

**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: 26th March, 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 has made the following prayers:

“(a) Issue/Grant the Transmission License to the Applicant/ Petitioner, Gurgaon Palwal Transmission Ltd. for establishing, operating and maintaining the Transmission System of “Establishment of 220 kV line bays (GIS) at 400/220 kV Prithla (GPTL) S/s”, 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 the Applicant to 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 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 ISTS" 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

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: 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
7.	<p>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</p> <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

S. No.	Transmission system associated with “Creation of new 400 kV GIS Substations in Gurgaon and Palwal area as a part of ISTS”
	v) 2 Nos. of ICT Bays at 220 kV side
9.	2 Nos. of 400 KV line bays at 400 kV Dhanonda (HVPNL) substation

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. 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.

Hearing dated 6.12.2023

5. During the course of the hearing, the learned counsel for the Petitioner submitted that the Petitioner is an existing transmission licensee implementing the “400 kV GIS S/s in Gurgaon and Palwal areas as part of ISTS” on the Tariff Based Competitive Bidding route and subsequently, CTUIL vide its Office Memorandum dated 24.6.2022 and its subsequent amendment dated 7.8.2023 has awarded the Project to the Petitioner under the RTM route in terms of the Ministry of Power’s Order dated 28.10.2021. The learned counsel submitted that the Petitioner has already complied with all the requirements under the Transmission Licence Regulations, and CTUIL, vide its letter dated 27.9.2023, has also given its recommendations for the grant of a transmission licence to the Petitioner for the implementation of the Project. The learned counsel sought liberty to implead Haryana Vidyut Prasaran Nigam Limited (HVPNL) as a party to the present Petition.

6. The representative of CTUIL confirmed that CTUIL has already given its recommendation for the grant of a transmission licence to the Petitioner. In response to the specific query of the Commission with regard to the approval of the Central Government for the Project under Electricity (Transmission System Planning, Development and Recovery of Inter-state Transmission Charges) Rules, 2021 ('Transmission System Planning Rules'), the representative of CTUIL submitted that subsequent to notification of the said Rules, a meeting was held on 5.10.2021 to discuss the transmission related issues for renewable energy by the Hon'ble Minister of Power & NRE wherein it was decided that for small works like bay addition and/or ICT augmentation up to Rs.500 crore need not be consulted in RPC and will be approved by NCT and it would not require approval of the Ministry of Power. The representative of the CTUIL handed over a copy of the Minutes of said Meeting dated 8.11.2021. Considering the submissions of the representative of CTUIL and upon perusal of the said Minutes, the Commission observed that as on date, the requirement of the Central Government's approval to the Transmission Scheme(s), irrespective of their cost, under the Transmission System Planning Rules has not been dispensed with and in such circumstances, it would be appropriate that CTUIL may approach the Ministry of Power for a necessary clarification in this regard/amendment in the said Rules to avoid any procedural ambiguities/lacuna. In response, the representative of CTUIL confirmed that the CTUIL will approach the Ministry on the above aspect.

7. After hearing the learned counsels for the parties, the Commission directed the Petitioner to implead HVPNL as a party to the Petition and to file a revised memo of parties within a week. The Respondents, including the impleaded Respondent,

were directed to file their reply. However, no reply has been received from the Respondents.

8. Vide Record of Proceedings for the hearing dated 6.12.2023, CTUIL was directed to approach the Ministry of Power, Government of India with regard to the requirement of approval of the Central Government to the Transmission Scheme under the Transmission System Planning Rules for the Projects costing up to Rs. 500 crore vis-à-vis the Transmission Schemes/Projects approved by NCT/CTUIL as per the Ministry's Order dated 28.10. 2021 and to file the outcome thereof, if any.

9. CTUIL, vide its affidavit dated 15.1.2024, has submitted that pursuant to the direction of the Commission, CTUIL has approached the Ministry of Power and Clarification or observation as and when received from the Ministry of Power shall be placed on record.

Hearing dated 29.1.2024

10. The matter was called out for a hearing on 29.1.2024. During the course of the hearing, the representative of Respondent, CTUIL, submitted that CTUIL has already written to the Ministry of Power, Government of India, seeking necessary clarification on the requirement of approval of the ISTS Projects by the Central Government under the Transmission Planning Rules vis-à-vis the ISTS Projects approved by the NCT and/or CTUIL and upon receiving such clarification from the Ministry of Power, CTUIL will immediately file it on an affidavit in the matter

11. Learned counsel for Respondent No. 16, Haryana Vidyut Prasaran Nigam Limited (HVPNL), sought liberty to file a reply in the matter. In response, the learned

counsel for the Petitioner submitted that the Respondent, HVPNL, had already been afforded an opportunity to file a reply in the matter, keeping in view that the Commission is yet to issue an order under Section 15(5) of the Electricity Act, 2003, inviting the suggestions/objections, on the proposal to grant a separate transmission licence to the Petitioner, HVPNL will have an opportunity to file its reply after the passing of such order by the Commission. Learned counsel, accordingly, requested the Commission to reserve the matter for order. Learned counsel added that the present proceedings for the grant of a transmission licence may not be delayed awaiting the CTUIL's affidavit furnishing the Ministry's clarification.

12. In light of the above submissions, the CTUIL was permitted to file the clarification issued by the Ministry of Power, if any, within two weeks. The Commission also permitted Respondent, HVPNL, to file its reply within a week with a copy to the Petitioner, who may file its rejoinder, if any, within a week thereafter. The learned counsels agreed that no formal hearing is required.

13. CTUIL, vide its affidavit dated 15.1.2024, has submitted that 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.

14. 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 “Establishment of 220 kV line bays (GIS) at 400/220 kV Prithla (GPTL) S/s” through the Regulated Tariff Mechanism (RTM) mode.

15. 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:

*i. ******

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.”

16. Based on the above, CTUIL, vide its Office Memorandum dated 24.6.2022, approved the implementation of *inter alia* the present Transmission System to be carried out by the Petitioner under RTM. The relevant extracts of the OM are extracted as under:

“OFFICE MEMORANDUM

3. Sub: *Inter-State Transmission Schemes (costing up to Rs. 100 Cr.) to be taken up for implementation under Regulated Tariff Mechanism (RTM).*

The undersigned is directed to inform that CTU has approved the implementation of the following ISTS costing less than or equal to Rs. 100 Cr. In line with the MoP office order dated 28.10.2021 under Regulated Tariff Mechanism (RTM) mode by the implementing agencies as indicated in table below:

Sl.	Name of scheme	Implementing Agency
[...]		
Northern Region		
2.	Requirement of 220 kV line bays (GIS) at 400/220 kV Prithla (GPTL) S/s.	Gurgaon Palwal Transmission Ltd. (GPTL) [a subsidiary of INDIGRID]

The detailed scope of works for the above transmission schemes, as approved by CTU is given at Annexure-I.

Implementing agencies shall enter into a concession agreement with CTU for the implementation of the above-mentioned schemes through the Regulated Tariff Mechanism (RTM).

This issues with the approval of Competitive Authority.

Annexure-I

Northern Region:

2. Requirement of 220 kV line bays (GIS) at 400/220 kV Prithla (GPTL) S/s.:

Sl. No.	Scope of Transmission Scheme	Capacity/km	Implementation timeframe
1.	2 no. of 220 kV line bays (GIS) at 400/220 kV Prithla (GPTL) S/s	220 kV line bays (GIS)- 2 nos.	31.03.2024
Total Estimated Cost:			Rs. 12.22 crore

17. Subsequently, on 7.8.2023, CTU issued an amendment to the OM dated 24.6.2022, amending the scope of work, implementation timeframe, and estimated cost of the transmission system awarded to GPTL. The relevant portions of the amended OM dated 7.8.2023 are extracted as under

“Sub: Inter-State Transmission Schemes (costing up to Rs. 100 Cr.) to be taken up for implementation under Regulated Tariff Mechanism (RTM)- Modification in the scope of works of “Requirement of 220 kV line bays (GIS) at 400/220 kV Prithla (GPTL) S/s” project allotted vide CTUIL OM Ref. No. C/CTU/AI/00/6th CCTP dated 24.06.2022.

This is with reference to Office Memorandum Ref. No. C/CTU/AI/00/6th CCTP dated 24.06.2022 vide which CTU has approved the implementation of transmission scheme “Requirement of 220 kV line bays (GIS) at 400/220 kV Prithla (GPTL) S/s” under the Regulated Tariff Mechanism (RTM) mode through Gurgaon Palwal Transmission Ltd. (GPTL) (a subsidiary of India Grid Trust). In this regard, the modified scope of works of the subject transmission scheme is as below:

Sl. 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

The above transmission scheme is awarded to the Implementing Agency i.e., Gurgaon Palwal Transmission Ltd. (GPTL) (a subsidiary of India Grid Trust) for its implementation under RTM mode. The Implementing Agency shall enter into a concession agreement with CTU for the implementation of the above-

mentioned transmission schemes through Regulated Tariff Mechanism (RTM).

This letter shall form an integral part of Office Memorandum Ref. No. C/CTU/AI/00/6th CCTP dated 24.06.2022 issued by CTU.

This issues with the approval of Competitive Authority.”

18. 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”

19. 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.

20. 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.

21. 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 5.9.2023 in English and Hindi. It has been submitted by the Petitioner that no objection has been received in response to the public notices.

22. 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 27.9.2023, has recommended granting a transmission licence to the Petitioner. The relevant portions of the said letter dated 27.9.2023 are extracted as under:

“This is with reference to petition having Diary No.366 of 2023 dated 01/09/2023 filed by M/s GPTL before Hon’ble Commission for grant of separate Transmission License to implement the 220 kV line bays (GIS) at 400/220 kV Prithla (GPTL) S/s. In this regard, following is submitted:

- *Based on the HVPN request, 2 Nos. of 220 kV bays at Prithla (400/220 kV, Existing S/s of GPTL (a subsidiary of INDIGRID)) for termination of 220 kV Prithla (GPTL) - Sector-89, Faridabad D/c line were agreed to be implemented under ISTS in the 4th NRPC (TP) meeting held on 5.10.2021 and 12.10.2021.*
- *As per Ministry of Power, Govt, of India vide office order dated 28/10/2021, responsibility for approval of ISTS transmission projects costing (up to Rs. 100 Cr) along with their mode of implementation was entrusted to CTUIL. In line with this, these 2 Nos. of 220 kV bays were allocated to M/s GPTL with the implementation schedule of 31/03/2024 vide CTU OM dated 24/06/2022 with a copy to MoP and NCT (**Enclosed at Annexure-I**).*
- *Subsequently, M/s GPTL vide letter dated 17/02/23 stated that Prithla S/s is multi storied with 400 kV GIS at ground, 220 kV GIS at first floor level and 220 kV open switchyard at terrace level. Due to the unique design of the building, any such expansion activity would need design consideration for not only proposed expansion of 2 nos. of 220 kV line bays (GIS) but also future scope of expansion. The Pre-engineered building design (PEB) would require modifications suitable for future expansion.*
- *Based on the request of M/s GPTL, a committee comprising members of CEA and CTUIL visited the 400/220 kV Prithla S/s on 03/03/2023 and held various meetings for exploring the options. It was recommended that Space available in existing PEB building can be utilized for subject 220 kV GIS line bays & Interconnection between GIS and line side equipment may be done by 220 kV cables.*
- *HVPN vide letter 21/02/2023 also revised the schedule of 220 kV Prithla-Sector-89 (Faridabad) D/c line as 31/03/2025 vis a vis 31/03/2024 earlier for which 2 nos. 220kV bays at 400/220kV Prithla Station was to be implemented by M/s GPTL. Accordingly, the timeframe for these 220 kV bays was considered as 31/03/2025.*
- *In view of above, the implementation of 2 Nos. of 220 kV line bays (GIS) at*

400/220 kV Prithla (GPTL) S/s along with 220 kV Cable for bay extension work at Prithala S/s was awarded to M/s GPTL vide CTU OM Amendment dated 07/08/2023 with a copy to MoP and NCT with following details:

S. No.	Scope of the Transmission Scheme	Capacity/km	Implementation timeframe
1	2 Nos. of 220 kV GIS line bays along with 220 kV Cable for line bay interconnection at Prithala S/s (GPTL)	• 220 kV line bays (GIS)- 2 nos. • 220 kV Cable for line bay	31/03/2025

- Copy of CTU OM dated 07/08/2023 is attached at **Annexure-II** and Transmission Grid Map for the project is also enclosed at **Exhibit-1**
- 400/220kV Prithla is an existing S/s of Gurgaon-Palwal Transmission Limited (GPTL) (a subsidiary of INDIGRID) having 400 kV D/c interconnection each with Aligarh (PG) and Kadarapur (GPTL). On 220 kV side Prithla (GPTL) S/s is interconnected with Rangala Rajpur (HVPN) S/s and Palwal (HVPN) S/s each through 220kV D/c lines whereas 220 kV interconnection to Harfali, Meerpur Kurali and Sector-78 Faridabad S/s are under implementation. Further, 220 kV Prithla (GPTL) - Sector-89, Faridabad D/c line for the subject 2 nos. of 220 kV bays is also planned by HVPN with implementation schedule of Mar'25.
- Earlier M/s GPTL was granted ISTS Transmission License for implementation of "Gurgaon-Palwal Transmission Limited" by Hon'ble Commission in Petition No. 122/TL/2016.

Keeping above in view and based on details furnished by M/s GPTL, CTU, in line with Section 15(4) of the Electricity Act, 2003, recommends grant of separate transmission license to M/s GPTL for executing the subject transmission scheme."

23. 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 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.”

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**.

28. The Petition shall be listed for the hearing on **19.4.2024**.

Sd/-
(P.K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(Jishnu Barua)
Chairman

