

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 58/TL/2024

Coram:

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

Date of order: 3rd May, 2024

In the matter of:

Application under Section 14 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 for the grant of a separate Transmission Licence to POWERGRID KPS3 Transmission Limited for implementation of the transmission system for evacuation of power from potential renewable energy zone in Khavda area of Gujarat under Phase-IV (7GW): Part E3 through "Regulated Tariff Mechanism" (RTM) mode.

And

In the matter of

**POWERGRID KPS3 Transmission System Limited,
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi - 110016**

Address for correspondence:

Power Grid Corporation of India Limited,
Saudamini, Plot no.2, Sector-29,
Gurgaon-122001, Haryana

.....Petitioner

Vs.

**1. Central Transmission Utility of India Limited,
Saudamini, Plot No.2, Sector-29,
Gurgaon-122 001**

**2. REC Power Development and Consulting Limited,
REC Corporate Head Quarter, D Block,
Plot No. I – 4, Sector 29, Gurugram-122001**

3. Chhattisgarh State Power Distribution Company Limited,
P.O. Sunder Nagar, Dangania,
Raipur- 492013, Chhattisgarh.

4. Goa Electricity Department-WR,
Goa Electricity Dept, Curti, Ponda-403401

5. Gujarat Urja Vikas Nigam Limited,
Vidhyut Bhavan, Race Course,
Vadodara-390007, Gujarat

6. Heavy Water Board,
Vikram Sarabhai Bhavan, Trombay,
Anushaktinagar, Mumbai-400094,
Maharashtra

7. HVDC Bhadrawati, PGCIL,
PGCIL RHQ, WR-I, Sampriti Nagar,
Off National Highway No. 8,
Taluka: Kamrej, PO: Uppalwadi,
Nagpur-440026, Maharashtra

8. HVDC Vindhyachal, PGCIL,
PGCIL RHQ, WR-I, Sampriti Nagar,
Off National Highway No. 8, Taluka: Kamrej,
PO: Uppalwadi, Nagpur-440026, Maharashtra

9. M.P. Power Management Company Limited,
14, Shakti Bhawan, Rampur,
Jabalpur-482008, Madhya Pradesh

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

11. ACB India Limited,
7th Floor, Corporate Tower, Ambience Mall,
NH-8, Gurgaon-122 001(Haryana)

12. Torrent Power Limited,
Naranpura Zonal Office,
Sola Road, Ahmedabad-380013

13. West Bengal State Electricity Distribution Company Limited,
6th Floor Vidhyut Bhawan, Karunamoyee, Salt Lake, Kolkata-700091, West Bengal

14. Thermal Powertech Corporation India,
6-3-1090, Clock C, Level 2, TSR Towers,
Raj Bhavan Road, Somajiguda,
Hyderabad-500082, Telangana

15. Bhabha Atomic Research Centre,
Anushakti Nagar,
Mumbai-400085, Maharashtra

16. GMR Warora Energy Limited,
Plot B-1, Mohabala MIDC Growth Centre,
PO:Warora, District: Chandrapur,
Maharashtra-442907

17. HVDC Champa,
PGCIL RHQ, WR-I, Sampriti Nagar,
Off National Highway No. 8,
Taluka: Kamrej, PO: Uppalwadi,
Nagpur-440026, Maharashtra

18. West Central Railway Head Office,
General Manager's Office, Electrical Branch,
Jabalpur-482 001

19. Western Railway,
Office of Chief Electrical Engineer,
Mumbai, Maharashtra

20. East Central Railway,
CEDE, Office of Chief Electrical Engineer, ECR,
Zonal Head Quarter,
Dighikala-844102, Bihar

21. DB Power Limited-Untied,
Opp Dena Bank, C-31, G-Block,
Mumbai-400051, Maharashtra

22. Chhattisgarh State Power Trading Company Limited,
2nd Floor Vidyut Sewa Bhawan,
Raipur-492013, Chhattisgarh

23. TRN Energy Private Ltd-Untied,
7th Floor, Ambience Office Block,
Gurugram, Haryana

24. Adani Power (Mundra) Limited,
Adani Corporate House, Shantigram,
Near Vaishnavdevi Circle,
S G Road, Ahmedabad-382421

25. Raigarh HVDC Station,
RPT HVDC Office, Hebbal,
Bangalore-560094

26. Arcelor Mittal Nippon Steel India Limited,
27, AMNS House, 2nd KM Surat Hazira road,
Hazira-394270, Gujarat

27. Central Railway,
PCEE's office, 2nd Floor, Parcle Building,
CSMT, Mumbai-400001, Maharashtra

28. Dadra and Nagar Haveli and Daman Power Distribution Corporation Ltd
1st & 2nd Floor, Vidyut Bhavan,
Near Secretariat, Amil, Silvassa-396230

29. MPSEZ Utilities Limited,
3rd Floor, Adani Corporate House,
Ahmedabad-380009

30. Adani Green Energy Limited,
4th Floor, South Wing, Adani Corporate House,
Shantigram, S G Highway,
Ahmedabad-382421, Gujarat

31. Madhya Pradesh Audyogik Kendra Vikas Nigam (Indore) Ltd.
3/54, Press Complex, Agra-Bombay Road, Indore-452008

32. Electricity Department Administration of Daman & Diu,
Daman-396210

33. DNH Power Distribution Corporation Limited,
Vidyut Bhawan, 66kV Road, Near Secretariat,
Amli, Silvassa-396230

...Respondents

The following were present:

Shri Abhijit Daimari, PKPS3TL
Shri Chander Shekar, PKPS3TL
Shri Shashank Singh, RECPDCL

ORDER

The Petitioner, POWERGRID KPS3 Transmission System Limited (in Short 'PKPS3TL'), has filed the present Petition under Section 14 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 the implementation of the transmission system for evacuation of power from potential renewable energy zone in Khavda area of Gujarat under Phase-IV (7GW): Part E3 through "Regulated Tariff Mechanism" (RTM) mode (hereinafter referred to as the 'transmission scheme/project'). The scope of the project for which a transmission licence has been sought is as follows:

Sl. No.	Scope of the Transmission Scheme	Item Description	Implementation Time Frame
1	Augmentation of transformation capacity at KPS3 (GIS) by 1X1500 MVA, 765/400 kV ICT (7 th) 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)	24 months from the date of allocation, i.e. by 6.7.2025
Total Estimated Cost:			Rs. 216 crore

Note:

- 1) The TSP shall implement one complete diameter consisting of 2 Main Bays & 1 Tie Bay at both 765 kV & 400 kV levels of KPS3 (GIS) required for completion of diameter (GIS) in a one-and-half breaker scheme.

2) Further, the TSP of KPS3 shall provide space to carry out the above augmentation work.

2. The Petitioner Company, KPS3 Transmission Limited (KPS3TL), was incorporated as a special purpose vehicle by REC Power Development and Consultancy Limited (RECPDCL) as part of the Tariff Based Competitive Bidding ('TBCB') process for implementing the transmission project "Khavda Pooling Station-3 (KPS3) in Khavda RE Park" on a Build, Own, Operate, and Transfer (BOOT) basis. Power Grid Corporation of India (PGCIL) Limited participated in the competitive bidding process conducted by RECPDCL, and upon emerging as the successful bidder, a Letter of Intent (LOI) was issued by RECPDCL to PGCIL on 27.2.2023. In accordance with the bidding documents, PGCIL acquired 100% of the shareholding in KPS3TL by executing a Share Purchase Agreement with RECPDCL on 21.3.2023. KPS3TL entered into a Transmission Service Agreement (TSA) with the LTTCs on 21.3.2023. Subsequently, the name of the company was changed to POWERGRID KPS3 Transmission Limited (PKPS3TL). The Commission, vide its order dated 31.8.2023 in Petition No. 145/TL/2023, granted a transmission licence to PKPS3TL for inter-State transmission of electricity to establish the transmission project "Khavda Pooling Station-3 (KPS3) in Khavda RE Park" on a Build, Own, Operate and Transfer (BOOT) basis consisting of the following elements:

Sl. No.	Project elements	Scheduled COD
1.	Establishment of 765/400 kV, 3x1500MVA, KPS3 (GIS) with 1x330 MVAR 765kV bus reactor and 1x125 MVAR 400kV bus reactor	21 months from effective date, i.e. by 21.12.2024

Sl. No.	Project elements	Scheduled COD
	1500 MVA, 765/400 kV ICT– 3 nos. (10x500 MVA including one spare unit) 765 kV ICT bays – 3 nos. 400 kV ICT bays – 3 nos. 765 kV line bays – 2 nos. 400kV line bays – 3 nos. 1x330 MVA, 765 kV bus reactor – 1 (4x110 MVA, including one spare unit) 765 kV reactor bay – 1 1x125 MVA 400 kV bus reactor – 1 400kV reactor bay – 1 Adequate space for future expansion of 5x1500 MVA 765/400 kV ICT's Future provisions: Space for 765/400kV ICTs along with bays: 5 nos. 765 kV line bays: 4 nos. 400kV line bays: 10 nos. 765 kV Bus sectionalizer breaker: 2 nos. 400 kV Bus sectionalizer breaker: 2 nos. To take care of any drawal needs of area in future: 400/220kV ICT: 2 nos. 220kV line bays: 4 nos	
2.	KPS3-KPS2 765kV D/C line	
3.	2 nos. of 765kV line bays at KPS2 765kV S/s for KPS3-KPS2 765kV D/c line 765kV line bays: 2 nos. at KPS2 end	

Note: i) Pooling station shall be created with bus section-I with 765/400 kV, 3x1500MVA ICTs and 1x330 MVAR, 765 kV & 1x125 MVAR, 400 kV bus reactors.

ii) Bus section II (future) shall be created with 765/400 kV, 4x1500MVA ICTs and 1x330MVAR 765 kV & 1x125 MVAR 400 kV bus reactors.

iii) Bus sectionalizer at the 765kV level shall normally be closed and the bus sectionalizer at the 400kV level shall normally be open.

iv) Developer of KPS2 765 kV S/s to provide space for 2 no. of 765 kV line bays at KPS2 765 kV S/s for termination of KPS3-KPS2 765 kV D/c line.

v) Scheme to be awarded after SECI/REIA awards first bid of RE project at KPS3.

3. Subsequently, The Central Transmission Utility of India Limited (CTUIL) vide its Office Memorandum dated 10.7.2023, nominated the Petitioner to implement the transmission scheme of the instant Petition, based on the approval granted by the NCT in its 14th meeting held on 9.6.2023.

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 and the cost of the project as per DPR is Rs.334.02 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.

5. 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 8.4.2024, *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 8.4.2024 are extracted as under:

“19. In the present case, the Petitioner does not fulfil any of the eligibility conditions for the grant of a transmission licence. However, the instant transmission scheme has been approved by the NCT in its 14th meeting held on 9.6.2023 and allocated to the Petitioner under RTM mode. Subsequently, CTUIL, vide its OM dated 10.7.2023, has informed regarding the allocation of the scheme to the Petitioner under RTM mode. The non-grant of a transmission licence to any agency nominated by NCT to implement a transmission scheme 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 it is a fit

case for a 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 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 crores to 500 crores. Pursuant to the direction of the Ministry of Power and approval accorded by NCT in its 14th meeting, CTUIL, vide its Office Memorandum dated 10.7.2023, has informed regarding a list of Projects to be implemented through a Regulated Tariff Mechanism, which also includes the transmission scheme of the present Petition.*

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 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 **19.4.2023.**”*

6. A public notice under Sub-section (5) of Section 15 of the Act was published on 17.4.2024 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.

7 The case was called out for a hearing on 29.4.2024. The representative of 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.

8. 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 as and when same would be received. 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.

9. 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.”

10. In our order dated 8.4.2024, 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 24.1.2024, has recommended the grant of a transmission licence to the Petitioner. The Commission, in its order dated 8.4.2024, 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 8.4.2024 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, POWERGRID KPS3 Transmission System Limited, to establish the transmission scheme through the RTM route as per the details given in paragraph 1 above.

11. 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.

12. 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.

13. Let an extract copy of this order be sent to the Central Government in the Ministry
Order in Petition No. 58/TL/2024

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.

14. Petition No. 58/TL/2024 is allowed in terms of the above.

Sd/-
(Arun Goyal)
Member

sd/-
(Jishnu Barua)
Chairperson