

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 246/TL/2023

Coram:

Shri Jishnu Barua, Chairperson

Shri Arun Goyal, Member

Shri P.K. Singh, Member

Date of Order: 26th November, 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 Fatehgarh III Transmission Limited.

And

In the matter of

Fatehgarh III Transmission Limited,
T-15 A, Third Floor, Salcon Rasvilas,
Saket, New Delhi-110017.

.....Petitioner

Versus

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

2. PFC Consulting Limited,
First Floor, Urja Nidhi,
1, Barakhamba Lane,
Connaught Place, New Delhi-110001

3. Chandigarh Electricity Department,
Electricity OP Division No. 2,
Industrial Area Ph-1, BBMB Complex,
Chandigarh-60002

4. BSES Rajdhani Power Limited,
2nd Floor, B Block, BSES Bhawan,
near Kalkaji Mandir metro station,
Nehru Place, New Delhi- 110019

5. BSES Yamuna Power Limited,
Shakti Kiran Building,
Karkardooma, Delhi- 110032
6. North Delhi Municipal Corporation,
(NDMC Head Office), Palika Kendra, Parliament Street,
New Delhi- 110001
7. Tata Power Delhi Distribution Limited,
NDPL House, Hudson Lines Kingsway Camp,
New Delhi- 110009
8. Himachal Pradesh State Electricity Board,
Vidyut Bhawan Kumar House,
Shimla- 171004, Himachal Pradesh
9. Haryana Power Purchase Centre,
UHBVN, IP 3 & 4, 4th Floor,
Sector 14- Panchkula-34113, Haryana
10. Power Development Department,
Exhibition Ground, Opposite J&K High Court,
Srinagar-190009, Jammu and Kashmir.
11. Punjab State Power Corporation Limited,
DY CE/ISB, shed T-1A,
Shakti Vihar, PSPCL,
Patiala- 147001
12. HVDC Dadri, POWERGRID,
B-9 Qutab Institutional Area,
Katwaria Sarai, New Delhi-110016
13. HVDC Rihand, POWERGRID,
B-9 Qutab Institutional Area, Katwaria Sarai,
New Delhi-110016.
14. Ajmer Vidyut Vitran Nigam Limited,
Vidyut Bhawan, Makarwali Rd, Panchsheel Nagar,
Ajmer, Rajasthan- 305004.
15. Jodhpur Vidyut Vitran Nigam Limited,
New Power House, Industrial Area,
Jodhpur- 342003, Rajasthan.

16. Jaipur Vidyut Vitran Nigam Limited,
VQVX+M6J, Jan Path, Janpath,
Jyothi Nagar, Lalkothi, Jaipur- 302005,
Rajasthan.
17. North Central Railway,
M627+5R3, Shankar Road Market,
Nabi Karim, Paharganj,
New Delhi- 110060
18. Uttarakhand Power Corporation Limited,
Victoria Cross Vijeyta Gabar Singh,
Urja Bhawan, Kanwali Road,
Dehradun- 248001, Uttarakhand.
19. Uttar Pradesh Power Corporation Limited
10th Floor, Shakti Bhawan 14 Ashok Marg,
Lucknow- 226001, U.P.
20. GMR Kamalanga Energy Limited,
New Shakti Bhawan, New Udaan Bhawan,
Opp. Terminal 3, IGI Airport, New Delhi- 110037.
21. HVDC Agra,
Chintel House, POP-303, Station Road,
Lucknow, Uttar Pradesh 226001
22. HVDC Balia,
Chintel House, POP-303, Station Road,
Lucknow, Uttar Pradesh 22600.
23. HVDC Bhiwadi,
SCO Bay 5-10, near Haryana Pollution Control Board Office,
Sector 16A, Faridabad-121002, Haryana.
24. HVDC Kurukshetra,
SCO Bay 5-10, near Haryana Pollution Control Board Office,
Sector 16A, Faridabad-121002, Haryana.
25. East Central Railway,
Hajipur, Vaishali-844101, Bihar.
26. Adani Power (Mundra) Limited,
Adani Corporate House,
Shantigram Near Vaishno Devi Circle,
SG Highway, Ahmedabad- 382421, Gujarat.

27. Northern Indian Railway,
Northern Railway,
Headquarters Office, Kasturba Gandhi Marg,
New Delhi- 110001
28. Noida Power Company Limited,
Corporate Office Building, Plot No. ESS,
Knowledge Park- IV
Greater Noida- 201310, Uttar Pradesh
29. Northern Railway,
Headquarters Office,
Baroda House, New Delhi- 110001
30. North-Western Railway,
Near Jawahar Circle,
Jaipur- 302017, Rajasthan
31. GMR Bajoli Holi Hydropower Private Limited,
Airport Building 302, 1st Floor,
New Shakti Bhawan, New Udaan Bhawan Complex,
Near Terminal 3, IGI Airport,
New Delhi- 110037.
32. Delhi International Airport Limited,
New Udaan Bhawan,
Opp. Terminal 3, IGI Airport,
New Delhi- 110037
33. Azure Power India Private Limited,
Southern Park, 5th Floor, D-II,
Saket Place, New Delhi - 110017
34. Renew Surya Jyoti Private Limited,
IB Vogt Solar Seven Private Limited,
Renew Hub, Commercial Block – 1,
Zone 6, Golf Course Road,
DLF Phase V, Gurgaon - 122009
35. XL- Xergi Power Private Limited,
Energizent Power Private Limited,
8th Floor, DLF Square, DLF Phase 2,
Sector 26, Gurgaon-122002
36. ABC Renewable Energy Private Limited,

ABC RJ Lane 01 Pvt Limited,
H. No. 6-3-680/8/3,
Plot No. 3, 2nd Floor, PMR Plaza,
Somajiguda, Hyderabad - 500082

.....Respondents

Parties present:

Shri Aniket Prasoon, Advocate, FVITL
Ms. Priya Dhankhar, Advocate, FVITL
Shri Aman Shaikh, Advocate, FIVTL
Shri Rishabh Bhardwaj, Advocate, FVITL
Shri Sanjeev Thakur, Advocate, FIVTL
Shri Paritosh Bisen, Advocate, FVITL
Shri Yatin Sharma, CTUIL
Shri Swapnil Verma, CTUIL
Shri Ranjeet Singh, CTUIL
Shri Lashit Sharma, CTUIL

ORDER

The Petitioner, Fatehgarh III Transmission Limited, has filed the present Petition for the grant of a transmission licence under Sections 14, 15 and 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 “the Transmission Licence Regulations”) for the grant of an inter-State transmission licence for establishment of the “Transmission system for evacuation of power from REZ in Rajasthan (20 GW) under phase III-Part A3” (“Project”) on Build, Own, Operate and Transfer (BOOT) basis, consisting of the following elements:

S. No.	Name of Transmission Element	Scheduled COD in months from Effective Date
1.	<i>Fatehgarh 3- Bhadla-3 400kV D/c line (Quad) along with 63 MVAR Switchable line reactor for each circuit at both ends of Fatehgarh 3- Bhadla-3 400kV D/C line</i>	18 months

	<ul style="list-style-type: none"> • 400 kV 63 MVAR Switchable line reactor – 4 nos. • Switching equipment for 400 kV 63 MVAR switchable line reactor –4 nos. • 400 kV line bays Bhadla-3 S/s & Fatehgarh-3 S/s -4 nos. (2+2) 	
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Note:

(i) Developer of Fatehgarh-3 S/s(new section) to provide space 2 nos. of 400 kV line bays along with space for switchable line reactors at Fatehgarh-3

(ii) Developer of Bhadla-3 substation to provide space for 2 nos. of 400 kV line bays along with space for switchable line reactors at Bhadla -3”

2. The Petitioner has made the following prayers:

“(a) Issue the Transmission Licence to the Applicant for establishing, operating and maintaining the Project as provided for in the Transmission Service Agreement;

(b) Allow the “Transmission system for evacuation of power from REZ in Rajasthan (20 GW) under phase III – Part A3” to be part of Point of Connection Pool as per Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020.

(c) Condone any inadvertent errors omissions/ errors shortcomings and permit the Applicant to add/change/modify/alter these filings and make further submissions as may be required at a future date.

(d) Pass any such other order orders, as may be deemed fit and proper in the facts and circumstances of the case.”

Hearing dated 25.10.2023

3. During the course of the hearing on 25.10.2023, the learned counsel for the Petitioner submitted that the Petitioner has already served the copy of the Petition on the BPC and CTUIL and has complied with all the requirements under the Transmission Licence Regulations including publishing of notice on its website inviting

suggestions/objections on its application for the grant of a transmission licence. However, no suggestion /objection has been received.

4. The representative of CTUIL submitted that CTUIL vide letter dated 8.9.2023 has recommended the grant of a transmission licence to the Petitioner.

5. Vide Record of Proceedings for the hearing dated 25.10.2023, the Petitioner was directed to implead the beneficiaries of the transmission system as parties to the Petition and to file a revised memo of parties. The parties were further directed to file their respective replies. The Petitioner, vide its affidavit dated 7.11.2023, has submitted that it has impleaded the beneficiaries of the transmission system as parties to the Petition and has placed on record a copy of the revised memo of parties. No reply has been received from the beneficiaries of the transmission system.

6. Vide Record of Proceedings for the hearing dated 25.10.2023, CTUIL was directed to submit the approval of the Central Government for the Project as per Section 3(5) of the Electricity (Transmission System Planning, Development and Recovery of Inter-state Transmission Charges) Rules, 2021. CTUIL, vide its affidavit dated 6.11.2023, has placed on record a copy of the Gazette Notification of the Ministry of Power dated 6.12.2021 for Transmission Schemes including the Project covered under the instant Petition.

7. The Petitioner has submitted that in accordance with the “Guidelines for Encouraging Competition in Development of Transmission Projects” and “Tariff Based Competitive Bidding Guidelines for Transmission Service” (hereinafter referred to as

“the Guidelines”) issued under Section 63 of the Act, PFC Consulting Limited (PFCCL) was notified by the Ministry of Power, Government of India, vide Gazette Notification No. 4661, dated 6.12.2021 as the Bid Process Coordinator (BPC) for the purpose of selection of bidder as the Transmission Service Provider (TSP) to establish the “Transmission system for evacuation of power from REZ in Rajasthan (20 GW) under phase III –Part A3” through tariff based competitive bidding process.

8. PFCCL, in its capacity as the BPC, initiated the bid process on 7.2.2022 and completed the same on 2.8.2023 in accordance with the Guidelines. Apraava Energy Private Limited was selected as the successful bidder having quoted the lowest transmission charges of Rs. 627.54 million per annum in order to provide transmission services to the beneficiaries of the transmission system.

9. RfP was issued on 7.2.2022. At the RfP (Technical and Financial) stage, nine bidders, namely, (i) Adani Transmission Limited, (ii) Apraava Energy Private Limited (iii) Juniper Green Transmission Private Limited, (iv) Megha Engineering & Infrastructures Limited, (v) Power Grid Corporation of India Limited, (vi) Renew Transmission Ventures Private Limited, (vii) Sterlite Grid 9 Limited, (viii) Tata Power Company Limited, and (ix) Torrent Power Limited submitted their offers. The RfP (Technical bids) of the nine bidders were opened by the Bid Opening Committee in the Central Electricity Authority on 11.1.2023 in the presence of the representative of the Bid Evaluation Committee (BEC) through video conferencing. Based on the recommendation of the BEC, the RfP (Financial) Bids-Initial Price Offer of the eight bidders were opened on 15.3.2023. The lowest Initial Price Offer discovered (Best

Deal) at the MSTC portal was Rs. 673.25 million per annum. Based on the recommendation of the BEC, an e-reverse auction was carried out at the MSTC portal on 16.3.2023, and the following transmission charges for the bidders (in ascending order) emerged:

S. No.	Name of Bidder	Transmission Charges from the initial offer (Rs.in million)	Transmission charges from the final offer (Rs.in million)	Rank
1.	Apraava Energy Private Limited	673.25	627.54	L1
2.	Power Grid Corporation of India	747.68	629.12	L2
3.	Tata Power Company Limited	861.10	861.10 (Not participated in e-RA)	L3
4.	Adani Transmission Limited	861.50	861.50 (Not participated in e-RA)	L4

10. As per the Bid Evaluation Report dated 23.3.2023, Apraava Energy Private Limited emerged as the successful bidder with the lowest quoted transmission charges of Rs. 627.54 million per annum. BEC, vide its certificate dated 23.3.2023, has certified that the entire bid process has been carried out in accordance with the Guidelines issued by the Ministry of Power under Section 63 of the Act. BEC has further certified that the transmission charges discovered through the e-reverse auction are acceptable.

11. Consequent to its selection as the lowest bidder, the BPC issued a Letter of Intent (LoI) to Apraava Energy Private Limited on 29.3.2023, which was accepted by Apraava Energy Private Limited. Under the terms of RfP and the Letter of Intent, the successful bidder is obligated to accomplish the following tasks:

- (a) Provide the Contract Performance Guarantee in favour of the Central Transmission Utility of India Limited (CTUIL);
- (b) Execute the Share Purchase Agreement and Transmission Service Agreement;
- (c) Acquire, for the Acquisition Price, 100% share equity shareholding of Fatehgarh III Transmission Limited from PFFCL along with all its related assets and liabilities;
- (d) Make an application to this Commission for adoption of the transmission charges, as required under Section 63 of the Act; and
- (e) Apply to this Commission for the grant of a transmission licence;

12. Apraava Energy Private Limited has furnished the Contract Performance Guarantee (CPG) in favour of Nodal Agency, i.e. CTUIL for an aggregate value of Rs. 12 crore on 31.7.2023 and has acquired hundred percent equity holding in Fatehgarh-III Transmission Limited on 2.8.2023. The Petitioner entered into a Transmission Service Agreement (TSA) with CTUIL on 2.8.2023.

13. Section 14 of the Act provides that the Appropriate Commission may, on an application made under Section 15 of the Act, grant a licence to any person to transmit electricity as a transmission licensee in any area as may be specified in the licence. The word "person" has been defined in Section 2(49) of the Act to include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person. The Petitioner has been incorporated under the Companies Act, 2013. The main objective of the Petitioner Company is as under:

“To plan, promote and develop an integrated and efficient power transmission system network in all its aspects including planning, investigation, research, design and engineering, preparation of preliminary, feasibility and definite project reports, construction, operation and maintenance of transmission lines, sub-stations, load dispatch stations and communication facilities and appurtenant works, coordination of integrated operation of state, regional and national grid system, execution of turn-key jobs for other utilities/organizations and wheeling of power in accordance with the policies, guidelines and objectives laid down by the Central Government from time to time”

14. Section 15(1) of the Act provides that every application under Section 14 of the Act shall be made in such manner and in such form as may be specified by the Appropriate Commission and shall be accompanied by such fees as may be prescribed by the Central Government. The Commission has specified Transmission Licence Regulations in this regard. Regulation 3 of the Transmission Licence Regulations provides that the Empowered Committee shall identify the Projects included in the transmission plan to be developed under the Guidelines issued under Section 63 of the Act. Regulation 4 of the Transmission Licence Regulations provides that in case of projects identified for development under the Guidelines for competitive bidding, the project developer's selection shall be made per the procedure laid down in the Guidelines. The Project under consideration has been identified for development under competitive bidding by the competent authority in the Ministry of Power/ CEA. Central Electricity Authority, vide its letter No. CEA-PS-11-21(25)/1/2018-PSPA-I Division dated 7.10.2022 had issued prior approval to the Project under Section 68 of the Act. The selection of the Project developer, Fatehgarh-III Transmission Limited, has been certified by BEC to have been made in accordance with the Guidelines for Competitive Bidding.

15. Regulation 7 of the Transmission Licence Regulations read with the order dated 22.1.2022 passed in Petition No.1/SM/2022 [whereby the Commission, in the exercise of 'Power to Relax' under Regulation 24 of the Transmission Licence Regulations, modified/amended Clause (4), Clause (7), Clause (9) and Clause (12) and dispensed with Clause (10) of Regulation 7] provide for the procedure for the grant of a transmission licence as under:

“(1) The application for grant of transmission licence shall be made to the Commission in Form-I appended to these regulations and shall be accompanied by such fees as may be prescribed by the Central Government from time to time.

(2) In case of the person selected for implementation of the project in accordance with the guidelines for competitive bidding, the application shall also contain such additional information, as may be required under these guidelines.

(3) The application shall be supported by affidavit of the person acquainted with the facts stated therein.

(4) Before making an application, the applicant shall submit the original application in electronic form along with annexures and enclosures on the e-filing portal of the Commission so that the same is served electronically on all the long-term customers of the project registered on the e-filing portal of the Commission. Also, a copy of the same be served through e-mail on the long term customers of the project not registered on the e-filing portal of the Commission. Further, the applicant shall also post the complete application along with annexures and enclosures in English and in the vernacular language, on its website.

(5) The application shall be kept on the website till such time the licence is issued or the application is rejected by the Commission.

(6) Immediately on making the application, the applicant shall forward a copy of the application to the Central Transmission Utility.

(7) The applicant shall, within 7 days after filing the application, post the application on the e-filing portal of the Commission and on its website in Form-II attached to these regulations in English language and in Vernacular language of the State or Union Territory where an element of the project or a long-term customer is situated, inviting comments from the general public.

(8) As far as possible, within 7 days of receipt of the application the Secretariat of the Commission shall convey defects, if any, if noticed on preliminary scrutiny of the application for rectification and the defects conveyed shall be rectified by the applicant in such time as may be indicated in the letter conveying the defects.

(9) In the notice published on the e-filing portal of the Commission and on the applicant's website under clause (7) it shall be indicated that the suggestions and objections, if any, on the application, may be filed before the Secretary, Central Electricity Regulatory Commission, Third Floor, Chanderlok Building, Janpath, New Delhi-110001 (or the address where the office of the Commission is situated), with a copy to the applicant, by any person, including the long-term customers, within 30 days of publication of the notice

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(10) The Central Transmission Utility shall send its recommendations, if any, to the Commission on the proposal made in the application within a period of thirty days from the date of receipt of application by it:

Provided that copy of the recommendations, if any, made by the Central Transmission Utility shall always be forwarded to the applicant:

Provided further that these recommendations of the Central Transmission Utility shall not be binding on the Commission.

(11) The applicant may file its comments, duly supported by an affidavit, on the recommendations made by the Central Transmission Utility and the suggestions and objections, if any, received in response to the notice posted on the e-filing portal of the Commission and on the applicant's website by him, within 45 days of service of copy of the application on the Central Transmission Utility or publication of notice posted on the e-filing portal of the Commission and on the applicant's website, with an advance copy to the Central Transmission Utility or the person who has filed the suggestions and objections on the proposal made in the application, as the case may be.

(12) The Commission after considering the suggestions and objections received in response to the public notice published by the applicant and the recommendations, if any, of the Central Transmission Utility may, propose to grant transmission licence or for reasons to be recorded in writing, reject the application.”

16. The Petitioner has approached the Commission by a separate Petition for the adoption of transmission charges in respect of the transmission system, which is

presently under consideration of the Commission and the order in that Petition will be issued separately. The Petitioner has filed the present Petition for the grant of a transmission licence in accordance with the Transmission Licence Regulations. The Petitioner has submitted proof of service of the copies of the application on the BPC and CTUIL and proof of web posting of the complete application. The Petitioner has further undertaken to pay the applicable licence fee upon the grant of a transmission licence in terms of the Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012. The Petitioner has prayed for the grant of a transmission licence to Fatehgarh-III Transmission Limited with respect to the transmission system as per the details given in paragraph 1 above.

17. The Petitioner has made the Application as per Form-I and paid a fee of Rs. One lakh as prescribed by the Central Government. As per the direction of the Commission, the Petitioner has served a copy of the Application on the beneficiaries of the transmission project for the Project. The transmission charges quoted by the Petitioner, which have been recommended by the Bid Evaluation Committee for acceptance, are Rs. 627.54 million per annum. The Petitioner has also enclosed copies of the recommendations of the Bid Evaluation Committee.

18. The Petitioner, vide its affidavit dated 29.8.2023, has placed on record the relevant copies of the notices wherein notices were published in terms of Regulation 7(7) of the Transmission Licence Regulations. The Petitioner published the notices on 14.8.2023 in The Times of India (Jaipur edition) and on 15.8.2023 in Dainik Bhaskar (Jodhpur, Jaisalmer and Barmer editions). The Petitioner has also published the notice

on the e-filing portal of the Commission and on its website in Form-II. No objection has been received from the general public in response to the public notices.

19. The Petitioner has served the copy of the Application on the Central Transmission of Utility of India Limited (CTUIL) as required under Section 15(3) of the Act and Regulation 7(6) of the Transmission Licence Regulations. CTUIL, vide its letter dated 8.9.2023 has recommended for the grant of a transmission licence to the Petitioner. Relevant portions of the said letter dated 8.2.2023 are extracted as under:

“This is with reference to Petition No. 324/TL/2023 filed by M/s F-IITL before Hon'ble Commission for grant of Transmission License to facilitate implementation of Transmission System for Evacuation of Power from REZ in Rajasthan (20 GW) under Phase III - Part A3. In this regard, following is submitted:

- In order to integrate and evacuate power from additional 20 GW renewable potential of Renewable Energy Zones (Fatehgarh: 9.1 GW, Bhadla: 8GW, Ramgarh: 2.9 GW) in Rajasthan, various transmission alternatives were evolved and deliberated in the 3rd NRPC-TP meeting held on 19.02.21. Based on the discussion, Transmission System for Evacuation of Power from REZ in Rajasthan (20 GW) under Phase 111 (hybrid (EHVAC& HVDC) transmission system) was agreed in above meeting for evacuation of power from above zones. Extract of the minutes of 3rd NRPC-TP meeting are enclosed at Annexure-I. The subject transmission project was also agreed as part of abovementioned transmission scheme. The detailed scope of the subject scheme is attached at Annexure-II.*
- Subsequently transmission scheme was agreed in the 5th meeting of National Committee of Transmission (NCT) held on 25.09.2021 & 02.09.2021. Extract of minutes of meeting are attached at Annexure-III. Transmission Scheme was also agreed in the 49th NRPC meeting held on 27/09/2021. Extract of the 49,h NRPC minutes are enclosed at Annexure-IV.*
- Ministry of Power Govt, of India vide gazette notification dated 06/12/2021 has identified M/s PFC Consulting Ltd. as Bid Processing Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish the above referred project through TBCB route. Subsequently, scope of transmission project, covered under present petition, was modified in 9th meeting of National Committee of Transmission (NCT) held on 28.09.2022. Extract of minutes of meeting are attached at Annexure-V.*
- Bid Evaluation Committee appointed by the BPC has selected Apraava Energy Pvt. Ltd. as successful bidder. Apraava Energy Pvt. Ltd. has subsequently acquired Fatehgarh III Transmission Ltd. after execution of the requisite Share Purchase Agreement (SPA) on 02.08.2023.*

- *As part of subject scheme, Fatehgarh-3 - Bhadla-3 400kV D/c line is to be established with completion schedule as 01.02.2025. 765/400/220kV Fatehgarh-III PS (Section-II) is to be implemented by POWERGRID Ramgarh Transmission Ltd. with expected commissioning schedule as 01.02.2025. Bhadla-III PS is to be implemented under Transmission System for Evacuation of Power from REZ in Rajasthan (20 GW) under Phase III - Part B1 with commissioning schedule as 18 months from effective date. BPC i.e. PFCCCL has issued Lol on 28.07.2023 for Phase-III Part-B1 and SPV is expected to be transferred by 15.09.2023 (expected completion schedule as 14.03.2025). Implementation of this project shall facilitate transfer of RE power proposed to be connected in Fatehgarh/Bhadla Complex as well as anchoring of Fatehgarh-3 PS for reliable evacuation.*
- *It is also to mention that Fatehgarh-3 - Bhadla-3 400kV D/c line falls in GIB Potential area. Further, the Committee constituted by Hon'ble Supreme Court, comprising of members from MNRE, WII and Corbett Foundation, vide its letter dated 29.12.2022 has ratified overhead laying of Fatehgarh-3 - Bhadla-3 400kV D/c line (under present application) with the stipulated conditions including installation of bird diverters.*

Keeping above in view and based on details furnished by M/s F-IIITL, CTU, in line with Section 15(4) of the Electricity Act, 2003, recommends grant of transmission license to M/s F-IIITL for executing the subject transmission scheme."

20. We have considered the submissions of the Petitioner, BPC and CTUIL. The proviso to Clause 2.15.2 of the RfP provides that "if for any reason attributable to the BPC, the said activities are not completed by the Selected Bidder within the above period of ten (10) days as mentioned in this clause, such period of 10 days shall be extended, on a day to day basis till the end of the Bid validity period". As per the above provision, the selected bidder was required to complete all the activities, including the acquisition of SPVs, by 5.4.2023 since the Lol was issued on 29.3.2023. BPC, vide its letter dated 2.8.2023 in terms of Clause 2.8.2 of the RfP extended the bid validity period up to 2.8.2023. The selected bidder furnished the Contract Performance Guarantee in favour of Nodal Agency (CTUIL) for an amount of Rs. 12 crore on 31.7.2023 and acquired a hundred per cent equity-holding in the applicant company on 2.8.2023 after execution of the Share Purchase Agreement. As per clause 2.15.4 of the RfP, TSP is

required to apply to the Commission for a grant of transmission licence within five working days of the issuance of the acquisition of the SPV to the successful bidder. The successful bidder, namely Apraava Energy Private Limited, acquired the SPV on 2.8.2022. Accordingly, the Petitioner has filed the instant Petition through e-filing for the grant of a transmission licence on 10.8.2023. The Petitioner has submitted since there was a delay in the registration of the Petitioner company by the Commission, the Petition could not be filed within the timeline. Accordingly, the Petitioner has prayed to condone the delay of three days in this regard. Since there was a procedural lapse, we condone the delay of three days in filing of the Petition.

21. Considering the material on record, we are *prima-facie* of the view that the Petitioner satisfies the conditions for the grant of an inter-State transmission licence under Section 15 of the Act read with the Transmission Licence Regulations for the establishment 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 the grant of a transmission licence aforesaid. The objections or suggestions, if any, be filed by any person before the Commission, by **5.11.2023**.

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

23. The Petitioner has submitted that it shall implement the project as per the conditions of the TSA. The Petitioner has also undertaken that the time overrun and cost overrun, if applicable, shall be claimed by the Petitioner in accordance with applicable provisions of TSA read with the provisions of the Act, the bidding documents and the Regulations of the Central Electricity Regulatory Commission.

24. It is observed that as per Article 5.1.1 of the TSA, the TSP at its own cost and expense, shall be responsible for designing, constructing, erecting, completing and commissioning each element of the Project by scheduled COD in accordance with the various regulations of the Central Electricity Authority regarding Technical Standards and Grid Standards, Prudent Utility Practices, and other applicable laws. Further, Article 5.4 of the TSA provides that the TSP shall ensure that the Project is designed, built and completed in a good workman-like manner using sound engineering and construction practices and using only materials and equipment that are new and of international utility-grade quality such that the useful life of the Project will be till the expiry date. Further, the design, construction and testing of all equipment, facilities, components and systems of the Project shall be in accordance with the Indian Standards and Codes issued by the Bureau of Indian Standards. In this regard, the Petitioner has submitted that there are sufficient checks and balances in terms of which both CEA and the Nodal Agency may monitor the overall quality of construction of the Project. The Petitioner has further submitted that it would implement the project as per the provisions of the TSA including Article 5.1.1 and Article 5.4 of the TSA.

25. The Petition shall be listed for the hearing on **8.12.2023**.

Sd/-
(P.K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(Jishnu Barua)
Chairperson