

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No. 136/TL/2021,
Petition No. 141/AT/2021,
Petition No. 137/TL/2021,
Petition No.138/AT/2021,
Petition No. 139/TL/2021, and
Petition No. 140/AT/2021**

Coram:

**Shri P.K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member**

Date of Order: 26th August, 2021

Petition No. 136/TL/2021

In the matter of

Application under Section 14 of the Electricity Act, 2003 read with Central Electricity Regulatory Commission (Procedure, Terms and Conditions for Grant of Transmission Licence and other related matters) Regulations, 2009 with respect to Transmission Licence to Fatehgarh Bhadla Transco Limited.

Petition No. 141/AT/2021

In the matter of

Application under Section 63 of the Electricity Act, 2003 for adoption of Transmission Charges with respect to the Transmission System being established by Fatehgarh Bhadla Transco Limited (a 100% wholly owned subsidiary of Power Grid Corporation of India Limited)

Fatehgarh Bhadla Transco Limited,
B-9, Qutab Institutional Area, Katwaria Sarai,
New Delhi-110 016

.....**Petitioner**

Vs

1. SBE Renewables Seventeen Private Limited,
1st Floor, Worldmark-2, Aerocity,
New Delhi -110037
2. Renew Surya Aayan Private Limited,
138, Ansal Chambers-II, Bhikaji Cama Place,
New Delhi -110066
3. Renew Surya Vihaan Private Limited,
138, Ansal Chambers-II, Bhikaji Cama Place,
New Delhi -110066

4. Altra Xergi Power Private Limited,
8th Floor, DLF Square, DLF Phase-II,
Gurgaon-122002
5. North Bihar Power Distribution Company Limited,
3rd Floor, Vidyut Bhawan, Bailey Road,
Patna -800001
6. South Bihar Power Distribution Company Limited,
2nd Floor, Vidyut Bhawan, Bailey Road,
Patna -800001
7. Eden Renewable Passy Private Limited,
Unit No. 236 B &C, 1st Floor, DLF South Court, Saket,
New Delhi-110017
8. Chief Executive Officer,
REC Power Distribution Company Limited,
REC Corporate Head Quarter,
C & D Block, Plot No. I – 4, Sector – 29,
Gurugram – 122 001, Haryana
9. Chief Operating Officer,
Central Transmission Utility of India Limited,
Saudamini, Plot No.2, Sector -29,
Gurugram-122001

.....Respondents

Petition No. 137/TL/2021

In the matter of

Application under Section 14 of the Electricity Act, 2003 read with Central Electricity Regulatory Commission (Procedure, Terms and Conditions for Grant of Transmission Licence and other related matters) Regulations, 2009 with respect to Transmission Licence to Sikar New Transmission Limited.

Petition No. 138/AT/2021

In the matter of

Application under Section 63 of the Electricity Act, 2003 for adoption of Transmission Charges with respect to the Transmission System being established by Sikar New Transmission Limited (a 100% wholly owned subsidiary of Power Grid Corporation of India Limited)

Sikar New Transmission Limited,
B-9, Qutab Institutional Area, Katwaria Sarai,
New Delhi-110 016

.....Petitioner

Vs

1. SBE Renewables Seventeen Private Limited,
1st Floor, Worldmark-2, Aerocity,

New Delhi -110037

2. Renew Surya Aayan Private Limited,
138, Ansal Chambers-II, Bhikaji Cama Place,
New Delhi -110066
3. Renew Surya Vihaan Private Limited,
138, Ansal Chambers-II, Bhikaji Cama, Place,
New Delhi -110066
4. Altra Xergi Power Private Limited,
8th Floor, DLF Square, DLF Phase-II,
Gurgaon-122002
5. North Bihar Power Distribution Company Limited,
3rd Floor, Vidyut Bhawan, Bailey Road,
Patna -800001
6. South Bihar Power Distribution Company Limited,
2nd Floor, Vidyut Bhawan, Bailey Road,
Patna -800001
7. Eden Renewable Passy Private Limited,
Unit No. 236 B &C, 1st Floor, DLF South Court, Saket,
New Delhi-110017
8. Chief Executive Officer,
REC Power Distribution Company Limited,
REC Corporate Head Quarter,
C & D Block, Plot No. I – 4, Sector – 29,
Gurugram – 122 001, Haryana
9. Chief Operating Officer,
Central Transmission Utility of India Limited,
Saudamini, Plot No.2, Sector -29,
Gurugram-122001

.....Respondents

Petition No. 139/TL/2021

In the matter of

Application under Section 14 of the Electricity Act, 2003 read with Central Electricity Regulatory Commission (Procedure, Terms and Conditions for Grant of Transmission Licence and other related matters) Regulations, 2009 with respect to Transmission Licence to Sikar-II Aligarh Transmission Limited.

Petition No. 140/AT/2021

And

In the matter of

Application under Section 63 of the Electricity Act, 2003 for adoption of Transmission Charges with respect to the Transmission System being established by Sikar-II Aligarh Transmission Limited (a 100% wholly owned subsidiary of Power Grid Corporation of India Limited)

Sikar-II Aligarh Transmission Limited,
B-9, Qutab Institutional Area, Katwaria Sarai,
New Delhi-110 016

.....Petitioner

Vs

1. SBE Renewables Seventeen Private Limited,
1st Floor, Worldmark-2, Aerocity,
New Delhi -110037
2. Renew Surya Aayan Private Limited,
138, Ansal Chambers-II, Bhikaji Cama Place,
New Delhi -110066
3. Renew Surya Vihaan Private Limited,
138, Ansal Chambers-II, Bhikaji Cama Place,
New Delhi -110066
4. Eden Renewable Passy Private Limited,
Unit No. 236 B &C, 1st Floor, DLF South Court, Saket,
New Delhi-110017
5. Chief Executive Officer,
PFC Consulting Limited (A wholly owned subsidiary of PFC Limited),
9th Floor, Wing-A, Statesman House, Connaught Place,
New Delhi – 110001
6. Chief Operating Officer,
Central Transmission Utility Private Limited,
Saudamini, Plot No.2, Sector -29,
Gurugram-122001

.....Respondents

Parties present:

Shri Burra Vamsi Rama Mohan for Petitioners
Shri V. C. Sekhar for Petitioners
Shri Mani Kumar for Petitioners
Shri Swapnil Verma, CTU
Shri Siddharth Sharma, CTU
Shri Kashish Bhambhani, CTU
Shri Sandeep Kumawat, CTU
Shri P. S. Hariharan, RECPDCL
Shri Ankit Kumar, RECPDCL
Shri Neeraj Singh, PFCCL
Shri Manish Agrawal, PFCCL
Shri Anubhav Kansal, PFCCL
Shri Harish Bhakuni, PFCCL

ORDER

Petition No. 136/TL/2021 and Petition No.141/AT/2021

The Petitioner, Fatehgarh Bhadla Transco Limited, has filed Petition No.
136/TL/2021 for grant of transmission licence under Section 14 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”). It has also filed Petition No. 141/AT/2021 for adoption of transmission charges under Section 63 of the Act in respect of “Transmission System Strengthening for Evacuation of Power from Solar Energy Zones in Rajasthan (8.1 GW) under Phase II-Part B” to be established on Build, Own, Operate and Maintain (BOOM) basis consisting of the following elements:

Sr. No.	Name of the Transmission Element	Scheduled COD from effective date
1	Fatehgarh-II PS – Bhadla-II PS 765 kV D/c line (2nd)	18 Months
2	2 numbers of 765 kV line bays each at Fatehgarh-II and Bhadla-II for Fatehgarh-II PS – Bhadla- II PS 765 kV D/c line (2nd)	
3	<p>1x240 MVAR Switchable line reactor for each circuit at each end of Fatehgarh-II – Bhadla- II 765 kV D/c line (2nd)</p> <p>240 MVAR, 765 kV reactor- 4 (2 reactors each at Fatehgarh-II and Bhadla-II)</p> <p>Switching equipment for 765 kV reactor - 4 (2 Switching equipment each at Fatehgarh-II and Bhadla-II)</p> <p>(1x80 MVAR Spare* reactor each at Fatehgarh-II and Bhadla-II to be used as spare for Fatehgarh-II – Bhadla- II 765kV D/c line (2nd))</p> <p>*not under the present scope</p>	

Note:

- i. POWERGRID to provide space for 2 numbers of 765 kV bays each at Fatehgarh-II and Bhadla-II sub-station and space for 2 numbers of switchable line reactors each at Fatehgarh-II and Bhadla-II sub-station
- ii. TSP shall install the 765 kV line reactor banks at Bhadla II PS under each of the schemes (Part-B, Part-C and Part-E) and all the associated equipment required for switching arrangement viz isolators, circuit breakers, 765 kV & 145 kV (neutral) auxiliary buses, etc., so that spare 1-ph unit, whenever provided in future, is able to replace any of the faulty unit without its physical movement. Respective TSP shall provide the equipment/facilities at Bhadla II PS such that only supply & installation of 1x80 MVAR spare unit of Reactor, associated LA, 1-Ph Circuit Breaker and extension of 765 kV & 145 kV buses will be required for completion of switching arrangement in future.

Petition No. 137/TL/2021 and Petition No.138/AT/2021

2. The Petitioner, Sikar New Transmission Limited, has filed Petition No. 137/TL/2021 for grant of transmission licence under Section 14 of the Act read with the Transmission Licence Regulations. It has also filed Petition No.138/AT/2021 for adoption of transmission charges under Section 63 of the Act in respect of “Transmission System Strengthening Scheme for Evacuation of Power from Solar Energy Zones in Rajasthan (8.1 GW) under Phase II-Part C”, to be established on Build, Own, Operate and Maintain (BOOM) basis consisting of the following elements:

Sr. No.	Name of the Transmission Element	Scheduled COD from effective date
1	Establishment of 765/400 kV, 2x1500 MVA at Sikar – II with 400kV (1x125 MVAR) and 765 kV (2x330 MVA) bus reactor. 765/400 kV, 1500 MVA ICT – 2 765/400 kV, 500 MVA spare single phase ICT-1 765 kV ICT bays – 2 400 kV ICT bays – 2 765 kV line bays –2 400 kV line bays- 2 125 MVA, 420 kV bus reactor-1 420 kV reactor bay –1 330 MVA, 765 kV bus reactor- 2 (6x110 MVAR) 765 kV reactor bay- 2 110 MVAR, 765 kV, 1 ph Reactor (spare unit) -1 (common spare unit for banks of Bus Reactor & Line Reactor) Future Provision Space for 765/400kV ICT along with bays-2 765 kV line bays along with switchable line reactors- 10 400 kV line bays along with switchable line reactor- 6 400 kV bus reactor- 2	18 months
2	Bhadla-II PS – Sikar-II 765 kV D/c line	
3	2 numbers of 765 kV line bays at Bhadla- II for Bhadla-II PS- Sikar-II 765 kV D/c line -765 kV line bays -2	
4	1x330 MVA switchable line reactor for each circuit at Sikar-II end of Bhadla-II PS – Sikar-II 765 kV D/c line. -330 MVA, 765 kV reactor- 2	

	-Switching equipment for 765 kV reactor- 2	
5	1x240 MVAR switchable line reactor for each circuit at Bhadla-II end of Bhadla-II PS - Sikar-II 765 kV D/c line -240 MVAR, 765 kV reactor-2 -Switching equipment for 765 kV reactor - 2	
6	Sikar-II – Neemrana 400 kV D/c line (Twin HTLS*)	
7	2 number of 400 kV line bays at Neemrana for Sikar-II -Neemrana 400 kV D/c line (Twin HTLS*) - 400 kV line bays- 2	

*with minimum capacity of 2100 MVA on each circuit at nominal voltage

Note:

i. POWERGRID to provide space for 2 numbers of 765 kV bays at Bhadla-II and space for 2 numbers of switchable line reactors at Bhadla-II substation.

ii. POWERGRID to provide space for 2 numbers of 400 kV bays at Neemrana.

iii. TSP shall install the 765kV Line Reactor banks at Bhadla II PS under each of the schemes (Part-B, Part-C and Part-E) and all the associated equipment required for switching arrangement viz isolators, circuit breakers, 765kV & 145kV (neutral) auxiliary buses etc., so that spare 1-ph unit, whenever provided in future, is able to replace any of the faulty unit without its physical movement. Respective TSP shall provide the equipment/facilities at Bhadla II PS such that only supply & installation of 1x80 MVAR spare unit of Reactor, associated LA, 1-Ph Circuit Breaker and extension of 765kV & 145kV buses will be required for completion of switching arrangement in future.

iv. The spare unit of 765kV, 1x110 MVAR Reactor being provided at Sikar-II PS under 'Transmission system strengthening for evacuation of power from solar energy zones in Rajasthan (8.1 GW) under Phase II –Part C' shall be utilized as common spare for 6x110 MVAR Switchable Line Reactors to be provided at Sikar-II PS each under 'Transmission system strengthening for evacuation of power from solar energy zones in Rajasthan (8.1 GW) under Phase II –Part D' and 'Transmission system strengthening for evacuation of power from solar energy zones in Rajasthan (8.1 GW) under Phase II –Part E'.

Petition No. 139/TL/2021 and Petition No. 140/AT/2021

3. The Petitioner, Sikar-II Aligarh Transmission Limited, has filed the Petition No. 139/TL/2021 for grant of transmission licence under Section 14 of the Act read with Transmission Licence Regulations. It has also filed Petition No. 140/AT/2021 for adoption of transmission charges under Section 63 of the Act in respect of "Transmission System Strengthening Scheme for Evacuation of Power from Solar Energy Zones in Rajasthan (8.1 GW) under Phase II-Part D", to be established on Build, Own, Operate and Maintain (BOOM) basis consisting of the following elements:

Sr. No.	Name of the Transmission Element	Scheduled COD from effective date
1	Sikar-II - Aligarh 765 kV D/c line	18 months
2	2 numbers of 765 kV line bays at Sikar-II for Sikar-II – Aligarh(GIS) 765 kV D/c line 765 kV line bays – 2* (Sikar-II S/s)	
3	1x330 MVAr switchable line reactor for each circuit at each end of Sikar-II- Aligarh(GIS) 765 kV D/c line 330 MVAr, 765 kV reactor- 4 (2 reactors each at Sikar-II and Aligarh) Switching equipment for 765 kV reactor- 4 (2 Switching equipment each at Sikar-II and Aligarh) 110 MVAR, 765 kV, 1 ph Reactor (spare unit) at Aligarh-1	

Note:

- i. * 2 numbers of 765kV GIS line bay modules (up to SF6 to Air bushing outside GIS hall) are already available at Aligarh (GIS) Substation. TSP shall utilize the same for termination of Sikar-II- Aligarh (GIS) 765kV D/c line at Aligarh.
- ii. Developer of Sikar-II S/s to provide space for 2 numbers of 765 kV bays and space for 2 numbers of switchable line reactors at Sikar-II substation.
- iii. The spare unit of 765kV, 1x110 MVAR Reactor being provided at Sikar-II PS under 'Transmission system strengthening for evacuation of power from solar energy zones in Rajasthan (8.1 GW) under Phase II –Part C' shall be utilized as common spare for 6x110 MVAR Switchable Line Reactors to be provided at Sikar-II PS each under 'Transmission system strengthening for evacuation of power from solar energy zones in Rajasthan (8.1 GW) under Phase II –Part D' and 'Transmission system strengthening for evacuation of power from solar energy zones in Rajasthan (8.1 GW) under Phase II –Part E'
- iv. GA drawing indicating the available area at 765kV Aligarh Substation is attached. TSP shall assess the same suitably and may procure additional land, if required.

4. The Petitioners have 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 by Ministry of Power, Government of India, under Section 63 of the Act, REC Transmission Projects Company Limited and PFC Consulting Limited were notified by Ministry of Power, Government of India vide Gazette notification dated 27.1.2020 as the Bid Process Coordinators ('BPC') for the purpose of selection of bidders as Transmission Service Providers ('TSP') to

establish “Transmission System Strengthening for Evacuation of Power from Solar Energy Zones in Rajasthan (8.1 GW) under Phase-II, Part B”; “Transmission System Strengthening Scheme for Evacuation of Power from Solar Energy Zones in Rajasthan (8.1 GW) under Phase-II, Part C”; and “Transmission System Strengthening Scheme for Evacuation of Power from Solar Energy Zones in Rajasthan (8.1 GW) under Phase-II, Part D” (hereinafter collectively referred to as “the Projects”), through tariff based competitive bidding process on BOOM basis.

5. REC Transmission Projects Company Limited and PFC Consulting Limited in their capacity as BPC initiated the bid processes on 5.3.2020 and 6.3.2021 and completed the same on 4.6.2021 and 8.6.2021 in accordance with the Guidelines. Pursuant thereto, Power Grid Corporation of India Limited (‘PGCIL’) was selected as the successful bidder in order to establish the Projects and to provide transmission service to the identified Long Term Transmission Customers (‘LTTCS’) of the Projects as specified in the Transmission Service Agreements.

6. The Petitioners were incorporated as the Special Purpose Vehicles (‘SPVs’) by BPCs for the purpose of execution of the Projects, which were acquired by PGCIL after being selected as the successful bidder. Accordingly, the Petitioners have filed these Petitions for grant of transmission licence in respect of the Projects and for adoption of transmission charges as discovered in the bid process.

Hearing dated 6.8.2021

7. The matters were called out for virtual hearing on 6.8.2021 after notice to the Respondents. During the course of hearing, the Commission posed a specific query as to whether the Projects or the up-stream/ down-stream systems to the Projects fall within the priority and potential habitats of Great Indian Bustard (‘GIB’) and

consequently, whether they are subject to the order of the Hon'ble Supreme Court dated 19.4.2021 in IA No. 85618/2020 in WP (Civil) No. 838 of 2019. In response, the representative of the Petitioners sought time to furnish his response in this regard. The Commission also directed CTU to file its response to the aforesaid query. The Commission also directed CTU and BPC to depute the officers well acquainted with the facts to assist the Commission during the next date of hearing. Pursuant to the aforesaid directions of the Commission, the Petitioners have furnished their response vide affidavit dated 13.8.2021.

Submissions by the Petitioners

8. The Petitioner, Fatehgarh Bhadla Transco Limited, has submitted that with regard to 'Transmission System Strengthening for Evacuation of Power from Solar Energy Zones in Rajasthan (8.1 GW) under Phase II-Part B', BPC in the bid documents had identified the GIB area in the map provided as part of Survey Report wherein all three alternatives for the transmission line have been shown to bypass the priority habitat of GIB and accordingly, the transmission line route for Fatehgarh-II PS - Bhadla-II PS 765 kV D/C has been considered in the bid preparation avoiding the priority habitat of GIB. The Petitioner has submitted that none of the elements of this Project fall within the priority habitat of GIB, but the complete route of 765 kV D/C transmission line between Fatehgarh-II PS and Bhadla-II PS is in the potential habitat of GIB. The Petitioner has further submitted that in accordance with the measures suggested by the Hon'ble Supreme Court vide order dated 19.4.2021, requisite action for compliance shall be taken by the Petitioner, including installation of bird diverters, etc. The Petitioner has also submitted that given the completion period for the Projects being 18 months, actions are being taken for timely completion and presently, awards for all the packages for construction of the

Projects have been placed and work is under progress. It has been further submitted that the up-stream and down-stream elements to the Project are not defined in the Transmission Service Agreement and is not in the scope of the Petitioner.

9. The Petitioners, Sikar New Transmission Limited and Sikar-II Aligarh New Transmission Limited, have also submitted similar responses. The Petitioner, Sikar New Transmission Limited, has submitted that none of the elements of its Project fall within the priority habitat of GIB, but part (about 34%) of 765 kV D/C transmission line route between Bhadla-II PS to Sikar II (PS) fall in the potential habitat of GIB. The Petitioner, Sikar-II Aligarh Transmission Limited, has submitted that none of the elements of its Project fall within either the priority habitat or the potential habitat of GIB.

Submissions by the CTU

10. The CTU vide its affidavit dated 13.8.2021 has filed its compliance report in these Petitions. CTU, in its report, giving details of various elements of the Projects falling within the priority and potential habitats of GIB, has submitted as under:

Sr. No.	Transmission Licensee	Major Elements	GIB Priority Area/ Potential Area
1	Fatehgarh Bhadla Transco Limited (Petition No. 136/TL/2021)	765 kV Fatehgarh II – Bhadla II D/c transmission line (2 nd)	Complete transmission line falls within the potential habitat of GIB
2	Sikar New Transmission Limited (Petition No. 137/TL/2021)	765 kV Bhadla II-Sikar II D/c transmission line	Part of the transmission line (104 km out of 304 km) falls within the potential habitat of GIB
		Establishment of 765/400 kV, 2x1500 MVA S/s at Sikar-II Sikar-II – Neemrana 400 kV D/c line (Twin HTLS) along with 2 numbers of 400 kV of line bays at Neemrana	No element is located or passes within the potential habitat of GIB
3	Sikar-II Aligarh Transmission Limited (Petition No. 139/TL/2021)	Sikar-II – Aligarh (GIS) 765 kV D/c transmission line	No element is located or passes within the potential habitat of GIB

11. As regards the down-stream and up-stream network to the Projects falling within the priority and potential habitats of GIB, CTU has submitted as under:

Sr. No.	Name of Asset	Length (km)/ Land (Acre)	GIB Priority Area/ Potential Area	Status
1.	Fatehgarh Bhadla Transco Limited (Petition No.136/TL/2021 and Petition No.141/AT/2021)			
A	765/400/220 kV Fatehgarh II PS	183 Acre	Substation is located within the potential habitat of GIB	Substation is partially charged
B	LILO of both circuits of Fatehgarh (TBCB) – Bhadla (PG) 765 kV D/c line (operated at 400 kV) at Fatehgarh-II	78 km	Complete transmission line falls within the potential habitat of GIB	Loop in portion i.e. Fatehgarh (TBCB) – Fatehgarh-II was charged in August 21
C	Fatehgarh II- Bhadla II (1 st) 765 kV D/c Transmission Line	186 km	Complete transmission line falls within the potential habitat of GIB	Under Construction
D	765/400/220 kV Bhadla-II PS	183 Acre	Substation is located within the potential habitat of GIB	Substation is partially charged
E	LILO of both circuits of Ajmer-Bikaner 765 kV D/c line at Bhadla-II PS	262 km	188 Kms of Line is passing within the potential habitat of GIB	Line is charged
F	Bhadla-II PS – Bhadla (PG) 400 kV D/c line	48 km	Complete transmission line falls within the potential habitat of GIB	Under Construction
G	Bhadla II – Sikar II (1 st) 765 kV D/c Transmission Line	304 km	104 km of line is passing within the potential habitat of GIB	Part of Petition No. 136/TL/2021 for Licence recommendation
2.	Sikar New Transmission Limited (Petition No. 137/TL/2021 and Petition No.138/AT/2021)			
A	765/400/220 kV Fatehgarh II PS	183 Acre	Substation is located within the potential habitat of GIB	Substation is partially charged
B	LILO of both circuits of Ajmer-Bikaner 765 kV D/c line at Bhadla-II PS	262 km	188 km of line is passing within the potential habitat of GIB	Line is charged
C	Bhadla-II PS – Bhadla (PG) 400 kV D/c line	48 km	Complete transmission line falls within the potential habitat of GIB	Under construction
D	Sikar-II – Aligarh (GIS) 765 kV D/c line	330 km	Line is not passing within the potential habitat of GIB	Part of Petition No. 139/TL/2021 for licence recommendation
3.	Sikar-II Aligarh Transmission Limited (Petition No.139/TL/2021 and Petition No.140/AT/2021)			
A	765/400 kV Sikar-II PS	N.A	Substation is not located within the potential habitat of GIB	Part of Petition No. 137/TL/2021 for licence recommendation
B	Sikar-II – Neemrana 400 kV D/c line	140 km	Line is not passing within the potential habitat of GIB	Part of Petition No. 137/TL/2021 for licence recommendation

C	765/400 kV Aligarh (GIS) substation & 765 kV Connectivity of Aligarh S/s to Jhatikara, Gr. Noida, Agra, Orai and Kanpur (GIS) and 400 kV interconnection with Prithla S/s	Existing	Substation/line is outside the State of Rajasthan, not located within the potential habitat of GIB	Existing Substation/Lines
D	765/400 kV Sikar-II PS	N.A	Substation is not located within the potential habitat of GIB	Part of Petition No. 137/TL/2021 for licence recommendation

12. The CTU has submitted that order of the Hon'ble Supreme Court dated 19.4.2021 recognizes that laying of underground cable at high voltage would require technical evaluation on a case-to-case basis and an omnibus conclusion cannot be reached laying down a uniform method and that wherever there are issues relating to feasibility, the matter shall be referred to the Committee constituted by the Hon'ble Supreme Court comprising members from Ministry of New and Renewable Energy ('MNRE'), Wildlife Institute of India ('WII') and the Corbett Foundation with all relevant material and particulars and the Committee shall assess the matter and arrive at a conclusion as to whether the underground power line is feasible or not.

13. The CTU has further submitted that the Ministry of Power ('MoP') vide order dated 6.6.2021 has constituted a study team comprising Joint Secretary (MNRE), Executive Director (PGCIL), Managing Director (GETCO), Superintendent Engineer (RVPL), Chief Engineer (CEA) and expert representatives of Wildlife Institute of India for studying various aspects for implementation of order of the Hon'ble Supreme Court dated 19.4.2021. The CTU has submitted that the study team has submitted its report which was accepted in a joint meeting of MNRE and MoP at the Secretary level held on 28.7.2021. The study team has submitted the following major recommendations in its report:

- i. Filing of Interlocutory Application (IA) in the Hon'ble Supreme Court to seek appropriate relief as under:

For priority area:

- a) Exempt undergrounding of high voltage and extra high voltage lines i.e. 66 kV & above and allow overhead lines with installation of appropriate bird diverters;
- b) Underground all power lines up to medium voltage i.e. up to 33 kV passing through priority bustard habitats more particularly, power line referred in the prayer column of IA 85618/2020 and indicated in the operative portion of SC order subject to the technical feasibility; and
- c) Overhead lines up to 33 kV if not feasibility to underground, to be referred to committee constituted by Hon'ble Supreme court.

For potential area:

- a) Hon'ble Supreme Court may be requested to allow installation of RE projects and laying of future transmission lines in GIB potential area with installation of bird diverters.

For both priority and potential area:

- a) Bird diverters on overhead line in priority and potential area may be installed for immediate compliance of Hon`ble Supreme Court.

Hearing dated 18.8.2021

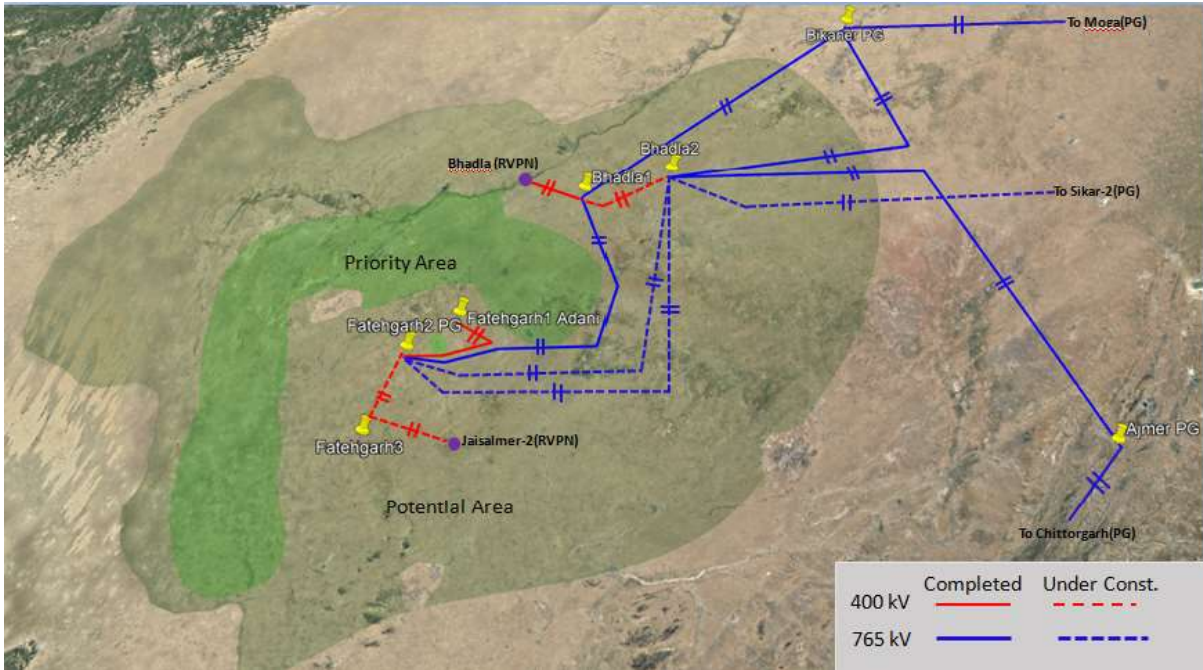
14. The matters were called out for virtual hearing on 18.8.2021. During the course of hearing, the representatives of the Petitioners and CTU mainly referred to the submissions made by them in the responses filed pursuant to the direction of the Commission vide Record of Proceedings for the hearing dated 6.8.2021.

Analysis and Decision

15. We have considered the submissions made by the parties. Based on the details furnished by the Petitioners and CTU as given in tables under paragraph 10 and paragraph 11 above, we note that while none of the elements of the Projects

concerned in these Petitions fall within the priority habitat of GIB in terms of the Hon'ble Supreme Court's order dated 19.4.2021, the complete Project of Fatehgarh Bhadla Transco Limited and a part of the Project of Sikar New Transmission Limited along with the various up-stream and down-stream systems to both these Projects, fall within the potential habitat of GIB. We further note that no elements of the Project of Sikar-II Aligarh Transmission Limited fall within the priority or the potential habitats of GIB. However, elements which are up-stream to this Project and are part of the Projects of Fatehgarh Bhadla Transco Limited and Sikar New Transmission Limited clearly fall within the potential habitat of GIB. In response to a specific query of the Commission, the representative of CTU unequivocally admitted that the Project of Sikar-II Aligarh Transmission Limited will not serve its intended purpose unless the upstream Projects of Fatehgarh Bhadla Transco Limited and Sikar New Transmission Limited are implemented together and simultaneously. Therefore, we are of the view that it shall not be appropriate to deal with the Project of Sikar-II Aligarh Transmission Limited in isolation and separately from the Projects of Fatehgarh Bhadla Transco Limited and Sikar New Transmission Limited and it would be prudent to deal with all the three Projects together.

16. For the sake of better understanding and appreciation, a pictorial representation as referred to by the CTU during the course of hearing on 18.8.2021 indicating the elements of Fatehgarh Bhadla Transco Limited (i.e. 765 kV Fatehgarh II- Bhadla II D/c line [2nd]) and Sikar New Transmission Limited (i.e. 765 kV Bhadla II- Sikar II D/c line) falling within the potential habitat of GIB, is reproduced below:



17. As the various elements of the Projects of Fatehgarh Bhadla Transco Limited and Sikar New Transmission Limited as well as up-stream and down-stream systems to these Projects and up-stream systems to the Project of Sikar-II Aligarh Transmission Limited fall within the potential habitat of GIB, we recognise that uncertainties have cropped up regarding implementation of these Projects in terms of the order of the Hon'ble Supreme Court dated 19.4.2021 providing for appropriate steps for laying of transmission network/lines in the priority and potential habitats of GIB.

18. In the said order dated 19.4.2021, the Hon'ble Supreme Court had observed as under:

“...11. In the above background, there cannot be disagreement whatsoever that appropriate steps are required to be taken to protect the said species of birds. In that view, insofar as the existing overhead powerlines are concerned the respondents shall take steps forthwith to install divertors and in respect of existing overhead powerlines all future cases of installing the transmission lines a study shall be conducted with regard to the feasibility for the lines to be laid underground. In all such cases where it is feasible, steps shall be taken to lay the transmission line underground. For the lines to be laid in future if as per the technical report the overhead line alone is feasible and the same is ratified by the Committee, in such event the installation of the divertors shall

also be a condition attached in the contract to be entered with generating companies. Insofar as, the cost incurred in the said process, the concerned respondents No. 5 to 8 and 9 to 11 shall work out and provide for the same and the respondents No.1 to 4 aid in this regard. It would be open to them to muster the resources in accordance with law. In cases where the power generators are required to bear the additional amount adding to the cost of production, it would be open to regulate the manner in which the cost would be mitigated in accordance with contractual terms. Irrespective of the cost factor the priority shall be to save the near extinct birds.

14. In the light of the contentions urged on this aspect of the matter, we are conscious that the laying of the underground power line more particularly of high voltage though not impossible, would require technical evaluation on case to case basis and an omnibus conclusion cannot be reached laying down a uniform method and directions cannot be issued unmindful of the fact situation. Though that be the position the consensus shall be that all low voltage powerlines to be laid in the priority and potential habitats of GIB shall in all cases be laid underground in future. In respect of low voltage overhead powerlines existing presently in the priority and potential habitats of GIB, the same shall be converted into underground powerlines. In respect of high voltage powerlines in the priority and potential habitats of GIB, more particularly the powerlines referred in the prayer column of I.A. No.85618/2020 and indicated in the operative portion of this order shall be converted into underground power line. The potential and priority area in Kutch and Thar respectively are as per the sketch shown below:

.....

While considering the laying of underground power line the said habitats shall be kept in perspective and steps be taken for the safety of the GIB in the said habitat.

15. As already taken note above, the laying of high voltage underground power line would require expertise to assess the feasibility of the same. For this specific purpose of assessing the feasibility after taking into consideration all technical details, we deem it proper to constitute a committee consisting of the following members:

(i) Dr. Rahul Rawat,
Scientist,
Room No.021, Block14,
Ministry of New and Renewable Energy,
CGO Complex, Lodi Road,
New Delhi.

(ii) Dr. Sutirtha Dutta,
Scientist,
Wildlife Institute of India,
Dehradun.

(iii) Dr. Devesh Gadhavi,
Deputy Director,
The Corbett Foundation.

The above committee may also obtain technical reports if need be, from experts in the field of electricity supply to arrive at their decision. The Government of India shall provide all assistance to the Committee.

17. The respondents No.5, 6 and 9 to 11 while arranging to lay the powerlines underground in respect of the powerlines, the feasibility of which is not in doubt shall proceed with the work right away. However, in cases where the respondents find that there are issues relating to feasibility, the matter shall be referred to the committee with all relevant material and particulars. The committee shall assess the matter and arrive at a conclusion as to whether the underground powerline is feasible or not. Based on the report to be rendered by the committee the further action shall be taken by the respondent.

18. In all cases where the overhead powerlines exist as on today in the priority and potential GIB area the respondents shall take steps forthwith to install divertors pending consideration of the conversion of the overhead cables into underground powerlines. In all such cases where it is found feasible to convert the overhead cables into underground powerlines the same shall be undertaken and completed within a period of one year and till such time the divertors shall be hung from the existing powerlines. ...”

19. Indisputably, the Hon’ble Supreme Court in the aforesaid order has recognized that the laying of underground power line more particularly of high voltage would require technical evaluation on case-to-case basis and an omnibus conclusion cannot be reached laying down a uniform method in this regard. However, the Hon’ble Supreme Court, after noting that laying of high voltage underground power line would require expertise to assess the feasibility, has constituted a Committee comprising of members from MNRE, WII and Corbett Foundation for the specific purpose of assessing the feasibility. Since there are issues relating to feasibility, the matter is required to be referred to the Committee with all relevant material and particulars. Accordingly, the Committee shall assess the matter and arrive at a conclusion as to whether the underground power line is feasible or not.

20. The Petitioners have argued that though the concerned elements of the Projects fall within the potential habitat of GIB, they being at 765 kV voltage level, it is not feasible to lay underground power line. However, the Petitioners during the hearing stated that they have not yet approached the Committee constituted by the

Hon'ble Supreme Court for assessment of feasibility of the Projects falling within the potential habitat area of GIB since the matter was under consideration of the study team constituted by the Ministry of Power. We observe that the study team constituted by the Ministry of Power, has recommended to file IA before the Hon'ble Supreme Court, *inter alia*, requesting to allow installation of renewable energy projects and laying of future transmission lines in potential habitat of GIB with installation of bird diverters. However, as submitted by the CTU during the hearing on 18.8.2021, the IA to the above effect is yet to be filed before the Hon'ble Supreme Court. Hence, we are clearly of the view that even if the Commission decides to grant transmission licences to the Petitioners, the implementation of the Projects would still remain surrounded in uncertainty till the time the directions of the Hon'ble Supreme Court are complied with.

21. In addition, we also note that the implementation of the Projects, in absence of ratification of their feasibility by the Committee constituted by the Hon'ble Supreme Court, may face uncertainties relating to route of lines, laying lines overhead or underground and mitigating measures such as installations of bird-diverters, resulting in potential cost overruns and time overruns. During the course of hearing, the representatives of the Petitioners and the CTU made submissions to the effect that the requirement of rerouting of elements falling within the potential area is very unlikely and relied upon the change in law clause under the Transmission Service Agreements (in connection with costs to be incurred towards implementation of directions of the Hon'ble Supreme Court's order) for addressing the issue of time overruns and cost overruns, if any. In our view, there is no force in the submissions of the Petitioners and CTU as, when the Petitioners are aware of the measures required to be undertaken in terms of order of the Hon'ble Supreme Court (i.e.

ratification of the feasibility report of the Projects by the Committee constituted by the Hon'ble Supreme Court) and the Petitioners have not undertaken such measures as yet, it would be completely inappropriate to create potential liabilities and pass on such liabilities to the beneficiaries and consumers under change in law.

22. During the course of hearing, the representative of the Petitioners pointed out that as per the provisions of the Transmission Service Agreement, they are required to implement the Projects within the timeline stipulated therein to evacuate power from the renewable energy projects. Neither the Petitioners nor the CTU has furnished the exact locations of such renewable energy projects. However, these renewable energy projects are required to lay dedicated transmission lines from their respective projects for connection to the ISTS, which are the Projects of Fatehgarh Bhadla Transco Limited and Sikar New Transmission Limited, the subject matter of present Petitions. As Projects of Fatehgarh Bhadla Transco Limited and Sikar New Transmission Limited fall within the potential habitat of GIB, the dedicated transmission lines for connection to these ISTS will also be subject to similar measures as prescribed by the Hon'ble Supreme Court in its order dated 19.4.2021 for priority and potential habitat of GIB. In such circumstances, we are of the view that timeline for implementation of the Projects of Fatehgarh Bhadla Transco Limited and Sikar New Transmission Limited cannot be considered in isolation ignoring the various renewable energy projects from which power is being proposed to be evacuated and which are also subject to the order dated 19.4.2021 of the Hon'ble Supreme Court.

23. In light of the above discussion, we are of the considered view that it would not be appropriate for the Commission to allow the present Petitions for grant of transmission licences and adoption of transmission tariff in respect of the Projects

ignoring the order of the Hon'ble Supreme Court dated 19.4.2021 providing for appropriate steps for laying of transmission network/lines in the priority and potential habitats of GIB and when the Petitioners are yet to take required actions in terms of the said order of Hon'ble Supreme Court.

24. At the same time, no purpose will be served to keep these Petitions pending till compliance of the order of the Hon`ble Supreme Court. Accordingly, the Petitions are disposed of with liberty to the Petitioners to approach the Commission with fresh Petitions on the subject matters when the Petitioners have complied with the directions of the Hon'ble Supreme Court dated 19.4.2021, which would provide sufficient clarity regarding implementation of the Project. The filing fees deposited by the Petitioners in respect of these Petitions shall be adjusted against the Petitions to be filed by the Petitioners in future in terms of the liberty granted as above.

25. The Petition No. 136/TL/2021, Petition No 141/AT/2021, Petition No.137/TL/2021, Petition No. 138/AT/2021, Petition No. 139/TL/2021 and Petition No. 140/AT/2021 are disposed of in terms of the above discussions.

Sd/-
(P.K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I.S. Jha)
Member

sd/-
(P.K. Pujari)
Chairperson