

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 145/TL/2022

Coram:

Shri I.S. Jha, Member

Shri Arun Goyal, Member

Shri P. K. Singh, Member

Date of order: 13th September, 2022

In the matter of:

Application under Section 14 and Section 15 of the Electricity Act, 2003 read with the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for Grant of Transmission License and other related matters) Regulations, 2009 for grant of separate Transmission Licence for implementation of 80 MVAR reactor at 765 kV Warangal New sub-station through the Regulated Tariff Mechanism (RTM) mode to Warora Kurnool Transmission Limited.

And

In the matter of

Warora Kurnool Transmission Limited,

C 105, Anand Niketan,

New Delhi-110021.

.... Petitioner

Versus

1. Tamil Nadu Generation and Distribution Corporation Limited,
144, Anna Salai, Chennai-600 002.

2. Southern Distribution Company of Andhra Pradesh Limited,
D.No. 19-13-65/A, Srinivasapuram,
Tiruchhanur Road,
Kesavayana Gunta,
Tirupati - 517 503, Andhra Pradesh.

3. Eastern Distribution Company of Andhra Pradesh Limited,
P&T Colony, Seethmmadhara,
Vishakhapatnam - 530013, Andhra Pradesh.

4. Southern Distribution Company of Telangana Limited,
2nd Floor, H. No. 6-1-50, Mint Compound,

Hyderabad – 500 063.

5. Northern Power Distribution Company of Telangana Limited,

H. No. 2-5-31/2, Corporate Office Vidyut Bhavan,
Hanamkonda,
Warangal – 506.001.

6. Bangalore Electricity Supply Company Limited,

Krishna Rajendra Circle,
Bangalore – 560 001.

7. Gulbarga Electricity Supply Company Limited,

Station Road, Kalaburagi,
Karnataka – 585.102.

8. Hubli Electricity Supply Company Limited,

Corporate Office, P.B. Road, Navanagar,
Hubli – 580 025.

9. Mangalore Electricity Supply Company Limited,

Paradigm Plaza, A. B Shetty Circle,
Pandeshwar, Mangalore – 575 001.

10. Chamundeshwari Electricity Supply Company Limited,

No. 29, CESC Corporate Office, Hinkal, Vijaynagar 2nd Stage,
Mysuru – 570 017.

11. Kerala State Electricity Supply Company Limited,

Vydyuthi Bhawanam, Pettom,
Tiruvananthapuram,
Kerala - 695 004.

12. Electricity Department,

Govt. of Puducherry 137, NSC Bose Salai,
Puducherry-605 001.

13. Electricity Department, Government of Goa,

Vidyut Bhavan, Near Mandvi Hotel,
Panaji, Goa-403 001.

14. Central Transmission Utility of Indian Limited,

Saudamini, Plot No. 2, Sector 29,
Gurgaon-122 001.

...Respondents

The following were present:

Shri Tanmaya Vyas, WKTL
Shri S. Vallinayagam, Advocate, TANGEDCO
Ms. Kajal Singhal, Advocate, TANGEDCO
Shri R. Srinivasan, TANGEDCO
Shri R. Kumutha, TANGEDCO
Ms. Himanshi, CTUIL
Ms. Priyanshi, CTUIL
Shri Swapnil Verma, CTUIL
Shri Siddharth Sharma, CTUIL

ORDER

The Petitioner, Warora Kurnool Transmission Limited (WKTL), has filed the present Petition under Section 14 and Section 15 of the Electricity Act, 2003 (hereinafter referred to as 'the Act') read with provisions of the Central Electricity Regulatory Commission (Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009 (hereinafter referred to as 'the Transmission Licence Regulations') for grant of separate transmission licence for implementation of "80 MVAR reactor at 765 kV Warangal New" on the Regulated Tariff Mechanism (RTM) mode (hereinafter referred to as the 'transmission scheme'). The scope of the project for which transmission licence has been sought is as under:

| SN | Scope of the Transmission Scheme | Capacity | Implementation timeframe |
|-----------|---|-----------------|-----------------------------------|
| 1 | One spare unit (1-Ph) of 80 MVAR reactor at 765 kV Warangal New along with necessary arrangement to take spare reactor units into service as per the operational requirement. | 80 MVAR (1-Ph) | 15 months from issue of OM by CTU |

2. The Petitioner company was incorporated as a special purpose vehicle by PFC Consulting Limited (PFCCL) as part of Tariff Based Competitive Bidding ('TBCB') process for implementing the transmission system of the "Additional inter-Regional AC link for import into Southern Region i.e. Warora- Warangal and Chilakaluripeta-Hyderabad-Kurnool 765 kV Link" (hereinafter referred to as "the Project") on Build, Own, Operate and Maintain (BOOM) basis. Essel Infra participated in the competitive bidding process conducted by PFCCL and upon emerging as the successful bidder, Letter of Intent (LOI) was issued by PFCCL to Essel Infra on 29.2.2016. In accordance with the bidding documents, Essel Infra acquired 100% of the shareholding in WKTL by executing a Share Purchase Agreement with PFCCL on 6.7.2016. WKTL entered into Transmission Service Agreement (TSA) with LTTCs on 6.1.2016. The Commission in its order dated 29.9.2016 in Petition No. 111/TL/2016 granted transmission licence to WKTL for inter-State transmission of electricity to establish transmission system for "Additional inter-Regional AC link for import into Southern Region i.e. Warora-Warangal and Chilakaluripeta-Hyderabad- Kurnool 765 kV link" on Build, Own, Operate and Maintain ("BOOM") basis consisting of the following elements:

| SN | Scheme/ Transmission Works | Completion Target |
|-----------|---|--------------------------|
| 1. | Establishment of 765/400kV substations at Warangal (New) with 2x1500 MVA transformers and 2x240 MVAR bus reactors | 40 months |
| 2. | Warora Pool- Warangal (New) 765 kV D/c line with 240 MVAR switchable line reactor at both ends | 40 months |
| 3. | Warangal (New) – Hyderabad 765 kV D/c line with 240 MVAR switchable line reactor at Warangal end | 40 months |
| 4. | Warangal (New) – Warangal (existing) 400 kV (quad) D/c line | 40 months |
| 5. | Hyderabad- Kurnool 765 kV D/c line with 240 MVAR switchable line reactor at Kurnool end | 40 months |

| SN | Scheme/ Transmission Works | Completion Target |
|----|--|-------------------|
| 6. | Warangal (New)-Chilakaluripeta 765 kV D/c line with 240 MVAR switchable line reactor at both ends | 40 months |
| 7. | 240 MVAR switchable line Reactors at Warora Pool end in each circuit of Warora Pool- Rajnandgaon 765 kV D/C line with NGR (700 Ohms) | Nov 2018 |

3. Subsequently, the lenders approached the Commission under Section 17(3) and Section 17 (4) of the Act for approval of substitution of Essel Infra with Adani Transmission Limited (ATL) for execution of the Project. The Commission after considering the submissions of the parties, vide order dated 27.1.2021 allowed the transfer of shareholding of the Petition from Essar Infra to Adani Transmission Limited.

4. The Commission after considering the application of the Petitioner in the light of the provisions of the Act and the Transmission Licence Regulations, in its order dated 2.8.2022, *prima facie* proposed to grant transmission licence to the Petitioner described in paragraph 1 of the order dated 2.8.2022. Relevant extract of order dated 2.8.2022 is extracted as under:

“18. In the present case, the Petitioner does not fulfil any of the eligibility condition for grant of transmission licence. However, in the 6th meeting of National Committee on Transmission, it was indicated that as per the revised Terms of Reference issued by Ministry of Power, Government of India, ISTS projects costing upto Rs. 100 crore or such limit as may be prescribed by Ministry of Power from time to time would be approved by CTUIL including its mode of implementation. The scheme has been identified for implementation though RTM mode by CTUIL. Non-grant of transmission licence to any agency nominated by NCT to implement a transmission system through regulated tariff mechanism in view of the provisions of Regulation 6 defeats the purpose of the Policy decision of the Government. We are of the view that considering the strategic importance of the transmission line, it is a fit case for relaxation of the provisions of Regulation 6 by invoking of the power vested under Regulation 24 of the Transmission Licence Regulations.

19. Regulation 24 of the Transmission Licence Regulations dealing with power to relax in appropriate cases, provides as under:

“24. The Commission may, when it considers necessary or expedient to do so and for reasons to be recorded in writing, relax or depart from any of the provisions of these regulations”

20. It is an established principle of law that the power to relax has to be strictly construed and is to be exercised judiciously and with caution. Further, the power to relax is to be exercised only when undue hardship is caused by the application of the rules or regulations. In the present case, the Petitioner is a transmission licensee which is already implementing the project defined under its scope through TBCB mechanism. The present Petition is consequent to the office order 28.10.2021 notified by Ministry of Power Government of India wherein CTUIL has been authorized to determine the mode of implementation of ISTS projects less than or equal to Rs.100 crore. Pursuant to direction of Ministry of Power, CTUIL, vide its Office Memorandum dated 16.11.2021, has determined a list of Projects to be implemented or through Regulated Tariff Mechanism which also includes the instant Petition for the subject transmission system.

21. Since the Petitioner is already an inter-State transmission licensee and has been identified as an agency to implement the project as per RTM, the Commission in exercise of power under Regulation 24 hereby relaxes the provision of Regulation 6 of the Transmission Licence Regulations and holds that the Petitioner is eligible for grant of transmission licence. We, hereby, 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 18.8.2022.”

5. A public notice under Sub-section (5) of Section 15 of the Act was published on 5.8.2022 in all editions of the Hindustan Times (English) and Dainik Jagran (Hindi). No suggestions/ objections have been received from the members of the public in response to the public notice.

6. Case was called out for virtual hearing on 8.9.2022. The representative of the Petitioner submitted that no objection has been received in response to the public notice published by the Commission under sub-section (5) of Section 15 of the Act. Accordingly, requested to grant transmission licence to the Petitioner company.

7. As regards grant of transmission licence, Clauses (15) and (16) of Regulation 7 of

Transmission Licence Regulations provide as under:

“(15) The Commission may after consideration of the further suggestions and objections, if any, received in response to the public notice as aforesaid, grant licence as nearly as practicable in Form-III attached to these regulations or for reasons to be recorded in writing, reject the application if such application is not in accordance with the provisions of the Act, the rules or regulations made thereunder or any other law for the time being in force or for any other valid reason.

(16) The Commission may, before granting licence or rejecting the application, provide an opportunity of hearing to the applicant, the Central Transmission Utility, the long-term customers, or the person who has filed suggestions and objections, or any other person:

Provided further that the applicant shall always be given a reasonable opportunity of being heard before rejecting the application.”

8. In our order dated 2.8.2022, we had proposed to grant transmission licence to the Petitioner company and directed for issue of public notice. In response to the public notice, no suggestions/ objections have been received. CTUIL in its letter dated 4.5.2022 has recommended for grant of transmission licence to the Petitioner. We are satisfied that the Petitioner company meets the requirements of the Act and the Transmission Licence Regulations for grant of transmission licence for the subject Transmission System mentioned at paragraph 1 of this order. Accordingly, we direct that transmission licence be granted to the Petitioner, Warora Kurnool Transmission Limited to establish the transmission scheme through RTM route as per the details given in paragraph 1 above.

9. The grant of transmission licence to the Petitioner (hereinafter referred to as “the licensee”) is subject to the fulfilment of the following conditions throughout the

period of licence:

(a) The transmission licence shall, unless revoked earlier, remain in force for a period of 25 years from the date of issue;

(b) The transmission licensee shall comply with the provisions of the Transmission Licence Regulations or any subsequent enactment thereof during the period of subsistence of the licence;

(c) The licensee may make an application, two years before the expiry of initial licence period, for grant of licence for another term in accordance with Regulation 13 (2) of the Transmission Licence Regulations which shall be considered by the Commission in accordance with law;

(d) The licensee shall not enter into any contract for or otherwise engage in the business of trading in electricity during the period of subsistence of the transmission licence;

(e) The licensee shall have the liability to pay the license fee in accordance with the provisions of the Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012, as amended from time to time or any subsequent enactment thereof. Delay in payment or non-payment of licence fee or a part thereof for a period exceeding sixty days shall be construed as breach of the terms and conditions of the licence;

(f) The licensee shall comply with the directions of the National Load Despatch Centre under Section 26 of the Act, or the Regional Load Despatch Centre under sub-section (3) of Section 28 or sub-section (1) of Section 29 of the Act, as may be issued from time to time for maintaining the availability of the transmission system;

(g) The licensee shall remain bound by the Central Electricity Regulatory Commission (Standard of Performance of inter-State transmission licensees) Regulations, 2012 or subsequent enactment thereof;

(h) The licensee shall provide non-discriminatory open access to its Transmission System for use by any other licensee, including a distribution licensee or an electricity trader, or generating company or any other person in accordance with the Act; the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008; the Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009; the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010, as amended from time to time or any subsequent re-enactments thereof;

(i) The licensee shall not undertake any other business for optimum utilization of the Transmission System without prior intimation to the

Commission and shall comply with the provisions of the Central Electricity Regulatory Commission (Sharing of Revenue Derived from Utilization of Transmission Assets for other business) Regulations, 2020;

(j) The licensee shall remain bound by provisions of the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2020 as amended from time to time;

(k) The licensee shall remain bound by the provisions of the Act, the Rules and Regulations framed thereunder, in particular the Transmission Licence Regulations, the Grid Code, the Standards specified by the Central Electricity Authority, orders and directions of the Commission issued from time to time;

(l) The licensee shall ensure execution of the Project as per the Technical Standards and Grid Standards of CEA;

(m) The licensee shall coordinate with the licensees (including deemed licensees) executing the upstream or downstream transmission projects, the Central Electricity Authority and CTUIL for ensuring smooth execution and commissioning of the Project; and

(n) The licensee shall submit all such report or information as may be required under Transmission Licence Regulations, Standard of Performance Regulations or any other regulation of the Commission or as per the directions of

the Commission as may be issued from time to time.

10. Central Electricity Authority/ CTUIL shall monitor the execution of the Project and bring to the notice of the Commission any lapse on the part of the licensee to meet the schedule for further appropriate action in accordance with the provisions of the Act and the Transmission Licence Regulations.

11. Let an extract copy of this order be sent to the Central Government in Ministry of Power and Central Electricity Authority in terms of sub-section (7) of Section 15 of the Electricity Act, 2003 for their information and record.

12. Petition No. 145/TL/2022 is allowed in terms of the above.

Sd/-
(P. K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I.S. Jha)
Member