

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 671/MP/2025

Coram:

**Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member
Shri Ravinder Singh Dhillon, Member**

Date of Order: 3rd October, 2025

In the matter of

Petition under Section 17(3) & 17(4) of the Electricity act seeking approval for creation of security interest over petitioner's assets in favour of Respondent No. 9, who is acting as the security trustee for the purpose of holding the securities on behalf of and for benefit of the lender in terms of the security trustee agreement dated 25.3.2025 (including its assignees, transferees, novates) in respect of the Petitioner's Transmission Project

And

In the matter of

Bikaner - Khetri Transmission Limited,
Adani Corporate House,
Shantigram, Near Vaishno Devi Circle,
S G Highway, Khodiyar
Ahmedabad-382421, Gujarat.

.....Petitioner

Versus

- 1. Central Transmission Utility of India Limited,**
Saudamini, 1st Floor, Plot No. 2,
Sector-29, Gurugram – 122001, Haryana.
- 2. Acme Solar Holdings Limited,**
Plot No. 152, Sector-44,
Gurgaon-122002.
- 3. Azure Power India Private Limited,**
3rd Floor, 301-304 & 307, Worldmark-3,
Aerocity, New Delhi-110037.
- 4. Renew Solar Power Private Limited,**
Commercial Block-1, Zone-6,
Golf Course Road, Gurugram-122009.



5. Mahoba Solar (UP) Private Limited,

Adani House, 4th Floor, South Wing,
Shanitgram, S.G. Highway,
Ahmedabad-382421.

6. Hero Solar Energy Private Limited,

202, 2nd Floor, Okhla Industrial Estate,
Phase-II, New Delhi-110020.

7. Mahindra Susten Private Limited,

Mahindra Towers, G.M. Bhosale Marg,
Worli, Mumbai-400018.

8. Axis Bank Limited,

Trishul, Third Floor,
Opp. Samartheswar Temple,
Law Garden, Ellisbridge,
Ahmedabad – 380006, Gujarat.

9. Axis Trustee Services Limited,

Axis House, Bombay Dyeing Mills Compound,
Pandurang Budhkar Marg,
Worli, Mumbai -400025.

.....**Respondents**

Parties present:

Shri Nitish Gupta, Advocate, BKTL
Ms. Nipun Sharma, Advocate, BKTL
Shri Manav Saluja, Advocate, BKTL
Shri Swapnil Verma, CTUIL
Shri Ranjeet S. Rajput, CTUIL
Ms. Priyanshi Jadiya, CTUIL

ORDER

The Petitioner, Bikaner - Khetri Transmission Limited (hereinafter referred to as “the BKTL”), has been granted a transmission licence under Section 14 of the Electricity Act, 2003 (hereinafter referred to as “the Act”) to establish the “Transmission System associated with LTA applications from Rajasthan SEZ (Part-D)” (hereinafter referred to as ‘the Transmission System’ or ‘Project’) on a Build, Own, Operate and Maintain (BOOM) basis, the details of which are specified in the schedule attached to the licence issued vide order dated 27.12.2019 in Petition No. 344/TL/2019. Further,



vide the Order dated 27.12.2019 in Petition No. 345/AT/2019, the Commission adopted the competitively discovered levelised tariff of Rs. 1000.51 million per annum for the Project. The Petitioner has submitted that the Transmission Project has achieved COD on 31.12.2020

2. The Petitioner has filed the present Petition for approval for the creation of Security Interest by way of the hypothecation/mortgage/charge/pledge/ assignment, etc., over all assets, including movable and immovable assets, project accounts and documents (including assignment of transmission licence), etc. of the Petitioner in favour of the Security Trustee (or its replacement or successor) to secure the financial assistance availed/ to be availed from the lender and for their subsequent transferees, assigns, novatees including any refinancing lenders and substitutes thereof and any future or any other Secured Party to the Project by executing the deed of hypothecation and power of attorney in relation thereto, indenture of mortgage, mortgage by deposit of title deeds and such other security documents as per law. The Petitioner has made the following prayers:

“(a) Approve the creation of Security Interest by way of hypothecation /mortgage/ charge/ pledge/ assignment (as applicable), over all assets including the assets listed at Paragraph 16 above, and all the movable and immovable assets, Transmission Project accounts, Project Documents (including assignment of transmission licence) etc., both present and future, of Petitioner in terms of the Financing Documents, or as may be agreed between the Petitioner and the Lenders from time to time, in favour of Lender/ Security Trustee to secure the financial assistance availed/ to be availed from the Lender and its subsequent transferees, assigns, novates and substitutes thereof and any refinancing lenders to the Project, by executing deed of hypothecation and power of attorney in relation thereto, Indenture of Mortgage, Mortgage by deposit of title deeds and such other security documents as per law or as may be required by the Lender from time to time through which a charge can be created; or

(b) Take on record – Respondent. No. 8 - Axis Bank Ltd (including its subsequent transferees, assigns, novates and substitutes thereof) as the New Lender for the Project Facility, in terms of the Loan Agreement dated 25.03.2025;

(c) Pass any such other/ further order(s)/ direction(s) as this Commission may deem fit and appropriate in the facts and circumstances of the present case."

Background

3. According to the Petitioner, for the purpose of refinancing the project, the Petitioner requested the Axis Bank Limited (hereinafter referred to as "the lender"), for which the lender has agreed to provide the financial assistance to the tune of Rs. 580 crore by way of Rupee Term Loan for the project. For this purpose, the Petitioner and Axis Bank Limited have appointed Respondent No. 9, namely, Axis Trustee Services Limited, as a Security Trustee (hereinafter referred to as "the Security Trustee"), who has agreed to act as Security Trustee for the lender and has entered into the Security Trustee Agreement and the Rupee Term Loan Agreement on 25.3.2025.

4. The Petitioner had availed a term loan facility amounting to Rs. 641.42 crore from REC Limited under a Loan Agreement dated 11.8.2020, and Catalyst Trusteeship Limited was appointed as the security trustee under the Security Trustee Agreement executed on the same date. Pursuant thereto, the Petitioner had approached the Commission for approval to create a security interest over its assets in favour of the said Security Trustee for the benefit of REC Limited, and the Commission, vide Order dated 6.4.2021 in Petition No. 17/MP/2021, granted approval for such creation of security. Thereafter, in order to refinance the said facility, the Petitioner entered into a Loan Agreement with Axis Bank Limited dated 25.3.2025 for a rupee term loan facility not exceeding Rs. 580 crores, and Axis Trustee Services Limited was appointed as the new Security Trustee in terms of the Security Trustee Agreement executed on 25.3.2025.

5. The Petitioner has further submitted that, with a view to refinancing the Project more efficiently, it has availed a Rupee Term Loan facility of up to Rs. 580 crore from Axis Bank Limited (hereinafter referred to as “the New Lender”), in accordance with the Sanction Letter dated 19.02.2025 and the Facility Agreement executed on 25.3.2025 between the Petitioner and the New Lender. Axis Trustee Services Limited has been appointed as the Security Trustee in respect of the said facility. It is noted that the Facility Agreement enables the New Lender to induct additional lenders to participate in the loan arrangement. The Petitioner has submitted that he has fully prepaid its entire loan to REC Limited by raising a loan from Axis Bank.

6. The Petitioner has submitted that pursuant to the terms of the Facility Agreement, the secured obligations are secured by,

- a) First *pari passu* Security Interest by way of mortgage over the Project Land, immovable fixed assets, including but not limited to, land, civil structures, towers and cables, office buildings, both present and future, of the Borrower, including any leasehold land or asset, right of way, each in relation to the Transmission Project;
- b) First *pari passu* Security Interest by way of hypothecation, on the entire moveable fixed assets, including but not limited to machinery, spares, tools and accessories, furniture, fixtures, vehicles, etc, both present and future, of the Borrower, each in relation to the Transmission Project;
- c) First *pari passu* Security Interest by way of a hypothecation on the entire current assets, including but not limited to all operating accounts, deposits, investments, book debts, operating cash flows, receivables, commissions, revenues of whatsoever nature and whenever arising, both present and future, of the Borrower, each in relation to the Transmission Project;
- d) First *pari passu* Security Interest by way of a hypothecation on the Transmission Project's present and future intangible assets, goodwill of

the Borrower, uncalled capital of the Transmission Project, present and future;

- e) First *pari passu* Security Interest by way of hypothecation, on all the accounts of the Borrower (including the Debt Service Reserve Account and Accounts opened and maintained pursuant to the Escrow Account Agreement) (including any accounts in substitution thereto) and the monies credited or deposited therein, the receivables and all permitted investments or other securities representing all amounts credited to the such accounts, any letter of credit and other reserves of the Borrower, to the extent of Borrower's interests thereon each in relation to the Transmission Project, both present and future;
- f) First *pari passu* Security Interest, by way of charge on:
 - (i) all the rights, title, interest, benefits, claim and demands whatsoever of the Borrower in the Transmission Project Documents;
 - (ii) all the rights, title, interest, benefits, claim and demands whatsoever of the Borrower in any letter of credit guarantee, performance bond provided by any counterparty to the Transmission Project Documents, guarantees and warranties issued by the original equipment manufacturer, in relation to the Transmission Project duly acknowledged and consented to by the counterparties of the Transmission Project Documents (if such Project Document requires prior consent of such counterparties), if any;
 - (iii) over substitution rights under the Transmission Service Agreement and rights, title, interest, benefits, claim and demands whatsoever of the Borrower under the Transmission License;
 - (iv) on letter of credit, if any, or such other security provided by the Long Term Transmission Customers;
- g) First *pari passu* charge by way of a pledge over the Pledged Shares, until the Final Settlement Date; and

- h) Non disposal undertaking on NDU Shares from the Sponsor along with a power of attorney in a form and manner acceptable to the Lenders and subject to compliance with the Banking Regulations Act 1949.
- i) Working Capital Lenders, if any, shall have a first *pari-passu* charge on the Security as mentioned in paragraph (c) of clause 8.1 (i), once the Working Capital Facilities have been sanctioned to the Borrower by the Working Capital Lenders and charge has been created by the Borrower in favour of the Working Capital Lenders.

7. The Petitioner has submitted that in terms of the Financing Documents, the Petitioner is required to create security, which is the transaction security (as defined under the Facility Agreement), in favour of a Security Trustee for the benefit of the lender.

8. The Petitioner has stated that Article 15.2.2 of the Transmission Service Agreement entered into between the Petitioner and the beneficiaries of the project provides that the Petitioner is free to create encumbrance over all or part of the receivables, Letter of Credit or other assets of the project in favour of the lenders or the representative of the lenders as security for the amount payable under the Financing Agreements and any other amounts agreed by the parties subject to the following condition:

- (a) The lender or the lender's agent on their behalf shall have entered into the Financing Agreements and agreed in writing to the provisions of the TSA; and
- (b) Any encumbrance granted by the Petitioner in accordance with Article 15.2.2 shall contain provisions pursuant to which the lender or the representative of the lenders on their behalf agrees unconditionally with the Petitioner to release from such encumbrances upon payment by the Petitioner to the lender of all amounts due under the Financing Agreements.

9. The Petitioner has stated that in view of the provisions of sub-sections (3) and (4) of Section 17 of the Act, the Petitioner, as a licensee, cannot create a Security Interest over all the movable and immovable assets of the Petitioner in favour of a Security Trustee acting on behalf of lender pursuant to a Facility Agreement dated 25.3.2025 and a Security Trustee Agreement dated 25.3.2025 without approval of the Commission. Accordingly, the Petitioner has filed the present Petition seeking prior approval of the Commission for the creation of a Security Interest over all assets, including the movable and immovable assets for the Project in favour of the Security Trustee pursuant to a Security Trustee Agreement and a Facility Agreement.

Hearing dated 5.8.2025 and 16.9.2025

10. On 5.8.2025, notice was issued to the Respondents, and vide Record of Proceedings (hereinafter referred to as 'RoP') of the same date, the Respondents were granted an opportunity to file their respective replies. Thereafter, vide RoP dated 16.9.2025, after hearing the parties, the Commission reserved the matter for orders.

11. Despite service of notice, no reply has been filed by the Respondents.

Analysis and Decision

12. We have considered the submissions made by the Petitioner and perused the documents available on the record. The Commission, vide Order dated 6.4.2021 in Petition No. 17/MP/2021, granted approval under Sub-sections (3) and (4) of Section 17 of the Act for creation of security interest over all assets, including movable and immovable assets, accounts, Project documents, etc., of the Bikaner - Khetri Transmission Limited, in favour of the REC Limited. The Petitioner approached the

lender, namely, Axis Bank Limited, for the purpose of refinancing the Project. The lender has agreed to grant financial assistance aggregating to Rs. 580 crore only.

13. We have noted that the Petitioner has prepaid its entire loan to REC Limited by raising a loan from Axis Bank, consequence of which, the Original Lender, namely, REC Limited, has now been substituted by Axis Bank as the New Lender for the financing of the Transmission Project. Axis Bank has refinanced the REC Existing Rupee Facility availed by the Petitioner from REC Limited and has sanctioned the rupee term loan facility for a principal amount not exceeding Rs. 580 crores for the purpose of financing the Transmission Project, through execution of the aforesaid Loan Agreement.

14. The Petitioner has submitted that it had appointed Axis Trustee Services Limited as a Security Trustee, who agreed to act as a Security Trustee and had entered into a Facility Agreement and a Security Trustee Agreement on 25.3.2025.

15. The transmission projects are capital-intensive projects requiring huge capital investments and are financed through loans. It is a normal practice followed by the financial institutions/ banking industry to ask for sufficient security from the borrower to back the loan in order to mitigate the credit risk of the lender. In the instant case, the lender, namely, Axis Bank Limited has agreed to refinance the existing loan of REC limited and provide a loan of Rs.580 crore to the Petitioner.

16. The Petitioner has submitted that, in terms of the Financing documents, the Petitioner is required to create a Security Interest on a first charge basis for the lender. The Petitioner has submitted that under the Financing Agreements and on enforcement of a security interest, it shall be lawful for the lender and its assigns,

transferees, and novates to enter into and take possession of the assets/properties mortgaged/hypothecated/charges assigned for their benefits and substitute themselves or any one of them or its nominees for the Petitioner under any or all of the project document(s). Article 15.2.2 of the TSA provides as under:

“However, the TSP may create any encumbrance over all or part of the receivables, Letter of Credit or the other assets of the Project in favour of the Lenders or the Lenders' Representative on their behalf, as security for amounts payable under the Financing Agreements and any other amounts agreed by the Parties.

Provided that:

i. the Lenders or the Lenders' Representative on their behalf shall have entered into the Financing Agreements and agreed in writing to the provisions of this Agreement; and

ii. any encumbrance granted by the TSP in accordance with this Article 15.2.2 shall contain provisions pursuant to which the Lenders or the Lender's Representative on their behalf agrees unconditionally with the TSP to release from such encumbrances upon payment by the TSP to the Lenders of all amounts due under the Financing Agreements.”

In accordance with the above provision, the Transmission Service Provider has been allowed to create an encumbrance over all or part of the receivables, Letters of Credit, or other assets of the Project in favour of the lenders or the lenders' representatives or their representatives, as security for amounts payable under the Financing Agreements and any other amounts agreed by the parties.

17. Article 15.3 of the TSA provides as under:

“15.3 Substitution Rights of the Lenders:

15.3.1 The TSP would need to operate and maintain the Project under the provisions of the Transmission License granted by the Appropriate Commission and the provisions of this Agreement and cannot assign the Transmission License or transfer the Project or part thereof to any person by sale, lease, exchange or otherwise, without the prior approval of the Appropriate Commission.

However, in the case of default by the TSP in debt repayments, the Appropriate Commission may, on an application from the lenders, assign the Transmission License to the nominee of the lenders subject to the fulfilment of the

qualification requirements and provisions of the Central Electricity Regulatory Commission (Procedure, terms and Conditions for grant of Transmission License and other related matters) Regulations, 2006 or as amended from time to time.”

18. Sub-sections (3) and (4) of Section 17 of the Act provide as under:

“17. (3) No licensee shall any time assign his licence or transfer his utility, or any part hereof, by sale, lease, exchange or otherwise without the prior approval of the Appropriate Commission.

(4) Any agreement relating to any transaction specified in sub-section (1) or subsection (3), unless made with the prior approval of the Appropriate Commission, shall be void.”

As per the above provisions, a licensee is required to obtain approval of the Commission for assigning its licence or transferring its utility or any part thereof by way of sale, lease, exchange or otherwise and entering into an agreement relating to any of these transactions.

19. The Petitioner and the Axis Bank Limited have appointed Axis Trustee Services Limited as a Security Trustee for the creation of a Security Interest over all the movable and immovable assets of the project. In our view, Axis Trustee Services Limited needs to be given comfort for the creation of security for the benefit of the lender, Axis Bank Limited, as the security for the financial assistance provided by it. We, therefore, accord in-principle approval allowing the Petitioner to create a Security Interest in favour of the Axis Trustee Services Limited by way of mortgage or any other security document on project assets by execution of an indenture of Mortgage and financing documents of the Project. The Petitioner is directed to submit a signed copy of the Indenture of Mortgage for the Project immediately after its execution.

20. This in-principle approval is being granted with the condition that the transmission licence granted by the Commission to the Petitioner cannot be assigned in favour of the Security Trustee or nominee of the lender without prior approval of the

Commission at the time of creating rights in favour of such a nominee. Before agreeing to the assignment of the licence and the assets of the Petitioner to the nominee of the lender, the Commission will evaluate such a nominee's expertise in the development, design, construction, operation, and maintenance of the transmission lines and its ability to execute the Project and undertake the transmission of electricity. The licensee, lender, security trustee, and nominee, accordingly, shall be jointly required to approach the Commission to seek approval. This will allow the Commission to satisfy itself of the circumstances necessitating such a transfer. This decision of ours is in accordance with Regulation 8 of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2024, which reads as under:

“8. Assignment of Licence: - In case of default by a licensee in debt repayment, the Commission may, on an application made by the lenders of the licensee, assign the licence to a nominee of the lenders.”

21. In the event of default by the licensee regarding debt repayment, the Commission may, upon a joint application submitted by the licensee, lender, Security Trustee, and their nominee, grant approval for the assignment of the licence to a nominee, contingent upon the satisfactory completion of due diligence procedures. Consequently, it is imperative to obtain explicit prior approval from the Commission for the assignment of the licence to the nominee of the Security Trustee or for the transfer of any assets to them. Finally, the Petitioner is required to submit the financial documents and statements in accordance with the directives issued by the Commission.

22. Petition No. 671/MP/2025 is disposed of in terms of the above.

Sd/-
(Ravinder Singh Dhillon)
Member

sd/-
(Harish Dudani)
Member

sd/-
(Ramesh Babu V.)
Member

sd/-
(Jishnu Barua)
Chairperson

