

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 168/TL/2024

Coram:

Shri Jishnu Barua, Chairperson

Shri Ramesh Babu V., Member

Date of order: 20th August, 2024

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 License and other related matters) Regulations, 2009 for the grant of a separate transmission licence to POWERGRID KPS2 Transmission System Limited for “Inter connection of RE developer’s Dedicated Transmission Line at Khavda Pooling station-2 (KPS-2)” under “Regulated Tariff Mechanism” (RTM) mode”.

And

In the matter of

POWERGRID KPS2 Transmission System Limited,

(A 100% wholly owned subsidiary of Power Grid Corporation of India Limited)

Registered office: B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi-110016

Address for correspondence: C/o ED (TBCB), Power Grid Corporation of India Limited,
Saudamini, Plot No.2,
Sector-29, Gurgaon-122001, Haryana

.....Petitioner

Vs.

1. Chief Operating Officer,

Central Transmission Utility of India Limited,

Saudamini, Plot no.2, Sector -29,

Gurgaon-122001, Haryana.

2. REC Power Development and Consulting Limited,

REC Corporate Head Quarter, D Block,

Plot No. I – 4, Sector 29, Gurugram-122001.

3. Chhattisgarh State Power Distribution Company Limited,
P.O. Sunder Nagar, Dangania,
Raipur- 492013, Chhattisgarh.

4. Goa Electricity Department-WR,
Goa Electricity Dept, Curti, Ponda-403401.

5. Gujarat Urja Vikas Nigam Limited,
Vidhyut Bhavan, Race Course,
Vadodara-390007, Gujarat.

6. Heavy Water Board,
Vikram Sarabhai Bhavan, Trombay,
Anushaktinagar, Mumbai-400094,
Maharashtra.

7. HVDC Bhadrawati, PGCIL,
PGCIL RHQ, WR-I, Sampriti Nagar,
Off National Highway No. 8,
Taluka: Kamrej, PO: Uppalwadi,
Nagpur-440026, Maharashtra.

8. HVDC Vindhyachal, PGCIL,
PGCIL RHQ, WR-I, Sampriti Nagar,
Off National Highway No. 8, Taluka: Kamrej,
PO: Uppalwadi, Nagpur-440026, Maharashtra.

9. M.P. Power Management Company Limited,
14, Shakti Bhawan, Rampur,
Jabalpur-482008, Madhya Pradesh.

10. Maharashtra State Electricity Distribution Company Limited,
Prakashgad, 4th Floor,
Bandra (East), Mumbai-400051.

11. ACB India Limited,
7th Floor, Corporate Tower, Ambience Mall,
NH-8, Gurgaon-122 001(Haryana).

12. Torrent Power Limited,
Naranpura Zonal Office,
Sola Road, Ahmedabad-380013.

13. West Bengal State Electricity Distribution Company Limited,
6th Floor Vidyut Bhawan, Karunamoyee, Salt Lake,

Kolkata-700091, West Bengal.

14. Thermal Powertech Corporation India,

6-3-1090, Clock C, Level 2, TSR Towers,
Raj Bhavan Road, Somajiguda,
Hyderabad-500082, Telangana.

15. Bhabha Atomic Research Centre,

Anushakti Nagar,
Mumbai-400085, Maharashtra.

16. GMR Warora Energy Limited,

Plot B-1, Mohabala MIDC Growth Centre,
PO:Warora, District:Chandrapur,
Maharashtra-442907.

17. HVDC Champa,

PGCIL RHQ, WR-I, Sampriti Nagar,
Off National Highway No. 8,
Taluka: Kamrej, PO: Uppalwadi,
Nagpur-440026, Maharashtra.

18. West Central Railway Head Office,

General Manager's Office, Electrical Branch,
Jabalpur-482001.

19. Western Railway,

Office of Chief Electrical Engineer,
Mumbai, Maharashtra.

20. East Central Railway,

CEDE, Office of Chief Electrical Engineer, ECR,
Zonal Head Quarter,
Dighikala-844102, Bihar.

21. DB Power Limited-Untied,

Opp Dena Bank, C-31, G-Block,
Mumbai-400051, Maharashtra.

22. Chhattisgarh State Power Trading Company Limited,

2nd Floor, Vidyut Sewa Bhawan,
Raipur-492013, Chhattisgarh.

23. TRN Energy Private Ltd-Untied,

7th Floor, Ambience Office Block,

Gurugram, Haryana.

24. Adani Power (Mundra) Limited,
Adani Corporate House, Shantigram,
Near Vaishnavdevi Circle,
S G Road, Ahmedabad-382421.

25. Raigarh HVDC Station,
RPT HVDC Office, Hebbal,
Bangalore-560094.

26. Arcelor Mittal Nippon Steel India Limited,
27, AMNS House, 2th KM Surat Hazira road,
Hazira-394270, Gujarat.

27. Central Railway,
PCEE's office, 2nd Floor, Parcle Building,
CSMT, Mumbai-400001, Maharashtra.

28. Dadra and Nagar Haveli and Daman Power Distribution Corporation Ltd.,
1st & 2nd Floor, Vidyut Bhavan,
Near Secretariat, Amil, Silvassa-396230.

29. MPSEZ Utilities Limited,
3rd Floor, Adani Corporate House,
Ahmedabad-380009.

30. Gujarat State Electricity Corporation Limited,
Vidyut Bhavan, Racecourse,
Vadodara, Gujarat

31. General Manager (RE Projects & IT),
Gujarat Industries Power Company Limited,
PO: Ranoli, Distt-Vadodara,
Gujarat.

32. Dy. General Manager,
NTPC Renewable Energy Limited,
NETRA Building, E-3, Ecotech-II, Udyog Vihar,
Greater Noida,
Gautam Budh Nagar-201306, UP.

...Respondents

The following were present:

Shri G. Vijay, PKTSL
Shri Jitendra Singh, RECPDCL
Shri Ranjeet Singh Rajput, CTUIL
Shri Alok Shankar, CTUIL
Shri Akshayvat Kislav, CTUIL
Shri Siddarth Sharma, CTUIL

ORDER

The Petitioner, POWERGRID KPS2 Transmission System Limited, (hereinafter referred to as 'PKPS2TL'), has filed the present Petition under Section 14 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 transmission system for "Inter connection of RE developer's DTL at Bay no:416 of KPS-2 (400kV Bus Section -I)" through "Regulated Tariff Mechanism" (RTM) mode (hereinafter referred to as the 'transmission scheme/project'). The scope of the project for which a transmission licence has been sought is as under:

Sl. No.	Scope of the Transmission Scheme	Item Description	Implementation Time Frame
1	Implementation of additional line bay equipment including other miscellaneous works required for physical interconnection of Dedicated Transmission Line of RE Developer at bay no. 416 of KPS-2 (400kV Bus Section-1)	As required for completion of scope of the scheme.	28.03.2025 (refer note no. a)

Note: a) Implementing agency shall match the Implementation Time frame of the subject transmission scheme with the commissioning schedule of Khavada Phase-II transmission system, which is presently expected by 28.3.2025

2. The Petitioner has made the following prayers:

“(a) Grant separate Transmission Licence to the Applicant for implementation of additional scope of work under RTM mode as detailed at para 3 above.

(b) Allow the Applicant liberty to approach the Commission for determination of transmission charges after commissioning of the scope of works mentioned at Para 3 above, in accordance with Section 61, 62 of the Electricity Act, 2003 and as per 8(2) of the Transmission Licence Regulations, 2009.

(c) Condone any inadvertent omissions/shortcomings/errors and permit the Applicant to add/modify/alter this application and make further submissions as may be required at a future date.

(d) Pass such other order/orders, as may be deemed fit and proper in the facts & circumstances of the case.”

3. The KPS2 Transmission System Limited (KPS2TL) was incorporated as a special purpose vehicle by REC Power Development and Consultancy Limited (RECPDCL) as part of the Tariff Based Competitive Bidding ('TBCB') to establish the Inter-State Transmission System for “Establishment of Khavda Pooling Station-2 (KPS2) in Khavda RE Park” on a Build, Own, Operate, and Transfer (BOOT) basis. Power Grid Corporation of India (PGCIL) Limited participated in the competitive bidding process conducted by RECPDCL, and upon emerging as the successful bidder, a Letter of Intent (LOI) was issued by RECPDCL to PGCIL on 16.2.2023. In accordance with the bidding documents, PGCIL acquired 100% of the shareholding in KPS2TL by executing a Share Purchase Agreement with RECPDCL on 21.3.2023. The Commission, vide its order dated 4.8.2023 in Petition No. 126/TL/2023, granted a transmission licence to the Petitioner for the aforesaid TBCB Project consisting of the following scope of the work:

Sl.No.	Project elements	Scheduled COD
1.	<p>Establishment of 765/400 kV, 4x1500MVA, KPS2 (GIS) with 2x330 MVAR 765 kV bus reactor and 2x125 MVAR 400 kV bus reactor.</p> <p>1500MVA, 765/400kV ICT- 4 nos. (13x500 MVA including one spare unit)</p> <p>765 kV ICT bays – 4 nos. 400 kV ICT bays – 4 nos. 765 kV line bays – 2 nos. 400 kV line bays – 3 nos. (3 no. of bays considered at present, one each for NTPC, GSECL & GIPCL)</p> <p>1x330 MVAR, 765 kV bus reactor-2 nos. (7x110 MVAR, including one spare unit)</p> <p>765 kV reactor bay – 2 nos. 1x125 MVAR 400kV bus reactor-2 nos. 400 kV reactor bay – 2 nos. 765 kV bus sectionalizer bay – 2 nos. 400 kV bus sectionalizer bay – 2 nos.</p> <p>Adequate space for future expansion of 5x1500MVA 765/400kV ICT's</p> <p>Bus sectionalizer at 765kV & 400kV. On each bus section, there shall be 2x1500MVA 765/400kV ICTs, 1x330MVAR, 765 kV & 1x125MVAR 420kV bus reactor with space for future expansion.</p> <p>Bus sectionalizer at 765 kV level shall normally be closed and bus sectionalizer at 400 kV level shall normally be open.</p> <p>Future provisions: Space for 765/400 kV ICTs along with bays: 5 nos. 765kV line bay with switchable line reactor: 10 nos. 400kV line bay with switchable line reactor: 12 nos. 8000MW, ±800kV HVDC Converter station (LCC). To take care of any drawl needs of area in future: 400/220 kV ICT: 2 nos. 220 kV line bays: 4 nos.</p>	21 months from effective date.

Note: The above scheme shall be implemented with an implementation timeframe of 21 months from SPV transfer and matching with the implementation timeframe of "Transmission scheme for injection beyond 3 GW RE power at Khavda

PS1". Subsequently, the name of the Petitioner company was changed to POWERGRID KPS2 Transmission System Limited (PKPS2TL).

4. Central Transmission Utility of India Limited (CTUIL) has issued an Office Memorandum dated 16.2.2024 to the Petitioner wherein it has approved and nominated the Petitioner to implement the transmission scheme of the instant Petition through RTM mode.

5. 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 cost of the transmission scheme, as per CTUIL's Office Memorandum (OM) dated 16.2.2024, is Rs.12.26 crore. After completion of the transmission scheme, the Petitioner shall approach the Commission for the determination of the transmission charges in accordance with Sections 61 and 62 of the Act and Tariff Regulations in vogue as per Regulation 8 (2) of the Transmission Licence Regulations.

Hearing dated: 22.5.2024

6. The matter was called out for the hearing on 22.5.2024. During the course of the hearing, the representative of the Petitioner briefly recapitulated the background of the instant Petition and submitted that the Petitioner has complied with all the requirements specified under the Transmission Licence Regulations, and CTUIL has submitted its recommendations for the grant of a transmission licence to the Petitioner under RTM mode under Section 15(4) of the Act.

7. The representative of CTUIL submitted that CTUIL has already recommended granting a separate transmission licence to the Petitioner company.

8. Vide Record of the Proceedings for the hearing dated 22.5.2024 directed the CTUIL to clarify on an affidavit that while the RTM project is allocated to CTUIL for implementation, why the recommendation is being made by CTUIL for the issuance of a separate transmission licence for the implementing agency.

9. CTUIL, vide its affidavit dated 24.7.2024, has mainly submitted as under:

a) CTUIL, a wholly owned subsidiary of POWERGRID, was incorporated on 28.12.2020. The Government of India officially designated CTUIL as the Central Transmission Utility on 9.3.2021. The Commission, vide its order dated 25.2.2022 in Petition 02/SM/2022 (Suo-Moto), held that PGCIL and CTUIL shall maintain the separate and proper accounts for expenditure incurred and keep the same reconciled.

b) Further, the Ministry of Power vide Office Order dated 28.10.2021 re-constituted NCT. Since CTUIL is now responsible for approving the ISTS transmission projects costing up to Rs. 100 crore and determining their implementation, a Committee chaired by the COO of CTUIL has been formed to review these matters regularly. The second meeting of the CTUIL Committee on Transmission Projects (CCTP) was held on 17.12.2021. Following the Committee's recommendations on the separation of the CTUIL and POWERGRID and the reconstitution of NCT and CCTP deliberations, projects allocated to CTUIL under RTM are now assigned to POWERGRID or the owner of the ISTS sub-station.

c) The role of CTUIL under the proposed draft Concessionaire Agreement is equivalent to its role under the TSA executed in the TBCB projects, acting as a Nodal Agency for the efficient monitoring and implementation of projects awarded under the RTM mode. Article 4.1 (Satisfaction of Conditions Subsequent by the Concessionaire) of the draft Concession Agreement stipulates that the Concessionaire must obtain a transmission licence from the Commission for the project. Additionally, Articles 5.2 and 6.4 outline the responsibilities of CTUIL in

project implementation, as well as in progress monitoring and quality assurance, respectively.

d) In addition, CTUIL has further submitted that:

(i) The Ministry of Power (MoP) in the past had allocated augmentation works at existing/ under implementation sub-stations to its owners and CTUIL has merely adopted the same practice under directions of the Ministry of Power and in the capacity similar to that of a nodal agency and a delegate.

(ii) CTUIL's current role and structure is a regulatory entity that discharges the functions of the planning and coordination of ISTS in consultation with the various stakeholders and is not that of an implementing agency for transmission projects.

(iii) Further, CTUIL has not been conceived as a facsimile of a transmission service provider and has been carved out as a neutral, non-business entity. Many of the CTU's statutory and regulatory functions, including the monitoring function of TSPs require CTUIL to be non-partisan and non-conflicted in the development of the ISTS projects.

(iv) CTUIL performs functions of the Nodal Agency in TBCB projects, and a similar role has been assigned to the CTUIL in the Concessionaire Agreement, whereby the role assigned to CTUIL is for recommending the transmission licence on application by the TSP.

(v) The term "award" as it appears in the Terms of Reference under MoP Order dated 28.10.2021 may need to be construed in its practical context and with due consideration of the fact that the MoP Gazette/Office Memorandum's so-called "award" to CTUIL is further qualified by the name of the entity that shall implement the project without any choice or option with the CTUIL to choose such an entity in a contractual sense. CTUIL's role is limited to "intimate the implementing agency" in terms of its mandate.

(vi) CTUIL does not have the necessary manpower and wherewithal to

perform the functions of the TSP.

10. We have noted the above submissions of the CTUIL and proceed to consider the application of the Petitioner for the grant of the transmission licence.

Hearing dated: 25.7.2024

11. During the course of the hearing on 25.7.2024, the representative of CTUIL referred to its affidavit dated 24.7.2024 and mainly submitted that CTUIL's current role and structure have hitherto been that of a regulatory entity that discharges the functions of the planning and coordination of ISTS in consultation with the various stakeholders and is not that of an implementing agency for the transmission projects, rather CTUIL's role is limited to "intimate the implementing agency" in terms of its mandate.

Analysis and Decision

12. We have considered the submissions of the Petitioner and CTUIL. The Petitioner has filed the present Petition for the grant of a separate transmission licence for "Inter connection of RE developer's DTL at Bay no:416 of KPS-2 (400kV Bus Section -I)" through on Regulated Tariff Mechanism mode.

13. 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 Rs.100 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.”

14. The subject transmission scheme was discussed and agreed upon in the 13th Consultation Meeting for Evolving Transmission Schemes in the Western Region (CMETS-WR) held on 8.12.2022. Based on the same, CTUIL, vide its letter dated 16.2.2024, has approved for Implementation of the “Inter connection of RE developer’s DTL at Bay no:416 of KPS-2 (400kV Bus Section -I)”. Relevant portions of the CTUIL letter dated 16.2.2024 are extracted as under:

“Sub : Inter-State Transmission Schemes (costing up to Rs.100 Cr.) to be taken up for implementation under Regulated Tariff Mechanism (RTM).

The undersigned is directed to inform that CTU has approved implementation of the following ISTS costing less than or equal to Rs.100Cr. in line with the MoP office Order dated 28.10.2021 under the Regulated Tariff mechanism (RTM) mode by the implementing agencies as indicated in the table below:

Sl.No	Name of Transmission Scheme	Implementation Agency
Western Region		
3.	Inter connection of RE developer's DTL at Bay no:416 of KPS-2 (400kV Bus Section -I)	<i>KPS2 Transmission Ltd. (a Subsidiary of Power Grid Corporation of India Ltd.)</i>

The above transmission schemes are awarded to the Implementing Agency for its implementation under RTM mode. The implementing agency shall enter into a concession agreement with CTU for the implementation of the above-mentioned transmission schemes through the Regulated Tariff Scheme (RTM).

15. 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 judicial 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, sub- stations, 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"

16. 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 long-term 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.

17. The Petitioner has filed the present Petition for the grant of a separate 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 a copy of the application on the LTTCs for the Project.

18. 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 3.4.2024 in Hindi, English, and Gujarati. It has been submitted by the Petitioner that no objection has been received in response to the public notices.

19. 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 letter dated 17.4.2024, has recommended the grant of a transmission licence to the Petitioner. The relevant portions of the said letter dated 17.4.2024 are extracted as under:

"This has reference to the Petition with Dairy No. 190/2024 dated 04.04.2024 filed by M/s POWERGRID KPS2 Transmission System Limited(PK2TSL) before Hon'ble Commission vide which M/s PK2TSL has requested CTU for issuance of recommendation for grant of Transmission License for implementation of subject transmission scheme. In this regard, the following is submitted:

1. *M/s PK2TSL has filed a petition under Section 14 of the Electricity Act, 2003 read with CERC (Procedure, Terms and Conditions for Grant of Transmission License and other related matters) Regulations, 2009 for grant of Transmission License for Implementation of Inter connection of RE developer's DTL at Bay no:416 of KPS-2 (400kV Bus Section -I) through "Regulated Tariff Mechanism" (RTM) mode. The detailed scope of the transmission scheme is enclosed at Annexure-I.*
2. *M/s PK2TSL has mapped Nodal Agency i.e., CTUIL on the e-portal of Hon'ble Commission, to serve a copy of the application for the grant of transmission license, for the above transmission system as per section 15(3) of the Electricity Act, 2003 and Regulation 7(6) of Transmission License Regulations, 2009 for recommendation required u/s 15(4) of the Electricity Act, 2003 and Regulation 7(11) of Transmission License Regulations, 2009.*
3. *In reference to "Inter connection of RE developer's DTL at Bay no:416 of KPS-2 (400kV Bus Section -I)", the following is submitted:*
 - i. *KPS-2 (bus Section -I) is under implementation by POWERGRID KPS2 Transmission System Limited. (KPS2TL) (a wholly subsidiary of Power Grid Corporation of India Ltd.) through TBCB Route. As a part of this scheme, 3 nos. 400kV line bays are to be constructed which have been allotted one each to NTPC (1555MW), GIPCL (1175MW) & GSECL (600MW).*

- ii. *Further, to enable the injection of additional RE power of 1364MW into ISTS from GSECL, another 400kV GIS bay is required. The subject scheme was proposed and agreed for in the 13th Consultation Meeting for Evolving Transmission Schemes in Western Region (CMETS-WR) held on 08.12.2022. Extracts of the minutes of 13th CMETS-WR are enclosed at Annexure-II.*
 - iii. *The subject Transmission scheme involves implementation of 400kV GIS line bay equipment at bay no. 416 of KPS-2 including other works required for physical interconnection of RE developers' DTL.*
 - iv. *The subject transmission scheme was discussed and agreed to be implemented through RTM mode in the in the 16th CCTP meeting held on 02.01.2024. The estimated cost of the scheme is INR12.26 Cr. (less than INR 100Cr.). Accordingly, the same was not put for deliberation before WRPC/NCT in line with MoP office order dated 28.10.2021. Extracts of the minutes of 16th CCTP meeting is enclosed at Annexure-III.*
 - v. *CTU vide OM dated 16.02.2024 has awarded the subject transmission scheme to approved the implementation of the above transmission scheme M/s POWERGRID KPS2 Transmission System Limited under RTM mode has informed that the implementing agency shall enter into a concession agreement with CTU for implementation of the subject scheme through RTM.A copy of the CTU letter is enclosed at Annexure-IV.*
4. *In line with Section 15(4) of the Electricity Act, 2003 and Regulation 7(11) of Transmission License Regulations, 2009, based on details furnished by M/s POWERGRID KPS2 Transmission System Limited., CTU recommends the grant of transmission license to M/s POWERGRID KPS2 Transmission System Limited for executing the transmission scheme as mentioned in Para-1 above."*

20. 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 a class of licensees, and such conditions shall be deemed to be conditions of such licence. The Commission has specified the

Transmission Licence Regulations. Regulation 6 of the said Regulation lays down the eligibility criteria for the grant of a 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.”

21. In the present case, the Petitioner does not fulfil any of the eligibility conditions for the grant of a transmission licence. However, the instant transmission scheme has been approved by CTUIL vide its OM dated 16.2.2024 and allocated to the Petitioner under RTM mode. The non-granting a transmission licence to any agency nominated by the CTUIL to implement a transmission scheme through a regulated tariff mechanism in view of the provisions of Regulation 6 would defeat 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 a 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 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 crores. Pursuant to the direction of the Ministry of Power, CTUIL, vide its Office Memorandum dated 16.2.2024, has informed regarding a list of Projects to be implemented through a Regulated Tariff Mechanism, which also includes the transmission scheme of the present petition.

24. Since the Petitioner is already an inter-State transmission licensee and has been identified as an agency to implement the project as per 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 **30.8.2024**.

25. It is noticed that as per the direction of the Commission, CTUIL, vide its letter dated 14.5.2024, 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. 100 crores 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 before the next date of the hearing.

26. The Petition shall be listed for hearing on **5.9.2024**

**Sd/-
(Ramesh Babu V.)
Member**

**Sd/-
(Jishnu Barua)
Chairperson**