

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 44/TL/2012

**Coram:
Shri V.S. Verma, Member
Shri A. S. Bakshi, Member**

**Date of Hearing: 23.7.2013
Date of Order : 29.7.2013**

In the matter of

Application for grant of transmission licence under Section 14 read with Section 15 (1) (a) of the Electricity Act, 2003 and Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of transmission licence and other related matters) Regulations, 2009.

**And
In the matter of**

In-principle approval for assignment of transmission licence in the name of new legal entity under Section 17(3) of the Electricity Act, 2003 upon grant of such licence

**And
In the matter of**

Adani Power Limited, Ahmedabad

Petitioner

Vs

1. National Load Despatch Centre, New Delhi
2. Power Grid Corporation of India Ltd., Gurgaon
3. Northern Regional Load Despatch Centre, New Delhi
4. Western Regional Load Despatch Centre, Mumbai
5. Central Electricity Authority, New Delhi
6. Gujarat Electricity Transmission Corporation Limited, Vadodara
7. Haryana Vidyut Prasaran Nigam Ltd, Panchkula
8. Gujarat Urja Vikas Nigam Ltd., Vadodara
9. Maharashtra State Electricity Distribution Co. Ltd., Mumbai
10. Madhya Pradesh Power Management Company Ltd., Jabalpur
11. M.P. Audygik Kendra Vikas Nigam Ltd, Bhopal
12. Chhattisgarh State Power Distribution Company Ltd., Raipur
13. Goa State Electricity Department, Panaji
14. Daman and Diu Electricity Department, Daman
15. Electricity Deptt., Administration of Dadra Nagar Haveli, Silvassa
16. Heavy Water Project, Deptt. of Atomic Energy,
17. Jindal Power Ltd., Raigarh
18. Torrent Power Ltd., Ahmedabad



19. PTC India Ltd., New Delhi
20. Haryana Power Purchase Centre, Panchkula
21. Rajasthan Power Procurement Centre, Jaipur
22. Jodhpur Vidyut Vitran Nigam Ltd., Jodhpur
23. Jaipur Vidyut Vitran Nigam Ltd., Jaipur
24. Ajmer Vidyut Vitran Nigam Ltd., Ajmer
25. BSES Yamuna Power Ltd., New Delhi
26. BSES Rajdhani Power Ltd., New Delhi
27. Tata Power Delhi Distribution Ltd., Delhi
28. New Delhi Municipal Council, New Delhi
29. Uttarakhand Power Corporation Ltd., Dehradun
30. Uttar Pradesh Power Corporation Ltd., Lucknow
31. North Central Railway, Allahabad
32. Punjab State Power Corporation Ltd., Patiala
33. Power Development Deptt, J & K, Jammu
34. Himachal Pradesh State Electricity Board, Shimla
35. Electricity Deptt., UT Chandigarh, Chandigarh
36. Northern Regional Power Committee, New Delhi
37. Western Regional Power Committee, Mumbai
38. Kanpur Electricity Supply Company Ltd., Kanpur
39. Rajasthan Rajya Vidyut Prasaran Nigam Ltd, Jaipur
40. Delhi Transco Ltd., New Delhi

Respondents

Following were present:

1. Shri Sanjay Sen, Senior Advocate, APL
2. Ms. Poonam Verma, Advocate, APL
3. Shri Jignesh, APL
4. Shri Sameer, APL
5. Shri Kandara Patel, APL
6. Shri Malav Deliwala, APL
7. Shri M.R Krishna Rao, APL
8. Shri Kunal Singh, APL
9. Shri Apoorve, Advocate, Haryana Utilities
10. Shri Chirag Kher, Advocate, Haryana Utilities
11. Shri P.J.Jani, GUVNL
12. Miss Joyti Prasad, NLDC
13. Shri Rajiv Porwal, NLDC
14. Shri Y.K.Sehgal, CTU
15. Shri Mukesh Khanna, CTU

ORDER

The petitioner, Adani Power Limited, a company incorporated under the Companies Act, 1956 and engaged in the business of generation and



transmission of electricity at various locations in the country, has made this application under Sections 14 and 15 of the Electricity Act, 2003 (the 2003 Act) and Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009 (hereinafter "Transmission Licence regulations") for grant of transmission licence for the dedicated transmission system of 400 kV D/C Mundra-Dehgam Transmission Line and \pm 500 kV bipole Mundra-Mohindergarh HVDC Transmission line including associated 400 kV lines comprising the following elements:

Transmission lines

S. No.	Name (end-point locations)	Voltage Class (kV)	Length (km)	Type (S/C or D/C)
1.	Mundra-Mohindergarh	+/- 500 kV	990	HVDC bipole
2.	Electrode line at Mundra Station	33 kV	32	
3.	Mohindergarh – Dhanonda	400 kV	5	D/C
4.	Mohindergarh – Bhiwani	400 kV	50	D/C
5.	Electrode line at Mohindergarh Station, Mohindergarh	33 kV	185	
6.	Mundra – Sami	400 kV	282	D/C
7.	Sami – Dehgam	400 kV	152	D/C

Sub-Stations

Sr. No.	Name (location)	Voltage Level(s) (kV)	Transformer (Nos. and MVA capacity)	Reactive/ capacitive compensation (device with MVAR capacity)	No. of bays
1.	HVDC Terminal Station at Mundra TPS				
1.1	AC Yard	400 kV		AC sub filter – (8X120 MVAR + 3X150 MVAR capacitors)	21
1.2	DC Yard	+/- 500 kV DC	2X1494MVA Converter Transformer (7X498 MVA,		11

			1-ph including 1 spare unit)		
1.3	Electrode Station				-
2.	Mundra TPS Switchyard	400 kV	2X315 MVA, 400/220 kV ICT	Bus Reactor : 3 X 42 MVAR	21
3.	Sami Switching Station 400 kV	400kV	-	Bus Reactor : 1 X 50 MVAR Line Reactor : 2 X 50 MVAR FSC : 38% series compensation	10
4.	HVDC Terminal Station at Mohindergarh, Haryana				
4.1	AC Yard	400 kV		AC Sub Filters (8X120 MVAR + 5X150 MVAR capacitors)	34
4.2	DC Yard	+/- 500 kV DC	2X1494MVA Converter Transformer (7X498 MVA, 1-ph including 1 spare unit)		11
4.3	Electrode Station				-
5	OPGW Repeater Station at Radhanpur (Gujarat)				
6	OPGW Repeater Station at Sikar (Rajasthan)				
7	OPGW Repeater Station at Pali (Rajasthan)				
8	Bhiwani (PG) Substation	400 kV			4
9	Dehgam, (PG) Sub-station	400 kV			4

2. After detailed examination of the application of the petitioner in the light of the provisions of the 2003 Act and the provisions of the Transmission Licence Regulations and consideration of the objections and suggestions received, the Commission was satisfied that the case of the applicant fulfils the conditions for grant of transmission licence and accordingly, issued the following directions vide order dated 8.6.2013:

"61. In the light of the above discussion, we are *prima facie* satisfied that the petitioner fulfils the conditions for grant of transmission licence for the dedicated transmission lines and the associated bays. Accordingly, we direct that a notice of our proposal to grant transmission licence to the petitioner be published in two daily newspapers inviting suggestion/objections from the public in terms of sub-section (5) of Section 15 of the Act.

62. The petitioner has submitted that it intends to integrate its entire transmission business which is proposed to be entrusted to a new company to be incorporated to ensure maintenance of separate accounts for the regulated transmission business leading to better regulatory compliance. Accordingly, the petitioner at prayer (c) has sought in-principle approval under sub-section (3) of Section 17 of the Act for assignment of the transmission licence when granted in favour of the new company. The consideration of the prayer at this stage is premature. The petitioner's request for grant of transmission licence is still under consideration and the proposed company is yet to be incorporated. Therefore, the prayer at (c) is not being considered at this stage. The prayers at (d) and (e) shall be considered at the time of disposal of the petition. The prayers at (f) and (g) are unspecific and no orders need be passed on them."

3. The public notice under Section 15 (5) of the Act was published in all editions of Indian Express, Amar Ujala and Dainik Jagran on 20.6.2013 and 21.6.2013. In response to the public notice, the Commission has not received any suggestions/objections regarding grant of licence to the petitioner except Uttar Haryana Bijlee Vitran Nigam Limited and Dakshin Haryana Bijlee Vitran Nigam Limited (Haryana Utilities). Haryana Utilities vide their affidavit dated

22.7.2013 have requested the Commission to incorporate the following aspects as conditions of transmission licence:

(a) The petitioner shall take the Long Terms Open Access (LTOA) with specific reference to the PPA dated 7.8.2008 for the contracted capacity of 1424 MW with Haryana Utilities as a condition for grant of licence forthwith for the entire period of the PPA from the effective date of the grant of transmission licence.

(b) Haryana Utilities shall enjoy priority for transfer of power of the contracted capacity of 1424 MW, and grant of any long term, medium term or short term open access on the 400 kV bipole Mundra-Mohindergarh HVDC line to other users shall be subject to the above priority.

(c) There shall not be any indirect claim of PoC charges on the Haryana Utilities under the Central Electricity Regulatory Commission (Sharing of Transmission Charges and Losses) Regulations, 2010 for use of the 500 kV biople Mundra-Mohindergarh line by Haryana Utilities in terms of the PPA consistent with the Commission's decision at para 60 of the order dated 8.6.2013.

4. The matter was heard on 23.7.2013. Learned counsel for the Haryana Utilities reiterated submissions made in the affidavit dated 22.7.2013 and requested the Commission to incorporate the above said two aspects in the transmission licence to be granted to APL.

5. In response, learned senior counsel for the applicant submitted that the petitioner does not have any objections to the conditions requested by Haryana Utilities. Learned senior counsel submitted that the petitioner in its affidavit dated 25.10.2012 has already addressed the above said concerns of Haryana Utilities and has agreed that the petitioner shall bear the PoC charges for 1424 MW capacity in compliance with the terms and conditions of the PPA.

6. 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 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 reasons.

(16) The Commission may, before granting licence or rejecting the application, provide an opportunity 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.”

7. In the order dated 8.6.2013, we have observed that the dedicated transmission lines constructed by the petitioner are inter-regional in nature. These lines cannot be left un-regulated. Therefore, the Commission felt it imperative to step in to regulate these transmission lines so as to ensure compliance of the regulatory framework in the overall interest of the grid.

Accordingly, we proposed to grant transmission licence to the petitioner company and directed for issue of public notice. In response to the public notice, no objection has been received for grant of transmission licence. Haryana Utilities in their reply have not opposed grant of licence to the petitioner but have submitted that their interests in terms of the PPAs dated 7.8.2008 with the petitioner should be protected. The concerns of Haryana Utilities have been addressed in the later part of this order.

8. We are satisfied that the petitioner company meets the requirements of the 2003 Act and the Transmission Licence Regulations for grant of transmission licence to the petitioner for the subject transmission system mentioned at para 1 of this order. Accordingly, we direct that transmission licence be granted to Adani Power Limited for the transmission system as per the details given in para 1 above.

9. The grant of transmission licence to the petitioner (hereinafter refer to as "transmission 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;

(b) The transmission licensee shall comply with the provisions of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters)

Regulations, 2009 or any subsequent enactment thereof during the period of subsistence of the licence.

(c) Useful life of the transmission system as per the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 is 35 years. The present licence is granted for 25 years. Accordingly, it is directed that the transmission licensee shall approach the Commission in the 23rd year of the present licence for grant of licence for another term which shall be considered by the Commission in accordance with law;

(d) The transmission 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 transmission 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 re-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 licence;

(f) The transmission 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 transmission licensee shall remain bound by the Central Electricity Regulatory Commission (Standard of performance of inter-State transmission licensees) Regulations, 2012 or any re-enactment thereof.

(h) The transmission licensee shall allow 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, Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008 and Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 as amended from time to time;

(i) The transmission 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, 2007, as amended from time to time;

(j) The transmission licensee shall coordinate with the concerned Regional Power Committee forum for finalising the outage planning and protection coordination planning as per the decisions of the forum to ensure secure, reliable and integrated grid operation. The petitioner shall also comply with the state of the art operation and maintenance practices like other transmission licensees and ensure availability of transmission elements as notified by the Commission from time to time.

(k) The transmission licensee shall remain bound by the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2010 as amended from time to time; and

(l) The transmission 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.

10. The petitioner in prayers (d) and (e) had prayed for the following:

"(d) Grant recovery of transmission charges as per CERC (Sharing of Transmission Charges and Losses) Regulations, 2010 as amended from time to time;

(e) Consider APL as deemed LTA customer for supply of power against the PPAs entered into with UHBVNL and DHBVNL for 712 MW each upon grant of transmission license i.e. assign priority for grant of LTA over others;"

The Commission in its order dated 8.6.2013 had decided to consider these prayers at the time of final disposal of the petition.

11. As regards prayer (e), the petitioner has requested to be considered as deemed LTA customer for 1424 MW for supply to Haryana Utilities. In their affidavit dated 22.7.2013, Haryana Utilities have submitted that the petitioner should take LTA for the contracted capacity of 1424 MW as a condition for grant of licence. We have considered the issue. After the transmission system has been converted into ISTS by granting licence to the petitioner, it follows that access for the use of the transmission system shall be governed by 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 as amended from time to time (hereinafter "Connectivity Regulations") for grant of connectivity and long term access and medium term open access and by the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008 for short term open access. The petitioner as generating company has admitted to bear the transmission charges for 1424 MW capacity which is covered under the PPA dated 7.8.2008 with Haryana Utilities. As the subject transmission system developed by the petitioner is already being used as per the PPA dated 7.8.2008 for supply of power to UHBVNL and DHBVNL for a quantum of 712 MW each, the petitioner shall be deemed to be long term access customer for

1424 MW capacity. However, the petitioner shall comply with all technical and commercial requirements under the Connectivity Regulations.

12. The petitioner has already obtained long term access from CTU for 342 MW with the delivery point at Mohindergarh. After the transmission licence is granted, the petitioner shall have to seek LTA for 342 MW from CTU with injection point at Mundra. The petitioner shall also have to enter into the necessary Connection Agreement and Transmission Service Agreement with CTU.

13. As regards prayer at (d) for consideration for inclusion in the PoC charges, it is clarified that the transmission lines on being treated as part of ISTS after grant of transmission licence shall be included in the basic network for computation of PoC charges. The tariff of the transmission system shall be determined by this Commission for which the transmission licensee is directed to file the petition in accordance with provisions of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009. After determination of the transmission charges of the transmission system, the transmission licensee shall be entitled to payment of transmission charges under the PoC method of computation. It is clarified that the transmission licensee shall bear the transmission charges corresponding to 1424 MW in terms of the PPA dated 7.8.2008 with the Haryana Utilities.

14. The petitioner shall form a separate company incorporated under the Companies Act, 1956 to function as the transmission licence in accordance with the provisions of Electricity Act, 2003. The petitioner shall ensure that the said company is ring-fenced from other business of the petitioner like generation, trading etc.

15. Petition No. 44/TL/2012 is disposed of in terms of the above. We direct that copies of this order shall be endorsed to all the respondents.

sd/-
(A S Bakshi)
Member

sd/-
(V S Verma)
Member

