

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 322/TL/2023

Coram:

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

Date of Order: 22nd April, 2024

In the matter of

Petition under Sections 14, 15 and 79(1)(e) 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 seeking Transmission Licence for Gurgaon Palwal Transmission Limited for Transmission Project to be constructed through Regulated Tariff Mechanism (RTM).

And

In the matter of

Gurgaon Palwal Transmission Limited,
Windsor, 1st Floor, Unit No. 101,
Kalina, Santacruz East,
Mumbai-400098, Maharashtra

...Petitioner

VERSUS

1. Central Transmission Utility of India Limited,
CTU-Planning (1st Floor-A Wing), Saudamini,
Plot No. – 2, Sector- 29,
Near IFFCO Chowk Metro Station,
Gurgaon-122 001

2. U.P.Power Corporation Limited,
Shakti Bhawan, 14, Ashok Marg,
Lucknow-226 001

3. UTC Chandigarh,
Chandigarh Secretariat,
Sector 9, Chandigarh, 160 009

4. BSES Yamuna Power Limited,
2nd Floor, B Block, Shakti Kiran Building,



Near Karkardooma Court,
New Delhi-110032

5. BSES Rajdhani Power Limited,
BSES Bhawan, 2nd Floor, B-Block,
Nehru Place, New Delhi-110019

6. TATA Power Delhi Distribution Limited,
33 kV S/Stn. Building, Hudson Lane,
Kingsway Camp, New Delhi-110019

7. New Delhi Municipal Council,
Palika Kendra, Sansad Marg,
New Delhi-110001

8. Himachal Pradesh State Electricity Board Limited,
Vidyut Bhawan, Shimla-171004

9. Haryana Power Purchase Centre,
2nd Floor, Shakti Bhawan, Sector 06,
Panchkula-134109

10. Power Development Department,
Govt. of Jammu & Kashmir Civil Sect.,
Jammu-180001 New Delhi-110019

11. Punjab State Power Corporation Limited,
The Mall, Patiala-147001

12. Ajmer Vidyut Vitran Nigam Limited,
Old Power House, Hathi Bhatta,
Jaipur Road, Ajmer

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

14. Jaipur Vidyut Vitran Nigam Limited,
Vidyut Bhawan, Janpath, Jyoti Nagar,
Jyoti Marg, Jaipur-302005

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

16. Haryana Vidyut Prasaran Nigam Limited,
Shakti Bhawan, C-4, Sector-6,
Panchkula-134109.

.... Respondents



Following were present:

Ms. Aparajita Upadhyay, Advocate, GPTL
Shri Rahee Kohli, Advocate, HVPNL
Shri Yatin Sharma, CTUIL

ORDER

The Petitioner, Gurgaon Palwal Transmission Limited (GPTL), 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 Licence and other related matters) Regulations, 2009 (hereinafter referred to as 'the Transmission Licence Regulations') for the grant of a separate transmission licence for establishment of the 220 kV line bays (GIS) at 400/220 kV Prithla (GPTL) S/s 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.	Scope of Transmission Scheme	Item Description	Implementation timeframe
1.	2 no. of 220 kV GIS line bays along with 220 kV Cable for line bay interconnection at Prithla S/s GPTL	<ul style="list-style-type: none">• 220kV line bays (GIS)- 2 nos.• 220kV Cable for line bay interconnection- 1 Lot	31.03.2025
Total Estimated Cost:			₹ 19.49 crore

2. 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 the implementation of the transmission system for "creation of new 400 kV GIS Sub-station in Gurgaon and Palwal area as a part of ISTS"

(hereinafter referred to as “the Project”) on a Build, Own, Operate and Maintain (BOOM) basis. Sterlite Grid 4 Limited (SGL), 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 SGL on 17.3.2016. In accordance with the bidding documents, SGL acquired 100% of the shareholding in Gurgaon-Palwal Transmission Limited by executing a Share Purchase Agreement with PFCCL on 14.7.2016. GPTL entered into a Transmission Service Agreement (TSA) with the LTTCs on 4.3.2016. The Commission, in its order dated 29.9.2016 in Petition No. 122/TL/2016, granted a transmission licence for the creation of a new 400 kV GIS sub-Station in the Gurgaon and Palwal area as a part of ISIS” on a Build, Own, Operate and Maintain (“BOOM”) basis consisting of the following elements:

S. No.	Transmission system associated with “Creation of new 400 kV GIS Substations in Gurgaon and Palwal area as a part of ISTS”
1.	Aligarh-Prithla 400kV D/C HTLS Line
2.	Prithla-Kadarpur 400kV D/C HTLS Line
3.	Kadarpur-Sohna Road 400kV D/C HTLS Line
4.	LILo of Gurgaon-Manesar 400kV D/C Quad line at Sohna Road S/S
5.	Neemrana (PG)-Dhanonda (HVPNL) 400kV D/C HTLS Line
6.	Creation of 400/220 KV, 2 x 500 MVA GIS sub-station at Kadarpur in Gurgaon area along with 1 No. of 125 MVAR Bus Reactor <u>400 kV Bay Requirements:</u> Line Bays: 4 Nos. ICT Bays: 2 Nos. Bus Reactor Bays: 1 No. Bus Reactor (125 MVAR): 1 No. <u>220 kV Bay Requirement:</u> Line Bays: 8 Nos. ICT Bays: 2 Nos. <u>Provision for Future Expansion:</u> i) 2 X 500 MVA 400/220 kV ICTs ii) 4 Nos. of 400 kV Line Bays iii) 2 Nos. of ICT Bays at 400 kV side iv) 8 Nos. of 220 kV Line Bays v) 2 Nos. of ICT Bays at 220 kV side
7.	Creation of 400/220 kV, 2 x 500 MVA GIS sub-station at Sohna Road in Gurgaon area along with 1 no. of 125 MVAR Bus Reactor

S. No.	Transmission system associated with “Creation of new 400 kV GIS Substations in Gurgaon and Palwal area as a part of ISTS”
	<p><u>400 kV Bay Requirements:</u> Line Bays: 6 Nos. ICT Bays: 2 Nos. Bus Reactor Bays: 1 No. Bus Reactor (125 MVAR): 1 No.</p> <p><u>220 kV Bay Requirement:</u> Line Bays: 8 Nos. ICT Bays: 2 Nos.</p> <p><u>Provision for Future Expansion:</u></p> <ul style="list-style-type: none"> i) 2 X 500 MVA 400/220 kV ICTs ii) 4 Nos. of 400 kV Line Bays iii) 2 Nos. of ICT Bays at 400 kV side iv) 8 Nos. of 220 kV Line Bays v) 2 Nos. of ICT Bays at 220 kV side
8.	<p>Creation of 400/220 kV 2x500 MVA GIS sub-station at Prithala in Palwal area along with 1 No. of 125 MVAR Bus Reactor.</p> <p><u>400 kV Bay Requirements:</u> Line Bays: 4 Nos. ICT Bays: 2 Nos. Bus Reactor Bays: 1 No. Bus Reactor (125 MVAR): 1 No.</p> <p><u>220 kV Bay Requirement:</u> Line Bays: 8 Nos. ICT Bays: 2 Nos.</p> <p><u>Provision for Future Expansion:</u></p> <ul style="list-style-type: none"> i) 2 X 500 MVA 400/220 kV ICTs ii) 4 Nos. of 400 kV Line Bays iii) 2 Nos. of ICT Bays at 400 kV side iv) 8 Nos. of 220 kV Line Bays v) 2 Nos. of ICT Bays at 220 kV side
9.	2 Nos. of 400 KV line bays at 400 kV Dhanonda (HVPNL) substation

3. 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. 19.49 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.

4. 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 26.3.2024, 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 26.3.2024 are extracted as under:

“24. In the present case, the Petitioner does not stricto sensu come under the eligibility criteria 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 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 of the power vested under Regulation 24 of the Transmission Licence Regulations.

25. 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.”

26. *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 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 24.6.2022 as amended on 7.8.2023, has determined a list of Projects to be implemented through a Regulated Tariff Mechanism which also includes the instant transmission system subject matter of this Petition.*

27. *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, in the peculiar facts and circumstances, we are inclined to exercise our power to relax. Thus, 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 15.4.2024.”*

5. A public notice under Sub-section (5) of Section 15 of the Act was published on 30.3.2024 in all editions of the Indian Express (English) and Dainik Jagran (Hindi). No suggestions/objections have been received from members of the public in response to the public notice.

6. The case was called out for a hearing on 19.4.2024. The learned counsel for the Petitioner submitted that no objection had been received in response to the public notice published by the Commission under sub-section (5) of Section 15 of the Act. Accordingly, it was requested that a separate transmission licence be granted to the Petitioner Company. The representative of CTUIL further submitted that CTUIL has already recommended the grant of the transmission licence.

7. CTUIL has submitted that as per directions of the Commission, CTUIL, vide its letter dated 15.12.2023, has requested the Ministry of Power to clarify the requirement of approval of the Central Government to transmission schemes under the Transmission System Planning Rules, 2021 for the Projects costing up to Rs. 500 crore approved by NCT/CTUIL as per the Ministry's Order dated 28.10.2021. 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 as and when it is received. 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.

8. 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.”

9. In our order dated 26.3.2024, 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 dated 27.9.2023, has recommended the grant of a transmission licence to the Petitioner. The Commission, in its order dated 26.3.2024, had observed that the Petitioner does not fulfil 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 26.3.2024 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, accordingly, direct that the transmission licence be granted to the Petitioner, Gurgaon Palwal Transmission Limited (GPTL), to establish the transmission scheme through the RTM route as per the details given in paragraph 1 above.

10. 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 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 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.

11. 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.

12. Let an extract copy of this order 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.

13. Petition No. 322/TL/2023 is allowed in terms of the above.

Sd/-
(P.K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(Jishnu Barua)
Chairman

