

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 156/TL/2024

Coram:

**Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member**

Date of Order: 6th June, 2024

In the matter of

Application for amendment of the transmission licence No. 9/Transmission/2022/CERC of Warora Kurnool Transmission Limited granted under Sections 14 & 15 of the Electricity Act, 2003 and the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009.

And

In the matter of

Warora Kurnool Transmission Limited,

Adani House, Shantigram,
3rd Floor, South Wing, SG Highway,
Ahmedabad – 382421.

.....Petitioner

Versus

- 1. Tamil Nadu Generation and Distribution Corporation Limited,**
144, Anna Salai, Chennai-600002.
- 2. Southern Distribution Company of Andhra Pradesh Limited,**
D. No. 19-13-65/A, Srinivasapuram,
Tiruchhanur Road,
Kesavayana Gunta,
Tirupati - 517503, Andhra Pradesh.
- 3. Eastern Distribution Company of Andhra Pradesh Limited,**
P&T Colony, Seethmmadhara,
Vishakhapatnam - 530013,
Andhra Pradesh.
- 4. Southern Distribution Company of Telangana Limited,**
2nd Floor, H. No. 6-1-50,
Mint Compound,
Hyderabad-500063.
- 5. Northern Power Distribution Company of Telangana Limited,**

H. No. 2-5-31/2, Corporate Office Vidyut Bhavan,
Hanamkonda, Warangal – 506 001.

6. Bangalore Electricity Supply Company Limited,
Krishna Rajendra Circle,
Bangalore – 560 001.

7. Gulbarga Electricity Supply Company Limited,
Station Road, Kalaburagi,
Karnataka – 585 102.

8. Hubli Electricity Supply Company Limited,
Corporate Office, P.B. Road,
Navanagar, Hubli-580025.

9. Mangalore Electricity Supply Company Limited,
Paradigm Plaza, A. B Shetty Circle,
Pandeshwar, Mangalore-575001.

10. Chamundeshwari Electricity Supply Company Limited,
No. 29, CESC Corporate Office, Hinkal,
Vijaynagar 2nd Stage, Mysuru-570017.

11. Kerala State Electricity Supply Company Limited,
Vydyuthi Bhawanam, Pettom,
Tiruvananthapuram, Kerala - 695004.

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

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

14. Central Transmission Utility of Indian Limited,
Saudamini, Plot No. 2, Sector 29,
Gurgaon-122001.

.....Respondents

Parties present:

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

ORDER

The Petitioner, Warora Kurnool Transmission Limited (hereinafter referred to as 'WKTL'), 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 amendment of transmission licence for implementation of “Scheme to bypass NGR to use Switchable Line Reactor as Bus Reactor for transmission lines implemented by WKTL under the scheme ‘Additional inter Regional AC link for import into Southern Region i.e., Warora – Warangal and Chilakaluripeta - Hyderabad - Kurnool 765kV link.’ – Part-A” on 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.	Name of the scheme and Implementation timeframe	Estimated cost (₹ crore)	Remark
1	Scheme to bypass NGR to use Switchable Line Reactor as Bus Reactor for transmission lines implemented by WKTL under the scheme “Additional inter-Regional AC link for import into Southern Region i.e., Warora-Warangal and Chilakaluripeta- Hyderabad-Kurnool 765kV link.” – Part-A Implementation timeframe: 06 months	2.08	Approved to be implemented under RTM by Warora Kurnool Transmission Limited. (M/s Adani)

2. The Petitioner has made the following prayers:

“a) Grant in-principle approval for commencement of work for installation of “Scheme to bypass NGR to use Switchable Line Reactor as Bus Reactor for transmission lines implemented by WKTL under the scheme ‘Additional inter-Regional AC link for import into Southern Region i.e., Warora – Warangal and Chilakaluripeta – Hyderabad – Kurnool 765kV link.’–Part-A”.

b) Amend the “Transmission Licence of Warora Kurnool Transmission Limited (Licence No. 79/Transmission/2022/CERC)” granted u/s 14 & 15 of the

Electricity Act, 2003 and CERC (Procedure, Terms and Conditions of Transmission Licence and other related matters) Regulations, 2009.

C) Allow the Applicant liberty to approach the Commission for determination of transmission charges for the aforementioned additional scope in Transmission license in accordance with Section 61, 62 of the Electricity Act, 2003

d) Condone any inadvertent omissions/ errors/ shortcomings and permit Warora Kurnool Transmission Limited to add/ modify/ change/ alter this filing and make further submissions as may be required at a future date.

e) Pass such further Orders, as the Commission may deem fit and proper, keeping in view the facts and observations of the case.”

3. Warora Kurnool Transmission Limited was granted a separate transmission license No. 79/Transmission/2022/CERC for the construction, operation, and maintenance of inter-State transmission system for implementation of the “80 MVAR reactor at 765 kV Warangal New” on RTM mode vide order dated 13.9.2022 in Petition No. 145/TL/2022 consisting of the following element:

SN	Scope of the Transmission Scheme	Capacity
1	One spare unit (1-Ph) of 80 MVA R reactor at 765 kV Warangal New along with necessary arrangement to take spare reactor units into service as per the operational requirement.	80 MVAR (1-Ph)

4. Further, in addition to the above-mentioned scope, the Central Transmission Utility, vide Office Memorandum dated 2nd January 2024 has notified the ‘Scheme to bypass NGR to use Switchable line Reactor as BUS Reactor for transmission line’ implemented on the Regulated Tariff Mechanism (RTM) to Warora Kurnool Transmission Limited (WKTL) while referring to the MoP office order dated 28.10.2021.

5. The Petitioner has submitted that after the amendment of transmission licence No.79/Transmission/2022/CERC, 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. 2.08 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.

Hearing dated 8.5.2024

6. During the course of the hearing on 8.5.2024, the representative of the Petitioner submitted that CTUIL, by its Office Memorandum dated 2.1.2024, has allotted additional scope/element to the Petitioner to be implemented through RTM mode, and the Petitioner has complied with all the requirements prescribed under the Transmission Licence Regulations.

7. Vide Record of Proceedings for the hearing dated 8.5.2024, notices were issued to Respondents to file their replies. However, no reply has been received from them.

Analysis and Decision

8. We have considered the submissions of the Petitioner and CTUIL. The Petitioner has filed the present Petition for amendment of the transmission licence No. 79/Transmission/2022/CERC for the implementation of the "Scheme to bypass NGR to use Switchable Line Reactor as Bus Reactor for transmission lines implemented by WKTL under the scheme 'Additional inter Regional AC link for import into Southern Region i.e., Warora-Warangal and Chilakaluripeta-Hyderabad - Kurnool 765kV link.'- Part-A" through the Regulated Tariff Mechanism (RTM) mode.

9. The Ministry of Power, Government of India, vide its letter dated 28.10.2021, issued terms of reference to the NCT and, *inter alia*, directed that the NCT will approve

the ISTS costing between Rs.100 crore and Rs. 500 crore or such limit as prescribed by the Ministry of Power from time to time, along with their mode of implementation under intimation to the Ministry of Power. The Ministry of Power further directed that ISTS costing less than or equal to Rs. 100 crore, or such limit as prescribed by the Ministry of Power from time to time, will be approved by the Central Transmission Utility of India Limited (CTUIL) along with the mode of implementation under intimation to the NCT and the Ministry of Power, Government of India. The relevant portion of the said order dated 28.10.2021 is extracted as under:

“2. Terms of Reference (ToR) of the NCT are as under:

*i. ******

VIII. The NCT shall recommend to Ministry of Power (MoP) for implementation of the ISTS for projects with cost more than Rs 500 crore, along with their mode of implementation i.e. Tariff Based Competitive Bidding (TBCB) / Regulated Tariff Mechanism (RTM), as per the existing Tariff Policy. However, the NCT shall approve the ISTS costing between Rs100 crore to Rs.500 crore or such limit as prescribed by MoP from time to time, along with their mode of implementation under intimation to MoP. The ISTS costing less than or equal to Rs. 100 crores, or such limit as prescribed by MoP from time to time, will be approved by the CTU along with their mode of implementation under intimation to the NCT and MoP. After approval of the ISTS by the NCT or the CTU (as the case may be), the TBCB project shall be allocated to Bid Process Coordinators through Gazette Notification, while the RTM project shall be allocated to CTU.”

10. CTUIL, vide its Office Memorandum dated 2.1.2024, approved the implementation of the “80 MVAR reactor at 765 kV Warangal New “on RTM mode along with identifying the implementing agency and also addressing the same to the Ministry of Power, Government of India, and NCT.

S.No.	Scope of the Transmission Scheme	Capacity
1	One spare unit (1-Ph) of 80 MVAR reactor at 765 kV Warangal New along with necessary arrangements to take spare reactor units into service as per the operational requirement.	80 MVAR (1-Ph)

11. Subsequently, a 'Consultation Meeting for Evolving Transmission Schemes (CMETS) in Southern Region', vide its Minutes of the 23rd Meeting dated 29.9.2023, notified implementation of "Scheme to bypass NGR to use Switchable Line Reactor as Bus Reactor for transmission lines implemented by WKTL under the scheme 'Additional inter-Regional AC link for import into Southern Region, i.e., Warora-Warangal and Chilakaluripeta- Hyderabad- Kurnool 765kV link.'-Part -A" on RTM mode to the Petitioner Company in line with the MoP Office order dated 28.10.2021 as under:

S. No.	Name of the scheme and Implementation timeframe	Estimated cost (₹ crore)	Remark
1	Scheme to bypass NGR to use Switchable Line Reactor as Bus Reactor for transmission lines implemented by WKTL under the scheme "Additional inter-Regional AC link for import into Southern Region i.e., Warora-Warangal and Chilakaluripeta- Hyderabad- Kurnool 765kV link." – Part -A Implementation timeframe: 06 months from the date of issuance of OM by CTUIL	2.08	Approved to be implemented under RTM by Warora Kurnool Transmission Limited. (M/s Adani)

Detailed scope of Part E1 Scheme is as under:

S.No.	Scope of the Transmission Scheme	Item Description
1	Warangal (New)-Hyderabad 765kV D/c line with 240 MVAR switchable line reactor at Warangal end of each circuit.	NGR bypass arrangement to use 240 MVA SLR as bus reactors installed at Warangal end on each circuit of Warangal (New)-Hyderabad 765 kV D/c line

2	Warora Pool – Warangal (New) 765 kV D/c line with 240 MVAR switchable line reactor at both ends of each circuit.	NGR bypass arrangement to use 240 MVA _r SLR as bus reactors installed at Warora and Warangal New ends on each circuit of Warora Pool-Warangal (New) 765 kV D/c line
3	Warangal (New)- Chilakaluripeta 765kV D/c line with 240 MVAR switchable line reactor at both ends of each circuit.	NGR bypass arrangement to use 240 MVA _r SLR as bus reactors installed at Warangal New and Chilakaluripeta ends on each circuit of Warangal (New)-Chilakaluripeta 765 kV D/c line

12. Based on the above, CTUIL, vide its Office Memorandum dated 2.1.2024, approved the implementation of the “Scheme to bypass NGR to use Switchable Line Reactor as Bus Reactor for transmission lines implemented by WKTL under the scheme ‘Additional inter-Regional AC link for import into Southern Region, i.e., Warora-Warangal and Chilakaluripeta- Hyderabad- Kurnool 765kV link.’-Part -A” on RTM mode along with identifying the implementing agency and also addressing the same to the Ministry of Power, Government of India, and NCT.

13. 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 company has been incorporated under the Companies Act 2013 and is already a transmission licensee. 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,

substations, load dispatch stations and communication facilities and appurtenant works, coordination of integrated operation of state, 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”

14. 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], provides for the procedure for the grant of a 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) Before making an application, the applicant shall submit the original application in electronic form along with annexures and enclosures on the e-filing portal of the Commission so that the same is served electronically on all the longterm customers of the project registered on the e-filing portal of the Commission. Also, a copy of the same be served through e-mail on the long-term customers of the project not registered on the e-filing portal of the Commission. Further, the applicant shall also post the complete application along with annexures and enclosures in English and in the vernacular language, on its website.

(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) The applicant shall, within 7 days after filing the application, post the application on the e-filing portal of the Commission and on its website in Form-II attached to these regulations in English language and in Vernacular language of

the State or Union Territory where an element of the project or a long-term customer is situated, inviting comments from the general public.

(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) In the notice published on the e-filing portal of the Commission and on the applicant's website under clause (7) it shall be indicated that the suggestions and objections, if any, on the application, may be filed before the Secretary, Central Electricity Regulatory Commission, Third Floor, Chanderlok Building, Janpath, New Delhi-110001 (or the address where the office of the Commission is situated), with a copy to the applicant, by any person, including the long-term customers, within 30 days of publication of the notice.

.....
(10) 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.

(11) The applicant may file its comments, duly supported by an affidavit, on the recommendations made by the Central Transmission Utility and the suggestions and objections, if any, received in response to the notice posted on the e-filing portal of the Commission and on the applicant's website by him, within 45 days of service of copy of the application on the Central Transmission Utility or publication of notice posted on the e-filing portal of the Commission and on the applicant's website, with an advance copy to the Central Transmission Utility or the person who has filed the suggestions and objections on the proposal made in the application, as the case may be.

(12) 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.

15. The Petitioner has filed the present Petition for the amendment of a transmission licence No. 79/Transmission/2022/CERC granted for the implementation of 80 MVAR reactor at 765 kV Warangal sub-station through RTM mode, 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 a copy of the application on the LTTCs for the Project.

16. The Petitioner has made the application as per Form-I prescribed in the Transmission Licence Regulations. The Petitioner posted its application on its website in Form-II on 4.2.2024 in English and Telugu. The Petitioner has submitted that no objection has been received in response to the public notices.

17. The Petitioner has served a copy of the application on CTUIL as required under Section 15(3) of the Act and Regulation 7(6) of the Transmission Licence Regulations. CTUIL, vide its letters dated 16.4.2024, has recommended the grant of a transmission licence to the Petitioner. The relevant portions of the said letter dated 16.4.2024 are extracted as under:

“This has reference to petition filed by M/s Warora Kurnool Transmission Limited before Hon’ble commission for grant of Transmission License for the same” Scheme to bypass NGR to use Switchable Line Reactor for transmission lines implemented by WKTL under the scheme ‘Additional inter Regional AC link for import into Southern Region i.e., Warora – Warangal and Chilakaluripeta – Hyderabad – Kurnool 765kV link.’ – Part - A”. In this regard, the following is submitted:

1. M/s Warora Kurnool Transmission Limited (WKTL) has filed petition under Section 14 of the Electricity Act, 2003 and CERC (Procedure, Terms and Conditions for grant of Transmission License and other Related matters) Regulations, 2009 for grant of Transmission License for the scheme “Scheme to bypass NGR to use Switchable Line Reactor as bus Reactor for transmission lines implemented by WKTL under the scheme ‘Additional inter Regional AC link for import into Southern Region i.e., Warora – Warangal and Chilakaluripeta – Hyderabad – Kurnool 765kV link.’- Part -A” under RTM mode. The detailed scope of the transmission scheme is enclosed at Annexure-I.

2. In reference to the subject transmission Scheme, the following is submitted:

i) *The Transmission scheme was agreed in 23rd Consultation Meeting for Evolving Transmission Scheme in Southern Region (CMETS-SR) held on 29.09.2023. Extract of the minutes of 23rd CMETS-SR is enclosed at Annexure =II.*

ii) *CTU vide its OM dated 02.01.2024 had approved the implementation of the above scheme under RTM. Copy of OM enclosed at Annexure-III. The Commissioning schedule of the scheme is 6 months (02.07.2024) from the date of CTU OM.*

3. *In line with Section 15(4) of the Electricity Act, 2003, based on details furnished by M/s Warora Kurnool Transmission Limited, CTU recommends grant of transmission license to M/s WKTL for executing the transmission scheme “ Scheme to bypass NGR to use Switchable Line Reactor as Bus Reactor for transmission lines implemented by WKTL under the scheme ‘ Additional inter Regional AC link for import into Southern Region i.e., Warora – Warangal and Chilakapuripeta- Hyderabad – Kurnool 765kV link.’ - Part – A” through RTM route as mentioned in para -1 above.*

18. Section 14 of the Act provides that the Appropriate Commission may, on an application made to it under Section 15, grant a licence to any person to transmit electricity as a transmission licensee in any area as may be specified in the licence. Section 16 of the Act provides that the Appropriate Commission may specify any general or specific conditions which shall apply either to a licensee or class of licensees, and such conditions shall be deemed to be conditions of such licence. Regulation 6 of the Transmission Licence Regulations specified by the Commission lays down the eligibility criteria for the grant of transmission licence as under:

“6. Eligibility for Grant of licence: (a) No person shall be eligible for grant of licence unless it is–

(a) selected through the process under the guidelines for competitive bidding, or

(b) a State owned or controlled company identified as a project developer on or before 5.1.2011, or

(c) a generating company which has established the dedicated transmission line, and intends to use such dedicated transmission line as the main transmission line and part of the inter-State transmission system.”

19. 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.

20. 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.”

21. 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 under the RTM 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 2.1.2024 and recommendation letter dated 16.4.2024, 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.

22. Since the Petitioner is already an inter-State transmission licensee and has already been granted a transmission licence for the implementation of 80 MVAR reactor at 765 k V Warangal sub-station through RTM mode and again 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 **16.6.2024**.

23. The Petition shall be listed for hearing on **18.6.2024**.

Sd/-
(Arun Goyal)
Member

sd/-
(Jishnu Barua)
Chairperson