

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 50/TL/2022

Coram:

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

Date of Order: 28th May, 2022

In the matter of

Application under Section 14 of the Electricity Act, 2003 read with the 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 POWERGRID Aligarh Sikar Transmission Limited (Formerly Sikar-II Aligarh Transmission Limited) a 100% wholly owned subsidiary of Power Grid Corporation of India Limited.

And

In the matter of

POWERGRID Aligarh Sikar Transmission Limited,
(Formerly Sikar-II Aligarh Transmission 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. Eden Renewable Passy Private Limited,
Unit No. 236 B &C, 1st Floor, DLF South Court, Saket,
New Delhi-110017.
5. Chief Executive Officer,
PFC Consulting Limited,

(A wholly owned subsidiary of PFC Limited)
9th Floor, Wing-A, Statesman House,
Connaught Place, New Delhi – 110001.

6. Chief Operating Officer,
Central Transmission Utility of India Limited,
Saudamini, Plot No.2, Sector -29,
Gurugram-122001.

.....Respondents

Parties present:

Shri M. G. Ramachandran, Sr. Advocate, PASTL
Shri Shubham Arya, Advocate, PASTL
Ms. Poorva Saigal, Advocate, PASTL
Shri Ravi Nair, Advocate, PASTL
Shri Nipun Dave, PASTL
Shri V. C. Sekhar, PASTL
Shri Burra Vamsi Rama, PASTL
Shri Prashant Kumar, PASTL
Ms. Supriya Singh, PASTL
Shri Kashish Bhambhani, CTUIL
Shri Yatin Sharma, CTUIL
Shri Swapnil Verma, CTUIL
Shri Sidharth Sharma, CTUIL
Shri Ranjeet Singh Rajput, CTUIL
Shri Akshayvat Kislay, CTUIL

ORDER

The Petitioner, POWERGRID Aligarh Sikar Transmission Limited (PASTL) (formerly Sikar-II Aligarh Transmission 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 “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 D)”, 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	Element(s) which are pre-required for declaring the commercial operation (COD) of the respective Element
1.	Sikar-II - Aligarh 765 kV D/c line	18 months	Elements marked at Sr.No. 1 to Sr. No. 3 are required to be commissioned simultaneously as their utilization is dependent on commissioning of each other.
2.	2 no. of 765 kV line bays at Sikar-II for Sikar-II-Aligarh(GIS) 765 kV D/c line 765 kV line bays – 2* (Sikar-II S/s)		
3.	1x330 MVAR switchable line reactor for each circuit at each end of Sikar-II-Aligarh(GIS) 765 kV D/c line 330 MVAR, 765 kV reactor- 4 (2 reactors each at Sikar-II and Aligarh) Switching equipment for 765 kV reactor - 4 (2 switching equipment each at Sikar-II and Aligarh) 110 MVAR, 765 kV, 1 ph Reactor (spare unit) at Aligarh-1		

Note:

- i. * 2 nos. of 765 kV GIS line bay modules (up to SF6 to air bushing outside GIS hall) are already available at Aligarh (GIS) sub-station. TSP shall utilize the same for termination of Sikar-II-Aligarh (GIS) 765 kV D/c line at Aligarh.
- ii. Developer of Sikar-II S/s to provide space for 2 no. of 765 kV bays and space for 2 no. of switchable line reactors at Sikar-II sub-station.
- iii. The spare unit of 765 kV, 1x110 MVAR reactor being provided at Sikar-II PS

under 'Transmission system strengthening for evacuation of power from solar energy zones in Rajasthan (8.1 GW) under Phase II-Part C' shall be utilized as common spare for 6x110 MVAR Switchable Line Reactors to be provided at Sikar-II PS each under 'Transmission system strengthening for evacuation of power from solar energy zones in Rajasthan (8.1 GW) under Phase II-Part D' and 'Transmission system strengthening for evacuation of power from solar energy zones in Rajasthan (8.1 GW) under Phase II –Part E'.

iv. GA drawing indicating the available area at 765 kV Aligarh substation is attached. TSP shall assess the same suitably and may procure additional land, if required.

2. Based on the competitive bidding carried out by PFC Consulting Limited (PFCCL) in its capacity as the Bid Process Coordinator (BPC) in accordance with the Guidelines issued by Ministry of Power, Government of India under Section 63 of the Act, Power Grid Corporation of India Limited (PGCIL) was declared the successful bidder with the lowest levelized transmission charges of Rs. 997.01 million per annum.

3. 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 22.4.2022, *prima facie* proposed to grant transmission licence to the Petitioner. Relevant extract of order dated 22.4.2022 is extracted as under:

“23. We have considered the submissions of the Petitioner and CTU. The selected bidder furnished the Contract Performance Guarantee to the Long-Term Transmission Customers of the Project for an amount of Rs. 173.3 million (Rs. 17.33 crore) on 8.6.2021 and has acquired hundred percent equity holding in the applicant company on 8.6.2021 after execution of the Share Purchase Agreement. The TSP on behalf of the selected bidder filed the fresh application for grant of transmission licence through e-portal on 7.2.2022.

24. 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 4.5.2022.

25. *The Petitioner shall comply to the recommendations made by the Committee constituted vide by Hon`ble Supreme Court, vide its letter dated 13.1.2022 in letter and spirit.”*

4. A public notice under Sub-section (5) of Section 15 of the Act was published on 29.4.2022 in all editions of the Hindu (English) and Dainik Jagran (Hindi). No suggestions/ objections have been received from the members of the public in response to the public notice.

5. The Petitioner, vide order dated 22.4.2022, was directed to file an affidavit to the effect that the execution of the transmission project shall not be delayed due to time taken in obtaining statutory clearances required under Request for Proposal (RfP) and the Transmission Service Agreement (TSA) or adjudication of any claim of the Petitioner arising under the TSA. In response, the Petitioner vide its submission dated 25.4.2022 has submitted that the transmission project is governed by the pre-signed TSA dated 2.11.2020 furnished by BPC as part of the bidding documents.

6. In the order dated 22.4.2022, the following provisions of the TSA with regard to quality control and workmanship were taken note of:

(a) 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.

(b) 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.

(c) 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.

7. Accordingly, the Petitioner was directed to submit information with regard to quality control mechanism available or to be put in place to ensure compliance of the requirements stipulated in Article 5.1.1 and Article 5.4 of the TSA. The Petitioner, vide its affidavit dated 25.4.2022, has submitted that the transmission project is governed by the TSA. All the terms of TSA including Article 5.1.1 and 5.4 of the TSA are integral part of TSA and are binding on the signatories of the agreement. The Petitioner has further submitted that in terms of the TSA, it would implement the Project as per the provisions of the Article 5 of the TSA dealing with construction of the Project.

8. We have considered the submission of the Petitioner. In the TSA, there is provision for the lead LTTC to designate upto three employees for inspection of the progress of the Project. Further, the Petitioner is required to give a monthly progress report to the lead LTTC and the CEA about the Project and its execution. The TSA also vests a responsibility in the CEA to carry out random inspection of the Project as and when deemed necessary. We consider it necessary that CEA devises a mechanism for random inspection of the Project every three months to ensure that the Project is not only being executed as per the schedule, but the quality of equipment and workmanship of the Project conform to the Technical Standards and Grid Standards notified by CEA and IS Specifications..

9. Case was called out for virtual hearing on 24.5.2022 through video conferencing. It was submitted by the learned senior counsel of the Petitioner that as per order dated 22.4.2022, the Petitioner has submitted the information called for.

He further submitted that in response to public notice published by the Commission, no objection has been received. Learned senior counsel further submitted that in regard to the request of the Petitioners to allow 15 months' time to complete the Projects from the grant of transmission licence as the significant time had been lapsed in compliance of the directions of the Hon'ble Supreme Court dated 19.4.2021, the Commission, in the aforesaid orders, has granted liberty to approach the Commission for appropriate relief in accordance with law after the completion of the Projects. Learned senior counsel, however, requested the Commission to consider issuing certain clarification on the aspect of extension of time or some kind of recognition at this stage in order to address the concerns of the lenders financing the Projects.

10. 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.”

11. In our order dated 22.4.2022, 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. CTU in its letter dated 11.3.2022 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, POWERGRID Aligarh Sikar Transmission Limited, to establish "Transmission System Strengthening Scheme for Evacuation of Power from Solar Energy Zones in Rajasthan (8.1 GW) under Phase II (Part D)", on Build, Own, Operate and Maintain basis as per the details given in paragraph 1 above.

12. During the course of hearing, learned senior counsel for the Petitioner requested for 15 months' time to execute the Project. As per the TSA, the Project is to be executed within 18 months from the effective date i.e. 4.6.2021. In the meantime, due to directions 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. Subsequent to compliance of direction of the Hon`ble Supreme Court, the Petitioner has approached the Commission for grant of transmission licence. Therefore, the Transmission Service Provider cannot be made to suffer on account of reasons which are beyond its control. After execution of the project, the Petitioner may approach the Commission with a petition which will be dealt in line with the bidding guidelines and the TSA.

13. 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 and the terms and condition of the TSA during the period of subsistence of the licence.
- (c) Since the expiry date as per the TSA is 35 years from the scheduled COD of the Project, 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 as per the Technical Standards and Grid Standards of CEA prescribed in Article 5.1.1 and Article 5.4 of the TSA;

(m) The licensee shall as far as practicable coordinate with the licensee (including deemed licensee) executing the upstream or downstream transmission projects and the Central Electricity Authority for ensuring execution of the Project in a matching timeline; and

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

14. Central Electricity Authority 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.

15. Let an extract copy of this order be sent to CEA for information and necessary action.

16. Petition No. 50/TL/2022 is allowed in terms of the above.

Sd/-
(P. K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I.S. Jha)
Member