

**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: 28th January, 2024

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 Licence 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 Prasoan, 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 the 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> <ul style="list-style-type: none"><i>400 kV 63 MVAR Switchable line reactor – 4 nos.</i><i>Switching equipment for 400 kV 63 MVAR switchable line reactor –4</i>	<i>18 months</i>

	<p><i>nos.</i></p> <ul style="list-style-type: none"> • 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. 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, Apraava Energy Private Limited was declared a successful bidder with the lowest quoted annual transmission charges of Rs. 627.54 million per annum.

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 26.11.2023, *prima facie* proposed to grant a transmission licence to the Petitioner. The relevant extracts of the order dated 26.11.2023 are extracted as under:

“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.”

4. A public notice under Sub-section (5) of Section 15 of the Act was published on 30.11.2023, in all editions of the Hindustan Times (English) and Amar Ujala (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 the hearing on 8.12.2023. It was submitted by the representative of the Petitioner that, in response to a public notice published by the Commission, no objection has been received. Vide Record of Proceedings for the hearing dated 8.12.2023, CTUIL was directed to submit the following information:

a) In what manner the notification for appointment of the BPC by MOP can be considered as the approval of the 'Central Government' required for the transmission scheme in terms of sub-clause 3 of clause 5 of Electricity (Transmission System Planning, Development and Recovery of Inter-State Transmission Charges) Rules, 2021 notified by the Ministry of Power on 1.10.2021.

(b) Actual date of the transfer of SPV in respect of the "Transmission scheme for evacuation of Power from REZ in Rajasthan (20GW) under Phase-III Part B1", in which the "Bhadla III" is covered, which was expected to be transferred on 15.9.2023 as per the recommendation of CTUIL 8.9.2023 in the instant scheme.

(c) As per the recommendation of CTUIL dated 8.9.2023, the completion schedule of the Fatehgarh-III - Bhadla III 400 kV D/c line, which is covered under the present petition, is 1.2.2025. The commissioning schedule of Fatehgarh-III PS (Section-II) is 1.2.2025, and the expected completion schedule of Bhadla III S/s is 14.3.2025 (considering 18 months' timeline from the transfer of the SPV, which was expected by 15.9.2023). Since one end of the Fatehgarh-III - Bhadla III 400 kV D/c line is being terminated at Bhadla III S/s, clarify how the said line will be utilized on 1.2.2025 without the availability of Bhadla III sub-station (whose SCOD date is not clear yet) and liability of the transmission charges in case of mismatch thereof. Further, clarify how CTUIL takes care of SCOD dates

of linked schemes so that mismatch at the planning stage is avoided, the details of the process thereof and reasons for mismatch in schedule dates in the instant case in the light of said process.

6. CTUIL, vide its affidavit dated 19.1.2024, has submitted as under:

(i) With regard to (a) above, the Transmission System Planning Rules, 2021” were notified by the Ministry of Power, Government of India *vide* Gazette Notification dated 1.10.2021. As per Rule 3(5), all Inter-State Transmission System projects, along with their timeline for implementation, are required to be approved by the Central Government. Subsequently, the National Committee on Transmission (NCT) was reconstituted *vide* Ministry of Power Office Order dated 28.10.2021 as per the decision taken in a meeting held under the Chairmanship of the Hon’ble Minister of Power & NRE on 5.10.2021 to discuss the transmission related issues for renewable energy. In the above order dated 28.10.2021, it was decided that (a) for the ISTS Projects costing more than Rs. 500 crore, NCT shall recommend to Ministry of Power for the implementation of such projects along with their mode of implementation, (b) for ISTS Projects costing between Rs. 100 crore and Rs. 500 crore, NCT shall approve such projects along with their mode of implementation under intimation to Ministry of Power, and (c) for ISTS Projects costing less than or equal to Rs. 100 crore, CTUIL will approve such projects along with their mode of implementation under intimation to NCT and Ministry of Power. In line with the above decision, for the ISTS Projects costing more than Rs. 500 crore, the Central Government approves these transmission projects through various Gazette Notifications. The Central Government also appoints Bid Process Coordinators for the approved transmission projects in the same Gazette. Accordingly, the appointment of BPC by the Ministry of Power through Gazette Notifications can be considered by this Commission as approval the transmission projects by Government.

(ii) With regard to (b), the actual date of the transfer of SPV in respect of the “Transmission scheme for evacuation of Power from REZ in Rajasthan (20GW) under Phase-III Part B1” is 27.9.2023.

(iii) With regard to the (c) above, Bhadla-III Pooling Station is to be implemented as part of the “Transmission scheme for evacuation of Power from REZ in Rajasthan (20GW) under Phase-III Part B1” for which SPV was transferred on 27.9.2023. The completion schedule of the above transmission scheme is 18 months from the effective date (SPV Transfer Date) i.e., 26.3.2025. Thus, there is a mismatch of about 2 months between the commissioning of the Fatehgarh-III-Bhadla-III 400 kV D/C line and the Bhadla-III Pooling Station. Further, a meeting was held on 11.7.2023 between CEA, CTUIL, PFCCL and RECPDCL to discuss the issue of SPV transfer of Phase-III transmission schemes in Rajasthan wherein it was informed that Rajasthan SEZ Ph-III Part-A 3 (Fatehgarh-III – Bhadla-III 400kV D/C line) is interlinked with Phase-III Part B1 (Bhadla-III PS and its interconnections). During the above meeting, the representative of BPC i.e., PFCCL (Respondent No. 2), informed that the Lol for the Phase-III- Part A1, Part A3 and Part G schemes were issued to the selected bidders in the month of March 2023. Further, the bid validity of 6 months for the schemes is going to expire as bid submissions for the schemes were completed in January 2023. In the said meeting, it was stated that the selected bidders of the above schemes had raised concerns/apprehensions about issues such as cost overrun, difficulty in availability of land for substation, and RoW, etc., that they might encounter due to delay in transfer of the SPV of the schemes. The representative of CTUIL informed that efforts should be made to reduce the time between the SPV transfer of inter-linked transmission schemes in order to avoid the mismatch in the commissioning of the transmission schemes and to avoid any major hassles in the grant of the licence from CERC. Therefore,

PFCCL could extend the bid validity for the schemes to facilitate the same. After detailed deliberations, it was agreed that PFCCL may transfer the SPV of Phase-III Part A3 transmission scheme to the successful bidder in the last week of July 2023. Further, PFCCL may take suitable measures to expedite the completion of the bidding process and SPV transfer process for the Phase-III Part B1 scheme.

(iv) The utilization of Fatehgarh-III-Bhadla-III 400kV D/c line shall start only after commissioning of Bhadla-III PS, which is scheduled to be commissioned by 26.3.2025. However, the mismatch between the above schemes may be minimized by rigorous monitoring during their implementation. The Commission may also direct to revise the TSA with modified/aligned schedules as per a similar earlier direction in its Order in Petition No. 128/TL/2023.

(v) Regarding SCOD dates of linked schemes, a transmission scheme is evolved by the CTUIL in consultation with various stakeholders, including CEA. While planning, it is also envisaged that the SCOD of the entire transmission scheme shall be the same. However, the transmission scheme, based on its costing, is segregated into various packages by the National Committee on Transmission and the implementation time frame is also decided by NCT. The alignment of schedules of such inter-dependent schemes is to be carried at the stage of SPV Transfer by BPC(s).

(vi) A meeting on inter-dependency in pre-requisite conditions for declaring COD of the transmission schemes (under bidding) was held on 12.6.2019 in CEA with participation from CTUIL, PFCCL and RECPDCL wherein interdependency of two independent projects was discussed. After detailed deliberations, it was agreed that in the case of two projects that are interdependent in their utilization, the inclusion of the availability

of another transmission scheme as a prerequisite for commissioning of the transmission elements of a transmission scheme needs to be removed. It was also agreed that to ensure that both schemes are available in same time-frame, same SCOD to be indicated for both the projects. Keeping in view the above, the inclusion of availability of other transmission scheme as a pre-requisite for commissioning of transmission elements of a transmission scheme is not included in case of projects having similar schedule period from SPV transfer date. However, same SCOD can only be realized if BPC(s) transfers the SPVs of inter-dependent schemes in same time frame.

7. Keeping in view the above submissions, we proceed to consider the grant of the transmission licence to the Petitioner company. With regard to the revision of the TSA with modified/aligned schedules, we are not inclined to issue any directions at the stage of granting the transmission licence as the project has been awarded through competitive bidding.

8. As regards the grant of a 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.”

9. In our order dated 26.11.2023, we had proposed to grant a transmission licence to the Petitioner company and directed the issue of a public notice. In response to the public notice, no suggestions/objections have been received. CTUIL, in its letter dated 8.9.2023, has recommended the grant of a transmission licence to the Petitioner. We find that the Petitioner company meets the requirements of the Act and the Transmission Licence Regulations for the grant of a transmission licence for the subject Transmission System mentioned at paragraph 1 of this order. Accordingly, we direct that a transmission licence be granted to the Petitioner, 'Fatehgarh III Transmission Limited,' 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 as per the details given in paragraph 1 above.

10. The grant of the transmission licence to the Petitioner (hereinafter referred to as "the licensee") is subject to the fulfillment 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 the initial licence period, for the 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 the 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 the EPC contract for the execution of work under the scope of the project is awarded through a competitive bidding process.

11. CTUIL / its appointed Independent Engineer and the 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 Transmission Service Agreement executed between the licensee & Nodal Agency, the Act and the Transmission Licence Regulations.

12. Let an extract copy of this order be sent to CTUIL, CEA and BPC for information and necessary action.

13. Petition No. 246/TL/2023 is allowed in terms of the above.

**Sd/-
(P.K. Singh)
Member**

**sd/-
(Arun Goyal)
Member**

**sd/-
(Jishnu Barua)
Chairperson**