

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 69/TL/2022

Coram:

Shri I.S. Jha, Member

Shri Arun Goyal, Member

Shri P. K. Singh, Member

Date of Order: 8th June, 2022

In the matter of

Application under Section 14 of the Electricity Act, 2003 read with the Central Electricity Regulatory Commission (Terms and Conditions for Grant of Transmission Licence and other related matters) Regulations, 2009 for grant of separate Transmission Licence for implementation of scope of work as detailed in the Petition through Regulated Tariff Mechanism (RTM) mode to Power Grid Southern Interconnector Transmission System Limited.

And

In the matter of

POWERGRID Southern Interconnector Transmission System Limited,
B-9, Qutab Institutional Area,
Katwaria Sarai,
New Delhi – 110 016.

..... **Petitioner**

Vs

1. Tamil Nadu Generation & Distribution Corporation Limited (TANGEDCO),
NPKRR Malligai, 144 Anna Salai,
Chennai – 600 002

2. Power Company of Karnataka Limited (PCKL),
5th Floor, KPTCL Building, Kaveri Bhawan,
Bangalore – 560 009

3. Bangalore Electricity Supply Company Limited (BESCOM),
KR Circle,
Bangalore – 560 001

4. Gulbarga Electricity Company Limited (GESCOM),
Station Main Road,
Gulbarga – 585 102

5. Hubli Electricity Supply Company Limited (HESCOM),
Navanagar, PB Road, Hubli

6. Mangalore Electricity Supply Company Limited (MESCOM),
Paradigm Plaza,
AB Shetty Circle, Mangalore – 575 001

7. Chamundeshwari Electricity Supply Company Limited (CESCOM)
#927, LJ Avenue, Ground Floor,
New Kantharaj Urs Road,
Sarawathipuram Mysore – 570 009

8. Kerala State Electricity Board,
Vaidyuthi Bhawanam, Pattom,
Thiruvananthapuram – 695004

9. Southern Power Distribution Company of Telangana Limited,
#6-1-50, Mint Compound,
Hyderabad – 500 063, Telangana

10. Northern Power Distribution Company of Telangana Limited,
#2-5-31/2, Vidyut Bhawan, Nakkalgutta,
Hanamkonda, Warangal – 506 001

11. Electricity Department, Govt. of Puducherry,
Electricity Department, Govt. of Puducherry,
Puducherry- 605 001

12. Electricity Department,
Govt. of Goa (GED)
Vidyut Bhawan, Panaji Goa – 605 001

13. Southern Power Distribution Company of Andhra Pradesh Limited,
D. No.-19-13- 65/A, Srinivasapuram,
Tiruchanoor Road, Tirupati – 517 503

14. Eastern Power Distribution Company of Andhra Pradesh Limited.
P&T Colony, Seethammadhara,
Visakhapatnam

15. Chief Engineer,
Power System Project Monitoring Division,
Central Electricity Authority, Sewa Bhawan,
R. K. Puram, Sector-1,
New Delhi - 110 066

16. Chief Operating Officer, CTUIL
Saudamini, Plot no.2, Sector -29,
Gurgaon 12200, Haryana

.....Respondents

The following were present:

Shri Aryaman Saxena, Advocate, PSITSL
Shri Anil Kr Meena, CTUIL
Shri Ankush Patel, CTUIL
Shri Swapnil Verma, CTUIL
Shri Siddharth Sharma, CTUIL
Shri Ranjeet Singh Rajput, CTUIL
Shri Akshayvat Kislay, CTUIL

ORDER

The Petitioner, Powergrid Southern Interconnector Transmission Limited, has filed the present Petition under Section 14 of the Electricity Act, 2003 (hereinafter referred to as 'the Act') read with provisions of the Central Electricity Regulatory Commission (Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009 (hereinafter referred to as 'the Transmission Licence Regulations') for grant of separate transmission licence for implementation of schemes, namely (i) requirement of 765 kV spare (1-ph) Reactors units at 765 kV Chilkaluripeta (Part-B) and (ii) scheme to bypass NGR to use Switchable line reactor as bus reactor at 765 kV Chilkaluripeta on the Regulated Tariff Mechanism (RTM) mode (hereinafter referred to as the 'transmission scheme') . The scope of the project for which transmission licence is sought is as under:

- A. Requirement of 765 kV spare (1-ph) Reactors units at 765 kV Chilkaluripeta (Part-B).

S.No	Scope of the Transmission Scheme	Capacity /km	
1	One spare unit (1-ph) of 80 MVAR reactor at 765 kV Chilkaluripeta along with necessary arrangement to take spare reactor units into service as per the operational requirement	1x125 MVAR, 420 kV Bus Reactor 80 MVAR (1-ph)	15 months from issue of OM by CTU

- B. Scheme to bypass NGR to use Switchable line reactor as bus reactor at 765 kV Chilkaluripeta.

S.No	Scope of the Transmission Scheme	Capacity /km	
1	NGR bypass arrangement to use switchable line reactors (240 MVAR each) as bus reactors installed on each circuit of Vemagairi- Chilkaluripeta 765 kV D/C line at Chilkaluripeta 765 kV S/s	NGR bypass arrangement	6 months from issue of OM by CTU

2. The Petitioner has made the following prayers:

“(a) Grant separate Transmission License to the Applicant for implementation of additional scope of work under RTM mode detailed at 2 above.

(b) Allow the Applicant liberty to approach the Commission for determination of transmission charges after commissioning of the scope of works mentioned at Para 3 above, in accordance with Section 61 and Section 52 of the Electricity Act, 2003 and as per Regulation 8 (2) of the Transmission Licence Regulations;

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

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

3. The Petitioner company was incorporated as a special purpose vehicle (SPV) by Bid Process Coordinator (in short, ‘BPC’), namely, REC Transmission Projects Company Limited (in short ‘RECTPCL’). Power Grid Corporation of India Limited (PGCIL) participated in the competitive bidding process conducted by RECTPCL and emerged as a successful bidder. Letter of Intent (LoI) was issued by RECTPCL to PGCIL on 29.10.2015. In accordance with the bidding documents, PGCIL acquired 100% of the shareholding in the Petitioner Company by executing a Share Purchase Agreement with RECTPCL on 4.12.2015. The Commission in its order dated 14.3.2016 in Petition No. 300/TL/2015 granted transmission licence to the Petitioner for inter-State transmission of electricity to establish ‘the Transmission System for Strengthening of Transmission System beyond Vemagiri’ on Build, Own, Operate and Maintain (‘BOOM’) basis.

4. The Petitioner has successfully completed the work under the scope of the transmission licence (granted by the Commission vide order dated 14.3.2016 in Petition No. 300/TL/2015) and achieved Commercial Operation Date (COD) progressively by 18.1.2020.

5. The Petitioner has submitted that after grant of separate transmission licence, the Petitioner shall proceed to implement the transmission scheme under RTM mode. The estimated completion cost of the transmission scheme as per CTUIL`s OM is Rs. 5.82 crore. The cost of the Project as per the DPR is Rs. 8.9 crore (including IDC, IEDC and contingency etc.) and subsequent to completion of the transmission scheme, the Petitioner shall approach the Commission for determination of transmission charges in accordance with Section 61 and Section 62 of the Act and as per Regulation 8 (2) of the Transmission Licence Regulations.

Hearing dated: 13.4.2022

6. The Petition was admitted on 13.4.2022 and notice was issued to the Respondents to file their reply. However, no reply has been filed by the Respondents.

7. During the course of hearing, the representative of the Petitioner submitted that the Petitioner has filed all requisite details/ documents as per the provisions of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009 along with its application. He further added that CTUIL vide its OM dated 16.11.2021 had approved the implementation of the above transmission scheme under RTM. Further, the transmission scheme was agreed in the 3rd meeting of Southern Regional Power Committee held on 24.8.2021

Hearing dated: 24.5.2022

8. The matter was heard on 24.5.2022 through video conferencing. In response to the specific query regarding nomination of Implementation agencies by CTUIL, the representative of CTUIL submitted that as per revised Terms of Reference of re-constituted NCT, ISTS projects, costing up to Rs. 100 crore or such limit as prescribed by the Ministry of Power, is to be approved by CTUIL and its mode of implementation is to be decided by CTUIL under intimation to NCT. The representative of CTUIL confirmed that CTUIL had given the intimation to the NCT in this regard.

Analysis and Decision

9. We have considered the submissions of the Petitioner. The Petitioner has filed the present Petition for grant of separate transmission licence for implementation of transmission scheme, namely (i) requirement of 765 kV spare (1-ph) Reactors units at 765 k V Chilkaluripeta (Part-B) and (ii) scheme to bypass NGR to use Switchable line reactor as bus reactor at 765 kV Chilkaluripeta on the Regulated Tariff Mechanism (RTM) mode. The transmission scheme was agreed in the 3rd meeting of Southern Regional Power Committee held on 24.8.2021. Relevant portion of the minutes of meeting held on 24.8.2021 is extracted as under:

“9.0 Requirement of 765 kV spare (1-Ph) Reactors units:

9.1. Director, CEA, stated that 765 kV transmission system forms backbone of the power transmission network. Hence, reliability of the 765 kV transmission system is of utmost importance.

9.2. Transportation of 765 kV equipment takes much more time than 400 kV units. Therefore, 765 kV S/s are generally planned with one spare unit (1-Ph) of 765/400 kV ICT, 240 MVAR/330 MVAR bus reactors and line reactors so that reliability of 765 kV grid can be maintained.

9.3. One spare unit (1-Ph) of 80 MVAR reactor has not been considered for 765 kV Warangal New and Chilkaluripeta TBCB substations. Therefore, it is proposed to provide one spare unit (1-Ph) of 80 MVAR reactor at each 765 kV Warangal New and Chilkaluripeta TBCB substations along with necessary arrangement to take spare reactor units into service as per requirement.

10. *Scheme to bypass NGR to use Switchable Line Reactor as Bus Reactor*

10.1. *Director, CEA, informed that SRLDC in its operational feedback has suggested to implement NGR bypass arrangement for switchable line reactors to use them as bus reactor, in case of outage of line. Implementation of Vemagiri – Chilkaluripeta 765kV D/c line along with 240 MVAR switchable line reactor at both ends of each circuit and Chilkaluripeta – Cuddapah 765kV D/c line along with 240 MVAR switchable line reactors at both ends of each circuit as part of “Strengthening of transmission system beyond Vemagiri” was agreed as in the 37th meeting of the SCPSPSR held on 31.07.2014. As per present arrangement, NGR bypass arrangement has not been provided at Chilkaluripeta end for each circuit of Chilkaluripeta- Cuddapah 765 kV D/c line and Vemagiri- Chilkaluripeta 765 kV D/c line.*

10.2. *To use switchable line reactors (240 MVAR each) as bus reactors installed on each circuit of Vemagiri- Chilkaluripeta 765 kV D/c line and Chilkaluripeta-Cuddapah 765kV D/c line at Chilkaluripeta 765kV S/s, it is proposed to implement NGR bypass scheme with suitable arrangement.”*

10. In the 6th Meeting of National Committee on Transmission (in short ‘NCT’) held on 29.10.2021, NCT was of the view that in order to avoid issues related to operation and coordination in the implementation, augmentation should be done by Transmission Service Provider (TSP) who owns the sub-station through RTM and clarification should be sought from Ministry of Power, Government of India. NCT also noticed that NCT can deliberate the transmission scheme of Rs. 100 crore or more and the costing of instant scheme is less than Rs. 100 crore. The relevant portion of 6th meeting of National Committee on Transmission dated 29.10.2021 is extracted as under:

“3 As per revised ToR, ISTS projects, costing up to Rs. 100 Crore or such limit as prescribed by MoP from time to time, would be approved by CTU and its mode of implementation to be decided by CTU under intimation to NCT. As implementation of transmission scheme through RTM mode is generally preferred for small schemes, therefore, Members of NCT were of the view that clarifications may be sought from MoP as to how the CTU can approve and recommend the schemes to CTU itself (under RTM). In order to avoid issues related to operation, coordination and complications in implementation, if small transmission scheme such as augmentation / modification works such as bay extension, addition or replacement of transformer, reactor installation etc. if implemented under TBCB by different TSPs, NCT was of the view that such works should be implemented by TSP who owns the sub-station / transmission line under RTM mode. A clarification in this regard may be sought by CTU from MoP.”

11. Ministry of Power, Government of India vide its order dated 28.10.2021 had issued terms of Reference of the NCT and *inter alia* directed that NCT shall approve the ISTS costing between Rs. 100 crore to Rs. 500 crore or such limit as prescribed by Ministry of Power from time to time, along with their mode of implementation under intimation to Ministry of Power. Ministry of Power further directed that ISTS costing less than or equal to Rs. 100 crore, or such limit as prescribed by Ministry of Power from time to time, will be approved by the CTUIL along with their mode of implementation under intimation to the NCT and Ministry of Power, Government of India. Relevant portion of the said order dated 28.10.2021 is extracted as under:

"2. Terms of Reference (ToR) of the NCT are as under:

*i. ******

VIII. The NCT shall recommend to Ministry of Power (MoP) for implementation of the ISTS for projects with cost more than Rs 500 crore, along with their mode of implementation i.e. Tariff Based Competitive Bidding (TBCB) / Regulated Tariff Mechanism (RTM), as per the existing Tariff Policy. However, the NCT shall approve the ISTS costing between Rs100 crore to Rs.500 crore or such limit as prescribed by MoP from time to time, along with their mode of implementation under intimation to MoP. The ISTS costing less than or equal to Rs. 100 crores, or such limit as prescribed by MoP from time to time, will be approved by the CTU along with their mode of implementation under intimation to the NCT and MoP. After approval of the ISTS by the NCT or the CTU (as the case may be), the TBCB project shall be allocated to Bid Process Coordinators through Gazette Notification, while the RTM project shall be allocated to CTU."

12. Based on the above, Central Transmission Utility of India Limited vide its Office Memorandum dated 16.11.2021 approved the implementation of subject transmission scheme on RTM mode along with identifying the implementing agency and also addressed the same to Ministry of Power, Government of India and NCT. Relevant portion of the said Office Memorandum dated 16.11.2021 is extracted as under:

"Sub: Inter-State Transmission Scheme (costing up to Rs. 100 crore) to be taken for implementation under Regulated Tariff Mechanism (RTM).

The undersigned is directed to inform that CTU has approved implementation of the following ISTS costing less than or equal to Rs. 100 crore in line with MoP Office order dated 28.10.2021 under the Regulated Tariff mechanism (RTM) mode by the implementing agencies as indicated in the table below:

Southern Region

<i>S.No.</i>	<i>Name of Scheme</i>	<i>Implementing Agency</i>
1.	<i>Requirement of 765 kV spare (1-ph) Reactors units at 765 kV Chilkaluripeta (Part-B)</i>	<i>POWERGRID Southern Interconnector Transmission System Ltd. (a subsidiary of Power Grid Corporation of India Limited)</i>
2.	<i>Scheme to bypass NGR to use Switchable line reactor as bus reactor at 765 kV Chilkaluripeta</i>	<i>POWERGRID Southern Interconnector Transmission System Ltd. (a subsidiary of Power Grid Corporation of India Limited)</i>

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 company has been incorporated under the Companies Act, 2013 and is already a transmission licensee. 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. 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 Clauses (4), (7), (9) and (12) and dispensed with Clause (10) of Regulation 7] provide for the procedure for grant of transmission licence as under:

“(1) The application for grant of 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

(10).....

(11) 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.

(12) 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.

(13) 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."

15. The Petitioner has filed the present Petition for grant of transmission licence in accordance with the Transmission Licence Regulations. The Petitioner has submitted proof of web posting of the complete application. On perusal of the Application, it is also noted that the Petitioner has served copy of the Application on the LTTCs for the Project. The Petitioner has served a copy of the Application on the Central Transmission Utility (CTU) as required under Section 15(3) of the Act and Regulation 7(6) of the Transmission Licence Regulations.

16. The Petitioner has made the Application as per Form-I prescribed in the Transmission Licence Regulations.

17. The Petitioner has posted its application on its website in Form-II in English language and Hindi language on 6.4.2022. However, no comments/objections have been received from general public.

18. CTUIL vide its letter dated 5.4.2022 has recommended for grant of transmission licence to the Petitioner. Relevant portion of the said letter dated 5.4.2022 is extracted as under:

“Sub: Recommendation of CTU under Section 15(4) of Electricity Act, 2003 on application filed by M/s POWERGRID Southern Interconnection Transmission Limited before Hon’ble Commission for Grant of Transmission License for the schemes “(1) Requirement of 765kV spare (1-Ph) reactor unit at 765kV Chilakaluripeta (Part-B) and (2) Scheme to bypass NGR to use Switchable Line Reactor as Bus Reactor at 765kV Chilakaluripeta”-reg.

Dear Sir,

This has reference to petition 69/TL/2022 filed by M/s POWERGRID Southern Interconnector Transmission Limited (PSITSL) (formerly known as Vemagiri II Transmission Limited) before Hon’ble Commission for grant of Transmission License for the schemes “(1) Requirement of 765kV spare (1-Ph) reactor unit at 765kV Chilakaluripeta (Part-B) and (2) Scheme to bypass NGR to use Switchable Line Reactor as Bus Reactor at 765kV Chilakaluripeta”. In this regard, following is submitted:

- 1. M/s POWERGRID Southern Interconnector Transmission Limited (PSITSL) has filed petition 69/TL/2022 under Section 14 of the Electricity Act, 2003 and CERC (Procedure, Terms and Conditions for grant of Transmission License and other related matters) Regulations, 2009 for grant of transmission license for the schemes “(1) Requirement of 765kV spare (1-Ph) reactor unit at 765kV Chilakaluripeta (Part-B) and (2) Scheme to bypass NGR to use Switchable Line Reactor as Bus Reactor at 765kV Chilakaluripeta” under RTM mode. The detailed scope of the schemes is enclosed at Annexure-I.*
- 2. As per Section 15(3) of Electricity Act, 2003 copy of the application for grant of transmission license, for the above transmission system has been received on 29.3.2022 for recommendation required U/S 15(4) of the Electricity Act, 2003.*
- 3. In reference to the subject Transmission Schemes following is submitted:*
 - i) CTU vide its OM dated 16.11.2021 had approved the implementation of the above 2 schemes under RTM. Copy of OM enclosed at Annexure-II. The Commissioning schedule of the scheme (1) is 15 months (15.2.2023) and scheme (2) is 6 months (15.5.2022) from the date of CTU OM.*
 - ii) The transmission schemes were agreed in the 3rd meeting of Southern Regional Power Committee (Transmission Planning) [SRPC(TP)] held on 24.8.2021. extract of the minutes of 3rd SRPC(TP) meeting is enclosed at Annexure-III.*
 - iii) The transmission schemes were agreed in the 39th Southern Regional Power Committee (SRPC) meeting held on 6.12.2021. Extract of the minutes of 39th SRPC meeting is enclosed at Annexure-IV.*

iv) *The transmission schemes were also deliberated in the 6th meeting of National Committee on Transmission (NCT) held on 29.10.2021 wherein it was indicated that as per revised ToR, ISTS projects, costing up to Rs. 100 Crore or such limit as prescribed by MoP from time to time, would be approved by CTU and its mode of implementation to be decided by CTU under intimation to NCT. Extract of the minutes of 6th NCT meeting is enclosed at Annexure-V.*

4. *In line with Section 15(4) of the Electricity Act, 2003, based on details furnished by M/s PSITL, CTU recommends grant of transmission license to M/s PSITL for executing the transmission schemes “(1) Requirement of 765kV spare (1-Ph) reactor unit at 765kV Chilakaluripeta (Part-B) and (2) Scheme to bypass NGR to use Switchable Line Reactor as Bus Reactor at 765kV Chilakaluripeta” through RTM route as mentioned in Para-1 above.”*

19. We have considered the submissions of the Petitioner and CTUIL. The Petitioner has filed the present Petition for issuance of separate transmission licence for implementation of (i) 765 kV spare (1-ph) Reactors units at 765 k V Chilakaluripeta (Part-B) and (ii) scheme to bypass NGR to use Switchable line reactor as bus reactor at 765 kV Chilakaluripeta on the Regulated Tariff Mechanism (RTM) mode.

20. Section 14 of the Act provides that the Appropriate Commission may, on an application made to it under Section 15, grant a licence to any person to transmit electricity as a transmission licensee in any area as may be specified in the licensee. Section 16 of the Act provides that the Appropriate Commission may specify any general or specific conditions which shall apply either to a licensee or class of licensees and such conditions shall be deemed to be conditions of such licence. The Commission has specified the Transmission Licence Regulations. Regulation 6 of the said Regulation lays down the eligibility criteria for grant of transmission licence as under:-

“6. Eligibility for Grant of licence:

(a) No person shall be eligible for grant of licence unless it is—(a) selected through the process under the guidelines for competitive bidding, or

(b) a State owned or controlled company identified as a project developer on or before 5.1.2011, or

(c) a generating company which has established the dedicated transmission line, and intends to use such dedicated transmission line as the main transmission line and part of the inter-State transmission system.”

21. In the present case, the Petitioner does not fulfil any of the eligibility condition for grant of transmission licence. However, in the 6th meeting of National Committee on Transmission, it was indicated that as per the revised ToR, issued by Ministry of Power, Government of India, ISTS projects costing upto Rs. 100 crore or such limit as may be prescribed by Ministry of Power from time to time would be approved by CTU including its mode of implementation. The scheme has been identified for implementation though RTM mode by CTUIL. Non-grant of transmission licence to any agency nominated by the NCT to implement a transmission system through regulated tariff mechanism in view of the provisions of Regulation 6 defeats the purpose of the Policy decision of the Government. We are of the view that considering the strategic importance of the transmission line, it is a fit case for relaxation of the provisions of Regulation 6 by invoking of the power vested under Regulation 24 of the Transmission Licence Regulations.

22. Regulation 24 of the Transmission Licence Regulations dealing with power to relax in appropriate cases, provides as under:

“24. The Commission may, when it considers necessary or expedient to do so and for reasons to be recorded in writing, relax or depart from any of the provisions of these regulations”

23. It is an established principle of law that the power to relax has to be strictly construed and is to be exercised judiciously and with caution. When and only when undue hardship is caused by the application of the rules or regulations, the power to relax is to be exercised. In the present case, the Petitioner is a transmission licensee

which has already implemented the project defined under its scope through TBCB mechanism. The present Petition is consequent to the Office Order 28.10.2021 notified by Ministry of Power Government of India wherein CTUIL has been authorized to determine the mode of implementation of ISTS projects less than or equal to Rs.100 crore. Pursuant to direction of Ministry of Power, CTUIL, vide Office Memorandum dated 16.11.2021, has determined a list of Projects to be implemented or through Regulated Tariff Mechanism which also includes the petition for the subject transmission system.

24. Since the Petitioner is already an inter-State transmission licensee and has been identified as an agency to implement the project as per RTM, the Commission in exercise of power under Regulation 24 hereby relaxes the provision of Regulation 6 of the Transmission Licence Regulations and holds that the Petitioner is eligible for grant of transmission licence. We, hereby, direct that a public notice under clause (a) of sub-section (5) of Section 15 of the Act be published to invite suggestions or objections to grant of transmission licence aforesaid. The objections or suggestions, if any, be filed by any person before the Commission, by 16.6.2022.

25. The Petition shall be listed for hearing in due course for which notice will be issued.

Sd/-
(P. K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I.S. Jha)
Member