

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 103/TL/2023

Coram:

Shri Jishnu Barua, Chairperson

Shri I.S. Jha, Member

Shri Arun Goyal, Member

Shri P.K. Singh, Member

Date of order: 13th June, 2023

In the matter of:

Application under Sections 14, 15, 79(1)(e) 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 seeking Transmission License for Patran Transmission Company Limited for the Transmission Project to be constructed through regulated tariff mechanism (RTM).

And

In the matter of

Patran Transmission Company Limited,
Windsor, 1st Floor, Unit No. 101,
Kalina, Santacruz East-400 098,
Mumbai, Maharashtra

....**Petitioner**

Vs

1. Central Transmission Utility of India Limited,
CTUIL-Planning, 1st Floor, A-wing,
Saudamini, Plot No.2, Sector-29,
Near IFFCO Chowk Metro Station,
Gurgaon-122 001

2. Haryana Power Purchase Centre,
Shakti Bhawan, Energy Exchange
Room No 446, Top Floor,
Sector-6, Panchkula-134109
Haryana

3. Punjab State Power Corporation Limited,
Shed No T-1-A, Thermal Design,
Near 22 No. Phatak,
Patiala, Punjab

4. Himachal Sorang Power Private Limited,
D-7, Sector-1, Lane-1, 2nd Floor
New Shimla, Shimla-171009
Himachal Pradesh

5. Adani Power Limited,
3th Floor, Achalraj,
Opposite Mayors Bungalow
Law garden, Ahmedabad-380006, Gujarat

6. Jaipur Vidyut Vitran Nigam Limited,
Vidyut Bhawan, Janpath
Jaipur-302005
Rajasthan

7. Ajmer Vidyut Vitran Nigam Limited,
Old Power House, Hathi Bhata
Jaipur Road,
Ajmer, Rajasthan

8. Jodhpur Vidyut Vitran Nigam Limited,
400 kV, GSS Building,
Ajmer Road, Heerapur,
Jodhpur, Rajasthan

9. Lanco Anpara Limited,
Plot No 397, Udyog Vihar,
Phase-3, Gurgaon-122016,
Haryana

10. Power Development Department,
Govt. of Jammu & Kashmir,
SLDC Building, 1st Floor,
Gladani Power House,
Narwal, Jammu,
Jammu & Kashmir

11. Lanco Green Power Private Limited,
Plot No 397, Udyog Vihar,
Phase- III, Gurgaon-122016,
Haryana.

12. North Central Railway,
DRM Office, Nawab Yusuf Road,
Allahabad, Uttar Pradesh
13. Ad Hydro Power Limited,
Bhilwara Towers,
A-12, Sec-1, Noida-201301
Uttar Pradesh
14. Jaiprakash Power Ventures Limited,
A Block, Sector-128, Noida-201304
Uttar Pradesh
15. BSES Yamuna Power Limited,
2nd Floor, B Block,
Shakti Kiran Building, (Near Karkardooma Court)
New Delhi
16. BSES Rajdhani Power Limited
BSES Bhawan, 2nd Floor,
B Block, Behind Nehru Place Bus Terminal,
Nehru Place, New Delhi-110019
17. Tata Power Delhi Distribution Limited,
33 kV sub-station Building,
Hudson Lane, Kingsway Camp,
New Delhi-110019
18. New Delhi Municipal Corporation,
Palika Kendra, Sansad Marg,
New Delhi-110 001
19. Union Territory of Chandigarh,
Div-11, Opposite Transport Nagar,
Industrial Phase-1, Chandigarh
20. Power Grid Corporation of India Limited,
B-9, Qutab Institutional Area,
Katwaria Sarai
New Delhi-110016
21. Uttar Pradesh Power Corporation Limited,
14th Floor, Shakti Bhawan,
Ext Building, 14, Ashok Marg,

Lucknow, Uttar Pradesh

22. PTC India Limited,
2nd Floor, NBCC Tower,
15, Bhikaji Cama Place,
New Delhi-110066

23. Uttaranchal Power Corporation Limited,
Urja Bhawan, Kanwali Road,
Near Balli Wala Chowk,
Dehradun, Uttarakhand

24. Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Kumar House Complex,
Building No. 11, Shimla,
Himachal Pradesh.

...Respondents

The following were present:

Ms. Aparajita Upadhyay, Advocate for the Petitioner
Shri Lokindra Ranawat, PTCL
Shri Saurav Kumar Jha, PTCL
Shri Swapnil Verma, CTUIL
Shri Ranjeet Singh Rajput, CTUIL

ORDER

The Petitioner, Patran Transmission Company Limited (PTCL) has filed the present Petition under Section 14 and Section 15 of the Electricity Act, 2003 (hereinafter referred to as 'the Act') read with 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 separate transmission licence for implementation of "augmentation of transformation capacity by 1x500 MVA, 400/220 ICT (3rd) at 400/220 kV Patran (GIS) sub-station' on the 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 under:

S. No.	Scope of Transmission Scheme	Capacity/km	Implementation timeframe
1.	Augmentation of Transformation Capacity by 1x1500 MVA, 400/220 kV ICT (3 rd) at 400/220 kV Patran (GIS) S/s along with GIS duct (at 400 KV and 220 kV) in new diameter of ICT-Tie-Line.	<ul style="list-style-type: none"> • 500 MVA 400/220 kV ICT- 1no. • 400 kV ICT bay (GIS)- 1no. • 400 kV bay (GIS) for diameter completion for future line (duct up to outside GIS Hall)- 1no. • 220 kV ICT bay (GIS)- 1no. 	21 months from the issue of OM by CTUIL.
Total Estimated Cost:			Rs. 65.19 crore

2. PTCL was incorporated as a Special Purpose Vehicle (SPV) by PFC Consulting Limited (PFCCL) as part of the Tariff Based Competitive Bidding ('TBCB') process for the implementation of the "Patran 400 kV sub-station" on a Build, Own, Operate and Maintain (BOOM) basis. Techno Electric and Engineering Company Limited (TEECL) participated in the competitive bidding process conducted by PFC Consulting Limited (PFCCL) and upon emerging as the successful bidder, a Letter of Intent (LoI) was issued by PFCCL to TEECL on 17.9.2013. In accordance with the bidding documents, TEECL acquired 100% of the shareholding in PTCL by executing a Share Purchase Agreement with PFCCL on 13.11.2013. PTCL entered into a Transmission Service Agreement (TSA) with LTTCs on 12.5.2014. The Commission, in its order dated 14.7.2014 in Petition No. 321/TL/2013 granted the transmission licence to PTCL to establish the transmission scheme for "Patran 400 kV sub-station" on a BOOM basis consisting of the following elements:

S. No.	Transmission elements
1.	Creation of 2x500 MVA, 400/220 kV sub-station at Patran with (i) 6 Nos.400 kV Bays (ii) 8 Nos.220 kV Bays Space for spare Bays (6 Nos. 400 kV & 6 Nos. 220 kV)
2.	LILO of both circuits of Patiala-Kaithal 400 kV D/C at Patran

3. The Commission, after considering the application of the Petitioner in light of the provisions of the Act and the Transmission Licence Regulations, in its order dated 15.5.2023, *prima facie* proposed to grant the transmission licence to the Petitioner as described in paragraph 1 of the order dated 15.5.2023. Relevant extract of order dated 15.5.2023 is extracted as under:

“16. In the present case, the Petitioner does not fulfil any of the eligibility condition for grant of transmission licence. However, in the 6th meeting of 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 or such limit as may be prescribed by Ministry of Power from time to time would be approved by CTUIL including its mode of implementation. The scheme has been identified for implementation though RTM mode by CTUIL. Non-grant of a transmission licence to any agency nominated by NCT to implement a transmission scheme through 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 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.

17. Regulation 24 of the Transmission Licence Regulations dealing with 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”

18. *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 which 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 Ministry of Power Government of India wherein CTUIL has been authorized to determine the mode of implementation of ISTS projects less than or equal to Rs.100 crore. Pursuant to direction of the Ministry of Power, CTUIL, vide its Office Memorandum dated 28.12.2022, has determined a list of Projects to be implemented or through Regulated Tariff Mechanism which also includes the instant Petition for the subject transmission scheme.*

19. *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 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 grant of 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 of transmission licence aforesaid. The objections or suggestions, if any, be filed by any person before the Commission, by 7.6.2023.”*

4. A public notice under Sub-section (5) of Section 15 of the Act was published on 17.5.2023 in all editions of the Times of India (English) and Dainik Jagran (Hindi). No suggestions/objections have been received from members of the public in response to the public notice.

5. The case was called out for hearing on 8.6.2023. The learned counsel for the Petitioner submitted that no objection has 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 transmission licence be granted to the Petitioner Company. The learned counsel further submitted that the project would be implemented as per the time line fixed by CTUIL i.e 31.5.2024.

6. None was present on behalf of the Respondents despite notice.
7. As regards the grant of the 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.”

8. In our order dated 15.5.2023, we had proposed to grant the transmission licence to the Petitioner company and directed the issue of public notice. In response to the public notice, no suggestions/ objections have been received. CTUIL in its letter dated 17.4.2023 has recommended the grant of a transmission licence to the Petitioner. The Commission, in its order dated 15.5.2023 had observed that the Petitioner does not fulfil the eligibility conditions for the grant of a transmission licence. Since in the present case, the Petitioner is a transmission licensee that is already implementing 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 15.5.2023 relaxed the provision of Regulation 6 of the Transmission Licence Regulations and held that the Petitioner eligible for the grant

of a transmission licence. Considering the strategic importance of the transmission line, We, accordingly, direct that the transmission licence be granted to the Petitioner, Patran Transmission Company Limited to establish the transmission scheme through the RTM route as per the details given in paragraph 1 above.

9. 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 initial licence period, for 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 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 execution of the Project as per the Technical Standards and Grid Standards of CEA; and

(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 EPC contract for the execution of work under the scope of the project is awarded through competitive bidding process.

10. The Central Electricity Authority/ CTUIL 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.

11. Let an extract copy of this order be sent to the Central Government in the Ministry 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.

12. Petition No. 103/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