

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 672/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, 2003 seeking approval for creation of Security Interest over the Petitioner's assets in favour of Respondent No. 4 (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 25.03.2025 (including its assignees, transferees, novates) in respect of the petitioner's transmission project

And

In the matter of

Khavda - Bhuj Transmission Limited,
C-105, Anand Niketan,
New Delhi- 110021

.....petitioner

versus

1. Central Transmission Utility of India Limited

Saudamini, 1st floor, Plot No. 2,
Sector-29, Gurugram- 122001,
Haryana

2. Adani Renewable Energy Holding Four Limited

4th Floor, South Wing,
Adani Corporate House,
Shantigram, near Vaishno Devi Circle,
S G Highway, Khodiyar,
Ahmedabad-382421, Gujarat

3. Axis Bank Limited

Trishul, Third Floor,
Opp. Samartheswar temple,
Law Garden, Ellisbridge,
Ahmedabad- 380006, Gujarat



4. Axis Trustee Services Limited

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

.....**Respondents**

Parties present:

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

ORDER

The Petitioner, Khavda - Bhuj Transmission Limited (hereinafter referred to as 'the Petitioner/ KBTL'), has been granted a transmission licence under Section 14 of the Electricity Act, 2003 (hereinafter referred to as 'the Act') to establish the "Transmission scheme for evacuation of 3 GW RE injection at Khavda P.S. under phase-I" (hereinafter referred to as 'the Transmission System' or 'Project'), the details of which are specified in the schedule attached to the licence issued vide order dated 16.6.2022 in Petition No. 107/TL/2022. Further, *vide* Order dated 10.5.2022 in Petition No. 101/AT/2022, the Commission adopted the competitively discovered levelised tariff of Rs. 1000.33 million per annum for the Project. The Petitioner has submitted that the Transmission Project has achieved COD on 21.2.2024.

2. The Petitioner has filed the present Petition seeking 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) i.e., Axis Trustee Services Limited (Respondent No. 4) 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. 3 - 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.”

3. The Petitioner, KBTL, is registered and incorporated under the Companies Act, 2013. Respondent No. 4 i.e., Axis Trustee Services Limited (hereinafter referred to as the “Security Trustee/ Axis Trustee”), is acting as the Security Trustee for the purpose of holding the securities on behalf of and for the benefit of the lender i.e., Respondent No. 3, Axis Bank Limited or any other lender, including the Working Capital Lenders (if any) (hereinafter referred to as the “Lender(s)”) in terms of the Facility Agreement dated 25.3.2025.

4. According to the Petitioner, for the purpose of financing the project, the Petitioner had earlier approached the lender, namely, REC Limited (hereinafter referred to as 'Original Lender'), for a rupee term loan for the purpose of financing the Transmission Project. The REC Limited had agreed to grant a rupee term loan of Rs.703.36 crore to the Petitioner, subject to the terms and conditions set out in the Rupee Term Loan Agreement dated 11.9.2023 ("REC Existing Rupee Facility"), executed between the Petitioner and the REC Limited. Pursuant to which, the Petitioner and the REC Limited appointed the Catalyst Trusteeship Limited as Security Trustee for the creation of security over all the movable and immovable assets of the Transmission Project. Accordingly, a Security Trustee Agreement was also executed between the Petitioner and Catalyst Trusteeship Limited on 11.9.2023. The Commission, *vide* Order dated 16.3.2024 in the Petition No. 24/MP/2024, accorded in-principle approval allowing the Petitioner to create a security interest in favour of the Catalyst Trusteeship Limited, by way of mortgage on Transmission Project assets by execution of an indenture of mortgage and financing documents of the Transmission Project.

5. The Petitioner has submitted that, in order to reduce the cost of borrowing and enhance the financial efficiency of the Transmission Project, the Petitioner has refinanced its Transmission Project through a new lender, namely Axis Bank in the present case, at a lower rate of interest.

6. According to the Petitioner, for the purpose of re-financing 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 for the principal amount not exceeding Rs. 640 crore) by way of Rupee Term Loan for the project. For

this purpose, the Petitioner and Axis Bank Limited have appointed Respondent No. 4, Axis Trustee, as a Security Trustee, who has agreed to act as Security Trustee for the lender and has entered into the Security Trustee Agreement and the Facility Agreement on 25.3.2025.

7. 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 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 (as defined in the Loan Agreement), if any, shall have a first pari-passu charge on the Security as mentioned in para 16(c) above, once the Working Capital Facilities (as defined in the Loan Agreement) 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.

8. 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.

9. 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.

10. 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 & 16.9.2025

11. The Petition was called out for the hearing on 5.8.2025 after notice to the Respondents. Vide Record of Proceedings for the hearing on 5.8.2025, the Respondents were granted the opportunity to file their respective replies within two weeks. However, no reply was 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 Petitioner initially approached REC Limited ('Original Lender') for the purpose of securing financial assistance of Rs. 703.36 crore for the implementation of the Transmission Project, and REC Limited granted a rupee term loan facility in terms of the Rupee Term Loan Agreement dated 11.9.2023. The Commission, *vide* Order dated 16.3.2024 in the Petition No. 24/MP/2024, accorded in-principle approval allowing the Petitioner to create a security interest in favour of Catalyst Trusteeship Limited.

13. Subsequently, in exercise of its commercial prudence to reduce the cost of borrowing and enhance financial efficiency, the Petitioner undertook refinancing of the Transmission Project by availing a rupee term loan from the Axis Bank Limited ('New Lender') for a principal amount not exceeding Rs. 640 crores.

14. We have noted that the Petitioner has liquidated the entire outstanding loan with REC Limited by raising a fresh loan from Axis Bank. As a consequence, REC

Limited, as the Original Lender, has been substituted by Axis Bank as the New Lender, which has extended refinancing by way of a sanction of a rupee term loan facility for a principal amount not exceeding Rs. 640 crores, in accordance with the Facility Agreement executed between the parties on 25.3.2025.

15. It is further noted that, in compliance with the prevailing financial practices and for the creation of valid and enforceable security over the assets of the Transmission Project, the Petitioner and Axis Bank Limited have appointed Axis Trustee Services Limited as the Security Trustee. The Security Trustee has entered into relevant Security Trustee Agreement(s) and Facility Agreement(s) with the Petitioner and the lender on 25.3.2025, thereby agreeing to hold the security created over the project assets for the benefit of the lender. 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 provide a loan of Rs.640 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 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:

“15.2.2 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, consider the assignment of the transmission licence to such nominee after conducting appropriate due diligence. 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. 672/MP/2025 is disposed of in terms of the above.

Sd/-	sd/-	sd/-	sd/-
(Ravinder Singh Dhillon)	(Harish Dudani)	(Ramesh Babu V.)	(Jishnu Barua)
Member	Member	Member	Chairperson

