

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 28/TL/2023**

**Coram:**

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

**Date of Order: 20<sup>th</sup> March, 2023**

**In the matter of**

Application under Sections 14, 15 and 79 (1) (e) of the Electricity Act, 2003 read with the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for Grant of Transmission License and other related matters) Regulations, 2009 with respect to grant of transmission license to Kishtwar Transmission Limited.

**And**

**In the matter of**

**Kishtwar Transmission Limited,**  
F-1, The Mira Corporate Suites, 1 & 2  
Ishwar Nagar, Okhla Crossing,  
Mathura Road,  
New Delhi – 110065

**....Petitioner**

**Vs**

**1) Chenab Valley Power Projects (P) Limited,**  
Chenab Jal Shakti Bhawan, Opposite Saraswati Dham,  
Rail Head Complex,  
Jammu - 180012, J&K

**2) J&K Power Development Department,**  
Civil Secretariat, Secretariat Rd,  
Pakki Dhaki, Old Heritage City,  
Jammu, Jammu and Kashmir 180 001.

**3) PFC Consulting Limited,**  
First Floor, Urjanidhi, 1, Barakhamba Lane,  
Connaught Place,  
New Delhi- 110001.

**4) Central Electricity Authority,**  
Seva Bhawan, R.K. Puram,  
New Delhi- 110066.

- 5) Central Transmission Utility of India Limited,**  
Saudamini, Plot No.2, Sector 29,  
Near IFFCO Chowk,  
Gurgaon - 122001, India
- 6) Powergrid Corporation of India Limited,**  
B-9 Qutab Institutional Area, Katwaria Sarai  
New Delhi-110016.
- 7) HVDC Dadri, Powergrid Corporation of India Limited,**  
B-9 Qutab Institutional Area, Katwaria Sarai,  
New Delhi-110016.
- 8) HVDC Rihand Powergrid Corporation of India Limited,**  
B-9 Qutab Institutional Area, Katwaria Sarai,  
New Delhi-110016.
- 9) Chandigarh (Electricity Department),**  
UT Chandigarh, Sector-9D,  
Chandigarh-160019
- 10) BSES Rajdhani Power Limited,**  
BSES Bhawan, Nehru Place,  
New Delhi – 110019.
- 11) BSES Yamuna Power Limited,**  
B-Block, Shakti Kiran, Building (Near Karkadooma  
Court), Karkadooma 2nd Floor,  
New Delhi – 110092.
- 12) New Delhi Municipal Council,**  
Palika Kendra, Sansad Marg,  
New Delhi – 110002
- 13) Tata Power Delhi Distribution Limited,**  
NDPL house, Hudson Lines Kingsway Camp,  
New Delhi – 110009.
- 14) Himachal Pradesh State Electricity Board,**  
Vidyut Bhawan, Kumar House Complex Building II,  
Shimla – 171004 (Himachal Pradesh),
- 15) Haryana Power Purchase Centre,**  
Shakti Bhawan, Sector-6,  
Panchkula -134109,  
(Haryana).
- 16) Punjab State Power Corporation Limited,**  
PP&R, Shed T-1, Thermal Design,  
Patiala – 147 001.

**17) Ajmer Vidyut Vitran Nigam Limited,**  
132 kV, GSS RVPNL Sub-station Building,  
Caligiri Road, Malviya Nagar,  
Jaipur - 302017 (Rajasthan)

**18) Jaipur Vidyut Vitran Nigam Limited,**  
132 kV, GSS RVPNL Sub-station Building  
Caligiri Road, Malviya Nagar,  
Jaipur - 302017 (Rajasthan).

**19) Jodhpur Vidyut Vitran Nigam Limited,**  
New Power House, Industrial Area,  
Jodhpur-342003 (Rajasthan).

**20) North Central Railway,**  
DRM Office, Nawab Yusuf Road,  
Prayagraj, Uttar Pradesh – 211 011.

**21) Uttarakhand Power Corporation Limited,**  
Urja Bhawan, Kanwali Road,  
Dehradun.

**22) Uttar Pradesh Power Corporation Limited,**  
(Formerly Uttar Pradesh State Electricity Board),  
Shakti Bhawan, 14, Ashok Marg,  
Lucknow – 226001 (Uttar Pradesh).

**23) A.D. Hydro Power Limited,**  
Bhilwara Towers, A-12,  
Sector 1, Noida-201301(UP)

**.Respondents**

**Parties present:**

Shri Ashwin Ramanathan, Advocate, KTL  
Shri Deep Rao, Advocate, KTL  
Shri Aryman Saxena, KTL  
Shri Prateek Rai, KTL  
Shri Vivek Singh, Advocate, CVPPL  
Shri Suraj Das, Advocate, CVPPL  
Shri Amrik Singh, CVPPL  
Shri Mohanlal, CVPPL  
Shri Yatin Sharma, CTUIL  
Shri Ranjeet Rajput, CTUIL  
Shri Siddharth Sharma, CTUIL

## ORDER

The Petitioner, Kishtwar Transmission Limited, has filed the present Petition for grant of transmission licence under Section 14, Section 15 and Section 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 “Transmission Licence Regulations”) to establish Inter-State Transmission System for “Transmission System for Evacuation of Power from Pakaldul HEP in Chenab valley HEPS-Connectivity System” on Build, Own, Operate and Maintain (BOOM) basis (hereinafter referred to “Transmission System” or “Project”) consisting of the following elements:

<b>Transmission System Evacuation of Power from Pakaldul HEP in Chenab Valley HEPS – Connectivity System</b>		
<b>S. No.</b>	<b>Name of Transmission Element</b>	<b>Scheduled COD in months from Effective Date</b>
1.	<p><i>Establishment of 400/132 kV pooling station at Kishtwar (GIS) along with Bus Reactor at Kishtwar pooling station by LILO of one circuit of Kishenpur – Dulhasti 400kV D/C (Quad) line (Single Circuit Strung)</i></p> <p><i>i. 400 kV pooling station with 420 kV, 41.67 MVAR, I-Phase Bus Reactor – 4 nos. (including one spare unit)</i></p> <p><i>ii. Reactor Bay – 1 no.</i></p> <p><b>Future Scope: Space for</b></p> <p><i>i. 765/400 kV ICT along with bays – 3 nos.</i></p> <p><i>ii. 400/220 kV ICT along with bays – 2 nos.</i></p> <p><i>iii. 400/132 kV ICT along with bays – 2 nos.</i></p> <p><i>iv. 765 kV line bays along with switchable line reactor – 6 nos.</i></p> <p><i>v. 400 kV Line bays – 8 nos.</i></p> <p><i>vi. 220 kV Line bays – 4 nos.</i></p> <p><i>vii. 132 kV Line bays – 2 nos.</i></p> <p><i>viii. 765 kV Reactor along with bays – 1 nos.</i></p> <p><i>ix. 400 kV Reactor along with bays – 1 nos.</i></p>	<p><i>Matching timeframe of Pakaldul HEP i.e. 01.04.2025</i></p>
2.	<p><i>LILO of one circuit of Kishenpur – Dulhasti 400 kV D/c (Quad) line at Kishtwar</i></p>	
3.	<p><i>2 Nos. of 400 kV bays at Kishtwar (GIS) for LILO of</i></p>	

	one circuit of Kishenpur – Dulhasti 400 kV D/c (Quad) line 400kV line bays – 2 Nos.	
4.	1 No. of 400 kV line bay at Kishtwar (GIS) for 2nd circuit stringing of Kishtwar – Kishenpur section 400kV line bay – 1 No.	
5.	7x66.67 MVA, I-Phase 400/132 kV ICT along with associated bays at Kishtwar Pooling station i. 66.67 MVA, I-Phase 400/132kV ICT- 7 nos. (including one spare unit) ii. 400 kV ICT bays – 2 nos. iii. 132kV ICT bays – 2 nos. iv. 132kV Bus Coupler bay – 1 no.#	Matching Timeframe of Kishtwar pooling Station
6.	4 nos. of 132 kV bays 132 kV line bays (GIS) – 4 nos.	

# To fulfil the requirement of bus switching scheme.

Note:

i. Implementation Timeframe:

Sl. No. 1-4: to be implemented in matching timeframe of Pakaldul HEP i.e. 1.4.2025

Sl. No. 5-6: to be implemented in matching timeframe of Kishtwar pooling Station.”

2. The Petitioner has made the following prayers:

“(a) Issue the transmission licence to the Petitioner for establishing, operating and maintaining the Project as provided in the TSA;

(b) Allow the Project to be part of the Inter-State Transmission System and direct that the recovery of transmission charges shall be in accordance with the terms of the CERC (Sharing of Inter-state Transmission Charges and Losses) Regulations, 2020;

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

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

### **Hearing dated 14.2.2023**

3. During the course of hearing on 14.2.2023, representative of the Petitioner submitted that the Petitioner has already served the copy of the Petition on the BPC and CTUIL and has complied with all the requirements under the Transmission Licence Regulations including publishing of notice on its website

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

4. The representative of CTUIL during the course of hearing confirmed that in the last JCC meeting held in December, 2022, it was indicated that the HEP of Chenab Valley Power Projects (P) Ltd. (CVPPL) is expected to come by April-July, 2025. He added that the next JCC meeting is scheduled in March, 2023 and CTUIL will again confirm the status of its HEP and take up the issue of eventuality of mismatch and the consequences thereof. The representative of CTUIL submitted that recently the Commission in its Record of Proceedings for the hearing dated 24.1.2023 in Petition No. 316/TL/2022 has observed that in future the beneficiaries of the region including concerned utilities (upstream/downstream) related to the Project should be impleaded as Respondents in Petitions relating to the grant of transmission licence/adoption of tariff and thus, the Petitioner may be directed to implead the concerned beneficiaries/utilities as above.

5. Vide Record of Proceedings for the hearing dated 14.2.2023, the Petitioner was directed to implead the beneficiaries of the Northern Region including the concerned utilities (upstream/downstream) related to the Project as party to the Petition and to file revised memo of parties. The Petitioner was further directed to submit completion schedule of its assets under instant Petition. The Petitioner vide its affidavit dated 1.3.2023 has filed revised memo of parties by impleading the beneficiaries of the Northern Region including the concerned utilities (upstream/downstream) related to the Project. The Petitioner has served copy of the Respondents. However, no reply has been filed by them. With regard to completion schedule, the Petitioner has submitted that as on date, the bona fide projected completion schedule for the assets covered under the TSA is 1.4.2025 subject to

*inter alia* receipt of necessary approvals from the competent/statutory authorities. The Petitioner has placed on record the GANTT and PERT chart in relation to the project, detailing the timeline for commissioning of each assets, as well as the step-wise timeframe for completion of the entire project. The Petitioner has submitted that there has been a delay in acquisition of SPV in the present case. Accordingly, GANNT Chart provides for separate timelines, namely (i) Baseline 1 which considers project implementation timelines considering the timely acquisition of SPV as per the timelines mentioned in the RfP, (ii) Baseline 2 which was the revised timeline available to the Petitioner considering the Petitioner`s entitlement to claim an extension of SCOD on account of uncontrollable delay in acquisition of the SPV, (iii) the current best effort forecast, which is the current timeline based on the actual completion of milestones, and provides the corresponding time frame for completion of the remaining milestones.

6. Chenab Valley Power Projects (P) Ltd. (CVPPL), vide Record of Proceedings for the hearing dated 14.2.2023 was directed to submit the following information:

- (a) Current status of Pakaldul HEP, Kwar HEP and Kiru HEP. Detail of activities being carried out at these generating stations.
- (b) Commissioning schedule of the all the three HEPs.
- (c) Status of Dedicated Transmission System (400 kV Kiru-Kwar-Pakaldul-Kishtwar) line along with associated bay at both ends (including at Kishtwar) and its implementation schedule.
- (d) Who is supposed to make the 400 KV bays at Kishtwar pooling station to be specified by the Petitioner?

7. CVPPL, vide its affidavit dated 3.3.2023, has submitted as under:

(a) With regard to Pakaldul HEP, start date as per CCEA approval is October 2014 and the completion schedule date is 66 months (April 2020). However, award of power house package was placed in February, 2018 and anticipated project completion date is September, 2026. The total works of Pakal Dul HEP has been divided into five work packages, namely, Power House Package, Dam Package, E&M Package, HM Package and HRT- TBM Work Package. All the works have been awarded and works are under progress. As on January 2023, physical progress and financial progress is 32.41% and 34.36% respectively. The Petitioner has explained the various reasons for delay of HEP which have been enumerated in Annexure-1 of the affidavit.

(b) With regard to Kiru HEP 624 MW (4x156 MW), CCEA accorded approval in March, 2019. Completion schedule as per CCEA approval is 54 months i.e. September 2023 and anticipated completion schedule is July, 2026. Total anticipated delay is 36 months. The total works of Kiru HEP has been divided into three work packages, namely, Civil Package, E&M Package and HM Package. All the works have been awarded and works are under progress. As on January 2023, physical progress and financial progress of Kiru HEP is 16.02% and 21.71% respectively. The Petitioner has submitted the reason for delay in execution of work in Annexure-1 attached to the affidavit.

(c) With regard to KWAR HEP -540 MW (4x135 MW), CCEA accorded approval on 10.5.2022 and completion schedule as per approval of CCEA is 54 months i.e. November, 2026. Anticipated completion schedule is



November, 2026 and total anticipated delay is nil. As on January, 2023, progress of project is (i) over all physical progress: 4.16% and (ii) overall financial progress 5.51%.

(d) Pakaldul HEP, Kwar HEP and Kiru HEP are likely to be completed by September, 2026, November, 2026 and July, 2026 respectively.

(e) With regard to status of dedicated Transmission System (400 kV Kiru-Kwar-Pakaldul- Kishtwar) line along with associated bay at both ends (including at Kishtwar) and its implementation schedule, transmission system for evacuation of power from Kiru, Kwar and Pakal Dul HEPs was identified as part of master plan for evacuation of power from HEPs in J&K and Himachal Pradesh considering various generation projects in Chenab basin and RoW constraints. In the said master plan, it was proposed that 400 kV D/C (Triple HTLS Conductor-equivalent to current carrying capacity of 2300 MW) line would be constructed from Kiru HEP to Kishtwar pooling station (High capacity common corridor-II), one circuit of which would be LILO at Kwar HEP and Pakal Dul HEP. The work for implementation of said transmission line along with associated bays at pooling station end (bays at Pot Head Yard side are already being implemented by CVPPL under E&M contracts of respective Projects) was entrusted to PGCIL and agreement in this regard was signed between CVPPL & PGCIL on 28.9.2022. The implementation schedule of this transmission line along with bays shall be matching with commissioning timelines of CVPPL Projects. As on date, the tendering activities of aforementioned dedicated transmission line of CVPPL

is being carried out by PGCIL and shall be awarded only after tendering exercise is completed.

(f) With regard to who is supposed to make the 400 KV bay at Kishtwar pooling station to be specified by the Petitioner, two nos. of 400 kV bays at Kishtwar pooling station along with 400 kV dedicated transmission line is under the scope of CVPPL and complete package (transmission line and bays at pooling station end) has been entrusted to PGCIL and same is under tendering stage at PGCIL end.

(g) With regard to delay in acquisition of the project, the liberty sought by the Petitioner in the present Petition cannot be granted to the Petitioner. However, any event happened i.e. delay in acquisition of the project can be considered or termed as Force Majeure event under the TSA. The Petitioner was aware of the fact that under the terms of RfP and/or TSA, neither extension of timeline for commissioning the Project is permitted nor the price discovered pursuant to the tariff based competitive bid process can be changed in the present fact and circumstances. Therefore, the Petitioner acquiesced all such alleged claims in the past by its conduct qua the communications exchanged with the parties especially Respondent No 3. Thus, the Petitioner cannot agitate this issue afresh and especially in the instant Petition.

(h) The issues raised in the instant Petition are pre-mature as presently it cannot be ascertained that whether there would be delay in commissioning of the Project and/or whether delay can be attributable to the Petitioner/Respondents and what relief/damages can be awarded to the

Petitioner/Respondents and proportion of relief/damages allocated amongst Respondents etc. Therefore, it would not be appropriate to deal with these issues in the present Petition. The blanket approval as sought by the Petitioner cannot be granted to the Petitioner/Respondents and has to be dealt with at the appropriate stage in appropriate case. The Respondent No.1 is not mentioning all those hurdles and surprises that had and would be encountered with during the execution or construction of power project. The Respondent No.1 may encounter with many other hurdles or surprises in due course of construction/execution of power plant, which may affect the seamless execution of the commissioning of the power plant and there are possibilities that the Respondent No.1 may not meet the timeline as presently agreed by the parties. The Petitioner should raise all the issues raised in appropriate time.

8. CTUIL, vide Record of Proceedings for the hearing dated 14.2.2023, was directed to submit/ clarify (i) status of Kishenpur-Dulhasti 400 kV D/c (Quad) line and LILO at Kishtwar, along with bays at Kishenpur and Dulhasti sub-stations and its completion schedule. (ii) ATS for each of the generating station Pakaldul HEP, Kwar HEP and Kiru HEP. CTUIL has not submitted the requisite information called despite being granted sufficient time.

9. Power Grid Corporation of India Limited (PGCIL) in its reply dated 16.3.2023 has submitted that PGCIL is implementing the certain transmission assets through Regulated Tariff Mechanism (RTM) mode which are inter-conenction system to the Petitioner`s transmission system for which transmission licence has been sought. PGCIL has further submitted that as per investment approval dated 3.2.2022, the

project is scheduled to be commissioned by April, 2025 (matching with Pakaldul HEP generation). The commissioning schedule has been kept as April, 2025 matching with commissioning schedule provided by associated generator i.e Chenab Valley Power Projects (P) Limited during the minutes of 19<sup>th</sup> JCC and 20<sup>th</sup> JCC meeting of generation projects granted connectivity/LTA in Northern Region held on 28.9.2021 and 24.12.2021 respectively.

10. The Petitioner has submitted that in accordance with the “Guidelines for Encouraging Competition in Development of Transmission Projects” and “Tariff Based Competitive Bidding Guidelines for Transmission Service” (hereinafter referred to as “the Guidelines”) issued by Ministry of Power, Government of India, under Section 63 of the Act, PFC Consulting Limited (PFCCL) was notified by Ministry of Power, Government of India, vide Gazette Notification F. No. CG-DL-E-28092020-222045 dated 25.9.2020 as the Bid Process Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish “inter-State transmissions system for evacuation of power from Pakaldul HEP in Chenab Valley HEPs- Connectivity System”, through tariff based competitive bidding process on Build, Own, Operate and Maintain (BOOM) basis.

11. PFCCL in its capacity as BPC initiated the bid process on 4.2.2021 and completed the same on 6.12.2022 in accordance with the Guidelines. Sterlite Grid 24 Limited (SGL) was selected as the successful bidder having quoted the lowest transmission charges of Rs. 388.46 million per annum in order to provide transmission services to the beneficiaries of the transmission system.

12. At RfP (Technical and Financial) stage, four bidders, namely, (Adani Transmission Limited, (ii) Sterlite Grid 24 Limited, (iii) Power Grid Corporation of

India, and (iv) Megha Engineering & Infrastructures Limited submitted their offers. The RfP technical bids of four bidders were opened by Bid Opening Committee constituted by Central Electricity Authority on 25.2.2022 in the presence of representative of bidders. Based on the recommendation of the Bid Evaluation Committee (BEC), the RfP (Financial) Bids-Initial Price Offer of the four bidders were opened on 14.3.2022. Lowest Initial Price Offer discovered (Best Deal) at MSTC portal was Rs. 448.77 million per annum. Based on the recommendation of BEC, three bidders were qualified to participate in the e-reverse auction stage. E-reverse auction of all three bidders was carried out at MSTC portal on 15.3.2022 and the following transmission charges for bidders (in ascending order) emerged:

<b>Sr. No.</b>	<b>Name of Bidder</b>	<b>Final quoted transmission charges (Rs.in million per annum)</b>	<b>Rank</b>
1.	Sterlite Grid 24 Limited	388.46	L1
2.	Adani Transmission Limited	389.46	L2
3.	Power Grid Corporation of India	398.43	L3

13. As per the Bid Evaluation Report dated 17.3.2022, Sterlite Grid 24 Limited emerged as the successful bidder with the lowest quoted transmission charges of Rs. 388.46 million per annum. BEC vide its certificate dated 17.3.2022 has certified that entire bid process has been carried out in accordance with the Guidelines issued by the Ministry of Power under Section 63 of the Act. BEC has further certified that the transmission charges discovered through e-reverse auction is acceptable.

14. Consequent to its selection as the lowest bidder, Letter of Intent (LoI) was issued to ReNew Transmission Ventures Private Limited by the BPC on 22.3.2022

which was accepted by Sterlite Grid 24 Limited. Under the terms of RfP and the Letter of Intent, the successful bidder is obligated to accomplish the following tasks:

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

15. The Petitioner has furnished the Contract Performance Guarantee (CPG) in favour of LTTCs for an aggregate value of Rs. 2.33 crore on 18.10.2022 and has acquired hundred percent equity holding in Kishtwar Transmission Limited on 6.12.2022. BPC has submitted that transfer of SPV was delayed due to non-signing of TSA by one of the LTTC, namely, J &K Power Corporation Limited who signed the Transmission Service Agreement (TSA) on 15.10.2022.

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

incorporated under the Companies Act, 2013. The main objective of the Petitioner Company is as under:

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

17. Section 15(1) of the Act provides that every application under Section 14 of the Act shall be made in such manner and in such form as may be specified by the Appropriate Commission and shall be accompanied by such fees as may be prescribed by the Central Government. The Commission has specified Transmission Licence Regulations in this regard. Regulation 3 of the Transmission Licence Regulations provides that the Empowered Committee shall identify the Projects included in the transmission plan to be developed under the Guidelines issued under Section 63 of the Act. Regulation 4 of the Transmission Licence Regulations provides that in case of projects identified for development under the Guidelines for competitive bidding, selection of the project developer shall be made in accordance with the procedure laid down in the Guidelines. The Project under consideration has been identified for development under competitive bidding by competent authority in the Ministry of Power/ CEA. Central Electricity Authority, vide its letter dated 17.11.2021 had issued prior approval to the Project under Section 68 of the Act. Selection of the Project developer, Kishtwar Transmission Limited (KTL), has certified to have been made in accordance with the Guidelines.

18. Regulation 7 of the Transmission Licence Regulations read with the order dated 22.1.2022 passed in Petition No.1/SM/2022 [whereby the Commission, in the

exercise of 'Power to Relax' under Regulation 24 of the Transmission Licence Regulations, modified/amended Clause (4), Clause (7), Clause (9) and Clause (12) and dispensed with Clause (10) of Regulation 7] provide for the procedure for grant of transmission licence as under:

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

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

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

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

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

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

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

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

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



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

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

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

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

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

19. The Petitioner has approached the Commission by a separate application for adoption of transmission charges in respect of the transmission system which is presently under consideration of the Commission and order in that Petition will be issued separately. 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 service of the copies of the application on the BPC and CTUIL and proof of web posting of the complete application. The Petitioner has further undertaken to pay the applicable licence fee upon the grant of transmission licence in terms of the Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012. The Petitioner has prayed for grant of transmission licence to Kishtwar Transmission Limited with respect to the transmission system as per details given in paragraph 1 above.

20. The Petitioner has made the Application as per Form-I and paid fee of Rs. one lakh as prescribed by the Central Government. As per direction of the Commission, the Petitioner has served copy of the Application on the beneficiaries of the transmission project for the Project. The transmission charges quoted by the Petitioner which have been recommended by the Bid Evaluation Committee for acceptance, is Rs. 388.46 million per annum. The Petitioner has also enclosed copies of the recommendations of the Bid Evaluation Committee.

21. The Petitioner has published the notices on the e-filing portal of the Commission and on its website in Form-II in English language and in Urdu (Vernacular) language. No objection has been received from the general public in response to the public notices.

22. The Petitioner has served the copy of the Application on the Central Transmission of Utility of India Limited (CTUIL) as required under Section 15(3) of the Act and Regulation 7(6) of the Transmission Licence Regulations. CTUIL vide its letter dated 6.1.2023 has recommended for grant of transmission licence to the Petitioner. Relevant portion of the said letter dated 6.1.2023 is extracted as under:

*“This is with reference to Petition with Diary No. 517/2022 dated 17/12/22 filed by M/s Kishtwar Transmission Limited (KTL) before the Commission for grant of Transmission Licence to facilitate implementation of the Transmission system for evacuation of power from Pakaldul HEP in Chenab Valley HEPs in J&K.*

*The subject transmission scheme involves establishment of 400/132 kV Kishtwar (GIS) pooling station through LILO of one circuit of Kishenpur-Dulhasti 400 kV D/c (Quad) line along with 125 MVAR Bus Reactor and associated bays at Kishtwar (GIS). The detailed scope of the subject scheme is attached at Annexure-I. Transmission Grid Map for the project is also enclosed at Exhibit-1. In regard to justification and approval of the subject transmission system, following is submitted:*

- A comprehensive transmission system for providing

Connectivity to three Hydro Electric Projects (HEPs) viz. Pakaldul (1000MW), Kiru (624 MW) and Kwar (540 MW) of Chenab Valley Power Projects Limited (CVPPL) in Union Territory of Jammu and Kashmir was planned under the said project. These hydro projects would be connected to a common pooling station through 400 kV dedicated transmission line (Kiru-Kwar- Pakaldul-Kishtwar 400 kV (Triple HTLS) D/c line) along with associated bays at both ends) to be implemented by M/s CVPPL, matching with the time schedules of respective HEPs. Accordingly, establishment of Common pooling station (GIS) at Kishtwar by LILO of one circuit of Kishenpur - Dulhasti 400kV D/c (Quad) line (Single Circuit Strung) was agreed to be implemented under ISTS (TBCB) to provide connectivity to above projects.

- Based on the request of JKPDD to provide reliable power to the Kishtwar area, implementation of 2x200 MVA, 400/132 kV ICTs at Kishtwar Pooling Station along with 4 no. of 132 kV line bays (GIS) at Kishtwar PS was agreed as system strengthening scheme in matching timeframe of Kishtwar PS under ISTS (TBCB). JKPDD to match the implementation of downstream network matching with the implementation time frame of the Kishtwar PS.
- For Long-term Access (LTA) of 1000MW for Pakaldul HEP to NR on target region basis, Kishtwar switching station - Kishenpur 400kV S/c (Quad) line (stringing of second circuit of Dulhasti-Kishenpur 400 kV from Kishtwar upto Kishenpur) along with bays at both ends was agreed to be implemented as ISTS under RTM by POWERGRID. Further, Reconductoring of Dulhasti-Rattle LILo tap Point of Dulhasti - Kishenpur 400 kV line implemented through twin moose conductor, with Quad moose conductor in matching time frame of Pakaldul HEP generation was also agreed to be implemented as ISTS under RTM by POWERGRID.
- The implementation of above line was agreed in the 1st, 2nd & 3rd meeting of NRPC (TP) held on 24/01/2020, 01/09/2020 & 19/02/2021 respectively. Extract of the minutes of 1st, 2nd & 3rd NRPC (TP) meeting are enclosed at Annexure-II.
- The Transmission scheme was also agreed in 48<sup>th</sup> & 49<sup>th</sup> Northern Region Power Committee (NRPC) meeting held on 02/09/2020 & 27/09/2021 respectively. Extract of the 48<sup>th</sup> & 49<sup>th</sup> NRPC minutes are enclosed at **Annexure-III**.
- Subsequently, this transmission scheme was also agreed in the 3rd National Committee on Transmission (NCT) held on 26th and 28th May, 2020 as well as with modifications in 4th meeting of NCT held on 20/01/2021 & 28/01/2021. Extract of minutes of meeting are attached at Annexure-IV.
- Ministry of Power, Government of India, vide its Gazette

*Notification dated 25.09.2020 had declared "Transmission System for Evacuation of power from Pakaldul HEP in Chenab Valley HEPs - Connectivity System" through tariff based competitive bidding process route. The same was modified after recommendation of 4th meeting of NCT and the modified scope of works was recorded in the Gazette Notification dated 19/07/2021.*

- *Ministry of Power, Government of India, has identified M/s PFC Consulting Ltd. as Bid Processing Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish the above referred project through TBCB route. Bid Evaluation Committee appointed by the BPC has selected Sterlite Grid 24 Limited (SGL24) as successful bidder. Sterlite Grid 24 Limited has subsequently acquired "Kishtwar Transmission Limited" after execution of the requisite Share Purchase Agreement (SPA) on 06/12/2022.*

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

23. The Respondent, CVPPL has submitted that the Petitioner has not filed the Petition for grant of Transmission Licence with respect to Project in accordance with the provision of Article 2.15.4 of RFP because under the Article 2.15.4 of RfP, the Petitioner was mandated to file petition for transmission licence within 10 days of the issue of Letter of Intent and admittedly Letter of Intent was issued on 22.2.2022 but Petition for grant of transmission licence was filed much belatedly on 16.12.2022. We have considered the submissions of the Petitioner, CTUIL and LTTC. The proviso to Clause 2.15.2 of the RfP provides that "if for any reason attributable to the BPC, the said activities are not completed by the Selected Bidder within the above period of ten (10) days as mentioned in this clause, such period of 10 days shall be extended, on a day to day basis till the end of the Bid validity period". As per the above provision, selected bidder was required to complete all the activities including acquisition of SPVs by 1.4.2022. Though Lol was issued on 22.3.2022, BPC, vide its letter dated 6.12.2022, in terms of Clauses 2.15.2 of RfP extended the date upto 16.12.2022 for completion of all activities by the successful bidder. The selected

bidder furnished the Contract Performance Guarantee in favour of Nodal Agency (CTUIL) for an amount of Rs. 2.33 crore and has acquired hundred percent equity-holding in the applicant company on 6.12.2022 after execution of the Share Purchase Agreement. As per clause 2.15.4 of the RfP, TSP is required to apply to the Commission for grant of transmission licence within five working days of the issuance of the acquisition of the SPV to the successful bidder. Successful bidder, namely Kishtwar Transmission Limited acquired the SPV on 6.12.2022. Accordingly, the TSP has filed the instant Petition through e-filing for grant of transmission licence on 15.12.2022.

24. Considering the material on record, we are *prima-facie* of the view that the Petitioner satisfies the conditions for grant of inter-State transmission licence under Section 15 of the Act read with Transmission Licence Regulations for construction, operation and maintenance 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 grant of transmission licence aforesaid. The objections or suggestions, if any, be filed by any person before the Commission, by 30 3.2022.

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

26. With regard to delay in execution of the transmission system due to time taken in obtaining statutory clearances required under RfP and or adjudication of any claim of the Petitioner arising under the TSA, the Petitioner has submitted that

bidding process was governed by the bidding Guidelines and the standard bidding documents issued by the Ministry of Power, Government of India. The tariff quoted by Sterlite Grid 26 Limited inter alia takes into consideration the rights and obligations of the TSP under the TSA including the provisions available to it to claim time and cost variations. The Petitioner has further submitted that the terms of the TSA are binding on the parties and any claim for force majeure, escalation in transmission charges, extension of time for commissioning of the Project and exemption from payment of liquidated damages that may be raised by the Petitioner is required to be dealt with in accordance with terms contained thereunder. The Petitioner has submitted that Section 56 of the Indian Contract Act, 1872 provides for frustration of contract and impossibility of performance, etc. and the Commission in number of cases has granted reliefs as per the provisions of law. The Petitioner has submitted that in terms of Section 28 of the Indian Contract Act, 1872, no restraint in taking legal proceedings in future can be validly placed. The Petitioner has submitted that it would implement the project as per provisions of Article 16.4 of the TSA which is extracted as under:

*"16.4. Parties to Perform Obligation: Notwithstanding the existence of any Dispute and difference referred to the Appropriate Commission or the Arbitration Tribunal as provided in Article 16.3 and save as the Appropriate Commission or the Arbitration Tribunal may otherwise direct by a final or interim order, the Parties hereto shall continue to perform their respective obligations (which are not in dispute) under this Agreement."*

27. The Petitioner has submitted that claim, if any, made by the Petitioner needs to be dealt with in accordance with the provisions of the RfP documents and the TSA.

28. With regard to quality control mechanism available or to be put in place, compliance is to be ensured with the requirements stipulated under Article 5.1.1 and Article 5.4 of the TSA, the Petitioner has submitted as under:

(a) In compliance to the terms of the TSA, the Petitioner shall deploy an external agency to monitor the quality of the Project being constructed by the Petitioner and to ensure that it is as per the standards set out in the TSA. Under the TSA, the Petitioner is entrusted with the obligation to provide monthly progress reports to all the LTTCs and Central Electricity Authority (“CEA”) with regard to the Project and its execution, so as to enable them to monitor and co-ordinate the development of the Project. In terms of the TSA, the Lead LTTC is duty bound to inspect the progress of the Project and the CEA may carry out random inspections during the execution of the Project, as and when it is deemed necessary by it. It is further submitted that the TSP is required to take all necessary actions for remedying shortfall in achievement of timely progress in execution of the Project, if any, as intimated by the CEA.

(b) The TSA further provides that TSP i.e. the Petitioner must ensure that the design and construction of the project is in accordance with Indian Standards and Codes issued by the Bureau of Indian Standards and in case they are not applicable, other equivalent internationally recognized Standards and Codes shall be followed. Further, in terms of the TSA, the Petitioner is also responsible for constructing and commissioning the Project in accordance with the norms prescribed in various Regulations issued by the CEA, Prudent Utility Practices and other Applicable Laws.

(c) In terms of above-mentioned provisions of the TSA, there are sufficient check and balances in terms of which both the CEA and the Lead LTTC may monitor the overall quality of construction of the Project by the Petitioner.”

29. The Petitioner has submitted that in term of the TSA, the SCOD of the project is 1.4.2025. However, the delay in the acquisition of the Petitioner company by SGL 24 Limited has substantially reduced the time available with the Petitioner for execution of the Project. Therefore, the delay in acquisition has truncated the time period originally available with the Petitioner for construction of the project. The Petitioner has submitted that due to delay in acquisition of the project, the Petitioner is entitled for extension of time.

30. The Respondent, CVVL has submitted that the issues regarding delay, etc. raised in the instant Petition are pre-mature as presently it cannot be ascertained that whether there would be delay in commissioning of the Project and/or whether delay can be attributable to the Petitioner/Respondents and what relief/damages can be awarded to the Petitioner/Respondents and proportion of relief/damages allocated amongst Respondents, etc.

31. We have considered the submissions of the Petitioner and the Respondent. The scope of the present Petition is limited to grant of transmission licence. Therefore, the issue raised by the Petitioner regarding delay in acquisition of the Petitioner company cannot be dealt with in the present Petition and the Petitioner may approach the Commission in this regard after execution of the project which shall be dealt with in accordance with the law.



32. We observe that Schedule 2 of the TSA provides the SCOD of the Transmission elements as follows:

**“Scheduled COD**

*[Note: As referred to in the definition of “Element”, “Scheduled Cod”, and in Article 3.1.3 (c), 4.3 (b) and 4.3 (a) of this Agreement]*

*All Elements of the Project are required to be commissioned progressively as per the schedule given in the following table:*

S. No.	Name of the Transmission Element	Scheduled COD in months from Effective Date	Percentage of Quoted Transmission Charges recoverable on Scheduled COD of the Element of the Project	Element(s) which are pre-required for declaring the commercial operation (COD) of the respective Element
1.	Establishment of 400/132 kV pooling station at Kishtwar (GIS) along with Bus Reactor at Kishtwar pooling station by LILO of one circuit of Kishenpur – Dulhasti 400kV D/C (Quad) line (Single Circuit Strung)	Matching Timeframe of Pakaldul HEP i.e. 01.04.2025	12%	
2.	LILO of one circuit of Kishenpur – Dulhasti 400 kV D/c (Quad) line at Kishtwar		29%	
3.	2 Nos. of 400 kV bays at Kishtwar (GIS) for LILO of one circuit of Kishenpur – Dulhasti 400 kV D/c (Quad) line (Single Circuit Strung)		15%	
4.	1 No. of 400 kV line bay at Kishtwar (GIS) for 2nd circuit stringing of Kishtwar – Kishenpur section		7%	
5.	7x66.67 MVA, I-Phase, 400/132 kV ICT along with associated bays at Kishtwar Pooling station	Matching Timeframe of Kishtwar pooling station	37%	
6.	4 nos. of 132 kV bays (GIS) at Kishtwar Pooling station			

Note:

i. Implementation Timeframe:

SI. No. 1-4: to be implemented in matching timeframe of Pakaldul HEP i.e. 01.04.2025.

SI No. 5-6: to be implemented in matching timeframe of Kishtwar pooling station.

*The payment of Transmission Charges for any Element irrespective of its successful commissioning on or before its Scheduled COD shall only be considered after successful commissioning of the Element(s) which are pre-required for declaring the commercial operation of such element as mentioned in the above table.”*

As per above, the SCOD for transmission Element 1 to Element 4 has been provided as matching time frame of Pakaldul HEP i.e. 1.4.2025.

33. As per RfP documents, BPC has clarified a specific query raised by bidders on SCOD, whether it is fixed as 1.4.2025 or matching with Pakaldul HEP. BPC has clarified as follows:

*“Transmission project is to be implemented in matching timeframe of Pakaldul HEP. M/s CVPPL, developer of Pakaldul HEP, has sought LTA from 04.04.2025. Accordingly, transmission project SCOD may be considered as 01.04.2025. In case of delay in Pakaldul HEP generation commissioning, transmission charges shall be payable as per applicable CERC regulations.”*

34. Further, according to CVPPL, the tentative completion schedule of the Pakaldul HEP in the instant petition is September, 2026.

35. It is noted that CTUIL has not furnished its reply on elements belonging to ATS for the generating station as sought vide ROP for the hearing held on 14.2.2023, CTUIL is directed to submit the information called for within a period of one week of issuance of this order.

36. The Petition shall be listed for hearing on 13.4.2023.

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

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

Sd/-  
**(I.S. Jha)**  
Member