

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 32/TL/2024

Coram:

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

Date of Order: 14th March, 2024

In the matter of

Application under Sections 14, 15, 79(l)(e) of the Electricity Act, 2003 read with Central Electricity Regulatory Commission (Procedure, Terms and Conditions for Grant of Transmission License and other related matters) Regulations, 2009 seeking Transmission License for Gadag Transmission Limited for the Transmission Project to be constructed through regulated tariff mechanism (RTM).

And

In the matter of

Gadag Transmission Limited,
138, Ansal Chambers II,
Bhikaji Cama Place, New Delhi- 110066

....Petitioner

Vs.

1. Central Transmission Utility of India,
"Saudamini", Plot No-2,
Sector-29, Gurgaon
Haryana – 122001.

2. Kerala State Electricity Board Limited,
Vaidhyuthi Bhawan, Pattom,
Thiruvananthapuram, Kerala- 695004.

3. Tamil Nadu Generation and Distribution Company Limited,
NPKRR Maaligai, 144,
Anna Salai, Chennai- 600002.

Southern Power Distribution Company of Andhra Pradesh Limited,
D. NO:19-13-65/A,
Srinivasapuram Tiruchanoor Road,
Tirupati – 517503.



4. Eastern Power Distribution Company of Andhra Pradesh Limited,
P&T Colony, Seethammadhara,
Visakhapatnam- 530017.

5. Southern Power Distribution Company of Telangana Limited,
6-1-50, Mint Compound,
Hyderabad-500 063.

6. Northern Power Distribution Company of Telangana Limited,
2-5-31/2 Vidyuth Bhavan, Nakkalgutta,
Hanamkonda, Warangal-506001.

7. Bangalore Electricity Supply Company Limited,
K.R. Circle, Bengaluru-560001.

8. Gulbarga Electricity Supply Company Limited,
Station Road, Kalaburagi, Karnataka 585102.

9. Hubli Electricity Supply Company Limited,
Navanagar, P.B. Road, Hubli-580025.

10. Mangalore Electricity Supply Company Limited,
MESCOM Bhavan, Kavour Cross Road,
Bejai, Mangalore – 575004.

11. Chamundeshwari Electricity Supply Corporation Limited,
No. 29, Vijaynagar 2nd Stage,
Hinkal, Mysore- 570017.

12. Electricity Department, Govt of Puducherry,
137, NSC Bore Road, Electricity Department,
Puducherry- 605001.

.... Respondents

Following was present:

Shri Vishrov Mukerjee, Advocate, GTL
Shri Girik Bhalla, Advocate, GTL
Ms. Anamika Rana, Advocate, GTL
Shri Mohit Jain, GTL
Shri Siddharth Sharma, CTUIL

ORDER

The Petitioner, Gadag Transmission Limited (hereinafter referred to as 'GTL'),
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 provisions of the Central Electricity Regulatory Commission (Terms and Conditions for grant of Transmission license and other related matters) Regulations, 2009 (hereinafter referred to as ‘the Transmission Licence Regulations’) for the grant of a separate transmission licence for the implementation of “Augmentation of transformation capacity at 400/200kV Gadag PS in Karnataka by 1x500 MVA, 400/200 kV ICT (6th)” under the Regulated Tariff Mechanism (RTM) mode (hereinafter referred to as ‘transmission scheme’) in line with Office Order dated 28.10.2021 (hereinafter referred to as the ‘Office Order dated 28.10.2021’) issued by the Ministry of Power. The scope of the project for which the transmission licence has been sought is as under:

Name of the scheme and Implementation timeframe	Estimated Cost (₹ crore)	Remark
Augmentation of Transformation Capacity at 400/220kV Gadag PS in Karnataka by 400/220kV, 1x500 MVA ICT (6 th)	57.59	18 months from the date of issue of OM by CTUIL

2. The Petitioner has made the following prayers:

(a) *“Grant the Transmission License to the Gadag Transmission Limited, for establishing, operating and maintaining the Transmission System of “Augmentation of transformation capacity at 400/200kV Gadag PS in Karnataka by 400/200 kV 1x500 MVA ICT (6th)” comprising of assets elements as detailed in the present petition, in terms of Sections 14, 15 and 79 (1) (e) of the Electricity Act;*

(b) *Condone any inadvertent errors omissions/ errors / shortcomings and permit GTL add/change/modify/alter these pleadings and make further submissions as may be required at a future date;*

(c) *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 (‘SPV’) by the REC Project Development and Consultancy Limited (‘RECPDCL’) as

part of the Tariff Based Competitive Bidding ('TBCB') process to establish the "Transmission Scheme for Solar Energy Zone in Gadag (2500 MW), Karnataka - Part A", on a Build, Own, Operate and Maintain ('BOOM') basis. ReNew Transmission Ventures Private Limited ('RTVPL') participated in the competitive bidding process conducted by RECPDCL, and upon emerging as a successful bidder, a Letter of Intent ('LoI') was issued to RTVPL by RECPDCL, on 27.1.2022. In accordance with the bidding documents, RTVPL acquired 100% shareholding in GTL. On 10.12.2021, GTL entered into a Transmission Service Agreement ('TSA') with the Long-Term Transmission Customer ('LTTCs'), namely, with ReNew Solar Power Private Limited and Vena Energy Vidyuth Private Limited on a Build, Own, Operate and Maintain ('BOOM') basis under TBCB mechanism. The Commission, in its order dated 18.7.2022 in Petition No. 105/TL/2022, granted a transmission licence to GTL for the establishment of the "Transmission Scheme for Solar Energy Zone in Gadag (2500 MW), Karnataka - Part A", on a BOOM basis consisting of the following elements:

S. No.	Name of the Transmission Element	Scheduled COD from Effective Date
1	<p><i>Establishment of 400/220 kV, 2x500 MVA Gadag Pooling Station with 400 kV (1X125 MVAR) bus reactor</i></p> <p><i>400/220 kV, 500 MVA ICT – 2 nos.</i> <i>400 kV ICT bays – 2 nos.</i> <i>220 kV ICT bays – 2 nos.</i> <i>400 kV line bays – 2 nos.</i> <i>220 kV line bays – 4 nos.</i> <i>125 MVAR, 420 kV reactor – 1 no.</i> <i>420 kV reactor bay – 1 no.</i> <i>220 kV bus coupler (BC) bay -1 no.</i> <i>220 kV transfer bus coupler(TBC) bay- 1 no.</i></p> <p><i>Future provisions:</i></p>	18 Months

S. No.	Name of the Transmission Element	Scheduled COD from Effective Date
	<p>400 kV:</p> <ul style="list-style-type: none"> • Space for 400 kV Line bay with switchable line reactor: 8 nos. • 400/220kV ICT along with associated bay: 4 nos. <p>220kV:</p> <ul style="list-style-type: none"> • Bus sectionalizer bay: 2 nos. (One no. bay for each Main Bus) • Bus coupler bay: 1 nos. • Transfer Bus coupler bay: 1 nos. • Space for future 400/220kV ICT bay: 4 nos. • Space for future line bay: 8 nos 	
2	Gadag PS - Narendra (New) PS 400 kV (high capacity equivalent to quad moose) D/c line	
3	400 kV GIS line bays at Narendra (new) for Gadag PS-Narendra (New) PS 400 kV D/c Line 400 kV GIS line bays – 2 nos	

Note:

(i) POWERGRID to provide space for 2 no. of 400 kV GIS line bays at Narendra (New) 400 kV substation for termination of Gadag PS-Narendra (New) 400 kV (high capacity equivalent to quad moose) D/C line.

(ii) The schedule of implementation of the scheme would be 18 months from the date of transfer of SPV.”

4. The Petitioner has submitted that after the grant of a separate transmission licence, the Petitioner shall proceed to implement the transmission scheme under RTM mode. The estimated completion cost of the transmission scheme, as per CTUIL`'s Office Memorandum (OM), is Rs. 57.59 crore. 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.

Hearing dated 27.2.2024

5. The matter was called out for the hearing on 27.2.2024. During the course of the hearing, the learned counsel for the Petitioner submitted that the Petitioner has

complied with all the requirements in terms of the Transmission Licence Regulations, and CTUIL has submitted its recommendations for the grant of a transmission licence to the Petitioner under Section 15(4) of the Act. However, CTUIL, in its recommendation dated 12.2.2024, has indicated the Scheduled Commercial Operation Date ('SCOD') of the Project as 30.6.2025 (i.e. 18 months from the date of issue of OM by the CTUIL) by inadvertently considering the OM date as 1.1.2024 and since the OM of CTUIL is dated 2.1.2024, the SCOD of the Project works out to 1.7.2025 instead of 30.6.2025 as stated by CTUIL in its recommendations. In response, the representative of CTUIL sought liberty to examine the above aspect and consequently rectify the same, if required.

6. Vide Record of Proceedings for the hearing dated 27.2.2024, notices were issued to Respondents to file their reply, if any. However, no reply has been received from them.

7. Respondent No. 1, i.e. CTUIL, was directed to rectify its recommendations under Section 15(4) of the Act. However, no rectification has been provided by the CTUIL till date. The CTUIL is directed to comply with the direction given in the Record of Proceedings for the hearing dated 27.2.2024 within a week.

Analysis and Decision

8. We have considered the submissions of the Petitioner. The Petitioner has filed the present Petition for the grant of a separate transmission licence for implementing the "Augmentation of transformation capacity at 400/200kV Gadag PS in Karnataka by 1x500 MVA, 400/200 kV ICT (6th)" through the Regulated Tariff Mechanism (RTM) mode.

9. 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.”

10. The transmission scheme was agreed in the 23rd meeting of NCT held on 29.9.2023. The relevant portion of the minutes of the meeting held on 29.9.2023 is extracted as under:

Name of the scheme and Implementation timeframe	Estimated cost	Remark
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	(₹ crore)	
Augmentation of Transformation Capacity at 400/220 kV Gadag PS in Karnataka by 400/220 kV, 1x500 MVA ICT (6 th)	57.59	-
18 months from the date of issuance of OM by CTUIL		

11. Based on the above, CTUIL, vide its Office Memorandum dated 2.1.2024, approved the implementation “Augmentation of transformation capacity at 400/200kV Gadag PS in Karnataka by 1x500 MVA, 400/200 kV ICT (6th)” on RTM mode along with identifying the implementing agency and also addressing the same to the Ministry of Power, Government of India, and NCT.

12. 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”

13. 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."

14. The Petitioner has filed the present Petition for the grant of a 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.

15. 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 22.1.2024 in English and Kannada. It has been submitted by the Petitioner that no objection has been received in response to the public notices.

16. The Petitioner has served a copy of the application on CTUIL as required under Section 15(3) of the Act and Regulation 7(6) of the Transmission Licence Regulations. CTUIL, vide its letter dated 12.2.2024 and corrigendum dated 15.3.2024, has recommended granting a transmission licence to the Petitioner. The relevant portions of the said letters dated 12.2.2024 and 15.3.2024 are extracted as under:

“This has reference to petition filed M/s Gadag Transmission Limited for grant of Transmission License for subject transmission scheme against the application/petition filed to CERC. In this regard, following is submitted:

1. M/s Gadag Transmission Limited has filed application/petition under Section 14 & 15 of the Electricity Act, 2003 and CERC (Procedure, Terms and Conditions for grant of Transmission License and other related matters) Regulations, 2009 for grant of transmission license to establish Transmission Scheme "Augmentation of transformation capacity at 400/220kV Gadag PS in Karnataka by 1x500 MVA, 400/220KV ICT (6th) under RTM made. The detailed scope of the scheme is enclosed at Annexure-I

2. As per section 15(3) of Electricity Act, 2003 copy of the application for grant of transmission license for the above transmission system has been received on 18.01.2024 for recommendation required U/S 15(4) of the Electricity Act, 2003.

3. In reference to the subject Transmission Scheme following is submitted:

(i) Gadag PS is under implemented by M/s ReNew Transmission Ventures Private Limited through TBCB route with transformation capacity of 2500 MVA (2x500 MVA ICTs expected by Mar'24 & 3x500 MVA ICTs are expected by May'24).

(ii) The Connectivity of 2385 MW has been granted to RE generation projects at Gadag PS which have already crossed the ICT capacity considering the power factor.

(iii) Accordingly, augmentation of transformation capacity by 1x500 MVA (6th) 400/220 kV ICT at Gadag PS was discussed and agreed for meeting N-1 contingency criteria in 23rd CMETS-SR held on 29.09.2023. Extracts of the minutes of 23rd CEMTS-SR is enclosed at Annexure-II.

(iv) CTU vide its OM dated 02.01.2024 had approved the implementation of the above scheme under RTM. The Commissioning schedule of the scheme is 18 months (i.e. 1.7.2025) from the date of CTU OM. Copy of OM enclosed at Annexure-III

4. In line with Section 15(4) of the Electricity Act, 2003, based on details furnished by M/s Gadag Transmission Limited, CTU recommends grant of transmission license to M/s Gadag Transmission Limited for executing the transmission scheme "Augmentation of transformation capacity at 400/220kV Gadag PS in Karnataka by 1x500 MVA, 400/220KV ICT (6th) as mentioned in Para-1 above."

17. We have considered the petitioner's submission. The Petitioner has filed the present Petition for the issuance of a separate transmission licence for the implementation of "Augmentation of transformation capacity at 400/200kV Gadag PS in Karnataka by 1x500 MVA, 400/200 kV ICT (6th)" on the Regulated Tariff Mechanism (RTM) mode.

18. 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.”

19. In the present case, the Petitioner does not fulfil any of the eligibility conditions for the grant of transmission licence. However, in the 23rd 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 or such limit as may be prescribed by Ministry of Power from time to time would be approved by 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 NCT to implement a transmission system through a regulated tariff mechanism given the provisions of Regulation 6 defeats the purpose of the Government’s Policy decision. 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.

20. 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.”

21. 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 applying 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 or through a Regulated Tariff Mechanism, which also includes the instant Petition for the subject transmission system.

22. Since the Petitioner is already an inter-State transmission licensee and has been identified as an agency to implement the project as per RTM, the Commission, in the exercise of power under Regulation 24, hereby relaxes the provision of Regulation 6 of the Transmission Licence Regulations and holds that the Petitioner is eligible for grant of 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 **5.4.2024**.

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

Sd/-
(Arun Goyal)
Member

sd/-
(Jishnu Barua)
Chairperson



