

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 310/TL/2023

Coram:

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

Date of Order: 12th February 2024

In the matter of

Application under Sections 14 and 15 of the Electricity Act, 2003 read with Central Electricity Regulatory Commission (Procedure, Terms and Conditions for Grant of Transmission Licence and other related matters) Regulations, 2009 for the grant of separate Transmission Licence for implementation of the Transmission System for evacuation of Power from potential renewable energy zone in Khavda area of Gujarat under Phase-IV (7 GW): Part E1 on Regulated Tariff Mechanism (RTM) route.

And

In the matter of

Khavda – Bhuj Transmission Limited

C/o Khavda - Bhuj Transmission Limited,
C 105, Anand Niketan,
New Delhi 110021

.....Petitioner

Vs.

1. Adani Renewable Energy Holding Four Limited,

Adani Corporate House, Shantigram,
Nr. Vaishno Devi Circle, S G Highway,
Khodiyar, Ahmedabad – 382421.

2. Central Transmission Utility of India Limited,

Plot No.2, Sector 29,
Gurgaon-122001

3. Madhya Pradesh Power Management Company Limited,

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



4. Chhattisgarh State Power Distribution Company Limited,
P.O. Sunder Nagar, Dangania,
Raipur – 492013, Chhattisgarh

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

6. Gujarat Urja Vikas Nigam Limited,
Vidhyut Bhavan,
Race Course, Vadodara – 390007

7. DNH Power Distribution Corporation Limited,
66 kV, Amlı Ind. Estate,
Silvasa – 396230 Dadar Nagar Havelı

8. Electricity department, Government of Goa,
Vidyut Bhavan, Near Mandvi Hotel,
Panaji, Goa – 403001

9. Dadra And Nagar Havelı And Daman And Diu Power Distribution Corporation Limited
1st & 2nd Floor, Vidyut Bhavan,
Silvassa, Dadra & Nagar Havelı – 396230

.....Respondents

Following was present:

Shri Bhavesh Kundalia, KBTL
Shri Yatin Sharma, CTUIL

ORDER

The Petitioner, Khavda-Bhuj Transmission Limited (KBTL), has filed the present Petition under Sections 14 and 15 of the Electricity Act, 2003 (hereinafter referred to as ‘the Act’) read with the provisions of the Central Electricity Regulatory Commission (Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009 (hereinafter referred to as ‘the Transmission Licence Regulations’) for the grant of a separate transmission licence for implementation of the transmission system for “Evacuation of Power from potential renewable energy zone in Khavda area of Gujarat under Phase-IV (7 GW): Part EI”



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	Transmission System for Evacuation of Power from potential renewable energy zone in the Khavda area of Gujarat under Phase-IV (7 GW): Part E1 Implementation timeframe: 24 months from the date of allocation	216	Approved to be implemented under RTM by Adani Transmission Limited

2. The Petitioner has made the following prayers:

“(a) Grant Separate Transmission Licence to the Applicant for implementation of "Transmission System for Evacuation of Power from potential renewable energy zone in Khavda area of Gujarat under Phase-IV (7 GW): Part E1" on Regulated Tariff Mechanism (RTM) basis with detailed scope as per para 8 above.

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

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

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

3. The Petitioner company was incorporated as a special purpose vehicle by PFC Consulting Limited (PFCCL) as part of the Tariff Based Competitive Bidding ('TBCB') process for implementation of the transmission system of the "Transmission Scheme for evacuation of 3 GW RE injection at Khavda P.S. under Phase-IV"

(hereinafter referred to as “the Project”) on a Build, Own, Operate and Maintain (BOOM) basis. Adani Energy Solutions Limited (AESL), formally known as Adani Transmission Limited (ATL), participated in the competitive bidding process conducted by PFCCL and upon emerging as the successful bidder, a Letter of Intent (LOI) was issued by PFCCL to AESL on 22.12.2021. In accordance with the bidding documents, AESL acquired 100% of the shareholding in KBTL by executing a Share Purchase Agreement with PFCCL on 18.1.2022. KBTL entered into a Transmission Service Agreement (TSA) with the LTTCs on 19.8.2021. The Commission, in its order dated 16.6.2022 in Petition No. 107/TL/2022, granted a transmission licence to KBTL to establish a transmission system for the “Transmission Scheme for evacuation of 3 GW RE injection at Khavda P.S. under Phase-I” on a Build, Own, Operate and Maintain (“BOOM”) basis consisting of the following elements:

	Name of the Transmission Element	Scheduled COD in months from Effective Date
1.	<p>Establishment of 3X1500 MVA 765/400 kV Khavda (GIS) with 1X330 MVAR 765 kV bus reactor and 1X125 MVAR 420 kV bus reactor.</p> <ul style="list-style-type: none"> • 765/400 kV, 1500 MVA ICT - 3 Nos. • 765 kV ICT bays - 3 Nos. • 400 kV ICT bays - 3 Nos. • 330 MVAR 765 kV bus reactor -1 No. • 125 MVAR 420 kV bus reactor -1 No. • 765 kV reactor bay - 1 Nos. • 765 kV line bay - 2 Nos. • 400 kV reactor bay - 1 No. • 400 kV line bay - 3 Nos. • 500 MVA, 765/400 kV Spare ICT - 1 No. • 110 MVAR, 765 kV, 1-ph reactor (spare unit) - 1 No. Future Scope: Space for • 765/400 kV, ICT along with bays - 5 Nos. • 400/220 kV, ICT along with bays- 4 Nos. • 765 kV Line bays along with switchable line 	24 months

	reactor- 6 Nos. • 400 kV Line bays – 9 Nos. • 220 kV Line bays - 8 Nos. • 765 kV reactor along with bays - 2 Nos. • 400 kV reactor along with bays – 1 No. • 765 kV bus sectionalizer- 1 No. • 400 kV bus sectionalizer- 1 No.	
2.	Khavda PS (GIS) – Bhuj PS 765 kV D/c line	
3.	2 nos. of line bays each at Bhuj PS for termination of Khavda PS (GIS) – Bhuj PS 765 kV D/c line • 765 kV AIS line bays – 2 Nos.	

Note:

- I. As on date, Adani Green Energy Four Limited (AGEFL) has been granted Stage-I connectivity for 5000 MW and Stage-II Connectivity for 3500 MW at proposed Khavda PS at 400 kV level. Accordingly, 3 nos of 400 k V GIS line bay for termination of the dedicated lines from AGEFL`s Solar PV project has been included under the scope of works of Khavda P.S. Further, 1000MW LTA application has been received from AGEFL and the same is under process.
- II. GIS Bay (if any) for completion of diameter in one and half breaker scheme shall also be in the scope of the TSP.

4. 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 completion cost of the transmission scheme, as per CTUIL`s Office Memorandum (OM), is Rs. 216 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 10.11.2023

5. The matter was called out for the hearing on 10.11.2023. During the course of the hearing, the representative of the Petitioner submitted that the Petitioner has complied with all the requirements 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.

6. Vide Record of Proceedings for the hearing dated 10.11.2023, notices were issued to Respondents to file their replies. However, no reply has been received from them.

7. Vide Record of Proceedings for the hearing dated 10.11.2023, the Petitioner was directed to implead CTUIL and all the beneficiaries of the subject transmission system as parties to the Petition and to file a revised memo of parties. The Petitioner was further directed to submit a copy of the Concession Agreement executed with CTUIL for the implementation of the transmission schemes covered under the present Petition. The Petitioner, vide its affidavit dated 21.11.2023, has submitted an amended memo of parties. The Petitioner has further submitted that the Petitioner company approached the CTUIL for guidance to comply with the requirement of entering into a Concession Agreement, and in response, CTUIL, vide its email dated 17.11.2023, has informed that the finalization of the format of the Concession agreement for RTM projects is under process and is yet to be notified by the Ministry of Power and after finalization the same, Concession Agreement shall be signed with the concessionaries as applicable.

8. Vide Record of Proceedings for the hearing dated 10.11.2023, CTUIL was directed to file on an affidavit a copy of the approval of the Central Government for the transmission scheme "Evacuation of Power from potential renewable energy zone in Khavda area of Gujarat under Phase-IV (7 GW): Part E1" on RTM basis in terms of the Electricity (Transmission System Planning, Development and Recovery

of Inter-state Transmission Charges) Rules, 2021 notified by the Ministry of Power on 1.10.2021. In response, CTUIL, vide its affidavit dated 21.11.2023, has placed on record a copy of the NCT letter dated 7.7.2023 regarding the implementation of ISTS transmission scheme approved by NCT in its 14th meeting held on 9.6.2023 including approval of the transmission system for evacuation of power from a potential renewable energy zone in the Khavda area of Gujarat under Phase-IV (7 GW): Part EI on the Regulated Tariff Mechanism (RTM) to Khavda-Bhuj Transmission Limited.

Hearing dated 5.12.2023

9. The matter was called out for the hearing on 5.12.2023. During the course of the hearing, the Commission observed that the CTUIL has not submitted a copy of the approval of the Central Government to the Transmission Scheme in terms of the Transmission Planning Rules as notified by the Ministry of Power on 1.10.2021. In response, the representative of CTUIL submitted that subsequent to the said Rules, the Ministry of Power, by its Office Order dated 28.10.2021, in the matter of Re-constitution of National Committee on Transmission, has indicated that (i) for the ISTS Projects costing more than Rs. 500 crore, NCT shall recommend to MoP for the implementation of such projects along with their mode of implementation, (ii) for ISTS Projects costing between Rs. 100 crore to Rs. 500 crore, NCT shall approve such projects along with their mode of implementation under intimation to MoP and (iii) for ISTS Projects costing less than or equal to Rs. 100 crore, CTUIL will approve such projects along with their mode of implementation under intimation to NCT and MoP. The representative of CTUIL further submitted that keeping in view this specific procedure laid down in the clarificatory order dated 28.10.2021 by MOP, no separate

approval might be required for the ISTS Projects under the Transmission Planning Rules. However, in response to the specific observation of the Commission with regard to whether any amendment of the rules is necessary, the representative of CTUIL sought liberty to approach the MoP and seek clarification on the above aspect. Accordingly, CTUIL was directed to seek the necessary clarification from the Ministry of Power (MoP) on the requirement of approval of the ISTS Project by the Central Government under the Transmission Planning Rules vis-à-vis the ISTS Projects approved by NCT and/or CTUIL and to file such clarification issued by MoP. In turn, CTUIL, vide its affidavit dated 3.1.2024, has submitted that CTUIL has approached the MoP in this regard, and the response of the MoP is awaited. Any directions or observations received from the Ministry of Power in this regard shall be placed before the Commission. Considering the submissions, CTUIL is directed to place on record the response received from the Ministry of Power before the next date of the hearing. Meanwhile, we proceed to grant the transmission licence to the Petitioner Company so that the construction work of the transmission line may not be delayed.

Analysis and Decision

10. 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 the implementation of the “Transmission System for Evacuation of Power from Potential Renewable Energy Zone in the Khavda area of Gujarat under Phase-IV (7 GW): Part EI” through the Regulated Tariff Mechanism (RTM) mode.

11. 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:

*j. ******

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.”

12. The transmission scheme was agreed in the 14th meeting of NCT held on 9.6.2023. The relevant portion of the minutes of the meeting held on 9.6.2023 are extracted as under:

S.No.	Name of the scheme and Implementation timeframe	Estimated Cost (₹ crore)	Remark
1	Transmission System for Evacuation of Power from potential renewable energy zone in the Khavda area of Gujarat under Phase-IV (7	216	Approved to be implemented under RTM by Adani

	GW): Part E1 Implementation timeframe: 24 months from the date of allocation		Transmission Limited
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Detailed scope of Part E1 Scheme is as under:

SN	Scope of the Transmission Scheme	Capacity/ Route length
1	Augmentation of transformation capacity at KPS1 (GIS) by 1x1500 MVA, 765/400 kV ICT (8th) on bus section-I	1500 MVA, 765/400 kV ICT – 1 No. 765 kV bays – 2 Nos. on bus Section-I (including 1 No. bay for Dia completion) 400 kV bays – 2 Nos. on bus section-I (including 1 No. bay for Dia completion)

Note:

i. The TSP shall implement one complete diameter consisting of 2 main bays & 1 Tie bay at both 765 kV & 400 kV levels of KPS1 (GIS) for completion of diameter (GIS) in one and- half breaker scheme.

ii. Further, TSP of KPS1 shall provide space to carry out the above augmentation work.

13. Based on the above, CTUIL, vide its Office Memorandum dated 10.7.2023, approved the implementation of the “Transmission System for Evacuation of Power from potential renewable energy zone in the Khavda area of Gujarat under Phase-IV (7 GW): Part E1.” on RTM mode along with identifying the implementing agency and also addressing the same to the Ministry of Power, Government of India, and NCT.

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 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”

15. 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.

16. 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.

17. 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 10.10.2023 in English and Gujarati. It has been submitted by the Petitioner that no objection has been received in response to the public notices.

18. 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 25.10.2023, has recommended the grant

of a transmission licence to the Petitioner. The relevant portions of the said letter dated 25.10.2023 are extracted as under:

“This has reference to the letter dated 25.09.2023 (received on 27.09.2023) vide which M/s Khavda - Bhuj Transmission Ltd. (KBTL) has requested CTU for issuance of its recommendation for grant of Transmission License for subject transmission scheme against the application/petition already filed before CERC. In this regard, the following is submitted:

M/s Khavda - Bhuj Transmission Ltd. has filed an application/petition under Section 14 & 15 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 Khavda Ph-IV: Part E1 Scheme to be implemented through regulated tariff mechanism (RTM) route. The detailed scope of the transmission scheme is enclosed at Annexure-I.

2. As per section 15(3) of the Electricity Act, 2003 and Regulation 7(6) of Transmission License Regulations, 2009, a copy of the application for the grant of transmission license, for the above transmission system has been received on 27.09.2023 for recommendation required u/s 15(4) of the Electricity Act, 2003.

3. In reference to the Khavda Ph-IV: Part E1 Scheme, the following is submitted:

i) The government of India has set a target for establishing 500 GW non fossil generation capacity by 2030, which also includes 30 GW RE potential in the Khavda area of Gujarat under ISTS.

ii) As per planning carried out for Khavda RE Park, the transmission system for evacuation of total 30GW power from Khavda RE Park has been planned in 5 phases (Ph-I: 3GW, Ph-II: 5GW, Ph-III: 7GW, Ph-IV: 7GW & Ph-V: 8GW). KPS1 S/s has been planned to cater upto 9GW generation capacity in Khavda RE Park.

iii) Transmission Scheme for evacuation of 3 GW RE injection at Khavda P.S. under Phase-I is being implemented by KBTL through TBCB route. The subject transmission scheme involves Establishment of 3X1500 MVA 765/400kV at Khavda PS1 (GIS) alongwith Khavda PS1 (GIS) - Bhuj PS 765 kV D/c line. Further, Transmission scheme for injection beyond 3 GW RE power at Khavda PS1 (KPS1) scheme includes Augmentation of Khavda PS1 by 4X1500 MVA 765/400kV transformation capacity on bus section-II alongwith KPS1-Khavda PS GIS (KPS2) 765 kV D/C line & is being implemented by KPS1 Transmission Limited (a subsidiary of Megha Engineering) under TBCB route.

iv) For integration of cumulative 9GW generation capacity at KPS1 S/s (4.5GW on both the sections considering N-1 contingency), Khavda Ph-IV: Part E1 Scheme was discussed and agreed in 19th Consultation Meeting for Evolving Transmission Schemes in Western Region (CMETS-WR) held on 30.05.2023. The subject scheme includes Augmentation of transformation capacity at KPS1 (GIS) by 1x1500 MVA, 765/400 kV ICT (8th) on bus section-I. Extract of the minutes of 19th WR-CMETS meeting is enclosed at Annexure-11.

v) The transmission system was discussed and agreed to be implemented through RTM mode in the 14th NCT meeting held on 09.06.2023. [NCT is empowered to approve the same along with the mode of implementation under intimation to MoP (in terms of MoP's Office Order dated 28.10.2021) as the estimated cost of the scheme lies between Rs 100 to 500 Crore and as the works are in the nature of technical upgradation]. Extract of the minutes of the 14th NCT meeting is enclosed at Annexure-111.

vi) NCT vide letter dated 07.07.2023 awarded the Khavda Ph-IV: Part E1 Scheme to CTUIL for their implementation under RTM mode by Khavda - Bhuj Transmission Ltd. (KBTL) (subsidiary of Adani Transmission Ltd.) with an implementation timeframe of 24 months from date of issue of above letter. Copy of NCT allocation letter is enclosed at Annexure-IV. CTUIL vide letter dated 10.07.2023 forwarded the above referred letter to KBTL informing the allocation of Khavda Ph-IV: Part E1 Scheme under RTM mode to KBTL. Copy of CTU letter is enclosed at Annexure-V.

4. In line with Section 15(4) of the Electricity Act, 2003 & based on details furnished by M/s Khavda - Bhuj Transmission Ltd., CTU recommends the grant of transmission license to M/s Khavda - Bhuj Transmission Ltd. (subsidiary of Adani Transmission Ltd.) for executing the transmission scheme as mentioned in Para-1 above.”

19. 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 licensee. 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. The Commission has specified the Transmission Licence Regulations. Regulation 6

of the said Regulation 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.”

20. 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.

21. 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.”

22. 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 crore to 500 crore. Pursuant to the direction of the Ministry of Power, CTUIL, vide its Office Memorandum dated 10.7.2023, 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.

23. Since the Petitioner is already an inter-State transmission licensee and has been identified as an agency to implement the project as per the RTM, the Commission, in the exercise of power under Regulation 24, hereby relaxes the provision of Regulation 6 of the Transmission Licence Regulations and holds that the Petitioner is eligible for the grant of a transmission licence. We, hereby, direct that a public notice under clause (a) of sub-section (5) of Section 15 of the Act be published to invite suggestions or objections to grant a transmission licence

aforesaid. The objections or suggestions, if any, shall be filed by any person before the Commission, by 26.2.2024.

24. The Petition shall be listed for hearing on **27.2.2024**.

Sd/-
(P.K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(Jishnu Barua)
Chairperson

