

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 28/TL/2023

**Coram:
Shri Jishnu Barua, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member**

Date of Order: 12th May, 2023

In the matter of

Application under Sections 14, 15 and 79 (1) (e) of the Electricity Act, 2003 read with the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for Grant of Transmission License and other related matters) Regulations, 2009 with respect to grant of transmission license to Kishtwar Transmission Limited.

And

In the matter of

Kishtwar Transmission Limited,
F-1, The Mira Corporate Suites, 1 & 2
Ishwar Nagar, Okhla Crossing,
Mathura Road,
New Delhi – 110065

....Petitioner

Vs

1) Chenab Valley Power Projects (P) Limited,
Chenab Jal Shakti Bhawan, Opposite Saraswati Dham,
Rail Head Complex,
Jammu - 180012, J&K

2) J&K Power Development Department,
Civil Secretariat, Secretariat Rd,
Pakki Dhaki, Old Heritage City,
Jammu, Jammu and Kashmir 180 001.

3) PFC Consulting Limited,
First Floor, Urjanidhi, 1, Barakhamba Lane,
Connaught Place,
New Delhi- 110001.

4) Central Electricity Authority,
Seva Bhawan, R.K. Puram,
New Delhi- 110066.

- 5) Central Transmission Utility of India Limited,**
Saudamini, Plot No.2, Sector 29,
Near IFFCO Chowk,
Gurgaon - 122001, India
- 6) Powergrid Corporation of India Limited,**
B-9 Qutab Institutional Area, Katwaria Sarai
New Delhi-110016.
- 7) HVDC Dadri, Powergrid Corporation of India Limited,**
B-9 Qutab Institutional Area, Katwaria Sarai,
New Delhi-110016.
- 8) HVDC Rihand Powergrid Corporation of India Limited,**
B-9 Qutab Institutional Area, Katwaria Sarai,
New Delhi-110016.
- 9) Chandigarh (Electricity Department),**
UT Chandigarh, Sector-9D,
Chandigarh-160019
- 10) BSES Rajdhani Power Limited,**
BSES Bhawan, Nehru Place,
New Delhi – 110019.
- 11) BSES Yamuna Power Limited,**
B-Block, Shakti Kiran, Building (Near Karkadooma
Court), Karkadooma 2nd Floor,
New Delhi – 110092.
- 12) New Delhi Municipal Council,**
Palika Kendra, Sansad Marg,
New Delhi – 110002
- 13) Tata Power Delhi Distribution Limited,**
NDPL house, Hudson Lines Kingsway Camp,
New Delhi – 110009.
- 14) Himachal Pradesh State Electricity Board,**
Vidyut Bhawan, Kumar House Complex Building II,
Shimla – 171004 (Himachal Pradesh),
- 15) Haryana Power Purchase Centre,**
Shakti Bhawan, Sector-6,
Panchkula -134109,
(Haryana).
- 16) Punjab State Power Corporation Limited,**
PP&R, Shed T-1, Thermal Design,

Patiala – 147 001.

17) Ajmer Vidyut Vitran Nigam Limited,
132 kV, GSS RVPNL Sub-station Building,
Caligiri Road, Malviya Nagar,
Jaipur - 302017 (Rajasthan)

18) Jaipur Vidyut Vitran Nigam Limited,
132 kV, GSS RVPNL Sub-station Building
Caligiri Road, Malviya Nagar,
Jaipur - 302017 (Rajasthan).

19) Jodhpur Vidyut Vitran Nigam Limited,
New Power House, Industrial Area,
Jodhpur-342003 (Rajasthan).

20) North Central Railway,
DRM Office, Nawab Yusuf Road,
Prayagraj, Uttar Pradesh – 211 011.

21) Uttarakhand Power Corporation Limited,
Urja Bhawan, Kanwali Road,
Dehradun.

22) Uttar Pradesh Power Corporation Limited,
(Formerly Uttar Pradesh State Electricity Board),
Shakti Bhawan, 14, Ashok Marg,
Lucknow – 226001 (Uttar Pradesh).

23) A.D. Hydro Power Limited,
Bhilwara Towers, A-12,
Sector 1, Noida-201301(UP)

.Respondents

Parties present:

Shri Ashwin Ramanathan, Advocate, KTL
Shri Deep Rao, Advocate, KTL
Shri Prateek Rai, KTL
Shri Vivek Singh, Advocate, CVPPPL
Shri Suraj Das Guru, Advocate, CVPPPL
Shri Amrik Singh, CVPPPL
Shri Mohan Lal Thakur, CVPPPL
Ms. Swapna Seshadri, Advocate, PGCIL
Shri Vikas Singh, Advocate, PGCIL
Ms. Surbhi Gupta, Advocate, PGCIL
Ms. Mohd. Mohsin, PGCIL
Shri Abhijit Darmani, PGCIL
Shri Prashant Kumar, PGCIL
Shri Swapnil Verma, CTUIL
Shri Ranjeet S. Rajput, CTUIL
Shri Bhanu Prakash Pandey, CTUIL

Ms. Muskan Agarwal, CTUIL
Ms. Ankita Singh, CTUIL

ORDER

The Petitioner, Kishtwar Transmission Limited, has filed the present Petition for grant of transmission licence under Section 14, Section 15 and Section 79 (1) (e) of the Electricity Act, 2003 (hereinafter referred to as “the Act”) read with the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009 (hereinafter referred to as “Transmission Licence Regulations”) to establish Inter-State Transmission System for “Transmission System for Evacuation of Power from Pakaldul HEP in Chenab valley HEPS-Connectivity System” on Build, Own, Operate and Maintain (BOOM) basis (hereinafter referred to “Transmission System” or “Project”) consisting of the following elements:

<i>Transmission System Evacuation of Power from Pakaldul HEP in Chenab Valley HEPS – Connectivity System</i>		
S. No.	Name of Transmission Element	Scheduled COD in months from Effective Date
1.	<p><i>Establishment of 400/132 kV pooling station at Kishtwar (GIS) along with Bus Reactor at Kishtwar pooling station by LILO of one circuit of Kishenpur – Dulhasti 400kV D/C (Quad) line (Single Circuit Strung)</i></p> <p><i>i. 400 kV pooling station with 420 kV, 41.67 MVAR, I-Phase Bus Reactor – 4 nos. (including one spare unit)</i></p> <p><i>ii. Reactor Bay – 1 no.</i></p> <p>Future Scope: Space for</p> <p><i>i. 765/400 kV ICT along with bays – 3 nos.</i></p> <p><i>ii. 400/220 kV ICT along with bays – 2 nos.</i></p> <p><i>iii. 400/132 kV ICT along with bays – 2 nos.</i></p> <p><i>iv. 765 kV line bays along with switchable line reactor – 6 nos.</i></p> <p><i>v. 400 kV Line bays – 8 nos.</i></p> <p><i>vi. 220 kV Line bays – 4 nos.</i></p> <p><i>vii. 132 kV Line bays – 2 nos.</i></p> <p><i>viii. 765 kV Reactor along with bays – 1 nos.</i></p> <p><i>ix. 400 kV Reactor along with bays – 1 nos.</i></p>	<p><i>Matching timeframe of Pakaldul HEP i.e. 1.4.2025</i></p>

2.	LILO of one circuit of Kishenpur – Dulhasti 400 kV D/c (Quad) line at Kishtwar	
3.	2 Nos. of 400 kV bays at Kishtwar (GIS) for LILO of one circuit of Kishenpur – Dulhasti 400 kV D/c (Quad) line 400kV line bays – 2 Nos.	
4.	1 No. of 400 kV line bay at Kishtwar (GIS) for 2nd circuit stringing of Kishtwar – Kishenpur section 400kV line bay – 1 No.	
5.	7x66.67 MVA, I-Phase 400/132 kV ICT along with associated bays at Kishtwar Pooling station i. 66.67 MVA, I-Phase 400/132kV ICT- 7 nos. (including one spare unit) ii. 400 kV ICT bays – 2 nos. iii. 132kV ICT bays – 2 nos. iv. 132kV Bus Coupler bay – 1 no.#	
6.	4 nos. of 132 kV bays 132 kV line bays (GIS) – 4 nos.	

To fulfil the requirement of bus switching scheme.

Note:

i. Implementation Timeframe:

Sl. No. 1-4: to be implemented in matching timeframe of Pakaldul HEP i.e. 1.4.2025

Sl. No. 5-6: to be implemented in matching timeframe of Kishtwar pooling Station.”

2. Based on the competitive bidding carried out by PFC Consulting Limited (PFCCL) in its capacity as the Bid Process Coordinator (BPC) in accordance with the Guidelines issued by the Ministry of Power, Government of India under Section 63 of the Act, Sterlite Grid 24 Limited (SGL) was declared as the successful bidder with the lowest quoted annual transmission charges of Rs. 388.46 million per annum.

3. The Commission, after considering the application of the Petitioner in the light of the provisions of the Act and the Transmission Licence Regulations, in its order dated 21.3.2023, *prima facie* proposed to grant transmission licence to the Petitioner.

Relevant extract of order dated 21.3.2023 is extracted as under:

“24. Considering the material on record, we are *prima-facie* of the view that the Petitioner satisfies the conditions for grant of inter-State transmission licence under Section 15 of the Act read with Transmission Licence Regulations for construction, operation and maintenance of the transmission

system as described in para 1 of this order. We therefore, 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 of transmission licence aforesaid. The objections or suggestions, if any, be filed by any person before the Commission, by 30.3.2022.

29. The Petitioner has submitted that in term of the TSA, the SCOD of the project is 1.4.2025. However, the delay in the acquisition of the Petitioner company by SGL 24 Limited has substantially reduced the time available with the Petitioner for execution of the Project. Therefore, the delay in acquisition has truncated the time period originally available with the Petitioner for construction of the project. The Petitioner has submitted that due to delay in acquisition of the project, the Petitioner is entitled for extension of time.

30. The Respondent, CVVL has submitted that the issues regarding delay, etc. raised in the instant Petition are pre-mature as presently it cannot be ascertained that whether there would be delay in commissioning of the Project and/or whether delay can be attributable to the Petitioner/Respondents and what relief/damages can be awarded to the Petitioner/Respondents and proportion of relief/damages allocated amongst Respondents, etc.

31. We have considered the submissions of the Petitioner and the Respondent. The scope of the present Petition is limited to grant of transmission licence. Therefore, the issue raised by the Petitioner regarding delay in acquisition of the Petitioner company cannot be dealt with in the present Petition and the Petitioner may approach the Commission in this regard after execution of the project which shall be dealt with in accordance with the law.”

4. A public notice under Sub-section (5) of Section 15 of the Act was published on 25.3.2023 in all editions of Times of India (English) and Dainik Jagran (Hindi). No suggestions/ objections have been received in response to the public notice.

Hearing dated 13.4.2023

5. The case was called out for hearing on 13.4.2023. It was submitted by the counsel for the Petitioner that in response to the public notice published by the Commission, no suggestion/objection has been received. Learned counsel for the Petitioner further submitted that as on date, the bona fide projected completion schedule for the assets covered under the TSA is 1.4.2025 subject to receipt of

necessary approvals from the statutory authorities. He further added that completion schedule and timeframes being submitted by the Petitioner are based on the information currently available with the Petitioner and is a bonafide estimate.

6. Learned counsel for Power Grid Corporation of India Limited (PGCIL) submitted that PGCIL is constructing certain transmission assets under Regulated Tariff Mechanism (RTM) route which will inter-connect with the Petitioner's project. She further added that as per the investment approval received by PGCIL, the above transmission asset is scheduled to be commissioned by 1.4.2025 matching with the original schedule of Pakaldul HEP.

7. Vide Record of Proceedings for the hearing dated 13.4.2023, the Petitioner was directed to submit the status of parties as regards the liability of transmission charges. CTUIL was directed to file written agreement showing the status of the transformer and status of parties in case of mismatch.

8. The Petitioner vide affidavit dated 27.4.2023 has submitted as under:

(a) Recovery of transmission charges by the Petitioner shall be governed under the provisions of the Transmission Service Agreement dated 17.2.2022 read with the applicable provisions of Regulation 13 of the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020 (the 2020 Sharing Regulations) as amended from time to time. Accordingly, the Petitioner and/or the Respondents, as the case may be, would be liable to bear transmission charges as envisaged under Regulation 13 in case there is a mismatch in commissioning as against the estimated timelines.

(b) Hon'ble Supreme Court in the case of PTC India Ltd. v. CERC [(2010) 4 SCC 603] has held that a regulation made under Section 178 is in the nature of sub-ordinate legislation and is binding on all parties to whom such regulation is applicable. The said principle has been reiterated by the Appellate Tribunal for Electricity in several judgements including Judgment dated 24.3.2015 in Appeal No. 103 of 2012 titled Maruti Suzuki India Limited, v. HERC & Ors (Para 52) and Judgment dated 28.8.2019 in Appeal No. 214 of 2017 titled Haryana Vidyut Prasaran Nigam Limited v. HERC & Ors. (Para 8.3). Therefore, once the 2020 Sharing Regulations have been issued by the Commission, the said Regulations form the statutory basis to assign the liability for payment of transmission charges. No approach contrary to the regulations is permissible in law.

(c) The instant Petition has been filed for the limited purpose for grant of transmission licence to the Petitioner under Section 14, Section 15, and Section 79(1)(e) of the Act and the Transmission Licence Regulations. The issues pertaining to liability and sharing of transmission charges at this stage are beyond the scope of the instant Petition.

9. With regard to written agreement showing the status of the transformer and status of parties in case of mismatch, CTUIL vide its affidavit dated 8.5.2023 has submitted that CTUIL had inquired with Respondent No. 2, J&K Power Development Department (JKPDD) regarding status of utilization of 4 Nos of 132 KV bays at Kishtwar pooling station. In response, J&K Power Transmission Corporation Limited (JKPTCL) (transmission wing of Respondent No. 2) vide its letter dated 28.4.2023 has communicated that the timeline for "*utilization of 4 Nos. of 132 kV bays at Kishtwar PS*

has been contemplated as March 2025 to match with the timeframe of the Kishtwar Pooling station". CTUIL has further submitted that transmission system i.e. 7x66.67 MVA (single phase units), 400/132kV ICTs at Kishtwar Pooling station and 4 nos. of 13 2kV GIS bays, under present scope shall be used for meeting the power demand of adjoining areas of Kishtwar for which JKPDD has also signed TSA as a LTTC. The same may be taken on record as the written consent of the party to undertake implementation of respective transmission system at its end matching with the timeframe of the subject transmission elements under the present petition.

10. As regards grant of transmission licence, Clauses (15) and (16) of Regulation 7 of 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.”

11. In our order dated 21.3.2023, we had proposed to grant transmission licence to the Petitioner company and directed to issue of the public notice. In response to the public notice, no suggestions/objections have been received. CTUIL in its letter dated 6.1.2023 has recommended for grant of transmission licence to the Petitioner. We are satisfied that the Petitioner company meets the requirement of the Act and the Transmission Licence Regulations for grant of transmission licence for the subject

Transmission System mentioned at paragraph 1 of this order. Accordingly, we direct that transmission licence be granted to the Petitioner, 'Kishtwar Transmission Limited', to establish "inter-State transmissions system for evacuation of power from Pakaldul HEP in Chenab Valley HEPs- Connectivity System through tariff based competitive bidding process on Build, Own, Operate and Maintain (BOOM) basis as per the details given in paragraph 1 above.

12. The grant of 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 and the terms and conditions of the TSA during the period of subsistence of the licence.

(c) Since the expiry date as per the TSA is 35 years from the scheduled COD of the Project, the licensee may make an application, two years before the expiry of initial licence period, for grant of 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 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 Central Electricity Regulatory Commission (Standard of Performance of inter-State transmission licensees) Regulations, 2012 or subsequent enactment thereof;

(h) The licensee shall provide 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 (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009; the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010, as amended from time to time or any subsequent re-enactments thereof; and the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022;

(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 execution of the Project within timeline specified in Schedule 3 of the TSA and as per the Technical Standards and Grid Standards of CEA prescribed in Article 5.1.1 and Article 5.4 of the TSA;

(m) The licensee shall coordinate with the licensees (including deemed licensees) executing the upstream or downstream transmission projects, the Central Electricity Authority and CTUIL for ensuring smooth execution and commissioning of the Project; and

(n) The licensee shall submit all such report or information as may be required under Transmission Licence Regulations, Standard of Performance Regulations, Transmission Service Agreement or any other regulation of the Commission or as per the directions of the Commission as may be issued from time to time.

13. It is expected that while carrying out the survey, the Petitioner has complied with the provisions of clause 2.5.7.3, clause 2.5.7.4 and clause 2.5.7.5 of the RfP. The Petitioner will comply with the provisions of bidding documents and TSA for commissioning of the Project within the SCOD.

14. Central Electricity Authority shall monitor the execution of the Project and bring to the notice of the Commission any lapse on the part of the licensee to meet the

schedule for further appropriate action in accordance with the provisions of the Act and the Transmission Licence Regulations.

15. It is noted that scope of the present Petition is limited to the grant of transmission licence. Therefore, the issue raised by the Petitioner regarding delay in acquisition of the Petitioner company cannot be dealt with in the present Petition and the Petitioner may approach the Commission in this regard after execution of the project which shall be dealt with in accordance with the law.

16. The affidavit dated 8.5.2023 filed by CTUIL as mentioned in paragraph 9 is taken on record as the written consent of the party i.e JKPDD to undertake implementation of respective transmission system at its end matching with the timeframe of the subject transmission elements under the present Petition.

17. Let an extract copy of this order be sent to CEA for information and necessary action.

18. Petition No. 28/TL/2023 is allowed in terms of the above.

Sd/-
(P.K.Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I.S. Jha)
Member

sd/-
(Jishnu Barua)
Chairperson