

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 122/TL/2024

Coram:

Shri Jishnu Barua, Chairperson

Shri Arun Goyal, Member

Date of Order: 28th May, 2024

In the matter of

Application under Sections 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 seeking Transmission Licence to Fatehgarh IV Transmission Limited for the Transmission Project to be constructed through regulated tariff mechanism (RTM).

And

In the matter of

Fatehgarh IV Transmission Limited,
T-15 A, Third Floor, Salcon Rasvilas,
Saket, New Delhi-110017

...Petitioner

Versus

1. Central Transmission Utility of India Limited,
Saudamini, Plot No.2, Sector-29,
Gurgaon-122 001

2. PFC Consulting Limited,
First Floor, Urja Nidhi
1, Barakhamba Lane, Connaught Place,
New Delhi-110001

3. Chandigarh Electricity Department,
Electricity Op Division No. 2,
Industrial Area Ph-1, BBMB Complex,
Chandigarh- 160002

4. BSES Rajdhani Power Limited,
2nd Floor, B Block, BSES Bhawan,
near Kalkaji Mandir metro station,
Nehru Place, New Delhi- 110019

5. BSES Yamuna Power Limited,
Shakti Kiran Building,



Karkardooma, Delhi- 110032

6. North Delhi Municipal Corporation,
(NDMC Head Office), Palika Kendra, Parliament Street,
New Delhi- 110001

7. Tata Power Delhi Distribution Limited,
NDPL House, Hudson Lines Kingsway Camp
New Delhi- 110009

8. Himachal Pradesh State Electricity Board,
Vidyut Bhawan Kumar House
Shimla, Himachal Pradesh- 171004

9. Haryana Power Purchase Centre,
UHBN, IP 3 & 4, 4th Floor,
Sector 14- Panchkula-134113,
Haryana

10. Power Development Department, Jammu,
Exhibition Ground, Opposite J&K High Court,
Srinagar-190009,
Jammu and Kashmir

11. Punjab State Power Corporation Limited,
Dy CE/ISB, shed T-1A,
Shakti Vihar, PSPCL
Patiala- 147001

12. HVDC Dadri, POWERGRID,
B-9 Qutab Institutional Area,
Katwaria Sarai, New Delhi-110016

13. HVDC Rihand, POWERGRID,
B-9 Qutab Institutional Area, Katwaria Sarai,
New Delhi-110016

14. Ajmer Vidyut Vitran Nigam Limited,
Vidyut Bhawan, Makarwali Rd, Panchsheel Nagar,
Ajmer, Rajasthan- 305004

15. Jodhpur Vidyut Vitran Nigam Limited,
New Power House, Industrial Area,
Jodhpur, Rajasthan- 342003.

16. Jaipur Vidyut Vitran Nigam Limited,
VQVX+M6J, Jan Path, Janpath,
Jyoti Nagar, Lalkothi, Jaipur- 302005,



Rajasthan

17. North Central Railway,
M627+5R3, Shankar Road Market,
Nabi Karim, Paharganj,
New Delhi- 110060
18. Uttarakhand Power Corporation Limited,
Victoria Cross Vijeyta Gabar Singh
Urja Bhawan, Kanwali Road,
Dehradun- 248001, Uttarakhand
19. Uttar Pradesh Power Corporation Limited,
10th Floor, Shakti Bhawan, 14 Ashok Marg,
Lucknow- 22600, U.P.
20. GMR Kamalanga Energy Limited,
New Shakti Bhawan, New Udaan Bhawan,
Opp. Terminal 3, IGI Airport, New Delhi- 110037
21. HVDC Agra,
Chintel House, POP-303, Station Road,
Lucknow-226001, Uttar Pradesh
22. HVDC Balia,
Chintel House, POP-303, Station Road,
Lucknow-226001, Uttar Pradesh
23. HVDC Bhiwadi,
SCO Bay 5-10, near Haryana Pollution Control Board Office,
Sector 16A, Faridabad-121002, Haryana
24. HVDC Kurukshetra,
SCO Bay 5-10, near Haryana Pollution Control Board Office,
Sector 16A, Faridabad, Haryana 121002
25. East Central Railway,
Hajipur, Vaishali-844101, Bihar
26. Adani Power (Mundra) Limited,
Adani Corporate House,
Shantigram Near Vaishno Devi Circle,
SG Highway, Ahmedabad- 382421, Gujarat
27. Northern Indian Railway,
Northern Railway,
Headquarters Office, Kasturba Gandhi Marg,
New Delhi- 110001

28. Noida Power Company Limited,
Corporate Office Building, Plot No. ESS,
Knowledge Park- IV,
Greater Noida- 201310, Uttar Pradesh

29. Northern Railway,
Headquarters Office,
Baroda House, New Delhi- 110001

30. North-Western Railway,
Near Jawahar Circle, Jaipur- 302017

31. GMR Bajoli Holi Hydropower Private Limited,
Airport Building 302, 1st Floor,
New Shakti Bhawan, New Udaan Bhawan Complex,
Near Terminal 3, IGI Airport, New Delhi- 110037

32. Delhi International Airport Limited,
New Udaan Bhawan,
Opp. Terminal 3, IGI Airport,
New Delhi- 110037

33. ABC Renewable Energy Private Limited,
ABC RJ Land 01 Private Limited,
H.No.6-3-680/8/3, Plot no.3,2nd Floor, PMR Plaza
Thakur Mansion Lane, Somajiguda
Hyderabad - 500082, Telangana

34. Amp Energy Green Private Limited,
309, Rectangle One, Behind Sheraton Hotel, Saket,
New Delhi, Delhi 110017, Delhi

35. Juniper Green Stellar Private Limited,
Plot No. 18, 1st Floor, Institutional Area, Sector 32,
Gurugram, 122022, Haryana, India

36. Luceo Solar Private Limited,
Unit Nos. 3, 4 & 5, Sixth Floor,
Fountainhead Tower 2,
Viman Nagar-411014, Pune

.....Respondents

Parties present:

Shri Aniket Prasoon, Advocate, FIVTL
Shri Aman Seikh, Advocate, FIVTL
Ms. Archita Kashyap, Advocate, FIVTL
Shri Siddharth Sharma, CTUIL



ORDER

The Petitioner, Fatehgarh IV Transmission Limited (FIVTL), has filed the present Petition under Sections 14 and 15 of the Electricity Act, 2003 (hereinafter referred to as 'the Act') read with the 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 the grant of a separate transmission licence for implementation of the 'Bus Sectionalizer at 220 kV level of 400/220 kV Fatehgarh-IV PS (Section-1)' under the Regulated Tariff Mechanism (RTM) mode (hereinafter referred to as the 'transmission scheme'). The scope of the project for which the transmission licence has been sought is as under:

| S. No. | Scope of the Transmission Scheme | Item Description | Implementation Timeframe |
|------------------------------|--|---------------------------------|---------------------------------|
| 1. | One set of bus sectionalizer at 220 kV level of 400/220 kV Fatehgarh-IV PS (Section-1) | 220 kV Bus Sectionalizer- 1 no. | 1.2.2025 |
| Total Estimated Cost: | | | Rs. 11.74 crore |

2. The Petitioner company was incorporated as a special purpose vehicle by PFC Consulting Limited (PFCCL) as part of the Tariff Based Competitive Bidding ('TBCB') process for implementation of the "Transmission system for evacuation of power from REZ in Rajasthan (20 GW) under phase III-Part A1" ("Project") on a Build, Own, Operate and Transfer (BOOT) basis (hereinafter referred to as "the Project"). Apraava Energy Private Limited (AEPL) (Formerly CLP India Private Limited), participated in the competitive bidding process conducted by PFCCL and

upon emerging as the successful bidder, a Letter of Intent (LOI) was issued by PFCCCL to AEPL on 29.3.2023. In accordance with the bidding documents, AEPL acquired 100% of the shareholding in FIVTL by executing a Share Purchase Agreement with PFCCCL on 2.8.2023. FIVTL entered into a Transmission Service Agreement (TSA) with the CTUIL on 2.8.2023. The Commission, in its order dated 30.1.2024 in Petition No. 244/TL/2023, granted a transmission licence to FIVTL to establish “Transmission system for evacuation of power from REZ in Rajasthan (20 GW) under phase III-Part A1” consisting of the following elements:

| S. No. | Name of Transmission Element | Scheduled COD in months from Effective Date |
|---------------|---|--|
| 1. | <p><i>Establishment of 5x500 MVA, 400/220 kV pooling station at Fatehgarh-4 PS along with 2x125 MVAr Bus Reactor</i></p> <ul style="list-style-type: none"> • 400/220 kV, 500 MVA ICT- 5 Nos. • 400 kV ICT bays – 5 nos. • 220 kV ICT bays – 5 nos. • 400 kV line bays – 2 nos. • 220 kV line bays – As per connectivity granted to RE developers (7 no. of bays considered at present). • 125 MVAr, 420 kV bus reactor – 2 nos. • 420 kV reactor bay – 2 nos. • 220 kV Sectionalization bay: 1 set • 220 kV Bus Coupler (BC) Bay -2 nos. • 220 kV Transfer Bus Coupler (TBC) Bay - 2 nos <p><u>Future provisions: Space for:</u></p> <ul style="list-style-type: none"> • 765/400kV ICTs along with bays: 6 nos. • 765kV line bay along with switchable line reactor: 6 nos. • 765kV Bus Reactor along with bays: 3 nos. • 400/220 kV ICTs along with bays: 8 nos. • 400 kV line bays along with switchable line reactor: 10 nos. • 400kV Bus Reactor along with bays: 2 nos. • 400kV Sectionalization bay: 2 sets | 18 months |

| | | |
|----|--|--|
| | <ul style="list-style-type: none"> • 220 kV line bays: 13 nos. • 220 kV Sectionalization bay: 3 sets • 220 kV Bus Coupler (BC) Bay -3nos • 220 kV Transfer Bus Coupler (TBC) Bay - 3nos. | |
| 2. | Fatehgarh-4 PS- Fatehgarh-3 PS 400 kV D/c twin HLTS* line | |
| 3. | 2 no. of 400 kV line bays at Fatehgarh-3 PS | |

- With a minimum capacity of 2100 MVA on each circuit at a nominal voltage

Note:

i. Developer of Fatehgarh-3 S/s(new section) to provide space for 2 nos. of 400 kV line bays at Fatehgarh-3 S/s for termination of Fatehgarh-4 Fatehgarh-3 400 kV D/c twin HLTS line.

ii. Scheme to be awarded after SECI/ /REIA awards first bid of RE project at Fatehgarh-4 pooling station.”

3. The Petitioner has submitted that after the grant of a separate transmission licence, the Petitioner shall proceed to implement the transmission scheme under the RTM mode. The estimated completion cost of the transmission scheme, as per CTUIL’s Office Memorandum (OM), is Rs. 11.74 crore. After completion of the transmission scheme, the Petitioner shall approach the Commission for determination of transmission charges in accordance with the Transmission Licence Regulations.

4. The Commission, after considering the application of the Petitioner in light of the provisions of the Act and the Transmission Licence Regulations, vide its order dated 30.4.2024, *prima facie* proposed to grant a separate transmission licence to the Petitioner to implement the transmission projects detailed in paragraph 1 of the order. The relevant extracts of the order dated 30.4.2024 are extracted as under:

“16. In the present case, the Petitioner does not fulfil any of the eligibility conditions for the grant of a transmission licence. However, in the 6th meeting of the National Committee on Transmission, it was indicated that as per the

revised Terms of Reference issued by the Ministry of Power, Government of India, ISTS projects costing up to Rs. 100 crore to 500 crore or such limit as may be prescribed by the Ministry of Power from time to time would be approved by the CTUIL including its mode of implementation. The scheme has been identified for implementation through RTM mode by CTUIL. Non-grant of transmission licence to any agency nominated by the NCT to implement a transmission system through a 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 the power vested under Regulation 24 of the Transmission Licence Regulations.

17. Regulation 24 of the Transmission Licence Regulations, dealing with the 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.”

18. 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 who is already implementing the project defined under its scope through the TBCB mechanism. The present Petition is consequent to the office order 28.10.2021 notified by the Ministry of Power Government of India wherein CTUIL has been authorized to determine the mode of implementation of ISTS projects costing up to Rs. 100 crore to 500 crore. Pursuant to the direction of the Ministry of Power, CTUIL, vide its Office Memorandum dated 26.10.2023, has determined a list of Projects to be implemented through a Regulated Tariff Mechanism, which also includes the instant Petition for the subject transmission system.

19. Since the Petitioner is already an inter-State transmission licensee and has been identified as an agency to implement the project as per the RTM, the Commission, in the 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 the grant of a 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 a transmission licence aforesaid. The objections or suggestions, if any, shall be filed by any person before the Commission, by **20.5.2024.**”

5. A public notice under Sub-section (5) of Section 15 of the Act was published on 7.5.2024 in all editions of the Indian Express (English) and Dainik Jagran (Hindi).

No suggestions/objections have been received from members of the public in response to the public notice.

6. The case was called out for a hearing on 22.5.2024. The learned counsel for the Petitioner submitted that no objection had been received in response to the public notice published by the Commission under sub-section (5) of Section 15 of the Act. Accordingly, it was requested that a separate transmission licence be granted to the Petitioner Company. The learned counsel for the Petitioner further submitted that vide order dated 30.4.2024, the CTUIL was directed to file on an affidavit a copy of the approval of the Central Government for the transmission scheme 'Bus Sectionalizer at 220 kV level of 400/220 kV Fatehgarh-IV PS (Section-1)" on RTM basis in terms of the Electricity Order in Petition No. 122/TL/2024 Page 17 of 17 (Transmission System Planning, Development and Recovery of Inter-state Transmission Charges) Rules, 2021 notified by the Ministry of Power on 1.10.2021, However, no response has been filed by the CTUIL in this regard.

7. The representative of CTUIL submitted that vide letter dated 15.12.2023, CTUIL has requested the Ministry of Power to clarify the requirement of approval of the Central Government to transmission schemes under the Transmission System Planning Rules, 2021 for the Projects costing up to Rs. 500 crore approved by NCT/CTUIL as per the Ministry's Order dated 28.10.2021. Any directions or observations received from the Ministry of Power in this regard shall be placed before the Commission. Considering the submissions, CTUIL is directed to place on record the response received from the Ministry of Power as and when it is received.

Meanwhile, we proceed to grant the transmission licence to the Petitioner Company so that the construction work of the transmission line may not be delayed.

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

9. In our order dated 30.4.2024, we had proposed to grant a transmission licence to the Petitioner company and directed for the issuance of public notice. In response to the public notice, no suggestions/ objections have been received. CTUIL, vide its letter dated 9.4.2024, has recommended the grant of a transmission licence to the Petitioner. The Commission, in its order dated 30.4.2024, had observed that the Petitioner does not fulfill the eligibility conditions for the grant of a transmission licence. Since, in the present case, the Petitioner is a transmission licensee that has already implemented the project defined under its scope through the TBCB mechanism, and the present Petition is consequent to the office order 28.10.2021 notified by the Ministry of Power Government of India, the Commission, vide said order dated 30.4.2024 relaxed the provision of Regulation 6 of the Transmission Licence Regulations and held that the Petitioner is eligible for the grant

of a transmission licence. Considering the submissions of the Petitioner and CTUIL, we direct that the transmission licence be granted to the Petitioner, Fatehgarh IV Transmission Limited, to establish the transmission scheme through the RTM route as per the details given in paragraph 1 above.

10. The grant of the 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 the initial licence period, for the grant of the transmission 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 a 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 provisions of Central Electricity Regulatory Commission (Standard of Performance of inter-State transmission licensees) Regulations, 2012 or subsequent enactment thereof;

(h) The licensee shall provide the 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 (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2023; the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2023, 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 the execution of the Project as per the Technical Standards and Grid Standards of CEA;

(m) 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;

(n) The licensee shall ensure that the EPC contract for the execution of work under the scope of the project is awarded through a competitive bidding process.

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

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

13. Petition No. 122/TL/2024 is allowed in terms of the above.

Sd/-
(Arun Goyal)
Member

sd/-
(Jishnu Barua)
Chairperson

