIL
 Shri Pratyush Singh, CTUIL
 Shri Sanjay Nayak, PFFCL
 Shri Manish Agawal, PFFCL
 Shri Kunal Kumar, PFCCL

ORDER

The Petitioner, Khavda-Bhuj Transmission Limited, has filed the present Petition for grant of transmission licence under Section 14, Section 15 and Section 79(1)(e) of the Electricity Act, 2003 (hereinafter referred to as “the Act”) read with the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009 (hereinafter referred to as “Transmission Licence Regulations”) to establish “Transmission Scheme for evacuation of 3 GW RE injection at Khavda P.S. under Phase-I” (hereinafter referred to as “Transmission System” or “Project”) on Build, Own, Operate and Maintain (BOOM) basis comprising of the following elements:

	<i>Name of the Transmission Element</i>	<i>Scheduled COD in months from Effective Date</i>
1.	<p><i>Establishment of 3X1500 MVA 765/400 kV Khavda (GIS) with 1X330 MVAR 765 kV bus reactor and 1X125 MVAR 420 kV bus reactor</i></p> <ul style="list-style-type: none"> • <i>765/400 kV, 1500 MVA ICT - 3 Nos.</i> • <i>765 kV ICT bays - 3 Nos.</i> • <i>400 kV ICT bays - 3 Nos.</i> • <i>330 MVAR 765 kV bus reactor -1 No.</i> • <i>125 MVAR 420 kV bus reactor -1 No.</i> • <i>765 kV reactor bay - 1 Nos.</i> • <i>765 kV line bay - 2 Nos.</i> • <i>400 kV reactor bay - 1 No.</i> • <i>400 kV line bay - 3 Nos.</i> • <i>500 MVA, 765/400 kV Spare ICT - 1 No.</i> • <i>110 MVAR, 765 kV, 1-ph reactor (spare unit) - 1 No.</i> <p><i>Future Scope: Space for</i></p> <ul style="list-style-type: none"> • <i>765/400 kV, ICT along with bays - 5 Nos.</i> • <i>400/220 kV, ICT along with bays- 4 Nos.</i> 	24 months

	Name of the Transmission Element	Scheduled COD in months from Effective Date
	<ul style="list-style-type: none"> • 765 kV Line bays along with switchable line reactor- 6 Nos. • 400 kV Line bays – 9 Nos. • 220 kV Line bays - 8 Nos. • 765 kV reactor along with bays - 2 Nos. • 400 kV reactor along with bays – 1 No. • 765 kV bus sectionalizer- 1 No. • 400 kV bus sectionalizer- 1 No. 	
2.	Khavda PS (GIS) – Bhuj PS 765 kV D/c line	
3.	2 nos. of line bays each at Bhuj PS for termination of Khavda PS (GIS) – Bhuj PS 765 kV D/c line <ul style="list-style-type: none"> • 765 kV AIS line bays – 2 Nos. 	

Note:

i. As on date, Adani Green Energy Four Limited (AGEFL) has been granted Stage-I connectivity for 5000 MW and Stage-II Connectivity for 3500 MW at proposed Khavda PS at 400 kV level. Accordingly, 3 nos of 400 k V GIS line bay for termination of the dedicated lines from AGEFL`s Solar PV project has been included under the scope of works of Khavda P.S. Further, 1000MW LTA application has been received from AGEFL and the same is under process.

ii. GIS Bay (if any) for completion of diameter in one and half breaker scheme shall also be in the scope of the TSP

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 scheme for evacuation of 3GW RE injection at Khavda P.S. under Phase-I” to be part of PoC Pool as per CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020; and

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.”

3. The Petitioner has submitted that in accordance with the “Guidelines for Encouraging Competition in Development of Transmission Projects” and “Tariff Based Competitive Bidding Guidelines for Transmission Service” (hereinafter referred to as “the Guidelines”) issued by Ministry of Power, Government of India,

under Section 63 of the Act, PFC Consulting Limited (hereinafter referred to as “PFCCL”) was notified as the Bid Process Coordinator (hereinafter referred to as “BPC”) by Ministry of Power, Government of India vide Notification dated 25.9.2020 for the purpose of selection of bidder as Transmission Service Provider (hereinafter referred to as “TSP”) to establish “Transmission Scheme for evacuation of 3 GW RE injection at Khavda P.S. under Phase-I” through tariff based competitive bidding process on BOOM basis.

4. PFCCL in its capacity as the BPC initiated the bid process on 6.5.2021 and completed the same on 15.12.2021 in accordance with the Guidelines. Adani Transmission Limited (ATL) was selected as the successful bidder having quoted the lowest levelized transmission charges of Rs.1000.33 million per annum in order to establish “Transmission Scheme for evacuation of 3 GW RE injection at Khavda P.S. under Phase-I” and to provide transmission service to the identified Long-Term Transmission Customer (LTTTC) of the Project, namely, Adani Renewable Energy Holding Four Limited, as specified in the TSA.

5. At the stage of RfP, seven bidders, namely, Power Grid Corporation of India Limited, Adani Transmission Limited, Sterlite Grid 12 Limited, Megha Engineering and Infrastructure Limited, Kalptaru Power Transmission Limited, Tata Power Company Limited and Torrent Power Limited submitted their offers. The RfP (Non-Financial) bids of the seven bidders were opened in the presence of representatives of the bidders on 21.10.2021. Out of seven bidders, six bidders qualified at RfP stage. Based on the recommendation of the Bid Evaluation Committee (BEC), the RfP (Financial) Bids-Initial Price Offer of the six bidders were opened on 13.12.2021. Lowest Initial Price Offer discovered (Best Deal) at MSTC portal was Rs.1199.89 million per annum. Based on the recommendation of BEC, four bidders, namely,

Power Grid Corporation of India Limited, Adani Transmission Limited, Torrent Power Limited and Kalpataru Power Transmission Limited were qualified to participate in the e-reverse auction stage on 14.12.2021. The e-reverse auction was carried out at MSTC portal on 14.12.2021 and the following levelised transmission tariff for each bidder (in ascending order) emerged:

Sr. No.	Name of Bidder	Levelised Transmission Charges from the Final Offer (Rs.in Million)	Rank
1	Adani Transmission Limited	1000.33	L-1
2	Power Grid Corporation of India Limited	1002.84	L-2
3	Torrent Power Limited	1041.51	L-3

6. As per the Bid Evaluation Report dated 16.10.2021, Adani Transmission Limited emerged as the successful bidder with the lowest levelised transmission charges of Rs.1000.33 million per annum. BEC vide its certificate dated 16.10.2021 has certified that entire bid process has been carried out in accordance with the Guidelines issued by the Ministry of Power under Section 63 of the Act. BEC has further certified that the levelised tariff computed on the basis of rates quoted by the successful bidder during e-reverse auction is lower than the levelised tariff calculated based on CERC norms. Therefore, the levelised tariff discovered through e-reverse auction is acceptable.

7. Consequent to its selection as the lowest bidder, Letter of Intent (LoI) was issued to Adani Transmission Limited by the BPC on 22.12.2021 which was accepted by ATL. 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 and all other RfP documents;
- (c) Acquire, for the Acquisition Price, 100% share equity share holding of Khavda-Bhuj Transmission Limited from PFCCL along with all its related assets and liabilities;
- (d) Make an application to this Commission for adoption of transmission charges, as required under Section 63 of the Act; and
- (e) Apply to this Commission for grant of transmission licence;

8. The Petitioner has furnished the Contract Performance Guarantee (CPG) for an aggregate value of Rs.23.40 crore on 10.1.2022 and has acquired hundred percent equity holding in Khavda-Bhuj Transmission Limited on 18.1.2022. Accordingly, the Transmission Service Agreement (TSA) dated 19.8.2021 executed between the TSP and the LTTC became effective from 18.1.2022.

9. 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, 2013. 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, investigation, research, design and engineering, preparation of preliminary, feasibility and definite project reports, construction, operation and maintenance of transmission lines, sub-stations, load dispatch stations and communication facilities and appurtenant works, coordination of integrated 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”.

10. Section 15 (1) of the Act provides that every application under Section 14 of the Act 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 Transmission Licence Regulations in this regard. 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 issued under Section 63 of the Act. Regulation 4 of Transmission Licence 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 Project under consideration has been identified by the Empowered Committee. Central Electricity Authority, vide its letter No. I/18511/2021 dated 28.10.2021 had issued prior approval to the Project under Section 68 of the Act. The selection of the project developer, Khavda- Bhuj Transmission Limited, has been made in accordance with the Guidelines for competitive bidding.

11. Regulation 7 of the Transmission Licence Regulations read with the order dated 22.1.2022 passed in Petition No.1/SM/2022 [whereby the Commission, in the exercise of ‘Power to Relax’ under Regulation 24 of the Transmission Licence Regulations, modified/amended Clause (4), Clause (7), Clause (9) and Clause (12) and dispensed with Clause (10) of Regulation 7] provide for the procedure for grant of transmission licence as under:

“(1) The application for grant of 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 submit the original application in electronic form along with annexures and enclosures on the e-filing portal of the Commission so that the same is served electronically on all the long-term customers of the project registered on the e-filing portal of the Commission. Also, a copy of the same be served through e-mail on the long-term customers of the project not registered on the e-filing portal of the Commission. Further, the applicant shall also post the complete application along with annexures and enclosures in English and in the vernacular language, on its website.

(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 filing the application, post the application on the e-filing portal of the Commission and on its website in Form-II attached to these regulations in English language and in Vernacular language of the State or Union Territory where an element of the project or a long-term customer is situated, inviting comments from the general public

(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 on the e-filing portal of the Commission and on the applicant's website 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).....

(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 notice posted on the e-filing portal of the Commission and on the applicant's website by him, within 45 days of service of copy of the application on the Central Transmission Utility or publication of notice posted on the e-filing portal of the Commission and on the applicant's website, with an advance copy to 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."

12. 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 Khavda-Bhuj Transmission Limited with respect to the Transmission System as per details given in paragraph 1 above.

13. The Petitioner has made the Application as per Form-I and has paid fee of Rs.one lakh prescribed by the Central Government. On perusal of the Application, it is noted that the Petitioner has served copy of the Application on the LTTC for the Project. The levelised tariff charges quoted by the Petitioner which have been recommended by the Bid Evaluation Committee for acceptance, is Rs.1000.33 million per 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.

14. The Petitioner vide its affidavit dated 1.4.2022 has placed on record the relevant copies of the newspapers wherein notices were published in terms of Regulation 7 (10) of the Transmission Licence Regulations. The Petitioner has published the notices on 4.3.2022 in "The Indian Express" (English edition) and "Gujarat Samachar (Gujarati edition) in the State of Gujarat. No objection has been received from the general public in response to the public notices.

15. The Petition was heard on 13.4.2022 after notice to the Respondents. None was present on behalf the Respondents, despite notice. The representative of the Petitioner during the hearing submitted that the Petitioner has complied with all the requirements for grant of transmission licence and requested for grant of transmission licence to the Petitioner.

16. The Petitioner has served the copy of the Application on the Central Transmission of Utility of India Limited (CTUIL) as required under Section 15(3) of the Act and Regulation 7(6) of the Transmission Licence Regulations. CTU in its letter dated 25.2.2022 has recommended for grant of transmission licence to the Petitioner. Relevant portion of the said letter dated 25.2.2022 is extracted as under:

“This has reference to the letter dated 08.02.2022 vide which M/s Khavda - Bhuj Transmission Ltd. has requested CTU for issuance of its recommendation for grant of Transmission License for subject transmission scheme against the application/petition already filed before CERC. In this regard, the following is submitted:

1. M/s Khavda - Bhuj Transmission Ltd. has filed an application/petition under Section 14, 15 and 79(1)(e) of the Electricity Act, 2003 and CERC (Procedure, Terms and Conditions for grant of Transmission License and other related matters) Regulations, 2009 for grant of transmission license to establish "Transmission Scheme for evacuation of 3 GW RE injection at Khavda P.S. under Phase-I" project on Build, Own, Operate and Maintain (BOOM) basis as ISTS. The detailed scope of the transmission scheme is enclosed in Annexure-1.

2. As per section 15(3) of the Electricity Act, 2003 copy of the application for grant of transmission license, for the above transmission system has been received on 08.02.2022 for recommendation required U/S 15(4) of the Electricity Act, 2003.

3. In reference to the Transmission Scheme "Transmission Scheme for evacuation of 3 GW RE injection at Khavda P.S. under Phase-I", the following is submitted:

i) The Government of India has set a target for establishing 175 GW renewable capacity by 2022, which also includes 3 GW RE potential in the Khavda area of Gujarat under Phase-I. The subject transmission scheme involves the establishment of the Khavda (GIS) Pooling Station and its interconnection with the ISTS grid for evacuation of RE power from the Khavda area of Gujarat.

ii) The transmission scheme was agreed in the 1st WRPC(TP), 2nd WRPC(TP) and 3rd WRPC(TP) meetings held on 11.01.2020, 04.09.2020 and 14.06.2021 respectively. Extract of the minutes of 1st WRPC(TP), 2nd WRPC(TP) and 3rd WRPC(TP) meetings are enclosed at Annexure-11.

iii) The transmission system was discussed and agreed on in the 3rd meeting of the National Committee on Transmission (NCT) (re-constituted vide MOP office order 04.11.2019) meeting held on 26.05.2020 & 28.05.2020. Extract of the minutes of the above referred NCT meetings is enclosed at Annexure-111.

iv) The Transmission System was agreed upon in the 40th WRPC meeting held on 07.06.2021. Extracts of 40th WRPC MOM are enclosed at Annexure-IV.

v) Ministry of Power, GOI vide Gazette notification dated 25.09.2020 had appointed PFC Consulting Ltd. as the Bid Process Coordinator (BPC) for selection of Bidder as Transmission Service Provider (TSP) to establish the subject transmission scheme through Tariff Based Competitive Bidding (TBCB) process. Subsequently, MoP vide Gazette notification dated 19.07.2021 has modified the scope of the subject transmission scheme after examining the recommendations of the 4th NCT meeting (held on 20.01.2021 & 28.01.2021) and CEA. Copy of Gazette notifications referred above is enclosed at Annexure-V.

vi) Hon'ble Commission has also granted Regulatory Approval for the subject transmission scheme, vide order dated 08.11.2021 in Petition No. 616/MP/2020.

4. Pursuant to the process of competitive bidding conducted by the BPC, M/s Adani Transmission Ltd. has been declared as the successful bidder. Thereafter, the BPC issued a Letter of Intent to M/s Adani Transmission Ltd. on 22.12.2021. Subsequently, M/s Adani Transmission Ltd. has acquired SPV i.e., Khavda - Bhuj Transmission Ltd. on 18.01.2022, after execution of the Share Purchase Agreement (SPA) and completion of all procedural requirements as specified in the bid documents. The scheduled COD for the proposed ISTS is 24 months from the date of acquisition of SPV i.e., 18.01.2024.

5. In line with Section 15(4) of the Electricity Act, 2003, based on details furnished by M/s Khavda - Bhuj Transmission Ltd., CTU recommends the grant of transmission license to M/s Khavda - Bhuj Transmission Ltd. for executing the transmission scheme as mentioned in Para-1 above.”

17. We have considered the submissions of the Petitioner and BPC. The proviso to Clause 2.4 of the RfP provides that *"if for any reason attributable to the BPC, the said activities are not completed by the selected bidder within the above period of ten (10) days as mentioned in this clause, such period of 10 days shall be extended, on a day to day basis till the end of the Bid validity period"*. Though Lol was issued on 22.12.2021, BPC, vide its letter dated 18.1.2022, in terms of Clause 2.4, Clause 2.5 and Clause 2.6 of RfP extended the date up to 28.1.2022 for completion of all activities by the successful bidder. The selected bidder furnished the Contract Performance Guarantee to the Long Term Transmission Customers of the Project for

an amount of Rs.23.40 crore and has acquired hundred percent equity-holding in the applicant company on 18.1.2022 after execution of the Share Purchase Agreement. The TSP on behalf of the selected bidder filed the Application through e-filing for grant of transmission licence and adoption of tariff on 27.1.2022. 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 paragraph 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 20.5.2022.

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 16.5.2022 to the effect that the execution of the 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 16.5.2022 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 in due course for which separate notice will be issued.

Sd/-
(P. K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I.S. Jha)
Member

sd/-
(P.K.Pujari)
Chairperson