

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 134/TL/2024

Coram:

**Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri Ramesh Babu V., Member**

Date of Order: 4th July, 2024

In the matter of

Application under Sections 14, 15, 79 (1) (e) 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 the grant of a separate Transmission Licence to KPS1 Transmission Limited under RTM route.

And

In the matter of

**KPS1 Transmission Limited,
C 105, Anand Niketan,
New Delhi- 110021**

.....Petitioner

Versus

1. Central Transmission Utility of India Limited,

Saudamini, Plot No.2, Sector -29,
Gurgaon 122001, Haryana.

2. Madhya Pradesh Power Management Company Limited,

Block No.-11, Ground Floor, Shakti Bhavan,
Vidhyut Nagar, Rampur,
Jabalpur- 482 008, Madhya Pradesh.

3. Chhattisgarh State Power Distribution Company Limited,

P.O. Sunder Nagar, Dangania,
Raipur-492013, Chhattisgarh.

4. Maharashtra State Electricity Distribution Company Limited,

Prakashgad, 4th Floor, Bandra (East),
Mumbai-400051, Maharashtra.

5. Gujarat Urja Vikas Nigam Limited,

Vidhyut Bhavan, Race Course,
Vadodara- 390007.

6. Dadra Nagar Haveli and Daman and Diu Power Distribution Corporation Limited,

1st and 2nd Floor, Vidyut Bhavan,
Silvassa, Dadra & Nagar Haveli - 396230.

7. Electricity Department,

Government of Goa,
Vidyut Bhavan, Near Mandvi Hotel,
Panaji- 403001, Goa.

.....Respondents

Parties present:

Shri Bhavesh Kundalia, KPS1TL
Shri Ranjeet Singh Rajput, CTUIL
Shri Akshayvat Kislay, CTUIL

ORDER

The Petitioner, KPS1 Transmission Limited (hereinafter referred to as 'the Petitioner'), 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 the implementation of the transmission scheme for injection beyond 3 GW RE power at Khavda PS1 (KPS1) under Regulated Tariff Mechanism (RTM) route. The scope of the project for which the transmission licence has been sought is as under:

S. No.	Name of the scheme and Implementation timeframe	Estimated Cost (₹ crore)	Remark
1	Implementation of 400kV line bay at Khavda-I PS (KPS1) (GIS) for interconnection of RE project of Sarjan Realities Pvt. Ltd. (1150MW)	31.8	Approved to be implemented under RTM by KPS1 Transmission Limited

	400 kV GIS line bay- 1 no. + 1 no. additional bay for diameter completion at 2nd 400 kV bus section (refer note a) Implementation timeframe: 28.2.2026 (refer note b)		
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NOTE:

a. In view of GIS sub-station, one complete 400kV diameter with three Circuit Breakers (one and half switching scheme) shall be implemented at 400 kV level for interconnection of RE project in one 400 kV bay. Utilization of another 400 kV bay of the diameter shall be identified in future.

b. Implementing agency shall match the Implementation Timeframe of the subject transmission scheme with commissioning schedule of Khavda Phase-IV transmission system which is expected by 28.02.2026 (i.e., 24 months from the date of SPV transfer which is presently anticipated by Feb'24).

2. KPS1 Transmission Limited was granted a transmission licence to establish the Inter-State Transmission System for the ‘Transmission scheme for injection beyond 3 GW RE power at Khavda PS1 (KPS1)’ (hereinafter referred to as “the Project”)’ vide order dated 30.9.2023 in Petition No. 189/TL/2023 consisting of the following elements:

Transmission scheme for injection beyond 3 GW RE power at Khavda PS1 (KPS1)		
SN	Name of Transmission Element	Scheduled COD in months from Effective Date
1	Augmentation of Khavda PS1 by 4X1500MVA, 765/400 kV transformation capacity* with 1x330 MVAR 765 kV bus reactor and 1x125 MVAR 420 kV bus reactor on 2nd 765 kV and 400 kV bus section respectively.	21 months from the date of SPV acquisition.
2	KPS1-Khavda PS GIS (KPS2) 765 kV D/C line	

**2nd Bus Section is to be created at Khavda PS1 Note: M/s KBTL (Adani Transmission Limited) to provide space for bays for implementation of ICT*

Augmentation works and termination of KPS1- Khavda PS GIS (KPS2) 765 kV D/C line at KPS1;

The above scheme shall be implemented with an implementation timeframe of 21 months and matching with the implementation time frame of ‘Establishment of Khavda Pooling Station-2 (KPS2) in Khavda RE Park’

3. Further, in addition to the above-mentioned scope, the Central Transmission Utility, vide Office Memorandum dated 2.1.2024, has notified the implementation of the 400 kV bay at Khavda-I PS (KPS1) for interconnection of the RE project of Sarjan Realities Pvt. Limited (SRPL) (1150MW) to KPS1 Transmission Limited while referring to the Ministry of Power (MoP) office order dated 28.10.2021.

4. The Petitioner has submitted that after the grant of a separate transmission licence, it 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. 31.8 crore. After completion of the transmission scheme, the Petitioner shall approach the Commission for determination of the transmission charges in accordance with the provisions of the Transmission Licence Regulations.

5. 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 12.6.2024, *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 12.6.2024 are extracted as under:

“21. 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 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.

22. *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.”

23. *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 under TBCB route. 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. Pursuant to the direction of the Ministry of Power, CTUIL, vide its Office Memorandum dated 2.1.2024 and recommendation letter dated 9.4.2024, 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.*

24. *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 **20.6.2026.**”*

6. A public notice under sub-section (5) of Section 15 of the Act was published on 15.6.2024 in all editions of 'The Hindu' (English) and 'Amar Ujala' (Hindi). No

suggestions/objections have been received from members of the public in response to the public notice.

7. The case was called out for a hearing on 27.6.2024. The representative of 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 representative of CTUIL further submitted that CTUIL has already recommended the grant of the transmission licence.

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 12.6.2024, 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 12.6.2024, 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 12.6.2024 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, accordingly, direct that the transmission licence be granted to the Petitioner, KPS1 Transmission Limited, to establish the transmission scheme through the RTM route as per the details given in paragraph 1 above.

10. It is noticed that as per the directions of the Commission, CTUIL, vide its letter dated 9.4.2024, 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. CTUIL is directed to place on record the response received from the Ministry of Power as and when it is received. Meanwhile, we grant the transmission licence to the Petitioner Company so that the construction work of the transmission line may not be delayed.

11. 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 Central Electricity Regulatory Commission (Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2024 (hereinafter referred to as 'the 2024 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 subsection (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 the 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 2024 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 the 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.

12. 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 2024 Transmission Licence Regulations.

13. 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.

14. Petition No. 134/TL/2024 is allowed in terms of the above.

Sd/-
(Ramesh Babu V.)
Member

sd/-
(Arun Goyal)
Member

sd/-
(Jishnu Barua)
Chairperson