

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 253/TL/2023

Coram:

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

Date of Order: 5th March, 2024

In the matter of

Petition 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 with respect to grant of transmission license to Fatehgarh III Beawar Transmission Limited.

And

In the matter of

Fatehgarh III Beawar Transmission Limited,
DLF Cyber Park, Tower-B, 9th Floor,
Udyog Vihar, Phase-III, Sector 20,
Gurugram-1220008, Haryana

....Petitioner

Vs

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

2. PFC Consulting Limited,
9th Floor, A-Wing, Statesman House,
Connaught Place, New Delhi - 110001,

3. Central Electricity Authority,
Seva Bhawan, R.K. Puram,
New Delhi-110016

4. Union Territory of Jammu & Kashmir,
Power Development Department
SLDC Building, 15th Floor,
Gladani Power House,
Narwal, Jammu-180006

5. Union Territory of Ladakh,
Superintending Engineer, Distribution Circle,
Power Development Department,

Choglamsar, Leh- 194101

6. Powergrid Corporation of India Limited,
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi-110016

7. HVDC Dadri, Powergrid Corporation of India Limited,
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi-110016

8. HVDC Rihand, Powergrid Corporation of India Limited,
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi-110016

9. Union Territory of Chandigarh,
Electricity Wing of Engineering Department,
Room No. 511, 5th Floor,
UT Secretariat (Deluxe) Building,
Sector 9D, Chandigarh -160009

10. BSES Rajdhani Power Limited,
BSES Bhawan, Nehru Place,
New Delhi-110019

11. BSES Yamuna Power Limited,
B-Block, Shakti Kiran Building,
Near Karkadooma Court, Karkadooma,
New Delhi- 110092

12. New Delhi Municipal Council,
Palika Kendra, Sansad Marg,
New Delhi -110002

13. Tata Power Delhi Distribution Limited,
NDPL house, Hudson Lines Kingsway Camp,
New Delhi -110009

14. Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Kumar House Complex Building II,
Shimla- 171004, Himachal Pradesh

15. Haryana Power Purchase Centre,
Shakti Bhawan, Sector-6,
Panchkula-34109, Haryana

16. Punjab State Power Corporation Limited,
PP&R, Shed T-1, Thermal Design
Patiala, Punjab — 147001

17. Ajmer Vidyut Vitran Nigam Limited,

132 kV, GSS RVPNL Sub-station Building,
Caligiri Road, Malviya Nagar,
Jaipur- 302017, Rajasthan

18. Jaipur Vidyut Vitran Nigam Limited,
132 kV, GSS RVPNL Sub-station Building
Caligiri Road, Malviya Nagar,
Jaipur-302017, Rajasthan

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

20. North Central Railway,
DRM Office, Nawab Yusuf Road,
Prayagraj-211011, Uttar Pradesh

21. Uttaranchal Power Corporation Limited,
Urja Bhawan, Kanwali Road,
Dehradun-248001, Uttarakhand

22. Uttar Pradesh Power Corporation Limited,
(Formerly Uttar Pradesh State Electricity Board)
Shakti Bhawan, 14, Ashok Marg,
Lucknow-226 001, Uttar Pradesh.

23. A.D. Hydro Power Limited,
Bhilwara Towers, A-12,
Sector 1, Noida-201 301, Uttar Pradesh

....Respondents

Parties present:

Shri Gaurav Dudeja, Advocate, FIIIBTL
Shri Dhruval Singh, Advocate, FIIIBTL
Ms. Priyadarshini, Advocate, PFCCL
Shri Swapnil Verma, CTUIL
Shri Deepak Kumar Singh, PFCCL
Shri Siddharth Sharma, CTUIL
Shri Lashit Sharma, CTUIL

ORDER

The Petitioner, Fatehgarh III Beawar Transmission Limited (hereinafter referred to as "FBTL"), has filed the present Petition 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 “the Transmission Licence Regulations”) for the grant of a transmission licence for the establishment of “Transmission system for evacuation of power from REZ in Rajasthan (20 GW) under Phase III – Part G” (hereinafter referred to as “the Project”) on Build, Own, Operate and Transfer (“BOOT”) basis:

Transmission System Evacuation of Power from REZ in Rajasthan (20GW) under Phase III Part G		
S. No.	Name of Transmission Element	Scheduled COD in months from Effective Date
1.	<i>Fatehgarh 3 – Beawar 765kV D/C (2nd) along with 330 MVAR Switchable line reactor for each circuit at each end of Fatehgarh 3 – Beawar 765kV D/C line.</i> <i>- Switching equipment for 765kV 330 MVAR switchable line reactor – 4 nos.</i> <i>- 765kV, 330 MVAR Switchable line reactor – 4 nos.</i>	18 months
2.	<i>2 nos. of 765kV line bays at both at Beawar & Fatehgarh-3</i> <i>- 765kV line bays – 4 nos.</i>	

Note:

- i. Developer of Fatehgarh-3 S/s to provide space for 2 nos. of 765kV line bays at Fatehgarh-3 S/s along with space for 765 switchable line reactors.*
- ii. Developer of Beawar S/s to provide space for 2 nos. of 765kV line bays at Beawar S/s along with space for 765kV switchable line reactors.”*

2. Based on the competitive bidding carried out by the PFC Consulting Limited (PFCCL), in its capacity as the Bid Process Coordinator (BPC), in accordance with the Guidelines issued by the Ministry of Power, Government of India under Section 63 of the Act, Sterlite Grid 19 Limited (hereinafter referred to as “SGL19”) was declared a successful bidder with the lowest quoted annual transmission charges of Rs. 1357.57 million per annum.

3. The Commission, after considering the application of the Petitioner in light of the provisions of the Act and the Transmission Licence Regulations, in its order dated

1.2.2024, *prima facie* proposed to grant a transmission licence to the Petitioner. The relevant extracts of the order dated 1.2.2024 are extracted as under:

“24. Considering the material on record, we are prima facie of the view that the Petitioner satisfies the conditions for the grant of an inter-State transmission licence under Section 15 of the Act read with the Transmission Licence Regulations for construction, operation and maintenance 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 grant of the transmission licence aforesaid. The objections or suggestions, if any, be filed by any person before the Commission, by 15.2.2024.”

4. A public notice under Sub-section (5) of Section 15 of the Act was published on 7.2.2024 in all editions of The Hindu (English) and Dainik Jagran (Hindi). No suggestions/ objections have been received from members of the public in response to the public notice.

5. The case was called out for a hearing on 19.2.2024. It was submitted by the learned counsel for the Petitioner that, in response to a public notice published by the Commission, no objection has been received. During the course of the hearing, the representative of CTUIL submitted that insofar as the mismatch in the commissioning date of the Projects covered under Part G and Part F is concerned, a meeting was convened in this regard on 16.2.2024, and since both these Projects are being developed by the same Group Company, i.e. Sterlite, the said issue has been resolved, and the parties have agreed upon the revised timelines. The representative of CTUIL further submitted that the Minutes of the said Meeting are awaited and will be filing the said same within the course of a day or two. The representative of CTUIL further submitted that CTUIL vide its affidavit dated 19.1.2024 has furnished the additional details/information as called for by the Commission.

6. Learned counsel for the Petitioner during the course of the hearing confirmed that both the Projects, i.e. Projects under Part G and Part F, are being developed by the Sterlite Group and as per the Petitioner, CTUIL may enter into a supplementary TSA for revision of the commissioning timelines of the Project under Part G in order to align them with the Project under Part F. In response, the representative of CTUIL submitted that insofar as the execution of supplementary TSA is concerned, keeping in view that the Project and its attributes had been notified in the Gazette, CTUIL has already taken up the said issue/aspect with the Ministry of Power, Govt. of India and NCT for the complete resolution thereof and the CTUIL will place on the record the developments, if any, in this regard. The representative of the CTUIL, however, added that the present proceedings for the grant of a transmission licence may not be kept pending on this aspect, and the Commission may at this stage take cognizance of the revised timelines for implementation of the Project as agreed among the parties in the meeting. The Respondents were directed to file their respective affidavits as noted above. However, no response has been received from the Respondents.

7. CTU, vide affidavit dated 23.2.2024, has submitted that:

(a) Meeting was convened by CTUIL on 16.2.2024 through video conference amongst CEA, CTUIL, PFCCL, RECPDCL, Sterlite Grid 19 Limited and Sterlite Grid 27 Limited to resolve the issue of mismatch in SCOD of transmission schemes, namely “Transmission System for Evacuation of Power from REZ In Rajasthan (20 GW) Under Phase-III Part- G” and Transmission System for Evacuation of Power from REZ In Rajasthan (20GW) Under Phase-III Part- F”.

During the meeting, the following was agreed and resolved:

“i Revised SCOD of “Transmission System for Evacuation of Power from REZ in Rajasthan (20 GW) under Phase-III Part-G” shall be same as the SCOD of “Transmission System for Evacuation of Power from REZ in Rajasthan (20 GW)

under Phase-III Part-F” scheme. i.e. 19.03.2025. TSP shall not claim any benefit on account of this revised SCOD. All activities linked with SCOD to be performed by Sterlite Grid 19 Limited as mentioned in Transmission Service Agreement (TSA) shall be considered as per the revised SCOD.

ii. Further, change in SCOD shall be without prejudice to the liability of any party under any Agreement, Law or Regulations. Nothing agreed herein shall subject CTUIL to any claim/action from the parties to the agreement and the party shall indemnify CTUIL against any claim/action from any third party.

iii. Agenda shall be sent to NCT to issue necessary amendment in the notification for revised SCOD of “Transmission System for Evacuation of Power from REZ in Rajasthan (20 GW) under Phase-III Part-G” scheme.

iv. Based on the amendment by NCT and approval from MoP for change in SCOD, Supplementary Agreement to the TSA dated 01.08.2023 shall be signed between CTUIL and Sterlite Grid 19 Ltd for revised SCOD. The same shall also be informed to Hon’ble CERC.

v. To address such mismatch issue in future, communication from CTUIL to be sent to NCT with request to suitably record in the minutes of meeting that both PFCCL and RECPDCL shall coordinate their activities such that SCODs of interlinked transmission schemes are same.”

(b) In the present case, pursuant to the directions of the Commission, a mutual decision has been arrived at for the alignment of the Scheduled COD in order to account for the different dates in two different TBCB projects, conceived and approved together in the NCT, however bid-out on different dates by the respective bid process coordinators (BPCs). Therefore, the Commission may consider acknowledging the alignment of Scheduled COD in the order.

8. We have considered the submissions of the CTUIL. It is noted that as per the Transmission Service Agreement, part G & F are interlinked and are to be taken up in a similar time frame. However, from the above information submitted by the CTUIL, there is a mismatch in the SCOD of Part G which is 31.1.2025, and the SCOD of Part F which is 19.3.2025. In case Part G & Part F are declared COD on the respective SCOD date, there shall be mismatch & commercial liabilities. As decided in the meeting held on 16.2.2024 convened by CTUIL, the matter may be taken up and

followed up with NCT and MOP for amending the TSAs to align the SCOD of the interlinked packages.

9. 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.”

10. In our order dated 1.2.2024, we proposed to grant a transmission licence to the Petitioner company and directed the issue of a public notice. In response to the public notice, no suggestions/objections have been received. CTUIL, in its letter dated 6.9.2023, has recommended the grant of a transmission licence to the Petitioner. We find that the Petitioner Company meets the requirements of the Act and the Transmission Licence Regulations for the grant of a transmission licence for the subject Transmission System mentioned in paragraph 1 of this order. Accordingly, we direct that a transmission licence be granted to the Petitioner, ‘Fatehgarh III Beawar Transmission Limited,’ for the grant of an inter-State transmission licence for the establishment of the “Transmission system for evacuation of power from REZ in Rajasthan (20 GW) under Phase III – Part G” on Build, Own, Operate and Transfer (“BOOT”) basis as per the details given in paragraph 1 above.

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 Transmission Licence Regulations or any subsequent enactment thereof during the period of subsistence of the licence;

(c) Since the expiry date as per the TSA is 35 years from the scheduled COD of the Project, the licensee may make an application, two years before the expiry of the initial licence period, for the grant of 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. A delay in payment or non-payment of the licence fee or a part thereof for a period exceeding sixty days shall be construed as a breach of the terms and conditions of the licence;

(f) The licensee shall comply with the directions of the National Load Despatch Centre under Section 26 of the Act, or the Regional Load Despatch Centre under sub-section (3) of Section 28 or sub-section (1) of Section 29 of the Act, as may be issued from time to time for maintaining the availability of the transmission system;

(g) The licensee shall remain bound by the provisions of Central Electricity Regulatory Commission (Standard of Performance of inter-State transmission licensees) Regulations, 2012 or subsequent enactment thereof;

(h) The licensee shall provide the non-discriminatory open access to its Transmission System for use by any other licensee, including a distribution licensee or an electricity trader, or generating company or any other person in accordance with the Act; the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008; the Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009; the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010, as amended from time to time or any subsequent re-enactments thereof; and the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022;

(i) The licensee shall not undertake any other business for optimum utilization of the Transmission System without prior intimation to the Commission and shall comply with the provisions of the Central Electricity Regulatory Commission

(Sharing of Revenue Derived from Utilization of Transmission Assets for other business) Regulations, 2020;

(j) The licensee shall remain bound by provisions of the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2020, as amended from time to time;

(k) The licensee shall remain bound by the provisions of the Act, the Rules and Regulations framed thereunder, in particular the Transmission Licence Regulations, the Grid Code, the Standards specified by the Central Electricity Authority, orders and directions of the Commission issued from time to time;

(l) The licensee shall ensure the execution of the within the timeline specified in Schedule 3 of the TSA and as per the Technical Standards and Grid Standards of CEA prescribed in Article 5.1.1 and Article 5.4 of the TSA;

(m) The licensee shall coordinate with the licensees (including deemed licensees) executing the upstream or downstream transmission projects, the Central Electricity Authority and CTUIL to ensure smooth execution and commissioning of the Project; and

(n) The licensee shall submit all such report or information as may be required under Transmission Licence Regulations, Standard of Performance Regulations, Transmission Service Agreement or any other regulation of the Commission or as per the directions of the Commission as may be issued from time to time.

(o)The licensee shall ensure compliance with the Crisis Management Plan of the Government of India prepared by the Cabinet Secretariat under Section 37 of the Disaster Management Act, 2005.

12. It is expected that while carrying out the survey, the Petitioner has complied with the provisions of clauses 2.5.7.3, 2.5.7.4 and 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.

13. CTUIL / its appointed Independent Engineer and the Central Electricity Authority shall monitor the execution of the Project and bring to the notice of the Commission any lapse on the part of the licensee to meet the schedule for further appropriate action in accordance with the provisions of the Transmission Service Agreement executed between the licensee & Nodal Agency, the Act and the Transmission Licence Regulations.

14. Let an extract copy of this order be sent to CTUIL and CEA for information and necessary action.

15. Petition No. 253/TL/2023 is allowed in terms of the above.

Sd/-
(P.K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(Jishnu Barua)
Chairperson