

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 310/TL/2023

Coram:

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

Date of Order: 6th June, 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 – 82421.
- 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, Amlil Ind. Estate,
Silvassa-396230, Dadar Nagar Haveli

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

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

.....Respondents

Following were present:

Shri Bhavesh Kundalia, KBTL
Shri Siddharth Sharma, CTUIL
Shri Akshayvat Kislay, 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 the "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 follows:

Asset No.	Name of the scheme and Implementation timeframe	Estimated Cost (₹ crore)	Remark
Asset-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 Khavda Bhuj Transmission Limited
Asset-2	Implementation of additional line bay equipment including other miscellaneous works required for physical interconnection of dedicated transmission line of RE Developer at bay no. 412 of KPS1 (400kV Bus Section-1) Implementation timeframe: 24 months from the date of SPV transfer which is 26.12.2023	4.7	Approved to be implemented under RTM by Khavda Bhuj 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" and "Interconnection of RE developer's DTL at Bay no 412 of KPS-1 (400kV bus section-1)" on Regulated Tariff Mechanism (RTM) basis with detailed scope as per para 8 and para 12 respectively.

(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-I” (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 PFCCCL and upon emerging as the successful bidder, a Letter of Intent (LOI) was issued by PFCCCL 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 PFCCCL 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. 	24 months

	<ul style="list-style-type: none"> •765 kV Line bays along with switchable line reactor- 6 Nos. 400 kV Line bays – 9 Nos. 	
	<ul style="list-style-type: none"> • 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 <ul style="list-style-type: none"> • 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 for Asset-1 and Rs. 4.7 crore for Asset-2. After completion of the transmission scheme, the Petitioner shall approach the Commission for determination of the transmission charges in accordance with the Transmission Licence Regulations.

5. 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	216	Approved to be implemented under RTM by

	zone in the Khavda area of Gujarat under Phase-IV (7 GW): Part E1 Implementation timeframe: 24 months from the date of allocation		Adani Transmission Limited [the TSP implementing KPS 1]
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Detailed scope of Part E1 Scheme is as under:

S. N	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.

6. 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.

7. Subsequently, a ‘Consultation Meeting for Evolving Transmission Schemes (CMETS) in Western Region’, vide its Minutes of the 25th Meeting dated 29.1.2024, notified implementation of Interconnection of RE developer’s DTL at Bay of KPS-1

(400 kV Bus section - 1) on RTM mode to the Petitioner Company in line with the MoP

Office order dated 28.10.2021 as under:

S.No.	Name of the scheme and Implementation timeframe	Estimated Cost (₹ crore)	Remark
1	Implementation of additional line bay equipment including other miscellaneous works required for physical interconnection of dedicated transmission line of RE Developer at bay no. 412 of KPS-1 (400kV Bus Section-1) Implementation timeframe: 24 months from the date of SPV transfer which is 26.12.2023	4.7	Approved to be implemented under RTM by Khavda Bhuj Transmission Limited

Note:

a. Implementation Timeframe has been aligned with the start date of connectivity mentioned the in-principle grant of Connectivity which is subject to the availability of Common Transmission System Augmentation for Connectivity under GNA [which inter-alia includes Khavda Phase-III transmission system with commissioning schedule of 24 month from the date of SPV transfer (26.12.2023)].

8. Based on the above, CTUIL vide its Office Memorandum dated 16.2.2024, approved the implementation of the “Interconnection of RE developer’s DTL at Bay no. 412 of KPS-1 (400 kV bus section-1)” on RTM mode along with identifying the implementing agency and also addressing the same to the Ministry of Power, Government of India, and NCT.

9. The Commission, after considering the application of the Petitioner in light of the provisions of the Act and the Transmission Licence Regulations, vide its order dated 3.5.2024, *prima facie* proposed to grant a separate transmission licence to the Petitioner to implement the transmission projects detailed in paragraph 1 of the order.

The relevant extracts of the order dated 3.5.2024 are extracted as under:

“27. 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.

28. *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.”

29. *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 and dated 16.2.2024, has determined a list of Projects to be implemented through a Regulated Tariff Mechanism, which also includes the instant Petition for the subject transmission system.*

30. *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 20.5.2024.”*

Hearing dated 22.5.2024

10. During the course of the hearing, the representative of the Petitioner submitted that vide order dated 3.5.2024, the Commission had observed that the Petitioner is eligible for the grant of a transmission licence as prayed for and accordingly, the Commission may consider granting the transmission licence to the Petitioner. Considering the submission made by the representative of the Petitioner, the Commission directed that the publication of public notice inviting the

suggestions/objections to the grant of a transmission licence to the Petitioner company under Section 15(5)(a) of the Electricity Act, 2003 be issued. Accordingly, a public notice under Sub-section (5) of Section 15 of the Act was published in all editions of the Hindu (English) and Rashtriya Sahara (Hindi). No suggestions/objections have been received from members of the public in response to the public notice.

11. 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.”

12. In our order dated 3.5.2024, we had proposed to grant a transmission licence to the Petitioner company and directed for the issuance of public notice. In response to the public notice, no suggestions/ objections have been received. CTUIL, vide its letter 25.10.2023 and 4.4.2024, has recommended the grant of a transmission licence to the Petitioner company. The Commission, in its order dated 3.5.2024, had observed that the Petitioner does not fulfill the eligibility conditions for the grant of a transmission licence. Since, in the present case, the Petitioner is a transmission licensee that has already implemented the project defined under its scope through the TBCB mechanism, and the present Petition is consequent to the office order 28.10.2021 notified by the Ministry of Power Government of India, the Commission, vide said order dated 3.5.2024 relaxed the provision of Regulation 6 of the Transmission Licence

Regulations and held that the Petitioner is eligible for the grant of a transmission licence. Considering the submissions of the Petitioner and CTUIL, we direct that the transmission licence be granted to the Petitioner, Khavda- Bhuj Transmission Limited, to establish the transmission scheme through the RTM route as per the details given in paragraph 1 above.

13. 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) The licensee may make an application, two years before the expiry of the initial licence period, for the grant of the 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. Delay in payment or non-payment of 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 the 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 (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2023; the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2023, as amended from time to time or any subsequent re-enactments thereof;

(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 Project as per the Technical Standards and Grid Standards of the CEA;

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

(n) The licensee shall ensure that the EPC contract for the execution of work under the scope of the project is awarded through a competitive bidding process.

14. The Central Electricity Authority/ CTUIL shall monitor the execution of the Project and bring to the Commission's notice any lapse on the part of the licensee in meeting the schedule for further appropriate action in accordance with the provisions of the Act and the Transmission Licence Regulations.

15. An extract of a copy of this order shall be sent to the Central Government in the Ministry of Power and the Central Electricity Authority in terms of sub-section (7) of Section 15 of the Electricity Act, 2003, for their information and record.

16. Petition No. 310/TL/2023 is allowed in terms of the above.

Sd/
(Arun Goyal)
Member

sd/-
(Jishnu Barua)
Chairperson