

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 22/TL/2024

**Coram:
Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri P.K. Singh, Member**

Date of Order: 21st March, 2024

In the matter of

Application under Sections 14, 15 and 79(1)(e) 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 or its subsequent Clarification and Replacement, if any with respect to the grant of transmission licence to Bikaner III Neemrana II Transmission Limited.

And

In the matter of

Bikaner III Neemrana II Transmission Limited,

Through its Authorized Representative,
Flat No. 94, 3rd Floor, Pocket-4, LIG Flats, Sector-11,
Dwarka, New Delhi-110075

....Petitioner

Vs

1. Central Transmission Utility of India Limited,

1st, Saudamini, Plot No. 2, Sector-29,
Near IFFCO Chowk Metro Station,
Gurgaon-122 001, Haryana

2. PFC Consulting Limited,

1st Floor, "Urjanidhi", 1, Barakhamba Lane,
Connaught Place,
New Delhi-110001

....Respondents

Parties present:

Shri Venkatesh, Advocate, B3N2TL
Shri Ashutosh Srivastava, Advocate, B3N2TL
Shri Kartikay Trivedi, Advocate, B3N2TL
Shri Ranjeet Singh Rajput, CTUIL
Shri Akshayvat Kislay, CTUIL

ORDER

The Petitioner, Bikaner III Neemrana II Transmission Limited, has filed the present petition for the grant of a transmission licence under Sections 14, 15 and 79 (1) (e) of the Electricity Act, 2003 (hereinafter referred to as “the Act”) read with the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009 (hereinafter referred to as “Transmission Licence Regulations”) for the grant of an Inter-State transmission licence to the Applicant for establishment of the “Transmission system for evacuation of power from Rajasthan REZ Ph-IV (Part-1) (Bikaner Complex): Part-C” (“Project”), on a Build, Own, Operate and Transfer (BOOT) basis, consisting of the following elements:

Sr. No.	Name of Transmission Element	SCOD in months from Effective Date
1.	Bikaner-III - Neemrana-II 765 kV D/C line (2nd) along with 330 MVAR switchable line reactor for each circuit at each end <ul style="list-style-type: none">• 765 kV, 330 MVAR Switchable line reactors at Bikaner- III PS – 2 nos.• 765 kV, 330 MVAR Switchable line reactors at Neemrana-II – 2 nos.• Switching equipment for 765kV 330 MVAR switchable line reactors at Bikaner-III PS – 2 nos.• Switching equipment for 765kV 330 MVAR switchable line reactors at Neemrana-II S/s – 2 nos.	24 months
2.	2 no. of 765 kV line bays each at Bikaner-III PS & Neemrana- II S/S <ul style="list-style-type: none">• 765kV line bays - 4 nos. (2 nos. each at Bikaner-III PS & Neemrana-II S/S)	

Note:

Developer of Bikaner-III PS & Neemrana-II S/s shall provide space for 2 nos. of 765 kV line bays along with space for Switchable line reactor each at Bikaner-III PS & Neemrana-II S/s for termination of Bikaner-III - Neemrana-II 765 kV D/c line (2nd)."

2. The Petitioner has made the following prayers:

“(a) Issue the Transmission Licence to the Applicant for establishing, operating and maintaining the “Transmission system for evacuation of power from Rajasthan REZ Ph-IV (Part-1) (Bikaner Complex): Part-C” as provided for in the Transmission Service Agreement and the Request for Proposal;

(b) Allow the sharing and recovery of Transmission charges for Inter-State Transmission System for Project as per sharing of Inter-State Transmission and Losses CERC Regulations, 2020 and any other amendment thereon issued from time to time by the Hon'ble Commission, and/or;

(c) Condone any inadvertent errors omissions/errors shortcomings and permit the Applicant to add/change/modify/alter these filings and make further submissions as may be required at a future date, and/or

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

Hearing dated 5.3.2024

3. During the course of the hearing on 5.3.2024, the learned counsel for the Petitioner submitted that the instant Petition has been filed for the grant of a transmission licence for the establishment of the “Transmission system for evacuation of power from Rajasthan REZ Ph-IV (Part1) (Bikaner Complex): Part-C” (“Project”). He further added that the CTUIL has submitted its recommendations for the grant of a transmission licence to the Petitioner under Section 15(4) of the Act.

4. The representative of CTUIL confirmed that CTUIL has already issued its recommendations for the grant of a transmission licence to the Petitioner company. He further submitted that there is no mismatch in the present case.

5. Vide Record of Proceedings for the hearing dated 5.3.2024, Respondents were directed to file their replies. However, no reply has been received from them.

6. The Petitioner has submitted that in accordance with the “Guidelines for Encouraging Competition in Development of Transmission Projects” and “Tariff Based Competitive Bidding Guidelines for Transmission Service” (hereinafter referred to as “the Guidelines”) issued by the Ministry of Power, Government of India, under Section 63 of the Act, PFC Consulting Limited (PFCCL) was notified by the Ministry of Power, Government of India, vide Gazette Notification. No. CG-DL-E-14012023-241990 dated 13.1.2023 as the Bid Process Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish the Inter-State Transmission System for the “Transmission system for evacuation of power from Rajasthan REZ Ph-IV (Part-1) (Bikaner Complex): Part-C” (“Project”), on a Build, Own, Operate and Transfer basis.

7. PFCCL, in its capacity as the BPC, initiated the bid process on 2.3.2023 and completed the same on 27.12.2023 in accordance with the Guidelines. Tata Power Company Limited was selected as the successful bidder, having quoted the lowest transmission charges of Rs. 1626.59 million per annum to provide transmission services to the transmission system’s beneficiaries.

8. RfP was issued on 2.3.2023. At the RfP (Technical and Financial) stage, four bidders, namely, (i) Power Grid Corporation of India Limited, (ii) Sterlite Grid 35 Limited, (iii) Adani Energy Solutions Limited (formerly known as Adani Transmission Limited), and (iv) The Tata Power Company Limited submitted their offers. The RfP (Technical bids) of the four bidders were opened by the Bid Opening Committee on 10.10.2023 in the presence of a representative of the bidders. Based on the recommendation of the Bid Evaluation Committee (BEC), the RfP (Financial) Bids- Initial Price Offer of the four bidders were opened on 6.11.2023. The lowest Initial

Price Offer discovered (Best Deal) at the MSTC portal was Rs. 1900.00 million per annum. The details of the quoted transmission charges by bidders are given below:

Sr. No.	Name of the Bidder	Quoted Transmission Charges as per the Initial Offer (in Rs. million per annum)	Rank
1.	Power Grid Corporation of India Limited	1900.00	L1
2.	The Tata Power Company Limited	2150.00	L2
3.	Sterlite Grid 35 Limited	2237.89	L3
4.	Adani Energy Solutions Limited (formerly known as Adani Transmission Limited)	2239.00	L4

9. As per Clause 3.5.1 of the RfP document, Initial Offers shall be ranked on the basis of ascending order to determine the Qualified Bidders. The Bidders holding the first fifty per cent of the ranks (with any fraction rounded off to a higher integer) or four Bidders, whichever is higher, shall be considered to be qualified for participating in the electronic reverse auction stage and submitting their Final Offer.

10. The e-reverse auction of four bidders was carried out at the MSTC portal on 7.11.2023. The following transmission charges, as quoted by each bidder, emerged:

Sr. No.	Name of the Bidder	Transmission Charges as per the Final Offer (in Rs. million per annum)	Rank
1.	The Tata Power Company Limited	1626.59	L1
2.	Power Grid Corporation of India Limited	1630.67	L2
3.	Sterlite Grid 35 Limited	1852.99	L3
4.	Adani Energy Solutions Limited (formerly known as Adani Transmission Limited)	2239.00 (Not participated in e-RA)	L4

11. As per the Bid Evaluation Report dated 24.11.2023, Tata Power Company Limited emerged as the successful bidder with the lowest quoted transmission

charges of Rs. 1626.59 million per annum. BEC, vide its certificate dated 24.11.2023, has certified that the entire bid process has been carried out in accordance with the Guidelines issued by the Ministry of Power under Section 63 of the Act. BEC has further certified that the transmission charges discovered through the e-reverse auction are acceptable.

12. Consequent to its selection as the lowest bidder, a Letter of Intent (LoI) was issued to Tata Power Company Limited by the BPC on 29.11.2023, which was accepted by Tata Power Company Limited. Under the terms of RfP and the Letter of Intent, the successful bidder is obligated to accomplish the following tasks:

- (a) Provide Contract Performance Guarantee in favour of Central Transmission Utility of India Limited (CTUIL);
- (b) Execute Share Purchase Agreement and Transmission Service Agreement;
- (c) Acquire, for the Acquisition Price, 100% share equity share Bikaner III Neemrana II Transmission Limited from PFCCL along with all its related assets and liabilities;
- (d) Make an application to this Commission for adoption of transmission charges, as required under Section 63 of the Act; and
- (e) Apply to this Commission for grant of transmission licence;

13. The Petitioner has furnished the Contract Performance Guarantee (CPG) in favour of Nodal Agency, i.e. CTUIL, for Rs. 42 crore on 22.12.2023 and has acquired hundred per cent equity holding in Bikaner III Neemrana II Transmission Limited on 27.12.2023. The Petitioner entered into a Transmission Service Agreement (TSA) with CTUIL on 27.12.2023.

14. 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 has been incorporated under the Companies Act 2013. 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”

15. Section 15(1) of the Act provides that every application under Section 14 of the Act shall be made in such manner and in such form as may be specified by the Appropriate Commission and shall be accompanied by such fees as may be prescribed by the Central Government. The Commission has specified Transmission Licence Regulations in this regard. Regulation 3 of the Transmission Licence Regulations provides that the Empowered Committee shall identify the Projects included in the transmission plan to be developed under the Guidelines issued under Section 63 of the Act. Regulation 4 of the Transmission Licence Regulations provides that in case of projects identified for development under the Guidelines for competitive bidding, the selection of the project developer shall be made in accordance with the procedure laid down in the Guidelines. The Project under

consideration has been identified for development under competitive bidding by the competent authority in the Ministry of Power/CEA. Central Electricity Authority, vide its letter No. 25-17/23/2023-PG dated 3.10.2023, had issued prior approval to the Project under Section 68 of the Act. The Selection of the Project developer, Bikaner III Neemrana II Transmission Limited, has been certified to have been made in accordance with the Guidelines.

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 Clause (4), Clause (7), Clause (9) and Clause (12) and dispensed with Clause (10) of Regulation 7] provide for the procedure for grant of transmission licence as under:

“(1) The application for grant of transmission 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 approached the Commission with a separate application for the adoption of transmission charges in respect of the transmission system, which is presently under consideration of the Commission, and the order in that Petition will be issued separately. The Petitioner has filed the present Petition for grant of a transmission licence in accordance with the Transmission Licence Regulations. The Petitioner has submitted proof of service of the copies of the application on the BPC, CTUIL and Western Region beneficiaries and proof of web posting of the complete application. The Petitioner has further undertaken to pay the applicable licence fee upon the grant of transmission licence in terms of the Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012. The Petitioner has prayed for the grant of a transmission licence to Bikaner III Neemrana II Transmission Limited with respect to the transmission system as per the details given in paragraph 1 above.

18. The Petitioner has made the Application as per Form-I and paid a fee of Rs. one lakh as prescribed by the Central Government. As per the direction of the Commission, the Petitioner has served a copy of the Application on the beneficiaries of the transmission project for the Project. The transmission charges quoted by the Petitioner, which have been recommended by the Bid Evaluation Committee for acceptance, is Rs. 1626.59 million per annum. The Petitioner has also enclosed copies of the recommendations of the Bid Evaluation Committee.

19. The Petitioner has published the notices on the e-filing portal of the Commission and on its website in Form-II in English language and in Hindi

(Vernacular) language. No objection has been received from the general public to the notices.

20. The Petitioner has served the copy of the Application on the Central Transmission of Utility of India Limited (CTUIL) as required under Section 15(3) of the Act and Regulation 7(6) of the Transmission Licence Regulations. CTUIL, vide its letter dated 23.1.2024, has recommended the grant of a transmission licence to the Petitioner. The Relevant portions of the said letter dated 23.1.2024 are extracted as under:

“This is with reference to Petition having Diary no. 556/2024 filed by M/s Bikaner III Neemrana II Transmission Limited before Hon’ble Commission for grant of Transmission License to facilitate implementation of Transmission System for Evacuation of Power from Rajasthan REZ Ph-IV (Part 1) (Bikaner Complex): Part-C. In this regard, following is submitted:

- Towards achievement of 500 GW non-fossil generation by 2030, Renewable Energy Zones (REZs) of 181.5GW for likely benefits by 2030, were identified by MNRE/SECI. These REZs are located in eight states, out of which, 75 GW REZs are identified in the state of Rajasthan (Comprising of 15 GW Wind and 60 GW Solar potential). Accordingly, based on the discussion, a comprehensive transmission scheme for evacuation of 75 GW RE potential from Rajasthan has been evolved. This also includes transmission scheme for evacuation of 7.7GW RE power in Bikaner complex, (Bikaner-II: 3.7GW and Bikaner-II 1:4 GW).*
- The subject transmission scheme was agreed in the 8th Consultation meeting for Evolving Transmission Schemes in NR held on 30/06/2022. Extract of the minutes of 8th NR-CMETS meeting are enclosed at **Annexure-I**. The detailed scope of the subject scheme is attached at **Annexure-II**.*
- Subsequently transmission scheme was agreed in the 9th meeting of National Committee of Transmission (NCT) held on 28/09/2022. Extract of minutes of meeting are attached at **Annexure-III**. Transmission Scheme was also agreed in the 56th NRPC meeting held on 29/07/2022. Extract of the 56th NRPC minutes are enclosed at **Annexure-IV**.*
- Ministry of Power, Govt, of India vide gazette notification dated 13/01/2023 has identified M/s PFC Consulting Ltd. (PFCCL) as Bid Processing Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish the above referred project through TBCB route. Bid Evaluation Committee appointed by the BPC has selected M/s Tata Power Company Limited (“TPCL”) as successful bidder.*

M/s TPCL has subsequently acquired Bikaner III Neemrana II Transmission Limited after execution of the requisite Share Purchase Agreement (SPA) on 27/12/2023.

- *As part of subject scheme, Bikaner-III - Neemrana-II 765 kV D/c line (2nd) is to be established with completion schedule as 24 months from effective date (27/12/2023) ie. 26/12/2025. Bikaner-III PS & Neemrana-II S/s shall be implemented as part of Transmission System for Evacuation of Power from Rajasthan REZ Ph-IV (Part 1) (Bikaner Complex): Part-A & B respectively in matching schedule of 26/12/2025.*
- *Implementation of this project shall facilitate transfer of power from RE generation (About 7.7 GW) proposed to be connected in Bikaner Complex in Western Rajasthan.*

Keeping above in view and based on details furnished by M/s Bikaner III Neemrana II Transmission Limited, CTU, in line with Section 15(4) of the Electricity Act, 2003, recommends grant of transmission license to M/s Bikaner III Neemrana II Transmission Limited for executing the subject transmission scheme.”

21. We have considered the submissions of the Petitioner, BPC and CTUIL. The proviso to Clause 2.15.2 of the RfP provides that "if for any reason attributable to the BPC, the said activities are not completed by the Selected Bidder within the above period of ten (10) days as mentioned in this clause, such period of 10 days shall be extended, on a day to day basis till the end of the Bid validity period". As per the above provision, the selected bidder was required to complete all the activities, including the acquisition of SPVs, by 9.12.2023. Though Lol was issued on 29.11.2023, BPC, vide its letter dated 27.12.2023 in terms of Clauses 2.15.2 of RfP, extended the date up to 27.12.2023 for completion of all activities by the successful bidder. The selected bidder furnished the Contract Performance Guarantee in favour of Nodal Agency (CTUIL) for an amount of Rs. 42 crore on 22.12.2023 and acquired a hundred per cent equity-holding in the applicant company on 27.12.2023 after execution of the Share Purchase Agreement. As per clause 2.15.4 of the RfP, TSP is required to apply to the Commission for the grant of a transmission licence within five working days of the issuance of the acquisition of the SPV to the successful

bidder. The successful bidder, namely, Bikaner III Neemrana II Transmission Limited, acquired the SPV on 27.12.2023. Accordingly, the TSP has filed the instant Petition through e-filing for the grant of transmission licence on 30.12.2023.

22. Considering the material on record, we are *prima-facie* of the view that the Petitioner satisfies the conditions for the grant of inter-State transmission licence under Section 15 of the Act read with the Transmission Licence Regulations for the establishment of the transmission system as described in para 1 of this order. We, therefore, direct that a public notice under clause (a) of sub-section (5) of Section 15 of the Act be published to invite suggestions or objections to the grant of transmission licence aforesaid. The objections or suggestions, if any, be filed by any person before the Commission by **3.4.2024**.

23. It is expected that while carrying out the survey, the Petitioner has complied with the provisions of clause 2.5.7.3, clause 2.5.7.4 and clause 2.5.7.5 of the RfP. The Petitioner will comply with the provisions of the bidding documents and the TSA for the commissioning of the Project within the SCOD.

24. In order to ensure that the Project is implemented within the time schedule as provided in the TSA, the licensee should not approach the Commission for an extension of time for execution of the Project or for an increase in the transmission charges over and above what is permissible under the provisions of the TSA. Accordingly, the Petitioner is directed to file an affidavit by 31.3.2024 to the effect that the execution of the Project shall not be delayed due to time taken in obtaining statutory clearances required under the RfP and/ or adjudication of any claim of the Petitioner arising under the TSA.

25. It is observed that as per Article 5.1.1 of the TSA, the TSP, at its own cost and expense, shall be responsible for designing, constructing, erecting, completing and commissioning each element of the Project by scheduled COD in accordance with the various regulations of the Central Electricity Authority regarding Technical Standards and Grid Standards, Prudent Utility Practices and other applicable laws. Further, Article 5.4 of the TSA provides that the TSP shall ensure that the Project is designed, built and completed with good workmanship using sound engineering and construction practices and using only materials and equipment that are new and of international utility-grade quality such that the useful life of the Project will be till the expiry date. Further, the design, construction and testing of all equipment, facilities, components and systems of the Project shall be in accordance with Indian Standards and Codes issued by the Bureau of Indian Standards. Accordingly, the Petitioner is directed to submit the information by 31.3.2024 with regard to the quality control mechanism available or to be put in place to ensure the compliance of the requirements stipulated in Article 5.1.1 and Article 5.4 of the TSA.

26. It is noted that the Petitioner has not impleaded the DICs of the Northern Region as parties to the Petition. Accordingly, the Petitioner is directed to implead the Northern Region beneficiaries as parties to the Petition and to file the revised memo of parties immediately. The Respondents are directed to file their respective replies on or before 28.3.2024 with an advance copy to the Petitioner, who shall file its rejoinder, if any, by 8.4.2024.

27. The Petition shall be listed for the hearing on **10.4.2024**.

Sd/-
(P.K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(Jishnu Barua)
Chairperson