

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 221/TL/2022

**Coram:
Shri Arun Goyal, Member
Shri P. K. Singh, Member**

Date of Order: 22nd October, 2022

In the matter of

Application under Section 14 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 Transmission Licence to Power Grid Bhadla Transmission Limited (formerly Fatehgarh Bhadla Transco Limited) a 100% wholly owned subsidiary of Power Grid Corporation of India Limited.

And

In the matter of

Power Grid Bhadla Transmission Limited,
(formerly Fatehgarh Bhadla Transco Limited)
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi-110 016

.....**Petitioner**

Vs

- 1. SBE Renewables Seventeen Private Limited,**
1st Floor, Worldmark-2, Aerocity,
New Delhi -110037
- 2. Renew Surya Aayan Private Limited,**
138, Ansal Chambers-II,
Bhikaji Cama Place New Delhi -110066
- 3. Renew Surya Vihaan Private Limited,**
138, Ansal Chambers-II,
Bhikaji Cama Place New Delhi -110066
- 4. Altra Xergi Power Private Limited,**
8th Floor, DLF Square, DLF Phase-II,
Gurgaon-122002
- 5. North Bihar Power Distribution Company Limited,**
3rd Floor, Vidyut Bhawan
Bailey Road, Patna -800001

6. South Bihar Power Distribution Company Limited,
2nd Floor, Vidyut Bhawan
Bailey Road, Patna -800001

7. Eden Renewable Passy Private Limited,
Unit No. 236 B &C, 1st Floor,
DLF South Court,
Saket, New Delhi-110017

8. Chief Executive Officer,
REC Power Development and Consultancy Limited
(formerly REC Power Distribution Company Limited)
REC Corporate Head Quarter,
C & D Block, Plot No. I – 4,
Sec – 29 Gurugram – 122 001
Haryana,

9. Chief Operating Officer, CTU Planning,
Central Transmission Utility of India Limited
Saudamini, Plot No.2, Sector -29,
Gurugram-122 001.

.....**Respondents**

Parties present:

Shri Shubham Arya, Advocate, PBTL
Shri Ravi Nair, Advocate, PBTL
Shri Kaushal Kishor, Advocate, PBTL
Shri Prashant Kumar, Advocate, PBTL
Shri Mani Kumar, Advocate, PBTL
Shri Arjun Malhotra, Advocate, PBTL
Ms. Rohini Prasad, BSPHCL
Shri Swapnil Verma, CTUIL
Shri Yatin Sharma, CTUIL
Shri Ranjeet S. Rajput, CTUIL
Ms. Priyansi Jadiya, CTUIL

ORDER

The Petitioner, Power Grid Bhadla Transmission Limited (formerly Fatehgarh Bhadla Transco Limited), has filed the present Petition for grant of transmission licence under Section 14 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 “the Transmission Licence Regulations”) to establish “Transmission System Strengthening Scheme for Evacuation of Power from Solar Energy Zones in Rajasthan (8.1 GW) under Phase II (Part B)”, on Build, Own, Operate and Maintain (BOOM) basis (hereinafter referred to as “the Project”) consisting of the following elements:

Sr .. No	Name of the Transmission Element	Scheduled COD in months from Effective Date
1.	<i>Fatehgarh-II PS- Bhadla-II PS 765 kV D/c line (2nd)</i>	18 Months
2.	<i>2 no. of 765 kV line bays each at Fatehgarh-II and Bhadla-II for Fatehgarh-II PS- Bhadla- II PS 765 kV D/c line (2nd)</i>	
3.	<i>1x240 MVAr Switchable line reactor for each circuit at each end of Fatehgarh-II- Bhadla- II 765kV D/c line (2nd)</i> <i>240 MVAr, 765 kV reactor- 4 (2 reactors each at Fatehgarh-II and Bhadla-II).</i> <i>Switching equipment for 765 kV reactor-4 (2 Switching equipments each at Fatehgarh-II and Bhadla-II)</i> <i>[1x80 MVAr Spare* reactor each at Fatehgarh-II and Bhadla-II to be used as spare for Fatehgarh-II- Bhadla-II 765 kV D/c line (2nd)]</i> <i>*not under the present scope.</i>	

Note:

i. POWERGRID to provide space for 2 no of 765 kV bays each at Fatehgarh-II and Bhadla-II substation and space for 2 no of switchable line reactors each at Fatehgarh-II and Bhadla-II substation.

ii. TSP shall install the 765kV Line Reactor banks at Bhadla II PS under each of the schemes (Part-B, Part-C and Part-E) and all the associated equipment required for switching arrangement viz isolators, circuit breakers, 765kV & 145kV (neutral) auxiliary buses etc., so that spare 1-ph unit, whenever provided in future, is able to replace any of the faulty unit without its physical movement. Respective TSP shall provide the equipment/facilities at Bhadla II PS such that only supply & installation of 1x80 MVAR spare unit of Reactor, associated LA, 1-Ph Circuit Breaker and extension of 765 kV & 145 kV buses will be required for completion of switching arrangement in future.”

2. The Petitioner has made the following prayers:

“(a) Grant Transmission Licence to the Applicant; and

(b) Allow the sharing and recovery of Transmission Charges for Transmission system for evacuation of power from solar energy zones in Rajasthan (8.1 GW) under phase II – (Part B) as per Sharing of Inter-state Transmission Charges and Losses CERC Regulations 2020 and other amendment thereon issued from time to time by CERC.”

3. The Petitioner has submitted that its name has been changed in terms of Rule 29 of the Companies (Incorporation) Rules, 2014 from ‘Fatehgarh Bhadla Transco Limited’ to ‘Power Grid Bhadla Transmission Limited’ from 6.9.2021. The Petitioner has placed on record the ‘Certificate of incorporation pursuant to Change of Name’ dated 6.9.2021 issued and certified by the Registrar of Companies, Delhi. It is accordingly allowed.

Background of the case:

4. The Petitioner had earlier filed Petition No. 136/TL/2021 for grant of transmission licence to establish “Transmission System Strengthening Scheme for Evacuation of Power from Solar Energy Zones in Rajasthan (8.1 GW) under Phase II (Part B)”. However, the Commission in its order dated 26.8.2021 observed that as the various elements of the Project of Sikar New Transmission Limited as well as up-stream and down-stream systems to this Project fell within the potential habitat of Great Indian Bustard (“GIB”) and accordingly recognised that uncertainties have cropped up regarding implementation of this Project in terms of the order of the Hon’ble Supreme Court dated 19.4.2021 in IA No. 85618 of 2020 in WP (Civil) No. 838 of 2019 (“GIB Order”) providing for appropriate steps for laying of transmission network/lines in the priority and potential habitats of GIB. In the GIB Order, the

Hon'ble Supreme Court, *inter alia*, recognised that the laying of underground power line more particularly high voltage would require technical evaluation on case-to-case basis and an omnibus conclusion cannot be reach for laying down a uniform method and noting that the laying of high voltage underground power line would require expertise to assess the feasibility, constituted a Committee for the specific purpose of assessing the feasibility and to arrive at a conclusion as to whether the underground power line is feasible or not. Accordingly, the Petitioner was granted liberty to approach the Commission with fresh Petition on the subject matter once the Petitioner has complied with the directions of the Hon'ble Supreme Court dated 19.4.2021, which would provide sufficient clarity regarding implementation of the Project. Relevant portion of the order dated 26.8.2021 is extracted as under:

"17. As the various elements of the Projects of Fatehgarh Bhadla Transco Limited and Sikar New Transmission Limited as well as up-stream and down-stream systems to these Projects and up-stream systems to the Project of Sikar-II Aligarh Transmission Limited fall within the potential habitat of GIB, we recognise that uncertainties have cropped up regarding implementation of these Projects in terms of the order of the Hon'ble Supreme Court dated 19.4.2021 providing for appropriate steps for laying of transmission network/lines in the priority and potential habitats of GIB.

* * * * *

19. Indisputably, the Hon'ble Supreme Court in the aforesaid order has recognized that the laying of underground power line more particularly of high voltage would require technical evaluation on case-to-case basis and an omnibus conclusion cannot be reached laying down a uniform method in this regard. However, the Hon'ble Supreme Court, after noting that laying of high voltage underground power line would require expertise to assess the feasibility, has constituted a Committee comprising of members from MNRE, WII and Corbett Foundation for the specific purpose of assessing the feasibility. Since there are issues relating to feasibility, the matter is required to be referred to the Committee with all relevant material and particulars. Accordingly, the Committee shall assess the matter and arrive at a conclusion as to whether the underground power line is feasible or not.

20. The Petitioners have argued that though the concerned elements of the Projects fall within the potential habitat of GIB, they being at 765 kV voltage level, it is not feasible to lay underground power line. However, the Petitioners during the hearing stated that they have not yet approached the Committee constituted by the Hon'ble Supreme Court for assessment of feasibility of the Projects falling within the potential habitat area of GIB since the matter was under consideration of the study

team constituted by the Ministry of Power. We observe that the study team constituted by the Ministry of Power, has recommended to file IA before the Hon'ble Supreme Court, inter alia, requesting to allow installation of renewable energy projects and laying of future transmission lines in potential habitat of GIB with installation of bird diverters. However, as submitted by the CTU during the hearing on 18.8.2021, the IA to the above effect is yet to be filed before the Hon'ble Supreme Court. Hence, we are clearly of the view that even if the Commission decides to grant transmission licences to the Petitioners, the implementation of the Projects would still remain surrounded in uncertainty till the time the directions of the Hon'ble Supreme Court are complied with.

21. In addition, we also note that the implementation of the Projects, in absence of ratification of their feasibility by the Committee constituted by the Hon'ble Supreme Court, may face uncertainties relating to route of lines, laying lines overhead or underground and mitigating measures such as installations of bird-diverters, resulting in potential cost overruns and time overruns. During the course of hearing, the representatives of the Petitioners and the CTU made submissions to the effect that the requirement of rerouting of elements falling within the potential area is very unlikely and relied upon the change in law clause under the Transmission Service Agreements (in connection with costs to be incurred towards implementation of directions of the Hon'ble Supreme Court's order) for addressing the issue of time overruns and cost overruns, if any. In our view, there is no force in the submissions of the Petitioners and CTU as, when the Petitioners are aware of the measures required to be undertaken in terms of order of the Hon'ble Supreme Court (i.e. ratification of the feasibility report of the Projects by the Committee constituted by the Hon'ble Supreme Court) and the Petitioners have not undertaken such measures as yet, it would be completely inappropriate to create potential liabilities and pass on such liabilities to the beneficiaries and consumers under change in law.

22. During the course of hearing, the representative of the Petitioners pointed out that as per the provisions of the Transmission Service Agreement, they are required to implement the Projects within the timeline stipulated therein to evacuate power from the renewable energy projects. Neither the Petitioners nor the CTU has furnished the exact locations of such renewable energy projects. However, these renewable energy projects are required to lay dedicated transmission lines from their respective projects for connection to the ISTS, which are the Projects of Fatehgarh Bhadla Transco Limited and Sikar New Transmission Limited, the subject matter of present Petitions. As Projects of Fatehgarh Bhadla Transco Limited and Sikar New Transmission Limited fall within the potential habitat of GIB, the dedicated transmission lines for connection to these ISTS will also be subject to similar measures as prescribed by the Hon'ble Supreme Court in its order dated 19.4.2021 for priority and potential habitat of GIB. In such circumstances, we are of the view that timeline for implementation of the Projects of Fatehgarh Bhadla Transco Limited and Sikar New Transmission Limited cannot be considered in isolation ignoring the various renewable energy projects from which power is being proposed to be evacuated and which are also subject to the order dated 19.4.2021 of the Hon'ble Supreme Court.

23. In light of the above discussion, we are of the considered view that it would not be appropriate for the Commission to allow the present Petitions for grant of transmission licences and adoption of transmission tariff in respect of the Projects ignoring the order of the Hon'ble Supreme Court dated 19.4.2021 providing for appropriate steps for laying of transmission network/lines in the priority and potential habitats of GIB and when the Petitioners are yet to take required actions in

terms of the said order of Hon'ble Supreme Court.

24. At the same time, no purpose will be served to keep these Petitions pending till compliance of the order of the Hon'ble Supreme Court. Accordingly, the Petitions are disposed of with liberty to the Petitioners to approach the Commission with fresh Petitions on the subject matters when the Petitioners have complied with the directions of the Hon'ble Supreme Court dated 19.4.2021, which would provide sufficient clarity regarding implementation of the Project. The filing fees deposited by the Petitioners in respect of these Petitions shall be adjusted against the Petitions to be filed by the Petitioners in future in terms of the liberty granted as above."

5. In compliance to the above, the Petitioner approached the Committee constituted by the Hon'ble Supreme Court through application dated 8.9.2021. The Committee vide its letter dated 18.7.2022 has allowed for overhead laying of Fatehgarh II PS - Bhadla-II PS 765kV D/c line (2nd) subject to the condition of diversion of some portion of line and installing Bird Diverters. The relevant portion of letter of the Committee dated 18.7.2022, is extracted as under:

"The Committee discussed the application and above documents in meeting held on 14.10.2021 and 13.12.2021, 26.02.202, 04.07.2022 and 11.07.2022. Committee members also held a VC meeting on 26.05.2022 with the applicant to explore alternatives. As requested by this committee, additional information related to this application were submitted by PGCIL vide email dated 24.09.2021, 21,10,2021, 16.06.2022 and 05.07.2021. The central Electricity Authority (CEA) submitted its technical report on the application vide email dated 16.11.2021.

After detailed discussion, committee members concluded that overhead laying of this transmission line is the only option since the technology for undergrounding the 765 kV D/c line is not available and downgrading this line to 132 kV underground lines is also not feasible. However, the proposed line passes through Prioritized GIB are (about 30 km length) of the Potential Area, and crossed prime bustard habitats such as adjoining area of Rasla and Degray Oran.

Considering the above, the committee ratifies the overhead laying of this line as under-

a) Along the proposed route for approx. 160 kn section from R1- Bhadla II Gantry (27.511051 N, 72.473326 E) to R1- AP19 (26.702407 N, 71.582485 E), and

b) Along the suggested alternative route (from R1- AP19 to Jaisalmer II PS – Ramgarh II PS- Fatehgarh II PS so that it runs along -and shares RoW if possible with – the proposed PGCIL 400 kV D/c lines from Ramgarh II PS – Jaisalmer II PS and Ramgarh II PS-Fatehgarh II PS, as shown in Annexure) or any other feasible route south and west of the proposed one that avoids Rasla and Degray Oran areas for the remaining section.

c) The above ratification is with the condition of installing Bird Diverters, which: a) meet quality and standards of Technical Specifications for Bird Flight Diverter' issued by this Committee in consultation with Central Electricity Authority, b) are installed following the method in Wildlife Institute of India's' Powerline mitigation to conserve bustards', i.e., diverters on all lines (earthwire and all types of conductors) with one unit at least 5 m interval of the powerline, c) where one out of five diverters (20%) is LED type, d) are maintained through the life of the Project."

Hearing dated 11.10.2022

6. The matter was called out for hearing on 11.10.2022 after notice to the Respondents. None was present on behalf of the Respondents No. 1 to 7/LTTCs. During the course of hearing, learned counsel for the Petitioner submitted that the committee constituted by Hon`ble Supreme Court comprising of member from MNRE, WILL and Corbett Foundation, vide its letter dated 18.7.2022 has recommended overhead laying of Fategarh-II-Bhadla-II 765 kV D/C line (2nd) with rerouting of line and installation of bird diverters. He further submitted that the Petitioner envisage completion of Part B Transmission Systems within a period of 15 months after grant of transmission licence and adoption of tariff. Accordingly, the Petitioner may be permitted to approach the Commission for seeking appropriate remedies with regard to impact of Change in Law and force majeure events after implementation of concerned transmission system. The representative of CTUIL submitted that CTUIL vide its letter dated 26.8.2022 has recommended for grant of transmission licence to the Petitioner.

7. The Petitioner was directed to submit the following information:

- (a) Single line diagram of the transmission scheme;
- (b) Tentative completion target timeline planned by the transmission licensee keeping in view developments pursuant to GIB Arc Order by Hon`ble Supreme Court;

(c) Indicate the tentative route of the transmission line in compliance to the direction of the Committee constituted by the Hon`ble Supreme Court vide dated 18.7.2022 and also the effect on length of the said line due to such re-routing w.r.t. originally envisaged route; and

(d) Map depicting the original route as envisaged by the transmission licensee and diverted route as per recommendations of the Committee.

8. The Petitioner vide its affidavit dated 18.10.2022 has submitted the information called for and has submitted as under:

(a) With regard to single line diagram of the transmission scheme, the Petitioner has placed on record the same;

(b) With regard to tentative completion target timeline of the transmission scheme, the Petitioner has submitted that as per the TSA, the instant Project was to be executed within 18 months from the effective date. However, due to direction of the Hon`ble Supreme Court dated 19.4.2021, providing for appropriate steps for laying of transmission lines in the priority and potential habitats of GIB, the Project was put on hold. Subsequently, the Commission vide its order dated 26.8.2021 directed the Petitioner to approach the Commission for grant of transmission licence after compliance of the direction of Hon`ble Supreme Court. Order of the Hon'ble Supreme Court dated 19.4.2021 and the Commission`s order dated 26.8.2021 read with letter dated 18.7.2021 of the Committee constituted by the Hon`ble Supreme Court qualifies both as change in law as well as force majeure event in terms of the TSA dated 11.11.2020 for time and cost overrun. Accordingly, allow 15 months' time to execute the Project after grant of transmission licence.

(c) With regard to tentative route of the transmission line and map depicting the original route, the Petitioner has placed on record the copy of the same.

(d) The Petitioner has furnished the details regarding effect on length of the Fategarh II PS-Bhadla-II PS 765 k V D/C (2nd) as under:

Route	Kms
Originally envisaged route	190.665
Revised Route (New Route)	202.575

Accordingly, line length has been increased by 11.91 kms due to re-routing w.r.t originally envisaged route. This increase in line length qualifies as change in law events and allow the relief in this regard as per the provisions of the TSA

9. Since the Petitioner has complied with the direction of the Hon`ble Supreme Court, we proceed to consider the prayer of the Petitioner as regards grant of transmission licence to establish Transmission System for evacuation of power from solar energy zones in Rajasthan (8.1 GW) under Phase II (Part B) pursuant to competitive bid process carried out in terms of Guidelines issued by Ministry of Power, Government of India.

10. 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, REC Transmission Projects Company Limited (RECTPCL) [now known as REC Power Development and Consultancy Limited

(RECPDCL)] was notified by Ministry of Power, Government of India vide Gazette Notification dated 27.1.2020 as the Bid Process Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish 'Transmission System for Evacuation of Power from Solar Energy Zones in Rajasthan (8.1 GW) under Phase II (Part B)', through tariff based competitive bidding process on BOOM basis. It is noticed that in the interregnum, in compliance to the direction of Ministry of Power and order dated 5.2.2021 of the Ministry of Company Affairs, RECTPCL amalgamated with RECPDCL with appointed date as 1st April, 2020 and effective date as 6th February, 2021. As per the Scheme of Amalgamation, all the property, rights, powers, liabilities and duties of RECTPCL stood transferred to RECDPCL without further act or deed.

11. RECTPCL in its capacity as the BPC initiated single stage two envelope bid process by issuing the Request for Proposal (RfP) on 5.3.2020 and completed the same on 4.6.2021 in accordance with the Guidelines. Power Grid Corporation of India Limited (PGCIL) was selected as the successful bidder having quoted the lowest levelized transmission charges of Rs. 728.93 million in order to establish the Project and to provide transmission service to initial identified Long Term Transmission Customers (LTTCs) of the Project as specified in the TSA.

S.No.	Name of the Long Term Transmission Customers
1.	SBE Renewables Seventeen Private Limited
2.	Renew Surya Aayan Private Limited
3.	Renew Surya Vihaan Private Limited
4.	Altra Xergi Power Private Limited
5.	North Bihar Power Distribution Company Limited
6.	South Bihar Power Distribution Company Limited
7.	Eden Renewable Passy Private Limited

12. It has been stated by RECPDCL vide letter dated 20.5.2021 that one of the LTTCs, namely, Renew Surya Roshni Private Limited had been deleted from the list of LTTCs. RECPDCL had further informed that a new LTTC, namely, Eden Renewable Passy Private Limited has been added as LTTC to the Project. A copy of Supplementary Agreement dated 12.5.2021 executed between the Petitioner and Eden Renewable Passy Private Limited was furnished by RECPDCL. Further, RECPDCL has provided the breakup of amount amongst the seven LTTCs indicated in the above table for furnishing the Contract Performance Guarantee.

13. As regards the bid process, four bidders, namely, (i) Adani Transmission Limited, (ii) Power Grid Corporation of India Limited, (iii) Sterlite Grid 20 Limited and (iv) Torrent Power Limited, submitted their offers at Single Stage RfP (Technical) Bids. The RfP (Technical) Bids of the four bidders were opened online on 21.12.2020 at MSTC (Metal Scrap Trade Corporation Ltd.) portal. Based on the recommendation of the Bid Evaluation Committee (BEC), the RfP (Financial) Bids- Initial Price Offer of all the four bidders were opened on 21.1.2021. Lowest Initial Price Offer discovered (Best Deal) at MSTC portal was Rs. 728.93 million. All four bidders based on their initial offer were qualified to participate in the e-reverse auction stage. The e-reverse auction was carried out at MSTC portal on 22.1.2021. However, no bids were received during the e-reverse auction stage and as per clause 3.6.1 of the RfP, if no bid is received during the e-reverse bidding stage, the bidder with the lowest quoted initial levelised transmission charges ('Initial Offer') during e-bidding stage shall be declared as successful bidder. As per the initial offer, the ranking of the bidders was as under:

Sr. No.	Name of Bidder	Levelised Transmission Charges (Indian Rs. Million)	Rank
1	Power Grid Corporation of India Limited	728.93	L1
2	Torrent Power Limited	925.19	L2
3	Adani Transmission Limited	970.00	L3
4	Sterlite Grid 20 Limited	1088.73	L4

14. Accordingly, as per the final report of Bid Evaluation Committee dated 27.1.2021, Power Grid Corporation of India Limited emerged as the successful bidder with the lowest levelised transmission charges of Rs. 728.93 million. BEC vide its certificate dated 27.1.2021 has certified that entire bid process has been carried out in accordance with the Guidelines. BEC has further certified that the levelised transmission charges have been discovered through a transparent bidding process involving e-reverse auction and is acceptable.

15. Consequent to its selection as the lowest bidder, Letter of Intent (LoI) was issued to Power Grid Corporation of India Limited by the BPC on 29.1.2021 which was accepted by it. Under the terms of RfP and the Letter of Intent, the successful bidder is obligated to accomplish the following tasks:

- a. Provide Contract Performance Guarantee in favour of LTTCs;
- b. Execute Share Purchase Agreement and all other RfP documents;
- c. Acquire, for the Acquisition Price, 100% share equity share holding of Power Grid Bhadla Transmission Limited (formerly Fatehgarh Bhadla Transco Limited) from BPC 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.

16. The Petitioner has furnished the Contract Performance Guarantee (CPG) for an aggregate value of Rs. 105 million on 4.6.2021 and has acquired hundred percent equity holding in Power Grid Bhadla Transmission Limited on 4.6.2021. Accordingly, the Transmission Service Agreement executed between the TSP and the LTTCs dated 11.11.2020 became effective from 4.6.2021.

17. 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 objective 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 and wheeling of power in accordance with the policies, guidelines and objectives laid down by the Central Government from time to time”

18. 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 by the Central Government. The Commission has specified Transmission Licence Regulations in this regard. Regulation 4 of the Transmission Licence

Regulations provides that in case of projects identified 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 for development under competitive bidding by competent authority in the Ministry of Power/ CEA. Central Electricity Authority, vide its letter No. CEA-PS-11- 21(25)/1/2018-PSPA-I Division-Part (2) dated 5.11.2020 had issued prior approval to the Project under Section 68 of the Act. Selection of the Project developer, Power Grid Bhadla Transmission Limited, has certified to have been made in accordance with the Guidelines.

19. 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 Clauses (4), (7), (9) and (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)

(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)

(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) & (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)

(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.”

20. The Petitioner has approached the Commission by a separate application for adoption of transmission charges in respect of the Project which is presently under consideration of the Commission and order in that Petition will be issued separately. The Petitioner has filed the present Petition for grant of transmission licence in accordance with the Transmission Licence Regulations. The Petitioner has submitted proof of web posting of the complete application. On perusal of the Application, it is also noted that the Petitioner has served copy of the Application on the LTTCs for the Project as per Regulation 7(4) of the Transmission Licence Regulations. The Petitioner has served a copy of the Application on the Central Transmission Utility of the India Limited (CTUIL) as required under Section 15(3) of the Act and Regulation 7(6) of the Transmission Licence Regulations. The Petitioner has prayed for grant of transmission licence to Power Grid Bhadla Transmission

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

21. The Petitioner has made the Application as per Form-I and the application fee has been adjusted as per the order dated 26.8.2021. The levelised tariff charges quoted by the Petitioner which have been recommended by the Bid Evaluation Committee for acceptance, is Rs. 728.93 million. The Petitioner has also enclosed copies of the recommendations of the Bid Evaluation Committee and proof of making the final results of evaluation of all bids public by the BPC as per the Guidelines.

22. The Petitioner has posted its application on its website in Form-II in English and Hindi languages inviting the comments from the general public. However, no comments/objections have been received from general public.

23. CTUIL vide its letter dated 26.8.2022, has recommended for grant of transmission licence to the Petitioner. Relevant portion of the recommendation letter dated 26.8.2022 is extracted as under:

"This has reference to Petition having diary no. 329/2022 dated 3.8.2022 filed by M/s POWERGRID Bhadla Transmission Limited (Formerly known as Fatehgarh Bhadla Transco Ltd.) before CERC for grant of Transmission License to establish subject transmission scheme. In this regard, it is to mention that CTU vide its letter dated 30.7.2021 has recommended implementation of above-mentioned scheme for consideration of Hon'ble Commission with reference to earlier petition 136/TL/2021 filed by M/s Fatehgarh Bhadla Transco Ltd. for grant of Transmission License. The same is reiterated with regard to present application:

- i) *Govt. of India has set a target for establishment of 175 GW renewable capacity by 2022, which includes 8.1 GW potential solar energy zones (SEZs) under Phase-II (Ramgarh/Kuchheri (1.9 GW), Buikaner (2.95 GW), Bhadia (1.05 GW) & Fatehgarh (2.2 GW).*
- ii) *For evacuation of power from above zones, Transmission System Strengthening Scheme for potential SEZs under Phase-II was agreed 5th meeting of Northern Region Standing Committee on Transmission (NRSCT) held on 13.9.2019. The*

subject transmission scheme was also agreed as part of above-mentioned transmission scheme.

- iii) Subsequently transmission scheme was agreed in the 6th meeting of National Committee of Transmission (NCT) 30.9.2019.
- iv) Transmission Scheme was also agreed in the 46th NRPC meeting held on 24.9.2019. Hon'ble Commission has also granted Regulatory Approval for the same vide order dated 12.5.2020 in Petition No. 269/MP/2019.
- v) Ministry of Power Govt. of India vide gazette notification dated 27.1.2020 has identified M/s REC Transmission Projects Company Ltd. as Bid Processing Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish the above referred project through TCB route. Bid Evaluation Committee appointed by the BPC has selected Power Grid Corporation of India Ltd. as successful bidder. Power Grid Corporation of India Ltd. has subsequently acquired M/s Fatehgarh Bhadla Transco Ltd. after execution of the requisite Share Purchase Agreement (SPA) on 4.6.2021.
- vi) As part of present scheme, Fatehgarh-II-hadla-II 765 kV D/c line (2nd) is to be implemented. Fatehgarh-II PS and Bhadla-II PS are existing pooling stations. Implementation of this line shall facilitate transfer of power from additional RE generation proposed to be connected at Fatehgarh-II PS (LTA-2.17 GW) as well as Fatehgarh-III PS (2.2 GW). This corridor shall facilitate transfer of power up to Bhadla-II PS which is further connected to existing grid as well as being strengthening as part of Transmission system strengthening scheme for evacuation of power from Solar Energy zones in Rajasthan (8.1 GW) under Phase-II-Part-C & D (Sikar-II/Aligarh).
- vii) The Committee constituted by Hon'ble Supreme Court, comprising of members from MNRE, WII and Corbett Foundation, vide its letter dated 18.7.2022 has recommended overhead laying of Fatehgarh-II-Bhadla-II 765 kV D/c line (2nd) (scope covered under present application) with rerouting of line and installation the bird diverters.
- viii) Further, to discuss the commissioning timeline of above line as well as associated RE generators, a meeting was held on 10.8.2022 through VC amongst CEA, CTU, TSP and RE developers wherein M/s POWERGRID (PBTL) informed that as per TSA, this line was to be completed by 3.12.2022 i.e. 18 months from Effective Date. However, work of both the projects could not be progressed due to Hon'ble Supreme Court order dated 19.4.2021 in IA No. 85618 of 2020 in Writ Petition (Civil) No. 838 of 2019. Now, this line is expected to be commissioned in 15 months from date of grant of transmission license i.e. by Dec'23 considering grant of transmission license in Sep'22. It was also gathered that most of the RE generation is expected to be commissioned in matching time frame of above system whereas 240 MW generation of NTPC Ltd. is ready and awaiting clearance from Committee constituted by Hon'ble Supreme Court.

Keeping above in view and based on details furnished by M/s PBTL, CTU, in line with Section 15 (4) of the Electricity Act, 2003, recommends grant of transmission license to M/s PBTL for executing the subject transmission scheme.”

24. We have considered the submissions of the Petitioner and CTUIL. The selected bidder furnished the Contract Performance Guarantee to the Long-Term Transmission Customers of the Project for an amount of Rs. 105 million (Rs. 10.5 crore) on 4.6.2021 and has acquired hundred percent equity holding in the applicant company on 4.6.2021 after execution of the Share Purchase Agreement. The TSP on behalf of the selected bidder filed the revised application for grant of transmission licence through e-portal on 3.8.2022.

25. Considering the material on record and submissions made by CTUIL to the effect that implementation of Fatehgarh-II– Bhadla-II 765kV D/c line (2nd) line shall facilitate transfer of power from additional RE generation proposed to be connected at Fatehgarh-II PS (LTA-2.17GW) as well as Fatehgarh-III PS (2.2GW). This corridor shall facilitate transfer of power up to Bhadla-II PS which is further connected to existing grid as well as being strengthening as part of transmission system strengthening scheme for evacuation of power from solar energy zones in Rajasthan (8.1 GW) under Phase-II-Part-C & D (Sikar-II/Aligarh) and most of the RE generation is expected to be commissioned in matching time frame of above system, 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 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 11.11.2022.

26. The Petitioner has undertaken to comply with the recommendations made by the Committee constituted vide by Hon`ble Supreme, vide its letter dated 18.7.2022 in letter and spirit.

27. 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.

28. As per the TSA, the Project is required to be completed within 18 months from teeffective date i.e. 4.6.2021. However, the Project was put on hold pursuant to the direction of the Hon`ble Supreme Court dated 19.4.2021 providing for appropriate steps for laying of transmission network/lines in the priority and potential habitats of GIB. Since, the Petitioner was to take required actions in terms of the said order of Hon'ble Supreme Court, the Commission in its order dated 26.8.2021 in Petition No. 136/TL/2021 granted liberty to the Petitioner to approach the Commission with fresh Petition after compliance of the Hon`ble Supreme Court Order dated 19.4.2021.

During the course of hearing, learned counsel for the Petitioner submitted that as significant time has been lapsed for compliance of direction of Hon'ble Supreme Court, the Petitioner may be allowed 15 months' time to complete the Project from the grant of transmission licence. The Petitioner is granted liberty to approach the Commission for appropriate relief under change in law as well as force majeure event in accordance with law after completion of the transmission Project.

29. The Petition shall be listed for hearing on 22.11.2022.

Sd/-
(P.K.Singh)
Member

sd/-
(Arun Goyal)
Member